



U.S. Department of Justice

Washington, D.C. 20530

MEMORANDUM FOR THE ATTORNEY GENERAL

Signature for

THROUGH (CONCURRING): THE DEPUTY ATTORNEY GENERAL

FROM: Lee J. Lofthus
Assistant Attorney General **Lee Lofthus** Date: 2021.06.30
for Administration 17:27:24 -04'00'

SUBJECT: Fiscal Year 2022 Special Counsel's Office Budget Request

PURPOSE: To obtain the Attorney General's review and approval of the Special Counsel's budget request in accordance with 28 CFR Part 600.8(a)(1).

AG DECISION REQUESTED BY: As soon as possible.

EXECUTIVE SUMMARY: The John Durham Special Counsel Office Fiscal Year (FY) 2022 budget plan is attached for Attorney General approval.

DISCUSSION: Attached is the John Durham Special Counsel Office Fiscal Year (FY) 2022 budget plan. The Justice Management Division has completed its review under 28 C.F.R. 600.8(a)(1). The FY 2022 budget estimate is (b) (7)(A) which, after Office of Management and Budget technical adjustments for the mandatory sequester, totals (b) (7)(A) in available operational funds.

CONCURRENCE: Brad Weinsheimer, Associate Deputy Attorney General

NON-CONCURRENCE: None.

CONSULTATION: None.

PUBLIC AFFAIRS: None. The Special Counsel budgets are not made public. A six-month expenditure report is made public for the periods ending March 31 and September 30 each fiscal year, but not the budget request itself.

LEGISLATIVE AFFAIRS: None.

OTHER STAKEHOLDERS: None.

RECOMMENDATION: That the Attorney General review the submitted budget request and render a decision on an approved budget request for Fiscal Year 2022 for the Special Counsel's Office.

Memorandum for the Attorney General
Subject: Fiscal Year 2022 Special Counsel's Office Budget Request

Page 2

APPROVE: MG 9-8-21

Concurring Component:

ADAG [Signature]

DAG [Signature]

DISAPPROVE: _____

Non-concurring Component:

None

OTHER: _____

Attachment

John Durham Special Counsel FY22 Budget Request

	FY2022

INCOME

0

Full Time Permanent
Other Than Full Time Permanent
Other Personnel Compensation
Special Personnel Services Benefits
Civilian Personnel Benefits
Other Personnel Benefits
Personnel Adjustment for Detailees

Personnel

(b) (7)(A)

Travel
Mail
Rent
Communications
Printing
Other Contractual Services
Supplies
Equipment

TOTAL NON-PERSONNEL COSTS

TOTAL COSTS

Mandatory Sequester 5.7%

TOTAL REQUEST

Direct Positions
[Attorneys]

Reimbursable Detailees
[Attorneys]

Non-Reimbursable Investigative Staff
[Agents]

Total SCO Staff

(b) (7)(A)

Hornbuckle, Wyn (PAO)

From: Hornbuckle, Wyn (PAO)
Sent: Wednesday, September 29, 2021 2:16 PM
To: Weinsheimer, Bradley (ODAG)
Subject: RE: SCO budget

Will do, thanks

From: Weinsheimer, Bradley (ODAG) (b) (6)
Sent: Wednesday, September 29, 2021 1:42 PM
To: Hornbuckle, Wyn (PAO) <Wyn.Hornbuckle@usdoj.gov>
Subject: RE: SCO budget

Thanks, Wyn (b) (5)
(b) (5). Please keep me looped in before making any statement.

Brad.

From: Hornbuckle, Wyn (PAO) <Wyn.Hornbuckle@usdoj.gov>
Sent: Wednesday, September 29, 2021 1:31 PM
To: Weinsheimer, Bradley (ODAG) (b) (6)
Subject: SCO budget

Hi Brad,

You may have noticed these two items in today's clips. Given it's the end of the fiscal year, we expect our regular reporters will begin to press us on whether the SCO budget has been approved by the AG or not. We are considering (b) (5)
(b) (5). Let me know if you have any thoughts or concerns about this.

Newsweek: **[OPINION] If Durham Seeks To Serve Russiagate Justice, Will AG Garland Let Him?**, Ben Weingarten, September 29, 2021, 6:30 AM
Will the American people receive justice for Russiagate? If justice is to be meted out, will Attorney General Merrick Garland let it be done? Observers like myself, having witnessed the machinations of the Deep State and its auxiliaries over the last five years, have long lamented the answer is "No." [[Continue Reading](#)]

NY Post: **[EDITORIAL] Garland should extend funding for special counsel John Durham's Russiagate probe**, Editorial Board, September 28, 2021, 7:23 PM
Attorney General Merrick Garland has a clear duty to renew funding for special counsel John Durham's investigation into the origins of the Russiagate "scandal" when the current authorization expires at month's end. Back in February, Garland rightly told senators that he has "no reason to think" Durham should be kicked off the case. But the AG hasn't yet OK'd spending for the new fiscal year, which starts Friday.
[[Continue Reading](#)]

Wyn Hornbuckle
Deputy Director, Office of Public Affairs

U.S. Department of Justice

O: (202) 616-0903

M (b) (6)

Lofthus, Lee J (JMD)

From: Lofthus, Lee J (JMD)
Sent: Thursday, September 9, 2021 2:00 PM
To: Lauria, Jolene A (JMD); Alvarez, Christopher C (JMD); Weinsheimer, Bradley (ODAG); Scofield, Megan L. (JMD); Kleppinger, Eric (JMD)
Subject: SCO Durham FY22 Budget - APPROVED BY ATTORNEY GENERAL COPY
Attachments: Budget Request FY 22 090921.pdf

Brad, thanks.

Megan, pls put this in ECMS/ExecSec today.

Controller, Finance and Budget, for your records. Budget, for your action as approp with Treasury and OMB for FY22 warrant and apportionment etc.

Thks all, Lee

From: Weinsheimer, Bradley (ODAG (b) (6))
Sent: Thursday, September 9, 2021 12:29 PM
To: Lofthus, Lee J (JM (b) (6))
Cc: Alvarez, Christopher C (JMD (b) (6))
Subject: RE: SCO Durham FY22 Budget Request memo

Lee: Attached is the signed approval from the AG. Can you make sure this gets into Exec Sec as needed and otherwise gets processed appropriately? Thanks, Brad.

From: Lofthus, Lee J (JMD (b) (6))
Sent: Wednesday, June 30, 2021 5:31 PM
To: Weinsheimer, Bradley (ODAG (b) (6)) >
Cc: Alvarez, Christopher C (JMD (b) (6)) >
Subject: SCO Durham FY22 Budget Request memo

Brad attached is the John Durham SCO budget request for FY22. The transmittal memorandum is in the required OAG format. If you can review and discuss with leadership as the next step that will be greatly appreciated. Lee



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CONCURRENCE: Brad Weinsheimer, Associate Deputy Attorney General

NON-CONCURRENCE: None.

CONSULTATION: None.

PUBLIC AFFAIRS: None. The Special Counsel budgets are not made public. A six-month expenditure report is made public for the periods ending March 31 and September 30 each fiscal year, but not the budget request itself.

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OTHER STAKEHOLDERS: None.

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APPROVE:

Concurring Component:

ADAG

DAG

DISAPPROVE:

Non-concurring Component:

None

OTHER:

Attachment

Weinsheimer, Bradley (ODAG)

From: Weinsheimer, Bradley (ODAG)
Sent: Tuesday, September 7, 2021 5:54 PM
To: Lofthus, Lee J (JMD)
Subject: Call

Can you give me a quick call when you have a minute. It's SCO budget related (I think the AG will sign it tomorrow).

Durham, John H. (JMD)

From: Durham, John H. (JMD)
Sent: Monday, August 9, 2021 7:19 PM
To: Hornbuckle, Wyn (PAO)
Cc: Weinsheimer, Bradley (ODAG)
Subject: Re: WSJ Query Re: Durham Probe

My own view would be (b) (5)

[REDACTED]

Sent from my iPhone

On Aug 9, 2021, at 6:30 PM, Hornbuckle, Wyn (PAO) <Wyn.Hornbuckle@usdoj.gov> wrote:

?
Yes, I absolutely can

From: Weinsheimer, Bradley (ODAG (b) (6))
Sent: Monday, August 9, 2021 6:29 PM
To: Hornbuckle, Wyn (PAO) <Wyn.Hornbuckle@usdoj.gov>; Durham, John H. (JMD)
(b) (6), (b) (7)(C)
Subject: RE: WSJ Query Re: Durham Probe

(b) (5)

[REDACTED]

[REDACTED]?

From: Hornbuckle, Wyn (PAO) <Wyn.Hornbuckle@usdoj.gov>
Sent: Monday, August 9, 2021 6:19 PM
To: Durham, John H. (JMD) (b) (6), (b) (7)(C); Weinsheimer, Bradley (ODAG)
(b) (6)>
Subject: RE: WSJ Query Re: Durham Probe

One additional note re the budget question (b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

Any objection to (b) (5)

[REDACTED]

[REDACTED]

From the WSJ:

We see under the statute that the SCO had to give the AG a proposed budget by July 1, and that the AG has to decide at that point whether to continue the investigation and if so, establish a budget for it:

A Special Counsel shall be provided all appropriate resources by

the Department of Justice. Within the first 60 days of his or her appointment, the Special Counsel shall develop a proposed budget for the current fiscal year with the assistance of the Justice Management Division for the Attorney General's review and approval. Based on the proposal, the Attorney General shall establish a budget for the operations of the Special Counsel. The budget shall include a request for assignment of personnel, with a description of the qualifications needed.

(2) Thereafter, 90 days before the beginning of each fiscal year, the Special Counsel shall report to the Attorney General the status of the investigation, and provide a budget request for the following year. The Attorney General shall determine whether the investigation should continue and, if so, establish the budget for the next year.

we understand that AG Garland has declined to approve a budget for it for the next fiscal year. Can you confirm this is accurate?

From: Durham, John H. (JMD) (b) (6), (b) (7)(C)
Sent: Monday, August 9, 2021 2:19 PM
To: Hornbuckle, Wyn (PAO) <Wyn.Hornbuckle@usdoj.gov>; Weinsheimer, Bradley (ODAG) (b) (6)
Subject: RE: WSJ Query Re: Durham Probe

Thanks, Wyn (b) (5)

From: Hornbuckle, Wyn (PAO) <Wyn.Hornbuckle@usdoj.gov>
Sent: Monday, August 9, 2021 1:57 PM
To: Weinsheimer, Bradley (ODA (b) (6)>; Durham, John H. (JMD) (b) (6), (b) (7)(C)
Subject: RE: WSJ Query Re: Durham Probe

Righ (b) (5)

From: Weinsheimer, Bradley (ODAG (b) (6)
Sent: Monday, August 9, 2021 1:28 PM
To: Hornbuckle, Wyn (PAO) <Wyn.Hornbuckle@usdoj.gov>; Durham, John H. (JMD) (b) (6), (b) (7)(C)>
Subject: RE: WSJ Query Re: Durham Probe

(b) (5)

From: Hornbuckle, Wyn (PAO) <Wyn.Hornbuckle@usdoj.gov>
Sent: Monday, August 9, 2021 1:21 PM
To: Durham, John H. (JMD (b) (6), (b) (7)(C)>

Cc: Weinsheimer, Bradley (ODAG (b) (6))
Subject: FW: WSJ Query Re: Durham Probe

Mr. Durham,

See below an article that we expect will appear in the WSJ tomorrow (b) (5) but any guidance (at least for me) on the highlighted areas below would be appreciated.

Best regards,

Wyn Hornbuckle
Deputy Director, Office of Public Affairs
U.S. Department of Justice
O: (202) 616-0903
M (b) (6)

From: Gurman, Sadie <sadie.gurman@wsj.com>
Sent: Monday, August 9, 2021 1:08 PM
To: Hornbuckle, Wyn (PAO) <Wyn.Hornbuckle@usdoj.gov>; Aruna Viswanatha <aruna.viswanatha@wsj.com>
Subject: WSJ Query Re: Durham Probe

Hi, Wyn,

I heard you are the point person for all things Durham-related! Lucky you!

Aruna and I have a few questions for a story we are working on about his progress. Can we chat about this when you have a moment? We are aiming to run this story tomorrow morning. Appreciate your time and help.

_ Under special counsel statute the AG is supposed to determine if the investigation should continue and establish a budget for it by July 1 -- our understanding is that deadline passed and the AG has not set a budget for the probe for next year. Why not?

_ Is Durham still operating out of his office in Washington? How often does he report there?

_ How many times has he met with the attorney general / other top DOJ officials since Garland took office?

_ Our understanding was Durham intended to deliver his investigation at the end of the month but that timeframe has been pushed back -- why?

Any comment on the following?

_ Durham has focused in recent months on people outside the FBI who provided information that fueled the bureau's Russia probe and whether the people who provided the information knew it was false at the time, as well as what the FBI subsequently did with it.

_ Durham has been examining potential criminal charges against several lower level FBI employees as well as people who were not in government.

Durham's report is expected to be long and detailed and could be completed by the end of this year.

Sadie Gurman
WASHINGTON BUREAU

|

[<image001.jpg>](#)

O: [202.862.9273](tel:202.862.9273) | (b) (6)
E: sadie.gurman@wsj.com | T: [@sgurman](#)
A: [1025 Connecticut Ave. NW, Suite 800 | Washington, D.C. 20036](#)

|

[<image001.jpg>](#)

Sign up for WSJ's free Capital Journal newsletter [here](#).

Weinsheimer, Bradley (ODAG)

From: Weinsheimer, Bradley (ODAG)
Sent: Wednesday, June 23, 2021 8:26 PM
To: Lofthus, Lee J (JMD)
Subject: Durham

I am meeting with the AG in the morning. Anything you can get me on the budget even in draft? Just want to set expectations. Thanks, Brad.

Durham, John H. (JMD)

From: Durham, John H. (JMD)
Sent: Tuesday, June 15, 2021 7:32 PM
To: Weinsheimer, Bradley (ODAG)
Subject: Re: Meeting

Done. See you then.

Sent from my iPhone

On Jun 15, 2021, at 7:07 PM, Weinsheimer, Bradley (ODAG)
(b) (6) wrote:

?
Yes, how about noon?

From: Durham, John H. (JMD) (b) (6), (b) (7)(C)
Sent: Tuesday, June 15, 2021 7:07 PM
To: Weinsheimer, Bradley (ODA) (b) (6)
Subject: Re: Meeting

Brad-
Would sometime between 10:00 and 1:00 work for your schedule?
JHD

Sent from my iPhone

On Jun 15, 2021, at 2:23 PM, Weinsheimer, Bradley (ODAG)
(b) (6) wrote:

?
John: are you available to meet with me on Thursday for 30-45 minutes or so? I want to follow-up on budg (b) (7)(A) Let me know when would work. Thanks, Brad.

Weinsheimer, Bradley (ODAG)

From: Weinsheimer, Bradley (ODAG)
Sent: Monday, March 29, 2021 12:42 PM
To: Hornbuckle, Wyn (PAO); Lofthus, Lee J (JMD)
Subject: RE: Contacts for John Durham

On the substance, I thi (b) (5)
(b) (5). Feel free to email John and copy me at least initially. I believe John is generally in DC Tuesday through Thursday; I am less sure about Friday and Monday. That could account for slowness in VM response, depending on where you called. Thanks, Brad.

From: Hornbuckle, Wyn (PAO) <whornbuckle@jmd.usdoj.gov>
Sent: Monday, March 29, 2021 12:33 PM
To: Lofthus, Lee J (JM (b) (6))
Cc: Weinsheimer, Bradley (ODAG (b) (6)) >
Subject: Re: Contacts for John Durham

Hi Lee

I left a voice mail for Durham on Thursday and have not heard from him. Starting to get some media inquiries, re any budget info that is publicly releasable and whether Durham has met with the AG yet as was discussed during Judge Garland's confirmation hearing. I'll consult with Anthony about the latter. Any assistance on reaching John would be appreciated. All the best, Wyn

Sent from my iPhone

On Mar 24, 2021, at 5:16 PM, Lofthus, Lee J (JMD) (b) (6) > wrote:

?

Wyn, t (b) (6) for John. If not successful, let me know. Lee

From: Hornbuckle, Wyn (PAO) <whornbuckle@jmd.usdoj.gov>
Sent: Wednesday, March 24, 2021 4:54 PM
To: Lofthus, Lee J (JMD (b) (6))
Subject: Contacts for John Durham

Hi Lee,

Hope you are doing well. I have reached out via email to John Durham at his JMD email address, but was wondering if you have a phone contact for him? The one listed on the GAL isn't working. I let Brad Weinsheimer know I would be reaching out to John to assess his needs from OPA over the next few months, but am hitting a dead end trying to reach him. I am assuming he is aware I will be assisting him but let me know if you'd prefer to reach out to him first.

Many thanks, Wyn

House Judiciary Committee Holds Hearing on Justice Department Oversight

LIST OF PANEL MEMBERS AND WITNESSES

JERROLD NADLER:

The House Committee on the Judiciary will come to order. Without objection, the chair is authorized to declare recesses of the community at any time. We welcome everyone to this morning's hearing and oversight of the Department of Justice. Before we begin, I would like to remind members that we have established an email address and distribution list dedicated to circulating exhibits motions or other written materials that members might want to offer as part of our hearing today.

If you would like to submit materials, please send them to the email address that has been previously distributed to your offices and we will circulate the materials to staff and members -- to members and staff as quickly as we can. I would also remind all members that guidance from the Office of Attending Physician states that face coverings are required for all meetings in an enclosed space such as committee hearings, except when you were recognized to speak.

I will now recognize myself for an opening statement. Good morning, Mr. Attorney General, and thank you for appearing before our committee today. When the Department of Justice performs as it should, it is a champion of the Bill of Rights, the protector of the rule of law, and the cornerstone of the institutions that make up our republic.

As attorney general, you have the responsibility to keep the department functioning at this high level, preserving the Constitution for our children and our children's children. You have assumed this enormous responsibility at a crossroads in our nation's history. For four years,

the democratic institutions you have sworn to protect, first as a judge, and now, as attorney general, were deeply undermined by the former president and his political enablers.

During that time, the Trump administration leveraged the department to protect the president and his friends, and to punish his enemies, both real and imagined. And when the former president lost the last election, he summoned the top law enforcement officers in the country and demanded that they use the full power of the federal government to install him for another term.

Trump's plan failed, at least in part, because at least some department officials refused to help him overturn the election. Even now, however, the ex-president and his allies continue to cast doubt on the last election and appear to be drafting a plan to overturn the next one. And next time, we may not be so lucky.

Your task as attorney general is unenviable, Judge Garland, because you must build back everything DOJ lost under the last administration: its self-confidence, its reputation in the eyes of the American people, and an institutional respect for our Constitution and the rule of law. And it is not enough just to right the ship, as the chief law enforcement officer of our nation, it is also your responsibility to help the country understand and reckon with the violence and the lawlessness of the last administration while maintaining the department's prosecutorial independence.

On January 6, insurgents stormed the Capitol building in what appears to be a preplanned, organized assault on our government, seeking to overturn the votes of their fellow Americans and believing in the lie told to them by President Trump and his followers. I commend the department for doing the important work of bringing those responsible for the violence of January 6 to justice.

I ask only that you continue to follow the facts and the law where they lead because although you have rightly brought hundreds of charges against those who physically trespassed in the Capitol, the evidence suggests that you will soon have some hard decisions to make about those who organized and incited the attack in the first place.

And we must acknowledge the simple truth that none of the individuals who attacked the Capitol that day appeared out of thin air. According to the Southern Poverty Law Center, membership in white nationalist groups grew 55 percent during the Trump presidency. Membership in hate groups, overall, remains historically high.

The COVID-19 epidemic, as with many national crises, brought out both the best and the worst of our fellow Americans. While everyday heroes struggled to save lives and keep people safe, anti-Asian hate crimes and hate incidents skyrocketed. Innocent people lost their lives and communities were shattered.

I know DOJ and its components are key to the Biden administration's National Strategy for Countering Violent Extremism, and I am looking forward to hearing more about how DOJ is working to prevent violent extremists from gaining further foothold in our country. This growth in extremist ideology is echoed in an epidemic of violence and intimidation directed at our health care professionals, teachers, essential workers, school board members, and election workers.

To be clear, we are a country that prizes democratic involvement at every level of government. The right to be heard, to have a voice, is guaranteed by our Constitution. But nobody has a right to threaten his fellow citizens with violence. You were absolutely right to ask the FBI and federal prosecutors to meet with local law enforcement agencies and set up dedicated lines of communication so that we can confront this spike in violence head-on. There is a broader pattern here.

In each of these cases, former President Trump's big lie, the rise in hate crimes against citizens of Asian descent, and the growing threats of violence against public servants, the same set of individuals have leveraged the same sorts of misinformation, stoked the same sorts of grievances, and shown remarkably little interest in solving our problems.

But this country, and your tenure as attorney general, cannot be defined only by the outrages of the last four years. We have much more to do to deliver on our nation's fundamental promise of liberty and justice for all. Black and brown Americans deserve to live in a country

where they can trust that their local police departments will protect, not endanger, their families.

I applaud you for taking steps to limit the use of chokeholds and no-knock warrants, and we must continue to work together to address the issues that allow for our criminal justice system to so disproportionately impact people of color. Across the country, state legislatures are restricting the right to vote in service of the most cynical political motives.

Your department has rightly stepped in to secure our next election, and Congress owes you a Voting Rights Restoration Act that will give you the tools you need to consign these nakedly undemocratic efforts to the dustbin of history where they belong. Similarly, Texas' law to ban abortion after six weeks and punish abortion providers is designed to restrict its citizens' constitutionally protected rights.

It does so by offering to pay a bounty to those who would turn in their neighbors, co-workers, or even strangers if they suspect someone violated the law or helped a woman get an abortion after six weeks. This deliberately creates an atmosphere of fear and suspicion that stops women from seeking help. It is a dangerous law that is repugnant to the Constitution, and I thank you for the department's swift action to protect these essential rights.

We cannot become a country where only some people in some states enjoy their constitutional rights. As attorney general, you have the power to help our country navigate the generational trauma of oppression and move past the challenges of the last four years. Thank you again for appearing before us today.

I look forward to your testimony. I now recognize the ranking member of the Judiciary Committee, the gentleman from Ohio, Mr. Jordan for his opening state.

JIM JORDAN:

Thank you, Mr. Chairman. The chairman just said the Trump DOJ was political and went after their opponents. Are you kidding me? Three weeks ago, the National School Boards Association writes President Biden asking him to involve the FBI and local school board

matters. Five days later, the attorney general of the United States does just that, does exactly what a political organization asked to be done.

Five days. We've sent -- Republicans on this committee have sent the attorney general 13 letters in the last six months, takes weeks and months to get a response. Eight of the letters, we've got nothing. They just gave us the finger saying, "We're not going to get back to you." And all our letters were actually sent to the attorney general.

Here's a letter sent to someone else asking for a specific thing to be done. And in five days, the attorney general does it. Here's what the October 4th memo said, "I'm directing the FBI to convene meetings with local leaders. These meetings will open dedicated lines of communication for threat reporting." Dedicated lines of communication for threat reporting, a snitch line on parents, started five days after a left-wing political organization asked for it. That's not political, I don't know what is. Where's the dedicated lines of communication with local leaders regarding our southern border, something that frankly is a federal matter?

Where's the dedicated lines of communication on violent crime in our cities? Violent crime that has went up in every major urban area where Democrats have defunded the police. Nope, can't do that. Can't do that. The Biden Justice Department is going to go after parents who object to some racist hate-America curriculum.

Nope, can't focus on the southern border where 1.7 million illegal encounters have happened this year alone. A record, a record number. MS-13 can just waltz right across the border, but the Department of Justice, they're going to open up a snitch line on parents. Think about this, the same FBI that Mr. Garland is directing to open dedicated lines of communication for reporting on parents, just a few years ago, spied on four American citizens associated with President Trump's campaign.

JIM JORDAN:

Clinton campaign hired Perkins Coie who hired Fusion GPS who hired Christopher Steele to put a bunch of garbage together, gave it to the FBI. They used that as the basis to open up an

investigation into a presidential campaign. Oh, and then investigation into a presidential campaign. Oh, and then there was Mr. Sussmann, Mr. Sussmann who worked at Perkins Coie, the firm hired by the Clinton campaign, He cut out all the middlemen. He just said, "I'm just going to go directly to the FBI," not just anyone at the FBI, who did he go to? Jim Baker, the chief counsel of the FBI, handed him a bunch of false information, told him false information, and, of course, he's been indicted by the special counsel.

A few weeks ago, the IG at the Department of Justice released a report that found that the FBI made over 200 errors, omissions, and lies in just 29 randomly selected FISA applications. But don't worry, the attorney general of the United States just put them in charge of a dedicated line of communication to report on parents who attend school board meetings.

Mr. Chairman, Americans are afraid. For the first time during my years in public office, first time, I talked to the good folks I get the privilege of representing in the 4th District of Ohio, folks all around the country, they tell me, for the first time, they fear their government. And, frankly, I think it's obviously -- obvious why.

Every single liberty we enjoy under the First Amendment has been assaulted over the last year. Stop and think about it. Americans were told you couldn't go to church, couldn't go to work, couldn't go to school. Small business owners were told, "You're not an essential business, close your doors," causing many of them to go bankrupt.

We were given curfews, stay-at-home orders. Last fall, in Ohio, you had to be in your home at 10. In Pennsylvania, when you were in your home, you had to wear a mask. In Vermont, when you were in your home, you didn't have to have to wear a mask because you weren't allowed to have friends and family over.

And, of course, there's always a double standard with these folks. Folks who make the rules never seem to follow them. And now, the Biden administration says get a vaccine or lose your job. Even if you've had COVID and have natural immunity, get a vaccine or you will lose your job. Oh, I almost forgot. The Biden administration also wants another dedicated line of communication for reporting.

They want a second snitch line. They want banks to report on every single transaction over \$600 for every single American to the IRS. The IRS, that agency with its stellar record of customer service, the IRS, you know, the same IRS that targeted conservatives the last time Joe Biden was in the executive branch.

Jefferson said once, "Tyranny is when the people fear the government." We are there. Sadly, we are there, but I don't think, I don't think the good people, I don't think the good people of this great country are going to cower and hide. I think your memo, Mr. Attorney General, was the last straw. I think it was the catalyst for a great awakening that is just getting started.

Pilots at Southwest Airlines, the Chicago police union, parents at school board meetings, Americans are pushing back because Americans value freedom. A few weeks ago, a few weeks ago, Terry McAuliffe said this, "I don't think parents should be telling schools what to teach." When the government tells parents, "We're smarter than you," Americans aren't going to tolerate it. When the attorney general of the United States sets up a snitch line on parents, Americans aren't going to tolerate it. I think they're going to stand up to this accelerated march to communism that we now see.

America is going to fight the good fight, they're going to finish the course, they're going to keep the faith because Americans value freedom. Mr. Chairman, we have a video we'd like to play.

MADELEINE DEAN:

Mr. Chairman?

JIM JORDAN:

We have a video we'd like to play.

MADELEINE DEAN:

Mr. Chairman --

JERROLD NADLER:

Ms. Dean?

MADELEINE DEAN:

I object.

JERROLD NADLER:

What privilege does Ms. Dean seek recognition?

MADELEINE DEAN:

I object. I'm reserving my right to object to the video.

JIM JORDAN:

Why would --

MADELEINE DEAN:

May I inquire as to whether the gentleman has followed the Judiciary Committee's AV protocol by providing 48 hours' notice to the committee's clerk that he was going to use a video?

JIM JORDAN:

We provided notice. Well, first of all, there's no 48-hour rule, that's not in the committee rules. Second, we did let the committee staff -- the majority know that we had a video, and we gave the video to him this morning.

JERROLD NADLER:

Responding to the gentlelady's request, he did not. He did not supply the 48 hours rule --

JIM JORDAN:

Mr. Chairman --

MADELEINE DEAN:

I insist -- then I insist --

JERROLD NADLER:

Forty-eight hours' notice required by the rule.

JIM JORDAN:

Mr. Chairman --

MADELEINE DEAN:

Then I insist on my objection. Having failed to follow the bipartisan protocol, I insist on my objection. I object that --

JERROLD NADLER:

An objection has been heard. The video will not be shown.

JIM JORDAN:

I appeal the ruling of the chair.

UNKNOWN:

If a ruling has been made, there's been an objection.

JERROLD NADLER:

There's been no ruling that was -- there has been no ruling that was made -- there's been an objection.

JIM JORDAN:

Mr. Chairman, I'd like to speak regarding the --

JERROLD NADLER:

No, that's out of order. This is not debatable.

JIM JORDAN:

What's out of order is there is no rule that requires a 48-hour notice, that's what's out of order.

JERROLD NADLER:

There is such a rule.

JIM JORDAN:

There is not, not in our rules.

UNKNOWN:

Unless objected to.

CHIP ROY:

Mr. Chairman, what are you afraid of?

JERROLD NADLER:

There is such a rule. You objected last year. You were told there was such a rule.

CHIP ROY:

Is -- Mr. Chairman, what are our colleagues on the other side of the aisle afraid of?

UNKNOWN:

The gentleman was recognized --

CHIP ROY:

Are they afraid of videos of parents?

UNKNOWN:

[Inaudible] opening statement.

JERROLD NADLER:

The gentleman was recognized for his opening statement. Has he finished with his opening statement?

CHIP ROY:

Overruling any statement?

JIM JORDAN:

I'm not finished with all of this [Ph].

CHIP ROY:

I seek recognition for a moment for an inquiry.

JIM JORDAN:

It's not a rule --

JERROLD NADLER:

The gentleman can proceed with his opening statement.

JIM JORDAN:

It's not a rule, it's -- it's what you said. I think the term used is, it's protocol. [Inaudible]

JERROLD NADLER:

The gentlewomen objected --

JIM JORDAN:

[Inaudible] conduct of the committee, rules do. That's not a rule. We had a video. We understood you had a video.

CHIP ROY:

I seek recognition for a parliamentary inquiry.

JERROLD NADLER:

The gentlewoman objected because you failed to follow the rule. Her objection is sustained.

CHIP ROY:

Mr. Chairman, I seek --

JERROLD NADLER:

The gentleman have anything else --

CHIP ROY:

I seek recognition for a parliamentary inquiry.

JIM JORDAN:

We had -- it's -- I'll yield back in just a second and particularly if you're going to recognize this.

JERROLD NADLER:

The gentleman yields back?

JIM JORDAN:

No, I haven't yielded back yet. I said I will in a second. It's a video about parents at school board meetings. Moms and dads speaking at school board meetings, and you guys aren't going to let us play it?

JERROLD NADLER:

The -- it will not be --

JIM JORDAN:

[Inaudible]

JERROLD NADLER:

An objection has been heard that you failed to give the 48 hours request required by the rule. And therefore --

CHIP ROY:

What rule? Mr. Chairman, what rule? Parliamentary inquiry, what rule?

JIM JORDAN:

You have to say what rule.

UNKNOWN:

[Inaudible] by the rule.

CHIP ROY:

Please present the rule.

JERROLD NADLER:

In the case of audiovisual materials, under the leadership of my predecessor, Chairman Goodlatte, a Republican, the committee developed a written protocol for managing the use of audiovisual materials in our hearings.

CHIP ROY:

But in protocol.

JERROLD NADLER:

This protocol simply requires members to provide 48 hours' notice they are going to use audiovisual materials. Until recently, this protocol was not controversial. It was a helpful tool we use to manage hearings and make sure videos played properly. The gentlewoman has objected to the materials because the gentleman did not provide the agreed-upon 48 hours' notice.

Playing audiovisual materials during a committee hearing is the equivalent of introducing printed materials into the hearing record. In the normal course of business, we do not object to each other's requests, but members have the right to object if they so choose, and an objection has been heard.

CHIP ROY:

Mr. Chairman, did we ever vote on that?

UNKNOWN:

The gentleman is recognized.

CHIP ROY:

That's a clever written statement, but our -- a protocol is not a rule.

JERROLD NADLER:

The gentleman was recognized for his opening statement.

UNKNOWN:

[Inaudible]

JIM JORDAN:

Mr. Chairman, obviously, you're not going to let us play it. Obviously, you're going to censor us, which is sort of the conduct of the left today, it seems, and Democrats today, it seems. I yield back the balance of my time.

JERROLD NADLER:

The gentleman yields back. A point of order -- the gentleman was saying his point of order.

That is not a point of order. As I said before, playing audiovisual materials during a committee hearing is the equivalent of introducing printed materials into the hearing record. In the normal course of business, we do not object to each other's requests, but members have the right to object if they so choose, and an objection has been heard.

UNKNOWN:

That's not available currently. The gentleman has not made available [Inaudible]

JERROLD NADLER:

The gentleman has not made a valid point of order.

UNKNOWN:

Now, we recognize the [Inaudible]

JERROLD NADLER:

The gentleman [Inaudible]

UNKNOWN:

Move the table, move the table. There's nothing to appeal.

JERROLD NADLER:

There's nothing to appeal. There's been no ruling. There's been no ruling.

There's just been an objection, and the objection has been heard.

Now, we'll introduce the attorney general. I will now introduce today's witness. Merrick Garland was sworn in as the 86th attorney general of the United States in March 11th, 2021. Immediately preceding his confirmation as attorney general, Mr. Garland was a judge of the United States Court of Appeals for the District of Columbia Circuit.

He was appointed to that position in 1997, served as chief judge of the circuit from 2013 to 2020, and served as chair of the Executive Committee of the Judicial Conference of the United States from 2017 until 2020. In 2016, President Obama nominated him for the position of associate justice of the United States Supreme Court.

Before becoming a federal judge, Attorney General Garland spent a substantial part of his professional life at the Department of Justice, including as special assistant to the attorney general, assistant United States attorney, deputy assistant attorney general in the Criminal Division, and principal associate deputy attorney general.

Earlier in his career, Attorney General Garland was in private practice, and he also taught at Harvard Law School. He earned both his undergraduate and law degrees from Harvard University. Following law school, he clerked for Judge Henry Friendly at the United States Court of Appeals for the 2nd Circuit and for Supreme Court Justice William Brennan.

JERROLD NADLER:

We welcome the attorney general, and we thank him for participating today. And if you'd please rise, I would begin by swearing you in. Raise your right hand. Do you swear affirm under penalty of perjury, that the testimony you're about to give is true and correct to the

best of your knowledge, information and belief, so help you God. Let the record show that the witnesses answered in the affirmative. Thank you and please be seated. Please note that your written statement will be entered into the record in its entirety.

Accordingly, I ask that you summarize your testimony in five minutes. To help you stay within that time limit, there's a timing light on your table. When the light switches from green to yellow, you have one minute to conclude your testimony. When the light turns red, it signals your five minutes have expired.

Attorney General Garland, you may begin.

MERRICK GARLAND:

Good morning, Chairman Nadler, Ranking Member Jordan, distinguished members of this committee. Thank you for the opportunity to appear before you today. My address to all Justice Department employees on my first day in office, I spoke about 3 co-equal priorities that should guide the department's work, upholding the rule of law, keeping our country safe and protecting civil rights.

The first core priority, upholding the rule of law, is rooted in the recognition that to succeed and retain the trust of the American people, the Justice Department must adhere to the norms that have been part of its DNA, since Edward Levi's tenure as the first post-Watergate attorney general. Those norms of independence from improper influence of the principled exercise of discretion and of treating like cases alike define who we are as public servants.

Over the past seven months that I have served as attorney general, the department has reaffirmed and where appropriate, updated and strengthened policies that are foundational for these norms. For example, we strengthened our policy governing communications between the Justice Department and the White House.

That policy is designed to protect the department's criminal and civil law enforcement decisions and its legal judgments from partisan or other inappropriate influence. We also issued a policy to better protect the freedom and independence of the press by restricting the

use of compulsory process to obtain information from or records of members of the news media.

The second priority is keeping our country safe from all threats, foreign and domestic, while also protecting our civil liberties. We are strengthening our 200 Joint Terrorism Task Forces, which are the essential hubs for international and domestic counterterrorism cooperation across all levels of government.

For FY 22, we are seeking more than \$1.5 billion, a 12 percent increase for our counterterrorism work. We are also taking aggressive steps to counter cyberthreats, whether from nation states, terrorists or common criminals. In April, we launched both a comprehensive cyber review and a Ransomware and Digital Extortion Task Force.

In June, we seized a \$2.3 million ransom payment made in bitcoin to the group that targeted Colonial Pipeline. Keeping our country safe also requires reducing violent crime and gun violence. In May, we announced a comprehensive violent crime strategy, which deploys all of our relevant departmental components to those ends.

We also launched five cross jurisdictional strike forces to disrupt illegal firearms trafficking in key corridors across the country. And to support local police departments and help them build trust with the communities they serve. Our FY 22 budget requests over \$1 billion for grants. We are likewise committed to keeping our country safe from violent drug trafficking networks, that are among other things fueling the overdose epidemic.

Opioids including illegal fentanyl caused nearly 70,000 fatal overdose dose address deaths in 2020. We will continue to use all resources at our disposal to save lives. Finally, keeping our country safe requires protecting its democratic institutions, including the one we sit in today from violent attack.

As the committee is well aware, the department is engaged in one of the most sweeping investigations in its history, in connection with the January 6th attack on the Capitol. The department's third core priority is protecting civil rights. This was a founding purpose when the Justice Department was established in 1870. Today, the Civil Rights Division's work

remains vital to safeguarding voting rights, prosecuting hate crimes, ensuring constitutional policing and stopping unlawful discrimination.

This year we doubled the size of the Civil Rights Division's voting section, and our FY 22 budget seeks the largest ever increase for the division totaling more than 15 percent. We have appointed department wide coordinators for our hate crimes work, and we have stepped up our support for the Community Relations Service, and the department wide efforts to advance environmental justice and tackle climate change.

We are also revitalizing and expanding our work to ensure equal access to justice. In the days ahead, we look forward to working with Congress to restore a standalone access to justice office within the department, dedicated to addressing the most urgent legal needs of communities across America. In addition to these core priorities, another important area of departmental focus, is ensuring antitrust enforcement, reinvigorating that enforcement, combating fraud and protecting consumers.

We are aggressively enforcing our antitrust laws by challenging anti-competitive mergers and exclusionary conduct, and by prosecuting price fixing and allocation schemes, that harm both consumers and workers. In FY 22, we are seeking additional resources to reinvigorate antitrust enforcement across the board.

We also stood up the COVID-19 Fraud Enforcement Task Force, to bring to justice those who defrauded the government of federal dollars meant for the most vulnerable among us. In sum, in seven months, the Justice Department has accomplished a lot of important work for the American people and there is much more to be done.

Thank you for the opportunity to testify today. I look forward to your questions.

JERROLD NADLER:

Thank you for your testimony. We will now proceed under the five-minute rule with questions, and I will recognize myself to begin for five minutes. Mr. Attorney General, in the 2013 decision, *Shelby County v. Holder*, the Supreme Court gutted Section 5 of the Voting Rights Act, rendering its preclearance provision inoperative.

As a direct result of this decision, the right to vote is come under a renewed and steady assault. And the states have spent the past eight years enacting a slew of barriers to voting the target or impact communities of color and other historically disenfranchised groups. Before this committee in August, Assistant Attorney General, Kristen Clarke testified that, quote, "Section 5 of the Voting Rights Act was truly the heart of the act and called it the department's most important tool for safeguarding voting rights in our country". Why is Section 5 preclearance so crucial to combating discrimination -- discriminatory voting practices?

MERRICK GARLAND:

Thank you, Mr. Chairman. Voting, the right to vote is a fundamental aspect of our democracy, in many ways it is the right from which all of the rights occur. The Voting Rights Act was a gem of American legislation as President Ronald Reagan said, and as all other presidents on both sides of the aisle have said.

A key part of that provision was Section 5, as you said, this was a preclearance provision, which required in specified states where there had been discriminatory practices, that provisions for changes in patterns or practices of voting should be submitted to the Department for preclearance to determine whether they violated the act.

There was another alternative if state did not like the result from the Justice Department, it could go to a court and get a resolution there. But the great idea of preclearance was to allow advance, review before these things went into effect, rather than require the Justice Department on a one-by-one basis after the fact, makes it extremely difficult to attack unlawful prescriptions on voting practices.

JERROLD NADLER:

Thank you. Attorney -- Assistant Attorney General Clarke testified that, Section 2 is known - - is no substitute for the important swift preemptive review that was provided by way of Section 5 preclearance process. The full impact of the Supreme Court's recent decision in Brnovich vs DNC on Section 2 remains to be seen.

However, in the absence of an operation of Section 5 preclearance regime, what steps is the Justice Department taking to increase enforcement voting rights under Section 2?

MERRICK GARLAND:

So, Section 2 is a remaining tool, it's extraordinarily important and it does give us some impact. In order to better effectuate that provision, we have doubled the size of the voting rights section because it will take more people to evaluate state laws on a one-by-one basis, so we are going about doing that.

We have brought one case as, as you know, with respect to changes in Georgia, we are looking carefully at other states and we are looking carefully at the redistricting, which is occurring as we speak now as a result of the decennial census, we continue to do that. And vigorously make sure that Section 2 is appropriately enforced.

JERROLD NADLER:

And if you should find that the state's reapportionment, for example, was unconstitutional and you sued, it could take six or eight years for those suits to be resolved as we have seen. And that's one reason -- another reason for the necessity for Section 5 preclearance. My time is short, so I have only one last question for you. The country and the Congress is still reeling from the events of January 6th, and the select committee is diligently pursuing its investigation into the insurrection.

This week, Chairman Thompson and his colleagues voted to hold in contempt Steve Bannon, who failed to comply with the select committee subpoenas. And the measures -- and the measure will be taken up by the House later today. Unfortunately, the actions of individuals like Mr. Bannon are not new to us. Many committees, including this one, repeatedly face obstruction from the prior administration and the former president's loyal allies.

Congress, however, is not an enforcement body and looks to the department to handle criminal matters when appropriate. So, I ask you, Mr. Attorney General, regardless of

politics, will the department follow the facts in the law and expeditiously consider the referrals put forth by the select committee if and when they are approved by the full House?

MERRICK GARLAND:

Well, the department recognizes the important oversight role that this committee, the House of Representatives and the Senate, play with respect to the executive branch. I will say what a spokesperson for the US Attorney's Office in the District of Columbia said, I think yesterday or the day before, the House of Representatives votes for referral of the contempt charge.

The Department of Justice will do what it always does in such circumstances, will apply the facts in the law, and make a decision consistent with the principles of prosecution.

JERROLD NADLER:

Thank you very much.

JIM JORDAN:

The gentleman [Inaudible] Pull the mic a little closer, Mr. Attorney General.

MERRICK GARLAND:

Oh, I'm sorry.

JIM JORDAN:

Mr. Chabot [Inaudible]

MERRICK GARLAND:

Is that better?

JERROLD NADLER:

Mr. Chabot?

MERRICK GARLAND:

Sure, of course.

JIM JORDAN:

Mr. Chabot.

JERROLD NADLER:

Mr. Chabot.

STEVE CHABOT:

Thank you. Mr. Chairman, I'd start by asking unanimous consent that an op-ed that appeared in last week's Wall Street Journal by the author of the "Patriot Act," Mr. Sensenbrenner, former chairman of this committee, entitled The Patriot Act Wasn't Meant to Target Parents, be entered into the record.

JERROLD NADLER:

Without objection.

STEVE CHABOT:

Thank you. Mr. Attorney General, most of us had other jobs before we got here to Congress. For example, I practiced law for quite a few years. I was a county commissioner. I was a member of Cincinnati City Council, and before that, I was a schoolteacher in Cincinnati, in the inner-city. All the students in the school were African American, and I taught the seventh and eighth grade.

It was my experience that the kids who did the best were the ones who had parental involvement in their education. Does that make sense to you?

MERRICK GARLAND:

Yes, I think parental involvement is very important in education.

STEVE CHABOT:

Thank you. Now, with that in mind, having parents involved in their children's education, I have to say I find it deeply disturbing that the National School Board Association convinced the Biden administration to sic you and your Justice Department, the FBI, the full power of the federal law enforcement in this country on involved parents as if they were domestic terrorists.

One of the tools in your arsenal of weapons, of course, is the Patriot Act that I just mentioned. Not many current members of this committee were here when we passed the Patriot Act, but I was. And, Mr. Chairman, you were too. And I remember clearly that we were both concerned about potential abuse of this new law enforcement tool.

And that's why, for example, we insisted on sunset provisions on some aspects of the Patriot Act. But I can tell you, not in a million years did we dream that, one day, we'd see the Justice Department treat American parents as domestic terrorists. And in a primer on domestic terrorism issued last November by none other than the FBI, Mr. Attorney General -- the FBI explicitly stated that, "Under FBI policy and federal law, no investigative activity related to domestic terrorism may be initiated based on First Amendment activity." Now, parents speaking up at a school board meeting against the teaching of critical race theory or anything else that they want to talk about is clearly a First Amendment activity.

Now, of course, school board meetings can sometimes be highly emotional affairs. Parents do care about their kids' education, how they're being taught, what they're being taught. And these parents have every right to be heard, even if former Virginia governor, Terry McAuliffe, thinks otherwise. Now, no one has the right to be violent or threaten violence.

And if anyone does that, they can be dealt with by security or by local law enforcement. But we don't need the vast power of the federal government throwing its weight around. We don't need you, your Justice Department, or the FBI trampling on the rights of American parents who just want the best possible education for their children.

So, Mr. Attorney General, let me ask you this. According to the Sarasota Herald-Tribune, one example of a so-called terrorist incident was apparent, merely questioning whether school board members had earned their high school diplomas. Now, that might have been rude, but does that seem like an act of domestic terrorism that you or your Justice Department ought to be investigating?

MERRICK GARLAND:

Absolutely not. And I want to be clear, the Justice Department supports and defends the First Amendment right of parents to complain as vociferously as they wish about the education of their children, about the curriculum taught in the schools. That is not what the memorandum is about at all, nor does it use the words domestic terrorism or Patriot Act. Like you, I can't imagine any circumstance in which the Patriot Act would be used in the circumstances of parents complaining about their children, nor can I imagine a circumstance where they would be labeled as domestic terrorism.

STEVE CHABOT:

Thank you. I'm nearly out of time. So, let me just conclude with this. We ought to be encouraging parents to be actively involved in the education of their children. After all, if our children are to be competitive with the children of Japan and South Korea and India, and, yes, China for tomorrow's jobs, they better be getting a top-notch education in this country.

Let's support and welcome parental involvement, not use the vast powers of federal law enforcement to target parents as domestic terrorists. And I yield back.

JERROLD NADLER:

The gentleman, yields back. Once again, I would remind all members that guidance from the Office of Attending Physician states that face coverings are required for all meetings in an enclosed space, such as committee hearings, except when you're recognized to speak. And that means you, Jim and Marjorie and Matt, and a lot of other people I can't recognize because of distance, etc.

So, please, everyone, observe that rule. I now recognize Ms. Lofgren for five minutes.

ZOE LOFGREN:

Thank you, Mr. Chairman, and thank you, Mr. Attorney General, for being here this morning. At your confirmation hearing, you characterized what happened on January 6th as, "a heinous attack that sought to disrupt a cornerstone of our democracy." I agree with that. And in your written testimony today, you point out that the Intelligence Community has identified domestic violent extremists as the primary threat to our nation and further note that your department is committed to keeping our country safe by protecting our democratic institutions.

I would note that protecting our democratic institutions is not limited to the Department of Justice. The Congress also has that obligation to protect our democracy. To that end, we have a select committee that is reviewing the events leading up to January 6th and has a legislative mandate to devise legislative recommendations to prevent future acts of domestic extremist violence, to strengthen the resiliency of our nation's democratic institutions to propose laws that will keep us -- our democratic systems safer.

Now, with that background in mind, we are, as you are aware, seeking information to inform us to perform that role. Before you were AG, you were a judge. And I note that the -- in your judicial role, in 2004, there was a case *Judicial Watch v. the Department of Justice* where the court ruled, "Presidential communications privilege applies only to documents solicited and received by the president or his immediate White House advisers who have broad and significant responsibility for investigating and formulating the advice to be given to the president." I think you're familiar with that case.

Do you think that's still good law?

MERRICK GARLAND:

Yeah, I think the DC Circuit is a good source of law.

ZOE LOFGREN:

In the Supreme Court case, *Nixon v. Administrator of GSA* 1974. The *Judicial Watch* case actually relied on that precedent. That case said that the communications to advise the president would be only on official government matters. Do you think that's still good law?

MERRICK GARLAND:

I think the Supreme Court's opinion is still good law until it's reversed. Well, I see no sign that it's going to be reversed.

ZOE LOFGREN:

In the -- we were here in the Judiciary Committee pursuing testimony from Mr. McGahn. And the court wrote in the 2019 case, "To make the point as plain as possible, it is clear to this court for the reasons explained above that with respect to senior-level aides, absolute immunity from compelled congressional process simply does not exist." Do you think that's still good law?

MERRICK GARLAND:

I believe the McGahn case is still good law.

ZOE LOFGREN:

Recently, the Department of Justice informed a federal district court that, "Conspiring to prevent the lawful certification of the 2020 election and to injure members of Congress and inciting the riot at the Capitol would plainly fall outside the scope of employment of an officer or employee of the United States of America." Since your department filed that, I assume you agree with that.

MERRICK GARLAND:

Yes.

ZOE LOFGREN:

So, I just want to mention. I'm not going to ask you about what your department will do if the House of Representatives adopts a referral to your department. Because I take you at your word that you will follow the precedent, you will follow the law in the ordinary course of events. I would just note that your defense of the rule of law for the Department of Justice and your standing for the rule of law also means the rule of law for the Congress of the United States.

Article 1 has -- was the first article for a reason. We have a role to play in making sure that our democratic institutions are defended. I thank you for your service to our country and I look forward to your deliberations so that the Congress of the United States can play its rightful role in defending our institutions and adopting legislation that will strengthen our institutions and preserve and protect our Democratic Republic.

With that, Mr. Chairman, I yield back.

JERROLD NADLER:

The gentlelady yields back. Mr. Gohmert.

LOUIE GOHMERT:

Thank you, Mr. Chairman. And thank you, Judge Garland, for being here. You said a month ago you couldn't imagine a parent being labeled a domestic terrorist, but parents all over the country believe that's exactly what you labeled them by your memo indicating you were going to get involved in board meetings -- school board meetings because of the threat of domestic terrorism.

So, if you can't imagine a parent being labeled a domestic terrorist, I would encourage you to redo your memo so it's not so perceived as being so threatening to people concerned about their kids' education. But I want to take you to January 6. It's a very common topic here for people. Has any defendant involved in the January 6 events been charged with insurrection?

MERRICK GARLAND:

I don't believe so.

LOUIE GOHMERT:

Well, that is the word most used by Democrats here on Capitol Hill about January 6, but no one has been charged with it that we could find either. How many protesters on January 6 were charged with obstructing an official proceeding for four to six hours? Do you know?

MERRICK GARLAND:

I don't know the exact number. Obviously, there are 650 who were arrested, some for assaulting officers, some for obstructing proceedings, some for conspiring to obstruct proceedings. I can get you the numbers for each of the specific.

LOUIE GOHMERT:

Thank you. I'd be interested in getting that number. But regarding the man who broke the glass in the two doors there at the speaker's lobby when the two Capitol police who've been standing there moved to the side to allow them access, were any of those people who broke glass and did damage to those doors working for the FBI or other federal law enforcement entities?

MERRICK GARLAND:

This is an ongoing criminal investigation and I'm really not at liberty to discuss. There have been some filings of -- in the nature of discovery, which has been provided to the defendants. But other than that, I can't discuss this now.

LOUIE GOHMERT:

Well, we've seen some of those filings that talk about persons 1 through 20 something. Were those persons, one, designated by number? Were those people that were employed by the FBI or federal entities or were they confidential informants?

MERRICK GARLAND:

Again, I don't know those specifics but I do not believe that any of the people you're mentioning charged in the indictment were either one.

LOUIE GOHMERT:

Was a determination ever made as to who repeatedly struck Rosanne Boyland in the head with a rod before she died?

MERRICK GARLAND:

Again, I think this was a matter that was investigated by the US attorney's office and --

LOUIE GOHMERT:

Well, there's a witness on video saying that it was a DC metro policeman. I didn't know if you'd been able to confirm or deny that. Well, on June 22nd of 2016, Judge, most of the Democrat members of Congress took over the House floor. And for the first time in American history, members of Congress obstructed official proceedings, not for four to six hours but for virtually 26 hours.

Not just violating over a dozen House rules, but actually committing the felony that some of the January 6 people are charged with. That was during the Obama administration, nobody has been charged. And those kind of things where you let Democrat members of Congress off for the very thing that you're viciously going after.

People that were protesting on January 6 gives people the indication that there is a two-tiered justice system here in America. You know well, you've been a circuit court judge, you know well that confinement -- pretrial confinement is not ever to be used as punishment. Yet there are people -- and understand as a former tough law and order judge, I would sentence everyone regardless of their party who did violence or committed crimes on January 6 to appropriate sentences.

But for heaven's sake, they are being abused in the DC jail. Have you done any inspection over there of the DC jail since your department has some jurisdiction?

MERRICK GARLAND:

So, my understanding is Judge Lamberth, who I respect very much as --

LOUIE GOHMERT:

Yeah. He held the warden in contempt, but we haven't seen --

MERRICK GARLAND:

Well, he --

LOUIE GOHMERT:

Improvement.

MERRICK GARLAND:

He asked for a review and the Justice Department is conducting a review. The marshals did an inspection the other day, which was reported in the news. And the civil rights division is examining the circumstances. This is the District of Columbia jail. It's not the Bureau of Prisons, you understand.

JERROLD NADLER:

The time of the gentleman has expired. As I've explained to members on many occasions, I view the wearing of face masks as a safety issue, and therefore, is an important matter of order and decorum. Because I am responsible for preserving order and decorum in this committee, I am requiring members and staff attending this hearing to wear face masks.

I came to this decision after the Office of the Attending Physician releases guidance requiring masks in committee hearings some time ago. I note that some members are still not wearing masks. The requirement is that members where they must at all times when

they are not speaking. I will take members in compliance with this rule into consideration when they seek recognition.

I see Mr. Roy, for example. I now recognize Ms. Jackson Lee.

SHEILA JACKSON LEE:

Thank you, Mr. Chairman. General, let me thank you for your enormous work that the department is doing. I have a series of questions. Help me out in your answers so that I can secure responses. As you well know, the Senate Judiciary Committee did an outstanding report on how the former president and his allies pressured DOJ to overturn the 2020 election.

And in particular, they noted a series of dates in which they assess that the former president grossly abused the power of the presidency. He also arguably violated the criminal provisions of the Hatch Act, which prevents any person from commanding federal government employees to engage in political activity.

Will there be any reason that the DOJ would not further research or determine prospectively that the former president could be prosecuted under the Hatch Act?

MERRICK GARLAND:

Congressman, the Justice Department has a very longstanding policy of not commenting on potential investigations or actual or pending investigations. This is a foundational element of our rule of law and norms. It's to protect everyone no matter what their position, former president, current president, congresswoman, senator, or ordinary citizen. And I'm going to have to rest on that, that I can't comment on --

SHEILA JACKSON LEE:

Thank you. I take that there's no prohibition, but thank you so very much. The Justice Department investigated the Texas five secure juvenile facilities, finding sexual abuse. Can I

quickly get an answer? Working with the Justice Department, encouraging standardized conditions for these facilities since the facts were gross in terms of the abuse of those children, I think you're investigating Georgia as well, Mr. General?

MERRICK GARLAND:

So, we are investigating Texas and that was announced, and I believe the governor welcomed that investigation, and that's being done by a combination of the Civil Rights Division and all four US Attorney's Offices in Texas.

SHEILA JACKSON LEE:

Thank you, sir. With respect to compassionate release, which came about through the CARES Act, we found that in the BOP, 39 percent of American federal prisoners contracted COVID-19. Two thousand -- according to a New York Times article, 2,700 prisoners have died. There is a potential of the -- of compassionate release being eliminated and those out, but also, I found that it's not being utilized appropriately now.

The attorney -- inspector general said that BOP was not prepared with the issue -- was not prepared to deal with the issue of compassionate release on a granular level, and, of course, the director himself said prisons are not made for social distancing. My question is, will you monitor what is going on with compassionate release either in terms of people returning and or the utilization -- the fair utilization of compassionate release in the BOP under this issue of COVID?

MERRICK GARLAND:

Yes. Congresswoman, the answer is yes. Obviously, the pandemic was not something that the Bureau of Prisons was prepared for or, frankly, most American institutions were not prepared for. It created a lot of difficulties. It did lead to compassionate release leaving people in home confinement. I don't know the specifics that you're mentioning, but we are certainly reviewing carefully, how the bureau is responding now to this dangerous circumstance of COVID-19.

SHEILA JACKSON LEE:

Thank you, General. We found as it relates to the women in prison, 6,600 are serving huge sentences of life with parole, life without parole, virtual life, etc. Eighty six percent of women in jail have experienced sexual violence, 77 percent have experienced intimate partner violence. This has given that report as it relates to women of color.

Can we have a more vigorous trauma mental health protocol for women in prison --

MERRICK GARLAND:

So, I think --

SHEILA JACKSON LEE:

Federal.

MERRICK GARLAND:

Federal, yeah. So, I think an important part of the First Step Act requires us to be careful about those things, and we've asked for additional funding for that purpose. And the deputy attorney general is monitoring the way in which the Bureau of Prisons spends that money and establishes those programs.

SHEILA JACKSON LEE:

Thank you. Can I quickly ask, would VAWA, which has not been passed by the House, would that passage help you do even a more effective job dealing with violence against women like domestic violence, which is Domestic Violence Awareness Month this month, would it be -- help you be more effective in prosecuting moving forward?

MERRICK GARLAND:

Yes, it would. We have -- strongly supportive of reauthorization of the Violence Against Women Act.

SHEILA JACKSON LEE:

I'm going to make just a few statements. Gun violence in children has accelerated in a 19-year high in 2017. I would appreciate talking further about greater prosecution on gun trafficking and the proliferation of guns. Secondly, hate crimes has surged as well, and we want to hear about the resources that are being used for hate crimes.

And then, as you well know, that we have been the poster child in Texas for racial gerrymandering, and let me thank you for the work you've done in Section 2. Just want to make sure that this is on the radar screen of the Justice Department, dealing with that issue of redistricting. But my question finally is the Texas abortion law.

One of the worst components is the stalking of women --

JERROLD NADLER:

The gentlelady's time has expired.

SHEILA JACKSON LEE:

And so, I'm asking whether or not --

JERROLD NADLER:

The gentlelady's time has expired. Mr. Owens.

BURGESS OWENS:

Thank you, Mr. Chairman. Thank you, Attorney General Garland, for coming before our committee today. I'd like to take every opportunity that I have to share with our nation, the making of a great community. I grew up in one in the Deep South 1960s. Though in the depths of Jim Crow segregation, it was community that produced giant Americans like Clarence Thomas, Condoleezza Rice, Thomas Sowell, Walter Williams, and Colin Powell.

This was not by accident, it was not -- and it was also not rare. It was community of faith, family, free market, and education. Education was the very core of our success. I was raised in a home of teachers. My dad was a college professor for 40 years, my mom, a junior high school teacher. They were trusted to do what teachers have done throughout our history; to teach children how to read, write, and subtract, and to think critically.

Success in education was always based on parent -- parental involvement. It was both expected and welcomed. In my great state of Utah, this expectation of parents have not changed. We do not expect nor will we tolerate leftist teaching of our children behind our backs, the evil of CRT, how to hate our country and hate others based on skin color.

Some of the most recent actions that the Department of Justice have taken against parents are concerning, and I'd like to direct my questions around that topic. Similar questions have been asked and I do want to make sure I make it very clear that -- to some of my constituents, some of the concerns I have.

We can all agree that true threats and violence at school board meetings are inexcusable. Attorney General Garland, do you agree with the National School Board Association that parents who attend school board meetings and speak passionately against the inclusion of divisive programs like critical race theory should be characterized as domestic terrorists?

MERRICK GARLAND:

I do not believe that parents who testify, speak, argue with, complain about school boards and schools should be classified as domestic terrorists or any kind of criminals. Parents have been complaining about the education of their children and about school boards since there were such things as school boards and public education.

This is totally protected by the First Amendment. I take your point that true threats of violence are not protected by the First Amendment. Those are the things we're worried about here.

BURGESS OWENS:

OK. Can I --

MERRICK GARLAND:

And those are the only things we're worried about here.

BURGESS OWENS:

OK. Thank you so much for that. Is there legal precedent for the Department of Justice to investigate peaceful protests or parent -- parental involvement at public schools' meetings?

MERRICK GARLAND:

Just to say again, we are not investigating peaceful protest or parent involvement in school board meetings. There is no precedent for doing that, and we would never do that. We are only concerned about violence, threats of violence against school administrators, teachers, staff, people like your mother, a teacher.

That is what we're worried about.

BURGESS OWENS:

OK.

MERRICK GARLAND:

We are worried about that across the board.

BURGESS OWENS:

Thank you.

MERRICK GARLAND:

We're worried about threats against members of Congress. We're worried about threats against police.

BURGESS OWENS:

Thank you very much. Thank you much for that. I'm also a member of the Education and Labor Committee. On October 7, Republican members of this committee sent you a letter, you and Secretary Cardona, expressing your concern about disparaging remarks that the secretary had made against parents. In this letter, we request that you brief the Education and Labor Committee before taking action on your threats to parents' lawful expression of legitimate concerns.

Have you received that letter and do you plan on testifying before the House Education and Labor Committee?

MERRICK GARLAND:

I'm sorry, I don't recollect the letter, but I'll ask my staff to find out where it is.

BURGESS OWENS:

OK. Let me just say this as I wrap this up, and I do appreciate you being here, Attorney General. I watched a time -- I was aware of a time when our race lead our country and a man -- a potential [Ph] man matriculate from college, black men matriculate in college, and now have been aware of in 2017, studies that Education -- Department of Education that 75 percent of the black boys in the state of California cannot pass standard reading and writing tests.

That's a big shift. And the difference is in those days when I was growing up, parents were involved. There was an -- and it was a trust that we can send our kids to school and they'll be taught how to love our country, love each other, and love education. That has been changed drastically. And I think I'm going to applaud parents out there, get involved.

Now is the time. Do not trust any other adults, particularly our educational system, for the future of your kids. Get involved. Fight for your rights for your kids to be taught how to love our country, love education, and move forward. And I think we do that, we get back to the old school America where we can really appreciate the fact of who we are.

And the education system should be teaching us how to do that. I yield back my time.

JERROLD NADLER:

Gentleman yields back. Mr. Cohen.

STEVE COHEN:

Thank you, Mr. Chair. Welcome, General Garland. I feel it's a difficult position for me to question you because I have such respect for your acumen, your probity, and your rectitude, which is widely recognized. But the questions I must ask, the Senate Judiciary Committee had a report recently about the attempts of President Trump to get Department of Justice employees involved in the Stop the Steal campaign, trying to subvert the election.

Are any of those people that were involved in that still at the Justice Department?

MERRICK GARLAND:

You know, all the old-face names that I know about are -- were political appointees, all of whom are not at the department. I don't know the answer otherwise, but I don't believe so. But --

STEVE COHEN:

Thank you. I'd appreciate if you'd check into that if they were and they participated in this in any way that they should come to your attention and they should have certain sanctions, I believe. You have defended or sought to continue to defend President Trump in his defamation action brought by E. Jean Carroll.

He called her a liar. He accused her of conspiring with the Democratic Party and her allegation of rape. And for what it was worth, he said she wasn't his type, his type is, apparently, fairly expansive. And you're defending him. Do you think that the public sees that as a proper use of Department of Justice resources when it's been shown that we're short

on personnel for -- in the civil rights division and that we need that personnel and yet we're defending President Trump's defamation lawsuit by a woman who he has defamed?

MERRICK GARLAND:

Congressman, we are not defending the defamation made by the former president. As I've said, publicly several times, sometimes being the attorney general and sometimes being the judge means taking positions with respect to the law that are required by the law, but which you would not take as a private citizen.

In this circumstance, the Justice Department's briefing is not about whether this was defamation or wasn't defamation. It was solely on the question on the application of the Tort Claims Act and there is consistent precedent in the DC Circuit, which holds that even defamatory statements made during press conferences by public officials are within the scope of employment for that very narrow purpose and for that very narrow definition.

STEVE COHEN:

If I may, sir, and I appreciate that and I've read that, but this was an action he took as a private citizen. He is now again a private citizen and it was totally outside of anything to do with him being president. I hope you will look into it again because I think the public sees it as a mistake. The rule of law, you made clear, and I know you believe this as one of the major tenets of the Department of Justice, to uphold the rule of law.

Michael Cohen has a felony on his record, spent time in prison for paying, at the direction of President Trump, hush money to Stormy Daniels and another woman. I believe that it's pretty well known that President Trump was Individual 1 as described in the indictment. He couldn't be indicted because of the Department of Justice policy: you don't indict a sitting president.

He's no longer a sitting president. Do you believe that not looking into indicting Individual 1, equally, if not more guilty, than Michael Cohen does -- is not an abuse of equal protection under the law and an abrogation of the idea that the rule of law is principle?

MERRICK GARLAND:

So, Congressman, a very important element of the rule of law is the norm at the Justice Department that we don't comment on whether we're investigating, what's the status of investigations are until -- unless and until there's a public charge. That's important to protect everyone, whether it be a former president, an existing president, or a public official, or a private individual.

STEVE COHEN:

I will accept that, but I hope that you will look at it because I believe that he is equally, if not more guilty, and it does seem that people get favored treatment if he does not get -- if he's not prosecuted. Transparency is important as well. Amy Berman Jackson tried to release some records concerning Bill Barr's downplaying of Trump's obstruction in the Mueller investigation.

This committee was looking into the Emoluments Clause violations of the Trump Hotel and got an order to get -- see some records and yet the DOJ appealed. Do you believe that transparency -- those two situations are ones where transparency was not permitted to the American public, as well as the whole Mueller report which hasn't been redacted?

MERRICK GARLAND:

With respect to Judge Jackson's ruling, I respect Judge Jackson, she was a former colleague. I respect her very much. We just have a difference of opinion with respect to the Freedom of Information Act deliberative privilege exemption. And we believe that in that circumstance, the memorandum which was given to Attorney General Barr is protected by that so that all attorneys general can receive honest advice from their subordinates.

That matter is before the DC Circuit now. Everything I've just said is in our paper. So, I'm not saying anything outside the record and it will be resolved by the DC Circuit.

STEVE COHEN:

Thank you. I yield back the balance of my time. But I thank you.

JERROLD NADLER:

The gentleman's time has expired. Mr. Johnson of Louisiana.

MIKE JOHNSON:

Thank you. Mr. Attorney General, millions of Americans are deeply concerned today that instead of addressing the most pressing issues facing our country, we're watching the Biden-Garland Justice Department be weaponized, that you are using your authorities now to advance far-left policies and attack Republican-led state actions and erode constitutional norms.

The most recent case in point has been brought up this morning, your memorandum directing the FBI and other Department of Justice officials to get involved in local school board debates. It concerns us that it was issued just five days after the National School Board Association sent a letter to President Biden which referred to concerned parents as the equivalent of quote, "domestic terrorists and perpetrators of hate crimes" unquote.

Given the timing of all this, your memo appears to have been motivated by politics more than any pressing federal law enforcement need. This is concerning to us and it's worthy of investigation. It also concerns us that your actions may have been motivated by your family's financial stake in this issue. Published reports show that your son-in-law co-founded a company called Panorama Education.

We now know that that company publishes and sells critical race theory and so-called antiracism materials to schools across the country and it works with school districts nationwide to obtain and analyze data on students often without parental consent. On its website, the company brags that it surveyed more than 13 million students in the US. It's raised \$76 million from powerful investors including people like Mark Zuckerberg just since 2017. My first question is this, are you familiar with Title 5 of the Code of Federal

Regulations which addresses the rules of impartiality for executive branch employees and officials?

MERRICK GARLAND:

I am very familiar with it. And I want to be clear, once again, that there is nothing in this memorandum which has any effect on the kinds of curriculums that are taught or the ability of parents to complain about the kinds of --

MIKE JOHNSON:

I understand your position on the free speech of parent --

MERRICK GARLAND:

[Inaudible] position if it is the words of the memorandum.

MIKE JOHNSON:

Wait. Just a minute. The question is, the thing that has concerned many of those parents that are showing up at these school board meetings, the very basis of their objection and their vigorous debate, as you mentioned earlier, is the curricula. The very curricula that your son-in-law is selling. So, to millions of Americans, I mean my constituents, I was home all weekend and I got an earful about this.

They're very concerned about that. Subpart E of that federal regulation says an employee of the executive branch is discouraged from encouraging -- engaging in conduct that's likely to affect the financial interest of someone close to them. Your son-in-law, your daughter, clearly meets that definition. And so, the question is, did you follow that regulation?

Did you have the appropriate agency ethics official look into this? Did you seek guidance as the federal regulation requires?

MERRICK GARLAND:

This memorandum is aimed at violence and threats of violence. There's no --

MIKE JOHNSON:

I understand that, but did you -- excuse me, did you seek ethics counsel before you issued a letter that directly relates to the financial interest of your family, yes or no?

MERRICK GARLAND:

This memorandum does not relate to the financial interests of anyone. It's a -- it's against --

MIKE JOHNSON:

I take that as a no. I take that as a no.

MERRICK GARLAND:

Memorandum is against violence and threats of violence. I don't know --

MIKE JOHNSON:

Will you -- Mr. Attorney General, will you commit to having the appropriate ethics designee review the case and make the results public?

MERRICK GARLAND:

This memorandum is aimed at violence and threats of violence.

MIKE JOHNSON:

I understand you're talking point, you're not answering my question, Mr. Attorney General. With all due respect, will you submit to an ethics review of this matter? Yes or no?

MERRICK GARLAND:

There's no company in America or, hopefully, no law-abiding citizen in America who believes that threats of violence should not be prevented. There are no conflicts of interest

that anyone could have --

MIKE JOHNSON:

According to you. But, sir, with due respect, that's the purpose of the federal regulation. We need objective third parties to review our activities. You don't get to make that decision yourself. It doesn't matter. You're the top -- you're the chief law enforcement of this country. This raises questions in the minds of millions of Americans and your impartiality is being called into question.

Why would you not submit to a simple ethics review of that?

MERRICK GARLAND:

I am exquisitely aware of the ethics requirements.

MIKE JOHNSON:

But you're not following them.

MERRICK GARLAND:

I have followed them and lived with them for the last 25 years.

MIKE JOHNSON:

Did you seek an ethics review of this or not?

MERRICK GARLAND:

I'm going to say it again, there are no conflicts of interest involved when the Justice Department asked --

MIKE JOHNSON:

OK, according to you. I got that. I'm not trying to be disrespectful, but you are not respecting our rules, our constitutional norms, and the federal law that directly applies to your

activities. This is a great concern. This is why people are losing faith in our institutions. They're losing faith in this Department of Justice.

And you and I both know, as constitutional attorneys, that if the people lose their faith in our system of justice, if they lose their faith in the idea that justice is blind, that there're not two standards, that there's one standard of the law, and that every time [Inaudible]

JERROLD NADLER:

The time of the gentleman has expired. Would the attorney general like to respond to the innuendo?

MERRICK GARLAND:

No. All I can say is I completely agree that the rule of law and respect for it is essential and I will always do everything possible to uphold that and to avoid any kind of conflict of interest.

MIKE JOHNSON:

But you will not submit to an ethics report.

JERROLD NADLER:

Time of the gentleman has expired.

MIKE JOHNSON:

I would just put --

JERROLD NADLER:

Time of the gentleman has expired.

MIKE JOHNSON:

It wasn't innuendo. It was a question.

HANK JOHNSON:

Thank you.

MIKE JOHNSON:

It was a question.

HANK JOHNSON:

Thank you.

JERROLD NADLER:

The question is out of the time --

MIKE JOHNSON:

The editorial comments from the chair about other people's question is not appreciated by this side of the aisle.

JERROLD NADLER:

The chair -- may I ask the attorney general -- Mr. Johnson of Georgia.

HANK JOHNSON:

Thank you, Mr. Chairman, and thank you for being here General Garland. This summer, the House passed H.R. 4, the John R. Lewis Voting Rights Advancement Act, which would strengthen Sections 2 and 5 of the Voting Rights Act. And also this summer, the department announced that it was suing the state of Georgia under Section 2 of the Voting Rights Act. And I commend your department for working to protect the rights of all Americans to vote.

General Garland, Section 2 of the Voting Rights Act prohibits voting practices or procedures that discriminate on the basis of race, while Section 5 of the act mandates that changes to voting practices in certain covered jurisdictions be precleared by federal authorities. With

the Supreme Court having nullified Section 5, in effect, the preclearance requirement by ruling that the coverage formula was unconstitutional, does the department view Section 2 litigation alone as adequate to safeguard voting rights, or must Congress pass the John Lewis Voting Rights Advancement Act and reinstate Section 5 in order for voting rights to be adequately safeguarded?

MERRICK GARLAND:

The Justice Department supports that act. Section 2 is what we have. Section 5 is what we need.

HANK JOHNSON:

Knowing that the House has already passed H.R. 4, does the Justice Department support passage of the John Lewis Voting Rights Advancement Act in the United States Senate?

MERRICK GARLAND:

Yes, sir.

HANK JOHNSON:

Thank you. On September the 4th, 2021, DOJ announced an investigation into Georgia prison conditions. The New York Times reported that over 25 incarcerated persons died last year by confirmed or suspected homicide in Georgia prisons. And 18 homicides, as well as numerous stabbings and beatings have been reported this year.

What is the timeline for this investigation, and will you commit to briefing the committee and the Georgia delegation on the results of the inquiry?

MERRICK GARLAND:

We are doing that investigation. That's pursuant to statute, which authorizes the civil rights division to bring those kinds of cases. I can't tell you what the timeline is. These kinds of

things take a considerable amount of time, and I'm not sure what the legal requirements are with respect to briefings outside.

This is now in court. And so, I'm not sure what additional material can be provided outside of what we provide in court, but we'll look into it for you.

HANK JOHNSON:

Thank you. Much of what is known about conditions in Georgia prisons is derived from social media posts, including video footage posted during a prison riot last year. How are social media and the use of smuggled smartphones by inmates aiding DOJ in its civil rights investigation of Georgia's prisons?

MERRICK GARLAND:

Sorry, I don't know the answer to that question, but I'll see if I can ask at the civil rights division how they're using that material.

HANK JOHNSON:

All right, thank you. Mr. Attorney -- Mr. -- General Garland, the Sackler family has used every trick in the book to escape accountability for their role in the opioid epidemic, including abusing the bankruptcy system to secure civil immunity from their victims. And now, Johnson and Johnson has scrambled its organizational charts to put tens of thousands of legal claims into bankruptcy to avoid further liability for its cancer-causing talcum powder.

Do you believe culpable individuals and corporations should be allowed to use the shell gain to shield themselves from liability?

MERRICK GARLAND:

I don't know anything about the second example that you gave. As to the first, the Justice Department's bankruptcy trustee has weighed in to appeal the decision to immunize from personal liability. And I think that matter is now pending in court.

HANK JOHNSON:

Thank you. Lastly, I will note that there's been a lot of discussion by my friends on the other side of the aisle about local school boards. And I will point out the fact that there are reports that restrictions on the discussion of race and history in schools. These laws that are being put forward by Republican-led states are causing administrators to tell teachers that in addition to having an opposing view on slavery, now, they are saying that you've got to include an opposing view on the Holocaust if you have any books that are teaching about that, you've got to have an opposing view.

This is the danger that we --

JERROLD NADLER:

The gentleman's time has expired. Mr. Jordan.

JIM JORDAN:

Thank you, Mr. Chairman. March 25th, Joe Biden criticizes the Georgia election law. Three months later, the Department of Justice challenges it. September 1st, Joe Biden criticizes the new pro-life law in Texas. Eight days later, the Department of Justice challenges it. September 29th, the political organization asked President Biden to involve the FBI and local school board issues.

Five days later, the Department of Justice does just that. Mr. Attorney General, was it just a coincidence that your memo came five days after the National School Boards Association letter went to the president?

MERRICK GARLAND:

So, we are concerned about violence and threats of violence across the board against school officials, against --

JIM JORDAN:

Is there any connection, Mr. Attorney General, with the school board letter and then five days later, your memo to -- regarding school board issues?

MERRICK GARLAND:

Obviously, the letter, which was public and asked for assistance from the Justice Department was brought to our attention and it's a relevant factor and --

JIM JORDAN:

Who gave you the letter?

MERRICK GARLAND:

I'm sorry?

JIM JORDAN:

How did you become aware of the letter? Who gave it to you?

MERRICK GARLAND:

I write about the letter in the news. That's how I write about it.

JIM JORDAN:

With the White House told you to write the memo?

MERRICK GARLAND:

No one in the White House spoke to me about the memo at all, but I am sure I was -- at least, I certainly would believe that White House communicated its concerns about the letter to the Justice Department, and that is perfectly appropriate.

JIM JORDAN:

Oh, that was my next question. Did you or anyone at the Justice Department discussed the memo with White House personnel or with anyone at the White House before the memo was sent?

MERRICK GARLAND:

I did not. I don't know whether anyone discussed the memo. I am sure that the communication from the National Association of School Boards was discussed between the White House and the Justice Department, and that's perfectly appropriate just as --

JIM JORDAN:

With those individuals, who at the White House talked with you at the Justice Department?

MERRICK GARLAND:

I don't know. I don't know.

JIM JORDAN:

Did they talk to you, did someone call you?

MERRICK GARLAND:

I think I've answered. No one from the White House spoke to me. But the White House is perfectly appropriately concerned about violence just like they're concerned about violence in the streets, and they make a request to the Justice Department in that respect just like they're --

JIM JORDAN:

Did you or anyone at the Department of Justice communicate with the American Federation of Teachers, the National Education Association, the National School Boards Association prior to your memo?

MERRICK GARLAND:

I did not. I don't know. That's what --

JIM JORDAN:

You don't know if anyone else in the Justice Department did?

MERRICK GARLAND:

I don't know.

JIM JORDAN:

Do you know -- did you or anyone at the Justice Department communicate with those organizations, AFT, NEA, National School Boards Association prior to the letter? Did you help the National School Boards Association put together the letter?

MERRICK GARLAND:

Again, not. I have had no such conversations. I would be surprised if that happened, but I don't know.

JIM JORDAN:

Will FBI agents be attending local school board meetings?

MERRICK GARLAND:

No. FBI agents will not be attending local school board meetings. And there is nothing in this memo to suggest that. I want to, again, try to be clear, this memo is about violence and threats of violence, it's not --

JIM JORDAN:

Well, let me just point out, the same day you did the memo, the Justice Department sent out a press release. Monday, October 24, excuse me, on Monday, October 4th, 2021, the press release says "Justice Department addresses violent threats against school officials and teachers." Now, you said earlier to a question from one of my colleagues on the Republican side that parents aren't domestic terrorist.

We're not going to treat it that way. But let me just read from the third paragraph, "According to the attorney general's memorandum, the Justice Department will launch a series of additional efforts in the coming days designed to address the rising criminal conduct directed toward school personnel. Those efforts are extended -- expected to include a creation of a task force, consisting of representatives from the department's criminal division, civil rights division, Executive Office of US Attorneys, the FBI, the Community Relations Service, Office of Justice Programs, and the National Security Division." I find that interesting.

You said there's no way you're going to be treating parents as domestic terrorist, but you got the National Security Division in a press release regarding your memo that day.

MERRICK GARLAND:

My memo does not mention the National Security Division. It's addressed to the criminal division.

JIM JORDAN:

I didn't say it did, I said the press release accompanying your memo that day from the Department of Justice right here it is.

MERRICK GARLAND:

I want to be as clear as I can be, this is not --

JIM JORDAN:

It talks about the National Security Division being part of this effort.

MERRICK GARLAND:

I want to be clear as I can be, this is not about what happens inside school board meetings. It's only about threats of violence and violence aimed at school officials, school employees, and teachers.

JIM JORDAN:

Four sentences on your memo, the very first sentence you said, "In recent months there's been a disturbing spike in harassment, intimidation, threats of violence.

MERRICK GARLAND:

Yes.

JIM JORDAN:

When did you first review the data showing this so-called disturbing uptick?

MERRICK GARLAND:

So, I read the letter, and we have been seeing, over time, threats --

JIM JORDAN:

Whoa, whoa, whoa, whoa! I didn't ask -- so, you read the letter, that's your source?

MERRICK GARLAND:

So, let me be clear, this is not a prosecution or an investigation --

JIM JORDAN:

Is there some study, some effort, some investigation, someone did -- they said there's been a disturbing uptick? Or you just take the words of the National School Boards Association?

MERRICK GARLAND:

When the National School Boards Association, which represents thousands of school boards and school board members, says that there are these kind of threats, when we read in the newspapers reports of threats of violence, when that is in the context of threats of [Inaudible]

JIM JORDAN:

So, the source for this -- for the very first line in yours -- in your memo, the disturbing spike, was the National School Boards Association letter?

JERROLD NADLER:

The time of the gentleman has expired. Mr. Deutch?

TED DEUTCH:

Thank you, Mr. Chairman. Thank you, General Garland, for being here. What's so disturbing to me is a lack of concern about threats of violence. General Garland, let me give you some examples. In Brevard County, Florida, a school board member reported she was followed to her car, received messages from people saying, "We are coming for you" and "Beg for mercy." She was concerned that people were going behind her home and brandishing weapons.

She's not alone, Attorney General. In Texas, a parent tore a teacher's mask from her face. In California, a parent verbally assaulted a principal and physically attacked a teacher who intervened, sending him to the hospital. In Arizona, a school official was told, "You're going to get knifed." A fight broke out -- a fistfight broke out after a school board meeting in Missouri.

I appreciate, Attorney General Garland, your concern about threats to people who are doing their job, trying to help our kids get a good education. I'm grateful to you for that. My question is that -- as our governor in Florida claimed that your efforts are weaponizing the

DOJ, I'd like to know whether Governor DeSantis in the state of Florida has been cooperative in your effort to protect our schools.

MERRICK GARLAND:

I don't know the answer to the question that you're asking. We are trying to prevent violence and threats of violence. It's not only about schools. We have similar concerns with respect to election workers, with respect to hate crime, with respect to judges and police officers. This is a rising problem, in the United States, of threats of violence, and we are trying to prevent the violence from occurring.

TED DEUTCH:

Attorney General Garland, I appreciate it, and I am shocked and dismayed by the lack of concern by some of my colleagues on this committee. Last year, Attorney General Garland, as you pointed out, over 93,000 people died of overdose in America. Young people aged 15 to 24 saw a 48 percent increase. Earlier this year, I lost my nephew, Eli Weinstock, to an accidental overdose after he consumed a legal herbal supplement tainted with fentanyl.

Last month, in response to the surge of overdoses caused by fentanyl and fake pills, the DEA issued its first public safety alert in six years and has ramped up enforcement efforts, resulting in the seizure of over 11.3 million pills and over 810 arrests. In a Washington Post article entitled "With overdose deaths soaring, DEA warns about fentanyl-, meth-laced pills" from September 27th, and I ask unanimous consent to submit for the record, Mr. Chairman.

JERROLD NADLER:

Without objection.

TED DEUTCH:

In that article, it said that young people assume that a pill purchased online must be made in a reputable lab and must not be too dangerous. We are in the midst -- according to DEA

Administrator Milgram, we are in the midst of an overdose crisis, and the counterfeit pills are driving so much of it. Many of these counterfeit pills that alarm the DEA are being sold on social media sites, Snapchat, TikTok, Instagram, YouTube.

The -- Milgram said that the drug dealer isn't just standing on a street corner anymore, it's sitting in a pocket on your phone. Attorney General, what more should social media companies be doing to prevent young people from finding deadly drugs on their platform? And what more can you do about it?

MERRICK GARLAND:

With respect to the latter question, what we can do about it? The DEA has intensified focus on this problem of fentanyl crossing the border from Mexico, made from precursor -- which often come from the People's Republic of China. This is a very dangerous circumstance. The DEA -- much of the -- I think the article that you're referring to comes from a press conference that the DEA administrator gave.

A significant portion of these pills are lethal overdose with one pill. And this is an extraordinarily dangerous problem that we are putting our full attention to.

TED DEUTCH:

Attorney General Garland, I assure you that there is strong -- notwithstanding much of what else you'll hear today, strong bipartisan support in this Congress to combat the threats of fentanyl rising overdoses. Finally, yesterday, the person who shot and killed 17 people at Marjory Stoneman Douglas High School injured 17 more and traumatized my entire community pleaded guilty in a Broward County courtroom.

Many Parkland families strongly believe that gun companies must also be held responsible for the dangerous marketing of assault weapons. Unfortunately, the Protection of Lawful Commerce in Arms Act, known as PLCAA, has blocked countless victims and surviving family members from their day in court. The law provides broad immunity against civil -- and civil lawsuits unique to the gun industry.

Unfortunately, the Department of Justice has a long history of intervening in civil cases filed by gun violence survivors to defend this law. Question is whether you believe, Attorney General Garland, that repealing PLCAA to hold gun makers accountable for their products in the marketing of those products could improve gun safety in America.

MERRICK GARLAND:

So, the president has already stated his opposition to that statute, but our obligation in the Justice Department is to defend the constitutionality of statutes that we can reasonably argue are constitutional. That's the position that the Justice Department takes, whether we like the statute or not. We defend the constitutionality of Congress' work.

JERROLD NADLER:

The time of the gentleman has expired.

TED DEUTCH:

I support the passage of the John Lewis Voting Rights Act. I hope that you'll support the repeal of PLCAA.

JERROLD NADLER:

The time of the gentleman has expired. At this time, we will take a very short five-minute break. We return immediately after the committee stands in recess.

CHIP ROY:

Do you know where Broad Run High School is?

MERRICK GARLAND:

No sir.

CHIP ROY:

Do you know where Broad Run High School is? It's in Ashburn, Virginia in Loudoun County, Virginia. Do you know why I care? Because I'm a graduate to Loudon Valley High School, despite my family having Texas roots back to the 1850s, I grew up in Loudon, it was my home. And also, I care because on October 6th, a mere 15 days ago, inside Broad Run High School in Loudon County, Virginia, a young girl was sexually assaulted.

Attorney General, Garland, are you aware that because Loudoun County prosecutors confirmed that, the boy who assaulted this young girl in Broad Run High School, is the same boy who wore a skirt and went into a girls bathroom, sodomized and raped a 14 year old girl in a different Loudoun County, High School on May 28th. Are you aware of those facts?

The boy was -- are you aware of firmly? Are you --

MERRICK GARLAND:

[Inaudible]

CHIP ROY:

Are you aware further that the boy was arrested and charged for the first assault in July, but released from juvenile detention?

MERRICK GARLAND:

Sounds like a state case and I'm not familiar with it, I'm sorry.

CHIP ROY:

Do you agree with Loudoun parents, who said it is not OK to allow a child that has been charged with a rape to go back into a school in that public school system?

MERRICK GARLAND:

Again, I don't know any of the facts of this case, but the way you put it, it certainly sounds like I would agree with you. I don't know the facts of the case.

CHIP ROY:

Is the FBI or the Department of Justice investigating the Loudon School Board, for violating civil rights or under authority of say, the Violence Against Women Act?

MERRICK GARLAND:

I don't believe so, but I don't know the answer to that.

CHIP ROY:

I'd ask why not? Because on June 22nd at a school board meeting in Loudoun County, Virginia, the Superintendent Scott Ziegler, declared in front of the father of the girl who had been raped, that the predator transgender student or person simply does not exist. And that to his knowledge, we don't have any records of assaults occurring in our restrooms.

When this statement bothered the father of the girl, I'm a father of a daughter, I believe you are too, sir. The girl who had been raped sodomized in the bathroom of a high school by a dude wearing a skirt, that father reacted, now that father reacted by simply using a derogatory word. Would that statement have bothered you if your daughter had been raped if somebody said that it didn't occur?

MERRICK GARLAND:

Again, I don't know anything about the facts of this case, but derogatory words are not what my memorandum is about.

CHIP ROY:

Well, the victim's mother is heard on a cell phone video telling the crowd what happened. My child was raped at school, she sat behind her, the victim's father seen being arrested, bloodied. This man, this arrest of a 48-year-old plumber became the poster boy for the new

domestic terrorism, the Biden administration, the administration in which you serve has concocted to destroy anyone who gets in the way.

As the ranking member said, the National School Board Association wrote a letter to the president citing Smith's case, we all know this to be true. Attorney General, do you believe that a father attending a meeting exercising his First Amendment rights and yes, getting angry about whatever lies are being told, about his daughter being raped in the school he sent her to be educated in, that this is domestic terrorism.

Yes or no.

MERRICK GARLAND:

No, I do not think that parents getting angry at school boards, for whatever reason, constitute domestic terrorism. It's not even a close question.

CHIP ROY:

To be clear, even if there's a threat of violence, do you believe that it is domestic terrorism that, the FBI has the power to target American citizens and local disputes, because a father gets mad? And I'm not saying Mr. Smith did that, in fact, he didn't. I can tell you how I sure as hell would have reacted.

Mr. Smith should be given a medal, for his calm to be able to hold back his anger. Are you aware the Loudon County failed to report this sexual assault according to state law? And are you investigating this?

MERRICK GARLAND:

Again, I'm sorry, I don't know anything about this case.

CHIP ROY:

Are you aware that the Virginia General Assembly, run by Democrats, voted for a Democrat Governor Ralph Northam, signed a bill allowing schools to refrain from reporting instances

of sexual battery, stalking, violation of a protective order and violent threats occurring on school property? Is the FBI investigating how this may conflict with the Violence Against Women Act or conflict with your own domestic terrorism efforts?

MERRICK GARLAND:

I don't know anything about the Virginia legislation.

CHIP ROY:

Do you agree with the following statement, as a father or as a cabinet member, quote, "You don't want parents coming into every different school jurisdiction saying that this is what we -- should be taught here and that this is what should be taught here?"

MERRICK GARLAND:

Look, the Justice Department has no role, with respect to what curriculum is taught in the schools, this is a matter for local decision making and not for the Justice Department, and we are not in any way suggesting that we have any.

CHIP ROY:

I would note that that statement was by Democratic gubernatorial candidate in the Commonwealth of Virginia. I would note that there are a number of other issues of concern to the Virginia Department of Education, what's being taught there and the fact, the lack, and the total failure of Loudoun County of reporting all of these incidents that have occurred in Loudoun County Public Schools.

I've got eight seconds left. Attorney General Garland, I sent a letter along with my colleague, Thomas Massie, regarding the instance of January 6th on May 13th, and on July 15th and have not gotten a response from the Department Justice, can you commit to respond?

JERROLD NADLER:

Gentleman's time has expired. Ms. Bass.

KAREN BASS:

Thank you, Mr. Chair. Attorney General Garland, in 2014, 12-year-old Tamir Rice was tragically and fatally shot by a Cleveland police officer. Since then, we have learned that despite multiple requests from prosecutors in the Civil Rights Division to investigate the shooting, the case stalled without approval from DOJ officials who had political concerns about high-visibility police misconduct cases. Ultimately, department officials, essentially, ran the clock out on the statute of limitations for federal obstruction of justice charges.

That following December, a whistleblower exposed this information to light, and former AG Barr formally ended the department's inquiry into Tamir Rice's killing. This year, the family wrote a letter requesting that the department reopen the inquiry into Tamir's murder and to convene a grand jury. According to a department spokesperson, the letter has been received.

I wanted to know if you could tell us today if the department has reviewed the letter and if you know when the department will respond to this request to reopen the inquiry?

MERRICK GARLAND:

So, when the department receives a letter like that, it would go to the Civil Rights Division for examination. And in line with our general norm of not disclosing pending investigations, I don't know the answer to the question, but even if I did, I would not be able to --

KAREN BASS:

OK.

MERRICK GARLAND:

Give an explanation or [Inaudible]

KAREN BASS:

Sadly, just yesterday, the AP released a report investigating how police use of force on children. And I'd like to ask the chair request unanimous consent to submit for the record this article, "Tiny risk in cuffs: How police use force against children." Out of 3,000 cases analyzed where police used force --

JERROLD NADLER:
Without objection.

KAREN BASS:
Thank you. Against children under 16, more than 50 percent of them were African American children. This is despite the fact that only 15 percent of the US child population is African American. The American Psychological Association found that Black boys as young as 10 are more likely than their white counterparts to be perceived as guilty and face police violence.

Use of force against children can include physical restraint, handcuffs, tasers, dogs, and even firearms. In one particularly distressing case cited in the AP report, law enforcement officers attempted to handcuff a six-year-old girl but were unable to because her hands were too small. These encounters can be traumatizing and impact children's perceptions of police moving forward.

I wanted to know, to the best of your knowledge, are law enforcement officers trained on how to properly interact with children? There have been several reports of officers attempting to handcuff five, six, and seven-year-old children.

MERRICK GARLAND:
Well, I'm afraid I don't know the answer because the federal government almost never is involved in those kind of cases. However, we do have funding for use-of-force guidelines and that sort of thing. And we also have, under our Office of Juvenile Justice, funding for helping set up standards for such things.

KAREN BASS:

Thank you.

MERRICK GARLAND:

So, I don't know the specifics.

KAREN BASS:

OK, thank you very much. Last month you announced a new policy prohibiting the department's federal law enforcement components from using choke holds or carotid restraints. Thank you very much for that considering we weren't able to pass the law in the Senate, passed it twice here. I commend the department for taking these steps to reduce the potential for abuse of force by federal law enforcement.

That being said, we have seen other incidences such as in the tragic case of Elijah McClain, where methods of restraints have been used with horrifying results. What is the department's policy regarding the use of sedatives or other chemical restraints by the department's federal law enforcement components during an individual's arrest or detention?

Just to remind you of the department in Colorado administered -- required a paramedic to administer ketamine. It's my understanding that medication can only be prescribed by medical personnel, not by law enforcement. But I want to know if there is any policy around prohibiting chemical restraints.

MERRICK GARLAND:

So, I'm not familiar with that specifically. The deputy attorney general is doing a review of all of our use of force policies. That's where the carotid holds and the choke holds policies came out of. And I don't know about the question you're asking, but I'd be happy to have staff get back to you.

KAREN BASS:

Great. And, once again, I appreciate DOJ trying to step in where we weren't successful in the Senate in terms of the George Floyd Justice in Policing Act. And I wanted to know if you could expand on further action that the Department of Justice will be taking in lieu of us passing legislation.

MERRICK GARLAND:

Well, I mean, there are a lot of things that we're doing. We are -- we have begun, again, to look for -- at pattern or practice investigations of police departments for patterns of unconstitutional policing as provided by statute that Congress did pass and gave us the authority to do. We will, again, use consent decrees where they are appropriate.

We've issued memoranda with quite specific standards about when they are appropriate and when not. They may include monitors, may not, but, again, with new standards about when monitors are appropriate. So, I think that's, you know, one -- certainly one very significant area. I think one of the other members mentioned that we have the three of those proceedings, and we also have in Texas a proceeding about the youth jails and the youth prisons.

So, that follows up on your other question where we're doing those kind of investigations.

JERROLD NADLER:

Time of the gentlelady has expired. Mr. Tiffany.

TOM TIFFANY:

Thank you, Mr. Attorney General, for being here today. Right over here in this corner.

MERRICK GARLAND:

Oh.

TOM TIFFANY:

The --

MERRICK GARLAND:

No. Thank you. OK, sorry.

TOM TIFFANY:

The equal protection clause was incorporated into the Fifth Amendment to prevent the federal government from discriminating against Americans based on race. Do you agree that race is a suspect classification?

MERRICK GARLAND:

Yes, that's what the Supreme Court has held for since the late 1950s, early 1960s.

TOM TIFFANY:

Thank you very much for that. So, the so-called American Rescue Plan earmarked billions of dollars in United States Department of Agriculture debt relief based solely on race. Why are you and your department defending the American Rescue Plan that discriminates based on race?

MERRICK GARLAND:

So, I believe you're referring to a district court case in which that said issue. And so, I can't really say any more than is in the pleadings in that case. But this has to do with whether there are additional indicia in addition to race that are used in making these grants and whether there is sufficient evidence of historical practices --

TOM TIFFANY:

So --

MERRICK GARLAND:

To tie it to race.

TOM TIFFANY:

So, sir, it's very explicit in the bill that the Democrats wrote in this Congress and President Biden signed into law. They said, "This is based on race." I mean, doesn't this meet the standard of that is pure discrimination --

MERRICK GARLAND:

So, the question --

TOM TIFFANY:

That our country has tried to rid itself of?

MERRICK GARLAND:

I believe the question has to do with historical patterns of discrimination against black farmers, and I believe that the purpose of what's going on the district court now is examining the record to determine whether there is a sufficient record in that respect. [Inaudible]

TOM TIFFANY:

So, it sounds like you -- it sounds like you support the legislation then.

MERRICK GARLAND:

The question for us is the constitutionality of the legislation. That's the only question before us. And the -- as I've said with respect to another statute, the Justice Department defends the constitutionality of statutes that can be reasonably construed as constitutional. And we believe that statute can be. Yes.

TOM TIFFANY:

The chairman confines me to five minutes, so I'd like to move on. Recently you directed the FBI to coordinate with 14,000 school districts after the National School Boards Association asked you to protect schools from the imminent threat of parents. Along with friends, neighbors, and constituents, I've attended multiple school board meetings throughout my district here over the last year.

I have a child that's in public school yet, very concerned about some of the things that are going on. And, yes, some of those school board meetings get heated. Are we, my friends, neighbors, constituents -- are we domestic terrorists?

MERRICK GARLAND:

No.

TOM TIFFANY:

Are we criminals?

MERRICK GARLAND:

Again, I don't know the facts that you're talking about. But the only way you are criminals is if you commit acts in violation of the statutes, and that would mean threats of violence or actual violence. I'm sure you haven't done that, Congressman.

TOM TIFFANY:

Have states asked for help?

MERRICK GARLAND:

That's not --

TOM TIFFANY:

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The school boards association did, but have states asked for help?

MERRICK GARLAND:

So, we have state and local partners for all of our matters. This is an assessment of whether there is a problem. And there are federal statutes involved, and there are state statutes involved. And we are trying to prevent violence and threats of violence against public officials across a broad spectrum of kinds of public officials.

TOM TIFFANY:

As a former town board member, I can tell you that we know how to deal with this. We call our sheriff's department. We can handle it. It's really not a problem. William Castleberry, vice president for Facebook, admitted that the company knowingly allows users to promote information on the platform, instructing people on how to break US immigration law.

He said, "We do allow people to share information about how to enter a country illegally or request information about how to be smuggled." Are there charges pending against Facebook?

MERRICK GARLAND:

Again, we can't, under the norms of the department, discuss whether there are pending investigations, actual investigations.

TOM TIFFANY:

Well, let me help. I understand your answer that you're going to give there. Let me help you along. Title 8 US Code 1324 makes it illegal for any person to knowingly encourage or induce an alien to come to enter or reside in the United States in violation of law or for individuals to aid or abet illegal entry. I would just say to you, you need to really take a look at Facebook and what they're doing to provide for greater illegal immigration that the Biden administration continues to foster also.

I mean, let's get down to what's happening here in the United States of America. Under the Biden administration, we have a two-tiered justice system. They do nothing about crime, there's more cash bail, and nothing is being done about it. You talked about increased crime. It is skyrocketing across the country, including in our biggest city, Milwaukee, Wisconsin.

JERROLD NADLER:

Time of the gentleman --

TOM TIFFANY:

That parents are silent. We have parents that are silent.

JERROLD NADLER:

Kindly yield. Gentleman has expired. Mr. Jeffries.

HAKEEM JEFFRIES:

Thank you, Mr. Chairman. Thank you, General Garland, for your leadership, service to the country, and your presence here today. Earlier this year, the House passed on a bipartisan basis by a vote of 414-11 the Effective Assistance of Counsel in the Digital Era Act, which would limit the ability of the Bureau of Prisons to monitor private communications, email communications between detainees and the BOP's custody and their attorneys.

Concluded in a bipartisan way that this practice, which has occurred on the Democratic administrations and Republican administrations, needs to be addressed. We're seeking technical assistance from the Department of Justice and the BOP. I sent a letter to you in that regard yesterday. I ask unanimous consent, Mr. Chairman, that it be entered into the record.

JERROLD NADLER:

Without objection.

HAKEEM JEFFRIES:

And I look forward to your response and to working with the Department of Justice on this issue. Voter fraud, if proven, is a serious crime that carries a five-year prison sentence. Is that right?

MERRICK GARLAND:

I'm not sure about the sentence But yes, if proven, it's a serious crime.

HAKEEM JEFFRIES:

And the Department of Justice is responsible for investigating and prosecuting voter fraud. Is that right?

MERRICK GARLAND:

Inspect the federal voting, yes.

HAKEEM JEFFRIES:

Now, your predecessor, Bill Barr, publicly acknowledged that the Department of Justice had uncovered zero evidence of widespread fraud in the 2020 election. Is that still accurate?

MERRICK GARLAND:

It's my recollection that that is what he concluded and I don't know of any evidence to the contrary.

HAKEEM JEFFRIES:

Right. There's no evidence that voter fraud impacted the outcome of the 2020 presidential election, true?

MERRICK GARLAND:

That's correct. That's correct.

HAKEEM JEFFRIES:

Is it fair to say that despite a global pandemic and record voter turnout as prior members of the Trump administration have acknowledged, the 2020 election was the most secure in American history?

MERRICK GARLAND:

That is the conclusion of the Justice Department and of the intelligence community and of the Department of Homeland Security, yes.

HAKEEM JEFFRIES:

And despite the fact that there's no evidence of so-called fraud this year, at least 19 states have enacted 33 laws, making it harder for everyday Americans to vote. And in the aftermath of the January 6 insurrection, instead of running toward democracy, there are people throughout this country, some have run away from democracy and they've unleashed an epidemic of voter suppression across the land.

So, let me just ask a few questions about some of the things that have occurred. How does banning churches and civic groups from giving food and water to voters, some of whom have been waiting in line for hours, prevent or address voter fraud?

MERRICK GARLAND:

So, Congressman, I don't want to talk too much about that because that is the subject of our lawsuit against the state of Georgia, but you have identified a segment of that statute that we have challenged as being unlawful.

HAKEEM JEFFRIES:

And does restricting the times that someone can cast their vote to business hours when many Americans are at work relate in any way, rationally, to protecting the integrity of our

elections?

MERRICK GARLAND:

So, let me just talk generally about this. So, I believe that every eligible voter should be able to vote and that there should be no restrictions on voters that make it more difficult for them to vote unless they're absolutely necessary. The Justice Department is limited in its ability to bring cases it must find discriminatory intent or effect.

So, those are the kind of cases that are covered by Section 2. But as a general matter, my view is that everyone should have the ability to vote as readily and easily as possible.

HAKEEM JEFFRIES:

And you testified earlier today that, in fact, one of the founding reasons for the Department of Justice is to defend civil rights in the nation. In that particular context, I believe it was in the immediate aftermath of the Civil War with the rights of African Americans were under assault. We've come a long way, we still have a long way to go. We still see race-based assaults on civil rights taking place today.

And I would just urge the Department of Justice, as it has been doing under your leadership, to continue to do all that's --

UNKNOWN:

Please enter.

HAKEEM JEFFRIES:

All that's possible to defend and protect the integrity of the right to vote. Let me just also comment that, you know, there are some who continue to lie about the election, they're lying about COVID, they're lying about the Department of Justice. Mr. Attorney General, you're a man of great integrity. And under your leadership, the Department of Justice is off to a good start.

We appreciate the work that you're doing. Keep it up on behalf of the American people and the Constitution. I yield back.

MERRICK GARLAND:

Thank you, Congressman.

JERROLD NADLER:

The gentleman yields back. There is a technical issue with the Zoom feed, so we will recess for less than five minutes to resolve this issue.

JERROLD NADLER:

The committee will come back to order. Mr. Bishop.

DAN BISHOP:

Thank you, Mr. Chairman. Mr. Attorney General, I'm right here. I was going to do another subject in my questioning, Mr. Attorney General, but I've been so concerned by the introduction about the October 4 memo that I'm going to follow up on that, if I might. The memo is a one-pager. You read it before it was issued, I assume.

MERRICK GARLAND:

I certainly did and I worked on it.

DAN BISHOP:

OK. Now in that memo, you issued a directive to the FBI. You directed the FBI to conduct meetings with leaders of all levels of government across the country, in every judicial district, to strategize against an alleged trend of "harassment, intimidation, and threats of violence." You didn't cite examples to distinguish legitimate First Amendment activity from criminal activity, nor certainly, examples of a nationwide scope or severity of such acts to

constitute a rise or spike in criminal activity, which you alleged in the memo, certainly not one that would warrant nationwide action by the FBI. Here, you've acknowledged that you relied in part on your knowledge of the National School Boards Association letter, which, by the way, characterized this activity nationwide as domestic terrorism and maybe some vague awareness of other news reports.

You've offered the justification here also that this was not the initiation and -- of an investigation as if that, frankly, I don't submit it, doesn't excuse the preeminent law enforcement official in the country issuing a memo of that sort. And other than a brief nod to the concept of First Amendment rights, you included no guidance in your memo, how the FBI should go about avoiding chilling, intimidating, but legitimate First Amendment activity.

You've even distanced yourself from the DOJ's press release on your memo today in its reference to the National Security Division. So, we come to this: You directed the FBI to act with speed; meetings in 30 days is what you said. You directed the FBI to have these meetings nationwide, coordinated by United States attorneys.

Three days later, I and 30-some-odd members of Congress asked for advance notice of these meetings, indications of what content would be shared there. We asked for that response within 10 days given the timeframe you set forth in your memo. More than half of that time has passed, no response. Are these meetings occurring?

MERRICK GARLAND:

So, let me just be clear one more -- again here. This memo is expressly directed against threats of violence and violence. The federal statutes that are relevant --

DAN BISHOP:

Yeah [Inaudible]

MERRICK GARLAND:

Prosecutors are well aware of where the First Amendment line is. This is addressed to prosecutors and members of law enforcement. They -- these are the kinds of statutes that we deal with every single day. They know the line.

DAN BISHOP:

Well, I'm not sure you deal with it in this way, Mr. Attorney General. Have you have -- are the meetings occurring? Do you know?

MERRICK GARLAND:

I don't know whether they're ongoing, but I expect and hope that they are going, yes, because I did ask that they take place.

DAN BISHOP:

So, you do not have any report or you have not pursued at all to know what the progress is of your directive to do this within 30 days --

MERRICK GARLAND:

They --

DAN BISHOP:

Have meetings in every judicial district across the country, you just don't know.

MERRICK GARLAND:

I doubt there have been meetings in every jurisdiction. I expect there have been some -- in some jurisdictions, and I hope so because that's the purpose of the meeting -- of the memo, to have meetings to discuss whether there's a problem, to discuss strategies, to discuss whether local law enforcement needs assistance or doesn't need assistance.

That's the purpose of these meetings.

DAN BISHOP:

Doesn't that make it worse, Mr. Attorney General --

MERRICK GARLAND:

Doesn't that make --

DAN BISHOP:

If you don't even know if these meetings that you directed urgently to occur are even occurring?

MERRICK GARLAND:

I --

DAN BISHOP:

What is left indeed of the memo, except the -- your use of federal law enforcement moral authority to stigmatize a widespread movement of First Amendment activity, at least a significant portion of which is directed as opposed to the ideology upon which your son-in-law makes his living? That is the problem and it is no answer, I would submit, Mr. Attorney General.

If you were on the bench, you would not accept an answer from counsel that simply repeated your opposition to threats of violence nationwide.

MERRICK GARLAND:

Well, the memorandum specifically --

DAN BISHOP:

I haven't finished my point or my question, sir.

MERRICK GARLAND:

Oh, I'm sorry. I thought you did and I apologize.

DAN BISHOP:

I just -- in fact, you would ask of counsel, an answer that responds to the point. Without having a raft or a significant volume of evidence, you have directed the FBI to act nationwide concerning a matter on which there's widespread First Amendment activity, there's a movement among school parents. That seems to me to be --

JERROLD NADLER:

The gentleman's time has expired.

DAN BISHOP:

My time has expired.

JERROLD NADLER:

Mr. Cicilline.

DAVID CICILLINE:

Thank you, Mr. Attorney General, for being here. And before I begin, I just want to take a moment to acknowledge the stark contrast between the current Justice Department and the Justice Department in the prior administration. During the Trump administration, we saw over and over, and over again, evidence of Mr. Trump's personal grudges dictating DOJ policy, particularly how the department was often weaponized to promote Mr. Trump's own corrupt interests and punish those who would speak against him.

We hear public officials often speak about how we must ensure justice is blind, but it's almost laughable to promise that to the American people if our own Justice Department is manipulated as it was during the Trump presidency. And so, I want to say thank you to you

because we now have an attorney general who will not let the department be reduced to a president's personal law firm or criminal defense team, but instead understands his solemn obligation to the American people and to the rule of law.

And though I have disagreed with some of the decisions you've made, I have never had any doubt about your integrity or impartiality. And so, I thank you for your service. My first question, Mr. Attorney General, is approximately -- actually, in 2020, about 6,000 firearms were sold to prohibited purchasers because of the Charleston loophole where the background check doesn't come back within 72 hours.

And I have a piece of legislation, the gun -- Unlawful Gun Buyer Alert that would require the NICS system to notify the local FBI office and the local law enforcement agency that someone who is prohibited from buying a gun because they're a convicted felon or some other disqualifying Information, has actually got a gun.

That bill is pending in the House, but would it be possible for the Justice Department, for you to initiate the promulgation of a regulation that would require the NICS system to share information on prohibited purchasers so that we can, in fact, respond to people who illegally bought guns in the thousands each year?

MERRICK GARLAND:

I don't know whether we are able to do that or not, but we'll certainly look into it. We are certainly interested in closing all loopholes that would allow people who are prohibited from obtaining firearms from obtaining them.

DAVID CICILLINE:

Thank you, and I'll follow up with your staff. As you know, Mr. Attorney General, approximately a year ago, the Judiciary Committee released a 450-page report detailing the lack of competition plaguing the digital marketplace. This report was a culmination of a 16-month bipartisan investigation, and the report concluded that decades of flawed antitrust

jurisprudence had made it nearly impossible for antitrust enforcers and private parties to get courts to stop harmful mergers and anti-competitive conduct in the digital markets.

Courts have become fixated on market definition litigation even when there is direct evidence that a firm possesses market power and is engaging in anti-competitive conduct.

DAVID CICILLINE:

I know you cannot express support for specific pieces of legislation without a lengthy White House process. But my question is, do you believe Congress should update the antitrust laws to give enforcement authorities additional tools and courts additional guidance on how to ensure free and fair competition in the digital economy?

MERRICK GARLAND:

Yes, we're supportive of updating the antitrust laws. I can't speak specifically without looking at particular ones. I would say though that the antitrust laws do permit us to be quite aggressive with respect to some of the kinds of exclusionary policies and practices that you're talking about, mergers. And we have been quite aggressive since we came to office.

And I've also asked for, in the FY '22 budget, for additional personnel for the division so that we can aggressively police this area. I mean, one particular problem is there are huge new number of merger filings. And for us to possibly review the competitive or anticompetitive nature of those filings, we're going to need additional people and additional assistance.

DAVID CICILLINE:

Yes. And we are fighting very hard to be sure that you have additional resources to get this work done. In March, the Subcommittee on Antitrust heard testimony from Judge Diane Wood of the US Court of Appeals for the Seventh Circuit. Judge would explain that the Supreme Court's antitrust jurisprudence over the past four decades has contributed to underenforcement.

She told the subcommittee that legislative changes to the statutes may be appropriate, and I quote, "so that anticompetitive practices do not go unredressed because antitrust standards are overly onerous or the available remedies are either too weak or otherwise ineffective." Can you identify for us -- and if you can't do it today, if you can give it some thought.

Are there challenges the department faces in enforcing the antitrust laws currently? Are there particular types of categories of anticompetitive practices that are going unaddressed because of these challenges? And what additional tools or authorities does the department need to overcome these challenges and aggressively enforce antitrust law?

MERRICK GARLAND:

So, I'm not in a position to specify those now, but our staff will get back to you. I'll be happy to do that and have a --

DAVID CICILLINE:

Great. And then finally, Mr. Attorney General, I want to say I, as Congressman Deutch said, I'm grateful for all of your work to make sure that school board meetings and teachers and school staff are kept safe. And the notion that that is not an appropriate responsibility for the Department of Justice is curious to me. And finally, Mr. Gohmert made some reference to the peaceful seat in that we conducted with the legend John -- the late John Lewis to protest inaction on gun violence legislation and to equate that to the deadly insurrection, a violent bloody insurrection that results in the death of five people in an effort to undermine our democracy, I think was disgraceful.

And with that, I yield back.

JERROLD NADLER:

OK. The gentleman yields back. Mr. Buck.

KEN BUCK:

Thank you, Mr. Chairman. Mr. Attorney General, I'd like to direct your attention to the easel behind me. The first painting is a Claude Monet.

MERRICK GARLAND:

I'm sorry, I can't read any of the words.

KEN BUCK:

You don't need to.

MERRICK GARLAND:

OK.

KEN BUCK:

You just need to look at this great painting right here.

MERRICK GARLAND:

It's a very beautiful paint.

KEN BUCK:

It is beautiful and it is listed at Christie's for \$700,000. Now, Claude Monet was the founder of the Impressionist movement, something I didn't know until I researched it. The second painting is a Degas, another world-renowned artist. And this painting sold for \$500,000. The third painting, you may recognize his name, is a Hunter Biden.

MERRICK GARLAND:

I don't recognize the painting.

KEN BUCK:

The Hunter Biden painting sold for \$500,000 also. Now, you may think that's such an exclusive -- that when Hunter Biden is in such exclusive company, that he would have a background artistic training, for example. But you would be wrong if you thought that. And you might think that he had some sort of apprenticeship with a world-renowned artist, but you would be wrong again if you thought that.

Or perhaps that he has been selling his works for years. And again, unfortunately, you would be wrong. It turns out that in 2019, Hunter Biden couldn't find a gallery to list his art. And what happened in 2020 that changed all that, his dad became president of the United States. Now, a single piece of art from Hunter Biden sells for more than the average American home.

This art arrangement is so suspicious that the Obama administration ethics czar, Walter Shaub, tweeted on July 10th of this year, "Hunter Biden should cancel this art sale because he knows the prices are based on his dad's job. Shame on POTUS if he doesn't ask Hunter to stop." By the way, Mr. Attorney General, this was the same Hunter Biden who's being investigated by your department and the IRS for tax fraud.

Selling fakes or selling or having a fake skill set is nothing new to Hunter Biden. When his dad was vice president, Hunter Biden received \$50,000 a month from a Ukrainian oligarch to sit on a board of an energy company. What was Hunter Biden's background in energy? Nada, nothing, zilch. Soon after he received his dad -- soon after, he and his dad got off Air Force Two in China, Hunter Biden became a private equity guru and assisted with a Chinese private equity firm linked to the Chinese central bank.

You might ask what his background was with Pacific Rim Investments or the Chinese central bank, nothing. With his dubious track record and quandering minds, my question why any art gallery would want to sell Hunter Biden's art? Well, this particular art gallery had its COVID relief loan more than doubled by the Biden administration.

In a survey of more than 100 art galleries in New York's 10th Congressional District, this particular art gallery received by far the largest SBA disaster loan. And as an aside, Mr.

Attorney General, the member who represents the 10th Congressional District is none other than Chairman Nadler. Mr. Attorney General, who buys Hunter Biden's art?

Who benefits? What benefits do they receive from the Biden administration? The American people want to know. I have sent a letter to the Department of Justice before your tenure, asking them to appoint a special counsel to investigate Hunter Biden. I have today sent a letter to you and I am asking you now, will you appoint a special counsel to investigate Hunter Biden?

MERRICK GARLAND:

I'm not -- for the same reason that I'm not able to respond to questions about investigations of the former president or of anyone else, I'm not able to discuss any investigations pending or otherwise with respect to any citizen of the United States.

KEN BUCK:

Mr. Attorney General, I worked for the Department of Justice for 15 years. You are allowed to tell us whether you will appoint a special counsel. You may not tell us whether you are investigating or not investigating a particular matter, but you are allowed to tell us whether you will appoint a special counsel.

And that's my question.

MERRICK GARLAND:

Well, apparently, I just received a letter today from you and we'll be taking it under advisement. But I wasn't aware that you had sent me a letter.

KEN BUCK:

OK, I appreciate it. Mr. Chairman, I yield back, but I would like to first place into the record two articles, one from Vox, "Why Obama's former ethics czar is highly critical of Hunter Biden's lucrative art sales". And the second from the New York Post, "Art gallery repping Hunter Biden received \$500,000 federal COVID loan, records show."

JERROLD NADLER:

Without objection. The gentleman yields back?

KEN BUCK:

I yield back, yes.

JERROLD NADLER:

The gentleman yields back. Mr. Swalwell.

ERIC SWALWELL:

General Garland, you may not get these four hours back, but you may get some art history credit for today. You had a job before becoming a judge, which I think is the best job in the world. You were a prosecutor. And when you were a prosecutor for the department, I imagine there were times where witnesses who you had lawfully subpoenaed did not show up to court.

Do you recall that ever occurring?

MERRICK GARLAND:

Yes, sir.

ERIC SWALWELL:

And when that would occur, you would ask the judge to enforce a bench warrant and have them brought in?

MERRICK GARLAND:

Yes, but generally, that did not get that far, but yes, that's true.

ERIC SWALWELL:

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That's one remedy you would have if someone does not show up.

MERRICK GARLAND:
It is.

ERIC SWALWELL:
And today, as we sit here in this room and dozens of courtrooms across America, your prosecutors have that right if a witness under a lawful subpoena does not come in to ask for a warrant for that witness's arrest.

MERRICK GARLAND:
Well, again, you're asking me about a particular case and what I can say is what the department has said about this on the record, which is if the House of Representative vote -- Representatives vote to refer a criminal contempt matter to the department, we will review it and act according to law and the facts as the principles of prosecution require.

ERIC SWALWELL:
And General Garland then you would agree that a subpoena lawfully issued by an Article II administrator is to be treated the same as a subpoena lawfully issued by Article I?

MERRICK GARLAND:
And I -- since we're really now talking about a very specific case, I don't want to get into the law.

ERIC SWALWELL:
I don't want to go into specific cases. I just want to say if a Congress at any time in history issues an Article I subpoena, do you agree that generally that should be treated the same as an Article II subpoena?

MERRICK GARLAND:

Well, there's different case law about both and we would be following the Supreme Court's case law on the subject in making our determinations.

ERIC SWALWELL:

General Garland, in 1973, an Office of Legal Counsel memo outlined the parameters for indicting a sitting president and said that you could not do that. Twenty-seven years later, that memo was updated to reaffirm that principle. Twenty-one years later, we have seen a former president test the bounds of presidential authority. And I'm wondering, would you commit to revisiting that principle, whether or not a president, while sitting, should be indicted?

MERRICK GARLAND:

Well, the Office of Legal Counsel memorandum, particularly when they've been reviewed and reaffirmed by attorneys general and assistant attorney general of different parties, it's extremely rare to reverse them. And we have the same kind of, you know, respect for our precedents as the courts do. And I think it's also would not normally be under consideration unless there was an actual issue arising, and I'm not aware of that issue arising now.

So, I don't want to make a commitment on this question.

ERIC SWALWELL:

I don't want to talk about any specific case but just, in general, should a former president's suspected crimes, once they're out of office, be investigated by the Department of Justice?

MERRICK GARLAND:

Again, without -- I don't want to make any discussion about any particular former president or anything else. The memorandum that you're talking about is limited to acts while the person was in office, and that's all I can say.

ERIC SWALWELL:

And should that decision be made only after an investigation takes place rather than deciding beforehand a general principle of we're not going to investigate a former president at all? Would you agree that if there are facts, those should be looked at?

MERRICK GARLAND:

Again, you're pushing me very close to a line that I do not intend to cross. We always look at the facts, and we always look at the law in any matter before making a determination.

ERIC SWALWELL:

General Garland, my colleague, Mr. Deutch, asked you about gun manufacturer liability. And I wanted to follow up and ask, does the recent Pennsylvania decision, which has been vacated and reargued, change your office's reasoning and thinking? And would you commit to re-examining DOJ's posture in such cases as the law changes in different states?

MERRICK GARLAND:

May I ask you to refresh my recollection as to the recent Pennsylvania decision about what you're speaking? I'm sorry.

ERIC SWALWELL:

Sure.

MERRICK GARLAND:

I have a lot of cases in my head, but that one doesn't come right up.

ERIC SWALWELL:

Last year, a Pennsylvania state appeals court held the Protecting of Lawful Commerce in Arms Act unconstitutional. And so, just asking, in light of that, would you commit to re-examining as new cases come in?

MERRICK GARLAND:

The Justice Department has taken the position in court that we're going to defend that statute as constitutional, and I don't see a ground for changing our mind. I expect that the considerations that the judges in Pennsylvania state court were brought to the attention of the Solicitor General's Office.

ERIC SWALWELL:

Thank you. And in the beginning, you referenced the January 6 prosecutions. And just on behalf of my law enforcement family and the law enforcement officers who work in this building, I want to thank you for continuing to pursue those investigations and arrests. I yield back.

JERROLD NADLER:

The gentleman yields back. Mr. Fitzgerald?

SCOTT FITZGERALD:

Attorney General, thank you.

MERRICK GARLAND:

Appreciate your waving at me.

SCOTT FITZGERALD:

Thank you for being here. Right. I think we all agree that no one should be above the law. And recent reports had former President Clinton, in California, he fell ill and was also reported that he had been there to raise money for the Clinton Foundation. In 2017, then-Attorney General Jeff Sessions launched a probe to scrutinize whether donors to the Clinton Foundation had been given special treatment by Hillary Clinton when Hillary Clinton was secretary of state.

This investigation wound down in January of 2020. In September of 2020, press reports indicated that Special Counsel Durham's team was seeking information on the FBI's handling of the Clinton Foundation investigation. During your confirmation hearing, if you remember, you were asked if you would actually ensure that the special counsel, Special Counsel Durham, would have sufficient staff and other resources to complete that investigation.

Now, obviously, you've had more than six months on the job. And can you commit to allowing the Special Counsel Durham's investigation to proceed and obviously free from any political influence?

MERRICK GARLAND:

Yeah. Let me just say, first, about the money, we're now in a new fiscal year, and, as everyone knows, Mr. Durham is continuing. So, I think you can readily assume that his budget has been approved. We don't normally make a statement about those things, but since he's still in action, the provisions of the regulation, which require approval of his budget for the next fiscal year, are public.

So, I think you can draw -- you would know if he weren't continuing to do his work.

SCOTT FITZGERALD:

I'll take that as a confirmation that the investigation is continuing into the Clinton Foundation, and I think that's important that we ultimately get to the bottom --

MERRICK GARLAND:

I don't want to say what it's about, that's up to Mr. Durham. I'm not determining what he's investigating.

SCOTT FITZGERALD:

Very good, very good. If I could move on. Another thing that came up during your confirmation hearing, you said that the DOJ would be under your "protection for the

purpose of preventing any kind of partisan or improper motive in making any kind of investigation or prosecution." And that's the end of your quote.

But, you know, I think there's many people that I interact with on a regular basis back in my congressional district that it appears that when you have tackled and targeted specific areas since your tenure began, it's been about election integrity measures, pro-life initiatives and, you know, what's been discussed many times here today, the silencing of parents that kind of are very upset about what's going on with some of the school boards.

So, it appears that you said one thing and made that commitment in your confirmation hearings, but at the same time, it seems that DOJ is specifically targeting many issues that I think I have described as conservative issues. I'm wondering if you could respond to that.

MERRICK GARLAND:

On the last point, I hope you can assure your constituents that we are not trying, the Justice Department is not trying, to chill there or whatever objections they want to make to school boards. Our only concern is violence and threats of violence. So, if you could make that clear to your constituents, perhaps that would help on that question.

On the other questions, some of these are policy differences that are natural between one administration and another, different views about what the law is. There will be people who -- from the Democratic Party who disagree with my determinations, and you've already heard some of those. And there will be people from the Republican Party who will disagree with my determinations about our filings and civil cases.

That comes with the territory, that's what happens to the attorney general. I'm doing my best to ensure that we make decisions on the facts and the law. And when I said I would protect our people from partisan influence with respect to investigations and prosecutions, I meant that, and I continue to do that regardless of, you know, which side of the aisle is criticizing me for it.

SCOTT FITZGERALD:

An earlier member said that he was very concerned about the previous administration weaponizing DOJ. And I would say I share the same concerns, and I would certainly hope that your department would maybe be much more sensitive to the appearance of many of these actions.

JERROLD NADLER:

The time of the gentleman has expired. Mr. Lieu?

SCOTT FITZGERALD:

I yield back.

JERROLD NADLER:

The gentleman yields back. Mr. Lieu?

TED LIEU:

Thank you, Chairman Nadler. Thank you, Attorney General Garland, for your outstanding public service. My wife is a school board member. She has been targeted with deeply disturbing death threats. The lack of concern by my Republican colleagues for the safety of teachers, school officials, and school board members is dangerous, disgusting, and utterly shameful.

Thank you, Attorney General Garland, for seeking to protect Americans from violence and threats of violence. I'd like to ask you some questions now about racial and ethnic profiling. In 2014 and 2015, Asian Americans, such as Sherry Chen, and Professor Xi, and others, were wrongfully arrested by the Department of Justice, charged with alleged spying for China.

And then, months later, all their charges were dropped but not after their lives were ruined and they incurred massive legal bills. As we looked at these cases, the only thing that's the same among all of them is that the defendants happened to look like me, they happen to be

Asian American. In response, then-Attorney General Loretta Lynch ordered implicit bias training for all her law enforcement agents and prosecutors at the Department of Justice.

My question to you is, will you commit to implementing implicit bias training at the Department of Justice?

MERRICK GARLAND:

So, I thank you for your comments. As you -- I know you know, I'm greatly attuned to this problem. That's why the very first memorandum I issued when it came to the Justice Department was to investigate hate crimes on a nationwide basis and particularly against the AAPI community. That's why we have made all of the changes required by the NO HATE Act, most of them before the act was even passed because we're already on that route.

MERRICK GARLAND:

There's no excuse for this kind of discrimination, and it's the obligation of the Justice Department to protect people. The --

TED LIEU:

Thank you. So, let me bring attention to a study that came out that shows that this problem is wider than we feared. It was conducted by a visiting scholar to the South Texas College of Law and the Committee of 100, a nonprofit, to analyze economic espionage cases brought by the Department between 1996 and 2020, and the findings are deeply disturbing.

This study showed that one in three Asian-Americans accused of espionage were falsely accused. It found that Asian defendants were punished twice as severely as non-Asian defendants, and it showed that the Department of Justice issued press releases much more frequently under these cases if the defendant happened to have an Asian name versus a Western name.

So, I'm going to ask you again, will you commit to implementing implicit bias training that then Attorney General Loretta Lynch had directed at the Department of Justice?

MERRICK GARLAND:

So, my understanding is that, that was required by the -- I think -- I can't remember the name, maybe the No FEAR Act. I can't remember the name. And the bar on doing such training was rescinded by the president in an executive order, I think, on the very first day of the new administration. And so, of course, we will go ahead with what was required by the statute, including implicit bias training, yes.

TED LIEU:

So, if you could look into that more, I appreciate it. So, thank you. I'd like to now talk about a case brought under the China Initiative that happened under your watch, the case of Professor Anming Hu, who was also wrongfully accused of spying for China. The evidence against him was so flimsy that a federal judge dismissed the case on a Rule 29 motion.

I'm a former prosecutor, I know that those motions are rarely, if ever, granted. The judge found that even viewing all the evidence in a light most favorable to the prosecution, no rational jury could conclude that the defendant violated the law. If we look at one of the darkest periods in our nation's history, over 100,000 Americans who happened to be of Japanese descent were interned because our government could not figure out the difference between the Imperial Army of Japan and Americans who happen to be of Japanese descent.

I'm asking the Department not to repeat that similar type of mistake, and I'm asking you if you would look into the China Initiative to make sure it's not putting undue pressure on the Department to wrongfully target people of Asian descent.

MERRICK GARLAND:

Internment of Japanese American, it's a terrible stain on American people and on the American government, and American history. I can assure you that kind of racist behavior will not be repeated. There is a new assistant attorney general for the National Security

Division who's pending confirmation. I am sure that when he is confirmed, which hopefully will be in the next few days, maybe in the next few weeks, we'll review all of the activities in the Department and his division, and make a determination of which cases to pursue and which ones not.

I can assure you that cases will not be pursued based on discrimination, but only on facts justifying them.

JERROLD NADLER:

The time of the gentleman has expired. Mr. Bentz.

TED LIEU:

Mr. Chairman, may I ask unanimous consent to enter three documents into the record?

JERROLD NADLER:

Without objection.

TED LIEU:

The first is a study I reference called Racial Disparities in Economic Espionage Act Prosecutions: A Window into the New Red Scare dated September 21, 2021. The second is an article entitled Professor Acquittal - Is China Initiative Out of Control? Dated September 25, 2021. And the final document is a letter from 177 Stanford faculty members outlining why the China Initiative is discriminatory and harms American competitiveness, dated September 8, 2021. Thank you.

JERROLD NADLER:

Without objection, the gentleman yields back. Mr. Bentz.

CLIFF BENTZ:

Thank you, Mr. Chair. Thank you, Mr. Attorney General, for being here today. Let me begin by saying I was disappointed with your memo regarding school boards and parents first, because I, like you, am a parent of two wonderful kids. I attended too many school board meetings to count. I attended many more as a eight-year member of school boards, really long years, I might add.

I can assure you that we welcome parents' involvement. I appreciated their attendance, I listened to their a?" I listened to them carefully. The fact that they took the time to be there after long days at work spoke volumes about how much they care for their kids. And now, no one condones violence, no one condemns threats of harm, no one condemns and condones intimidation.

But what has been repeatedly said today is that your memo is far too aggressive, far too loose in its language, far too likely to chill the very parental participation we on school boards so -- did so much to encourage. I would encourage a supplemental memo. Second, this goes to the assertion at the end of your memo that it is the department's steadfast commitment to protect all people in the United States from violence, threats of violence, and other forms of intimidation and harassment.

This goes to the prioritization of the activities of your department. And I would just suggest that we have a situation in Oregon that I think is going to be copied across the United States. It involves the illegal growing and production of marijuana and cannabis on an almost unbelievable industrial scale based in large and probably irreplaceable part, the miserable suffering of thousands, if not tens of thousands, of people coming across the border illegally, and then pressed into indentured servitude by cartels.

This is not me making this up. This is coming from any number of law enforcement agencies in Oregon. We will not go into the challenges on the border other than I wish we had a border. I simply want to say that the people that are coming across by the thousands are being put to work in situations that are immensely bad.

And the FBI, by the way, I've spoken with, but your department needs to be doing something about it at all the levels you can. And I am tempted that each time I go through

one of the horrible things that are happening to these people, refer back to the memo regarding the school board because it seems to me, there's been a mis-prioritization.

We are talking about thousands of people that are in these inhuman living conditions, and the size of the problem is almost unbelievable. The -- based on estimates from law enforcement in Jackson, Klamath, and Josephine Counties in Oregon, the amount being illegally raised and sold across the United States in just one of these counties exceeds 13.5 billion, in just one of my counties.

I have 36 counties. Thirteen-point-five billion dollars, Mr. Attorney General, on the backs of people, human beings brought over the border and probably forced into servitude to pay back the cartels for their immigration. The -- I want to mention that the creation of this situation is -- doesn't all just harm those folks brought across the border.

It harms the community. We've had people come in and tell us about going shopping down to local supermarket and seeing folks wearing big bulky coats. And under those coats, they can see AK-47s. They have had water masters approached -- the water master, the guy who's trying to take care of the water that's being stolen by these cartels, and they've come up to these -- to the water master and said, you know what, I'm invisible, you can't see me. You -- and I can kill you and no one will ever know.

That's a threat, that's intimidation. That's the kind of thing that is referred to in your member regarding -- memo regarding parents. I would just suggest there's a mis-prioritization. Mr. Chair, I would like to offer for the record, a letter from Josephine County commissioners to me, letter from Josephine County commissioners to the governor of state of Oregon, the order just issued a week or so ago from Jackson County declaring an emergency because of this situation, and finally, a -- photos of the living -- the squalid living conditions and a video of the valley showing thousands of hoop houses, some of which we are absolutely sure or many of which are illegal.

JERROLD NADLER:
Without objection.

CLIFF BENTZ:

With that, I'll --

JIM JORDAN:

Will the gentleman yield?

CLIFF BENTZ:

I'll yield.

JIM JORDAN:

I appreciate the gentleman from yielding. Mr. Attorney General, in your memo, you said that you are directing the Federal Bureau of Investigation to convene meetings with federal leader -- federal local leaders and state leaders within 30 days of the issuance of this memorandum in each federal judicial district, 94 federal judicial districts.

They got until November 3 to have these meetings. How many meetings have taken place?

MERRICK GARLAND:

I don't know the answer. I'm sure that there have been meetings, I'm -- but I am sure that they have not --

JIM JORDAN:

Any idea? Any idea how many meetings have taken place?

MERRICK GARLAND:

I don't know how many meetings, I am sure that there are not --

JIM JORDAN:

There was so much urgency that five days after, a political organization asked the president of the United States for FBI involvement. Five days later, you do a memo talking about the disturbing spike in harassment and violence, and then convening this open line of communication for reporting on parents, and you say, start meetings within 30 days, and you can't -- you come to the Judiciary Committee, you can't tell us what's going on?

MERRICK GARLAND:

We expect --

JERROLD NADLER:

Time of the gentleman has expired. Mr. Raskin.

JAMIE RASKIN:

Thank you, Mr. Chairman. Attorney General Garland, thank you for your service to the United States --

JIM JORDAN:

He doesn't even know.

JAMIE RASKIN:

Of America, which is a point of special pride for those of us who live in Maryland's 8th Congressional District. Right wing violence is now a lethal threat to American democracy. It came to the capital when QAnon followers, Three Percenters, Oath Keepers, Aryan Nations, militia men stormed the Capitol of the United States in the worst assault on the Capitol since the War of 1812, injuring more than 140 police officers, breaking their noses, breaking their necks, breaking their vertebrae, taking their fingers, causing traumatic brain injury, causing post-traumatic stress syndrome. And now, with all of the whitewashing by Donald Trump who lied and said that his mob was hugging and kissing the officers and by his cultlike followers, like Representative Clyde, who said that this was more akin to a tourist visit, this

permission for violence has given license to the darkest impulses in right-wing politics and given rise to conspiracy-theory-driven mob violence, not just at state capitals like we saw in Lansing, Michigan, which was a dress rehearsal for the January 6th attack, but also, it's in schools and in school boards across the country.

Here are some headlines from across the country that tell the story. School Boards Association reaches out to FBI for help as threats, violence hit meetings. Loudoun County board members have faced death threats. Prince William meetings have broken down with people screaming. There has been violence across the country.

Here's another one. A California teacher is hospitalized after he's allegedly attacked by a parent over face masks on the first day of school. Here's one. An angry parent allegedly ripped off a teacher's mask. It's not the only physical altercation over masks in schools. I'm limited by time here, but there are cases like this all across the country.

Now, I'd like to ask you this question, Mr. Garland, because you've been vilified, you've been castigated by members of this committee for your responsiveness to the National School Boards Association. That is members of school boards across the country who are reporting this dramatic uptick in violence against school board members, education administrators, other parents who have the temerity to go to a school board meeting wearing a mask.

Did you tell the school board association to reach out to you? Did you coach them to reach out to the FBI?

MERRICK GARLAND:

No. The letter signed by the NSBA president, Viola Garcia, and NSBA Executive Director and CEO Chip Slaven said, "America's public schools and its education leaders are under an immediate threat." Did you write those words or tell them to write those words? No.

JAMIE RASKIN:

OK. Did you violate any rule of ethics or any rule of law by responding to this clamor across the country to try to restore some calm and some peace to the schools of America?

MERRICK GARLAND:

No, I didn't. I followed my duty as I saw it.

JAMIE RASKIN:

I noticed that not a single member of this committee has cited a single sentence in your memo as violating anyone's rights. Not one. They have not cited a single sentence from your memo because your memo scrupulously follows the difference between conduct and speech. Would you care to reedify our colleagues about what the First Amendment protects and what it doesn't protect?

MERRICK GARLAND:

Well, the Supreme Court is quite clear that the First Amendment protects spirited, vigorous, argumentative, even vituperative speech, perfectly acceptable for people to complain about what their school boards are doing or what their teachers are doing in the most aggressive terms. What they're not allowed to do is threaten people with death or serious bodily injury, the so-called truth that -- true threats line of cases.

JAMIE RASKIN:

OK. Do you think that it is going to be important for us to confront violence against public institutions, whether it's the United States Congress as we count Electoral College votes, whether it's against state legislatures and governors who have been subject to assassination plots, or against school board members who, maybe, don't even get paid?

Why is it important, if you agree that it is, for us to defend public institutions, public leaders, and public process against violent intimidation, threats, and attacks?

MERRICK GARLAND:

I do think it's a --

UNKNOWN:

Mr. Chairman. Mr. Chairman, point of order. Mr. Raskin's words need to be taken down. He referred to one of our colleagues as being cultlike, and we don't allow personal attacks under the rules.

JAMIE RASKIN:

I'm sorry. Who did I refer to as cultlike?

UNKNOWN:

Andrew Clyde.

JAMIE RASKIN:

I said that Andrew Clyde was in a religious cult.

UNKNOWN:

Yeah.

JAMIE RASKIN:

Cultlike.

UNKNOWN:

Cultlike, that's a derogatory characterization. It's not allowed under the rules.

JAMIE RASKIN:

Well, I wait for direction from the chair, but if he objects to the idea [Inaudible]

JERROLD NADLER:

It's not time [Inaudible]

UNKNOWN:

We have regular order.

JERROLD NADLER:

I would urge everyone to avoid engaging in personalities. And the time of the gentleman has expired.

JAMIE RASKIN:

Thank you.

JERROLD NADLER:

Mr. McClintock.

UNKNOWN:

Seventeen [Inaudible] Mr. Chairman, can you rule on my point of order? It's Rule XVII Clause 4, standing rules of the House.

JERROLD NADLER:

Not a timely point of order.

UNKNOWN:

How can it not be timely? It was still -- Time -- you have to raise it at the time -- He did. I did raise it at the time.

JERROLD NADLER:

Mr. McClintock --

JAMIE RASKIN:

Look, if any events --

JERROLD NADLER:

Mister --

JAMIE RASKIN:

Look, I'm happy to resolve this right now.

JERROLD NADLER:

No, no, no, no, no.

JAMIE RASKIN:

These events was given [Inaudible]

JERROLD NADLER:

Mr. McClintock --

JAMIE RASKIN:

I'm very happy to withdraw the phrase cultlike is applied to Mr. Clyde of Georgia just so we can get on with our business.

JERROLD NADLER:

OK.

JAMIE RASKIN:

I'm very happy to withdraw that, and we can talk about it in another context. It's interesting that the people want [Inaudible]

JERROLD NADLER:

As I said, people should in --

JAMIE RASKIN:

Are interfering with my speech, but I'm quite fine with it, Mr. Chairman.

UNKNOWN:

We were just trying to follow the rules, Mr. Raskin. We're told that's important around here.

JAMIE RASKIN:

Yes. I'll make sure the [Inaudible]

JERROLD NADLER:

Mr. Raskin, you've said enough. We all have strong feelings. People should avoid engaging in personalities. Mr. McClintock.

TOM MCCLINTOCK:

Mr. General, I think the real concern of a lot of parents is they attend a school board meeting to exercise their First Amendment rights, a fight breaks out. And the next thing, you know, they're being tracked down by the FBI with a rap on the door, maybe a SWAT team in the morning because they simply happen to be there.

Of -- that is a serious form of intimidation. Whether it was intended or not, that's clearly the effect it's having. And I think you need to be sensitive with that. But I want to talk about the news we received yesterday that we've seen the highest number of arrests of people illegally crossing our border in the history of our country, 1.7 million arrests this year.

It is a federal crime to cross the border outside of a port of entry, is it not?

MERRICK GARLAND:

Yes, it's a misdemeanor. That's true.

TOM MCCLINTOCK:

Well, your job is to prosecute federal crimes. How many have you actually prosecuted of that 1.7 million?

MERRICK GARLAND:

So, the Justice Department doesn't make those arrests. Those are made by Homeland --

TOM MCCLINTOCK:

No, no. But the Justice Department's responsible for prosecuting them. How many are you prosecuting?

MERRICK GARLAND:

I don't know the answer to that, but they have to be refereed by the --

TOM MCCLINTOCK:

A lot of the -- Wait a second. You know exactly how many people you're prosecuting from the riot on January 6, but you can't even give me a ballpark guess of how many people --

MERRICK GARLAND:

I can't --

TOM MCCLINTOCK:

You're prosecuting of the 1.7 million who have illegally crossed our border, committing a federal crime in doing so?

MERRICK GARLAND:

I don't have that number on the top of my head, but I'd be happy to have our staff get back to you.

TOM MCCLINTOCK:

Do you think that the failure to prosecute illegal border crossings might have something to do with the fact that our borders now being overwhelmed by illegal immigrants who tell reporters they wouldn't have considered making that trip under the Donald Trump administration?

MERRICK GARLAND:

I think there are substantial number of issues driving migration towards the United States from the pandemic [Inaudible]

TOM MCCLINTOCK:

Well, if you ask migrants --

MERRICK GARLAND:

And the earthquakes --

TOM MCCLINTOCK:

If you ask the migrants, they'll tell you, specifically, what's driving it. They can do it now. They can get in. Gallup -- and not fear prosecution from you. You know, Gallup tells us, there are about 42 million people living just in Latin America and the Caribbean who intend to come to the United States if they can based upon their polling.

A lot of people come each year on temporary visas, but then they fail to leave when those visas expire, again, in violation of federal law. Do you believe that those who illegally overstay their visas should respect our laws and return to their home countries?

MERRICK GARLAND:

I think they should respect our laws. It's up to the Department of Homeland Security to make determinations about how we resolve these matters.

TOM MCCLINTOCK:

And yet the administration is proposing amnesty to most visa overstays who arrived before January of 2021, including those whose visas have yet to expire. So, what you're telling us and what you're doing are two very different things. Let me go on. It's unlawful for an employer to knowingly hire an illegal alien.

How many prosecutions you pursuing under this law?

MERRICK GARLAND:

Again, I don't know the number off the top of my head, but I'd be happy to have staff try to get back to you.

TOM MCCLINTOCK:

It shocks me, given the fact that this is now an historic high on illegal border crossings -- you're the chief law enforcement officer of our country. You come here before this committee, you devote not a word in your spoken remarks to this issue. You devote, out of a 10-page written statement, one paragraph simply saying we need to expedite the immigration proceedings for asylum claims.

TOM MCCLINTOCK:

I find that astonishing. Let me ask you this. Do you agree that an alien who's received proper notice of his or her immigration court hearing, who fails to appear at that hearing, absent exceptional circumstances, and is ordered removed in absentia should be removed from this country?

MERRICK GARLAND:

And I'm not really familiar at exactly the circumstance you're talking about. There are rules about removal, and there are rules that the department has already established.

TOM MCCLINTOCK:

When someone is ordered deported by a court --

MERRICK GARLAND:

I'm sorry.

TOM MCCLINTOCK:

If someone is someone is ordered deported --

MERRICK GARLAND:

Yeah.

TOM MCCLINTOCK:

By a court, should they be removed?

MERRICK GARLAND:

They're ordered deported by a court, then we have an obligation to follow the court's order.

TOM MCCLINTOCK:

And yet, the president on his opening day in office instructed Customs and -- Immigration and Customs Enforcement not to conduct such deportations.

MERRICK GARLAND:

I'm not familiar with the specific thing you're talking about. I'm sorry.

TOM MCCLINTOCK:

What circumstances would justify an independent prosecutor?

MERRICK GARLAND:

So, we've had some history with independent prosecutors, neither the Democrats nor the Republicans seem to like the result regardless of who is [Inaudible]

TOM MCCLINTOCK:

Oh, but -- well, let me -- there have been multiple reports that Hunter Biden made enormous sums of money, and he's admitted that's because of his family ties. Now, that by itself might not be a crime, but there have also now been multiple reports that emails and other communications from Hunter Biden have indicated that his finances were intermingled with those of his father's, including a text to his daughter complaining that half of his earnings were going to his father.

If that doesn't call for an independent investigation of the president, what would?

MERRICK GARLAND:

So, I'm not going to comment about this investigation, but as everyone knows, there is an investigation going on in Delaware by the US attorney who was appointed by the previous administration. And I can't comment on any further than that.

TOM MCCLINTOCK:

That's being done under the Justice Department, not independently. And the Justice Department answers to the president who's implicated in these emails.

JERROLD NADLER:

Time of the gentleman has expired. Ms. Jayapal.

PRAMILA JAYAPAL:

Thank you, Mr. Chairman. And Attorney General Garland, thank you very much for being here and for your commitment to protecting our democracy. I'd like to generally discuss the

prosecutions of the January 6 insurrectionists. The prosecutors handling these cases believe that jail time is the appropriate sentence for misdemeanor charges.

However, the first misdemeanor defendants to receive jail time were only sentenced last month, nine months after the worst assault on the United States Capitol since the War of 1812. I'm trying to understand what the process is for these prosecutions and why there are delays. Does DOJ headquarters have final approval on all plea agreements before they are offered to a defendant?

MERRICK GARLAND:

So, I don't want to discuss these investigations in that respect. I would say that the Justice Department and the US Attorney's Office working together have guidelines for the kinds of pleas that can be accepted so that there are not -- there's not -- I don't want to use the word discrimination in the racial sense, but that there's not unequal treatment between people who did the same thing.

We can't have every individual prosecutor following a different set of plea arguments. So, that's the extent to which that's being organized. This is a -- and the question you ask, which is why does it take so long? This is really not long at all. I've been in lots of criminal investigations that took way longer.

We've arrested 650 people already, and keep in mind that most of them were not investigated and arrested on the spot because the Capitol Police were overwhelmed. So, they were people who had to be found. And they had to be found by sometimes are looking at our own video data, sometimes from citizen sleuths around the country, identifying people.

Then they have to be brought back to Washington DC. Then discovery of terabytes of information has to be provided. And then all of this was occurring while there was a pandemic. And some of the grand juries were not fully operating, and some of the courtrooms were not fully operating. So, I'm extremely proud of the work that the prosecutors are doing in this case, and the agents are doing this case.

They're working 24/7 on this.

PRAMILA JAYAPAL:

Thank you, General Garland, that's helpful. I do want to talk about disparity actually of prosecutions. Federal judges have criticized the department's approach to letting many defendants stay at home or travel for vacation. One judge said, "There have to be consequences for participating in an attempted violent overthrow of the government beyond sitting at home." And yet, The Wall Street Journal reports that you've told DOJ officials that jailing rioters who weren't hard core extremists could further radicalize them.

General Garland, do you believe that such statements are appropriate to make as the person overseeing these prosecutions?

MERRICK GARLAND:

I don't know where that report comes from. My recollection of this is in a completely different context. That is I worry that there will be radicalization in the Bureau of Prisons when people are -- and this is the radicalization that has occurred with prison gangs, with white supremacist groups in prisons, and with a radical Middle Eastern groups in prisons.

And I was concerned that the Bureau of Prisons have a procedure for ensuring that that radicalization doesn't spread across prison populations. I think that was what I'm referring.

PRAMILA JAYAPAL:

General Garland, I don't know how you could further radicalize people who have attempted to overthrow the government. Let's just contrast the department's approach to the George Floyd protests. A participant at a George Floyd protest faced up to five years in felony charges for inciting a riot via social media.

In contrast, three white supremacists at the 2017 Charlottesville rally received prison sentences between two and three years for their violence, assault of protesters, and

conspiracy to riot. And despite a series of social media posts and videos on January 6, only one person was ever charged with a felony.

I understand all of the challenges that you are facing with what you've mentioned, and I do appreciate that, but I am concerned about the disparity of the way sentencing is occurring. Is it fair to say that the department does and should consider deterrence and the gravity of crimes when pursuing both sentencing and pretrial confinement or detention?

MERRICK GARLAND:

To answer that is yes. But the ultimate determination on both sentencing and pretrial detention is up to the judge and not to the department. There are some judges that are criticizing the kind of charges we're bringing being not harsh enough, but there are other judges who are criticizing the same charges as being too harsh.

As I mentioned before, this comes with the territory of being a prosecutor.

PRAMILA JAYAPAL:

I understand. General Garland, I just want to say that I think if we are to restore faith in the Department of Justice under your leadership and a new administration, we have to make sure that the disparity of sentencing that we have continued to see under the last administration and with this administration has to be addressed.

And I hope that you will do that, and I thank you for your efforts. I yield back, Mr. Chairman.

JERROLD NADLER:

Gentlelady yields back. Mr. Issa.

DARRELL ISSA:

Thank you, Mr. Chairman, General Garland. It's good to see you and it's good to have you before this committee. I appreciate you're giving us so much time. As you know, your reach

is global when it comes to overseas activities such as the bombing that occurred in Kabul. So, the killing of 26th August of 13 US troops falls under your jurisdiction, correct?

Or at least the FBI is investigating?

MERRICK GARLAND:

The FBI can participate. It's likely also DOD. But at some combination, yes.

DARRELL ISSA:

Well, the areas of concern media reports both in public and private statements indicate that the bomber was in fact an individual who had been released from the detention center there in Kabul. Can you confirm that?

MERRICK GARLAND:

I'm sorry, I don't know the answer to that. I don't know the answer to that.

DARRELL ISSA:

Can you respond for the record from -- I mean, obviously, the FBI does know it. It's leaked out enough that I think that it needs to be made official.

MERRICK GARLAND:

To the extent that it would be permissible and it's not classified information, then of course, we'll get back to you and I'll ask my staff to look into this.

DARRELL ISSA:

Well, the records of those who are incarcerated at the detention center were public, and certainly, somebody who has blown themselves to bits would enjoy very few residual privacy rights, I would assume?

MERRICK GARLAND:

I don't think it will be a question of privacy rights.

DARRELL ISSA:

OK, I just wanted to make sure we had that. The important point though in my view is that there are 4,999 or more other individuals who were released, who were free to roam the streets of Kabul on the very days that we were evacuating. I was in Qatar last week and it was reported to us in unclassified sessions that more than 20 percent of the individuals who boarded the aircraft in Doha for the United States, more than 20 percent who came into there, came in with no papers whatsoever.

No Afghan papers, no US papers, no other documentation, and that the documentation was produced based on oral testimony. They called it a paper passport based on the fact that of the 60,000 plus people that passed through Doha, Qatar, 20 percent of them or more did not have any paperwork work. Of the remaining ones, at least 40 percent had only documentation that it was produced in Afghanistan.

DARRELL ISSA:

How do we know how many -- we know some, undoubtedly, but how many in fact made the way to the United States of the 5,000-plus people who were incarcerated for being ISIS terrorists and the like? How do we know who they are, where they are, and how many of them in the United States?

And what are you doing to discover further?

MERRICK GARLAND:

Congressman, you've identified a very serious problem. There was a massive airlift of refugees out of Afghanistan at the very last moment and that required vetting at -- not only at Qatar, but also Ramstein and the other bases where people were moved to. And then when they're moved to the United States, the --

DARRELL ISSA:

I don't mean to interrupt you, but in the remaining time, if you could respond, for the record, about how many you know, how many you've apprehended, how many you're following, because once we know the tens of thousands of people left Afghanistan who had no evidence of a nexus to the United States and were transported to the United States and knowing that there were 5,000 terrorists that had been recently released, we do have an obligation to figure out what the steps that are being taken to find them and to incarcerate them.

And I recognize that there are a number of people in Kosovo who were identified. So, we would certainly include that. My last round of questioning really goes to the terrible attacks that occurred at Fort McCoy and other places. We have a significant number of Afghan/American-bound individuals who are currently committing crimes and who have committed crimes.

And so, I'd like to know one, to the best of your ability, how many cases you're following, not what the cases specifically are about, and what authorities you've been given or need to be given to deal with these individuals including revocation of their paroles, which of course is an executive prerogative but one that we would like to know.

Will individuals who have committed crimes have their paroles pulled? And if so, can they then be deported or at least begin the deportation process?

MERRICK GARLAND:

All right, we'll try to get back to you on what we are able to tell you on that questions of the crimes that you're talking about.

DARRELL ISSA:

And we're happy you accept it in an environment where it's not disclosed, but I really think that this committee has an obligation to have a good feel for the nature of the individuals,

the nature of the crimes, and how we're going to deal with them. This is an awful lot of people who are requesting special entry to the United States.

And as we know, many of them did not do anything for the United States, but simply were able to get on an aircraft in the rush at the end. Mr. Chairman, thank you for your excess time indulgence and I yield back.

JERROLD NADLER:

Gentleman yields back. Ms. Demings.

VAL DEMINGS:

Thank you so much, Mr. Chairman. Attorney General Garland, it is great to see you again. We were together last week as the nation recognized 701 law enforcement officers who died in the line of duty whose names will be added or were added to the wall. Here we are, just a few yards away from law enforcement officers who were beat down in this very sacred place, we've been asked to move on, but Attorney General Garland, some of us just cannot.

Not yet. In your opening statement, you said that the department's core values are upholding the rule of law, keeping our country safe, and protecting civil rights. As I sit here today as a member of the House of Representatives, I see my job and also the job of every member of the House on both sides of the aisle, Attorney General, is, guess what, to uphold the rule of law, keep our country safe, and protect civil rights.

As you know, I served as a law enforcement officer for almost three decades. It was an honor. And at all levels of government, whether local, state, or federal, law enforcement officers take an oath to uphold the Constitution, defend the Constitution against all enemies, foreign and domestic, enforce the laws of the land, and protect and serve their communities.

Or at least, that's what their responsibility is about. It is about keeping the American people safe. Effective policing though requires resources and investment. We cannot sit here as policymakers and demand better policing, better training without providing the resources to

achieve it. Attorney General Garland, I know, you know, I'm very familiar with the COPS grant program.

As you know, it provides resources and assistance to state and local enforcement for things such as community policing. The Byrne/JAG Grant provides several initiatives for state and local jurisdiction including technical assistance, training, personnel, equipment, supplies for law enforcement, prevention and education, crime victim and witness assistance, mental health, and related law enforcement assistance programs.

Attorney General Garland, if you would just take just a moment, I know you mentioned earlier that your commitment in terms of funding to this very important initiative. But if you would just take a moment to talk about the effectiveness of the DOJ grant programs and talk a little bit about the future of those resources.

MERRICK GARLAND:

I thank you for that opportunity. This is part of our commitment, both to keep the country safe; and therefore, to help state and local communities fight violence in their communities. And second, part of our obligation to uphold civil rights. And so, ensure that this be done with constitutional policing.

And also, with respect to our first priority, that is ensuring adherence to the rule of law. So, we have asked for, in the 2022 budget, more than \$1 billion in grants for state and local police organizations. That's \$537 million for cops hiring and \$513 million for Byrne/JAG. Each of those are an increase.

For COPS, it's an increase of \$300 million over the previous year. For Byrne/JAG, it's about \$30 million increase over the previous year. But there are other grant programs that we've asked for money as well. One of them is quite important, is \$100 million for new community violence intervention initiatives.

I met with community violence intervention experts in Chicago earlier in the summer. I was extremely impressed by the results that they have had in taking people who might otherwise end up with -- in crime and setting them on the straight path. That particular program was

actually a well-controlled study done by the University of Chicago and it showed that these things actually work quite well.

VAL DEMINGS:

Attorney General, if we could just switch gears for just a second.

MERRICK GARLAND:

Of course.

VAL DEMINGS:

I want to talk about election security and threats that have been going on against the election worker -- poll workers. And I know that there was a task force established in June of last year as a result of the rise in threats, including death threats. How does the task force plan to coordinate with local and state enforcement and prosecutors to pursue cases against those who seek to intimidate election workers?

MERRICK GARLAND:

So, like all of our antiviolenence initiatives from the violence initiatives we were just talking about, the project safe neighborhoods, to the memorandum that we've been discussing earlier today, all of our activity in this regard involves partnerships with and meetings with state and local law enforcement.

And with respect to election workers, we have, as part of our normal sets of meetings with respect to state and local law enforcement, we are meeting with them to identify threats to find out where federal tools would be helpful, to find out where assistance to state and locals would be effective. There is a FBI tip line for threats to election workers which are then funneled to the appropriate FBI office in the locality where the threats are occurring.

This is similar to our work with respect to threats against members of Congress, the threats against judges, the threats against prosecutors, threats against police officers. All of these things are done with tight coordination with state and local law enforcement.

VAL DEMINGS:

Attorney General Garland, thank you so much. I yield back.

JERROLD NADLER:

The time of the gentlelady has expired. I understand Mr. Roy has UC request.

CHIP ROY:

I do, Mr. Chairman. I ask unanimous consent to insert into the record the memorandum from the National School Boards Association to President Joe Biden, specifically noting in there that this is talking about domestic terrorism. And Footnote 13 directly references the incidents that occurred in Loudoun County, Virginia.

I'd like unanimous consent and turn that into the record.

JERROLD NADLER:

Without objection.

CHIP ROY:

And then, second item in sort of the record is the memorandum issued by the attorney general regarding what the Federal Bureau of Investigation is supposed to do with respect to targeting parents and school boards throughout the United States?

JERROLD NADLER:

Without objection. Mr. Biggs.

CHIP ROY:

Thank you, Mr. Chairman.

ANDY BIGGS:

Thank you, Mr. Chairman. Mr. Garland, Facebook has admitted in a letter to the Arizona attorney general that it, quote, "allows people to share information about how to enter a country illegally or request information about how to be smuggled" close quote. USC 1324 criminalizes aiding and abetting entering into the US by illegal aliens. Have you sent a letter or issued a memorandum, similar to the 10/4/21 memorandum, directing department resources to be dedicated to investigating the apparent violation of law, similar to the one? Have you done that?

MERRICK GARLAND:

I haven't seen the letter or information that you're talking about, but if it was sent to the department, I'll make sure that we look at it.

ANDY BIGGS:

It has been reported that Mark Zuckerberg also spent over \$400 million in a "carefully orchestrated attempt" to influence the 2020 election. Those efforts have been referred to as a "private takeover of government election operations". Have you sent a letter or issued a memorandum directing departmental resources be dedicated to investigate these claims?

MERRICK GARLAND:

I don't know what was done in 2020 in the previous administration of the Justice Department. I don't know --

ANDY BIGGS:

We're talking about the election of 2020. All of this has come out since then, and you've not -- so, you're totally unaware of that?

MERRICK GARLAND:

I don't know about that. I'm not aware of what you're talking about, I'm sorry.

ANDY BIGGS:

So, you have not sent a memo or you're not investigating that either. Last Sunday, more than 300 churches in Virginia aired a video featuring Vice President Harris advocating the election of Terry McAuliffe as governor of Virginia. This appears to violate Section 501(c)(3) of the IRS Code, as well as other election laws and seems to be an orchestrated effort by the VP and McAuliffe to violate the law.

Have you sent a letter or issued a memorandum directing departmental resources dedicated to investigating this apparent violation of law similar to the letter you issued, assuming the memorandum you issued on October 4th, targeting parents who exercise their First Amendment rights to local school boards?

MERRICK GARLAND:

No.

ANDY BIGGS:

On May 24th, 2021, under oath before a congressional committee, Dr. Anthony Fauci denied the National Institute of Health provided any funding for gain-of-function research, saying "that, categorically, was not done". Today, this very day, the NIH issued a statement contradicting that testimony, which suggests that Dr. Fauci may have committed perjury.

This is a criminal offense, and I'm left to wonder if you intend to look into that and send in the communications, such as a letter or a memo similar to the October 4th memo that you issued regarding parents going to school board meetings, to investigate Dr. Fauci's potential perjury.

MERRICK GARLAND:

Again, I'll refer to the long-standing departmental norm that we don't comment about investigations pending or unpending. The general point that you're making normally comes

with -- would come with a referral from the relevant committee, but other than that, I can't say anything.

ANDY BIGGS:

So, the point I'm -- the actual point I'm making is you chose as a response to a letter from the National School Boards Association and, as you said earlier today, newspaper accounts to issue a memorandum to organize task force and investigate and put a chill on parents' participation before school boards.

Now, you say, "Oh, I didn't mean to provide a chill," but that's exactly what any sentient being would have assumed would happen when you ask the federal government to begin looking into this. Of course, parents are going to be nervous now. Of course, people will step back. That's the purpose of my questioning.

So, when we get to these things like Zuckerberg, Facebook, Kamala Harris, we get to -- and Dr. Fauci's purported perjury, there's no indication you didn't hold back. You issued a press release. You see the distinction. How about this one? Since January 20 of 2021, Border Patrol has encountered more than 1.3 million aliens at the southwest border, trying to illegally enter the country.

You yourself, as you have acknowledged today, that that remains a crime. Have you sent a letter or issued a memorandum to US attorneys, directing prosecution of these cases?

MERRICK GARLAND:

No, and the reference of cases comes from the Department of Homeland Security, as I mentioned before.

ANDY BIGGS:

Look, you managed to issue a memorandum about parents showing up at school boards. Why can't you issue a memorandum regarding the million-plus people who illegally enter

the country and encouraging your US attorneys to prosecute those cases? They are there constantly.

JERROLD NADLER:

Time of the member -- the time of the gentleman has expired. Mr. Correa?

LOU CORREA:

Thank you very much, Mr. Chairman. Mr. Attorney General, welcome and thank you for your good work. I wanted to turn back to the issue of safety of elected officials, federal and local. You mentioned a couple of words a few minutes ago: true threats and serious bodily injury. And I would say that's within the context of, as what's said already, which is the First Amendment, and that all of us are public officials.

We chose to run for office, to be in elected office. Yet recently -- not recently, but throughout the years, we have been confronted with people in our faces serious bodily harm, us being threatened. A dozen years ago, that happened to me in California, called my local attorney general, State Attorney General Bill Lockyer, then.

Bill told me, he said, "Lou, never swing first, you will be criminally liable. I'll put you in jail myself, and you'll have tort issues as well." On January 7th, the day after the insurrection, I was at Dulles Airport surrounded by -- it's probably about 20 people in my face. I remembered Bill Lockyer's words.

I didn't want to swing first. Had people in my face surrounding me, the only thought was, better make sure this guy, if he does swing, doesn't connect. Otherwise, I'm going down. So, sir, what are we left with today? The nice corporal that responded to that incident accused me of starting the fight. Number two, I asked for an investigation, the nice people at the airport said no laws were broken, yet we talk about true threats, serious bodily injury.

At what point do we essentially -- at what point would you draw the line in terms of us protecting ourselves? And the sad thing about January 7 for me is it's nothing new, that

happens in my district for the last few years over and over again. Police officers show up, First Amendment, and we're left to essentially handle the situation many times on our own.

So, Mr. Attorney General, I'm trying to figure out some clear lines here. How do we, as elected officials, protect ourselves? Are we left to conceal weapons? What is it exactly that we need to do? You know, I'll take the heat. I'm an elected official, but where do you -- where does that First Amendment stop, and that serious bodily injury concept come into play?

Thank you.

MERRICK GARLAND:

Well, the courts have been quite clear that threats, that of an intent to commit an unlawful act of death or threat of serious bodily injury are not protected by the First Amendment. Anger, getting up in your face, those things are protected unless there are some local provisions, one way or the other.

LOU CORREA:

They are protected.

MERRICK GARLAND:

Yes, people can argue with you, people can say vile things to you, people can insult you. I'm sorry to say this, doesn't mean I like that idea, it doesn't mean that that's where we should be in a civil society, but the First Amendment protects vigorous argument. I -- with respect to self-protection, I'm going to have to leave that to the Capitol Police and their protective organization to give those -- that kind of advice to you.

If you think you have a threat, if you've received a threat of violence or threat of serious bodily injury, you should report it. Many other members of Congress have done that. We just arrested somebody in Alaska for threatening the two Alaskan senators. This happens --

LOU CORREA:

Attorney General, I only have 54 seconds left. And I guess what I'm looking for is some kind of a message from your office at the federal level that there are certain things that are tolerated under the First Amendment and some that are not, and those that, you know, cross that line will be prosecuted. And it also spills over to protection of poll workers at elections.

LOU CORREA:

I'm out of Orange County, California. We've had private poll workers threatening voters. We've had letters focused, threatening certain voters, keeping them from the polls. And, yes, you can come back in retrospect and prosecute, but you've already affected the outcome of an election. So, I'm hoping somehow to figure out a way to really send a clear message to these individuals that, you know, violations of our democracy, messing with our elections, is not going to be tolerated so they know that going into their actions. Thank you. With that I yield.

JERROLD NADLER:

The gentleman, yields back. Mr. Gaetz.

MATT GAETZ:

Thank you, Mr. Chairman. I'm very concerned about the influence of lobbyists in Washington DC. There's no prohibition against the Department of Justice hiring lobbyists to be prosecutors, is there?

MERRICK GARLAND:

You mean former lobbyists, I hope --

MATT GAETZ:

Yes, that's correct.

MERRICK GARLAND:

No, there is no prohibition.

MATT GAETZ:

And can you describe for us the specific vetting that the department does when professional influence peddlers are hired and given prosecuting authorities?

MERRICK GARLAND:

Well, the hiring of assistant US attorneys is a -- this is a career hire made in the different US attorney's offices, there's --

MATT GAETZ:

I mean, for the Washington, I mean, in Washington at DOJ. Are there any special procedures, that vet lobbying contracts or maybe who a lobbyist worked for before they're giving -- given prosecutorial authority?

MERRICK GARLAND:

So again, I'm not sure what kind of person you're speaking with. If you're talking about frontline prosecutors, there is a background check. Everybody, I'm sure here is familiar with the SF 86, has to be filled out, includes all the people that you worked for, the same is true and main justice.

MATT GAETZ:

But there's no special review for lobbyists as opposed to people who've been engineers or had any other career?

MERRICK GARLAND:

I don't know, but I don't believe there's a difference, but obviously lobbying makes --

MATT GAETZ:

Let's ask about political consultants, political consultants are people who get paid to ensure that a candidate wins or loses an election, that a political movement is successful or unsuccessful. Is there any prohibition against hiring political consultants as prosecutors at the department?

MERRICK GARLAND:

Again, I don't think that we're allowed to even look at people's politics. The question --

MATT GAETZ:

No, no, no, no. It's not their politics, it's the profession of being a political consultant. There's no special vetting for that --

MERRICK GARLAND:

I don't think that there's a specific prohibition. There is a requirement that once somebody becomes a prosecutor, just like when somebody becomes a judge that they get rid of whatever preconceptions they had before, and that they go forward under their new responsibilities and are subject to the ethics rules of their new ...

MATT GAETZ:

We would hope that would be the case, Mr. Attorney General. But I tend to think that if people are in the influence peddling game or their prosecutors, it can be kind of dangerous to mix those to be an influence peddler for hire one day, to be a prosecutor the next, maybe to rotate back and forth among those careers.

And it sounds like there's no special vetting for lobbyists or political consultants. Let me ask the question about partisan committee staff, we have partisan committee staff that you see here, their job is to ensure that one party or another preserves or, you know, captures the majority that legislative proposals are successful or not successful.

No prohibition against the department hiring partisan committee staff as prosecutors, is there?

MERRICK GARLAND:

As I understand it, every administration including the one preceding this one, has hired people who have been committee staff. I don't think there's a statutory limitation if the House of Representatives and the Senate think that partisan or I'm not --

MATT GAETZ:

That's how Preet Bharara got his job, he worked for Schumer and then he ended up in the Southern District. So, we have people who can be lobbyists and then prosecutors, we have people who can be political consultants and then prosecutors, we have people who can be partisan committee staff and then prosecutors.

The public integrity section has jurisdiction over election integrity, correct?

MERRICK GARLAND:

It has jurisdiction over election crimes, yes.

MATT GAETZ:

Yes. So, is there any prohibition against people who've been lobbyists, partisan committee staff or political consultants, actually going in and serving in the public integrity section? Or is that allowed?

MERRICK GARLAND:

Just say, again, the hiring and the public integrity section is a career hire made under the civil service. It's not me --

MATT GAETZ:

I'm worried about their prior career though, see what I think is that, if someone has been a political operative to then put them in charge of election crimes, it's kind of like having the fox guard the henhouse, don't you think?

MERRICK GARLAND:

So, if you think that that would be a perfect example of something the House should pass a statute barring people, from particular professions, from working in the Justice Department.

MATT GAETZ:

And would you support that legislation?

MERRICK GARLAND:

I'd have to look at what it is and I have to look at whether it in itself violates the First Amendment, but --

MATT GAETZ:

I appreciate --

MERRICK GARLAND:

I don't think there have ever been any restrictions like that before.

MATT GAETZ:

I appreciate your open mindedness and I hope that persists during your time in the department. Would you provide the committee, a list of lobbyists, former lobbyists or just former political consultants, who work in the public integrity section? So that we might inform on the legislation that you've suggested we might consider?

MERRICK GARLAND:

I don't intend to create a list of career officials and what their previous jobs were --

MATT GAETZ:

So, if there are people who are -- who literally were political operatives, who have prosecuting authority in the area that oversees elections, you won't give us the list?

MERRICK GARLAND:

I don't have any idea whether there is any such person.

JERROLD NADLER:

Time of the gentleman has expired. Ms. Scanlon.

MARY SCANLON:

Thank you, Mr. Chairman and thank you, Attorney General Garland for appearing here today in a timely manner and responding to our questions, as well as for your efforts to be responsive to the issues facing America today. Thank you. I want to address two primary areas in my limited time; attacks on elected officials and attacks on elections.

Several of my colleagues have pointed out the far right's lies about election integrity, have led to intimidation, and threats of violence and death being made against elected officials and their families. In Pennsylvania, we saw armed extremists come across state lines to try to disrupt the counting of votes in Philadelphia, and an election commissioner had to put his children in hiding after death threats were made against him and his family.

With the reopening of schools this fall, we've now seen similar criminal conduct being directed at teachers and school board members with the encouragement of far-right extremists, including some elected officials. I take this personally because I was a school board for 10 years, almost a decade until 2015, and during that time I had thousands of hours of conversations with involved parents and constituents in grocery stores, on baseball fields, and in courtrooms and school board meetings.

Sometimes the discussions were passionate, but everyone always respected the boundaries of protected speech, and those exchanges of opinions and information were always

conducted with the goal of exchanging information, reaching solutions for the community. We never, ever experienced any threats to the personal safety of board members, educators or their families and that has changed.

The personal and physical attacks that have been directed against school leaders in recent months, have crossed well over the line of protected free speech or parental involvement, and have become criminal conduct. And that's what we're talking about here. As you noted, parents have a right to be heard, and to complain and to argue, but parents and outside agitators, do not have the right to criminally harass, or threaten, or assault school leaders and their families.

We've heard some of the incidents that have occurred elsewhere around the country. In my district, police had to be called to several meetings after agitators disrupted the meetings, and elsewhere in Pennsylvania, a candidate for office urged community members at a public rally to -- and I quote, " Forget going into school boards with freaking data, you go into those school boards to remove them.

I'm going in with 20 strong men and I'm going to give them an option, they can leave or they can be removed". I mean that's not ordinary speech. I mean this is the type of conduct that has led school boards and school officials to request help from law enforcement. It's shocking, but perhaps not surprising that some of our colleagues have tried to frame these criminal acts as free speech by involved parents.

It appears to be part of a pattern by far-right politicians of fanning the flames of chaos, and turning a blind eye to domestic extremism and violence. The conduct that terrorizes educators now across the country is no more like that, of ordinary parents showing up at school board meetings, than the conduct of the violent mob that showed up at the Capitol on January 6, was that of ordinary tourists.

I think there's a profound distinction here and one that warrants the attention of law enforcement. Would you agree that allowing threats of violence and intimidation against elected officials to go unreported or unpunished, could not only lead to greater violence

against elected officials, but also contribute to an atmosphere that's harmful to free speech and the free exchange of ideas?

MERRICK GARLAND:

Yes, I do agree.

MARY SCANLON:

OK. Moving on to election, attacks on elections. For almost two years, the former president and his supporters have attacked and spread lies about election security in the Commonwealth of Pennsylvania. Almost a year after President Biden's victory, attacks on Pennsylvania elections occur today. Last month, Republican members of the PA legislature launched another attack on Pennsylvania voters.

They sent a subpoena to the Pennsylvania Department of State, demanding that the state turn over the 2020 voting records of every voter in the state, along with their driver's licenses and their Social Security numbers. So that information could be turned over to an unidentified private contractor. Pennsylvania voters of every party and independents were outraged about this invasion of privacy, and the possibility that sensitive personal information was being put at risk.

Can you address how this kind of sweeping intrusion into election and personal data, under the guise of an election audit, might violate federal election laws?

MERRICK GARLAND:

Yes, I can't -- let me just say on the previous point that you made and -- although, I'll give you a quick answer. A full answer is we have an election threats task force and we've had that for quite some time. I've met with the National Association of Election Administrators and the National Association of Secretaries of State for every state, and that's what prompted us to establish this task force.

And now, on the second question, I can't -- I don't want to discuss any particular circumstances. Certainly, not that one but there are provisions of the Voting Rights Act that require state elect -- election officials to keep control custody of voting records and voting equipment and materials relating to the last election, I think, for 18 months.

And similarly, there are provisions of the same statute, which prohibit intimidation of -- or acts leading to intimidation of voters, both of which are sort of the core of the federal government's concern with respect to post-election audits.

MARY GAY SCANLON:

Thank you.

MADELEINE DEAN:

Gentlelady's time has expired.

MARY GAY SCANLON:

I yield.

MADELEINE DEAN:

The gentlelady yields back. The chair now recognizes Mr. Steube from Florida for five minutes.

GREG STEUBE:

Thank you, Madam Chairman. Attorney General Garland, in your Senate confirmation hearing, you referred to the January 6 protest as the "most dangerous threat to democracy in your law enforcement and judicial career." In that same hearing, you even compared January 6 to the Oklahoma City bombing case you worked on where 168 people were killed.

In June 15th, a speech announcing a new enhanced domestic terrorism policy, you cited January 6 as a motivation for that new policy. You went on to describe January 6 as "an

assault on a mainstay of our democratic system." You have said that prosecuting extremist attacks on our democratic institution remains central to the mission of the Department of Justice.

So, suffice it to say, it's clear that you feel very strongly about using the full force of your position to prosecute those involved in the January 6 protests. What is not clear, however, is if you will use the same force against violent left-wing domestic terrorists. Just last week, on October 14th, a group of extremist, environmental, and indigenous protesters forced their way into the Department of Interior.

They fought with an injured security and police officers, sending some of those officers to the hospital. The extremists violently pushed their way into a restricted government building in an attempt to thwart the work of the Department of Interior. Police arrested at least 55 protesters on site but others got away.

Mr. Garland, do you believe that these environmental extremists who forced their way into the Department of Interior are also domestic terrorists?

MERRICK GARLAND:

So, with -- I'm not going to be able to reference that specific incident since this is the first I know about it. But I will say that the department does not care.

GREG STEUBE:

So, this is the first that you know about an incident where indigent protesters forced themselves into a federal government building right here in DC like you didn't hear about this at all?

MERRICK GARLAND:

This particular example, it doesn't mean the Justice Department doesn't know about it, but I personally haven't heard about it before what you're saying right now. But I want to be clear, we don't care whether the violence comes from the left or from the right or from the middle

or from up or from down. We will prosecute violations of the law according to the statutes and facts that we have.

This is a nonpartisan determination of how to do that.

GREG STEUBE:

I'll make it a little clearer for you. And we're all -- most of us are lawyers here, so we use evidence in court. So, you got two pictures here. One picture is from January 6th of individuals forcing themselves into the Capitol. This other picture is extremists forcing themselves into the Interior Department.

So, looking at these pictures, and I know you say you're not aware of this which blows my mind that you're not aware of violent extremists forcing their way into a department right here in Washington, DC into a federal building. But just with this evidence, with these two pictures that you see here of people forcing themselves into a federal building, would you call both of these acts domestic terrorism?

MERRICK GARLAND:

Look, I'm not going to comment about particular matters. This is a matter that --

GREG STEUBE:

I'm not asking you to comment on a particular --

MERRICK GARLAND:

You are -- you --

GREG STEUBE:

I'm asking you to comment on these two photos. You have two pictures of individuals forcing themselves into a government building right here in Washington, DC. And one, you very --

as I laid out, very welcomingly call them domestic terrorists but you're refusing to call groups like this who commit the same atrocities here in Washington, DC domestic terrorists.

MERRICK GARLAND:

One I know the facts of, the other I don't know the facts of.

GREG STEUBE:

Well, I'm telling -- I'm showing you pictures. Here's facts right here. If you want, we'll act like we're in a courtroom. Exhibit A, Exhibit B. January 6, the Department of Interior.

MERRICK GARLAND:

Well, as you know --

GREG STEUBE:

Based on these pictures of people --

MERRICK GARLAND:

One --

GREG STEUBE:

Forcing themselves into the --

MERRICK GARLAND:

One picture is not going to be a -- I'm not going to be able to resolve a legal determination based on one picture. In the January 6 case, we have terabytes of video, which disclosed exactly what happened there.

GREG STEUBE:

Speaker Pelosi, mindly, still hasn't released to the American public to view all that video that has been captured here in Washington and in the Capitol complex. But that's the problem that everyday Americans are facing right now is they see these type of comments that you've made about January 6, yet you're completely -- and you're not answering my question now and you're saying, "Well, that's an ongoing investigation and I don't know about it." But clearly, based on the pictures, clearly what has occurred, factually what's been widely reported in all sorts of different American outlets that these individuals forced themselves into a building here in the Department of Interior.

And you're refusing right here today before the American people to say, "Yes, that's the same type of activity that I'm going to bring the full force of the Department of Justice to come against." Regardless of the ideology, which you have said in the past but you're refusing to do that today. And that's the problem with the challenges that your -- that this administration, your department is facing as every everyday Americans who are seeing this on TV. And now, you have the opportunity to set the record straight and say both of those actions, regardless of ideology, are against federal law and will be prosecuted with the full faith and credit of the Department of Justice.

And you're refusing to do that, and that's the challenge that everyday Americans are having right now is because they're seeing what you guys are doing to the people on January 6 to the point where even a judge is saying --

MADELEINE DEAN:

Gentleman's time has expired.

GREG STEUBE:

That there's -- can -- the speaker before me had 30 extra seconds. I ask the same deference that you gave to the previous speaker. That -- you have even judges, who recently even held the Department of Corrections in contempt related to the way that the January 6 suspects have been treated, and you're refusing to even comment on the very acts that have just occurred here.

And that's what is horribly wrong --

MADELEINE DEAN:

Gentleman's time has expired.

GREG STEUBE:

And it is happening in our country that the American people are --

MADELEINE DEAN:

Gentleman's time has expired.

GREG STEUBE:

Seeing your refusal to answer those questions.

MADELEINE DEAN:

Mr. Attorney General, members, votes have been called on the House floor. So, the committee will stand in recess until immediately after the conclusion of those votes.

JERROLD NADLER:

Reconvene. And I remind people, if they're not wearing masks, they will not be recognized.
Mr. Neguse.

JOE NEGUSE:

Thank you, Mr. Chairman. Good afternoon, Attorney General. Thank you for being here and thank you for your leadership at the Department of Justice. I also want to thank my colleague, Representative Bass. I know she engaged in a line of questioning earlier about the tragic death of Elijah McClain in my home state of Colorado.

I was heartened to hear that the department is engaged in a review of its use of force policies. We've introduced a bill to ban the use of ketamine in custodial settings. That bill has earned the support of Chairman Nadler and the Subcommittee Chairwoman, Sheila Jackson Lee, which I'm both grateful and certainly we will welcome the opportunity to work with your department on that particular legislation in honor of Elijah's memory.

On March 22nd of this year, as you know, my community at Boulder, Colorado experienced a horrific tragedy as a gunman killed 10 people at our local grocery store using an AR-15 style pistol, which fired rifle rounds with a modified arm brace. The AR pistol brace attachment used by the gunman allowed the shooter to fire an easily concealable pistol with rifle-like accuracy and firepower.

In the immediate aftermath of this tragedy, as you know, I sent a letter to the president and to the Department of Justice along with 100 of my colleagues requesting the administration use its authority to regulate concealable assault-style firearms that fire rifle rounds. And as I mentioned to you when we last met at the White House in April, I was very pleased with the administration's announcement that DOJ would be issuing a proposed rule within 60 days to tighten regulations on pistol-stabilizing braces as I requested in my letter.

And so, I want to thank the department and wonder if you might be able to opine as to the status of the rule of where you are in the rulemaking process.

MERRICK GARLAND:

Well, I believe that we're still in the rulemaking process. I can't remember whether the comment period has closed or not. But, you know, as part of the Administrative Procedure Act, as you know, we have to go through a rulemaking procedure and that's what's going on here to prevent these -- the pistols from being used as short-barreled rifles which are prohibited.

JOE NEGUSE:

Right. Well, again, I appreciate the department taking that proposed rule seriously. We certainly look forward to the results of that rulemaking process as do my constituents in Boulder, who are still very much grieving the loss of so many in our community. Two other subjects I want to address in my limited time.

First, around grand jury material. Now, I know -- Attorney General Garland, I think you'd agree with me. So, current law allows for grand jury material known as Rule 6(e) material to be released publicly after 30 years. That's current law, is that right?

MERRICK GARLAND:

Actually, I'm embarrassed to say this but I don't think that's correct. We have made a recommendation to the federal rules committee that it be released. I think 30 years is the time, but the rules committee has not yet decided whether that would be the case. But that is, I think, 30 years was the number that we recommended.

JOE NEGUSE:

So, we think that's the subject that I was sort of wanting to dig in on. My understanding is that current law provides for 30 years. The Trump administration -- in 2020, a senior Trump administration official or a lawyer rather, DOJ proposed the time period be extended to 50 years. And my understanding is the Department of Justice has continued that request and made that request for the time period to be extended to 50 years.

As you can imagine, there are a lot of concerns, many of which I hold and many of my colleagues hold around judicial secrecy and the extension of the time period to 50 years would seem a bit much. You know, if were that to be adopted, many of the materials released post-Watergate would still be secret today.

So, I would certainly --

MERRICK GARLAND:

[Inaudible] So, we have sent another letter post the -- letter that you are speaking about to the rules committee. There's no reason why we can't share it. It's not a private letter or anything. And it went back I think even a shorter period than the holder letter originally was. So, we'll -- I'll ask my staff to get that for you.

JOE NEGUSE:

Well, that's terrific to hear. So, thank you, Attorney General. Thank you to the department for making that change. And I think that that is going to allay many of the concerns that folks had, certainly mine. So, I appreciate the Department of Justice doing that. Finally, last question, National Substance Abuse Prevention is this month.

I know my colleague from Florida, Representative Deutch, asked you a couple of questions with respect to the opioid epidemic that is pervasive across our country, including in my state in Colorado where, on average, two Coloradans are dying a day from opioid overdoses. The department has worked with us on a bill that we introduced, the Preventing Youth Substance Abuse Act and I want to thank DOJ for their partnership in that regard.

And just wanted to give you an opportunity, before the hearing concludes here this afternoon, to add anything else further you'd like to add with respect to your answer to Representative Deutch about the department's work to address this epidemic. And I think there's bipartisan interest in the Congress in partnering with your department to ensure that those solutions are applied broadly across the country, including in my state of Colorado.

MERRICK GARLAND:

So, this is a terrible epidemic. I, you know, went to the US attorney's offices all across California, also in Tucson to find out what's happening with respect to the importation of this fentanyl. It is, I would say, our most -- number one concern now because these pills are something like four out of 10 pills you're -- it's like playing Russian roulette.

If you take one of those, you die. And the kids who are taking those have no idea that that's what's happening. Sometimes, they think there's something else that they're buying rather

than those. These are, you know, they use precursors coming from the People's Republic of China, coming into Mexico, then they are pressed into pill form in Mexico and then transmitted across the border.

The CBP is doing an extremely good job of checking the trucks and checking the cars for this material. But it is an overwhelming problem run by the cartels. And the DEA is working extremely hard on this matter. When I was in Mexico City, I raised -- with respect to the high-level security talks that we recently had with their security ministers -- secretaries, I raised precisely this issue.

JERROLD NADLER:

Gentleman's time is expired. Ms. Spartz.

VICTORIA SPARTZ:

Thank you, Mr. Chairman. Mr. Attorney General, as someone who was born in the Soviet Union, I am disturbed, very disturbed by the use of the Department of Justice as a political tool and its power as a police state to suppress lawful public discourse. The FBI started to resemble old KGB with secret warrantless surveillance, wiretapping, and intimidation of citizens.

VICTORIA SPARTZ:

School board, that is the latest example. It's interesting that during the Soviet era, the United States criticized use of the domestic terrorism concept in the USSR as a tool to suppress free speech and political dissent. In your recent statement opposing the Texas anti-abortion law, you said, it is the foremost responsibility of the Department of Justice to defend the Constitution.

Do you plan to defend the Second Amendment rights which are explicitly protected by our Constitution as vigorously as you do abortion rights? Please, yes or no.

MERRICK GARLAND:

Yes.

VICTORIA SPARTZ:

Do you believe recent inspector general FISA report citing widespread and material noncompliance by the FBI with proper due process for surveillance of US citizens is a violation of the Fourth Amendment?

MERRICK GARLAND:

I think it's a violation of the FISA Act by itself without even having to get to the Constitution, and we take this extraordinarily seriously. That's why we have an inspector general, that's why our National Security Division reviews what the FBI does with respect to FISA. And I know that the FBI director takes this very seriously as well, and they have made major fixes to their practices so this won't occur again, and this is constantly being audited and reviewed by our National Security Division.

I take this very seriously and I agree, we have to be extremely careful about surveillance of American citizens, only as appropriate under the statute.

VICTORIA SPARTZ:

Potential Fourth and Fifth Amendment could be violated, and if you have --

MERRICK GARLAND:

Of course.

VICTORIA SPARTZ:

Material and widespread, as the report says. In your June 15 remarks on domestic terrorism, you said that nearly every day, you get a briefing from the FBI director and his team. How often do you discuss FISA relations in your briefings?

MERRICK GARLAND:

I'm sorry, I didn't hear the --

VICTORIA SPARTZ:

How often do you discuss these FISA violations when you get your nearly daily briefings with the FBI?

MERRICK GARLAND:

So, there's a quarterly review by that -- the intelligence community, and the National Security Division submits to the intelligence committees with respect to FISA reviews. And I always review those. I meet with the National Security Division relatively routinely to discuss how that's going. So, it's not every morning, but this review of violations of FISA and our efforts to make sure that it doesn't happen again is pretty frequent.

VICTORIA SPARTZ:

Mmm hmm. So, it seems like we still get material and widespread -- every report will have material, not -- or nonmaterial and widespread violation. But talking about another topic, I went to the borders three times and recently visit airbase in Qatar and Camp Atterbury in Indiana, housing Afghanistan evacuees.

And based on what I've seen, I have some questions and significant national security concerns. Former Border Patrol chief, Rodney Scott, recently said that the open border poses a real terror threat. Do you agree with the Border Patrol chief or Secretary Mayorkas who recently said that the border is no less secure than before?

MERRICK GARLAND:

Look, I -- if you're asking about terrorism traveling across the border, I'm concerned about that across all of our borders. This has been a continuing concern --

VICTORIA SPARTZ:

But do you agree with the, you know, Border Patrol chief that what's happening right now is make us less secure and have a real, you know, increased terror threat?

MERRICK GARLAND:

I believe that the combination of the intelligence community and the FBI are working very hard to make sure that people crossing the border do not constitute a terrorist threat. But we have to always be worried about the possibility, and we are ever vigilant on that subject.

VICTORIA SPARTZ:

Can you reassure the American people that you will be able to protect our country from a terrorist attack that may result from this lawlessness at the border or the Afghanistan debacle?

MERRICK GARLAND:

I can assure the American people that the FBI is working every day to the best -- do the best they possibly can to protect the American people from terrorism from whatever direction it comes, whether it comes from Afghanistan or any other direction.

VICTORIA SPARTZ:

But do you have any specific actions and plans that you're doing in light of what's happening right now in the border? Do you have a specific strategy that you're working directly with an -

-

MERRICK GARLAND:

[Inaudible] the FBI --

VICTORIA SPARTZ:

Considering the current situation?

MERRICK GARLAND:

I'm sorry, I didn't mean to talk on.

VICTORIA SPARTZ:

Yeah, considering the current situation on the border, do you take any specific actions at the border?

MERRICK GARLAND:

Well, with respect to the first part of your question about Afghanistan, the FBI is participating, along with Homeland Security, in vetting the refugees who have landed in various locations, Qatar, Kosovo, Ramstein Air Base, and then in bases in the United States. So, they're doing everything they can to that -- for those purposes.

With respect to crossing of the border, this is a combination of the intelligence community, outside of our intelligence community, getting information about who might be trying to cross the --

VICTORIA SPARTZ:

So, you can reassure American people --

JERROLD NADLER:

Gentleman -- gentlelady's time --

VICTORIA SPARTZ:

In [Inaudible] yes?

JERROLD NADLER:

Gentlelady's time has expired. Ms. McBath.

VICTORIA SPARTZ:

I yield back.

LUCY MCBATH:

Thank you so much, Mr. Chairman. And, Attorney General Garland, there are many others in this room outside of myself that want to thank you so much for such a long career of public service. And as you may know, I lost my son, Jordan, almost nine years ago now. He was simply sitting in a car with three of his friends, playing loud music, when a stranger complained about the volume of their music, called them gang -- called the boys, gangbangers and thugs, and he took my son's life.

And I'm very pleased that the president has committed to preventing gun violence and that he's tasked you with the role of being supportive in gun violence prevention in America. Extreme risk protection orders, also known as red flag orders, allow courts to temporarily remove firearms for -- from those who pose imminent danger to themselves or risk of harming others.

In April 7, 2021, an announcement of initial actions to curb gun violence, the Biden White House encouraged Congress to pass a national red flag law. How would the national red flag law work with other federal protections to prevent gun violence?

MERRICK GARLAND:

So, we're in favor of a national red flag law. What we're doing now is making model red flag laws for the states, and these models provide that guns can be taken away for a person -- from a person in distress, normally from a mental crisis of some kind, when requested by someone close to them or if there's already a court violation of some kind.

But it provides due process protections for those people to ensure that it's not -- they haven't been inappropriately taken. That's -- you know, the risk here is that people in distress can commit violent acts, and when they have easy access to a firearm, the risk is that, that violent act ends in a death.

So, I think the red flag laws are very important in that respect.

LUCY MCBATH:

Thank you, as do I. Attorney General Garland, we lost 49 people, including many young people, at the mass shooting at Pulse nightclub in Orlando, Florida. And the shooter was previously the subject of a 10-month FBI investigation. And during this investigation, the FBI interviewed the shooter's wife, who later said that he strangled her, he raped her, beat her, and even while she was pregnant, he threatened to kill her.

Fifty three percent of mass shootings involve a shooter killing an intimate partner or family member among other victims. And even among those mass shooters who do not kill an intimate partner, as in the Pulse shooting, there's often a history of domestic violence. Since the Pulse shooting, has the Department updated its Domestic Investigations and Operations Guide or US Attorneys' Manual to ensure that it is examining whether a person has a history of domestic violence?

MERRICK GARLAND:

So, I don't know the exact answer into the past. I know that right now, the deputy attorney general is doing a review with respect to the way in which the Department treats victims, including victims in a circumstance that you talked about, and creates warning systems for those sorts of things. So, I don't -- I can't give you any fuller information than that, but I can ask my staff to get back to you.

LUCY MCBATH:

Thank you very much. If you do so, we appreciate it.

MERRICK GARLAND:

Of course.

LUCY MCBATH:

Also, can you assure me that you will take action to make sure that we are not missing any opportunities to save American lives?

MERRICK GARLAND:

Well, that's our -- this is our No. 1 goal.

LUCY MCBATH:

Thank you. And on May 7, I'm going to switch gears a little bit, May 7, 2021, you signed a proposed ATF rule to ensure the proper marking, recordkeeping, and traceability of all firearms manufactured, imported, acquired, and disposed by federal firearms licenses -- licensees by clarifying the definition of firearm and gunsmith among all other small changes.

How will this new definition help reduce the sale of ghost guns and increase background checks prior to their purchases?

MERRICK GARLAND:

So, ghost guns, which are ready -- sometimes ready build shoot -- they're called -- they're kits that you can buy in pieces and put them together. Right now, there's some lack of clarity or dispute about whether serial numbers have to be on them, and then whether you need a license -- I'm sorry, whether a check has to be made in order to determine whether the person is a prohibited purchaser.

MERRICK GARLAND:

This rule of law will require that serial numbers be put on the pieces and that a federally licensed firearms dealer has to do the background check. This does two things, one, it'll enable us to trace these guns; and second, it will make sure that people who are prohibited because they are a felon or whatever other reason shouldn't -- won't be able to get the gun.

I've been in -- both in Chicago and New York and been quite stunned to learn the high percentage of guns at murder scenes. That a high percentage, much higher than I would have expected were ghost guns. I had not realized how significant the problem is, but the police on the street are reporting that ghost guns are becoming more and more of a problem.

So, I'm hopeful that this regulation will give us some chance to beat that back.

LUCY MCBATH:

Thank you. [Inaudible]

JERROLD NADLER:

The time of the gentlelady has expired. Ms. Fischbach.

MICHELLE FISCHBACH:

Thank you, Mr. Chair. Attorney General Garland, in a press release announcing the investigation -- and I'll just preface, I'm from Minnesota, so you may guess where some of the questions are going. But in a press release announcing the investigation, you said that the DOJ's investigation into the Minneapolis Police Department will examine the use of excessive force by the police, including during those protests.

Will you also be investigating the origins of the deadly and destructive riots that ravaged large parts of Minneapolis?

MERRICK GARLAND:

So, I think these are two separate kinds of investigations. The one of the police department has one under the statute that authorizes us to do pattern or practice of unconstitutional policing done by the Civil Rights Division that was welcomed, I understand, by the chief and by the mayor. And that's a one side -- a separate one.

The investigations of the riots are undertaken by the US Attorney's Office as well as by the state's attorney. I think it's called states attorney and maybe it's the county -- state's attorney

in Minneapolis, I guess. And those are two separate sets of an investigation.

MICHELLE FISCHBACH:

So, you will not be. So, your department, DOJ, will not be investigating that?

MERRICK GARLAND:

US Attorney's Office to the extent there were federal crimes has been investigating those crimes. I don't know, I have no idea where the --

MICHELLE FISCHBACH:

DOJ will not be investigating?

MERRICK GARLAND:

At main justice, I don't believe so.

MICHELLE FISCHBACH:

OK. But during the riots following the George Floyd -- the death of George Floyd, dozens of people were injured, countless small businesses, churches were damaged, a police station was burnt down. A post office was burnt down, looted, and damaged all over. And thousands of people had to flee Minneapolis to avoid the violence.

Is the Department of Justice investigating these riots as an act of domestic terrorism at all?

MERRICK GARLAND:

So, now, I think if I'm understanding correctly, we're talking about 2020 at the --

MICHELLE FISCHBACH:

After the death of George Floyd.

MERRICK GARLAND:

Yes. And that investigation, I think -- you know, that was ordered by the previous attorney general. And I don't know whether they're -- whether that is concluded. I believe -- I don't know whether there are any ongoing investigations anymore from that investigation except for the charges that were made at the time.

And those cases are being followed obviously.

MICHELLE FISCHBACH:

Well, and Attorney General Garland, maybe you could get back to me in particular or the committee on the status of those and what is happening with that.

MERRICK GARLAND:

I'd be happy to have my staff get back to yours.

MICHELLE FISCHBACH:

Appreciate that. And I wanted to focus a little bit on the Third Police Precinct that was burnt down and still has not been rebuilt. Police officers don't even know if they're going to have a job in a few weeks given the resolution that's in front of the body. They have a resolution and you're probably not familiar with it, but they don't even know if they're going to have a job because they may be defunding the police in Minneapolis.

You know, the city is down over 200 officers since pre-COVID. If you talk to police officers, they're demoralized, they're struggling. They don't feel supported at all. They're having a very hard time. And you're the one initiating investigation of the Minneapolis Police Department. Considering all of the scrutiny that they are under, how do you propose Minneapolis can keep up police officer morale now that their under investigation and criticism, all of the criticism they're taking as well?

MERRICK GARLAND:

Well, let me say first on the defund police issue, the department does not support defunding police, nor does the president. So, we've asked for more than \$1 billion, a major increase in funds for local police departments.

MICHELLE FISCHBACH:

And sir, I didn't imply you did. I just wanted you to understand the context of the question because it's in front of the Minneapolis residents right now.

MERRICK GARLAND:

I do. I do. With respect to the pattern or practice investigation, there were a large number of serious incidents that were well reflected in the press and I think there was general agreement that there were problems. This does not mean that every police officer, quite the contrary. This means that, and I believe is, and from talking to many police officers, that they believe that it's important that there be accountability and that officers who break the law are held accountable so that the community retains its trust in the good police officers who do not break the law.

And those are by -- you know, the very large majority. They need that trust in order to have the cooperation of the community and that's the only way they can be safe and that's the only way the community can be safe. So, I think police officers should look at these investigations in a positive way and we are trying to present them in a positive way.

MICHELLE FISCHBACH:

And Attorney General, I think that the problem is, is that they're being -- it's piling on. It is continuing to pile on in particular in Minneapolis with these police officers who are there. They have -- many of them have grown up there. They are doing their job --

JERROLD NADLER:

The time of the gentlelady has expired. Mr. Stanton.

MICHELLE FISCHBACH:

Thank you. I yield back.

GREG STANTON:

Mr. Attorney General, I want to discuss with you missing and murdered indigenous women and girls. It's a national shame that when native women are murdered or when they disappear, their cases do not receive the resources or the investigations they deserve. And their loved ones are left without answers. President Biden made significant and specific commitments to travel communities to support MMIWG investigations.

But I am not convinced that those commitments have been kept particularly by the Department of Justice. Mr. Attorney General, I read your very brief statement on May 5th marking Missing and Murdered Indigenous Persons Awareness Day. But I'm not aware of you speaking publicly about this issue since you were confirmed to lead the department.

It does not appear that you have used your platform to help make this a top priority nor has DOJ really moved the needle on this issue since your confirmation. As attorney general, you serve on the Operation Lady Justice Task Force, but that was a task force created under the last attorney general, not you.

Do you agree that our tribal communities deserve more from the nation's top law enforcement official?

MERRICK GARLAND:

OK. I think this is a terrible tragedy. This circumstance, almost inexplicable tragedy. If I haven't spoken on it yet, I assume I will be because, under the president's executive order, I'll be cochairing a commission along with the secretary of the interior. I have been to the US attorney's offices in Oklahoma which have significant tribal responsibilities and we have spoken about those matters.

But you shouldn't mistake lack of public statements to be a lack of concern or passion about this issue.

GREG STANTON:

There are 574 federally recognized tribes in the United States. Of those, 326 have reservations and more than 1 million Native Americans live on or near reservations. That's not counting the many who live in urban areas, yet there are fewer than 200 special agents and victim specialists in the FBI's Indian Country program.

Do you believe the FBI's Indian country program is sufficiently staffed?

MERRICK GARLAND:

Well, I think the FBI could always use additional resources. I have to look into that specific question, which I haven't evaluated whether there are sufficient staff.

GREG STANTON:

In light of the facts I just laid out, will you commit today to adding staff to the Indian country program?

MERRICK GARLAND:

Well, I'm very interested in -- you know, our normal approach on this is cooperation with tribal officers and cooperation with the sovereign tribes, so that we are in sync on this rather than the federal government invading tribal prerogatives. But I do think that we need to look at this more closely and this is one of the things I'll be speaking with the interior secretary about.

GREG STANTON:

As you know, there's great frustration by many of our tribal leaders that when they asked for additional federal support to investigate these cases, they feel like they don't receive that

support. Our nation knows the tragic story of Gabby Petito because of the tremendous media coverage and law enforcement involvement her case garnered.

All of us grieve for Gabby's family and friends, while at the same time I wish that every missing person's case earn the same level of media attention. The FBI committed significant resources to that case, which I appreciate. But, Mr. Attorney General, when a native woman goes missing, or any woman of color for that matter, they don't get the same level of attention from the Department of Justice and FBI. What would you say to their families to explain why?

MERRICK GARLAND:

I don't think there's any excuse for not giving equal treatment to native and indigenous missing persons. And I don't believe there's any effort to not do that. I know that both the FBI and the Marshals Service are involved in this, along with their partners, their tribal partners.

MERRICK GARLAND:

And I'm not sure what else I can say about that.

GREG STANTON:

Just two weeks ago, the chairman of the Blackfeet Nation in Montana sent you a letter about the case of Ashley Loring Heavyrunner, a 20-year-old woman who went missing under suspicious circumstances three years ago. Her family and the tribal community are incredibly frustrated at the federal government's response to the case.

And in his letter to you, he asked why the federal government continues to make Ashley's family, "suffer and feel like Ashley's life doesn't matter." That breaks my heart, sir, because I can see why so many Native American families feel like their missing or murdered loved ones do not matter to the federal government.

We have a unique trust responsibility to our tribal nations, and rarely, if ever, has our federal government delivered. This is an opportunity to finally deliver. It offers you the opportunity to deliver. So, let's not fail our native communities again. So, what I hope and expect from President Biden and yourself, Mr. Attorney General, is more than lip service or empty statements on this issue --

JERROLD NADLER:

The gentleman's time --

GREG STANTON:

More than sharing task-force recommendations that will be left to sit on a shelf and look forward to your words in the near future. Thank you, Mr. Attorney General.

JERROLD NADLER:

Gentleman yields back. Mr. Massie.

THOMAS MASSIE:

Thank you, Mr. Chairman. Mr. Attorney General, you announced that the DOJ would use its authority and resources along with the FBI to police speech at school board meetings. In your opinion, what limitations does the 10th Amendment bring to your effort to police those school board meetings and the speech there in?

MERRICK GARLAND:

Well, let me be clear. We have no intention of policing school board meetings, nor does any memorandum from me suggest that we would do that. The memorandum that you're referring to is about threats of violence and violence. And that's all it's about. We greatly respect the First Amendment right of parents to appear before school boards and challenge and argue against provisions that the school boards are doing.

This memorandum has absolutely nothing to do with that.

THOMAS MASSIE:

So, you believe the sheriffs and the local police should police the school board meetings and investigate the threats of violence?

MERRICK GARLAND:

Yes, I -- obviously, the first step is for state and local authorities to do that. This memorandum is about cooperating with state and local authorities. Now, there are some federal statutes that cover threats and intimidation, and harassment. And we have the obligation to enforce those.

THOMAS MASSIE:

OK.

MERRICK GARLAND:

But those do not -- those don't apply within a school board meeting.

THOMAS MASSIE:

Need to move on. Thank you. I was hoping that you would articulate the 10th Amendment or some argument that comes from that because I'm concerned that the announcement was an effort to basically, you know, freeze the speech or to suppress the speech of school board members. But I need to move on, and I want to ask you about something.

There's a concern that there were agents of the government or assets of the government present on January 5th and January 6th during the protests. And I've got some pictures that I want to show you if my staff could bring those to you. [Begin videotape]

UNKNOWN:

[Inaudible] I'm probably going to go to jail for it. [Inaudible] We need to go into the Capitol. Into the Capitol. What?

MERRICK GARLAND:

I'm afraid I can't see that at all.

THOMAS MASSIE:

It depicts --

UNKNOWN:

Peacefully. [Inaudible] Hey, hey, hey. Peacefully. OK, folks, [Inaudible] as soon as the president starts speaking, we go to the Capitol. The Capitol's this direction. [End videotape]

JERROLD NADLER:

Is that approved video? [Begin videotape]

UNKNOWN:

We are going to the Capitol. [Inaudible] It's that direction. [End videotape]

THOMAS MASSIE:

All right. You have those images there, and they're captioned. They were from January 5th and January 6th. As far as we can determine, the individual who was saying he'll probably go to jail, he'll probably be arrested, but he wants every -- that they need to go into the Capitol the next day, is then, the next day, directing people to the Capitol.

And as far as we can find, this individual has not been charged with anything. You said this is one of the most sweeping investigations in the history. Have you seen that video or those frames from that video?

MERRICK GARLAND:

So, as I said at the outset, one of the norms of the Justice Department is to not comment on impending investigations and, particularly, not to comment about particular scenes or

particular individuals. This is [Inaudible]

THOMAS MASSIE:

OK. Without -- I was hoping, today, to give you an opportunity to put to rest the concerns that people have that there were federal agents or assets of the federal government present on January 5th and January 6th. Can you tell us, without talking about particular incidents or particular videos, how many agents or assets of the federal government were present on January 6, whether they agitated to go into the Capitol and if any of them did?

MERRICK GARLAND:

So, I'm not going to violate this norm of the rule of law. I'm not going to comment on an investigation that's ongoing.

THOMAS MASSIE:

Let me ask you about the vaccine mandate at the DOJ. Is it true that people -- employees of the DOJ can apply for religious exemption?

MERRICK GARLAND:

The mandate, as I understand it, is a mandate which allows exceptions provided by law. Religious Freedom Restoration Act is a provision of law.

THOMAS MASSIE:

So, the religious exemption has a basis in the Constitution. And so, that's required to be constitutional. Can you tell me if anybody's been granted a religious exemption?

MERRICK GARLAND:

I don't know.

THOMAS MASSIE:

So, I believe that it's fraud. In fact, fraud to tell people that you're going to preserve their constitutional religious accommodations by telling they can apply for an exemption and then not allowing any of those exemptions. And I'm sad to see that you can't tell us that anybody has been granted an exemption

JERROLD NADLER:

The gentleman's time has expired. Ms. Dean.

MADELEINE DEAN:

Thank you, Mr. Chairman. Welcome, Attorney General Garland. Thank you for your service to our country. I'd like to try to get to three important areas. Number one, let me follow up on some of the questions we've had around guns, in particular ghost guns. They are often obtained without a background check, and most ghost guns are untraceable.

These weapons are incredibly attractive to criminals, increasingly common, and should concern us all. This March, Pennsylvania investigators uncovered a trafficking ring suspected of frequenting gun shows to sell ghost guns, spreading them in my district and across our commonwealth. Access to ghost guns impacts regular Americans, like Heather Sue Campbell and Matthew Bowersox of Snyder County, Pennsylvania, who were shot and killed last year by Heather's ex-husband, the subject of a protection order.

He took her life with a ghost gun, a homemade P80 Polymer 9mm pistol. Could you continue to talk about how the proliferation of ghost gun hinders the ability of law enforcement, and what is DOJ's strategy to protect us from ghost guns? This is in follow-up to my colleague, Representative McBath.

MERRICK GARLAND:

Yes. So, we are finding more and more ghost guns at violent crime scenes. I don't remember the statistics exactly, but I believe, in both New York and in Chicago, I was told that at least 20 percent of the crime scenes, particularly the violent crime and murder scenes, we're finding, that they were done by both ghost guns.

Ghost guns have two problems. One of which is they're untraceable because they don't have serial numbers. And second, they are not subject or, at least I should say, there's been some dispute about whether they're subject to requiring background checks. That's the reason that we initiated a rule-making to require that the parts of the gun, which are sold as kits in parts, are stamped with serial numbers by the manufacturer.

And that when they are sold, they must have serial numbers on them as a kit, and they must run the background checks that you're talking about.

MADELEINE DEAN:

I thank you for that rule-making, and I hope that we, here in the Legislature, will do more to protect us and our safety from the proliferation. On the issue of opioids, as you pointed out, last year was, particularly, deadly. The total number of people who died of overdose was 93,331 people. And you know that our state, Pennsylvania, is particularly upset with DOJ sweetheart deal that was made last year with the Sacklers.

What can I say -- what can you say to victims of addiction, to the families who have lost people by the flooding of the market by the Sackler family and letting them, really, literally the rich and powerful, get away with it?

MERRICK GARLAND:

I don't think I'm able to talk about that case because it's in litigation. The only thing I will point out is the Justice Department opposed the release of liability -- personal liability of the family in that matter on behalf -- being brought by our bankruptcy trustee and is on appeal right now, I believe.

MADELEINE DEAN:

I thank you for that, and I hope that justice will be done for these families. And finally, on a third matter, asylum. Asylum is a human right.

MADELEINE DEAN:

I am horrified by the inhumanity we have seen and the ongoing use of a Trump-era Title 42 authority to expel migrants, all of which is done with no due process. Unstable government, political prosecution, violence a?" we know what people have suffered and what they are fleeing. You are now at the helm of DOJ. Will you continue the use of Title 42 authority even after CDC has repeatedly stated, there was no evidence that the use of Title 42 would slow the spread of COVID?

MERRICK GARLAND:

Well, the use of the authority comes from the CDC itself. They're the ones who issue the orders with respect to Title 42, and this is a challenge also in the courts. We believe that the CDC has a basis because of the concern about spread of COVID, which is what the grounds are. How long that will last is a determination CDC will make with respect to the pandemic and what the threats are with respect to the pandemic.

This doesn't have anything to do with, you know, my view or the government's view about the importance of asylum. It goes only to the CDC whose authority under Title 42 to issue this kind of order.

MADELEINE DEAN:

But it is my understanding, and maybe we could all look at it more closely, that CDC says there is no evidence that the use of Title 42 will slow the spread of, and the worry about, the spread of COVID from those seeking asylum. I hope we can look into that and stop the use of Title 42. Again, I yield back.

JERROLD NADLER:

The gentlelady's time has expired. Ms. Escobar?

VERONICA ESCOBAR:

Thank you, Mr. Chairman. Just a quick note. Earlier, a colleague asked that Mr. Raskin take down his words when referring to another colleague as being a member of a cult. I think if folks would just admit that President Biden won the 2020 election and would stop pushing the big lie, they wouldn't have to worry about being accused of being in a cult.

Attorney General Garland, I represent Congressional District 16 in El Paso, Texas. And we're coming into this hearing fresh off the heels of a gravely unjust redistricting session in the Texas state legislature where Republicans engaged in deliberate, shameless, extreme partisan gerrymandering. Texas gained two new House seats, fueled by the growth in our Latino population.

But instead of drawing maps reflecting that growth, Republicans chose not to add Latino majority districts and, according to a lawsuit filed by the Mexican American Legal Defense Fund, drew maps that diluted the voting rights of Latinos. This process was opaque and nontransparent perhaps because Texas Republicans hired a political operative known to have Republican members of Congress sign nondisclosure agreements.

I ask unanimous consent to enter into the record an article from The Texas Tribune entitled "Texas appears to be paying a secretive Republican political operative \$120,000 annually to work behind the scenes on redistricting".

JERROLD NADLER:

Without objection.

VERONICA ESCOBAR:

[Inaudible] Thank you so much. My own district was impacted in a process I have described as being akin to looting. And, unfortunately, Texas isn't the only state where this is happening. Mr. Garland, what steps is the Justice Department taking to ensure that redistricting plans do not violate the Voting Rights Act and discriminate against racial, ethnic, and language minority voters?

MERRICK GARLAND:

So, we announced before any of the redistricting plans began, because we knew that the decennial census would be leading to redistricting plans, that the Voting Section of the Civil Rights Division will be reviewing all of these plans. That's why we doubled the size of the Voting Section because the burden of this work is large, and there's a lot of it because of the census.

So, the Justice Department's Civil Rights Division will be examining these plans and will act accordingly as the facts and the law provide.

VERONICA ESCOBAR:

Thank you, Mr. Garland. In addition to the extreme partisan gerrymandering that is going on, states like mine have passed voter suppression legislation, all of it rooted in Donald Trump's big lie about the 2020 election. In light of these numerous state laws that passed that restrict access to the ballot box, how at risk are minority voters from being disenfranchised in elections over the coming years?

And what will the department do to confront those risks?

MERRICK GARLAND:

So, Justice Department has authority under the Voting Rights Act to prevent changes in practices and procedures with respect to voting that are discriminatory in the ways that you described. The Supreme Court in Shelby County case eliminated one tool we had, which was the Section 5 preclearance provision.

So, what we have now is Section 2, which allows us to make these determinations on a case-by-case basis with respect to discriminatory intent and discriminatory effect. That -- the Voting Rights Section is reviewing the changes that are made as they are being made and after they are being made. We have filed one lawsuit already in that respect, and the investigations are continuing.

I can't talk about any particular state though.

VERONICA ESCOBAR:

Thank you. And in my very limited time -- women in Texas are under attack. Our freedom to reproductive rights and our rights to an abortion are under attack, and this has been furthered by the Supreme Court and their recent -- the consequences of their shadow docket. In your opinion, what are some of the practical consequences of the court's decision denying stay in the case, the Texas case, via the process and formally known as the shadow docket?

You've got about 20 seconds, I'm so sorry.

MERRICK GARLAND:

All right. Well, most of what I'm about to say is reflected in the briefs that we just filed with the Supreme Court the other day, asking them to take this case. What we're particularly concerned about is the inability of anybody to challenge what is a clear violation of the Supreme Court's precedent with respect to the right to abortion because of the way that the law is structured.

And we can't have a system in which constitutional rights evade judicial review, whether it's about abortion or any other right. And I think I'll leave it with my -- our briefs which were just filed and which explicate what I just said in greater detail and, I'm sure, with greater style.

JERROLD NADLER:

The gentlelady --

VERONICA ESCOBAR:

Thank you so much, Mr. Chairman. I yield back.

JERROLD NADLER:

The gentlelady yields back. Mr. Jones?

MONDAIRE JONES:

Thank you, Mr. Chairman. I wish that rather than trying to redefine the words domestic terrorism, my Republican colleagues would simply instruct their supporters to stop engaging in it. Mr. Attorney General, thank you for your testimony today. As an alumnus of the Office of Legal Policy at Main Justice, I know about the hard work that you, your leadership team, and your line attorneys have been engaging in. And as an American citizen, I'm deeply appreciative of that.

MERRICK GARLAND:

Thank you.

MONDAIRE JONES:

You won't be surprised, given the work that I've been doing this year, that I want to speak with you about protecting the fundamental right of Americans to vote, which is clearly under assault. You underscored in your remarks to the Civil Rights Division in June that the right to vote is the cornerstone of our democracy, and you have said much the same today.

I don't need to tell you that states have launched the most severe assault on the right to vote in this country since Jim Crow. It is an onslaught that has hit voters of color, seniors, young people, and voters with disabilities the hardest. President Biden, for his part, has warned that we are facing "the greatest test of our democracy since the Civil War". As you said in your remarks to the Civil Rights Division, so far, this year, at least 14 states have passed new laws that make it harder to vote.

Well, according to the Brennan Center for Justice, that total has since risen to 19. Mr. Attorney General, let me start with a simple question to you. Which of those 19 states has the Justice Department sued for unlawful or unconstitutional voter suppression?

MERRICK GARLAND:

Well, this is on the public record. We sued Georgia.

MONDAIRE JONES:

Only one out of 19. In your June address, you emphasized that a meaningful right to vote requires meaningful enforcement. Yet even as we face a historic level of voter suppression and even as we confront grave threats to the integrity of vote counts, the Justice Department has not challenged the vast majority of these laws in court.

Would you say that bringing one case against state voter suppression is meaningful enforcement?

MERRICK GARLAND:

I think we have to prevent discriminatory violations of the Voting Rights Act wherever they occur and in as many states as they occur. But these investigations under Section 2 are very record-intensive and very labor-intensive. And voting rights -- the Voting Section of the Civil Rights Division is extremely devoted to making those kind of analyses, but we have to do each case one by one because of the elimination of Section 5. And that is what the Civil Rights Division, under our new assistant attorney general, Kristen Clarke, is doing.

I have great confidence in her and in the division.

MONDAIRE JONES:

I have great confidence in Kristen Clarke and yourself as well.

MONDAIRE JONES:

You mentioned that Section 5 has been hampered. Of course, it's been hampered in that Shelby v. Holder decision in 2013. You also mentioned earlier today that you were supportive of the John Lewis Voting Rights Act and I appreciate that. I think it is part of the

democracy saving legislation that the Senate must pass. Are you familiar with the Freedom to Vote Act, the revised version of the For the People Act that was --

MERRICK GARLAND:

I know what it is and I know some provisions, but I -- to be honest, I don't know every provision.

MONDAIRE JONES:

OK. Well, I would submit that we need to pass that in the Senate as well given the democracy saving provisions that are contained therein. It is long past time for the Senate to pass both of these pieces of legislation, and as we learned yesterday, unfortunately, the filibuster, a Senate rule that entrenched Jim Crow for decades, is the last obstacle in the way.

I am convinced, as you have said and written before, and reiterated in your testimony today, that the Justice Department needs new tools to fully protect our democracy. And as we learned yesterday, the filibuster, a rule crucial to entrenching Jim Crow, is the last obstacle. If presented with a choice between reforming the filibuster and protecting the right to vote -- or protecting the filibuster and allowing voter suppression to continue, which would you choose, Mr. Attorney General?

MERRICK GARLAND:

Look, I think the right to vote is absolutely essential and it is, as I've said repeatedly and as you quoted, a cornerstone of democracy. The question of the House rules are a question for the House. I'm very mindful of the separation of powers that this is a judgment for the members of the House to determine and not for the executive branch.

MONDAIRE JONES:

And, of course, the filibuster is a Senate rule. Mr. Attorney --

MERRICK GARLAND:

I'm sorry, I'm sorry, the Senate.

MONDAIRE JONES:

It's fine. I understood.

MERRICK GARLAND:

My bad.

MONDAIRE JONES:

Mr. Attorney General, as an alumnus of the Justice Department and as an American, I'm grateful for your work. But if we do not reform the filibuster and act now to protect the right to vote, the same white nationalists who incite violent insurrections at the Capitol, and lie about the efficacy of masks and vaccines are going to disenfranchise their way back into power.

Please take that message back to the president of the United States when you have a conversation with him hopefully about the filibuster and what he can do to help us here, and to protect American democracy, which is in grave peril.

JERROLD NADLER:

The gentleman's time has expired. I recognize Mr. Roy for the purpose of a UC request.

CHIP ROY:

I appreciate that, Mr. Chairman. I have a document from an organization, Parents Defending Education, in which they had sought a FOIA request from the National School Board Association. And we've got the email exchanges from that, that I would like to insert into the record in which the interim director discusses on an email on September 29, the talks over the last several weeks with White House staff "explaining" the coordination with the White House.

So, I'd like to insert that in record.

JERROLD NADLER:

No objection. Ms. Ross.

CHIP ROY:

Thank you, Mr. Chairman.

JERROLD NADLER:

Ms. Ross is recognized.

DEBORAH ROSS:

Thank you, Mr. Chairman. And, Attorney General Garland, thank you so much for being with us today. I also want to thank you for mentioning the work of the Department of Justice with respect to the Colonial Pipeline in your opening remarks. And I want to begin with a few questions about cybersecurity. As you know, ransomware attacks are a significant concern throughout the country, but particularly in my district in North Carolina.

In May, the Colonial Pipeline attack left nearly three-quarters of Raleigh, North Carolina gas stations simply without fuel. And as you also know, the Colonial Pipeline paid a ransom demanded by the hackers in order to unlock their systems and resume operations. While the DOJ has recently launched Ransomware and Digital Extortion Task Force, was eventually able to recoup some of the money paid by Colonial Pipeline, victims are often left to negotiate with attackers to recover the systems without any federal help.

And so, I'd like for you to share why DOJ chose to be more aggressive in the Colonial Pipeline situation, and what are the factors that leads -- lead -- would lead DOJ to get involved directly in a ransomware case?

MERRICK GARLAND:

Well, I don't want to go too far out on a limb on this, but I think DOJ would like to be involved in every ransomware case if we have the resources. The problem is generally, not all victims of ransomware tell us. Not all victims tell us before they make ransom payments. If victims would tell us before, we would have a good opportunity possibly to be able to recover.

We would have some opportunity to be able to help between the FBI and the computer section of the Justice Department, and the computer section at H -- at the Department of Homeland Security. We are willing and able to deal with victims of ransomware, including doing negotiations if necessary. So, I think this is really more of a question of getting cooperation from the victims who -- and I mean no respect to -- disrespect to the victims, but they're not always willing to tell us in advance.

And I think it would be very helpful if we were told in advance.

DEBORAH ROSS:

And would it also be helpful if you had reporting on what victims had paid in ransomware --

MERRICK GARLAND:

Yes.

DEBORAH ROSS:

In a larger registry? I've introduced legislation. There's a companion Senate legislation on this.

MERRICK GARLAND:

Like more information we can find out about who's demanding the ransoms, what victims are paying, how they're paying, what kind of wallets they're paying them into, what kind of cyber or crypto wallets they're being asked to pay them into, all of those things help us understand the ecosystem. So, the more information we have, the better.

DEBORAH ROSS:

Thank you for those responses. I'm going to switch to the ERA in women's rights. And today marks the 50th anniversary of the Equal Rights Amendment and its passage in the House of Representatives. Since the bill passed the House in 1971, 38 states have ratified the ERA, meeting the constitutional requirement necessary to certify and publish the ERA as the 28th Amendment to the Constitution.

But under the Trump administration, the DOJ's Office of Legal Counsel issued an opinion blocking the archivist of the United States from certifying the amendment even if Congress extends the deadline. As you know, women continue to face obstacles to their equality in pay, in child care, in the criminal justice system.

And scholars at the ERA Project at Columbia Law School have released a new analysis arguing that the memo should be withdrawn because it rests on erroneous interpretations of legal precedent and directly contradicts previous IOLC [Ph] opinions. Attorney General Garland, it's common practice for the DOJ to review prior legal opinions and withdraw those that are not legally sound.

Will you commit today to closely examine the OLC memo, and if you agree with these legal scholars that it is flawed, rescind this memo so that general -- gender equality can be enshrined in the Constitution?

MERRICK GARLAND:

Well, I will certainly -- I think the first step is to find out what OLC is doing in this respect. Sometimes they review previous opinions and often, they do not out of respect for their own precedents. I don't know what the status is with respect to this one. I certainly understand the argument, and I'll see if I can find out what OLC is doing in this respect.

DEBORAH ROSS:

Thank you very much, and I yield back.

JERROLD NADLER:

The gentlelady yields back. Ms. Bush.

CORI BUSH:

St. Louis and I thank you, Attorney General Garland, for being here with us today. Thank you for sitting through all of this. Since your confirmation in March of 2021, at least 128 black people have been killed by law enforcement officers in the US. That's one black person killed by law enforcement every two days, and that is an undercount.

Police killings in America have been undercounted by more than half over the past four decades. Attorney General Garland, as the people's attorney, do you think that law enforcement officials are above the law?

MERRICK GARLAND:

No one is above the law.

CORI BUSH:

I completely agree, and let's see how well that's going. Are you aware that Black and brown people are disproportionately stopped, searched, and arrested by police often for minor infractions?

MERRICK GARLAND:

I've certainly read that and I'm not surprised to learn it.

CORI BUSH:

Thank you. Are you aware that according to the FBI, white nationalists have infiltrated ranking file police departments?

MERRICK GARLAND:

I'm not sure I know the specific reference that you said about the FBI. I know that there are problems in some police departments with respect to domestic violent extremists being in the rank, and I know that many police departments are trying to make sure that that's not the case. But I'm not sure I know the reference that you're talking about.

CORI BUSH:

OK. I would like to seek unanimous consent to enter this report into -- from the Brennan Center 2020 report detailing white supremacy in police forces.

JERROLD NADLER:

Without objection.

CORI BUSH:

Thank you.

CORI BUSH:

Are you aware that from the statistics we do have, we know that black people are killed by police at three times the rate of white people?

MERRICK GARLAND:

Again, I don't know the actual statistic, but I'm more -- I wouldn't be surprised if that were the case and I'm happy to accept, you know, your representation.

CORI BUSH:

Thank you. Again, I'll -- I ask unanimous consent to introduce a Harvard School of Public Health report on fatal police encounters into the record.

JERROLD NADLER:

Without objection.

CORI BUSH:

Thank you. In light of these realities, do you believe that systemic racism exists in law enforcement agencies?

MERRICK GARLAND:

So, I think racism exists in a number of areas of our society. And the purpose, for example, of these pattern or practice investigations that we do, is to make sure that there is not a pattern or practice of unconstitutional policing.

CORI BUSH:

Mmm hmm.

MERRICK GARLAND:

That's the job of the Civil Rights Division to look at these matters, to take into account complaints in this area, and investigate them.

CORI BUSH:

Yes. The department requested \$1 billion in federal funding for law enforcement agencies in fiscal year 2022, an increase from last year. We are rewarding police departments rather than holding them accountable for racist practices. The department has a powerful tool at its disposal. Title VI of the Civil Rights Act mandates that recipients of federal funds do not discriminate.

And it makes clear that if they do, they are ineligible for federal funding. I am happy to see that the department is undergoing a 90-day review of Title VI. Given the structural racism in law enforcement agencies that you have acknowledged, will you commit today to withholding funds to law enforcement agencies that discriminate in violation of Title VI?

MERRICK GARLAND:

So, as you correctly point out, our associate attorney general and deputy attorney general are doing a review of Title VI and how it should be applied to our grants. I want to be clear, we are funding local police departments, but we are also making grants for the purpose of supporting constitutional policing, better community policing, better programs to ensure that there isn't discrimination.

I think that there are many, many, many good-hearted and nondiscriminatory police officers. We have to support them and root out the ones who violate the law. That's our job.

CORI BUSH:

Absolutely. And for me, if you know that your colleague is not doing something right, if you know your colleague is racist or has racist practices and you don't speak up, that means that you're not a good police officer as well. I mean, I don't believe in good and bad. I believe that there are officers and there are people who are below the standard.

I ask because St. Louis leads the nation in police killings per capita. It is a region where Michael Brown Jr. was killed in plain sight and there was zero accountability for his murder. It is where our movement in defense of Black lives began. Racialized violence is a policy choice. We can choose to subsidize it or we can choose to stop it. And so, for St. Louis, the choice is clear.

We must stop it. We must save lives. The Title VI review puts us on a path toward accountability. We need only to enforce it. Thank you and I yield back.

JERROLD NADLER:

The gentlelady yields back.

UNKNOWN:

Mr. Chairman.

JERROLD NADLER:

I recognize Mr. Massie for the purpose of a unanimous consent request.

THOMAS MASSIE:

Mr. Chairman, I ask unanimous consent to submit to the record two letters drafted and written and sent by Chip Roy and I to Attorney General Merrick Garland for which we have not received a response, one dated July 15 and one dated May 13.

JERROLD NADLER:

Without objection.

THOMAS MASSIE:

Then I have another unanimous consent request to submit for the record the frames from the video that were displayed in my testimony.

JERROLD NADLER:

Without objection. Ms. Jackson Lee has a UC request [Inaudible]

SHEILA JACKSON LEE:

Mr. Chairman, thank you very much. I ask unanimous consent to put into the record document produced by The Sentencing Project, "In the Extreme: Women Serve Life Without Parole and Death Sentences in the United States." I ask unanimous consent to submit into the record the Senate Judiciary Committee reports subverting justice.

I ask unanimous consent.

JERROLD NADLER:

Without objection.

SHEILA JACKSON LEE:

And also to place into the record legislation I introduced, "Preventing Vigilante Stalking that Stops Women's Access to Healthcare and Abortion Rights Act of 2021" regarding the stalking done by the Abortion Bill of Texas. I ask unanimous consent.

JERROLD NADLER:

Without objection.

SHEILA JACKSON LEE:

Thank you, Mr. Chairman.

JERROLD NADLER:

This concludes today's hearing. We thank the attorney general for participating. Without objection, all members will have five legislative days to submit additional written questions for the witness or additional materials for the record. Without objection, the hearing is adjourned.

List of Panel Members and Witnesses

PANEL MEMBERS:

REP. JERROLD NADLER (D-N.Y.), CHAIRMAN

REP. ZOE LOFGREN (D-CALIF.)

REP. SHEILA JACKSON LEE (D-TEXAS)

REP. STEVE COHEN (D-TENN.)

REP. HENRY "HANK" JOHNSON, JR. (D-GA.)

REP. THEODORE E. DEUTCH (D-FLA.)

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REP. HAKEEM S. JEFFRIES (D-N.Y.)

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REP. DEBORAH K. ROSS (D-N.C.)

REP. CORI BUSH (D-MO.)

REP. JIM JORDAN (R-OHIO), RANKING MEMBER

REP. STEVE CHABOT (R-OHIO)

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REP. SCOTT FITZGERALD (R-WIS.)

REP. CLIFF BENTZ (R-ORE.)

REP. BURGESS OWENS (R-UTAH)

WITNESSES:

DEPARTMENT OF JUSTICE ATTORNEY GENERAL MERRICK B. GARLAND

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Office of the Attorney General
Washington, D. C. 20530

ORDER NO. 4878-2020

**APPOINTMENT OF SPECIAL COUNSEL TO INVESTIGATE MATTERS RELATED TO
INTELLIGENCE ACTIVITIES AND INVESTIGATIONS ARISING OUT OF THE 2016
PRESIDENTIAL CAMPAIGNS**

On May 13, 2019, I directed United States Attorney John Durham to conduct a preliminary review into certain matters related to the 2016 presidential election campaigns, and Mr. Durham's review subsequently developed into a criminal investigation, which remains ongoing. Following consultation with Mr. Durham, I have determined that, in light of the extraordinary circumstances relating to these matters, the public interest warrants Mr. Durham continuing this investigation pursuant to the powers and independence afforded by the Special Counsel regulations. Accordingly, by virtue of the authority vested in the Attorney General, including 28 U.S.C. §§ 509, 510, and 515, in order to discharge my responsibility to provide supervision and management of the Department of Justice, and to ensure a full and thorough investigation of these matters, I hereby order as follows:

(a) John Durham, United States Attorney for the District of Connecticut, is appointed to serve as Special Counsel for the Department of Justice.

(b) The Special Counsel is authorized to investigate whether any federal official, employee, or any other person or entity violated the law in connection with the intelligence, counter-intelligence, or law-enforcement activities directed at the 2016 presidential campaigns, individuals associated with those campaigns, and individuals associated with the administration

of President Donald J. Trump, including but not limited to Crossfire Hurricane and the investigation of Special Counsel Robert S. Mueller, III.

(c) If the Special Counsel believes it is necessary and appropriate, the Special Counsel is authorized to prosecute federal crimes arising from his investigation of these matters.

(d) 28 C.F.R. §§ 600.4 to 600.10 are applicable to the Special Counsel.

(e) Pursuant to 28 C.F.R. § 600.9(b), I have determined that the notification requirement in 28 C.F.R. § 600.9(a)(1) should be tolled until at least after the November 3, 2020 election because legitimate investigative and privacy concerns warrant confidentiality.

(f) In addition to the confidential report required by 28 C.F.R. § 600.8(c), the Special Counsel, to the maximum extent possible and consistent with the law and the policies and practices of the Department of Justice, shall submit to the Attorney General a final report, and such interim reports as he deems appropriate, in a form that will permit public dissemination.

10/19/20
Date

W P Barr
William P. Barr
Attorney General