U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

June 9, 2023

Reed D. Rubinstein
America First Legal Foundation
600 14th Street NW, 5th Floor
Washington, D.C 20005
foia@aflegal.org

Re: FOIA-2022-00056
21-cv-03024 (D.D.C.)
VRB:JMB:CEY

Dear Reed Rubinstein:

This is a first interim response to your Freedom of Information Act (FOIA) request dated and received in this Office on October 7, 2021, in which you requested records of the Office of the Attorney General, Office of the Deputy Attorney General, Office of the Associate Attorney General, and Office of Public Affairs concerning the October 4, 2021 memorandum of Attorney General Merrick Garland related to violence against school administrators since September 15, 2021.[1]

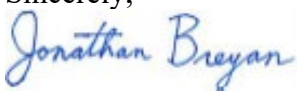
Please be advised that initial searches have been conducted and records responsive to your request have been located. At this time, I have determined that 929 pages containing records responsive to your request are appropriate for release with certain information withheld pursuant to Exemption 6 of the FOIA, 5 U.S.C. § 552(b)(6). Exemption 6 pertains to information the release of which would constitute a clearly unwarranted invasion of personal privacy. Please be advised that we have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c) (2018). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

[1] Through counsel, the parties have subsequently reached agreements regarding the scope of this request. Consistent with the parties' agreements, the enclosed pages contain information that is not responsive to Plaintiff's request, which has not been processed and is marked accordingly.

If you have any questions regarding this response, please contact Michael J. Gerardi of the Department's Civil Division, Federal Programs Branch, at (202) 616-0680.

Sincerely,



Jonathan Breyan
Senior Supervisory Attorney
for
Vanessa R. Brinkmann
Senior Counsel

Enclosures

From: Schwartz, Leah F. (OLA)
Subject: OLA incoming Congressiona correspondence 10/26/21
To: Good ander, Margaret V. (OAG); Co ange o, Matthew (OASG); Loeb, Emi y M. (ODAG); Lewis, Megan (ODAG); Hyun, Peter (OASG); Heinze man, Kate (OAG); K apper, Matthew B. (OAG)
Cc: Gaeta, Joseph (OLA); Wo demariam, Wintta (OLA); Greenfe d, He aine A. (OLA); Ante , Kira M. (OLA); Ca ce, Christina M. (OLA)
Sent: October 26, 2021 5:59 PM (UTC-04:00)
Attached: Scoped Out per Agreement , McCarthy.incoming. tr.10.26.2021.pdf

Good afternoon,

Please see below and attached.

Scoped Out per Agreement

2. Letter from Reps. McCarthy, Jordan, and Foxx to AG – requesting that the DOJ immediately retract its October 4th, 2021 memo, and dissolve any plans to stand up the superficial and unnecessary parent task force.

KEVIN McCARTHY
23RD DISTRICT, CALIFORNIA
REPUBLICAN LEADER

H-204, U.S. CAPITOL
WASHINGTON, DC 20515
(202) 225-4000
www.republicanleader.gov

Congress of the United States
House of Representatives
Washington, DC 20515–6538

October 26, 2021

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

Dear Mr. Attorney General:

At the whim of a thinly sourced letter led by the National School Board Association (NSBA) sent on Sept. 29 likening parents to domestic terrorism,[1] you sent a memo directing your Department to work in concert with the FBI and U.S. Attorney's Offices to implement a strategy to investigate parents at school board meetings.[2]

Since that letter was first published, the American public has not only learned that individuals in the Biden administration worked with the NSBA to craft that letter, but you yourself admitted during a recent Congressional hearing that it was the only "source" you had to justify your decision to baselessly investigate parents, chill constitutionally protected acts, and discourage their parental rights to have a say in their children's education.[3]

It was alarming to hear that the Department was moved to target parents by a single letter, especially a letter that the Administration had a hand in molding. Then late on the evening of Friday, October 22nd, the NBSA - *after facing the backlash of nearly 20 state school board associations* - publicly released a letter admitting they "regret and apologize for the letter."[4] *We ask now: If the NSBA can no longer stand by its letter, how can the Department of Justice proceed with its actions spurred by that same letter?*

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[1] Letter from Dr. Viola M. Garcia, President, Nat'l School Board Assoc. & Mr. Chip Slaven, Chief Exec. Officer, Nat'l School Board Assoc., to President Joseph R. Biden, White House (Sept. 29, 2021).
[2] Memorandum from Atty Gen. Merrick Garland, U.S. Dep't of Justice, Partnership Among Federal, State Local, Tribal, And Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff (Oct. 4, 2021).
[3] *Oversight of the United States Department of Justice: Hearing Before the H. comm. on the Judiciary*, 117th Cong. at 68 (2021) (testimony from Hon. Merrick Garland, Atty Gen., U.S. Dep't of Justice).
[4] *See* Kerry Picket, *National School Boards Association rocked by state members after call for crackdown on parents*, WASH. EXAMINER (Oct. 19, 2021); Memorandum from NSBA Board of Directors, Message to NSBA Members (Oct. 22, 2021).

The past year and a half of lockdowns and school closures motivated parents to take an even closer look at their children's education, sparking a nationwide wave of renewed parental engagement. The Administration should encourage and embrace motivated parents, as research overwhelmingly supports the positive impact parental involvement has on student success.[5] Instead, the message from the Biden administration, including from his own Secretary of Education, is that they do not believe parents should be the primary stakeholders in their own children's education.[6] It is a stance they doubled down on when they decided to activate the FBI to investigate school board meetings.

Asking questions about the kinds of books your school district has on their library shelves is not domestic terrorism. Inquiring about politically-charged rhetoric potentially being injected into classrooms is not domestic terrorism. And demanding answers about sexual assault cases that happen on school grounds, is definitely not domestic terrorism. In disavowing their letter, the NSBA has abandoned this train of thought, the Department of Justice should as well.

We believe, like the majority of Americans, that every parent has a right to be involved in their child's education. Second, parents who are concerned about material and curriculums in classrooms should be celebrated and admired, not made to feel like villains for simply asking basic questions regarding curriculums in their local schools.

We are requesting that you immediately retract your October 4th memo, and dissolve any plans to stand up the superficial and unnecessary parent task force. The Biden administration also owes every parent in America an apology, and a clear commitment to end this senseless harassment, intimidation, and targeting of parents.

Sincerely,

KEVIN McCARTHY
Republican Leader

JIM JORDAN
Member of Congress

VIRGINIA FOXX
Member of Congress

[5] *See, e.g.*, *Report: The Positive Relationship Between Family Involvement and Student Success*, NAT'L PTA, https://www.pta.org/home/run-your-pta/National-Standards-for-Family-School-Partnerships/Report-The-Positive-Relationship-Between-Family-Involvement-and-Student-Success.

[6] *School Reopening During COVID-19: Supporting Students, Educators, and Families: Hearing Before the S. Comm. on Health, Edu., Labor, & Pensions*, 117th Cong. (Sept. 30, 2021) (testimony from Hon. Dr. Miguel Cardona, Sec'y, U.S. Dep't of Edu.).

From: Lewis, Megan (ODAG)
Subject: DAG Book: incoming congressiona correspondence 10/13/2021
To: Suero, Maya A. (ODAG); Brockman, Audrey (ODAG)
Cc: Lin, Frank (ODAG); Singh, Anita M. (ODAG); Loeb, Emi y M. (ODAG)
Sent: October 13, 2021 6:34 PM (UTC-04:00)
Attached: Johnson.Mike.incoming. tr.10.13.2021.pdf, Scoped Out per Agreement
Scott.Rick.incoming. tr.10.13.2021.pdf

Maya, Audrey- for awareness for DAG/PADAG; no immediate action item (and no rush for tonight).

1. Letter from Rep. Mike Johnson and 16 other MOCs to AG – expressing serious concerns about recent decision to involve federal law enforcement entities in local school board debates and to stifle First Amendment-protected political speech. Requesting that DOJ consult with designated ethics officials to determine whether the Department has violated rules of ethics and impartiality.

Scoped Out per Agreement

3. Letter from Sens. Scott and Rubio and 9 MOCs to AG – expressing serious concerns regarding the DOJ's 10/4 memo directing federal law enforcement agencies to address threats of violence against school administrators and board members. Requesting answers to 3 related questions NLT 10/29/21.

JERROLD NADLER, New York
CHAIRMAN

JIM JORDAN, Ohio
RANKING MEMBER

ONE HUNDRED SEVENTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515–6216

(202) 225–3951

judiciary.house.gov

October 13, 2021

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

Dear Attorney General Garland:

This letter is to express our serious concerns about your recent decision to involve federal law enforcement entities in local school board debates and to stifle First Amendment-protected political speech. Your actions are not just inappropriate, but also appear to have been improperly influenced by politics and by your family's interest in the matter. As members of the House Committee on the Judiciary, we have a responsibility to conduct oversight of the U.S. Department of Justice (DOJ) and we trust that you will fully cooperate with our inquiry.

On October 4, 2021, you issued a memorandum directing the Federal Bureau of Investigation and U.S. Attorneys' offices to strategize with state and local leaders in response to perceived threats against public school officials.[1] Local law enforcement should properly address and prevent legitimate threats and any actual violence against school board officials. But there is little—if any—basis to interject the immense powers of the federal government into these local matters. Your directive to do so will only serve to discourage parents from voicing concerns or disagreement about the important issues of education policy in their communities.

Your memorandum appears to be motivated by politics more than by any pressing federal law enforcement need. You issued your directive just days after President Biden received a letter from the National School Board Association (NSBA) that equated concerned parents with domestic terrorists and perpetrators of hate crimes.[2] This letter referred to what are legitimate parental concerns about far-left curricula such as Critical Race Theory, radical gender identity ideology, and oppressive coronavirus-related mandates in their local schools.[3] The NSBA urged

[1] Memorandum from Atty Gen. Merrick Garland, U.S. Dep't of Justice, Partnership Among Federal, State, Local, Tribal, And Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff (Oct. 4, 2021).
[2] Letter from Ms. Viola M. Garcia, President, Nat'l School Board Assoc. & Mr. Chip Slaven, Chief Exec. Officer, Nat'l School Board Assoc., to President Joseph R. Biden, White House (Sept. 29, 2021).
[3] *Id.*

"the federal government's intervention against individuals or hate groups who are targeting our schools and educators."[4]

Even more concerning is the appearance that a member of your family has a financial stake in local school boards adopting a far-left educational curriculum. Reports allege that your son-in-law is the co-founder of Panorama Education, Inc., a company that publishes and sells Critical Race Theory and "anti-racism" materials and works with school districts nationwide to obtain and analyze data on students.[5] The company's surveys reportedly include intrusive questions such as whether a student feels "gender fluid."[6] To avoid student privacy laws and collect student data without parental consent, Panorama Education staff members are classified as "school officials."[7] The company has reportedly surveyed more than 13 million students in 21,000 schools in all 50 states to date[8] and has received funding from liberal activists such as Mark Zuckerberg.[9]

Your actions appear to run afoul of relevant rules of federal ethics. According to the Code of Federal Regulations, an employee of the Executive Branch is discouraged from engaging in conduct that is likely to affect the financial interests of "a person with whom he has a covered relationship."[10] A covered relationship includes "a relative with whom the employee has a close personal relationship."[11] You and your daughter and son-in-law may meet this criterion, and it is unclear whether you consulted with the Department's designated agency ethics official on this matter prior to issuing your memorandum.[12]

As our nation's top law enforcement official, your most fundamental responsibility is to uphold the standards of equal justice under the law and to protect the constitutional rights and liberties of all Americans. The circumstances around the issues of your memorandum jeopardize these standards and call into question the propriety of your actions. More fundamentally, your directive to insert the might of the federal government into legitimate debates about local education policies shows a serious misunderstanding of the duties of your office.

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[4] *Id.*
[5] Mark Moore, *Parents group: AG Garland has conflict of interest with Facebook, critical race theory*, N. Y. Post (Oct. 6, 2021, 3:54 PM), https://nypost.com/2021/10/06/parents-group-garland-has-conflict-of-interest-with-facebook/.
[6] Elizabeth Elkind, *Daugter of Attorney General who ordered DOJ to probe angry parents for domestic terrorism is married to founder of education group that promotes Critical Race Theory: Merrick Garland accused of a conflict of interest*, Daily Mail (Oct. 8, 2021, 12:37 PM), https://www.dailymail.co.uk/news/article-10069425/Garland-accused-conflict-ties-education-group-promoting-Critical-Race-Theory html.
[7] Fairfax County increases five-year contract to $2.4 million to Panorama Education, a government contractor cofounded by son-in-law of U.S. Attorney General, Parents Defending Education, https://defendinged.org/incidents/panorama-education-datamining/ (last visited Oct. 8, 2021).
[8] Panorama, Our Story, https://www.panoramaed.com/about (last visited Oct. 7, 2021).
[9] Press Release, Newswire, Serving 5 Million Students, Panorama Education Raises $16M to Expand Reach of Social-Emotional Learning and Increase College Readiness in Schools (Nov. 7, 2017).
[10] Impartiality in Performing Official Duties, 5 C.F.R. §§ 2635.501(a) & 2635.502(b)(1)(ii) (1997).
[11] *Id.*
[12] U.S. Dep't of Justice, Dep't Ethics Office, Conflicts, https://www.justice.gov/jmd/conflicts (last visited Oct. 8, 2021).

Thus, we request you promptly consult with the designated agency ethics official to determine if your actions in this matter have resulted in an ethics violation for a breach of impartiality. The results of this inquiry must be made public and reported to the House and Senate Committees on the Judiciary in order to protect the integrity of the office of Attorney General. Furthermore, depending on the result, your recusal from this issue may be warranted, and the rescission of the memorandum required.

Thank you for your prompt attention to this matter. We await your response.

Sincerely,

Mike Johnson
Ranking Member
Subcommittee on the Constitution
Civil Rights and Civil Liberties

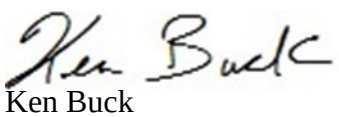
Jim Jordan
Ranking Member

Dan Bishop
Member of Congress

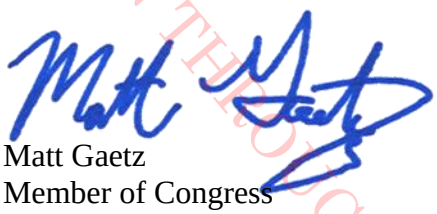
Steve Chabot
Member of Congress

Louie Gohmert
Member of Congress

Darrell Issa
Ranking Member
Subcommittee on Courts, Intellectual
Property and the Internet



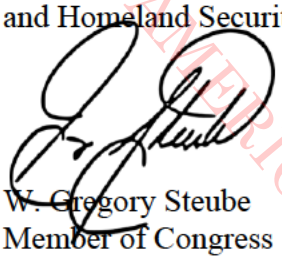
Ken Buck
Ranking Member
Subcommmittee on Antitrust,
Commercial and Administrative Law



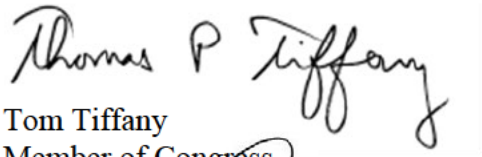
Matt Gaetz
Member of Congress

Andy Biggs
Ranking Member
Subcommittee on Crime, Terrorism
and Homeland Security

Tom McClintock
Ranking Member
Subcommittee on Immigration and
Citizenship

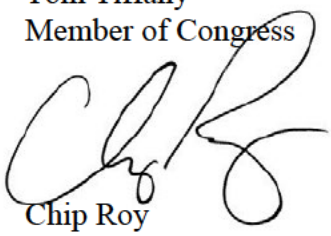


W. Gregory Steube
Member of Congress



Tom Tiffany
Member of Congress

Thomas Massie
Member of Congress



Chip Roy
Member of Congress

Michelle Fischbach
Member of Congress

Vicoria Spartz
Member of Congress

Scott Fitzgerald
Member of Congress

Cliff Bentz
Member of Congress

Burgess Owens
Member of Congress

Congress of the United States
Washington, DC 20510

October 13, 2021

The Honorable Merrick Garland
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Garland:

We write to express grave concerns with the recently released memorandum dated October 4, 2021 ("*Memorandum*"), directing federal law enforcement agencies and resources to address vaguely defined instances of "harassment, intimidation, and threats of violence against school administrators, board members, teachers, and staff who participate in the vital work of running our nation's public schools." The *Memorandum* fails to identify particular federal crimes that have been committed, and makes no effort whatsoever to cite federal legal authority justifying intervention by the U.S. Department of Justice (DOJ) and its various sub-agencies in matters that, at most, fall within the jurisdiction of local law enforcement. Despite these deficiencies, you direct the full weight of the federal law enforcement apparatus to be used to "discourage these threats," which appears to be a thinly veiled effort aimed at chilling constitutionally protected speech.

A disturbing trend has come to light in recent months, but it is not the constitutionally protected speech and lawful assemblies of concerned parents that the *Memorandum* erroneously attempts to cast as criminal conduct. Rather, this Administration, with the full support of the DOJ, has engaged in an alarming pattern of declining to enforce existing laws it is duty-bound to uphold, while attempting to invent new legal authorities that have dubious statutory support and no foundation in the U.S. Constitution. The recently issued *Memorandum* is merely the latest example of this disturbing trend of politically motivated interventions by the nation's top law enforcement agency.

Given the gravity of the implications of the *Memorandum's* call to wield federal law enforcement resources against what appears to be constitutionally protected speech, please provide answers to the following questions by October 29, 2021:

1. Please identify, with particularity, the legal basis for the federal investigation and intervention directed by the *Memorandum*, including citation to particular

federal laws that have been violated, as well as the specific events constituting such violations of federal law that are not specified in the *Memorandum*.

a. Please identify, with particularity, the legal authority of DOJ and its sub-agencies, including the Federal Bureau of Investigation (FBI) and Offices of the U.S. Attorneys (USAO), to use federal resources to "discourage" speech, such as spoken threats, as directed in the *Memorandum*.
b. Please identify what federal law is or may be violated by a spoken or written threat of the type ambiguously referred to in the *Memorandum*.
c. Please identify, with particularity, the legal authority of DOJ and its sub-agencies, including the FBI and USAO, to monitor, regulate, or control speakers and speech at public meetings of local school boards or school administrators.

2. Has the DOJ or its sub-agencies, including the FBI and USAO, received a request for assistance from a state or local law enforcement agency regarding the "harassment, intimidation, and threats of violence against school administrators, board members, teachers, and staff" alleged in the *Memorandum*?
    a. If so, please specifically identify:
        i. The state or local law enforcement agency or agencies that submitted such requests;
        ii. The particular events, incidents, and/or factual basis articulated in the requests for assistance;
        iii. The nature of the assistance requested; and
        iv. The dates such requests were received.
    b. If no such request for assistance from a state or local law enforcement agency has been received by DOJ, please identify, with particularity, the legal basis and authority of DOJ to intervene in matters of state or local law enforcement.
3. Regarding the September 29, 2021, letter from the National School Boards Association (NSBA) to President Biden requesting "federal law enforcement and other assistance to deal with the growing number of threats of violence and acts of intimidation occurring across the nation," to what extent did:
    a. The DOJ consult with the NSBA prior to the issuance of the *Memorandum* on October 4, 2021?
    b. The NSBA contribute to, draft, or review the *Memorandum* prior to its issuance on October 4, 2021?
    c. The DOJ or its sub-agencies, including the FBI and USAO, independently investigate or corroborate the NSBA's nebulous claims of "threats of violence and acts of intimidation" justifying federal intervention in matters of local law enforcement?

d. The DOJ concur in the NSBA's characterization of "threats against public school officials" as "equivalent to a form of domestic terrorism and hate crimes"?

School administrators, board members, and teachers are public servants, but in fulfilling those important roles they are not immune from scrutiny for decisions and actions that affect our children. Indeed, accountability is a hallmark of public service and, contrary to your mischaracterization of events at school board meetings as criminal threats against public servants, we are seeing parents across the country demand accountability from those charged with the critical task of educating our children.

To be clear, we condemn any acts of violence or lawlessness, and support the work of local law enforcement to arrest and prosecute criminal actors to the fullest extent of the law. However, when it comes to the education of our children, parents are constitutionally entitled and morally justified to demand accountability for the use of harmful curricula, such as Critical Race Theory, which is rooted in cultural Marxism and neo-racist doctrine that sows division and hostility toward "others" at a time when our country desperately needs unity. Such divisive concepts have no place in our great nation, much less in the schools we trust to educate our children.

We appreciate your prompt attention to these questions and look forward to your responses.

Sincerely,

Rick Scott
United States Senator

Marco Rubio
United States Senator

Kat Cammack
United States Representative

Michael Waltz
United States Representative

Carlos Gimenez
United States Representative

Bill Posey
United States Representative

Neal P. Dunn, M.D.
United States Representative

Brian Mast
United States Representative

María Elvira Salazar
United States Representative

Gus M. Bilirakis
United States Representative

John H. Rutherford
United States Representative

From: Schwartz, Leah F. (OLA)
Subject: OLA incoming congressiona correspondence 10/13/2021
To: Good ander, Margaret V. (OAG); K apper, Matthew B. (OAG); Heinze man, Kate (OAG); Hyun, Peter (OASG); Loeb, Emi y M. (ODAG); Lewis, Megan (ODAG); Co ange o, Matthew (OASG)
Cc: Gaeta, Joseph (OLA); Greenfe d, He aine A. (OLA); Wo demariam, Wintta (OLA); Ca ce, Christina M. (OLA); Ante , Kira M. (OLA)
Sent: October 13, 2021 6:14 PM (UTC-04:00)
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Scott.Rick.incoming. tr.10.13.2021.pdf

Good evening

Please see below and attached.

1. Letter from Rep. Mike Johnson and 16 other MOCs to AG – expressing serious concerns about recent decision to involve federal law enforcement entities in local school board debates and to stifle First Amendment-protected political speech. Requesting that DOJ consult with designated ethics officials to determine whether the Department has violated rules of ethics and impartiality.

Scoped Out per Agreement

3. Letter from Sens. Scott and Rubio and 9 MOCs to AG – expressing serious concerns regarding the DOJ's 10/4 memo directing federal law enforcement agencies to address threats of violence against school administrators and board members. Requesting answers to 3 related questions NLT 10/29/21.

From: Lewis, Megan (ODAG)
Subject: DAG Book: incoming congressiona correspondence
To: Suero, Maya A. (ODAG); Brockman, Audrey (ODAG)
Cc: Lin, Frank (ODAG); Singh, Anita M. (ODAG); Loeb, Emi y M. (ODAG)
Sent: October 10, 2021 6:15 PM (UTC-04:00)
Attached: Scoped Out per Agreement McConne .incoming. tr. 10.7.21.pdf

Maya, Audrey—p ease see the attached additiona incoming correspondence. P ease provide to the DAG/PADAG for awareness on Tuesday.

Scoped Out per Agreement

2. Letter from Senator McConnell to AG - expressing concerns about the DOJ's 10/4 memo addressing the threat of violence against school administrators. Requesting response to 5 related questions prior to the AG's appearance before SJC.

MITCH MCCONNELL
KENTUCKY

United States Senate
OFFICE OF THE REPUBLICAN LEADER
WASHINGTON, D.C. 20510

October 7, 2021

Attorney General Merrick Garland
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530

Dear Attorney General Garland:

I am concerned by your memorandum of October 4, 2021, regarding parental schoolboard protests. In it you directed federal law enforcement to partner with state and local governments to address "threats of violence, and other forms of intimidation and harassment" of "school administrators, board members, teachers, and staff" in public schools. The memorandum purports to respond to a "disturbing spike" in threats and harassment against these officials—although it's silent as to the supposed perpetrators or any actual predicates for this action.

Your memorandum's ominous rhetoric doesn't reflect the reality of what we have seen at schoolboards across the country in recent months.

Parents absolutely should be telling their local schools what to teach. This is the very basis of representative government. They do this both in elections and—as protected by the First Amendment of the Constitution—while petitioning their government for redress of grievance. Telling elected officials they're wrong is democracy, not intimidation.

I hope you will agree with me that the kind of grassroots interest parents have shown throughout the country in both the methods and substance of their children's education is to be commended and encouraged. It's not a Democratic or Republican issue, but a democratic and republican one.

While some schoolboard meetings have involved altercations with the police, they seem to have been isolated and dealt with effectively by local law enforcement. Violence, threats of violence, and other criminal behavior are always wrong.

On the other hand, in your very backyard of Virginia, there have been shocking efforts by public officials to organize for the intimidation and harassment of parents who have the temerity to want a better education for their children. One Loudon County schoolboard member participated in a Facebook group that compiled a list of parents opposed to Critical Race Theory and

discussed hacking their websites.[1] It's a situation where legal accountability is difficult because the Loudon County Prosecutor was also a member of the group seeking to "doxx" concerned parents.[2] It's exactly this kind of intimidation of *private citizens by government officials* that our federal civil rights laws were designed to prevent.

I would therefore like answers to the following questions before your upcoming hearing in the Senate Judiciary Committee.

1. In your memorandum, what are the operative definitions of the terms "harassment" and "intimidation"?

2. In your view, is an effort to recall a schoolboard member or to challenge her policies publicly ever an instance of an "effort[] to intimidate individuals based on their views"?

3. Why, in your view, are state and local law enforcement not adequately equipped to deal with any violence or threats that may arise from schoolboard protests?

4. As I mentioned earlier, in Loudon County, Virginia, a schoolboard member, the County Prosecutor, current and former teachers, and their political allies banded together to intimidate parents who opposed the teaching of Critical Race Theory.

    a. In your view could these efforts, if successful, amount to a depravation of constitutional rights under color of law?
    b. What, if anything, is the Civil Rights Division doing to investigate this and other efforts by government officials to abridge the free speech of citizens?

5. Prior to issuing this memorandum did you, the Deputy Attorney General, the Associate Attorney General, the Assistant Attorney General for Civil Rights, or anyone on your staffs, communicate with the American Federation of Teachers, the National Education Association, or the National School Boards Association about this memorandum? If so please explain the nature of those conversations and provide to me any such communications.

Sincerely,

MITCH McCONNELL
SENATE REPUBLICAN LEADER

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[1] Luke Rosiak, *Victory For Parents As Judge Sides With Loudon Parents, Against Prosecutor On School Board Recall*, The Daily Wire (Oct. 5, 2021), *available at* https://www.dailywire.com/news/victory-for-loudoun-parents-as-judge-sides-with-loudoun-parents-against-prosecutor-barts-biberaj.

[2] Hayley Milon Bour, *Barts Recall Case Advances; Commonwealth's Attorney Disqualified*, Loudon Now (Oct. 5, 2021), *available at* https://loudounnow.com/2021/10/05/barts-recall-case-advances-commonwealths-attorney-disqualified/.

From: Schwartz, Leah F. (OLA)
Subject: OLA incoming congressiona correspondence 10/8/2021
To: K apper, Matthew B. (OAG); Heinze man, Kate (OAG); Co ange o, Matthew (OASG); Hyun, Peter (OASG); Loeb, Emi y M. (ODAG); Lewis, Megan (ODAG); Good ander, Margaret V. (OAG)
Cc: Wo demariam, Wintta (OLA); Gaeta, Joseph (OLA); Greenfe d, He aine A. (OLA); Ante , Kira M. (OLA); Ca ce, Christina M. (OLA)
Sent: October 9, 2021 9:47 AM (UTC-04:00)
Attached: Scoped Out per Agreement Cruz.incoming. tr.10.8.2021.pdf, Scoped Out per Agreement McConne .incoming. tr. 10.7.21.pdf

Please see below and attached. Hope everyone has a great long weekend!

Scoped Out per Agreement

2. Letter from Senators Cruz, Lee, and Blackburn to AG – expressing concerns about the DOJ's 10/4 memo addressing the threat of violence against school administrators. Also requesting answers to 8 questions about the AG's son-in-law's involvement with the company Panorama.

Scoped Out per Agreement

4. Letter from Senator McConnell to AG - expressing concerns about the DOJ's 10/4 memo addressing the threat of violence against school administrators. Requesting response to 5 related questions prior to the AG's appearance before SJC.

United States Senate
Washington, DC 20510

October 8, 2021

The Honorable Merrick Garland
Attorney General of the United States
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C 20530

Attorney General Garland:

On October 4, you issued a memorandum directing the Federal Bureau of Investigations ("FBI") and United States Attorneys' Offices to address purported harassment, intimidation, and threats of violence against school board members.[1] Actual violence, harassment, and threats are criminal activities and must be condemned. Yet your directive to the FBI runs a serious risk of conflating legitimate and meritorious protest by concerned parents with criminal conduct. The memorandum implies that parents who protest school boards, including those who oppose the inclusion of critical race theory in elementary, junior high, and high school curricula, may pose a public safety threat. In doing so, the memorandum appears intended to intimidate parents across the country into silence.

As a matter of policy, this memorandum is extraordinarily concerning, which is why we joined Senator Grassley's letter on behalf of the 11 Republican members of the Senate Judiciary Committee in writing to you about this policy. Equally concerning, however, is reporting about an alleged connection between your family members and controversial curricula that will directly benefit from this memorandum and the chilling of speech.[2]

Your daughter, Rebecca Garland, married Alexander ("Xan") Newman Tanner in 2018.[3] Mr. Tanner is a co-founder of Panorama Education ("Panorama"), a "social learning" provider that provides consultancy services that reportedly aids schools in teaching critical race theory under the guise of "equity and inclusion" to America's children.[4] According to a recent report from the

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[1] Memorandum, *Partnership Among Federal, State, Local, Tribal, and Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff*, Dep't of Justice (Oct. 4, 2021), https://www.justice.gov/ag/page/file/1438986/download.

[2] *See, e.g.*, Luke Rosiak, *AG Linked to Firm That Stores 'Psychological Profiles' of Students, Avoids Parental Consent*, Daily Wire (Oct. 7, 2021), https://www.dailywire.com/news/garland-panorama-parental-consent; Mark Moore, *Parents group: AG Garland has conflict of interest with Facebook, critical race theory*, N.Y. Post (Oct. 6, 2021), https://nypost.com/2021/10/06/parents-group-garland-has-conflict-of-interest-with-facebook/; Sam Dorman, *AG Garland faces scrutiny over ties to Zuckerburg-backed ed consultancy amid critical race theory battles*, Fox News (Oct. 6, 2021), https://www.foxnews.com/politics/merrick-garland-son-in-law-panorama-zuckerberg.

[3] *Rebecca Garland, Xan Tanner*, N.Y. Times (June 17, 2018), https://www nytimes.com/2018/06/17/fashion/weddings/rebecca-garland-xan-tanner.html.

[4] *About Us*, Panorama Education (last accessed October 7, 2021), https://www.panoramaed.com/about. Notably, Facebook CEO Mark Zuckerberg's foundation, Chan-Zuckerberg Initiative, gave $16 million to Panorama Education in 2017. Sam Dorman, *AG Garland faces scrutiny over ties to Zuckerburg-backed ed consultancy amid*

Daily Wire, Panorama holds contracts with at least 22 school districts across the country, which have paid Panorama a combined $12 million in recent years.[5]

These reports outline allegations that parents and advocacy groups have recently raised about Panorama's contracts, curriculum, data collection practices, and student surveys. In early September, Parents Defending Education (PDE) released an article detailing parents' concerns about data collection and student surveys implemented in Fairfax County, Virginia, under the local school district's contract with Panorama.[6] On September 29, the National School Boards Association sent a letter to the Biden administration raising complaints about parents' protests at school board meetings.[7] Then, less than a week later, you issued the memorandum, which will benefit companies like Panorama, whose contracts may be in jeopardy as parents stand up to school boards and demand that their children not be indoctrinated with critical race theory.[8]

According to the Department of Justice's ("DOJ") Conflict of Interest Policy, "*An employee may not participate, without authorization, in a particular matter having specific parties that could affect the financial interests of members of her household*."[9] This policy is to prevent both actual conflicts of interests, as well as the appearance of a conflict of interest. In light of the allegations that your son-in-law's company may benefit directly from your memorandum, we request that you respond to the following questions no later than October 21, 2021:

- Does your son-in-law, Xan Tanner, currently work for Panorama? If not, when did he leave Panorama's employ?
- Has Panorama provided any consulting services to DOJ since January 20, 2021, or is Panorama under contract to provide any consulting services to DOJ in the future?
- Has Panorama provided consulting services or curriculum to any federal agency?
- Has there been any communication between Panorama and DOJ since January 20, 2021?
- Has any school district, teachers' union, or other trade organization contacted DOJ regarding Panorama since January 20, 2021?
- Have any school districts that hold or have held a contract with Panorama contacted DOJ regarding Panorama since January 20, 2021?
- Did you seek advice from an ethics official or attorney regarding Panorama before issuing the October 4, 2021 memoranda titled "*Partnership Among Federal, State, Local, Tribal, and Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff*"?

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critical race theory battles, Fox News (Oct. 6, 2021), https://www foxnews.com/politics/merrick-garland-son-in-law-panorama-zuckerberg.

[5] Luke Rosiak, *AG Linked to Firm That Stores 'Psychological Profiles' of Students, Avoids Parental Consent*, Daily Wire (Oct. 7, 2021), https://www.dailywire.com/news/garland-panorama-parental-consent.

[6] *Fairfax County signs five-year contract to pay $2.4 million in COVID emergency funds to a Boston-based consultant to administer intrusive "social and emotional" screening*, Parents Defending Education (Sept. 7, 2021), https://defendinged.org/incidents/test/.

[7] Letter, Federal Assistance to Stop Threats and Acts of Violence Against Public Schoolchildren, Public School Board Members, and Other Public School District Officials and Educators, Nat'l Sch. Bd. Ass'n (Sept. 29, 2021), https://nsba.org/-/media/NSBA/File/nsba-letter-to-president-biden-concerning-threats-to-public-schools-and-school-board-members-92921.pdf.

[8] *See supra* fn. 1.

[9] *Conflicts*, Dep't of Justice (Aug. 13, 2021), https://www.justice.gov/jmd/conflicts (emphasis added).

- Did you or your staff have any communications with the White House regarding this memorandum or any of the issues discussed therein prior to October 4?

The American people have a strong interest in ensuring that the Department of Justice is acting in their best interests, and not in the financial interest of its officials or their families.

Sincerely,

Ted Cruz
Member, Senate Judiciary Committee

Mike Lee
Member, Senate Judiciary Committee

Marsha Blackburn
Member, Senate Judiciary Committee

From: Lewis, Megan (ODAG)
Subject: DAG Book: incoming congressiona correspondence 10/7/2021
To: Suero, Maya A. (ODAG)
Cc: Singh, Anita M. (ODAG); Lin, Frank (ODAG); Loeb, Emi y M. (ODAG)
Sent: October 7, 2021 6:23 PM (UTC-04:00)
Attached: Roy.incoming. tr.10.7.2021.pdf, McC ain.incoming. tr.10.7.2021.pdf, Foxx.incoming. tr.10.7.2021.pdf, Sasse.incoming. tr.10.7.2021.pdf, Grass ey.incoming. tr.10.7.2021.pdf

Maya, p ease print be ow and attached (note that these are a re ative y dup icative with regard to the subject matter). For awareness, no immediate action item.

1. Letter from Rep. Roy and 30 other MOCs to AG – expressing concerns about the DOJ's 10/4 memo addressing the threat of violence against school administrators.
2. Letter from Rep. McClain and 60 other MOCs to AG – expressing concerns about the DOJ's 10/4 memo addressing the threat of violence against school administrators. Requesting response to 5 related questions NLT 11/17/2021.
3. Letter from Rep. Foxx and 22 other MOCs to AG at Dept of Education – expressing concerns about the DOJ's 10/4 memo addressing the threat of violence against school administrators. Requesting a related briefing.
4. Letter from Sen. Sasse to AG – expressing concerns about the DOJ's 10/4 memo addressing the threat of violence against school administrators. Requesting response to 6 related questions within 30 days.
5. Letter from Sen. Grassley and SJC Republicans to AG – expressing concerns about the DOJ's 10/4 memo addressing the threat of violence against school administrators.

COMMITTEE ON
EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES
2176 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

October 7, 2021

The Honorable Merrick Garland
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Miguel Cardona
Secretary
United States Department of Education
400 Maryland Ave., SW
Washington, DC 20202

Dear Attorney General Garland and Secretary Cardona,

Parents across the nation are engaging with school leaders, including school boards, over how their children are being educated. Parent engagement is a critical part of a child's education. Even when the subjects may be tough, it is important for school officials, elected officials, and teachers to understand and address parents' concerns. Violence and threats of violence are never acceptable. Neither are school boards hiding behind law enforcement rather than dealing with parents' sincere concerns.

In recent weeks we have heard that Secretary Cardona disparaged parents, calling them angry because "their guy didn't win." When asked by Sen. Braun at a U.S. Senate hearing to retract this statement, Secretary Cardona refused to do so.[1] That is unacceptable from the Secretary of the U.S. Department of Education. Instead of dismissing parents' concerns, you should listen and meaningfully engage with these parents. Then you should work to understand their concerns,

[1] https://www.help.senate.gov/hearings/school-reopening-during-covid-19-supporting-students-educators-and-families

show them their opinions matter, and support parents' efforts to improve the education of their children.

The Department of Justice (DOJ) is equally at fault for disrespecting and abandoning parents. Mr. Attorney General, your October 4, 2021, memorandum announcing your intention to promulgate "a series of measures designed to address the rise in criminal conduct directed toward school personnel"[2] is alarming. Providing local law enforcement assistance if requested is part of the responsibilities of the DOJ and would be an appropriate step, but "the creation of a task force, consisting of representatives from the department's Criminal Division, National Security Division, Civil Rights Division, the Executive Office for U.S. Attorneys, the FBI, the Community Relations Service and the Office of Justice Programs, to determine how federal enforcement tools can be used to prosecute these crimes, and ways to assist state, Tribal, territorial and local law enforcement where threats of violence may not constitute federal crimes"[3] is meant to threaten families and quash their right to speak to their elected officials.

Parents should not harass or threaten violence to school officials, nor should parents be intimidated, threatened, or coerced from speaking out about concerns in their schools. Sunshine on these policies is key to ensuring children receive the best education possible; your actions to dismiss or threaten the lawful expression of parents' legitimate concerns is harmful to our nation. Attorney General Garland, Secretary Cardona–it is imperative that you brief the Committee on your plans prior to any action.

We appreciate your attention to these concerns and for promptly scheduling a briefing on these issues. Please reach out to Mandy Schaumburg, (b) (6) with any questions and to schedule the briefings.

Sincerely,

Virginia Foxx
Ranking Member

Joe Wilson
Member of Congress

Glenn "GT" Thompson
Member of Congress

Tim Walberg
Member of Congress

[2] Garland, M. U.S. Department of Justice. (2021). *Justice Department Addresses Violent Threats Against School Officials and Teachers.*
[3] https://www.justice.gov/opa/pr/justice-department-addresses-violent-threats-against-school-officials-and-teachers

Glenn Grothman
Member of Congress

Elise M. Stefanik
Member of Congress

Rick W. Allen
Member of Congress

Jim Banks
Member of Congress

James Comer
Member of Congress

Russ Fulcher
Member of Congress

Fred Keller
Member of Congress

Gregory F. Murphy, M.D.
Member of Congress

Mariannette Miller Meeks, M.D.
Member of Congress

Burgess Owens
Member of Congress

Bob Good
Member of Congress

Lisa C. McClain
Member of Congress

Diana Harshbarger
Member of Congress

Mary E. Miller
Member of Congress

Victoria Spartz
Member of Congress

Scott Fitzgerald
Member of Congress

Madison Cawthorn
Member of Congress

Michelle Steel
Member of Congress

Julia Letlow
Member of Congress

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

October 7, 2021

VIA ELECTRONIC TRANSMISSION

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

Dear Attorney General Garland:

On October 4, you issued a memorandum titled, "Partnership Among Federal, State, Local, Tribal, and Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff."[1] That memorandum discussed a "disturbing spike in harassment, intimidation, and threats of violence against school administrators, board members, teachers, and staff who participate in the vital work of running our nation's public schools."[2] You directed the FBI and the various United States Attorneys to hold meetings with "federal, state, local, Tribal, and territorial leaders in each federal judicial district within 30 days" in order to "facilitate the discussion of strategies for addressing threats against school administrators, board members, teachers, and staff…."[3] Your press release for this memorandum involves numerous offices within DOJ, including, inexplicably the National Security Division, the FBI, and DOJ's Civil Rights Division.[4]

A few days earlier, on September 29, the National School Boards Association sent a letter to President Biden asking for help from federal law enforcement "to deal with the growing number of threats of violence and acts of intimidation occurring across the nation."[5] According to that organization, it is seeing an increased number of "attacks against school board members and educators for approving policies for masks to protect the health and safety of students and school employees" as well as "physical threats because of propaganda purporting the false inclusion of critical race theory within classroom instruction."[6] The letter references the PATRIOT Act, a statute that helps the federal government fight international terrorism, a reference that is entirely inappropriate.

We are concerned about the appearance of the Department of Justice policing the speech of citizens and concerned parents. We urge you to make very clear to the American public that the Department of Justice will not interfere with the rights of parents to come before school boards and speak with educators about their concerns, whether regarding coronavirus-related measures, the teaching of

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[1] Memorandum from Attorney Gen. Merrick Garland, Partnership Among Federal, State, Local, Tribal, and Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff (Oct. 4, 2021), *at* https://www.justice.gov/ag/page/file/1438986/download.
[2] *Id.*
[3] *Id.*
[4] Department of Justice, Justice Department Addresses Violent Threats Against School Officials and Teachers (Oct. 4, 2021), *at* https://www.justice.gov/opa/pr/justice-department-addresses-violent-threats-against-school-officials-and-teachers.
[5] Letter from Viola M. Garcia, President, and Chip Slaven, Interim Executive Director & CEO, National School Boards Association, to Joseph R. Biden, President of the United States (September 29, 2021), *at* https://nsba.org/-/media/NSBA/File/nsba-letter-to-president-biden-concerning-threats-to-public-schools-and-school-board-members-92921.pdf (hereinafter NSBA letter).
[6] NSBA letter.

critical race theory in schools, sexually explicit books in schools, or any other topic. Furthermore, we urge you to instruct the FBI and the various United States Attorneys to make clear in the meetings discussed above that speech and democratic processes, like those that occur at a local school board meeting, must be respected.

To be clear, violence[7] and true threats of violence are not protected speech and have no place in the public discourse of a democracy. To the extent such violence and true threats of violence employ mechanisms within federal jurisdiction, the FBI is squarely within its authority to help local law enforcement investigate such crimes. However, the FBI should not be involved in quashing and criminalizing discourse that is well beneath violent acts. The reported heated encounters between concerned parents and school boards often involve speech that is clearly protected by the First Amendment. Federal law enforcement muscle should never be used against protesting parents.[8]

For example, the NSBA letter references a school board meeting being disrupted in Florida[9] and cites to a Sarasota Herald-Tribune article discussing how the Sarasota County School Board might change its public comment protocol because of that disruption.[10] That article describes how "[o]ver the past year, large crowds have shown up [at Sarasota school board meetings] to address items that are not always on the agenda, like critical race theory, masking in schools, or complaints over items in the curriculum" and that "boards throughout the state are examining their public comment protocols."[11] Large numbers of citizens expressing their concerns in an appropriate forum is not a matter for law enforcement, and it is even more difficult to imagine what role federal law enforcement would play in such a scenario.

In the very next example, the NSBA letter cites to a Board of Education meeting in Gwinnett County, Georgia being disrupted.[12] In that situation, the supposed disruption appears to have been participants refusing to wear masks while protesting the school district's requirement that students wear masks in school.[13] This too does not appear to warrant criminal investigation, especially by the federal government. Rather, these actions look a lot like civil disobedience in protest of public policy, a tactic often embraced as virtuous by Democrats when it comes to policies they oppose. Not wearing a mask in a public place may or may not be a violation of a local law, but at most it is a petty offense wholly unworthy of the federal government's attention and the sort of civil disobedience many Democrats would embrace if the politics of wearing masks were reversed.

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[7] When this letter uses the word "violence," it refers to the ordinary understanding of the word, generally meaning a physical assault. It does not use the word "violence" to refer to an idea making a listener feel uncomfortable, which seems to be a trendy definition of "violence" as of late in academic circles.

[8] It is especially concerning that your memorandum does not discuss school board-based acts against parents, such as doxing them, perhaps in violation of the law. *See* Kelly Sadler, THE WASHINGTON TIMES, "Loudoun County teachers blacklist, dox parents critical of race teachings," March 17, 2021, at https://www.washingtontimes.com/news/2021/mar/17/loudoun-county-teachers-blacklist-dox-parents-crit/. Such a one-sided approach gives an appearance that the Department of Justice is muscle for teachers and education administrators, which are historically strong sources of support for the Democratic Party.

[9] NSBA letter at n.5.

[10] Ryan McKinnon, SARASOTA HERALD-TRIBUNE, "Sarasota school board may limit public input after some meetings get disorderly," Sept. 20, 2021, *at* https://www.heraldtribune.com/story/news/education/2021/09/20/sarasotaschool-board-may-limit-public-input-after-meetings-gone-wild/8417784002/.

[11] *Id*.

[12] NSBA letter at n.6.

[13] Alia Malik, THE ATLANTA JOURNAL-CONSTITUTION, "Anti-mask crowd disrupts Gwinnett school board meeting," May 21, 2021, at https://www.ajc.com/news/anti-mask-crowd-disrupts-gwinnett-school-boardmeeting/IYO7R6GHJ5DTLEFCQHER7V3GBA/.

The NSBA letter describes[14] a similar meeting in Clark County, Nevada in which participants exchanged allegations of who was a "Marxist" and who was a "racist."[15] According to a news report, that meeting appears to have been disrupted on different occasions, but local law enforcement also appears to have been capable of handling the disruptions.[16] Then the NSBA letter describes school board meetings in Michigan, one of which involved "the [school] board … call[ing] a recess because of opposition to critical race theory."[17] The article cited in the letter about this incident described the school board meeting being delayed to another day because "two board members were speaking to one another and the audience kept interrupting…. after multiple warnings to the public, [the school board president] announced that they would be going into recess and reconvene another day."[18] Again, this appears to be passionate civic engagement that local law enforcement can handle if it evolves into criminal action.

And at one point the NSBA letter states, "Other groups are posting watchlists against school boards and spreading misinformation that boards are adopting critical race theory curriculum and working to maintain online learning by haphazardly attributing it to COVID-19."[19] It supports this claim with a citation to a partisan Substack article titled, "TPUSA launches project targeting school member," which attacks the right-wing group Turning Point USA.[20] Law enforcement at every level must always remain neutral in the marketplace of ideas, and your office should make clear that federal law enforcement may never intervene in the marketplace of ideas.

The school board meetings at issue in the National School Boards Association letter largely appear to involve parents being frustrated by COVID-19 mask mandates for children as well as the possibility of school curricula newly incorporating the controversial academic discipline generally known as critical race theory. Parents who get upset about these topics, and others, are engaging in speech that is clearly protected under the First Amendment. We ask you to explain how any of this rises to the definition of criminal harassment. After a year of prolonged school closures, even well after it was clear that schools could safely reopen amidst COVID-19, parents are understandably asking questions and seeking accountability. Even if tempers flare at school board meetings because of these and other topics, that does not make the discussions of them any less protected under the First Amendment. As a former federal appellate judge, you are surely well aware that the legal threshold in the United States for what speech can be sanctioned because of its propensity for inciting lawless action is a high bar. In the seminal Supreme Court case *Brandenburg v. Ohio*, the Court ruled that speech could only be sanctioned for condoning illegal activity if that speech "is directed to inciting or producing imminent lawless action and is likely to incite or produce such action."[21] We seriously doubt the discourse at school board meetings across the country rises to this level.

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[14] NSBA letter at n.7.
[15] Julie Wootton-Greener, LAS VEGAS REVIEW-JOURNAL, "School board meeting turns contentious over COVID-19 policies," August 12, 2021, *at* https://www reviewjournal.com/local/education/school-board-meeting-turns-contentious-over-covid-19-policies-2418652/.
[16] *See id.*
[17] NSBA letter at 3.
[18] Kalie Marantette, WLNS.com, "Grand Ledge school board goes into recess due to public 'disruption,'" June 16, 2021, *at* https://www.wlns.com/news/grand-ledge-school-board-goes-into-recess-due-to-public-disruption/.
[19] NSBA letter at 5.
[20] Nick Surgery, Documented, "TPUSA launches project targeting school board members," August 20, 2021, *at* https://substack.documented net/p/tpusa-school-board-watchlist.
[21] *Brandenburg v. Ohio*, 395 U.S. 444 (1969).

Moreover, angry parents are not necessarily threatening parents, especially in the eyes of the law. In *Virginia v. Black*, the Supreme Court ruled in 2003 that only "true threats" were unprotected by the First Amendment, stating, "'True threats' encompass those statements where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals."[22] Parents who are angry at school board members, and even verbally attack them on a personal level, are not necessarily making true threats, and is not the job of law enforcement – and cannot be the job of law enforcement, especially the FBI – to make sure parents are nice to their elected officials. They are certainly not domestic terrorists who require the use of tools such as the PATRIOT Act and the expertise of the National Security Division.

Violence and true threats of violence should have no place in our civic discourse, but parents should absolutely be involved in public debates over what and how our public schools teach their children, even if those discussions get heated. When you were sworn in as the Attorney General, you took an oath to uphold our Constitution, and now your fundamental job is to protect the rights of all Americans. Perhaps the most basic and most important right every American has is the right to question our governments, from the heights of the Congress and the Presidency all the way down to the local school boards. That includes asking them some very tough questions and requesting changes to school policies. It is not appropriate to use the awesome powers of the federal government – including the PATRIOT Act, a statute designed to thwart international terrorism – to quash those who question local school boards. By even suggesting that possibility, important speech by American citizens will be chilled in school board meetings across this country. Your job now is to make clear to all stakeholders and the American people that such action is decidedly not the role of the federal government nor the role of any other government in the United States – in fact, it can never be.

If you have any questions, please contact John Schoenecker on Ranking Member Grassley's staff at (202) 224-5225.

Sincerely,

Charles E. Grassley
Ranking Member
Committee on the Judiciary

Lindsey O. Graham
United States Senator
Committee on the Judiciary

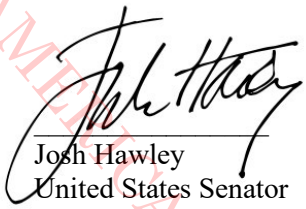
John Cornyn
United States Senator
Committee on the Judiciary

Michael S. Lee
United States Senator
Committee on the Judiciary

[22] *Virginia v. Black*, 538 U.S. 343, 359 (2003).

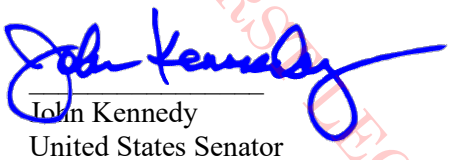
Ted Cruz
United States Senator
Committee on the Judiciary

Ben Sasse
United States Senator
Committee on the Judiciary



Josh Hawley
United States Senator
Committee on the Judiciary

Tom Cotton
United States Senator
Committee on the Judiciary



John Kennedy
United States Senator
Committee on the Judiciary

Thom Tillis
United States Senator
Committee on the Judiciary

Marsha Blackburn
United States Senator
Committee on the Judiciary

LISA C. McCLAIN
10TH DISTRICT, MICHIGAN

COMMITTEE ON ARMED SERVICES
COMMITTEE ON EDUCATION AND LABOR

ASSISTANT WHIP

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Congress of the United States
House of Representatives
Washington, DC 20515

October 7, 2021

The Honorable Merrick Garland
United States Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Garland,

Over the past several months, we have seen increased civic involvement and participation at local government forums, specifically at school board meetings. During the COVID-19 pandemic, parents are taking notice of what and how their children are being taught in the classroom, hot-button social issues being weaved into the curriculum, and what safety protocols their child is supposed to follow while attending school. While some of these meetings may get heated, most of the parents who have been attending these meetings have simply voiced their passions and concerns for their children and their futures.

While we agree with you that any threat of violence against these government officials should be condemned and investigated, no government official has the right to claim that a citizen may not peacefully speak out against government policies. Statements made by officials like former Governor Terry McAuliffe of Virginia, who publicly stated, "I don't think parents should be telling schools what they should teach,"[1] are utterly unacceptable. Government officials need to recognize that in our Constitutional republic, they are elected to represent the public. While they should never be subjected to threats, they are not above criticism or disagreement from the citizens who elected them. If we are to live in a free society, it is your job as Attorney General of the United States to defend the rights of all citizens.

Your October 4, 2021, memorandum to several directors across the Department of Justice informed them of your intention as the Attorney General to promulgate "a series of measures designed to address the rise in criminal conduct directed toward school personnel."[2] While we applaud your dedication to combatting criminal activity across the United States, we have grave concerns with your announcement. We are requesting answers to the following questions to provide clarity on your Department's intentions. Please respond no later than November 15th, 2021:

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[1] Bernstein, Brittany. "McAuliffe Argues Parents Shouldn't Have Control over Public School Curriculum." *National Review*, 29 Sept. 2021, https://www.nationalreview.com/news/mcauliffe-argues-parents-shouldnt-have-control-over-public-school-curriculum/.

[2] Garland, M. U.S. Department of Justice. (2021). *Justice Department Addresses Violent Threats Against School Officials and Teachers.*

1. What specific cases are you referencing in your memorandum that rise to the level of "criminal conduct?"
2. What criteria/behavior is the Department of Justice considering "criminal conduct?"
3. What federal statutes do you plan to cite in your prosecution of these parents?
4. Who will be conducting the investigation into these cases? Please provide details on the roles of the FBI, United States Attorneys, State and local law enforcement, and any other entities that will be involved.
5. Will you be looking into other cases of alleged intimidation of school board members who have attempted to end COVID-era policies?

As the top law enforcement officer in the United States, it is your responsibility to combat criminal behavior as well as defend the Constitutional rights of all Americans. We hope you will take these duties seriously and not stifle free speech while moving forward with your investigations.

Sincerely,

Lisa McClain
Member of Congress

Matthew Rosendale, Jr.
Member of Congress

David B. McKinley
Member of Congress

Rodney Davis
Member of Congress

Daniel Webster
Member of Congress

Vern Buchanan
Member of Congress

Ken Calvert
Member of Congress

Fred Keller
Member of Congress

W. Gregory Steube
Member of Congress

Ann Wagner
Member of Congress

David Rouzer
Member of Congress

Jeff Duncan
Member of Congress

Tom Emmer
Member of Congress

Bob Gibbs
Member of Congress

Nicole Malliotakis
Member of Congress

Brian Mast
Member of Congress

Glenn Grothman
Member of Congress

Jim Banks
Member of Congress

Pete Sessions
Member of Congress

Beth Van Duyne
Member of Congress

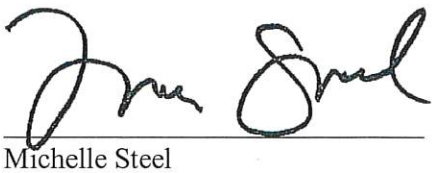
Andrew R. Garbarino
Member of Congress

Barry Moore
Member of Congress

Mike Bost
Member of Congress

Russ Fulcher
Member of Congress

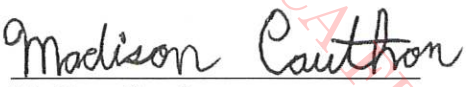
Earl L. "Buddy" Carter
Member of Congress



Michelle Steel
Member of Congress

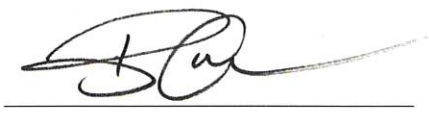
David G. Valadao
Member of Congress

Debbie Lesko
Member of Congress



Madison Cawthorn
Member of Congress

Ted Budd
Member of Congress



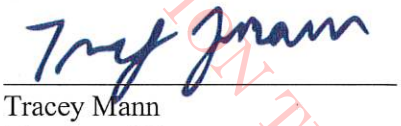
Burgess Owens
Member of Congress

Elise Stefanik
Member of Congress

Bill Posey
Member of Congress

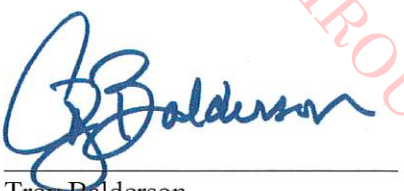
Jake Ellzey
Member of Congress

Van Taylor
Member of Congress

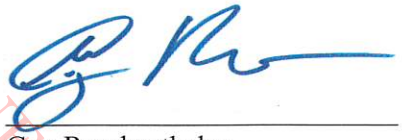


Tracey Mann
Member of Congress

Vicky Hartzler
Member of Congress

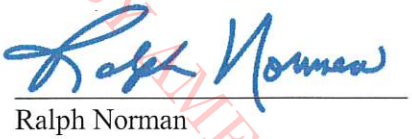


Troy Balderson
Member of Congress



Guy Reschenthaler
Member of Congress

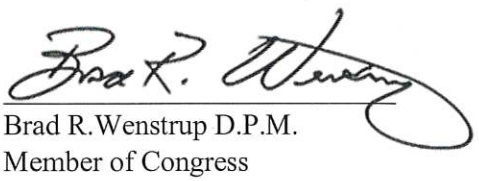
Jim Hagedorn
Member of Congress



Ralph Norman
Member of Congress

Mo Brooks
Member of Congress

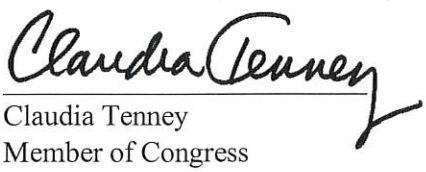
Kat Cammack
Member of Congress



Brad R.Wenstrup D.P.M.
Member of Congress

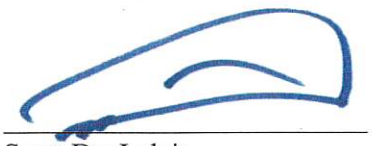
Doug Lamborn
Member of Congress

Andy Biggs
Member of Congress



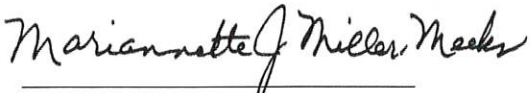
Claudia Tenney
Member of Congress

Jack Bergman
Member of Congress



Scott DesJarlais
Member of Congress

Roger Williams
Member of Congress



Mariannette J. Miller-Meeks, M.D.
Member of Congress

Bill Huizenga
Member of Congress

Ben Cline
Member of Congress

Warren Davidson
Member of Congress

Mary E. Miller
Member of Congress

Chris Stewart
Member of Congress

Randy Weber
Member of Congress

Glenn "GT" Thompson
Member of Congress

Michael Waltz
Member of Congress

Byron Donalds
Member of Congress

Pat Fallon
Member of Congress

Carlos A. Gimenez
Member of Congress

Mike Garcia
Member of Congress

Congress of the United States
Washington, DC 20515

October 7, 2021

The Honorable Merrick Garland
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Garland,

We are deeply concerned by your recent announcement that you intend to mobilize the Department of Justice (DOJ) to address the "threat of violence against school administrators."[1] Your decision comes after the National School Boards Association (NSBA) sent a letter to President Biden referring to parents' concerns regarding critical race theory in the classroom as "propaganda" and asserting that education leaders are being threatened by "domestic terrorism."[2]

The First Amendment protects the right of parents across the country to make their voices heard in opposition to school mask mandates and radical anti-American critical race theory. This is not "domestic terrorism," it is protected speech. Calling upon the Federal Bureau of Investigation (FBI) to investigate parents for conflicting views on controversial teachings and policies is a massive overreach of your role as the Attorney General. Under no circumstance should your Department spend time and resources on investigations meant to intimidate American parents into silence.

Freedom of speech is one of the pillars of our country's founding. The DOJ should never be weaponized to curb this most foundational freedom. Therefore – and without any information on true threats of federal concern – we request that you immediately rescind your directive and provide a briefing to Members of Congress by October 20, 2021 on why this decision to attack parents was made.

Sincerely,

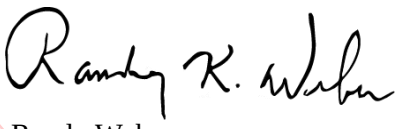
Chip Roy
Member of Congress

David B. McKinley
Member of Congress

Jeff Duncan
Member of Congress

Bob Good
Member of Congress

[1] https://www.justice.gov/ag/page/file/1438986/download
[2] https://nsba.org/-/media/NSBA/File/nsba-letter-to-president-biden-concerning-threats-to-public-schools-and-school-board-members-92921.pdf?utm_source=newsletter&utm_medium=email&utm_campaign=newsletter_axiosam&stream=top



Randy Weber
Member of Congress

Louie Gohmert
Member of Congress

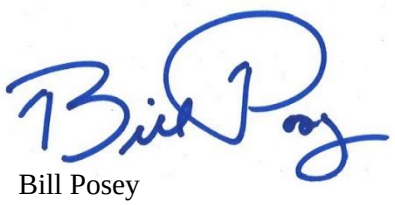
Mary E. Miller
Member of Congress

Ted Budd
Member of Congress

Vicky Hartzler
Member of Congress

Van Taylor
Member of Congress

Debbie Lesko
Member of Congress



Bill Posey
Member of Congress

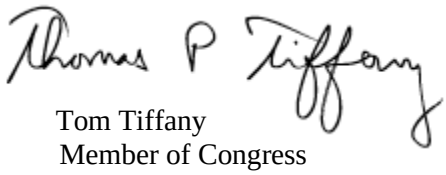
Mo Brooks
Member of Congress

Ralph Norman
Member of Congress

Barry Loudermilk
Member of Congress

Andy Harris M.D.
Member of Congress

Andy Biggs
Member of Congress



Tom Tiffany
Member of Congress

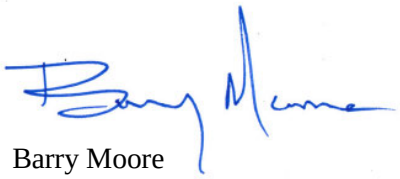
Brian Mast
Member of Congress

Lauren Boebert
Member of Congress

Matt Rosendale
Member of Congress

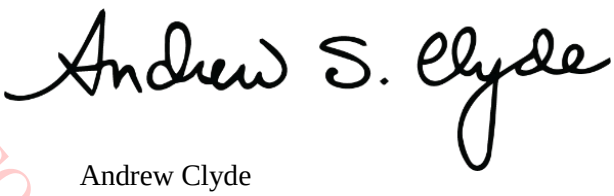
Tom McClintock
Member of Congress

Dan Bishop
Member of Congress



Barry Moore
Member of Congress

Scott Perry
Member of Congress



Andrew Clyde
Member of Congress

Marjorie Taylor Greene
Member of Congress

Jody Hice
Member of Congress

Jack Bergman
Member of Congress

Lance Gooden
Member of Congress

Brian Babin
Member of Congress

BEN SASSE
NEBRASKA

COMMITTEES:
FINANCE
INTELLIGENCE
JUDICIARY
BUDGET

United States Senate

WASHINGTON, DC 20510–2709

October 7, 2021

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

Dear Attorney General Garland,

I write to you about a recent memo you circulated through your department about "a disturbing spike" in threats against public-school officials.

There is no such thing as a good mob. Political violence is never justified in a constitutional system like ours, and credible threats should be taken seriously. The law exists to preserve public order, and criminals who endanger it ought to be prosecuted.

At the same time, not every gathering of citizens is a mob. I worry that heavy-handed rhetoric from federal law enforcement may have a chilling effect on legitimate civic debate about the policies and direction of local public schools. Education starts with the family, and parents have a right to a say in what their kids are taught. Parents voicing their concerns at public school board meetings are not domestic terrorists and, even if the current administration does not agree with them, the federal government has no authority to prosecute protected speech.

We should celebrate responsible parents who get involved in their children's education, not smear them as insurrectionists or criminals. But without further clarification, your memo is likely to be used as an excuse to do just that.

Threats to investigate Americans over political differences have no place in a free society. The Department of Justice exists in large part to defend the liberties we hold dear as Americans – and that job is bigger than any change between administrations. Especially now as a few loud voices attempt to set artificial boundaries on public debate, we need your department to make good on its commitment to protect the rights of all Americans.

In your confirmation hearings, you stated that "the role of the Attorney General is to serve the rule of law and to ensure equal justice under law." Confidence in politically-neutral law enforcement is essential to self-government. Without answering some fundamental questions, your memo threatens to undermine basic civic trust.

Accordingly, I request that you respond to the following questions within thirty days:

(1) How is the broad remit of your memorandum consistent with the First Amendment

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Lincoln, NE 68508
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OMAHA OFFICE
304 North 168th Circle, Suite 213
Omaha, NE 68118
(402) 550-8040

SCOTTSBLUFF OFFICE
115 Railway Street, Suite C102
Scottsbluff, NE 69361
(308) 632-6032

WASHINGTON DC OFFICE
139 Russell Senate Office Bldg.
Washington, DC 20510-2709
(202) 224-4224

protections described in Brandenburg v. Ohio, 395 U.S. 444 (1969), and reiterated in the Attorney General's Guidelines for Domestic FBI Operations (AGG-Dom.) Sec. I.C.3?

(2) How is the memorandum consistent with the FBI's Domestic Investigations and Operations Guide, which explains that "even heated rhetoric or offensive provocation that could conceivably lead to a violent response in the future is usually protected[,]" and that "advocat[ing] . . . taking unspecified 'action' against persons or entities" whom the advocate "views as the enemy" is not actionable if the advocacy lacks specificity and intent to incite imminent lawless action" (see DIOG (2016) 4.2.1)?

(3) What measures has the Department of Justice put in place to ensure that any activities taken as a result of this memorandum comply with AGG-Dom. Sec. I.C.3 and the DIOG Sec. 4.2.1?

(4) What oversight mechanisms have you put in place, and how do DOJ and FBI intend to exercise such oversight mechanisms in order to ensure that any activities taken in connection with the memorandum comply with all constitutional and other legal requirements?

(5) Has the Department issued any internal guidance specific to this initiative to ensure that all federal activities strictly adhere to the First Amendment?

- If so, please share this guidance with my office.

(6) Has the Department issued any internal guidance specific to this initiative to ensure that all federal activities strictly adhere to the bounds of federal jurisdiction?

- If so, please share this guidance with my office.

Every American parent should feel confident that, when they get involved with their kids' education, they won't get a knock on the door from a police officer, or wind up on a federal government watchlist, or become subject to a social-media mob. The Department of Justice should be helping to guarantee that constitutionally protected rights are safeguarded — not threatening, whether by design or ineptitude, to undermine them.

I look forward to a prompt response and continued discussion.

Sincerely,

Ben Sasse

Ben Sasse
United States Senator

From: Schwartz, Leah F. (OLA)
Subject: OLA incoming congressiona correspondence 10/7/2021
To: Good ander, Margaret V. (OAG); Co ange o, Matthew (OASG); Heinze man, Kate (OAG); Hyun, Peter (OASG); K apper, Matthew B. (OAG); Lewis, Megan (ODAG); Loeb, Emi y M. (ODAG)
Cc: Gaeta, Joseph (OLA); Greenfe d, He aine A. (OLA); Wo demariam, Wintta (OLA); Ca ce, Christina M. (OLA); Ante , Kira M. (OLA)
Sent: October 7, 2021 6:11 PM (UTC-04:00)
Attached: Roy.incoming. tr.10.7.2021.pdf, McC ain.incoming. tr.10.7.2021.pdf, Foxx.incoming. tr.10.7.2021.pdf, Sasse.incoming. tr.10.7.2021.pdf, Grass ey.incoming. tr.10.7.2021.pdf

Good evening

Please see below and attached.

1. Letter from Rep. Roy and 30 other MOCs to AG – expressing concerns about the DOJ's 10/4 memo addressing the threat of violence against school administrators.
2. Letter from Rep. McClain and 60 other MOCs to AG – expressing concerns about the DOJ's 10/4 memo addressing the threat of violence against school administrators. Requesting response to 5 related questions NLT 11/17/2021.
3. Letter from Rep. Foxx and 22 other MOCs to AG at Dept of Education – expressing concerns about the DOJ's 10/4 memo addressing the threat of violence against school administrators. Requesting a related briefing.
4. Letter from Sen. Sasse to AG – expressing concerns about the DOJ's 10/4 memo addressing the threat of violence against school administrators. Requesting response to 6 related questions within 30 days.
5. Letter from Sen. Grassley and SJC Republicans to AG – expressing concerns about the DOJ's 10/4 memo addressing the threat of violence against school administrators.

From: Lewis, Megan (ODAG)
Subject: DAG Book: incoming congressiona correspondence 10/5 and 10/6
To: Suero, Maya A. (ODAG)
Cc: Lin, Frank (ODAG); Singh, Anita M. (ODAG); Loeb, Emi y M. (ODAG)
Sent: October 7, 2021 8:58 AM (UTC-04:00)
Attached: Scoped Out per Agreement , Buck.incoming. tr.10.5.2021.pdf, Haw ey.incoming. tr.10.5.2021.pdf, Scoped Out per Agreement Scoped Out per Agreement

Maya, p ease print be ow and attached for awareness; no immediate action item.

Scoped Out per Agreement

2. Letter from Rep. Buck to AG – expressing grave concern regarding recent decision to mobilize federal law enforcement resources to monitor local school board meetings. Requesting DOJ reverse course.
3. Letter from Sen. Hawley to AG – expressing alarm at DOJ's 8/4 memo to FBI and US Attys regarding threats to school board meetings. Requesting responses to two related questions NLT 10/15/2021.

Scoped Out per Agreement

KEN BUCK
4TH DISTRICT OF COLORADO

2455 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-4676
FAX: (202) 225-5870

DISTRICT OFFICE:
900 CASTLETON RD. SUITE 112
CASTLE ROCK, CO 80109
PHONE: (720) 639-9165
FAX: (720) 639-9134

5626 19TH STREET, SUITE A
GREELEY, CO 80634
PHONE: (970) 702-2136
FAX: (970) 702-2951

Congress of the United States
House of Representatives
Washington, DC 20515-0605

HOUSE JUDICIARY COMMITTEE
SUBCOMMITTEE ON IMMIGRATION AND CITIZENSHIP
SUBCOMMITTEE ON ANTITRUST, COMMERCIAL AND ADMINISTRATIVE LAW - RANKING MEMBER

HOUSE FOREIGN AFFAIRS COMMITTEE
SUBCOMMITTEE ON ASIA, THE PACIFIC, AND NONPROLIFERATION

October 5, 2021

The Honorable Merrick Garland
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

Dear Attorney General Garland,

I write to express my grave concern regarding your recent decision to mobilize federal law enforcement resources to monitor local school board meetings. More engagement from parents who are concerned about what their children are being taught does not give rise to a federal crime. In fact, there appears to be no federal nexus sufficient to justify the directives outlined in your October 4th memorandum and your decision to direct federal law enforcement resources to confront parents who oppose the views of the Biden Administration and its socialist agenda. Your memorandum is a politically motivated abuse of power and displays a lack of reasoned, sound judgment.

School boards are responsible for the education and wellbeing of the next generation of leaders. Across the country, parents are exercising their First Amendment right to petition their government and voice their frustrations with their local elected leaders. There are innumerable examples from the past 18 months of school board members imposing their personal beliefs at the expense of children and families. For example, school boards have failed to follow the science when it comes to COVID-19, leading to a wide-spread and tragic mental and physical health crisis among our youth. The Centers for Disease Control (CDC) found that, from April to October 2020, hospitals across the U.S. saw a 24% increase in the proportion of mental health emergency visits for children ages 5 to 11, and a 31% increase for children ages 12 to 17.[1] The University of California, Irvine found that the proportion of suspected child abuse cases that needed medical intervention rose from 10% to 17% during the pandemic.[2] And the CDC found a 3% increase in child obesity between August 2020 and August 2021, with the rate of obesity increasing most dramatically in kids ages 6 to 11.[3]

Additionally, many school board members have shown that they believe they are unaccountable to the electorate regarding their curriculum choices. Parents have a constitutionally protected right to assemble and to petition their government. That includes local school boards. There has been furious debate surrounding critical race theory and other highly controversial curriculum choices by these boards. Parents deserve a say when it comes to the education of their children yet school boards around the country have been ignoring their input, leading to increased anger and frustration.

---

[1] https://www.npr.org/sections/health-shots/2021/01/18/953581851/ive-tried-everything-pandemic-has-cut-options-for-kids-with-mental-illness

[2] https://www.edweek.org/leadership/child-abuse-cases-got-more-severe-during-covid-19-could-teachers-have-prevented-it/2021/06

[3] https://apnews.com/article/coronavirus-pandemic-childhood-obesity-ef3d426b5580b72f76eb1207be1af24b

In their letter to President Biden dated September 29, the National School Board Association (NSBA) characterized this anger as "equivalent to a form of domestic terrorism and hate crimes," and requested assistance from the FBI National Security Branch and Counterterrorism Division.[4] To compare frustrated parents to domestic terrorists or perpetrators of hate crimes is beyond absurd and should be dismissed by any rational adult. The NSBA was also unable to mention any specific credible threat or example that would support its outlandish statement. The isolated incidents of violence were handled by local authorities without the need of federal intervention. If the Federal Bureau of Investigation doesn't have more pressing concerns than local debates over vaccine mandates and school curriculum, Congress should scrutinize its budget for waste.

You are the Nation's top law enforcement office. Instead of using the incredible resources at your disposal to take on the violent crime surge that is plaguing our cities or to go after the drug cartels pushing poison into every community across our country, you are choosing to spend the law enforcement resources Congress has given you to go after parents who are nonviolently exercising their Constitutional rights. By drawing a moral equivalence between concerned parents and domestic terrorists, whose ranks include Timothy McVeigh and Ted Kaczynski, you are making a mockery of the Department of Justice and the FBI.

Therefore, I respectfully urge you to reverse course and allow state and local law enforcement to do their job. Using federal law enforcement resources to silence debate and intimidate parents who simply want the best for their children is unjust and an abuse of the powers you have been entrusted with.

Sincerely,

Ken Buck

Ken Buck
Member of Congress

[4] https://nsba.org/-/media/NSBA/File/nsba-letter-to-president-biden-concerning-threats-to-public-schools-and-school-board-members-92921.pdf

JOSH HAWLEY
MISSOURI

115 RUSSELL SENATE OFFICE BUILDING
TELEPHONE: (202) 224-6154
FAX: (202) 228-0526

WWW.HAWLEY.SENATE.GOV

United States Senate
WASHINGTON, DC 20510–2509

COMMITTEES
JUDICIARY
ARMED SERVICES
HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS
SMALL BUSINESS
AND ENTREPRENEURSHIP

October 5, 2021

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

Dear Attorney General Garland:

In your responses to my questions for the record following your confirmation hearing, you said, "I have spent my whole professional life looking up to Ed Levi and the other post-Watergate Attorneys General who stood up on behalf of the Department against impermissible pressure and influence. If I am confirmed as Attorney General, I intend to do the same."

The memorandum you released yesterday, however, appears to be an alarming departure from what you professed earlier this year. All around the country, Americans are speaking out against the radical racist ideology sometimes called "critical race theory." Far-left ideologues have been pushing this ideology—a direct rejection of Dr. Martin Luther King, Jr.'s principle that individuals should be judged by the content of their character, not the color of their skin. Americans have responded to this radical ideology by winning elections for local school boards and protesting peacefully at school board meetings. Yet your memo yesterday to the FBI and local U.S. Attorneys ignored all of this and warned of an insurgence of "threats of violence" and "efforts to intimidate individuals based on their views."

I certainly share your view that threats of violence have no place in this country, but the backdrop of your memo strongly suggests that your concern is not violence, but democratic pushback against critical race theory. For example, your announcement arrives immediately after the Biden administration received a letter from the National School Boards Association, which laid out a litany of complaints against the widespread criticisms of local school boards that are being leveled by concerned parents.[1] The letter denounced as "propaganda" the criticism that schools are pushing critical race theory into classrooms. It further asserted, without explanation, that "extremist hate organizations"

[1] https://nypost.com/2021/10/05/merrick-garland-calls-in-fbi-to-counter-threats-against-school-staffers/

are "showing up at school board meetings" and "spreading misinformation that boards are adopting critical race theory curriculum."[2] The NSBA's letter is pure gaslighting.

Your announcement, just days after the NSBA's letter, is alarming. There is no place for the federal government to interfere with regular democratic activity. You have provided no evidence of actual, genuine threats of violence. It instead appears that you have decided to use federal resources to help interest groups like the NSBA tar proponents of King's vision as enemies of the republic.

As crime rates surge across the nation, your Department has more than enough to occupy its attention.[3] That should be your focus. Across the nation, millions of Americans are simply trying to ensure that their children aren't taught to reject their nation's commitment to equal treatment under the law. That is a valuable cause. I wish the Biden administration, and your Department, agreed.

Please provide my office with responses to the following questions no later than October 15, 2021:

- What stakeholders were consulted in preparation for issuing your October 4, 2021 memorandum entitled "Partnership Among Federal, State, Local, Tribal, and Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff"?

- Please provide my office with copies of all materials the Department or its subsidiary agencies intends to circulate among the "federal, state, local, Tribal and territorial leaders."

I await the Department's response.

Sincerely,

Josh Hawley
United States Senator

[2] https://nsba.org/-/media/NSBA/File/nsba-letter-to-president-biden-concerning-threats-to-public-schools-and-school-board-members-92921.pdf
[3] https://www.washingtonpost.com/outlook/we-dont-know-why-violent-crime-is-up-but-we-know-theres-more-than-one-cause/2021/07/09/467dd25c-df9a-11eb-ae31-6b7c5c34f0d6_story html

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Senate Judiciary Committee Holds Hearing on Justice Department Oversight

LIST OF PANEL MEMBERS AND WITNESSES

DICK DURBIN

Good morning. This hearing will come to order. We've had three oversight hearings this year in the Senate Judiciary Committee, including the committee's first FBI oversight since 2019, and next month, first Department of Homeland Security oversight hearing since January 2018. Today, we're holding the first Department of Justice oversight hearing since October 18, 2017. That was the only time during the four-year Trump administration this committee held an agency-wide Department of Justice oversight hearing.

Annual oversight hearings were the norm under the Obama administration, I'm pleased to restore this tradition. I thank Attorney General Garland for appearing today. You were confirmed by the Senate in March on a bipartisan basis and took the helm of the Justice Department at a precarious moment.

DICK DURBIN

Under Attorney General Barr and his predecessors, the department often played the role of President Trump's personal law firm. Time and again, Trump appointees overrode the professional judgment of the department's nonpartisan career attorneys to advance the president's agenda. Their efforts took a dark and dangerous turn in the waning months of the Trump term when DOJ political appointees aided President Trump's big lie efforts to challenge the integrity of our election.

First, Attorney General Barr cast aside decades-old policy designed to prevent the department from impacting elections. He directed US attorneys and the FBI to investigate the election fraud claims of, nonetheless, Rudy Giuliani after these claims had been summarily discredited and disproven by countless state election officials and borrow repeatedly publicly and baselessly claim that mail voting would be rampant to fraud, a charge he himself rejected when the votes were actually counted.

After he lost the 2020 election President Trump found another Justice Department ally in Jeffrey Clark, a mid level political appointee who became the president's big lie lawyer. Clark pushed the Department of Justice leaders to overturn the election. And when they refused, he plotted with President Trump to replace them.

Trump and Clark brought the department to the brink and were thwarted only after the threat of mass resignations across the Department of Justice. I commend those Department of Justice attorneys, many of whom were Trump appointees who, at that critical moment in history, resisted President Trump and his plot to attack our democracy.

The events this committee described in a recent Subverting Justice report were among the most brazen examples of President Trump attempting to bend the Department of Justice to his will and his agenda, but they were the natural culmination of four years' attack -- four years of attacks on the Department of Justice.

There is a straight line from these events to the violent insurrection in the Capitol Building on January 6. When Trump and his allies could not prevail in court and lost case after case after case claiming voter fraud, they took their big lie to the Justice Department. And when they didn't prevail there, they dispatched an angry mob to storm the Capitol to stop us from counting the electoral votes.

I commend the many agents and prosecutors who are working day in and day out to bring these violent insurrectionists to justice. I hope the department will be just as steadfast in pursuit of those who encouraged and incited the attack and those who would prevent the American people and their representatives from uncovering the truth.

I am sorry that the Republican Senate leader refused to join the bipartisan commission that was proposed to investigate the January 6 insurrection attack. I look forward to hearing from the attorney general this morning about the work that is underway to combat the growing threat of domestic violent extremism.

The department cooperated with our committee's investigation into the Jeffrey Clark scheme, and it deserves credit for doing so. Over the course of several months, the department provided documents, authorized testimony, and resolved executive privilege issues, enables -- enabling us to uncover, on a bipartisan basis, I might add, just how close we came to a full-blown constitutional crisis.

Attorney General Garland, when you appeared before us in February, you acknowledged "great respect for, belief in the oversight role of the committee", and you committed your department to "be as responsible as" pardon me, "as responsive as we possibly can to comply with information request". I commend you for the steps you've taken, but I believe I speak for all of my colleagues in saying there is still room for improvement when it comes to department responses, and the department must deliver on its mission to ensure fair and impartial justice.

Let me give you an example. In the closing days of the Trump administration, the department's Office of Legal Counsel issued a memo wrongly declaring, in my estimation, that federal inmates released to home confinement under the bipartisan CARES Act must return to the Federal Bureau of Prisons' custody following the COVID-19 emergency.

In fact, the CARES Act includes no such requirement. These nonviolent inmates are already home and are overwhelmingly reintegrating into community with success. On April 23, I sent you a letter, joined by Senator Booker, urging you to rescind this memo. Six months later, six months later, we still have not received a response.

Another example. In November of 2020, the Trump administration published a rule discouraging inmates from completing programs under the First Step Act to reduce their chances of re-offending. This was a major measure that was undertaken, the First Step Act, by combining a prison reform measure that was co-sponsored by Senator Cornyn and Senator Whitehouse, with a sentencing measure co-sponsored by Senator Grassley and myself and signed into law by the president.

Now, Senator Grassley and I sent you a letter on May 5, urging the department to reject the proposed rule and instead enact a rule consistent with the goal of the First Step Act of reducing recidivism. It's been five months. In fact, more than 5 months. We still haven't received a response. The First Step Act allowed the Bureau of Prisons to grant compassionate release in extraordinary and compelling circumstances, such as a once in a century global pandemic.

Under the Trump administration, listen to these numbers, the Bureau of Prisons denied all but 36, 36 of 31,000, 31,000 compassionate release petitions filed during the pandemic. In the first six months of the Biden administration, the Bureau of Prisons approved just nine compassionate release requests. This is extraordinary when the infection rate in the Bureau of Prisons was six to seven times the national infection rate and the death rate equally appalling.

When compassionate release requests were received, 31,000 of them, only 36 were allowed. Meanwhile, the pandemic has been devastating in our Bureau of Prison facilities. Two hundred and sixty five inmates have died, including six within the last few weeks. The death of a 42 year old man in August came after the Department of Justice denied his compassionate release request.

Republicans and Democrats worked together to pass the First Step Act to make our justice system fairer and our community safer. These reforms are only as good as their implementation. Attorney General Garland, as you come before this committee, the right to vote and have the votes of every American counted is under attack like no time in decades.

This year alone, state legislators have introduced more than 425 bills, making it more difficult for Americans to vote, particularly people of color. Nineteen states have enacted 33 of these laws. Some of these laws set new limits on voting by mail. Others cut hours for polling locations. All of them, all of them, are designed to achieve the same outcome: make it more difficult to vote.

At the same time, big lie proponents are pushing new laws to give partisan state legislators the ability to overturn election results they don't agree with. They are ousting local election officials who faithfully apply the law and oversaw an election that Trump's own Department of Homeland Security called the most secure in American history.

And their efforts coincide with an unprecedented increase in violent threats toward state and local election officials. I'd like to add at this point about these violent threats. It is rife across America. Those of us who are airline passengers know what the flight attendants are facing with, thousands of confrontations, even violent confrontations, over wearing masks on aircraft.

I've sent a letter to you, joined by others, saying this has to be taken seriously. These assaults in the name -- so-called name of liberty are unacceptable. And your October 4 memo relative to schools and school board officials and their own peril at this point, I think, should be mentioned. I have heard statements from members of this committee, which I think are really inconsistent with reality.

Those who think the insurrectionists' mob of January 6 was merely a group of tourists visiting the Capitol ignore the pillaging, the deaths, and the serious injuries to over 100 law enforcement officials. And those who argue that school board meetings across America are not more dangerous and more violent than in the past are ignoring reality.

I went on and just typed in this morning school board violence on one of the search engines, page after page is coming up. In my state of Illinois, Mendon, Illinois, is a small rural town in Adams County, the western part of our state that I have represented for almost 40 years. It is a quiet, solid community, and yet they had their own instance at a school board meeting where an individual had to be arrested because he had threatened violence against the school board members over masks in schools, for example.

The story is repeated over and over again. The state of Minnesota, Senator Klobuchar knows the story well, the state of Idaho, we are seeing violence at these school board meetings at an unprecedented number.

DICK DURBIN:

I don't believe -- I think you made it clear that -- and you don't believe that we should infringe on free speech, But free speech does not involve threats and violence. Period. And we ought to join with local law enforcement officials to protect the school board members who are being intimidated in this way. I want to close by mentioning an issue I said to you personally. I'm honored to represent the city which you grew up in and which I now visit with great frequency, obviously.

And that's the city of Chicago. The gun violence situation there is intolerable. Intolerable. And we're not the only city in America, by any means, that's facing this. We need to have your assurance that there is a concerted, determined effort to deal with gun violence at the federal level, coordinating our effort with the state and local officials.

With that in mind, I hope we can reach some agreement to do so very quickly. And let me hand it off now to the ranking member, Senator Grassley.

CHUCK GRASSLEY

Thank you, Chairman Durbin. This committee has a constitutional obligation to ensure that the department complies with the laws that we write and execute those laws according to our intent. In the performance of our constitutional duty, we write letters seeking answers and records from the department and its component agencies to better understand what they're doing.

Likewise, the entire executive branch, not just DOJ, has an obligation to respond to Congressional oversight requests. Today, I can say with confidence that under General Garland's leadership, the department has failed across the board to comply with this committee's Republican oversight request. And I appreciate very much Chairman Durbin pointing out a letter that he and I wrote five months haven't received an answer.

If my name being on that letter has any reason it hasn't been responded to, I'll take my name off of that letter. In contrast, Governor -- or General Garland, you've provided Democrat colleagues with thousands of pages of materials. Moreover, President Biden has politicized and inserted himself into the department policymaking, notably direct -- notably directing the end of compulsory process for reporter records in criminal-leaked investigations.

And most recently, inserting himself when he said the department should prosecute anyone who defies compulsory process from the January 6 committee. At your confirmation hearing, I read to you what I told Senator Sessions at his confirmation hearing for being attorney general this, "If Senator Feinstein, who then was a ranking member, if Senator Feinstein contacts you, do not use this excuse as so many people use.

That if you are not a chair of our committee, you do not have to answer the questions. I want her questions answered just like you would answer my questions." that I gave to Senator Sessions. So, you said to me at your hearing, "I will not use any excuse to not answer your questions, Senator." You have failed to satisfy that statement.

Example, I've asked the department for records relating to Hunter Biden's October 2018 firearm incident, where his gun ended up in a trash can near a school. Now, that's a firearm incident. Your ATF use of Federal Freedom of Information Act to refuse producing those records when that law doesn't even apply to the Congress.

I've also asked for information relating to Chinese nationals linked to the communist Chinese regime that are connected to the Biden family. One individual, Patrick Hall, was not just linked to Chinese regime, he was apparently connected to that country's intelligence service. Hunter Biden reportedly represented him for $1 million.

Now, even though the department already made public in court filings that DOJ possesses FISA information relating to Patrick Hall. In response, you stated, "Unfortunately, under the circumstances described in your letter, we are not in a position to confirm the existence of the information that is

sought if it exists in the department's possession." Well, let me emphasize what you already made public in a court filing.

So, you're telling me you can't even confirm its existence. Now, with respect to the criminal investigation of Hunter Biden, Senator Johnson and I wrote to you twice this year regarding a person named Nicholas McQuaid. Mr. McQuaid was employed at a law firm until January 20, 2021, when he was hired to be then acting assistant attorney general for the department's criminal division.

Before he was hired, he worked with Christopher Clark, who Hunter Biden reportedly hired to work on his federal criminal case a month before President Biden's inauguration. Now, the department hasn't disputed any of these facts. However, you refused to confirm whether Mr. McQuaid recused from the Hunter Biden case.

That seems to be a pretty simple thing to say one way or the other. The son of the president of the United States is under criminal investigation for financial matters. A senior attorney under your command has apparent conflicts with that matter. Your refusal to answer just straightforward questions cast a very public cloud over the entire investigation, a cloud that you should easily do away with if you just -- were just a little bit transparent

When I placed holds on your nominees for the department's failure to comply with Republican oversight requests, I said either you run the Department of Justice or the department runs you. Right now, it looks like the Department of Justice is running you. Since your confirmation, in less than a year, the department has moved as far left as it can go. You've politicized the department in ways it shouldn't be. Case in point, your infamous school board memo.

You publicly issued this memo merely five days after the National School Board Association wrote a letter to President Biden. Now, incredibly, they asked the department to use the anti-terrorist Patriot Act against parents speaking their minds to local school officials. The School Board Association has since apologized for that letter but not before the department relied on their letter to mobilize federal law enforcement in state and local matters.

Meanwhile, actual violent crime is on the rise in the country. Your memo treats parents speaking freely to be worthy of the department's heavy investigative and prosecutorial hand. You've created a task force -- now, a task force that includes the department's criminal division and National Security Division to potentially weaponize against parents.

Your memo also creates a special training and guidance for local school boards and school administrators to recognize threats against them. According to your memo, these threats including include an undefined category of "other forms of intimidation and harassment." So, now, the last thing the Justice Department and FBI need is a very vague memo to unleash their power, especially when they've shown zero interest in holding their own accountable.

I don't -- when you don't hold your own accountable. Let's not forget about the Obama-Biden administration FISA abuse during Crossfire Hurricane, abuses at the department of the FBI for years denied even to be possible. And then you allowed a disgraced former FBI official off the hook, paying him hundreds of thousands of dollars in taxpayers' money when the inspector general determined that he lied to investigators seven times.

Yes, seven times, over the course of three different occasions.

CHUCK GRASSLEY

Or the FBI and the department's total failure to protect hundreds of kids from abused by Larry Nassar and then cover it up. When we had a bipartisan hearing to learn about those courageous survivors, your deputy attorney general didn't even show up. So, getting back to the National School Board Association matter, these parents are trying to protect their children.

They're worried about divisive and harmful curricula based upon critical race theory. They're speaking their minds about mask mandates. This is the very core of constitutionally protected speech. And free speech is deadly to the tyranny of government and is the lifeblood of our constitutional republic. To say your policies are outside of the mainstream would be an understatement.

Mothers and fathers have a vested interest in how schools educate their children. They are not as the Biden Justice Department apparently believes them to be: national security threats. What is a national security threat? It's things like MS 13. What is a national security threat? It's like our open southern borders.

What is a national security threat? Is the federal government failing to adequately vet individuals from Afghanistan? I suggest that you quickly change your course because you're losing credibility with the American people and with this Senator in particular. Thank you.

DICK DURBIN

Thanks, Senator Grassley. We now turn to the attorney general for his testimony. First, welcome Honorable Merrick Garland to testify before the Senate Judiciary Committee for the information of the members. The mechanics such as after I swear in, Attorney General Garland, he will make his opening statement.

Then we'll go to a round of questions. Each Senator will have seven minutes. I'm going to try to hold folks close to that number so everybody can be accommodated. If there is a request, we may have a second round of questions, three minutes per Senator. Attorney General Garland, would you please stand to be sworn in? Do you swear or affirm the testimony you're about to give before the committee will be the truth, the whole truth, and nothing but the truth, so help you God?

MERRICK GARLAND

I do.

DICK DURBIN:

Thank you. Let the record reflect that the attorney general answered in the affirmative. Now, please proceed with your opening statement.

MERRICK GARLAND:

Good morning, Chairman Durbin, Ranking Member Grassley, and distinguished members of this committee. Thank you for the opportunity to appear before you today. In my address to all Justice Department employees on my first day in office, I spoke about three 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 are what define who we are as public servants.

Over the last seven months that I have served as attorney general, the department has reaffirmed, and where appropriate, updated and strengthened its policies that are foundational or 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 influences. We also issued a new policy to better protect the freedom and independence of the press by restricting the use of compulsory process to obtain information from our records of members of the news media.

The second core 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, the essential hubs for international and domestic counterterrorism cooperation across all levels of government nationwide.

Our 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 cyber threats 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 gun 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 opioid overdose epidemic.

Opioids, including illicit fentanyl caused nearly 70,000 fatal overdoses in 2020. We will continue to use all of our resources to save lives. Finally, keeping our country safe requires protecting its democratic institutions, including the one we sit in today from violent attack. As this committee is well aware, the department is currently engaged in one of the most sweeping investigations in its history in connection with the January 6 attack on the Capitol.

The department's third priority is protecting civil rights. This was a founding purpose when the 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. We have stepped up our support for the community relations service.

We are also revitalizing and expanding our work to ensure equal access to justice. In addition to these core priorities, another important area of department focus is ensuring economic opportunity and fairness by reinvigorating antitrust enforcement, combating fraud and protecting consumers. We are aggressively enforcing the antitrust laws by challenging anti-competitive mergers and exclusionary practices.

In FY '22, we are seeking a substantial increase in funds for the division. We likewise set up a COVID-19 Fraud Enforcement Task Force to bring to justice those who defraud the government of federal dollars meant for the most vulnerable among us. And some -- 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 this morning. I look forward to your questions.

DICK DURBIN:
Thank you, Mr. Attorney General. Hardly a day goes by in the city of Chicago that someone isn't killed with a firearm. The cases are heartbreaking. Little boys and girls coming and standing on their porches and going to school. And on August 7th, the Chicago police officer, Ella French, and her partner officer, Carlos Yanez, were conducting a routine traffic stop in the city.

The person in the car opened fire. Officer French, age 29, was murdered, and Officer Yanez was severely wounded. I never saw such an outpouring of emotions in the city. I went down to read a high school on the south side near Beverly, where they had the memorial service. There were hundreds, if not thousands, of women and men in uniform and just ordinary citizens standing waiting for their turn to pay tribute to Ella French for what she had done for our city.

Two days later, we found out from the US Attorney's office that the gun used to murder her was obtained from Indiana through a straw purchase. That's when a person who can clear a background check, buys a gun in a federally licensed gun dealer and gives it to someone who cannot clear it. What are we going to do about this?

What is going to be done at the federal level to show that we're taking this seriously? Ours isn't the only city that is facing this challenge and we've got to act and act soon.

MERRICK GARLAND:
Mr. Chairman, I am as concerned as you are, and as I'm sure all members of this committee are, about the rise of violent crime all across the country. I was in Chicago, as you know, almost the exact time that the officer that you speak of was killed.

MERRICK GARLAND:
I have gone to meet with the families of ATF agents who was Killed on duty, and I have stood on the mall with a candlelight vigil for many other police officers who were killed in the line of duty. The Justice Department is doing everything possible with respect to violent crime. In May of this year, I launched a violent crime initiative, which brings together all of our law enforcement on the federal level to meet with, to coordinate with, to cooperate with state, local, tribal, territorial law enforcement to fight this issue.

Our federal agencies, DEA, ATF, marshals, and the FBI are all deeply involved in this. Our programs, Project Safe Neighborhoods, continue in all of these ways, and we're looking for large amounts of money to provide in grants to police departments, specifically with respect to the gun trafficking that you're speaking about.

As you know, Chicago is one of the task force cities that we've announced for purposes of tracing this gun trafficking problem. And we are doing so and finding the straw purchasers and arresting them as well. I could not agree more that this is a serious, serious problem that needs the attention of the entire country's law enforcement, and the Justice Department is very much involved in the fight.

DICK DURBIN:

I'm going to be meeting with those federal law enforcement agencies to talk about the strike force and what they're doing, how they're cooperating with state and local law enforcement. I hope to do it maybe even this week on a private basis and then see what more I can do. I think we all have a responsibility when it comes to this issue.

Let me ask you about the home confinement issue. We all know, under the CARES Act, there was an allowance for that possibility. And we know that since March of last year, more than 33,000 inmates have been released to home confinement, including those released under the CARES Act's expanded authority. Less than one percent of those inmates have been returned to BOP facilities for any rule violation.

Do you agree that recalling the thousands of individuals who've successfully transitioned back into society would be contrary to the purpose of home confinement, which is to allow an individual "a reasonable opportunity to adjust to and prepare for reentry of that prisoner in the community?"

MERRICK GARLAND:
Senator, I very much agree that the home confinement program has proven successful, that it both relieved the pressure on the prisons with respect to COVID-19 pandemic, but also gave people an opportunity to adjust themselves to their communities. And you are right that we have seen very few violations of the conditions.

So, I'm very strongly in favor of being able to continue this program.

DICK DURBIN:
Well, I'm hoping that we can get a definitive reversal of the OLC opinion that was dropped on the desk as President Trump left office and make it very clear what will happen if and when, and I pray that soon, the COVID-19 emergency is lifted. I'd like to move to another topic, which has already been addressed by myself and Senator Grassley.

I really invite the members of this committee. If you don't believe me, type school board violence into your computer and take a look at what's happening. It's happening all across the country. In my state, as I mentioned, a 30-year-old man arrested and charged with battery, disorderly conduct after striking a school board member at a meeting.

California, father yelling profanities at an elementary school principal. His daughter calmed him down. He later returned to confront the principal and struck a teacher in the face who attempted to intervene. Ohio, a school board member sent a threatening letter saying, "We're coming after you." And after the board member posted a letter on Facebook, the president of the board of education for a nearby district reported his board had received similar threats.

Pennsylvania, a person posted threats on social media, which required the police to station outside each of that district school. Local law enforcement is investigating the person who made the threats and will maintain a police presence at schools and school board meetings for the foreseeable future. In Texas, a parent physically assaulting a teacher, ripping off her mask.

And it goes on and on and on. These are not routine people, incensed or angry. These are people who are acting out their feelings in a violent manner over and over again. The same people we see on airplanes and other places. Same people, some of whom we saw here on January 6. So, when you responded as quickly as you did to that school board request, did you have second thoughts after they sent a follow-up letter saying they didn't agree with their original premise in their first letter?

MERRICK GARLAND:
Senator, I think all of us have seen these reports of violence and threats of violence. That is what the Justice Department is concerned about. It's not only in the context of violence and threats of violence against school board members, school personnel, teachers, staff. It's in a rising tide of threats of violence against judges, against prosecutors, against secretaries of state, against election administrators, against doctors, against protesters, against news reporters.

That's the reason that we responded as quickly as we did when we got a letter indicating that there were threats of violence and violence with respect to school officials and school staff. That's the reason. That's what we are concerned about. That's part of our core responsibility. The letter that we -- that was subsequently sent does not change the association's concern about violence or threats of violence.

It alters some of the language in the letter, language in the letter that we did not rely on and is not contained in my own memorandum. The only thing the Justice Department is concerned about is violence and threats of violence.

DICK DURBIN

Senator Grassley?

CHUCK GRASSLEY:

Yeah, before I ask my question, I'd like a permission to introduce in the hearing record a letter from the Iowa Association of School Boards disagreeing with the National School Boards Association request for intervention from federal agencies and law enforcement and other concerns that they have.

DICK DURBIN:

Without objection.

CHUCK GRASSLEY:

General Garland, regarding your October 4th school board memo, last week, you said the memo was for law enforcement audience despite it being on your public website as a press release. As a result of your memo, local school officials and parents may not speak up in these meetings out of fear that the federal government will do something to them.

So, that's a poisonous chilling effect. Apparently, that letter wasn't actually supported by organization but was sent by two unauthorized staff. So, last week, the organization disavowed it, sent you on the White House based to your memo on this de legitimized letter. I assume you're going to revoke your extremely divisive memo that you said was instigated because of that letter?

That's a question.

MERRICK GARLAND:

Senator, the memo, which referred to as one page. It responds to concerns about violence, threats of violence, other criminal conduct. That's all it's about. And all it asks is for federal law enforcement to consult with, meet with local law enforcement to assess the circumstances, to strategize about what may or may not be necessary, to provide federal assistance if it is necessary.

CHUCK GRASSLEY:

Presumably, you wrote the memo because of the letter. The letter is disavowed now. So, you're going to keep your memo going anyway, right? Is that what you're telling me?

MERRICK GARLAND:

Senator, I have the letter from NSBA that you're referring to. It apologizes for language in the letter, but it continues its concern about the safety of school officials and school staff. The language in the letter that they disavow is language was never included in my memo and never would have been. I did not adopt every concern that they had in their letter.

I adopted only the concern about violence and threats of violence, and that hasn't changed.

CHUCK GRASSLEY:

Who in the Justice Department was responsible for drafting your polarizing October 4 memo?

MERRICK GARLAND

I signed the memo, and I worked on the memo.

CHUCK GRASSLEY:

The press release accompanying your memo mentions that the National Security Division will get involved in school board investigations. Is the Justice Department National Security Division really necessary for keeping local school boards safe if parents aren't domestic terrorists? And if the PATRIOT Act isn't being used, why is the National Security Division involved at all?

This kind of -- it looks like something that would come out of some communist country expansive definition of national security.

MERRICK GARLAND:

The memo is only about violence and threats of violence. It makes absolutely clear in the first paragraph that spirited debate about policy matters is protected under our constitution. That includes debate by parents criticizing school boards. That is welcome. The Justice Department protects that kind of debate.

The only thing we're concerned about, Senator, is violence and threats of violence against school officials, school teachers, school staff, just like we're concerned about those kind of threats against senators, members of Congress, election officials.

MERRICK GARLAND:
In all of those circumstances, we are trying to prevent the violence that some occurs after threats.

CHUCK GRASSLEY:
Your memo stated that the Justice Department is opening dedicated lines of communication for threat reporting, assessment and response. Why is the department -- what is the department doing with tips it receives on this dedicated line? And what are you doing with those parents who have been reported?

MERRICK GARLAND
The FBI gets complaints, concerns from people around the country for all different kinds of threats and violence. That's what this is about, a place where people who feel that they've been threatened with violence can report that, these are then assessed and they are only pursued if consistent with the First Amendment.

We have a true threat that violates federal statutes or that needs to be referred to state or local government, federal agents, local law enforcement agency or their assistance.

CHUCK GRASSLEY
On the other hand, are there criminal investigations being opened for instances where school officials are trying to access private data of parents with opposing views on critical race theory?

MERRICK GARLAND:
I don't know about that, but the Justice Department certainly does not believe that anybody's personal information should be accessed in that way. If there is a federal offense involved or state or local offense involved, then of course those should be reported.

CHUCK GRASSLEY:

The nonpartisan, Justice Department inspector general established that, Andrew McCabe lied under oath to FBI investigators. He lied under oath to the Justice Department inspector general. It should also be noted that McCain leaked government information to the media, and then called the New York and Washington FBI field offices and blame them for the very leaks that he caused.

Under your leadership instead of punishing them, the department reinstated his retirement expunge his records as part of the settlement. He will reportedly receive $200,000 in retirement back pay and his attorney will reportedly receive 500,000 in legal fees. So, it seems to me that that's beyond incredible.

So General Garland, did you authorize the McCain settlement and if you -- if not, who did?

MERRICK GARLAND:
Senator, the McCabe settlement was the recommendation of the career lawyers litigating that case based on their prospects of success in the case, the case did not involve the issues about lying. It involved a claim that he was not given amount of time necessary to respond to allegations, and that the litigators concluded that they needed to settle the case because of the likelihood of loss on the merits of that claim.

The inspector general's report still stands. There is no -- we have not questioned in any way the inspector general's findings. The reference with respect to false statements was made to the Justice Department, in the previous administration, and declined in the previous administration. The only issue here was an assessment of litigation merits.

CHUCK GRASSLEY:
Short follow up, do you agree with the taxpayer -- since you didn't somebody else authorized it? Do you agree with the taxpayer picking up a multimillion-dollar bill for someone that lied under oath to government officials?

MERRICK GARLAND:
I think the assessment made by the litigators was that the bill to the taxpayers would be higher if we didn't resolve the matter as it was resolved.

CHUCK GRASSLEY

Thank you, Mr. Chairman.

DICK DURBIN:

Senator Leahy.

PATRICK LEAHY:

Thank you. Mr. Chairman. Attorney General Garland, good to see you and thank you for being here. I'm sure the members of the committee are eager to discuss with you what the Justice Department is doing, what could be done better. Just say this, after four tumultuous years in which the former president viewed the Justice Department as his personal law firm put in place.

The department is again living up to the most fundamental principle in our American justice system that, no one, nobody is above the law, that's what I learned about the Justice Department and I was in law school that the experience I had with it for years as a prosecutor and as a litigator. So, I was dismayed saying what was happening in the past four years and I thank you, Attorney General for bringing the department back from the brink.

There's still a lot to be done, but I think the Americans should take comfort that the rule of law is again being enforced. Now it's hard to overstate how urgently we must act to protect Americans, constitutional right to vote. And there is reason for alarm. Many states are rapidly moving to restrict access to the ballot for tens of thousands of Americans from all walks of life.

In the wake of the Shelby County this year, [Inaudible] decision, the department's tools to stem the tide of voter suppression have been greatly diminished. I know you're doing whatever you can to defend the right to vote. How does Congressional inaction, in response to the Supreme Court decisions, limit the ability of the department to protect Americans constitutional right to vote?

MERRICK GARLAND

Thank you for that question, Senator. The right to vote is a central pillar of our democracy, and as I've said many times, it's the central pillar that allows all of the rights to proceed from it. The Justice Department was established in part to protect the rights of a guaranteed under the 13th, 14th and 15th Amendment to vote.

The Voting Rights Act gave us further authorities in that respect. We are doing, as you say everything we can. We have doubled the size of the voting rights section. We brought on a Section 2 case, but there are limitations on our authority that the Supreme Court has imposed, one of which is the elimination of Section 5 of the Voting Rights Act, which provided an opportunity to do pre clearance reviews, so that we did not have to Review each matter on a one by one basis.

And then the recent has been, that was Shelby County, as you pointed out recently in the Brnovich case, a narrowing of what we regarded as the meaning of Section 2 in our authorities under Section 2. Both of those could be fixed by this Congress. And if they were, it would give us considerably greater opportunity and ability to ensure the sacred right to vote.

PATRICK LEAHY:
And then the Supreme Court make it very clear that we could fix that if the Congress wanted to.

MERRICK GARLAND:
That's correct. In the opinions indicated, these were matters that could be fixed by the Congress.

PATRICK LEAHY
And I hope we will because I think it's very important that all Americans be protected the right to vote, which I know in my own state of Vermont, we take that very seriously. Now we have the bipartisan VOCA fix to stay in the crime victims fund here to try and trim what has been signed into law. A major piece of this legislation requires funds collected and deferred and non-prosecution agreements be deposited into the crime veterans fund, which had been projected to reach a 10-year low.

Since this bill has become law, have any funds from deferred or non-prosecution agreement been deposited and into the crime victim's fund. And if not, why not?

MERRICK GARLAND
Senator, the VOCA fix was something we sought and we're grateful for your support for and for your introduction of, we acted immediately after it was passed and something like north of $200 million has already been deposited in the fund. Thanks to that act. We now project that the funds should be liquid all the way through the end of 2022.

PATRICK LEAHY

Thank you and we can review it after that because I think, you and I would both agree, we want to have long term sustainability in this fund.

MERRICK GARLAND:

Absolutely.

PATRICK LEAHY:

So, let's work together on that. Now there's been some discussion here and elsewhere about the Larry Nassar investigation and the chairman had a very impressive gymnasts who testified before us. It was heart wrenching listening to them. And they talked about how there were seeking accountability. And I could not help and think how brave they were to testify.

The Justice Department initially declined to bring charges against the disgraced FBI agents involved in their investigation. I was concerned and I said at the time -- I've seen many people prosecuted for lying to FBI agents.

PATRICK LEAHY:

Here you had two FBI agents who lied to FBI agents. One was fired, the other resigned, no prosecutions. Is the department now reviewing that decision not to prosecute, and do you have any update in regard to that review?

MERRICK GARLAND:

Senator, I think heart wrenching is as not even strong enough as a description of what happened to those gymnasts and to the testimony they gave. I believe Deputy Attorney General Monaco said at her hearing that we are reviewing this matter. New evidence has come to light, and that is cause for a review of the matters that you're discussing.

PATRICK LEAHY:

Well, I hope you will because, as I said, I've seen so many prosecutions of somebody for lying to the FBI agent. And I understand that. When an FBI agent lies to an FBI agent, they should also face the

same that anybody else does. Thank you very much, Mr. Chairman.

DICK DURBIN:
Thank you, Senator Leahy.

CHUCK GRASSLEY
Mr. Chairman, could I put something in the record from 17 state attorney generals expressing their disagreement with the department's October 4th memorandum and ask that that memorandum be withdrawn?

DICK DURBIN:
Without objection. Senator Graham.

LINDSEY GRAHAM:
Thank you, Mr. Chairman. Mr. Attorney General, are you aware of the caravan of about 3,000 people approaching the state of Texas?

MERRICK GARLAND:
I have read about it in the news media. Yes. I didn't know -- I think it's south of Mexico City is what I read.

LINDSEY GRAHAM
Yeah. They're --

MERRICK GARLAND:
Is that what you're talking about?

LINDSEY GRAHAM:
Apparently headed towards Texas. So, what would you tell these people?

MERRICK GARLAND:

Well, I would tell them not to come. But the job of the Justice Department has to do with prosecution and with the use the way in which the asylum and removal claims are adjudicated.

LINDSEY GRAHAM:
Right.

MERRICK GARLAND
Principal --

LINDSEY GRAHAM:
So, you would tell them not to come?

MERRICK GARLAND:
It depends on why they are coming but

LINDSEY GRAHAM:
Well, if they're coming to make asylum claims, what would you tell them?

MERRICK GARLAND
Well, the Department of Homeland Security is the agency that's responsible for border control.

LINDSEY GRAHAM:
Right, I get that, but you're the attorney general of the United States. Do you think our asylum laws are being abused?

MERRICK GARLAND:
The asylum laws are statutes passed by the Congress.

LINDSEY GRAHAM:
Yeah. Do you think they're being abused?

MERRICK GARLAND

I think this is a -- that question is one that has to be evaluated on a one-by-one basis in each --

LINDSEY GRAHAM:

Have you talked to the -- when's the last time you've been to the border?

MERRICK GARLAND:

I think a week ago, maybe 10 days ago.

LINDSEY GRAHAM:

Did they tell you anything about asylum claims being made by people that are mostly economic claims, not asylum claims? Did they mention that to you?

MERRICK GARLAND

I think it's fair -- I don't recall exactly. I think it's fair --

LINDSEY GRAHAM:

You don't recall being told by the Border Patrol that they're overwhelmed, they can't hold the line much anymore, that we've had 1.7 million people apprehended, and the big magnet, the pull factor, is the way the catch and release program around asylum? That didn't stick out to you?

MERRICK GARLAND:

That was not a discussion that I had when I was

LINDSEY GRAHAM:

Who did you talk to?

MERRICK GARLAND

I was at the border at Nogales and spoke to a Border Patrol --

LINDSEY GRAHAM

Now, I was there about six months ago. They never mentioned to you the pull factors of illegal immigration?

MERRICK GARLAND:

This was a review of what they were doing at the border with respect to --

LINDSEY GRAHAM:

Why? It's simple question. They never mentioned to you that they've got a problem with being overrun by asylum seekers?

MERRICK GARLAND:

I know, from reading the news media, that Border Patrol agents feel that way.

LINDSEY GRAHAM

So, I mean it's not about reading the paper. You were there talking to them.

MERRICK GARLAND:

Well, I don't recall that -- I don't want to --

LINDSEY GRAHAM:

OK.

MERRICK GARLAND:

Tell you about a conversation that I'm not sure happened.

LINDSEY GRAHAM

I'm just stunned that that didn't -- that you can't recall that. So, let's talk about Afghanistan. The secretary -- undersecretary for defense policy, Mr. Kael said, "While ISIS-K poses more of a short-term external threat, al-Qaida could regain the ability to launch attacks outside of Afghanistan within a year or two." Do you agree with that?

MERRICK GARLAND

I agree that al-Qaida has always presented and continues to present a persistent threat to the United States homeland.

LINDSEY GRAHAM:

Well, no. But the question is: What's changed? You say always. Has any recent event change the likelihood of an attack?

MERRICK GARLAND:

I don't know.

LINDSEY GRAHAM:

You don't know that we withdrew from Afghanistan?

MERRICK GARLAND

I know we withdrew. I don't know whether the withdrawal will increase the risk from al-Qaida or not.I do know --

LINDSEY GRAHAM:

So, you're the attorney general of the United States. Secretary Wray testified openly twice that due to the lack of ability to have eyes and ears on the ground and the unreliability of the Taliban, that a attack on the United States within six months to a year is far more likely after our withdrawal. You're not aware that he said that?

MERRICK GARLAND:

The job of the Justice Department and the job of the FBI is to protect against those kinds of attacks in the homeland.

LINDSEY GRAHAM:

Does it make sense that that would be a dynamic of our withdrawal? Do you trust the Taliban to police al-Qaida and ISIS on our behalf?

MERRICK GARLAND

I do not trust the Taliban.

LINDSEY GRAHAM:

As a matter of fact, they have openly told us, they will not work with us regarding containing the al-Qaida-ISIS threat. Are you aware of that?

MERRICK GARLAND:

I think there's been inconsistent statements, but I don't

LINDSEY GRAHAM:

No, no, they just literally said that.

MERRICK GARLAND

I think there have been inconsistent statements, but their statements are not anything that we can rely on. The actions [Inaudible]

LINDSEY GRAHAM:

Well, when they tell you to your face, "We're not going to help you," do you think they're kidding? You think they really will help us, but they're just telling us to our face they won't?

MERRICK GARLAND:

Sir, I think, ISIS K, al Qaida associated forces are and continue to be [Inaudible]

LINDSEY GRAHAM:

We're talking about the Taliban, the Taliban who has told the United States they will not work with our counterterrorism forces when it comes to al-Qaida or ISIS. What response should we have regarding the Taliban when they say that?

MERRICK GARLAND

Well, I think we have a number of different tools available.

LINDSEY GRAHAM

Like what?

MERRICK GARLAND:

We have economic sanctions where they need money from the United States for humanitarian and other reasons. This is --

LINDSEY GRAHAM:

So, the leverage over the Taliban is whether or not we'll give them money?

MERRICK GARLAND:

Senator, the job of the Justice Department is protecting -- using the FBI and the National Security Agency --

LINDSEY GRAHAM

The National Security Division is part of our counterterrorism operation, right?

MERRICK GARLAND:

It is one.

LINDSEY GRAHAM:

Has anybody from the National Security Division briefed you about the in reased likelihood of attack emanating from Afghanistan after our withdrawal?

MERRICK GARLAND:

Every day, I'm briefed by the FBI.

LINDSEY GRAHAM

No, my question is specific. Has anybody briefed you about the increased likelihood of an attack emanating from Afghanistan by ISIS or al-Qaida because of our complete withdrawal?

MERRICK GARLAND

We are worried about the risk of attack by ISIS-K --

LINDSEY GRAHAM:

I know -- it's one thing to be worried. Has anybody told you the likelihood of an attack is greater because of our withdrawal or not?

MERRICK GARLAND:

There are different views about the degrees of likelihood that doesn't change our posture. We just [Inaudible] be protective

LINDSEY GRAHAM:

It doesn't change your posture if you go from a possibility of being attacked to a six-months-to-a-year time window of being attacked.

MERRICK GARLAND

We have asked for substantial additional funds for our counterterrorism operations in light of --

LINDSEY GRAHAM:

Is that in light of the withdrawal from Afghanistan?

MERRICK GARLAND:

In light of a lot of changing circumstances in the world with respect [Inaudible]

LINDSEY GRAHAM:

Well, let me just put a fine point on this. Secretary Wray has told the world that ISIS and al-Qaida in Afghanistan present a threat to our homeland. The Taliban has told us they're not going to help us when it comes to policing these groups. The Department of Defense has said we're six months to a year away from a possible attack by ISIS and al-Qaida.

And it just seems to me there's not a sense of urgency about this.

MERRICK GARLAND

There is a sense of urgency. This [Inaudible]

LINDSEY GRAHAM:

What have you done specifically? And I'll end with this. Specifically, what have you done since our withdrawal in Afghanistan to deal with this new threat?

MERRICK GARLAND:

We have strengthened and increased the efforts of our joint terrorism task forces. I have met with them.

LINDSEY GRAHAM:

Literally, what have you done?

MERRICK GARLAND

I'm telling you.

LINDSEY GRAHAM:

Just put it in writing. Just write down what you've done?

MERRICK GARLAND:

Well, I'll be happy to have our staff assess what [Inaudible]

LINDSEY GRAHAM:

Thank you.

MERRICK GARLAND

And return.

DICK DURBIN:

Thank you, Senator Graham. Senator Whitehouse.

SHELDON WHITEHOUSE:
Thank you, Chairman. Welcome, Attorney General Garland. Two topics. The first is executive privilege. We've been through a rather bleak period with regard to executive privilege. I think you could call it the anything goes period, in which any assertion of executive privilege, no matter how fanciful or preposterous, was essentially allowed to stand in very significant departure from the law that has been out there for years regarding executive privilege.

SHELDON WHITEHOUSE:
And at the same time, that the substance of executive privilege was being expanded beyond recognition. The procedure for evaluating executive procedure determinations was completely ignored.

And this is a procedure that was established by President Reagan's White House. So, we now have a situation in which there is very substantial destruction and disarray in the area of executive privilege determinations. And as you know, under the Reagan memo, the Department of Justice had a role, kind of as an arbiter to be the honest broker between whatever executive agency was objecting and whatever Congressional Committee was pursuing information.

That role completely fell apart in the last administration and it needs to be rebuilt in some predictable fashion. The role of the courts has become highly problematic because delay is very often dispositive in these matters and the courts are now a haven for delay with respect to executive privilege determinations.

So, I think we need to look at that as well. Senator Kennedy and I had a hearing on this executive privilege problem in our court subcommittee. The Department of Justice was not represented at that hearing, but I would like to ask you to detail somebody from the Department of Justice to talk to Senator Kennedy and me about this executive privilege problem and work with us on trying to figure out a solution, making the role of the Department of Justice more clear and transparent and perhaps embodying it in rule or regulation or law and trying to figure out how to accelerate at the courts a way to get quicker decisions because otherwise, as I said, delay is just dispositive and we lose not because we're wrong, but because we're delayed.

Would you have somebody be our point of contact on that, please? When I say detail, I don't mean on to our payroll, you know, I just mean as a point of contact.

MERRICK GARLAND:
Yes, absolutely, of course.

SHELDON WHITEHOUSE
Great. Thank you. Next, I've been pursuing the question of the department's investigation into January 6, since pretty early days, starting with a letter in January 8 that asked about the resources that were being deployed into this investigation and whether a task force -- prosecution task force was being set up and so forth.

And then, another letter February 24 with regarding to -- with regard to domestic extremist violence groups, potential role. We've learned a little bit more now and we've learned that there was a lot of money sloshing around in the background behind the January 6 rally and behind the raid, the riot in the capital.

For instance, we know that the Bradley Foundation, which is a big funder, gave money to Turning Point USA and to Public Interest Legal Foundation. And it gets even more interesting because Turning Point USA has a twin called Turning Point Action 501(c)(3), 501(c)(4) combo, which also got money from the Judicial Crisis Network to support the so called Italy gate the debunked, Italy gate theory.

At the same time, the Public Interest Legal Foundation had as its director, Mr. Eastman who was cranking out his fanciful memo for President Trump how to overturn the election. The Judicial Crisis Network is the same thing from a corporate standpoint as something called the Honest Elections Project, which was bringing a fanciful case in Pennsylvania regarding election fraud.

And the Judicial Crisis Network was also funding [Inaudible] the Republican Attorney Generals Association, which was making robocalls to get people to come to the riot. Now, I don't know what's going on behind all of that, but I am hoping that the due diligence of the FBI is being deployed not just to the characters who trespassed in the capital that day and who engaged in violent acts.

But that you're taking that look, you would properly take at any case involving players behind the scenes, funders of the enterprise, and so forth in this matter as well. And there has been no decision to

say, "We're limiting this case just to the people in the building that day. We're not going to take a serious look at anybody behind it."

MERRICK GARLAND:
Senator, I'm very limited as to what I can say.

SHELDON WHITEHOUSE
I understand that.

MERRICK GARLAND:
We have a criminal investigation going forward.

SHELDON WHITEHOUSE:
Please tell me it has not been constrained only to people in the capital.

MERRICK GARLAND:
The investigation is being conducted by the prosecutors, in the US Attorney's Office, and by the FBI field office. We have not constrained them in any way.

SHELDON WHITEHOUSE
Great. And the old doctrine of follow the money, which is a well-established principle of prosecution, is alive and well.

MERRICK GARLAND:
It's fair to say that all investigative techniques of which you're familiar and some maybe that you're not familiar with because they post at your time are all being pursued in this manner.

SHELDON WHITEHOUSE:
Thank you. Thank you, Chairman.

DICK DURBIN:

Thank you very much. Senator Cornyn.

JOHN CORNYN:
Thank you. Good morning, Mr. Attorney General. On September 29, 2021, as you know, the National School Board Association wrote a letter to the president asking him to address the disruptions, the confrontations that we've seen at local school boards across the country. Parents expressing their concerns about not only the curriculum but also just generally their -- the education of their children in the public schools.

Would you agree that parents have a fundamental right to be involved in their children's education?

MERRICK GARLAND:
Absolutely. This is the job of parents to be involved and this is the role of the First Amendment to protect their ability to be involved. That's why my memo begins by saying that we respect the right to spirited debate about curriculum, about school policies, about anything like that.

JOHN CORNYN
So, it's not just a good idea, it's actually protected by the Constitution of the United States. Would you agree?

MERRICK GARLAND:
Absolutely.

JOHN CORNYN:
On October 4, a few days later, less than a week later after the National School Board Association wrote this letter, the Justice Department issued the memo that's already been discussed. Why did this rise to the level of a federal concern as opposed to being addressed at the local and state level?

MERRICK GARLAND:
So, this arises out of repeated reports of violence and threats of violence, not only with respect to school boards, and school officials, and teachers. But, as I mentioned earlier, also with respect to

secretaries of state and election administrators, judges, prosecutors, Senators, members of Congress. The Justice Department has two roles here.

We assist state and local law enforcement in all ways and we enforce federal laws which prohibit threats of violence in a -- by telephone, by email --

JOHN CORNYN:
Well, you, as a longtime federal judge with a distinguished legal career, you understand that not every crime, assuming it is a crime, is a federal crime, correct?

MERRICK GARLAND:
Absolutely.

JOHN CORNYN
And some of these things, unless there's some nexus to interstate commerce or to the federal government, they're largely within the purview of the state local law enforcement authorities. Correct?

MERRICK GARLAND:
I think you put that correctly. We have authority with respect to the mail, with respect to the internet, with respect to [Inaudible]

JOHN CORNYN:
Right, Well, I'm not well, let me give you an example. Somebody says to the school board member, if you do that, I'm going to meet you outside and punch you in the nose. Is that a federal offense or

MERRICK GARLAND:
That's not a federal offense.

JOHN CORNYN
I agree.

MERRICK GARLAND
There's nothing in this memo suggesting that it is.

JOHN CORNYN:
And why in the world would you cite the National Security Division in this memo as being one of the appropriate entities in the Department of Justice to investigate and perhaps prosecute these offenses.

MERRICK GARLAND:
So, my memo itself doesn't mention the National Security Division that is mentioned in another memo that was released by the department. The National Security Division, like all the other law enforcement components cooperates with and is involved in discussions about how to go forward on different kinds of matters.

They were involved, for example, in the election threats. They were involved in the threats against judges and prosecutors. They were involved in the hate crimes threats cases as a natural part of our internal analysis.

JOHN CORNYN:
Let me ask you, did you see the National School Board Association letter to President Biden before you issued your memorandum on October 4?

MERRICK GARLAND:
Yes, I did and that was part of the reason. Their expression at the beginning of that memorandum of --

JOHN CORNYN
And they raised some of the concerns that you voiced here today.

JOHN CORNYN
Correct?

MERRICK GARLAND

They raised some of them, they raised others that I don't agree with and were not included in my memo.

JOHN CORNYN:

Well, you're aware that on October 22, the National School Board Association apologized for its letter. You're aware of that, aren't you, sir?

MERRICK GARLAND:

I am, but

JOHN CORNYN:

And it said that -- it went on to say, we regret and apologize for the letter, there was no justification for some of the language in the letter. They've acknowledged that the voices of parents should be and must continue to be heard, and when it comes to decisions about their children's education, health, and safety.

You did not apologize for your memorandum of October 4, even though the National School Board Association did. Why didn't you rescind that memorandum and apologize for your for the memorandum?

MERRICK GARLAND:

A core responsibility of the Justice Department, as I said in my opening, is protecting Americans from violence and threats of violence.

JOHN CORNYN

But you just said not every act of violence is a federal crime, correct?

MERRICK GARLAND:

Right, and not every bit of street crime and the kind of violence that we've been talking about earlier today is also a federal crime, but we assist state and locals to help them in their investigations of these

kind of matters. Every single day in nonfederal matters, we are partners with our state and local partners.

JOHN CORNYN:
Well, Mr. Attorney General, you've acknowledged that parents have a right, a constitutional right to be heard on the education of their children in public schools. Can you imagine the sort of intimidation, the sort of bullying impact that a memorandum from the Department of Justice would have, and how that would chill the willingness of parents to exercise their rights under threat of federal prosecution?

Did you consider the chilling impact your memorandum would have on parents exercising their constitutional rights?

MERRICK GARLAND:
The only thing this memorandum is about is violence and threats of violence. And it opens with a statement --

JOHN CORNYN
But my question is did you consider the chilling effect this would have on parents' constitutional rights?

MERRICK GARLAND:
To say that the Justice Department is against violence and threats of violence --

JOHN CORNYN:
Did you consider the chilling effect your memorandum might have on parents exercising their constitutional rights? I think you can answer that, yes or no?

MERRICK GARLAND:
What I considered, what I wanted the memorandum to assure people, that we recognize the rights of spirited debate and --

JOHN CORNYN

Mr. Attorney General, you're a very intelligent and accomplished lawyer and judge. You can answer the question.

MERRICK GARLAND:

I did not --

JOHN CORNYN:

Did you consider

MERRICK GARLAND:

I do not --

JOHN CORNYN

The chilling effect that this sort of threat of federal prosecution would have on parents' exercise of their constitutional rights to be involved in their children's education?

MERRICK GARLAND:

I don't believe it's reasonable to read this memorandum as chilling anyone's rights. It's about threats of violence and it expressly recognized this constitutional right to make arguments about your children's education.

DICK DURBIN:

Senators are going back and forth for votes during this time. We have to try to keep it

JOHN CORNYN:

Let the record reflect the attorney general refused to answer the question.

DICK DURBIN

And let the record reflect that the senator from Texas is allowed to go over his allotted time. Senator Klobuchar.

AMY KLOBUCHAR

Thank you very much. Just to confirm something, Mr. Attorney General, can you confirm to this committee, as you did earlier before the House Judiciary Committee, that the purpose of the memo that you were just discussing with Senator Cornyn is to have meetings to discuss whether there is a problem, to discuss strategies, to discuss whether law -- local law enforcement needs assistance or doesn't need assistance?

Was that the purpose of it?

MERRICK GARLAND

Yes. I thank you for making that point, Senator. That's -- I say that in the memo that the purpose of the meeting -- of the memo is to convene meetings with federal, state and local, tribal leaders, and to facilitate discussions of strategies for addressing threats, to assess the question, and to open lines of communication about such threats.

AMY KLOBUCHAR:

Thank you. I want to move to some other threats, and that is a hearing that actually, Senator Blunt and I had yesterday. It was a bipartisan hearing. We both called witnesses. It was before the Rules Committee. And it was with both Republican and Democratic election officials, the attorney general of Arizona, a Republican local official in Philadelphia.

And they told stories that horrified senators on both sides of the aisle. The Philadelphia election official commissioner -- local election official had been sent letters basically saying that they were going to kill him and his three kids, naming the kids, as well as putting his house and his address out there.

Katie Hobbs, the attorney general of Arizona, received a voicemail saying, I am a hunter and I think you should be hunted. You will never be safe in Arizona again. Could you talk about what's going on with threats against election workers? And, by the way, we had the Republican secretary of State from Kentucky talked about the fact that it has been difficult.

They are losing in many jurisdictions across the country. They don't have enough election workers because people are afraid. And we don't have to discuss at length, where these threats are coming from. I just want to have election officials; I want to have a functioning democracy. Can you provide

an update on the election threats task force and see talk about the kind of threats we're seeing to election officials?

MERRICK GARLAND:
Yes, Senator. Very much like the circumstances with respect to the school boards when the National School Board Association wrote us a letter advising of threats of violence and violence, earlier this year, we received communications from the National Association of Secretaries of State and the National Association of Election Administrators raising concerns about threats of violence and violence in that area.

And that there soon thereafter, I met virtually, unfortunately, because of the pandemic, with a large number of election administrators and secretary of States, where they recounted these the kind of threats that you're talking about. And that led us to establish a task force, which, again, coordinated efforts between the federal law enforcement agencies, US Attorneys' offices, and state and local law enforcement across the country.

It is the case that many of those kind of threats can be handled by state and local law enforcement, and should be where they're capable of doing that. But the federal government has an important role, as you say, in protecting our democracy and protecting its threats against public officials. And so, there -- that is an ongoing task force evaluating threats in that particular area.

AMY KLOBUCHAR:
Thank you. Thank you. To another area, as chair of the Competition Policy and Antitrust Subcommittee, I've urged the Justice Department to make antitrust enforcement, a top priority. We recently had a nominations hearing for Jonathan Kanter that seems to be moving ahead, and I support the division's enforcement efforts, including, I know they're preparing for 18 trials, which is the most in decades.

And could you talk about the antitrust budget? Senator Grassley and I have passed a bill, with the support of the members of this committee, to add some additional resources to the Antitrust Division. Senator Lee and I have held numerous very informative hearings about various issues related to antitrust.

Could you talk about what's happening there?

MERRICK GARLAND

Yes. Look, the Justice Department is very much committed. As I said, it's a key focus of our attention, antitrust enforcement, because it's essential for consumer well-being and for the well-being of our citizens. We have aggressively moved in this area. We've already stopped a merger of two of the top three largest and international insurance brokers.

We have, as you say, continued -- we are in the middle of trials -- criminal trials with respect to price fixing and market allocation. We have the ongoing matter involving exclusionary conduct in the Google case. We are looking -- we have investigations and attention in many areas from health care to agriculture, to allocations within labor markets.

AMY KLOBUCHAR

Could I just ask you -- you talked about the criminal cases. Could -- given the antitrust agency's authority to seek substantial civil fines for Sherman Act violations, help enforcers deter anti-competitive conduct --

MERRICK GARLAND:

I'm sorry, I --

AMY KLOBUCHAR:

A civil with civil fines. Would that be helpful?

MERRICK GARLAND:

Yes, having the ability to seek civil fines as well would be helpful. Of course, if we succeed in a criminal case, the follow-on civil cases become quite easy --

AMY KLOBUCHAR

Mmm hmm.

MERRICK GARLAND:

As I know from my own antitrust practice.

MERRICK GARLAND:
But we are down in the number of attorneys in the Antitrust Division considerably, and we need an expansion. That's why we've asked for a nine percent increase, a total increase of 201 million in our FY22 budget.

AMY KLOBUCHAR
OK.

MERRICK GARLAND:
The number of mergers has skyrocketed, and the number of people we have in the division evaluating those mergers has decreased.

AMY KLOBUCHAR:
Mmm hmm.

MERRICK GARLAND:
We need help in that regard.

AMY KLOBUCHAR
Thank you, and I really appreciate the bipartisan work we've done in this committee on that front. Last question. In July, the department announced that it was adopting a new policy that restricts the use of compulsory process to obtain information from members of the news media acting within the scope of newsgathering activities, an issue we discussed, you and I discussed, at your confirmation hearing.

As a part of that announcement, you asked the deputy attorney general to undertake a review process to further explain, develop, and codify the policy. Can you provide an update on the steps the deputy attorney general has taken to ensure that the new policy is implemented?

MERRICK GARLAND

Yeah. So, issuing a memo is good, and it controls the Justice Department now. The next step, though, is to have a regulation which will give us some greater permanence. And the next step after that would be legislation, which the Justice Department supports. And what the attorney general deputy attorney general is doing now is trying to formulate the general outlines of my memorandum into a regulation, which can replace the current pretty detailed regulations that we have.

That's what she's involved in right now.

AMY KLOBUCHAR:
Excellent. Thank you very much.

DICK DURBIN:
Mr. Attorney General, we promised you a five-minute break at 11:30. We can either take it right now, or I can have Senator Lee and Coons ask. Up to you.

MERRICK GARLAND
I'm happy to go ahead with Senator Lee and Coons.

DICK DURBIN:
Let's proceed. Senator Lee?

MIKE LEE:
Thank you, Mr. Chairman. Thank you, Attorney General Garland, for being here. Mr. Attorney General, I have been concerned in recent weeks by some steps that have been taken by the Biden administration, steps that I fear represent a significant amount of overreach. You know, seven weeks ago, you had President Biden giving a speech in which he promised to enlist the assistance of corporate America, all of corporate America with more than 99 employees, in firing people who don't get vaccinated.

Now, I'm vaccinated. I've encouraged everyone close to me to get vaccinated. But I don't think it's the role of the federal government to do that. He's threatening to cripple employers by imposing absolutely punishing fines on them, and they're now doing his dirty work even before this act of

overreach has been reduced to an order that could be litigated, litigation that, I believe, would end the say the same way Youngstown Sheet and Tube v. Sawyer ended.

And now, you know, about a month after that, we had your October 4 memorandum in which you direct the Department of Justice and the FBI to intervene in what, as far as I can tell, is a state and local issue. It is a series of issues involving how parents advocate for their children with their local school boards

And I also believe that in doing that -- in doing that through the Department of Justice, doing it in the way that you did it, directing the assistance, enlisting the help of all 94 US attorneys, therefore, every satellite office of the Department of Justice nationwide, you do it in a way that, I think, has a natural tendency to chill free speech in this area.

I question seriously the role of the federal government in protecting people at local school board meetings from their neighbors. It is, after all, most of the time, state law, not federal that's at play when there is criminal activity. Federal crimes are a subset of crimes generally. So, you've referenced several times today that your letter covered only violence and threats of violence.

And yet the very opening line of your memo says, in recent months, there's been a disturbing spike in harassment, intimidation, and threats of violence against school administrators, school board members, teachers, and staff who participate in the vital work of running our nation's public schools. You referred to this over and over again, and that's a pretty broad statement.

I believe this has a tendency to chill free speech, free speech that is exercised at the state and local level, typically by neighbors, by parents, to local school boards. In hindsight, would you agree that a natural consequence of your memo could be chilling free speech, protected speech, by parents protesting local school board policies?

MERRICK GARLAND:
Senator, the memo is aimed only at violence and threats of violence. It states on its face that vigorous debate is protected. That is what this is about, and that is all this is about.

MIKE LEE:
What about harassment and intimidation, are those federal crimes?

MERRICK GARLAND
They are federal crimes.

MIKE LEE:
What -- are you referring to, like, witness tampering, intimidation under 18 USC 1512, or what?

MERRICK GARLAND:
18 USC 2261A, which makes it a crime, with intent to injure, harass, or intimidate, placing a person in reasonable fear of serious bodily injury through communications over the internet. Likewise, 47 USC 22 223A, making telephone calls with intention to harass. Now, I want to be clear, though, that those only are within I take your point, those are only within what is permitted by the First Amendment, and there and the Supreme Court has been clear about that too.

In the Virginia v. Black case, the court explained, when intimidation is not protected by the Constitution and that is when it is made with the intent of placing the victim in fear of bodily harm or death. So, that's what we're concerned about here.

MIKE LEE:
Well and one of the things that concerns me is, you know, we've got 17 attorneys general led by Attorney General Todd Rokita in Nevada and joined by a total of 17 attorneys general, including Sean Reyes, the fantastic attorney general of the state of Utah. They've weighed in, and they've said they've there is not a barrage of accusations, not no unusual flood of accusations of threats of violence against school board members, nothing unusual, nothing that they can't handle at the state and local level that, normally, things like this against state and local officials, involving state and local government entities like school boards are not federal.

Now, in response to a series of questions before the House Judiciary Committee, including some questions asked by Congressman Jim Jordan from Ohio, you were asked your factual predicate for your October 4 memorandum and for your conclusions in this regard. You answered before that committee that your factual predicate for that was the October 22 memorandum from the National School Boards Association.

The National School Boards Association, as has been mentioned, has since withdrawn that memo, and yet you said that was the factual predicate. Given that that was the factual predicate and that it's rescinded its memo, saying that there was no justification for some of the language that they used in that letter, will you rescind your memo?

MERRICK GARLAND:
Senator, I -- best of my recollection, I said that the impetus for the letter -- for my memorandum was that letter and also reports of this kind of activity.

MIKE LEE
What reports?

MERRICK GARLAND:
I said, again, at the time that there were news reports that had been published, and I think that some of the other senators here have described some of those news reports. And we've certainly seen, subsequently, more news reports and more statements by board members of threats to kill them.

MIKE LEE:
Congressman Chip Roy of Texas said raised in that same hearing the issue of a 14 year old girl in a school bathroom being sexually assaulted in Loudoun County, and you indicated in response to that that you weren't aware of that. And in the six days before you testified before the House Judiciary Committee, have you become familiar with the publicly reported details of that case?

MERRICK GARLAND:
Yes, I have read about the case, yes.

MIKE LEE
If you were unfamiliar with the supposed instances of threats of violence and intimidation that the National School Boards Association cited in the letter, then how did you determine that intervention by the FBI and the DOJ was necessary, that that was the right approach?

MERRICK GARLAND

So, the right approach in the letter is to meet with local law enforcement. That's what we've asked for, is to meet, to assess the situation, to see what their needs are to strategize, and to open lines of communication. Now, I'm hopeful that many areas of local law enforcement will be well able to handle this on their own.

But this is what the Justice Department does every day. We consult with our local and state partners and see whether assistance is necessary.

MERRICK GARLAND:

And of course, we continue to have our own Federal responsibilities with respect to communications by the internet and on social media and phone and through the mail. But I'm hopeful that we will not be needed in this area that our state and local partners will be able to handle these threats.

MIKE LEE

My time's expired. I just want to state for the record as I close that my staff and I went through every news source raised by the National School Board Association, there was no explicit death threat. And I choose here to reiterate my concern that not every outburst or expression of concern by neighbors among neighbors at a local school board meeting warrants a federal investigation, certainly doesn't warrant the involvement of 94 US attorneys in a way that threatens, intimidates, intends inevitably to chill First Amendment activity.

Thank you, Mr. Chairman.

DICK DURBIN

Thank you, Senator Lee. Senator Coons.

PATRICK LEAHY:

Mr. Chairman --

CHRISTOPHER COONS:

Well, thank you.

DICK DURBIN:
Just one second.

PATRICK LEAHY
One more request for the introduction of a letter from another attorney general on rescinding the memorandum. This one from Ohio, Attorney General Yost.

DICK DURBIN:
Without objection. Senator Coons.

CHRISTOPHER COONS:
Thank you, Chairman Durbin, Ranking Member Grassley. Thank you, Attorney General Garland. As you well know, oversight of the executive branch is an important part of the duties of this body, and so I just want to commend the chair and ranking for prioritizing this and you for your time here. Well at times challenging, this process is key to fulfilling our constitutional responsibilities and we know that we have substantial work to do to restore confidence in our democratic institutions.

And I think your engagement here today is a key part of that, so thank you for your diligent and thorough answers to the questions that are being presented today. Let me just start with a question about some characterizations that are being made here and in other settings about the trajectory of the Biden administration in terms of responding to violent crimes.

Some are asserting that the Department of Justice is focused on defunding the police or hamstringing or undermining law enforcement. As an appropriate -- or my impression, instead, is that the president requested an additional $388 million for the COPS Hiring Program, an increase of $200 million over the previous year.

The CJRS probes that was just posted includes $100 million for new community violence intervention programs. And the Biden administration ensured that over $350 billion previously available grants under the CARES Act could be used to hire more law enforcement personnel at the state and local level, even beyond prepandemic levels.

Could you just speak briefly to how these different programs and initiatives are, in fact, designed to prevent violent crime, designed to support our state and local partners? And how these investments could work to assist, support, and protect law enforcement in conducting them their obligations and duties in our communities in an appropriate way?

MERRICK GARLAND:
Yes, Senator. I thought that I would just add one more pile of requests there which was for over $500 million for the Byrne JAG Grants, which also go directly to state and local law enforcement. So, yes, look, we are very concerned about violent crime. This is an area which is primarily the -- again, primarily the responsibility of state and local law enforcement.

But nonetheless, has bipartisan support, has had this since the 1990s for federal government involvement to help prevent. We are as a consequence, we have historically since then and accelerating now lashed up with our state and local partners and task forces and joint organizations in every city and every community in the United States to help our local law enforcement protect their communities against violence.

We also have federal, obviously, laws which help us in this regard. And these include money that we've requested for DEA, for ATF, for the FBI, for the Marshals Service, all increases to allow us to support these circumstances.

CHRISTOPHER COONS:
And as we've discussed before, my hometown is one where I was responsible for local law enforcement when I was an elected county official. We appreciate these additional investments in the partnership with federal law enforcement. I think it's an important part of our work to combat violent crime all over this country.

I want to turn to immigration. You've been asked by a number of my colleagues about it. There seem to be some who think that anything we do to help migrants will necessarily make the border less secure, more chaotic. But I disagree. I think it is possible for us to reduce multiyear court backlogs, improve access to counsel, improve the humanitarian aspects of handling migrants and build a system that is orderly, consistent with the rule of law, more humane, and more fair.

I'd love to understand how we in Congress can help you through legislation, as well as through funding to reduce immigration court backlogs, improve access to counsel, improve the process, and also contribute to securing our southern border. Do you have thought you care to share briefly or would you be willing to share those with us in writing?

MERRICK GARLAND:
Well, I'll be happy to have the department get back to you in writing. But I will say we have requested additional funds so that we can put an additional 600 personnel, including 100 immigration judges into our Executive Office of Immigration Review so that we can do the kind of acceleration that you're talking about.

We've made a number of internal changes with respect to the way cases are handled in order to accelerate that, but we do need more money in that respect and I've made that plea already to the Appropriations Committee. But be happy to get back to you in more detail.

CHRISTOPHER COONS:
And just superficially, is it your understanding that when applicants for asylum have access to counsel or to legal counseling, the odds that they return for their final disposition and the odds that they will have a fair and appropriate process go up?

MERRICK GARLAND
Well, I certainly think the odds that they have a fair and appropriate process would go up. I -- it seems quite logical that the odds of them returning for the proceedings would go up because they would know they would have that opportunity. I don't know any of the statistics about that.

CHRISTOPHER COONS:
Understood. On intellectual property, as you know, a long concern of mine. I just briefly wanted to mention, back in December of 2019, DOJ Antitrust issued a statement jointly with NIST in the Department of Commerce and the US Patent and Trademark Office, recognizing that when a patent involved in voluntary standard-setting effort.

These are typically global efforts around critical communications technologies and others, that all legal remedies should be available when a patent is infringed. And that policy ensures competition,

incentivizes participation in standard setting activities, and plays a vital role in bringing the benefits of innovation to Americans.

It's also critical for our global competition with China and other countries. I'm hearing DOJ has imminent plans to abandon that position or reverse it and replace it with one that does not embrace the availability of all remedies. Given that there are nominees in process likely now for both AAG for antitrust and now for Patent and Trademark Office, would you commit to waiting until there are Senate-confirmed leaders in these positions before a change in policy?

MERRICK GARLAND:
I would love to have Senate confirmed leadership in the Antitrust Division. And everything you can do to make that go swifter would be greatly appreciated. I don't I have to say this is a bit outside the area of my own expertise, but nothing I assume any such thing would have to come through me before it would be announced.

Nothing like that has come to my office yet.

CHRISTOPHER COONS:
Well, I'd welcome the opportunity to stay in communication with it. My last quick question relates to the Office for Access to Justice, which has in the past under previous administration, been a leader in debtors' prisons and the criminalization of poverty. Tomorrow, this committee will hold a vote on the Driving for Opportunity Act, a bipartisan bill I'm leading with Senator Wicker and a number of members of this committee.

And it will make progress in terms of ways in which a decades-old practice of stripping people of their driver's licenses for unpaid court-related fees or fines, which advances the criminalization of poverty will be reversed. Could you say just a moment about the plans for the Office of Access to Justice and your view about the importance of continued progress in criminal justice reform?

MERRICK GARLAND:
Yes, Senator. Equal justice under law is inscribed in the pediment above the Supreme Court and is a core principle of American democracy. But you can't have equal justice under law if you don't have access to justice. And for much of my career as a judge and even before that, even before being in the Justice Department.

And in addition, even as a lawyer in private practice, I've been concerned about getting access to attorneys so that lawyers so that people who need help with their individual circumstances can have assistance. The president issued an executive order on this. We have and there is a report, I'm not positive whether it's public but I believe it is, with respect to reinvigorating the roundtable whose job it is to address this question of which I believe I'm a co chair.

MERRICK GARLAND:

We are I asked for a review within the department. Andwe have determined that we should stand up once again an independent within the department Office for Access to Justice. We have enough money to do that in the very short term, but our not to talk too much about requests for money, but our FY '22 budget request does ask for a significant appropriation so that we can stand up a staff and get that office going.

CHRISTOPHER COONS:

Great. Thank you, Mr. Attorney General. Thank you, Mr. Chairman.

DICK DURBIN

Thank you, Senator Coons, the committee is going to stand in recess for five minutes. When we return, Senator Cotton is up if he is here. If not, Senator Kennedy.

DICK DURBIN

Senate Judiciary Committee will resume. Senator Cotton is recognized.

TOM COTTON:

Judge Garland, on May 11, Tony Fauci testified that his agency "has not ever and does not now fund gain-of-function research in the Wuhan Institute of Virology." Last week, his agency admitted that they had, in fact, funded gain of research in the Wuhan Institute of Virology. Are you investigating Tony Fauci for lying to Congress?

MERRICK GARLAND:

So, the long time rule in the Justice Department is not to discuss pending investigations, potential investigations.

TOM COTTON:

OK, that's fine. That's fine. Do you believe Tony Fauci was truthful when he said his agency had never funded gain-of-function research?

MERRICK GARLAND

This is outside of my scope of knowledge.

TOM COTTON:

OK. Let's turn to your outrageous directive seeking the feds on parents at school boards across America. When you crafted that October 4 memo, did you consult with senior leadership at the FBI?

MERRICK GARLAND:

My understanding was that the memo or the idea of the memo had been discussed with the FBI before.

TOM COTTON:

Did anyone at the FBI express any doubt or disagreement or hesitation with your decision to issue that memo?

MERRICK GARLAND

No one expressed that to me.

TOM COTTON:

No one?

MERRICK GARLAND:

To me. No one expressed that to me, no.

TOM COTTON

Because a lot of them have contacted us, and they said they did, Judge.

MERRICK GARLAND:

I'm sorry.

TOM COTTON:

A lot of FBI officials have contacted my office and said that they opposed this decision.

MERRICK GARLAND:

Well, I doubt any of them spoke to me about it because I didn't speak to -- and no one [Inaudible] to me.

TOM COTTON

All right, all right. Judge, you've repeatedly, you've repeatedly dissembled this morning about that directive. For instance, about the National Security Division. Chuck Grassley asked you a very simple question why you would seek the National Security Division of the Department of Justice on parents. John Cornyn asked you the same thing.

You said it wasn't in your October 4th memorandum, it was in another office's memorandum. It wasn't another office's memorandum, Judge. It was in a press release from your office. Right here in front of me, October 4, 2021, for immediate release. You're going to create a task force that includes the National Security Division.

What on earth does the National Security Division have to do with parents who are expressing disagreements at school boards?

MERRICK GARLAND:

Nothing in this memorandum or any memorandum is about parents expressing disagreements with their school boards. The memorandum makes clear that parents are entitled and protected by the First Amendment to have vigorous debates. We don't -- the Justice Department is not interested in that question at all.

[Inaudible]

TOM COTTON:
OK. So, even in that case, what is the National Security Division, Judge, the national -- these are the people that are supposed to be chasing jihadis and Chinese spies. What is the National Security Division have to do with parents at school boards?

MERRICK GARLAND
This is not, again, about parents at school boards. It's about threats of violence.

TOM COTTON:
OK. Let me turn to that because you've said that phrase repeatedly throughout the morning. Threats -- violence and threats of violence, violence and threats of violence.

MERRICK GARLAND:
Yeah.

TOM COTTON:
We have heard it a dozen times this morning. As Senator Lee pointed out, the very first line in your October 4th memorandum refers to harassment and intimidation. Why do you continue to dissemble in front of this committee that you are only talking about violence and threats of violence when your memo says harassment and intimidation?

MERRICK GARLAND
Senator, I said it in my testimony that it involved other kinds of criminal conduct and the -- and I explained to Senator Lee that the statutory definitions of those terms and the constitutional definitions of those terms involved threats of violence.

TOM COTTON:
OK. Let's look at one of the statutes you cited.

MERRICK GARLAND

Yeah.

TOM COTTON:

Section 223.

MERRICK GARLAND:

Yeah.

TOM COTTON:

That statute covers the use of not just telephones but telecommunications devices to annoy, to annoy someone. So, are you going to seek your US attorneys and the FBI on a parents' group if they post on Facebook something that annoys a school board member, Judge?

MERRICK GARLAND

Well, the answer to that is no, and the provision that I was particularly drawing to his attention was 2261A, which was to engage --

TOM COTTON:

I wasn't talking about 2261A. I know you mentioned that. You also mentioned 223. That's what I mention.

MERRICK GARLAND:

Yeah, but the [Inaudible]

TOM COTTON:

OK. Judge, you also tell -- you also told Senator Klobuchar that this memorandum was about meetings and coordination.

MERRICK GARLAND

Yeah.

TOM COTTON
Meetings and coordination.

MERRICK GARLAND:
Yeah.

TOM COTTON:
Well, I have in my hand right here that I'll submit to the record, a letter from one of your US attorneys to all of the county attorneys, to the attorney general, to all sheriffs, to the school board association of his state, in which he talks about federal investigation and prosecution. It's not about meetings, not about coordination.

It's about federal investigation and prosecution.

MERRICK GARLAND:
I

TOM COTTON:
Did you direct your US attorneys to issue such a letter?

MERRICK GARLAND
I did not. I have not seen that letter. My [Inaudible]

TOM COTTON:
It's got three pages. It's got three pages of spreadsheet about all the federal crimes that a parent could be charged with to include the ones you cited.

MERRICK GARLAND:
My memo

TOM COTTON:

Did main justice make the spreadsheet, Judge?

MERRICK GARLAND:
I don't have any idea. My memorandum speaks specifically about setting up meetings. And I'll just read it again, convene meetings.

TOM COTTON
Judge, we've all read your memorandum. We've also heard you dissemble about your memorandum. I have and the record now shows one of your US attorneys sending out a letter about federal prosecution investigation and list in detail the federal statutes for which you could be prosecuted. Judge, you've talked a lot about intimidation and harassment.

Have you issued a memorandum like your October 4 memorandum about the Black Lives Matters rights from last summer?

MERRICK GARLAND
You're talking about the summer of 2020? In the summer of 2020, there --

TOM COTTON:
A lot of crimes committed. People have [Inaudible]

MERRICK GARLAND:
There were a lot of prosecutions, and they were under the previous administration. [Inaudible] of prosecutions.

TOM COTTON:
OK. Judge, what about this? It is no doubt, you're -- even though parents at school boards aren't within federal jurisdiction, there's no doubt that federal officials are. You keep saying senators. Have you started an investigation into the harassment of Senator Kyrsten Sinema in a bathroom, in a bathroom because she won't go along with the Democratic Party's big tax and spend agenda?

That is a sitting United States senator being harassed in a bathroom.

MERRICK GARLAND

I don't know whether the senator has referred the matter to the Justice Department or not.

TOM COTTON:

You've cited as the basis for that directive the National School Board Association's letter of September 29. Was that directive being prepared before September 29, before the School Board Association letter was issued?

MERRICK GARLAND:

I don't believe so. Certainly, I didn't have any idea.

TOM COTTON:

So, it was only prepared -- OK, I think that answers the question.

MERRICK GARLAND

I already answered that question before.

TOM COTTON:

So, you keep citing the school board letter and news reports, news reports.

TOM COTTON:

One of the news report cited in that letter, which you presumably mean is from Loudoun County, Virginia.

MERRICK GARLAND:

No, that's not that is not what I was talking about.

TOM COTTON:

Well, you keep citing news reports and that's the most prominent news report that anyone in America has seen. That refers to Scott Smith, whose 15-year-old daughter was raped. She was raped in a

bathroom by a boy wearing girl's clothes and the Loudoun County School Board covered it up because it would have interfered with their transgendered policy during pride month.

And that man, Scott Smith, because he went to a school board and tried to defend his daughter's rights, was condemned internationally. Do you apologize to Scott Smith and his 15-year-old daughter, Judge?

MERRICK GARLAND:
Senator, anyone who was child was raped as is a most horrific crime I can imagine and is certainly and title and protected by the First Amendment to protest to their school board about that.

TOM COTTON:
But he was cited by the School Board Association.

MERRICK GARLAND
That's fine. But that's not --

TOM COTTON:
As a domestic terrorist, which we now know, that letter and those reports were the basis for your --

MERRICK GARLAND:
No, Senator.

TOM COTTON:
This is -- this is --

MERRICK GARLAND
That's wrong.

TOM COTTON:
Judge, this is shameful. This testimony, your directive, your performance is shameful.

MERRICK GARLAND

That's not --

TOM COTTON:

Thank God, you are not on the Supreme Court. You should resign in disgrace Judge.

DICK DURBIN:

General Garland, do you want to complete your answer on?

MERRICK GARLAND:

I wasn't sure there was a question there, but let me be clear that the news reports I'm talking about were not the news reports in that letter. There were other news reports that everybody here has heard about, subsequent reports that everybody has heard about. We are -- there is nothing in this memorandum and I wish if senators were concerned about this, they would quote my words, "This memorandum is not about parents being able to object in their school boards.

They are protected by the First Amendment, as long as there are no threats of violence, they are completely protected", so parents can object to their school parts about curriculum, about the treatment of their children, about school policies. All of that is 100 percent protected by the First Amendment, and there is nothing in this memorandum contrary to that, we are only trying to prevent violence against school officials.

Thank you.

DICK DURBIN:

Senator Hirono.

MAZIE HIRONO:

Thank you, Mr. Chairman. I'd like to insert into the record, The Washington Post article by Salvador Rizzo, that is entitled, "The False GOP claim that the Justice Department is spying on parents at school board meetings". I'd like to insert this article into the record.

DICK DURBIN

Without objection.

MAZIE HIRONO:

It's good to see you, Mr. Attorney General.

MERRICK GARLAND:

Thank you, Senator.

MAZIE HIRONO:

I will quote from the first sentence of your memo. In recent months, there has been a disturbing spike in harassment, intimidation and threat of violence against school administrators, board members, teachers and staff, who participate in the vital work of running our nation's public schools. This is a fact we have all seen the news coverage of people actually threatening to hurt school board members for going about their jobs.

That is a fact. So, when I listen to my Republican colleagues going on about the intent of this memo, I'm again reminded of the often take the position, to not believe what we that we should all not believe what we see with our own eyes. It's like characterizing the January 6 insurrection as just a bunch of tourists visiting the Capitol.

Give me a break, we now see a Supreme Court weaponized to support the position of the most conservative causes. We see a rush to the Supreme Court on cases involving abortion rights gun rights, LGBTQ rights, voting rights, union rights. Thank you, Mr. Attorney General for making the protection of our civil rights, one of the department's core priorities.

I want to turn to the need to combat hate crimes. It's been about five months since President Biden signed the COVID-19 Hate Crimes Act into law, and I sent a letter to you last month requesting an update on the department's implementation of the act and as efforts to reduce hate crimes and hate incidents.

Yet another thing that we have all seen with our own eyes, the rise in hate crimes during this period of the pandemic, Mr. Attorney General, would you briefly describe the actions that you and the

department have taken thus far to implement the COVID 19 Hate Crimes Act?

MERRICK GARLAND:
Thank you, Senator. Even before the act, I had issued a memorandum within the department to assess how we were dealing with hate crimes and to better organize the manner in which we were doing that. And then we're grateful that the Congress passed the COVID-19 Hate Crimes Act. Since then, I issued a subsequent memorandum based on what the associate attorney general and the deputy attorney general had provided, in terms of the department's progress under that act.

And I believe we have now implemented everything that was required of us in the act. But that of course doesn't mean we've solved hate in America, but we have done the things that the statute has asked us to do. We have I've appointed a coordinator for all hate crimes, matters. I've appointed a expediter in the Civil Rights Division's criminal section, to expedite our investigations.

We've established a task force of federal law enforcement and US attorney's offices meeting with state and local law enforcement, to coordinate, to explain, to develop strategies with respect to hate crimes. We've had trainings for state and local territorial and tribal law enforcement, to help them recognize these circumstances.

We've asked -- we've established a language coordinator, a facilitator, so that our memorandum and press releases in these regards can be translated appropriately. And we've asked for a considerable additional funds in our appropriations, so that we may give more money to state and local, tribal and territorial law enforcement to assist in these matters.

MAZIE HIRONO:
I appreciate the efforts you have taken and I think that this will result in of course, some factual information about the incident, the extent of hate crimes and incidents in our country, so that we can better prevent and prosecute as appropriate. You've been asked before, I think in the House hearing, about the China initiative.

If we end the China initiative, will we no longer go after economic espionage and IP theft by China?

MERRICK GARLAND:

There are two issues here that we always have to keep uppermost in our mind. One is that the People's Republic of China is a serious threat to our intellectual property. They represent a serious threat with respect to espionage. They represent a serious respect with respect to cyber incursions and ransomware in the United States.

And we need to protect the country against this, and we will, and we are bringing cases in that regard. The other thing that always has to be remembered is that, we never investigate or prosecute based on ethnic identity, on what country a person is from or came from or their family.

MAZIE HIRONO:
Thank you.

MERRICK GARLAND:
Thanks.

MAZIE HIRONO
I'm sorry, were you?

MERRICK GARLAND:
That's all right.

MAZIE HIRONO:
We're you done?

MERRICK GARLAND:
Yeah.

MAZIE HIRONO
The reason I ask about the China initiative is that under the previous administration, which Institute of the so-called initiative that there appears to have been racial profiling, which basically ruined the lives of a number of Chinese people. I want to give an example. The Justice Department, the previous

administration, dragged Dr. Anming Hu, a professor at the University of Tennessee through a two year espionage investigation causing him to lose his job.

At the end of the investigation, DOJ lacked any evidence of espionage and instead charged Dr. Hu with wire fraud and false statements, for apparently failing to disclose his association with a Chinese university on a NASA grant application. His trial ended in a mistrial after which a juror said, she was quote, "Pretty horrified by the lack of evidence", end quote.

When DOJ sought a new trial, the District Court granted Dr. Hu's motion, for an acquittal finding no harm to NASA and no evidence that Dr. Hu knew NASA's funding restriction applied to Chinese universities. So, I would say from your answer that, regardless of whether we have something called the Chinese initiative, you have no intention of not paying attention to espionage and other bad acts by China.

So, I'd say we should get rid of this. This -- what this initiative that results in racial profiling. Thank you, Mr. Chairman.

DICK DURBIN
Senator Kennedy?

JOHN KENNEDY:
Good morning, General.

MERRICK GARLAND:
Morning Senator.

UNKNOWN:
There's a lot that I couldn't get to.

JOHN KENNEDY
General, I'm looking at this letter.

UNKNOWN:

Certainly, going to ask questions

JOHN KENNEDY:
From one of your --

UNKNOWN
If you want to --

JOHN KENNEDY:
US attorneys --

UNKNOWN:
Will come back and ask questions.

JOHN KENNEDY:
From October of this year.

JOHN KENNEDY:
Where he wrote to the Montana attorney general, all the county attorneys, and all the sheriffs in his jurisdiction, suggesting ways that parents could be prosecuted at school board mayor -- for appearing at school board meetings in accordance with your directives. And one of the suggestions made by your US attorney is parents can be prosecuted for repeated telephone calls, not threatening anyone, just on the theory that repeated telephone calls could be harassment.

Really?

MERRICK GARLAND:
Senator, I haven't seen that memorandum. I've tried to express as clearly as I can here.

JOHN KENNEDY
I heard you general, but this is one of your US attorneys.

MERRICK GARLAND

Again, I haven't seen --

JOHN KENNEDY:

Isn't that special? General, you're just a vessel. Let me tell you what I'm talking about. With respect to the National School Board Association letter, you're just a vessel, aren't you?

MERRICK GARLAND:

I'm not sure what you mean by that, but I signed this memorandum. I worked on this memorandum, and this memorandum is my memory. And I'm not [Inaudible]

JOHN KENNEDY:

Well, let me tell you what I mean. We know --

MERRICK GARLAND

School board.

JOHN KENNEDY:

That the National School Board Association was upset because parents were coming to school board meetings to object to the teaching of critical race theory. We know that, in drafting the letter, the National School Board Association collaborated with the White House for several weeks. They worked on it together.

And we know that the National School Board Association wants the White House -- and the association were happy with the letter. The National School Board Association sent a letter to the White House, and the White House promptly called you and said, siccing the FBI on parents at school board hearings. And that's what I mean, that the White House is the prophet here.

You're just the vessel. Isn't that correct?

MERRICK GARLAND

Senator, I did not speak with anyone from the White House as while I worked on this memorandum. This memorandum reflects my views that we need to protect public officials from violence and threats of violence while, at the same time, protecting parents' ability to object to policies [Inaudible] they disagree with.

JOHN KENNEDY:
I get that. I've heard your testimony. Were you worried that you would be fired if you didn't issue the memorandum?

MERRICK GARLAND
Senator, I'm not -- I decided on this memorandum on my own. I don't care -- I said from the very beginning, I've taken this job to protect the Department of Justice to make independent determinations with respect to prosecutions and investigations, and I will do that.

JOHN KENNEDY:
OK.

MERRICK GARLAND:
I'm not concerned about being fired.

JOHN KENNEDY:
Sorry to interrupt, General, but I don't have much time. Now, when you got the letter that -- from the White House that prompted your memorandum to give the FBI new duties in making sure our parents aren't dangerous domestic terrorists, you didn't investigate, before you issued your memorandum, the incidences cited in the letter, did you?

MERRICK GARLAND
Look, I took the statement by the national association, which represents thousands of school board members. When they said that they were facing violence and threats of violence and when I saw on the news media reports of, clearly --

JOHN KENNEDY

Yeah, but you didn't investigate the incidents in the letter, did you?

MERRICK GARLAND:

No. There -- this is the first step. This is an assessment step. It comes before investigations. The purpose of this [Inaudible]

JOHN KENNEDY:

Right. Before you issued your memo, you didn't investigate the incidents.

MERRICK GARLAND:

The memo is intended to begin assessments. It is intended to [Inaudible]

JOHN KENNEDY

And, in fact, most of the incidents in the letter were -- did not involve threats of violence, did they?

MERRICK GARLAND:

I think that's correct. Most of them did not.

JOHN KENNEDY:

Yeah.

MERRICK GARLAND:

And they would not be covered by either federal or state law. I agree with that. And they would be protected by the First Amendment. But threats of violence are not covered by the First Amendment.

JOHN KENNEDY

Can we agree that we have thousands -- tens of thousands, maybe hundreds of thousands, of kids growing up today who are more likely to commit a crime than -- and go to jail than own a home and get married?

MERRICK GARLAND

I don't know about the comparative statistics. I do know there are too many people who are committing crimes.

JOHN KENNEDY:

And one of the reasons for that is lack of parental involvement, isn't it?

MERRICK GARLAND:

I think parental involvement is essential. I think it's the key, both to bringing up good kids

JOHN KENNEDY:

So, why do you only issue a memorandum listing incidents that you didn't investigate --

MERRICK GARLAND

My memo --

JOHN KENNEDY:

That anybody who has any fair-minded knowledge of the world knows it's going to have a chilling effect on parental involvement with respect to what their kids are learning at school.

MERRICK GARLAND:

Just want to be clear, again, Senator. My memorandum did not list any of those incidents.

JOHN KENNEDY:

Come on, General. We both know this will have a chilling effect. You don't think there are parents out there in the real world that said, "Oh, my God, maybe we shouldn't go to the school board meeting. There'll be FBI agents there"? We live in a -- we're sitting in la-la land.

MERRICK GARLAND

I tried to make clear as clear as I could, and now I have subsequently made clear in every public statement on the matter.

JOHN KENNEDY

Your actions made it clear, General. Let me ask you one last question. When men follow a United States senator who happens to be a female into a women's room to harass her about her beliefs, why is that just part of the process, as President Biden says, but when a parent goes to a school board meeting to protest that her child is being taught that babies are -- can be white supremacists is subject to FBI prosecution?

MERRICK GARLAND:

The description that you just gave, that parent is not subject to FBI investigation. And there's nothing in this memorandum that suggests this. We protect United States senators against threats of violence.

JOHN KENNEDY:

You did a good job with Senator Sinema.

MERRICK GARLAND:

Within the last month, we have indicted somebody who made threats of violence against both Alaska US senators. Recently, we just issued -- we just indicted somebody else who made threats of violence against [Inaudible]

JOHN KENNEDY

Can I ask one more, Mr. Chairman?

MAZIE HIRONO:

Can you wrap up, please, Senator Kennedy?

JOHN KENNEDY:

I'm sorry.

MAZIE HIRONO:

Could you wrap up? I am chairing this [Inaudible]

JOHN KENNEDY

Oh, yes, ma'am. I will. I'm just going to ask one last one. What led you to conclude, before you issued your memorandum siccing the FBI on parents, that law enforcement at the state and local level couldn't handle it?

MERRICK GARLAND:

Let me be clear, Senator. We did not sic the FBI and parents. That's not what this memorandum is about. Nor did we conclude that local law enforcement is unable to deal with the problem. The purpose of this memorandum is for our federal law enforcement to engage with state and local and determine whether they need assistance.

JOHN KENNEDY:

And you don't think this had any chilling effect whatsoever on parents out there?

MERRICK GARLAND:

The memorandum expressly says at the beginning that it is aimed at violence and threats of violence and expressly says that robust public debate about school policies are protected.

JOHN KENNEDY

Right. Well, I like you, General, a lot but --

MAZIE HIRONO:

Thank you --

JOHN KENNEDY:

On this issue, you've turned into someone

MAZIE HIRONO:

Senator Kennedy.

JOHN KENNEDY

You said you wouldn't be.

MAZIE HIRONO:
I recognize Senator Booker. Please proceed.

CORY BOOKER
General, I want to start with an area of bipartisan accord. It seems to be what we're getting towards. Today's the 35th anniversary of the Anti-Drug Abuse Act, which established vastly different sentences for crack and powder cocaine. We are seeing a wonderful convergence in Congress, most recently in the House of Representatives, where you have this wide bipartisan vote -- I'm not sure if there's been a bigger bipartisan vote this year -- where 149 Republicans voted along with almost all the Democratic Caucus to address this disparity.

The effect of that law was 100-to-1. The work of, again, bipartisan senators here negotiated -- led by Senator Durbin, negotiated the Fair Sentencing Act, which was a change of that disparity from 100-to-1 to 80-to-1. Senator Durbin and I now have introduced something called the EQUAL Act, which is already been passed by the House.

We've got Republicans and Democrats on board.

CORY BOOKER:
We've got Republicans and Democrats on board: Tillis Leahy, Paul, Graham, as well as my colleague, Senator Ossoff on my side of the aisle. The President Biden, publicly supported the bill.

And again, I just think this is -- should be an area that's obvious accord. But I really want to know your opinion. Do you agree that it's time to end the sentencing disparity between crack and powder cocaine, especially given the disparate impact it has on people of color? And if you believe that, why do you believe that?

MERRICK GARLAND:
Yes, I do believe that. The Justice Department supports that bill that supports equal treatment of crack and powder cocaine. The Sentencing Commission has, over the last decade, maybe more than that

produced a series of reports which undercut what was supposed to be the scientific basis for the distinction between the two.

And it's made quite clear that there is no warrant basis for distinguishing between the two. So, once that is undercut, there can be no grounds for that. On the other hand -- on the other side, not only are there no grounds for it, it clearly does have a disparate impact on communities of color, also clearly recognized by the Sentencing Commission statistics.

Do we have that kind of circumstances? There's no justification for this and we should end this.

CORY BOOKER:
I appreciate that. One last, just clarification, while there is a lot of unanimous support for this on both sides of the aisle, a lot of support on both sides of the aisle. There are some people that worry about it somehow affecting crime or crime rates. Could you discuss your opinion of that perspective?

MERRICK GARLAND:
Well, I think powder cocaine is dangerous with respect to crime rates as crack cocaine, both of which have now been unfortunately overtaken by fentanyl and the opioids. But both of those are bad problems from the aspect of crime. But equalizing penalties for crack and powder should have no difference with respect to our ability to fight violent crime [naudible].

CORY BOOKER:
Thank you. Thank you, sir. I appreciate that. You're saying that for the record. Can I revisit what Senator Durbin brought up at the top? And this is a letter that he and I sent you regarding the people that are currently on home confinement. In the last days of the Trump administration, on January 15, 2021, the Justice Department's Office of Legal Counsel issued a memo arguing that the BOP must reincarcerate everyone on the CARES Act home confinement at the end of the covered emergency period if they do not otherwise qualify for home confinement.

Now, these are folks that were pretty, extremely scrutinized beforehand. They've been returned to their communities. They have been reengaging with family, with children. They have our folks are not showing any criminal activity or any problems. Senator Durbin and I really believe and we were urging the Department of Justice to rescind this Trump era memo, which incorrectly concludes that

people who have been released to home confinement and who have abided by the conditions of the release must be torn away from those families and go back to BOP custody.

And so, I just really would love to know where you stand on this issue. To me, it's an issue of justice, it's an issue of restorative justice. It's an issue of compassion and understanding the collateral consequences of ripping people back and putting them in prisons unnecessarily, not to mention the cost to taxpayers.

Clearly, I have my opinion, but I'd like to hear yours.

MERRICK GARLAND:
Look, I agree with you. It would be a terrible policy to return these people to prison after they have shown that they are able to live in home confinement without violations. And as a consequence, we are reviewing the OLC memorandum that you spoke about. We are also reviewing all of the other authorities that Congress may have given us to permit us, to keep people on home confinement.

And as you know, we are also -- and the president is reviewing the extent of his clemency authority in that respect.

CORY BOOKER:
How long should we expect that review before you make a determination?

MERRICK GARLAND:
I can't say exactly but

CORY BOOKER:
Are we talking six months or less than six months?

MERRICK GARLAND
I'm not exactly sure how long that will take. It may require rulemaking and so that may take more time, but we can be sure that it will be accomplished before the end of the CARES Act provision, which extends until the end of the pandemic. And so, we are not in a circumstance where anybody

will be returned before we have completed that review and implemented any changes we need to make.

CORY BOOKER:

OK. And in regards to just compassionate release in general, will the Department of Justice consider filing motions for individuals on home confinement who reside in judicial districts like the 11th Circuit where courts have interpreted compassionate release statutes to cover only medical age and family circumstances grounds.

Obviously, there is still a pandemic and we know that putting people into environments greatly increases their chances. I'm concerned about restrictions on compassionate release in places like the 11th Circuit.

MERRICK GARLAND:

So, this is something I haven't thought about, Senator. I guess the Bureau of Prisons, which is the agency that decide those questions has to have a uniform policy across the country. I hadn't thought of the possibility of making distinctions based on which circuit, because you're quite correct, the different circuits have different views about the scope of compassionate release.

I'll take that back for consideration if it's all right with you.

CORY BOOKER:

All right. I have some concerns about the First Step Act implementation, which I'll ask in writing to you. I want to be respectful of my colleague, my friend, the senator from the great state of Oklahoma.

BEN SASSE

Ouch.

CORY BOOKER:

I'm sorry, sir. Forgive me. Omaha.

BEN SASSE:

Omaha is not a state, brother.

CORY BOOKER
I'm sorry. Where are you from, sir?

BEN SASSE:
We used to be able to beat Stanford in football and we will return. Chairwoman.

MAZIE HIRONO:
[Inaudible]

BEN SASSE:
Thank you. Sorry, Cory, it's not as funny as I thought it would be there. Attorney General, I know you're tired of talking about the memo --

MERRICK GARLAND
I'm not.

BEN SASSE:
But -- did you say you're not?

MERRICK GARLAND:
I'm happy to answer any questions you have, sir.

BEN SASSE:
I think most of us and most of the American people are just sort of flabbergasted if your answer is you have no regrets about this memo. Is that what you're telling us? You think this was wise?

MERRICK GARLAND
Senator the obligation of the Justice Department is to protect the American people against violence, including threats of violence and that particularly includes public officials. I think that is still a concern for the department. This memo doesn't do anything more than ask our law enforcement to consult

with state and local law enforcement to determine whether they need assistance in this regard and whether there are any federal jurisdictional issues involved.

And we recognize --

BEN SASSE:
General, you and I both know that it is political hackery that brought that topic to your desk, not reality. I am strongly against all violence against everyone in public life and all threats of violence. You've not, at any point here, given us any data that show why this would, in any way, be a federal priority at this time.

The chairman -- he's not here right now, but Chairman Durbin has repeatedly talked about how this morning he googled it and is pretty convinced there must be lots of threads. Can you help us understand why so many states are disconnecting their organizations from the National Association of School Boards?

You are aware that the National Association of School Boards has recanted of the memo, correct? You know, they've rejected their own letter to you. Are you aware of that?

MERRICK GARLAND:
I read their letter. Their letter doesn't recant their concerns about safety. It recants some of the language in their letter --

BEN SASSE:
We're all for safety.

MERRICK GARLAND:
Which I did not adopt. The language that they have recanted, I never adopted and never would adopt.

BEN SASSE
Why did the Ohio School Boards Association severed their relationship with the National School Boards Association?

MERRICK GARLAND
I don't know --

BEN SASSE:
Why did the Missouri School Boards Association severed their relationship with the National School Boards Association? Why did the Pennsylvania School Boards Association severed their relationship with the National School Boards Association? Because this was political hackery. The kind of stuff you told us when you were seeking confirmation that you would be against.

And you had the audacity to begin your opening statement today by telling us one of your big three priorities was to make sure communications between the White House and the Justice Department were not politicized. The last three administrations in a row have politicized the Department of Justice, the three including you now.

You told us one of your priorities in running DOJ was to reject these kinds of politicization we saw in the Trump DOJ and in the Obama DOJ. You told us that was one of your priorities. You wrote a memo here that came from political staffers, who've been rejected by their organization, coordinating with the White House to try to exaggerate a threat so that they could make sure parents felt intimidated.

You've told us I wouldn't use the exact language Senator Kennedy used, about that you were a vessel, but one of two things is true here. Either you were just a vessel of political com staffers at the White House or you yourself are in favor of politicizing the DOJ. You told one of my colleagues a minute ago that you've not read the memo from the US Attorney for Montana.

BEN SASSE:
I'll read it to you if you want or I'll bring it to you and you can read it. This is one of your direct reports. It's an insane letter. The US attorney for Montana takes as predicate for why he's doing what he's doing, your memo. And on October 14, he sends a list of all the counterterrorism statutes that should be considered to be used against parents who are upset about things that might be happening at their school boards.

Maybe there's lots of specific evidence of violence being threatened against school board members in Montana. But he -- his memo -- or his response to your memo includes a letter where he says that

anonymous telecommunications harassment, repeated telephone calls, or repeated harassing communications should be things that are potentially brought up as the basis for federal charges against parents.

Do you agree with this letter of October 14?

MERRICK GARLAND:
Senator, I'm going to say again, this is aimed at violence and threats of violence. And I don't care whether they come from the left or from the right, or from up or from down. I don't care if they're in favor of curriculum or against particular kinds of curriculum. We can imagine this all these kind of these arguments against school boards coming from either the left or the right, it doesn't matter.

Arguments against school boards are protected by the First Amendment, threats are not protected by the First Amendment. And we got -- we received a letter from the National Association of School Boards, no reason to believe --

BEN SASSE:
No, you didn't receive an anonymous letter. White House political staff

MERRICK GARLAND:
I didn't say --

BEN SASSE
Co-wrote it with this organization, which is why the organization has rejected it. You know these facts now to be true and yet you still won't disavow your memo. Why? You didn't receive some objective, neutral letter because all these people were being threatened. You are the -- you are responding to a political campaign to politicize the Department of Justice.

How big is the threat that American parents pose right now? When you lead a big organization, you have 100,000+ employees, you have a lot of violence to go after. Are parents at school boards one of the top three concerns you face right now?

MERRICK GARLAND

This memorandum is not about parents at school boards. It doesn't matter whether they are parents or anyone else. It has to do with threats against public school teachers, public school officials. It is not political

BEN SASSE:
I'm against all those threats. I want to know what the data is.

MERRICK GARLAND
Well, I don't need data in order to assess --

BEN SASSE:
Or respond to a political staffer's campaign out of the White House.

MERRICK GARLAND:
The purpose of this memorandum is to get our law enforcement to assess the extent of the problem. And if there is no problem, if states and local law enforcement are capable of handling the problem, then there is no need for our involvement. It this memo does not say to begin prosecuting anybody. It says to make assessments.

That's what we do in the Justice Department. It has nothing to do with politics.

BEN SASSE:
Well, you report back to this committee with what you find about these threats because what you just said, I completely agree with. We are against violence against public officials, you and I agree. We are against threats of violence against public officials, you and I agree. We are for local police powers investigating local crimes, and there are definitely yokels and idiots that make threats against lots of people in public life.

I don't minimize it, you shouldn't minimize it, you're not minimizing it, but we both believe, and in your heart of hearts, I'm pretty sure you believe, that local law enforcement is more than able to handle some one idiot or 12 idiots at school board meetings. But you made it a federal issue. And I don't have any idea why and at no point today have you offered us a shred of data.

So, my question is will you pledge you will report back to this committee with the results of your investigation about how big a threat the American parent class is to school boards in the country?

MERRICK GARLAND:
I will be happy to get a report back to you, but it -- this is not about the American parent.

BEN SASSE
I know. It's about the politicization of DOJ, and you decided to submit as a vessel and you know better.

MERRICK GARLAND:
I'm sorry, but I don't agree with that, Senator.

MAZIE HIRONO:
[Off mic]

RICHARD BLUMENTHAL:
Thank you, Senator Hirono. Welcome to our committee, Mr. Attorney General. And let me just begin by thanking you and your team for the sense of integrity and transparency that you brought to the Department of Justice after a time when the rule of law in the greatest law enforcement agency in the history of the world was gravely threatened --

UNKNOWN
Senator Durbin [Inaudible]

MAZIE HIRONO:
Mmm hmm. I see.

RICHARD BLUMENTHAL:
By a lack of that dedication and commitment. I think it's very important, what you have done. Even though we may have differences of opinion, we may disagree, but nobody can doubt your

commitment to the rule of law. I want to ask you about a matter, I know you're familiar with it. Last month, the committee held a hearing on the FBI's mishandling of the Nassar investigation, Larry Nassar, who was convicted of the most heinous kind of abuse with respect to young athletes and gymnasts, particularly four brave women shared their stories with us. They showed up to tell those stories in spite of the very grave obstacles.

The inspector general concluded that two FBI agents made false statements during their investigation into Nassar. And to the IG himself, the inspector general, during an investigation, the FBI agents lied, he referred those cases to the Department of Justice. What I'd like to ask is that the Department of Justice now, in effect, show up by providing an explanation of whatever its decision is with respect to the prosecution of those agents.

The deputy attorney general announced that the Criminal Division was conducting a new review, as you know, and that new information has come to light. While we wait for that review to be completed, what I'm seeking from you is a commitment that you will explain the decision when it's made. I recognize as a former prosecutor, that declinations typically are not explained, but the justice manual itself says that in criminal civil rights cases, "it is often the practice to send case closing notification letters in cases closed with indictment or prosecution" because cases "often spark intense public interest even when they're not prosecuted" and that such letters are "particularly encouraged in cases of police misconduct and other cases involving law enforcement officers, subjects." In this case, we have exactly that situation.

And I'm asking for a commitment that you will provide an explanation for your decision.

MERRICK GARLAND

Well, Senator, this is a hard problem for us. That part of the manual that you're talking about is about violations of the Civil Rights Act and what we're talking about here are false statements. Needless to say, if -- the results of this review is a prosecution that will become public. On the question of how much -- whether and how much we can say, if all we do is decline, I'm just going to have to take that back for consideration.

I take your point and I will think about it very carefully, as well, the Criminal Division.

RICHARD BLUMENTHAL

I understand you're not ruling it out, but I'm going to continue to press for an explanation. I think the gymnasts deserve it, so does the American public. And I hope that you will make a decision to provide a full and complete explanation because I think the credibility of the decision will largely depend on it. And let me just say, in my view, we need to do more than focus on the FBI agents that the inspector general referred for prosecution because this failure was an institutional failure, institutional to the FBI, to USA Gymnastics, and the entire Olympic system.

It was an institutional breakdown. And to date, there's been no accountability for anyone in power. To that end, I am announcing that I -- in the commerce subcommittee that I chair, the Subcommittee on Consumer Protection, we're going to continue the work that Senator Moran and I began years ago. We literally began it years ago with the investigation and Olympics reform legislation.

We're going to engage in further oversight of the United States Olympic and Paralympics Committee, the national governing bodies, and SafeSport to ensure their purported commitment to safety is not an empty promise. The gymnasts have asked us, they deserve us -- they deserve it, and we're going to fulfill that obligation.

But in my view, the Department of Justice has to do more as well given the FBI's gross mishandling of the Nassar investigation. I believe a new review of all of the information related to Nassar and the USOPC more broadly is warranted here because there are other examples of potential misconduct that deserve a fresh look.

RICHARD BLUMENTHAL:
For instance Sinema [Ph] and I referred the former CEO of the USOPC to the Department of Justice for potentially perjuring himself before our subcommittee in 2018. We don't know what, if anything, the department did with that referral. We've heard virtually nothing. In addition, the former US attorney for the Southern District of Indiana, whose office was involved in the Nassar investigation, is now representing one of the disgraced FBI agents.

He's representing one of the FBI agents referred for prosecution. I don't know whether that's a violation of ethical rules or some other kinds of Department of Justice policies, but it raises significant questions, and the department should have an interest in them. So, I hope that we can expect more from you by way of explanation, and I hope that we can count on you for, and a new review of the

information related to the Nassar investigation, USA Gymnastics, and USOPC to determine whether there are additional cases where prosecution is necessary to hold wrongdoers accountable.

MERRICK GARLAND:

The institutional failure that you speak of is quite apparent. I thought that the testimony by the gymnasts was, as I said, heart-wrenching, and they were courageous. The FBI director has adopted all of the recommendations of the inspector general and is putting them into effect. And in addition, we have adopted new regulations, new authorities in the department to be clear that if the FBI is investigating a case of assault on a child and determines that it no longer had -- that it doesn't have jurisdiction, it immediately inform the relevant state or local prosecutors and law enforcement, this is what didn't happen in the Nassar circumstance, and ensure that that is done so that the state and local will be able to continue.

Likewise, with respect to transfers from one FBI office to another, another failure under those in that case, that those be monitored to ensure that those transfers occurred. We take this extremely seriously. What happened is just awful, and you have the commitment of the Justice Department and of the FBI director and of the FBI to make these kinds of institutional changes to ensure that this doesn't happen again.

RICHARD BLUMENTHAL:

I appreciate those points. But, as you well know, because of your own long and impressive record as a prosecutor, there's nothing like accountability, individuals being held accountable to send a message, particularly deterrent message, to an institution. Thank you, Madam Chair.

DICK DURBIN

Thank you, Senator Blumenthal. And I have a list from the Republican side, and this is the order they've given me, correct me if I'm wrong: Tillis, Blackburn, Hawley, and Cruz. We have two Democratic senators who have not asked at this point. We'll wait to see if they arrive. Senator Tillis? Senator Tillis, I don't know if you're mic is on.

THOM TILLIS:

Better?

DICK DURBIN

Better.

THOM TILLIS:

You may regret it, but, Mr. Attorney General, thank you for being here. You know, in response to the memo, I know you've repeatedly said this is not about parents. Fifteen years ago, I was PTA president, my daughter's high school, participated in a lot of school board meetings. And I still watch it on public access back in Mecklenburg County when I'm home.

The basis for your memo was substantially the letter that you all received. Is that correct?

MERRICK GARLAND:

That was an important part of it, yes, Senator.

THOM TILLIS:

Do you think there was an empirical I've seen some of the widely reported situations in some school board meetings but is there really any empirical basis for I've seen a lot of raucous school board meetings. I participated in them. Is there really any empirical basis to the DOJ do any real work outside of the public reporting to say that there's a disturbing trend that required the kind of what we consider to be overreach on part on behalf of the DOJ?

MERRICK GARLAND:

So, as I've explained, what we looked at was the letter from an organization that represents thousands of school board members and school boards and public reports of threats of violence. And even since then, I have further read quite express threats of violence being reported.

THOM TILLIS

Watching -- Mr. Attorney General, I want to try and keep in time in deference to my colleagues behind me.

MERRICK GARLAND:

Yeah. I'm sorry.

THOM TILLIS:

But I do -- I know that you've said it's not about the parents. But when the DOJ releases the memo, and I think even more importantly the press statement, I think that it does have a chilling effect on parents being willing to go and express their concerns with the direction the school board's going. When all of a sudden, you think that your words and this list of crimes that the department has sent, I guess to at least the state of Montana, others, it could have a chilling effect on people who legitimately have a concern and they want to express it. But now, they may think that they come crosswise with the FBI. So, I do believe that it will have a chilling effect on peoples who's right they have to go and express their concerns, like in Loudoun County, a ridiculous overreach.

I think that it will have that effect because the full force of the FBI is now something a parent has to think about before they go before a school board meeting to express their concerns, and they get frustrated. Like I said, they've been raucous for decades, and they will be raucous for decades to come.

So, I do -- I really do believe that you should seriously consider rescinding, revising a statement out there that concerns me for the parents that I want to show up at school board meetings and have the school boards held accountable. The other thing that we should talk about are the numerous examples of school board members getting caught, saying audacious things, is one thing you've seen over the past year.

Think about some of the provocative statements that they said. They thought they were behind closed doors, but they were on the internet, basically ridiculing parents and pretending like they had ball control over their children's education and their future. We've got to get more parents engaged, and I think that the effect of the DOJ action is the exact opposite of that.

But most of my colleagues have covered my concerns, and I agree with those that have expressed on my side of the aisle. In response to Senator Graham, on immigration, you said that you did go visit the border. It sounds like you were down there mainly from the perspective of your role in the DOJ. I understand that Homeland Security is primarily responsible, but I would encourage you to go back down there, and maybe we could share with you our itinerary to talk about why I do believe it should

be a great concern to the DOJ. We've got almost 1.5 million asylum cases on the docket now, and it takes years to complete them.

And about 80 percent of them are adjudicated as not having a valid claim. So, doesn't that data lead you to suggest that the asylum system is being abused? I mean, just -- that's data from the DOJ.

MERRICK GARLAND:
So, Senator, I don't know for sure about the data, but the purpose of the of a of asylum adjudication is to adjudicate asylum. People whose

THOM TILLIS:
I understand that, but --

MERRICK GARLAND
Statute allows them to make these -- this is a statutory question.

THOM TILLIS:
I'm not an attorney.

MERRICK GARLAND:
Not the Justice Department.

THOM TILLIS:
I'm not an attorney, you're an accomplished judge, so, I'm looking at those just from a practical standpoint. When the data says that over -- almost 2 million people have crossed the border illegally since January, and it is 80 percent likely that they're not going to have a valid asylum claim, how any reasonable person couldn't look at that and say something is being abused here?

It's a gateway to get into this country, drift into the shadows, and virtually never leave the country. But here's the one that I'm most concerned with and why I think a briefing with the same people that we met with at the border many of the people on this committee were there when I was: hundreds of gotaways a day getting across the border.

And gotaways are not the ones that they that want to be processed through asylum. They want to evade detection; they want to drift. And how on earth can we assume that there's anything but a malign purpose for them trying to evade detection? Otherwise, you just get into the system, you're going to be here for years, you're going to abuse the asylum system.

They're skirting it to the tune of a couple of hundred a night, and this has been going on for months. So, now we have thousands of people who came into this country. When the cartel set a pick, they'll send about 50 people over to engage the Border Patrol so that they can send another couple of hundred into our society.

There are drug traffickers, there are human traffickers, there are gun smugglers, there are gang members, and they're coming in by the thousands every month.

THOM TILLIS

That is a DOJ problem, that is a crime in our communities problem, and it's actually making the Hispanic communities, the majority of which coming over Hispanic, those communities less safe. I would really encourage you to go back to the border and look at it from the perspective of your role as attorney general and the hundreds and the thousands of illegals who are coming across our border every day.

Many of them drifting in and evading detection and making our communities less safe. I do have a number, I've got intellectual property, a number of implementation issues that I'm going to submit for the record. But Mr. Garland, we have a problem at the border and the DOJ has to engage and recognize part of that problem you're going to have to fix.

We got to stop the $13 million a day that the cartels are getting for human trafficking. That's a documented number. We've got to stop the tons of fentanyl and drugs that are poisoning Americans because we have an out of control border situation. This is a law enforcement issue, I understand it's an immigration issue, but we have to get you, I think, read up the same way that we were the last time we were at the border.

I'd really encourage you to go back down there again, talk with the people on the ground, and understand why this is going to make your job more difficult, and it's already making America much less safe. Thank you, Mr. Chair.

DICK DURBIN

Senator Padilla.

ALEX PADILLA:

Thank you, Mr. Chair. I'll begin with a comment before I get to a few issues and a few questions, particularly in light of recent comments from some of my colleagues about immigration, migration, what is, what isn't happening. And I want to start by recognizing Senator Coons' remarks earlier who asked you about what you're doing to address the backlog in immigration courts, right?

What are the best, most smart approaches to tackling unlawful migration is to improve the effectiveness, the efficiency of lawful migration? It's not just investing in immigration courts but access to counsel. And I just want to add that these are issues that my office hears about on a very regular basis.

And so, I was heartened that you'll be asking for additional resources to address those issues. This is certainly an area where money is needed to improve the processing of immigration cases while ensuring due process. Now, to my questions. First, a response that I and several of my colleagues have been waiting on since April 15, when I and seven other members of Congress sent you a letter concerning the department's funding and oversight of predictive policing tools, which are deployed by law enforcement throughout the country.

As we highlighted in that letter, and I'm happy to provide an additional copy to you, we're concerned that the Department of Justice may be devoting precious taxpayer resources to ineffective tools and encouraging local law enforcement to also devote resources to unproven strategies. We're still those tools may be perpetuating a vicious cycle of discriminatory policing against historically marginalized groups.

Because we have not yet received a response, we do not know for example what, if any, conditions there are by the Department of Justice on the agencies and departments who deploy predictive policing tools with the aid of federal funds. I find this unacceptable. So, Attorney General Garland, it's been over six months since our letter was sent to the Department of Justice and we have yet to receive an official response.

Can you explain the delay and when we can expect a response?

MERRICK GARLAND

I can't explain the delay. I don't know what the reason is, but I will immediately take this back and be sure that the Office of Legislative Affairs responds to your letter.

ALEX PADILLA:

OK. We'll get you another copy of that letter before we leave here today. Next issue, as most I believe we should all agree, we need an open and competitive economy that also works for workers. We talk a lot about entrepreneurism, capitalism, consumer protection. But we need an economy that also works for workers and this demands the Department of Justice's attention to combat artificially suppressed compensation, employer collusion, and increasing inequality.

You know, for example, noncompete clauses or no-poach agreements limit the ability of many workers throughout our economy to switch to better-paying opportunities or start their own businesses in a number of sectors. Antitrust protection for labor organizing does not yet explicitly extend to gig economy workers who are classified as independent contractors by their employers.

And corporate consolidation can limit the pool of companies in a labor market competing to attract and retain workers. Attorney General Garland, what is the Department of Justice doing to ensure that there's competition in our labor markets? And is this yet another area where the department needs additional resources to fulfill the mission laid out by President Biden?

MERRICK GARLAND

Thank you for the question. The Justice Department's Antitrust Division agrees -- I don't know if you can hear either, agrees that competition within labor markets is as much a part of the antitrust laws as competition in product markets or consumer markets. We have a number of investigations involved in those areas that you're talking about.

We have a criminal case, all public, on the no-poaching issue. We have brought cases and investigations regarding allocations of labor markets. So, I think I can fairly say we agree with you this is an area of concern and it's an area of Antitrust Division focus. The Antitrust Division does need more money and more lawyers and economists and investigators.

It was down substantially, one of the lowest headcounts in quite a number of years, and we very much need to build that back. And that's why our FY '22 appropriations request asks for a substantial

increase in money for the Antitrust Division.

ALEX PADILLA:
Yeah. Wonderful. Well, I look forward to supporting those requests for additional resources. And finally, in the time remaining, yet another topic. Earlier this month, this committee released a report detailing former President Trump's scheme to pressure the Department of Justice and overturn the will of the people who voted for now-President Joe Biden so that he could serve again as president.

The report outlined behavior that follows a pattern and practice of intimidation, coercion, and outright bullying by the former president's administration. If we don't hold these bad actors accountable, we face the possibility of eroding public trust in our institutions. Americans are looking for accountability and they're looking to you, Attorney General, as the leader of your agency to administer justice.

My question is this, are you willing to recommit yourself to pursuing every possible avenue and every possible lead for holding those accountable who have used public office to undermine and demean our democracy?

MERRICK GARLAND:
So, as a general matter, the answer of course is yes. I don't want to talk about specific investigations except to point out what's already been stated publicly on the record, which is a component of the Justice Department, although an independent one. The inspector general is examining the matters that you're the about which you're speaking and I have full confidence that he will advise me and the department of what he finds and we will then take appropriate action.

ALEX PADILLA:
OK. Thank you. And just in closing, I would hope that that would include review and consideration of allegations documented in a recent Rolling Stone article where participation in the lead up to January 6 and on January 6 was not limited to just White House officials but actual members of Congress as well.

Thank you. Thank you, Mr. Chair.

DICK DURBIN

Thank you. We're going to recognize Senator Blackburn then take a five-minute break, return, and we have Senator Ossoff, Senator Hawley, Senator Cruz. Can I just say to the two or three members who have said they might be interested in a three-minute round? Please be here. You have to be physically present because this has been a long day for all of us who've stayed here most of the time, particularly for the attorney general.

So, Senator Blackburn and then a five-minute break.

MARSHA BLACKBURN

Thank you, Mr. Chairman. And General Garland, thank you for being with us today. I have to tell you that it is with much disappointment that I have watched the DOJ be so politicized. And the way things have been carried out when you look at the memo to parents, you've heard a lot about that today and it's because we're hearing a lot about that.

MARSHA BLACKBURN

And I just have to ask you, knowing that you really helped to bring to justice those that cause the Oklahoma City bombing, would you really honestly put parents in the same category as a Terry Nichols or a Timothy McVeigh?

MERRICK GARLAND:

My God, absolutely not.

MARSHA BLACKBURN:

Then why would you ever release a memo? I mean, did you write that memo? Did staff write that memo? What would have led you to do this? It is so over the top.

MERRICK GARLAND:

Senator, there's nothing in the memo that in any way draws any comparison, anything like that. This memo is about violence and threats of violence. It's not --

MARSHA BLACKBURN

Sir, I have to tell you that that may be your opinion. And you know, many times, perception is reality. And reading that memo myself, Tennesseans reading that memo, what they found in that memo, what they heard you say was if you show up and you question the school boards, you will be deemed a domestic terrorist.

You could be investigated by the FBI. I mean, the FBI has a lot of other things that they should be focusing on. And the FBI should be there looking at issues like China. Now, the Knoxville FBI has been very concerned about China. So, why -- give me a little update, what's the status of the China Initiative at DOJ?

MERRICK GARLAND

So, Senator, we are -- we regard People's Republic of China as an extraordinarily serious and aggressive threat to our intellectual property, to our universities, to our --

MARSHA BLACKBURN:

OK, that's -- you're stonewalling me on that. We all know they're an aggressive threat.

MERRICK GARLAND:

We continue to investigate

MARSHA BLACKBURN:

OK.

MERRICK GARLAND

The PRC efforts to --

MARSHA BLACKBURN:

Do you see them as an adversary?

MERRICK GARLAND:

I see them as adversarial with respect to our ransomware, with respect to hacking our

MARSHA BLACKBURN:
OK.

MERRICK GARLAND
With respect to counterintelligence, respect to counterespionage, and all those ways.

MARSHA BLACKBURN:
Well, we know that. Over the last several months, the last nine months, several espionage prosecutions of researchers have been dropped, our charges have been dismissed, including those of a UT professor at UT Knoxville. And, of course, the Huawei case is there. So, this is in spite of the fact that Director Wray recently testified that the FBI opens a new Chinese espionage investigation every 12 hours.

So, are there apparent failures of the initiative? Is it a lack of leadership, or is it a compromised position with the administration? Is it incompetence?

MERRICK GARLAND:
Every case is evaluated on its own with respect to the law and the facts. We continue to open cases involving the People's Republic of China daily. As the director said, we will not, in any way, let up our concerns about Chinese.

MARSHA BLACKBURN:
OK. All right. I want to move on I'm glad to know you're not going to go soft on China because this administration is going soft on China. On your directive, going back to the school board association and the directive that you sent. NSBA has apologized, are you planning to apologize to the parents of this country, moms and dads?

MERRICK GARLAND:
There is nothing in this memorandum that any parents should be concerned about.

MARSHA BLACKBURN

There's a lot that parents should be concerned about it. Let me ask you about the Durham investigation because 44 Senators joined me in a letter that we sent to you in August, and we still have not received a written response from you on the status of the Durham advance -- investigation. So, will you provide for me a written status report of the Durham investigation?

MERRICK GARLAND:

So, the particular aim I think of the letter asked about the budget. And as I said at the House Committee, Mr. Durham is continuing. And the only thing he could --

MARSHA BLACKBURN:

We ask for a status update. And we also ask that the report be made public available to the public on the completion of his work. Will that be made public?

MERRICK GARLAND:

So, on both of those questions, his budget has been approved as already announced.

MARSHA BLACKBURN

OK.

MERRICK GARLAND:

And with respect to the report, I would like as much as possible to be made public. I have to be concerned about Privacy Act concerns and classification. But other than that, the commitment is to provide a public report, yes.

MARSHA BLACKBURN:

Can you guarantee this committee that Special Counsel Durham has free reign to proceed wherever his investigation takes him without any political or otherwise undue influence or interference?

MERRICK GARLAND:

There will be no political or otherwise undue interference for his investigation.

MARSHA BLACKBURN

OK. Susan Hennessey, she -- Susan Hennessey was recently hired to work in your national security division. This is a troubling hire because of her political bias. She has made several comments that show she is incapable of working impartially on sensitive matters within the national security division, particularly on the Durham investigation.

For example, December 1st 2020, Ms. Hennessey stated, and I am quoting, "Durham has made abundantly clear that in a year and a half, he hasn't come up with anything. I guess this kind of partisan silliness has become characteristic of Barr's legacy, but unclear to me why Durham would want to go along with it." So, how can the American people be certain that she is going to be fair and impartial when she is on the record making those statements?

So, has she retracted that statement? Do you intend to ask her to retract that statement?

MERRICK GARLAND:

I have to confess, I don't think I've even ever met Ms. Hennessey, and she has nothing whatsoever to do with Durham investigation.

MARSHA BLACKBURN

Well, you may want to look at her. She is there in your national security division, and she is very much opposed to this. I want to thank you for your time. I am going to send a couple of questions to you for more complete answers. But I associate myself with the comments by my colleagues that the border issues have turned every town into a border town and every state into a border state.

The amount of drugs, the amount of trafficking that is flowing in here, talking to local law enforcement, the way they're looking at the cartels, Mr. Attorney General, there is a lot that needs to be done to secure this country. And the parents of the kiddos in our school, they are not the problem. There are other problems that need your attention.

DICK DURBIN

Thank you, Senator Blackburn. The committee will stand in recess for five minutes.

DICK DURBIN:

Committee will resume. Senator Hawley?

JOSH HAWLEY:

Mr. Chairman, did you call on me or Senator Ossoff?

DICK DURBIN:

I'm sorry.

JOSH HAWLEY

I'm happy to go.

DICK DURBIN:

I didn't see Senator Ossoff, I apologize. Senator Ossoff, then Senator Hawley.

JON OSSOFF:

Thank you, Senator Hawley. Thank you, Mr. Chairman. Attorney General, nice to see you. Thanks for joining us. Last week, the Senate passed legislation that I introduced alongside Chair Durbin and Ranking Member Grassley, the Prison Camera Reform Act, to reduce violence and civil rights abuses in BOP facilities by overhauling a security camera system that IG Horowitz has found as outdated, unreliable, as well as the means of preserving and recording the footage from those systems.

Do you agree that these reforms are necessary? And should this bill become law, will you commit to prioritizing the implementation of the requirements it imposes upon the BOP?

MERRICK GARLAND:

Yes and yes.

JON OSSOFF:

Thank you, Attorney General. I'd like to discuss with you staffing issues at the Bureau of Prisons. Earlier this year, the GAO, which, as you know, is a nonpartisan independent watchdog, concluded

that BOP lacks a reliable method for assessing the scope of staffing issues or the impact on incarcerated populations and staff of staffing issues at BOP facilities.

Do you agree the inability to reliably measure this problem impedes BOP's ability to address gaps, for example, shortages of medical staff, shortages of personnel who will help implement the First Step Act and anti-recidivism programs, as well as makes it more difficult for Congress to respond? And will you commit to working with my office to help identify where there's gaps in planning or budgeting or personnel management?

JON OSSOFF:
Or the authorities that BOP has?

MERRICK GARLAND:
Yes, Senator I met with the comptroller general about this, about the various of his reports and this one in particular and I agree this is a serious problem with the Bureau of Prisons. The deputy attorney general has been working on this problem for quite some time now. As she has repeat meetings with the Bureau of Prisons to go over this issue with respect to staffing and assessment, and I'd be happy to have somebody on our staff meet with your staff.

JON OSSOFF:
Thank you, Attorney General. The inspector general has determined that BOP lacks a clear and consistent policy for the use of solitary confinement in BOP facilities, has BOP to your knowledge issued such a policy?

MERRICK GARLAND
I don't know the answer to that.

JON OSSOFF:
OK. Will you work with my office to determine whether they have and what may need to be done to ensure that they do?

MERRICK GARLAND
Of course.

JON OSSOFF:
Thank you, Attorney General. Question, about commercial data and its use in DOJ investigations. In 2018, the Supreme Court issued its Carpenter v. United States decision that government agents must obtain a warrant before collecting cell phone data, but showed the location of a device over a seven-day period.

Of course, this data is widely available for many US persons on commercial markets through data brokers and other technology companies. To your knowledge, do any federal agencies currently purchase data or any DOJ components, currently purchase data or contract for services that provide device location data from commercial vendors?

Is this data used in investigations or prosecutions?

MERRICK GARLAND
I don't believe that we purchase location data, but I'll be happy to look into that and get back to that -- back to you on that as well.

JON OSSOFF:
I'd be grateful because I think there are serious Fourth Amendment concerns there. I would like to discuss the FISA process with you and its report last month, the office of the inspector general noted that DOJ and FBI still had work to do to implement the IG's recommendations to strengthen the review process for FISA applications, to ensure they contain accurate information.

While this is unfortunately become a partisan issue over the last few years, it's fundamentally an issue of privacy, due process and the integrity of the Foreign Intelligence Surveillance Court and the applications that receives. The IG's report notes that the FBI has not significantly changed the process by which a supervisor, such as the assistant attorney general for National Security Division reviews and documents, the factual assertions made in FISA applications.

And I discussed this issue with Matt Olsen when he was before the committee for his confirmation. So what steps is the DOJ taking to make substantive changes to the FISA review process and comport with the IG's recommendations?

MERRICK GARLAND:
So, I completely agree that this should not be a partisan issue. FISA on the one hand is extraordinarily important tool for our ability to protect the country against foreign enemies. And on the other hand, it's a tool that has to be dealt with the most extreme care because we have to protect American citizens from unwarranted surveillance, non-judicial surveillance.

I take the inspector general's report extraordinarily seriously, I believe the one you're talking about though refers back to events from 2020 and 2019, but regardless, we take this very seriously and the FBI director does as well. The National Security Division of the Department reviews what the FBI is doing with respect to FISA's routinely, audits and analyzes them to be sure that they are following the correct rules.

And we intend to continue that kind of intensive review to ensure that our internal regulations and requirements of the FISC are maintained. Thank you.

JON OSSOFF:
Thank you, Attorney General, and I believe there is, within the last couple of months some additional recommendations or concerns expressed by the IG about the implementation of changes pursuant to his prior conclusions. So.

MERRICK GARLAND:
Well, this must be the Woods. I think this is the Woods Files that you're talking about. And again, quite --

JON OSSOFF
That's correct.

MERRICK GARLAND:

I quite agree that this has to be done better, but as I think he said, it's a work in progress and there is certainly a considerably more room for improvement, and we are focused on making those improvements.

JON OSSOFF:
OK, well, please know that there's bipartisan concern about seeing those improvements --

MERRICK GARLAND
[Inaudible]

JON OSSOFF:
Implemented. Final question for you about press freedom, Mr. Attorney General, you issued a memo in July prohibiting the department from using subpoenas court orders or warrants to obtain information on the confidential sources of reporters. And this new policy, as you defined it offers broad protections for members of the news media, but does not qualify or define with specificity who qualifies as members of the news media.

Is there a specific interpretation of that phrase that's been issued an internal department guidance?

MERRICK GARLAND:
So, the answer to that is no. We have discussed this with representatives of the news media continuously and as part of our review for purposes of turning this memorandum into a regulation, we are continuing to discuss this. As you can imagine, it's very difficult to make that kind of definition.

JON OSSOFF:
But very important to get it right.

MERRICK GARLAND:
I completely agree.

JON OSSOFF

And I think my staff will likely ask yours for a briefing on the progress of your deliberations and perhaps we'll weigh in. Thank you for your service, Attorney General and for your responses. And I yield back.

DICK DURBIN:
Thanks, Senator Ossoff. Senator Hawley.

JOSH HAWLEY
Thank you very much. Mr. Chairman. Attorney General Garland, on October 4th, you issued an unprecedented memo that involves the Department of Justice and the FBI and local school districts, local school boards, nothing like it in our country's history. It was based -- you've testified on this letter from the National School Board Association, that we now know the White House was involved in writing, they've retracted the letter, they've apologized for the letter.

They say they regret the letter, but you won't retract the memo and said earlier that you have no regrets and you've defended yourself repeatedly today before this committee by saying, " Well, you're focused on violence". But now of course, we've seen the memo from your own Justice Department advising, state and local and other prosecutors about all of the different federal causes of action that they can bring against parents, but are not about violence, they're about harassment and intimidation.

I'm looking here at this memo, it identifies no fewer than 13 possible federal crimes involving harassment and intimidation, including making annoying phone calls. Do you think a parent, who makes a phone call to a school board member that she has elected at that school board member deems the noise should be prosecuted, General Garland?

MERRICK GARLAND:
No, I don't. And the Supreme Court has made quite clear that the word intimidation, with respect to the constitutional protection, it's one that directs a threat to a person with the intent of placing the victim in fear of bodily harm or death. Prosecutors who investigate these cases know the Supreme Court's, this is a very famous case --

JOSH HAWLEY

But prosecutors do. But parents don't General Garland, do you think that a parent who looks at the 13 different federal crimes, that your Justice Department has identified, they might be subject to and prosecuted for like making annoying phone calls? Do you think that they're going to feel that they're welcome to speak up at a school board meeting?

How about this one, they could be prosecuted for using the internet, I guess that would be Facebook, in a way that might cause emotional distress to a victim. Is that a crime of violence?

MERRICK GARLAND:
Senator, I haven't seen the memo that you're talking about.

JOSH HAWLEY:
Why haven't you?

MERRICK GARLAND
And I don't -- even from the description, it doesn't sound like it was addressed to parents. But if --

JOSH HAWLEY:
No, it wasn't addressed to parents. It was just a prosecutors, that's the problem. Why haven't you seen the memo?

MERRICK GARLAND:
I don't know. I haven't I don't look at every I have I do not get every memo that every US attorney sends out. But if you're

JOSH HAWLEY:
Wait a minute, don't -- I just want to be sure I understand this. This is a memorandum that collects 13 different federal crimes parents could be charged with. It has United States, Department of Justice on the top of it. And you're telling me, you haven't seen it?

MERRICK GARLAND
Who was the memo from Senator?

JOSH HAWLEY

The United States Department of Justice, United States Attorney for the District of Montana.

MERRICK GARLAND:

I have not seen a memo from the District of Montana. I --

JOSH HAWLEY:

Not high enough priority for you?

MERRICK GARLAND:

It's not -- that's not the question, I don't --

JOSH HAWLEY

It is the question, answer my question. Is it not a high enough priority for you when you're threatening parents with 13 different federal crimes? These aren't crimes of violence, you've testified today, you're focused on violence. That's not what your US attorneys. They work for you, that's not what they're saying.

You haven't seen it because it's not a high enough priority or what?

MERRICK GARLAND

Question a priority, no one has sent me that memo, so I haven't seen it.

JOSH HAWLEY:

What do you mean no one has sent you the memo? You run the United States Department of Justice, do you not?

MERRICK GARLAND:

There are 115,000 employees of the Department of Justice.

JOSH HAWLEY:

Indeed. And you are in charge of every one of them

MERRICK GARLAND:
And I do not --

JOSH HAWLEY
And this was a sufficiently important case that you issued a memo, you, over your signature issued a memo involving the FBI and the Department of Justice and local school boards, local school districts. Your US attorneys are now threatening prosecution with 13 different crimes, but it's not a high enough priority for you.

We got lost in the mix.

MERRICK GARLAND
I'll say it again, I've never seen that memo. It was --

JOSH HAWLEY:
That's what concerns me, General Garland.

MERRICK GARLAND:
Well, it wasn't sent to me. I hope you will assure your constituents that what we are concerned about here is violence and threats of violence

JOSH HAWLEY:
That only leads to conclude General Garland. All I can conclude from this is either that you're not in control of your own department or that more likely what I think to be the case.

JOSH HAWLEY:
Is that you knew, full well, that this is exactly the kind of thing that would happen. When you issued your memo, when you involved the Department of Justice and all of its resources, and the FBI and all

of its resources, and local school boards and local school districts, you knew that federal prosecutors would start collecting crimes that they could use against parents.

You knew they would advise state and local officials that these are all of the ways parents might be prosecuted. You knew that that was the likely outcome, and that's exactly what's happened. And we're talking about parents like Scott Smith, who's behind me over my shoulder. This is a father from Loudoun County, Virginia.

Here he is at a school board meeting, he was forcibly restrained, he was assaulted, he was arrested. Why? Because he went to an elected school board meeting. He's a voter, by the way. He went to an elected school board meeting to raise the fact that his daughter was assaulted -- sexually assaulted in a girls' restroom by a boy.

This is what happened to him. Now, you testified last week before the house that you didn't know anything about this case. I find that extraordinary because the letter that you put so much weight on, the letter that's now been retracted, it cites this case. It cites Mr. Scott's case directly. There's a news article cited in the letter.

It's discussed in the letter, but you testified you just couldn't remember it. Maybe this will refresh your memory. Do you think people like Scott Smith do you think parents who show up to complain about their children being assaulted ought to be treated like this man right here?

MERRICK GARLAND:
Parents who show up to complain about school boards are protected by the First Amendment.

JOSH HAWLEY
Do you think that they ought to be prosecuted in the different ways that your US attorneys are identifying?

MERRICK GARLAND:
If what they're doing is complaining about what the school board is doing, policies, curriculum, anything else that they want to, as long as they're not committing threats of violence, then they should not be prosecuted, and they can't be.

JOSH HAWLEY

Let me ask you about this. Several of my democratic colleagues have -- today, just today in this hearing -- multiple times have compared -- parents who show up at school board meetings like Mr. Smith here have compared them to criminal rioters. You think that's right? You think that a parent who shows up at a school board meeting, who has a complaint, who wants to voice that complaint, and maybe she doesn't use exactly the right grammar, you think they're akin to criminal rioters?

Do you agree with that?

MERRICK GARLAND

I do not, and I do not remember any Senator here compare -- making that comparison.

JOSH HAWLEY:

Oh, really? These people are just like the folks who came here on January 6 and -- in the riot at the Capitol?

MERRICK GARLAND:

I don't think it they were referring to the picture that you're showing there.

JOSH HAWLEY:

Well, I certainly would hope not that they were referring to parents who go to school board meetings. Mr. Smith is a parent who went to a school board meeting. I'll leave it at this, General Garland. You have weaponized the FBI and the Department of Justice. Your US attorneys are now collecting and cataloging all the ways that they might prosecute parents, like Mr. Smith, because they want to be involved in their children's education, and they want to have a say in their elected officials.

It's wrong. It is unprecedented to my knowledge in the history of this country, and I call on you to resign. Thank you, Mr. Chairman.

DICK DURBIN:

Senator Cruz.

TED CRUZ

Thank you, Mr. Chairman. For eight years under Barack Obama, the Department of Justice was politicized and weaponized. When you came before this committee in your confirmation hearing, you promised things would be different. I asked you specifically, "Will you commit to this committee that, under your leadership, the Department of Justice will not target the political opponents of this administration?" Here was your answer, "Absolutely.

It's totally inappropriate for the department to target any individual because of their politics or their position in a campaign." That was your promise just a few months ago. I'm sorry to say you have broken that promise. There is a difference between law and politics. And, General Garland, you know the difference between law and politics.

Law is based on facts. It is impartial. It is not used as a tool of political retribution. This memo was not law. This memo was politics. On Wednesday, September 29, the National School Board Association wrote a letter to the president asking the president to use the Department of Justice to target parents that were upset at critical race theory, that were upset at mask mandates in schools, to target them as domestic terrorists.

On the face of the letter, the letter was, in repeated consultation with the White House, an explicit political consultation with the White House. That was on Wednesday, September 29, five days later. On Monday, so, right after the weekend, boom, you pop out a memo, giving them exactly what they want. Now, by the way, I understand that.

In politics, that happens all the time. An important special interest wants something, "Sir, yes, sir. We're going to listen to him." Let me ask you something, General Garland. In the letter, which you told the House of Representatives was the basis for this abusive memo targeting parents, how many incidents are cited in that memo?

MERRICK GARLAND:

I have to look back through the memo. [Inaudible]

TED CRUZ:

OK. You don't know. How many of them were violent?

MERRICK GARLAND

Again, the general report --

TED CRUZ:

How many of them were violent? Do you know?

MERRICK GARLAND:

I don't know.

TED CRUZ:

You don't know. There's a reason you don't know because you didn't care and nobody in your office cared to find out. I did a quick count just sitting here. During this hearing, I counted 20 incidents cited. Of the 20, 15 on their face are nonviolent. They involve things like insults. They involve a Nazi salute.

That's one of the examples. My God, a parent did a Nazi salute at a school board because he thought that the policies were oppressive. General Garland, is doing a Nazi salute on an elected official, is that protected by the First Amendment?

MERRICK GARLAND:

Yes, it is.

TED CRUZ

OK. 15 of the 20, on the face of it, are not violent. They're not threats of violence. They're parents who are unhappy. Yet, miraculously, when you write a memo -- the opening line of your memo, "In recent months, there has been a disturbing spike in harassment, intimidation, and threats of violence." You know what, you didn't look, and nobody on your staff looked.

Did you even look up the 20 instances?

MERRICK GARLAND

Look, I testified the decision to make -- send a memo is for an assessment of the problems --

TED CRUZ

Did you look up the 20 instances?

MERRICK GARLAND:

I did not read --

TED CRUZ:

Did anyone on your staff look them up?

MERRICK GARLAND:

I don't know the answer, but it's not only the memo.

TED CRUZ

But, of course, you don't. And, General, there's a reason. Look, you started your career as a law clerk to Justice Brennan. You've had many law clerks during the year, during your time as a judge. I was a clerk to Chief Justice Rehnquist. I'll tell you what. If I drafted an opinion for the chief justice and walked in and it said, "There's a disturbing pattern of violence.

Well, Ted, how do you know that? Well, I got an amicus brief here who claims it." You would fire a law clerk who did that. You're the attorney general of the United States. This was not a tweet you sent. This is a memo to the Federal Bureau of Investigation saying, "Go, investigate parents as domestic terrorists."

MERRICK GARLAND

That is not what the memo says at all. It does not --

TED CRUZ:

Is it what the letter says?

MERRICK GARLAND:

That is not what my

TED CRUZ

Is it what the letter says?

MERRICK GARLAND:

I don't care what the letter says. What I care --

TED CRUZ:

You don't care. You said it was the basis of your memo. You testified under oath before the House of Representatives, the letter was the basis of your memo. Now, you don't care about the letter?

MERRICK GARLAND:

The letter and public reports of violence and threats of violence. My memo says nothing about domestic terrorism, says nothing about parents committing any such things. My memo is an attempt to get an assessment of whether there is a problem out there that the federal government needs to --

TED CRUZ

The letter, on its face, says, "The actions of the parents could be the equivalent to a form of domestic terrorism --

MERRICK GARLAND:

And that is wrong.

TED CRUZ:

And asks the president to use the Patriot Act in regards to domestic terrorism

MERRICK GARLAND:

And you'll --

TED CRUZ

Directed at parents.

MERRICK GARLAND

And you'll --

TED CRUZ:

This was the basis of your memo.

MERRICK GARLAND:

My memo

TED CRUZ:

The Department of Justice -- when you're directing the FBI to engage in law enforcement, you're not behaving as a political operative because a political ally of the president says, "Hey, go attack these pirates because we don't like what they're saying." Department of Justice, you did no independent research on what was happening, did you?

MERRICK GARLAND

The memo has nothing to do with partisan --

TED CRUZ:

Did you do independent research?

MERRICK GARLAND:

The memo has not

TED CRUZ:

Did you do independent research?

MERRICK GARLAND

The memo has nothing to do with partisan politics.

TED CRUZ

You're not answering that question. You've testified, you know nothing about the violent sexual assault that happened in Loudoun County, even though it's one of the bases in this letter.

MERRICK GARLAND:

I read about it since then.

TED CRUZ:

OK. You told the House last week, you knew nothing about it.

MERRICK GARLAND:

I did not know at the time. No.

TED CRUZ

OK. This week, the court concluded that a 14-year-old girl was violently raped by a boy wearing a skirt in the girls' restroom. The school district covered it up, released the boy, sent him to another school where he violently raped another girl. The father, who Mr. Hawley just showed you, was the father of the first girl.

He was understandably -- do you understand why a parent would be upset when your daughter is raped at school, the school board covers it up, and then lies to you and claims there have been no assaults, "We have no instances of assaults in our bathroom"? And that was a flat-out lie as the court concluded this week.

Do you understand why the parent would be upset?

MERRICK GARLAND:

Absolutely, and as any expressions of upset are completely protected by the First Amendment.

TED CRUZ

Except you just called him a domestic terrorist.

MERRICK GARLAND

I never called him that. That's not correct.

TED CRUZ:

This letter calls him a domestic terrorist.

TED CRUZ:

You based the direction to the FBI, an official direction from the attorney general, on this letter. And I'll tell you what, the NSBA is so embarrassed of this letter, they've apologized for it and retracted it, but you don't apparently have the same willingness to apologize and retract what you did.

Let me ask you something else. A big part of this letter is that they're upset about parents not wanting critical race theory taught. Your son-in-law makes a very substantial sum of money from a company involved in the teaching of critical race theory. Did you seek and receive a decision from an ethics adviser at the Department of Justice before you carried out an action that would have a predictable financial benefit to your son-in-law?

MERRICK GARLAND:

This memorandum is aimed at violence and threats.

TED CRUZ:

I just asked a question. Did you seek an ethics

MERRICK GARLAND:

It has no predictable effect --

TED CRUZ

Did you seek an ethics opinion?

MERRICK GARLAND:

It has no

TED CRUZ:
Did you seek an ethics opinion? Judge, you know how to ask questions and answer them. Did you seek an ethics opinion?

MERRICK GARLAND
You asked me whether I sought an ethics opinion about something that would have a predictable effect on something. This has no predictable effect in the way that you're talking about.

TED CRUZ:
So, if critical race theory is taught in more schools, does your son-in-law make more money?

MERRICK GARLAND:
This memo has not

TED CRUZ:
If critical race theory is taught in more schools, does your son-in-law make more money? Yes or no?

MERRICK GARLAND
This memorandum has nothing to do with critical race or any kind of curriculum.

TED CRUZ:
Will you answer if you sought an ethics opinion? Will you answer if you saw an ethics --

MERRICK GARLAND:
I am answering the best I can.

TED CRUZ:
Yes or no, did you seek an ethics opinion?

MERRICK GARLAND

This memorandum has nothing --

TED CRUZ:

Did you seek an ethics opinion?

MERRICK GARLAND:

This memorandum has nothing to do with [Inaudible]

TED CRUZ:

General, are you refusing to answer if you sought an ethics opinion?

MERRICK GARLAND

I am telling you that there is no possible --

TED CRUZ:

So, you're saying no. Just answer it directly. You know how to answer a question directly. Did you seek an ethics opinion?

MERRICK GARLAND:

I'm telling you that if I thought there was any reason to believe there was a conflict of interest, I would do that, but I cannot

TED CRUZ:

Why do you refuse to answer the question? Why won't you just say no?

MERRICK GARLAND

I'm sorry.

TED CRUZ:

You're not going to answer the question?

MERRICK GARLAND:
I'm sorry. Ask the question again.

TED CRUZ
Did you seek an ethics opinion?

MERRICK GARLAND:
I'm saying again, I would seek an ethics opinion in --

TED CRUZ:
So, no is the answer, correct?

MERRICK GARLAND:
[Inaudible]

DICK DURBIN
Senator, your time is up.

TED CRUZ:
Let the record reflect the attorney general refuses to answer whether he sought an ethics opinion. And apparently, ethics are not of terribly high priority in the Biden Justice Department.

MERRICK GARLAND:
I don't think that's a fair reflection of what I said.

TED CRUZ:
Then answer the question.

DICK DURBIN

Senator, you've gone way beyond any other senator's time. I think you ought to be at least respectful of other senators at this point.

TED CRUZ:
Mr. Chairman, do you know the answer whether he sought an ethics opinion?

DICK DURBIN
I think you've exchanged that so many times. We know where we stand. Now, we have a request for three-minute rounds and I have one from Senator Hirono, and Senator Lee, and Senator Booker. I'm sorry, and first, of course, Ranking Member Grassley. We're going to stick to three minutes. It's been four hours since the attorney general has been in that chair with a couple of breaks and I think we should try to wrap up if we can.

CHUCK GRASSLEY:
Request to put something in the record. A Wall Street Journal editorial titled, "About the Domestic-Terrorists Parents." The article notes that the October 4 DOJ memo should be formally rescinded.

DICK DURBIN:
Without objection.

CHUCK GRASSLEY:
Yeah. General, after a great deal of pressure from victims in Congress, I know that you're taking another look at the department's disgusting decision not to prosecute employees for lying to government officials in the Nassar investigation. Do you anticipate that the department will similarly expunge the records of these employees just like McCabe or could -- or continue to give them out get-out-of-jail-free cards as you've done so far?

MERRICK GARLAND
As I said, Senator, we are reviewing the decisions with respect to the false -- alleged false statements. That review is being done by the Criminal Division.

CHUCK GRASSLEY

OK. Beginning in the summer of 2020, American cities began to see appalling and unprecedented spike in violent crime, murders, and gang violence. As liberal politicians operated under the rallying cry of defund the police, this movement translated into over 1,200 deaths in 2020 alone. In the summer of 2020, then-Attorney General Barr instituted Operation Legend as a way to combat the rising spike in violent crime.

By any measure, this surge in federal agents was a resounding success. By December of 2020, over 6,000 arrests have been made, over 2,600 firearms have been taken off our streets, and approximately 467 people have been arrested for homicides. Given the clear success of Operation Legend, why is the department seemingly directing its efforts toward school board meetings, but not towards real threats or real acts of violence that happen every day in American citizens?

So, a simple question, does Operation Legend still exist?

MERRICK GARLAND:

My understanding was Operation Legend was directed at violence over the summer of 2020. We have addressed another surge of federal prosecutorial and law enforcement efforts this last summer. We have stepped up the amount of money we're giving to state and locals and we have increased our joint task forces together.

I visited federal and state law enforcement in New York, and in Chicago, and in Los Angeles, and in San Francisco. All aimed at violent crime in those areas. And we've asked for considerable additional money, about $1 billion in grants to fund the state and local police in FY '22. So, I think that's I hope that answers your question.

CHUCK GRASSLEY:

OK. Only four packers: JBS, Tyson's, Cargill, and National Beef control more than 80 percent of the cattle market. These companies hold a tremendous amount of market power. The Justice Department issued civil investigative demands in May 2020, but we've yet to learn anything from this investigation. Could you provide an update and can you commit to expediting this investigation so that our cattle producers know whether there are any antitrust violations?

MERRICK GARLAND

So, I can't discuss the specific investigations. We have longstanding policies against that, but I can tell you that the Antitrust Division is aggressively concerned with competition in the market that you described. We are also in frequent consultation with the Agriculture Department with regard to the Stockyards and -- Packers and Stockyards Act. We regard this as an area where we have to be very much concerned about exclusionary behavior and anticompetitive behavior.

CHUCK GRASSLEY:

Thank you.

DICK DURBIN:

Thanks, Senator Grassley. Senator Hirono.

MAZIE HIRONO:

[Off-mic]

DICK DURBIN

Senator, I think you're mic is not turned on.

MAZIE HIRONO:

One thing I have to say as we listen to, I don't know, going on hour three is that the Republicans, once they focus on something, they just stick with it. It is amazing to me that there's all this mischaracterizing of the attorney general's memo as well as a letter from the acting US attorney of Montana.

And his letter is also totally mischaracterized as to what the focus of the attorney general's letter is. So, I would like to submit for the record the acting attorney -- US attorney of Montana's letter, Mr. Chairman.

DICK DURBIN:

Without objection.

MAZIE HIRONO

So, as I said, it's pretty -- it's kind of amazing but not unusual that my Republican colleagues will continue to focus on something that the attorney general has to continue to testify for the last three hours or whatever it is that his letter is being mischaracterized. And they will focus on that until the nth degree.

At the same time, you know, what is a real problem is the fact that we have 530 voter suppression bills that have been introduced in 47 states, the vast majority by Republican legislatures and people's votes are literally being stolen through these voter suppression actions. And do we hear word one about the fact that this is happening all across our country that voter suppression, stealing of votes is happening?

Does a single Republican even care about that? No. So, let's let that sink in. That they talk about all of these memos they're totally mischaracterizing and yet what is actually happening in voter suppression, not a peep. So, I want to ask you, Mr. Attorney General, Shelby County pretty much gutted the Voting Rights Act and then followed by Brnovich, wherein the majority opinion suddenly comes up with all these guideposts that they now that the Justice Department now has to prove in order to protect our right to vote.

So, can you just tell us what the impact of the Supreme Court's Shelby County and Brnovich decisions have been on the Justice Department's ability to protect our right to vote? And is there something we can do?

MAZIE HIRONO:

Are there tools that we can provide through a Congressional action that will enable you to protect our right to vote?

MERRICK GARLAND:

Yes, Senator the right to vote is a fundamental pillar of American democracy. The Voting Rights Act is one of the greatest statutes that was ever passed enabled the Justice Department to protect people's right to vote and to protect against discrimination based on race and ethnicity, with respect to patterns or practices, with respect to voting.

In Shelby County, the Supreme Court took out the most important tool we have which was Section 5, which allowed pre clearance by the Justice Department or alternatively allowed the state to go to federal court to get clearance. And that left us with a circumstance of having to examine each case one by one with the burden on the Justice Department.

So, one thing that the Congress could do is put Section 5 back in place as the Supreme Court indicated could be done with the appropriate legislative record. Second, Brnovich interpreted Section 2.

MAZIE HIRONO:
Yeah.

MERRICK GARLAND:
A statutory section in a way that the Justice Department disagrees with as we made clear in our papers, I'm not saying anything we didn't say in our Supreme Court argument, they narrowed it in a way that we think was not consistent with Congressional intent, and which makes our ability to challenge discriminatory changes in voting much more difficult.

Congress could again fix that by bringing back Section 2 to what Congress intended originally intended, and making that clear in statutory language. Both of those changes would be enormously important from the point of the Justice Department's success in protecting the right to vote.

DICK DURBIN:
Thank you, Senator.

MAZIE HIRONO
I'm sorry.

DICK DURBIN:
Thank you, [Inaudible].

MAZIE HIRONO:
Mr. Chairman. It's clear that we will have to do those things that the Attorney General recommends to protect people's right to vote, without a single Republican going in that direction. That's how pathetic

get all this. Thank you.

DICK DURBIN:
Thank you, Senator. Senator Lee.

MIKE LEE
Thank you, Mr. Chairman. Attorney General Garland, I find it deeply concerning that you still haven't said a single example of a true threat of violence, and if I'm understanding this correctly and I've been here for most of this hearing, I've had to step up devote a couple of times. But I think you seem to admit it didn't do any independent research outside of receiving the September 29 National School Board Association letter.

Now, one of the things I find that perplexing and quite troubling, this came in, if you sent on September 29, I believe that was a Wednesday, the following Monday just days later, just barely over a weekend. You responded with your memo relying on the NSBA memo. Now, I submit, as a member of the Judiciary Committee with oversight responsibility over your department, I submit requests for information all the time.

It takes time, I understand that sometimes it takes months to get a response back. I'm always grateful when I do get a response back, especially when it's a response that contains meaningful information. I understand people are busy and they've got a lot to comply with, but if one association can send one letter without any independent research on your part and within days barely, over a weekend get not just a response, but an action memo signed by the attorney general Of the United States, I think that's weird.

I think that makes me really uncomfortable, especially when the National School Board Association, as I understand it or those associated with it, had publicly stated that they'd been coordinating with officials at the White House on this for weeks. It doesn't feel right. It doesn't seem right to me. Now, last week two of our counterparts on, our House counterpart Judiciary Committee, asked you a little bit about the number of people entering the United States illegally, about 1.3 million have entered the United States illegally this year.

That's a lot, that's a lot of people, of those 1.3 million, I'm quite confident based on my own past experience as a federal prosecutor, I'm quite confident that some non-insignificant portion of those.

We'll have previously been deported and as you know, under 8 USC Section 1326, that is a felony federal offense, illegal reentry after previous deportation.

Since they've asked you about that, have you had a chance to identify how many prosecutions have been brought for illegal reentry this year? And I'd be curious about that. And I'd also be curious as to whether there's anything analogous to your October 4 memo, do you have anything, calling out concerns that you've got over illegal reentry?

MERRICK GARLAND:
So, on that question, the 1.3 million arrests, I think made by CBP, they are referred, they are a CBP make the Customs and Border Patrol makes a decision about whether what those people into removal proceedings or to refer them to the Justice Department for prosecution. We have this year charged thousands of cases, thousands of cases, criminal cases with respect to violations of the immigration laws, with respect to crossing of borders.

I don't have the exact number. We can get to that exact number, but the number is in the thousands.

MIKE LEE:
My times expired, I expressed the concern because when the department becomes focused on things that are not part of its business, namely harassing, threatening, intimidating, moms and dads in America on chilling their ability to express their concerns to their neighbors, their friends and those who represent them on a school board, they sometimes lose focus on the things that only the federal government can do, like controlling our border from the dangerous effects of illegal immigration generally, and illegal reentry in particular.

Thank you.

DICK DURBIN:
I think Senator Cruz and Cotton are seeking three minute rounds, is that correct? All right, Senator Booker as well, Senator Booker.

CORY BOOKER:

We have a fourth memo reads in recent months, there's been a disturbing spike in harassment, intimidation and threats of violence against school administrators, board members, teachers and staff who participate in the vital work of running our nation's public schools. Is that true?

MERRICK GARLAND:
Yes, sir.

CORY BOOKER
I mean it is true.

MERRICK GARLAND:
It is true.

CORY BOOKER:
I have a list of very disturbing incidents. In Texas, a parent physically assaulted a teacher, August 18th, 2021 in Pennsylvania, a person posted threats on social media, which required police to station outside of a school district law enforcement investigating the person. I could keep going. Ohio school board member was threatening letter that began with, "We are coming from you". Domestic terrorism in the United States sir, has it been more from overseas radical terrorists since 9/11 or more from homegrown terrorists, most of them being right wing extremists

Which has been greater since 9/11.

MERRICK GARLAND:
I want to be careful about that, the threats that we face with respect to terrorism, and none of those descriptions have to do with terrorism, but the threats that we face in the United States come both from foreign terrorists and

CORY BOOKER:
A church in South Carolina, a synagogue in Pennsylvania, a school Parkland, a school Newtown, has there have been threats and violence against schools in the United States of America?

MERRICK GARLAND

There have been, yes.

CORY BOOKER:

Coming from what types of groups?

MERRICK GARLAND:

They come from domestic groups.

CORY BOOKER:

From domestic groups.

MERRICK GARLAND

Yes.

CORY BOOKER:

Has there been a long, pages long list of what my staff could grab been threats and violence against school officials in the United States of America in the last year?

MERRICK GARLAND:

I have obviously haven't seen the list, but it accords with my recollections.

CORY BOOKER:

Well, let me accord your recollection with the letter that I've heard so much about that I pulled it to read it. You say literally threats, excuse me, "Spirited debate about policy matters is protected under the Constitution". I'm quoting one of my colleagues today. Does that sound like harassing and intimidating moms and dads?

You are firm at the top of your letter that spirited debate is allowed. While spirited debate about policy matters is protected under the Constitution, that protection does not extend to threats and to violence

that we have been watching on our TV screens, intimidating people, threatening to hurt them, taking physical action.

But you know what, you did not call for the DOJ and the FBI to monitor school board meetings. Did you?

MERRICK GARLAND:
No, I did not.

CORY BOOKER:
You did not call for anyone to invoke the Patriot Act. Did you?

MERRICK GARLAND
No, I did not.

CORY BOOKER:
Sir, what you called is for the DOJ to convene meetings to discuss strategies for addressing those threats.

MERRICK GARLAND:
That's correct.

CORY BOOKER:
Is that intimidating moms and dads going to school board meetings?

MERRICK GARLAND
I can't see how that could be interpreted as --

CORY BOOKER:
Sir, I know something about law enforcement intimidation, it stems from growing up as a Black man in America. I know what it feels like to be pulled over, to be accused of stealing things, to every time I drive over there, to George

CORY BOOKER:

I know what it feels like to be pulled over, to be accused of stealing things, to every time I drive over to George Washington Bridge as a teenager, to know I had to put extra time because I was being pulled over by law enforcement. If some was to read the actual letter, you are literally saying, as the leader of the highest law enforcement office in the land, that you protect spirited debate, that you think though given the climate of school violence in America -- I've met with victims from Parkland.

Mr. President, I'm sorry, I have watched Republican after Republican go overtime and you're I know you're gently banging that gavel, but I've watched all today, my colleagues violate what you said at the beginning was a strict time limit. And I would ask you to afford me two more minutes.

DICK DURBIN:

Is there objection? No objection.

CORY BOOKER

Have you met with Parkland survivors?

MERRICK GARLAND:

I met with survivors at the White House.

CORY BOOKER:

Yes or no?

MERRICK GARLAND:

I believe -- I think the answer's --

CORY BOOKER

You've met with survivors of school violence. Have you --

MERRICK GARLAND:

I think I met with the Parkland families.

CORY BOOKER:

Yes. Do you have a responsibility -- in a climate of threats and violence taking place at schools, do you have a responsibility to convene strategy meetings to try to make sure we do not have eruptions of violence in the country? Is that a responsibility of the federal government?

MERRICK GARLAND

Yes, our job is to protect Americans.

CORY BOOKER:

Did you specifically say anything in this letter that can be seen as harassing moms and dads and parents? Or did you explicitly say that the Constitution protects spirited debate?

MERRICK GARLAND:

I specifically said the Constitution protects spirited debate, and I don't believe there's anything in this letter that could be read to intimidate mothers and fathers.

CORY BOOKER:

And I'm not talking about the outrage machines that seem to fuel our politics on both sides. I'm talking about the actual letter here, sir, that you wrote. You're a good-hearted person. Is there anything in this letter that could specifically lead a good-hearted parent who is against mask mandates, who somehow believes that the teaching of racial discrimination is repugnant to them?

Is there anything in this letter that would prevent them from going and speaking to it and yelling and being upset and letting their elected officials know what they really believe? Is there anything in the actual print of this letter that could be seen to that lead to that type of intimidation?

MERRICK GARLAND:

No, Senator. All of those things are protected by the Constitution.

CORY BOOKER

Will you say that one more time?

MERRICK GARLAND:
All of those things are protected by the Constitution.

CORY BOOKER
I hope that you will do your law enforcement work. There's too much violence in this country. There's been too many domestic terrorist attacks. I don't want to have the next hearing here be about some incident. I hope that you continue to convene your strategy sessions to protect parents and children and school officials from any kind of heinous violence that we have seen way too much up in this country and that we all bear a responsibility for stopping.

Thank you, Mr. Chairman, for the allowance of the extra time.

DICK DURBIN
Thank you, Senator. Senator Cruz.

TED CRUZ:
We talked just a minute ago about the difference between law and politics. We heard some impassioned political speeches, but also a question that just was asked by my friend from New Jersey. Is there anything in this memo to tell a parent that they're being targeted for harassment and intimidation? I would note that the letter from the school boards cited 20 instances, 15 of which were nonviolent.

The letter from the school board described them as domestic terrorism. Within days, the Department of Justice snapped to the commands of the special interest and issued a memo, a directive to the Department of Justice and a directive to the FBI. This is, again, where law matters. The opening sentence describes a disturbing spike in harassment, intimidation, and threats of violence.

Now, you spent a long time as a judge when you have three things listed. Am I correct that anyone interpreting that, reading it would conclude that harassment and intimidation are something different than threats of violence given that you listed each of the three out separately? Is that consistent with the canons of construction?

MERRICK GARLAND

The memorandum is addressed to professional --

TED CRUZ:

I asked you a question, not who was addressed to.

DICK DURBIN:

Senator, at least, let him respond.

TED CRUZ:

No, not when he answers a non sequitur. He wants to answer the --

DICK DURBIN

He may respond [Inaudible]

TED CRUZ:

OK, you're taking my time now. This is not coming out of my time. When I ask a question, you can answer [Inaudible]

DICK DURBIN:

Listen, we've given you more time than any other senator.

TED CRUZ:

Mr. Chairman, when I ask a question --

DICK DURBIN

Now, listen, all I'm asking is allow him to respond.

TED CRUZ:

Mr. Chairman, when I ask a question, he can answer the question, but he's proceeding to ask a total non sequitur. I asked about the canons of construction on the

DICK DURBIN:
Please let him respond.

TED CRUZ
I'll ask the question again. The opening line of the memo specifies harassment, intimidation, and threats of violence. Is it correct under the ordinary canons of construction that a legal reader would understand that harassment and intimidation mean something different from threats of violence? Is that correct?

MERRICK GARLAND:
A legal reader would know Virginia v. Black, the Supreme Court definition of intimidation. And a legal reader would know 18 USC 2261A, the definition of harassment.

TED CRUZ:
And would a parent?

MERRICK GARLAND:
This was not addressed to parents.

TED CRUZ
But you know parents read it. You're the attorney general of the United States. You said you can't think of anything harassing. You directed the G-men, the FBI to go after parents. All right. Let's move on to a different topic. We've sadly seen that you are willing to use the enforcement power of the Department of Justice to target those who have political views different than you even if it's a mom at a PTA meeting.

Let's try the other side. Are you willing to enforce the law fairly against people who are political allies of the president? At a Senate hearing in May, Dr. Fauci said, "The NIH has not ever and does not now

fund gain of function research in the Wuhan Institute of Virology." That was under oath, under testimony.

On October 20th, the NIH principal deputy director, in writing, directly contradicted it. Those two statements cannot be true. As you know, Section 1001 of Title 18 makes it a federal crime to knowingly make false statements to Congress. Is the Department of Justice investigating Dr. Fauci for lying to Congress?

And will you appoint a special prosecutor to do so?

MERRICK GARLAND:
I'm going to say, again, the memorandum that I issued is not partisan in any way. It has nothing to do with what I agree with or I don't agree with. I don't care whether the threats of violence come from the left or the right. Now to the second question --

TED CRUZ:
Could you answer the question I asked?

MERRICK GARLAND:
We don't comment on criminal investigations or other investigations.

TED CRUZ
Well, amazingly, when it's the political enemies of the administration, you comment loudly in a memo. Let me ask one other question.

MERRICK GARLAND:
You're not -- you weren't --

TED CRUZ:
That President Biden recently said in a national town hall that police officers who declined to get vaccinated should be fired. Do you agree with President Biden on that?

MERRICK GARLAND

I think all police -- look, I stood on stage at the mall where the 700-and-some police officer who died this year were commemorated. [Inaudible]

TED CRUZ:

Let me try again. Do you agree with the president? It's a yes or no. You've asked questions as a judge. You know how to get a yes or no. Do you agree with the president? Yes or no?

MERRICK GARLAND:

A large percentage of the law officers who died this year died from COVID 19.

TED CRUZ:

Do you agree with President Biden that police officers who declined to get vaccinated should be fired, yes or no?

MERRICK GARLAND

And if they had been vaccinated, they wouldn't have died.

TED CRUZ:

So, is that a yes? You do agree with the president?

MERRICK GARLAND:

Not one police officer

TED CRUZ:

In Chicago, a third of the police officers did not file their vaccination status. Do you think Chicago should fire a third of its police officers when murder rates and crime rates are skyrocketing?

MERRICK GARLAND

This is a determination that the city of Chicago will have to make.

TED CRUZ

So, do you agree with the president? The president said yes. Do you agree with him? You are the chief law enforcement officer of the United States. Do you agree with Joe Biden saying fire police officers despite skyrocketing crime rate?

MERRICK GARLAND:

That is a question -- that is a one of state law there and will have to be decided by the state.

TED CRUZ:

You have no view on whether we should fire

DICK DURBIN:

Senator, your time has expired.

TED CRUZ

Well, you used two minutes of it.

DICK DURBIN:

No, I certainly did not. Senator Blumenthal.

RICHARD BLUMENTHAL:

Thanks, Mr. Chairman. And thank you, again, for being here, Mr. Attorney General. I'm going to shift topics to an issue that I know you're familiar with, the 9/11 families and the state secrets privilege. And I want to just say that I was encouraged and pleased when President Biden issued an executive order requiring the Department of Justice to complete a review of documents sought by those 9/11 survivors.

As you well know, they are in court now, taking advantage of just the overwhelmingly approved measure that gives our federal courts jurisdiction over their claims for the harm they suffered when their loved ones were killed during the 9/11 attack. And I was glad to see that the FBI has released, at least, one document on the 20th anniversary of the 9/11 deaths.

RICHARD BLUMENTHAL:
I still am focused on the state secrets privilege. The invocation of it in past years before this administration, the overuse of it. In fact, the Trump Justice Department failed to provide any meaningful justification for withholding these documents from the 9/11 families, and I think we see now that there was no justification. So, I know the department's review is ongoing and that you will continue to disclose, I hope, as much information as possible, as swiftly as possible.

Just to address the Department's use of the privilege more broadly, the memo requires the Department of Justice to provide periodic reports to Congress, identifying the cases where the privilege is invoked and explaining the basis for invoking it. I sent a letter earlier this month to you about this reporting requirement because this committee has received only two reports in 2011 and 2015. And in the six years since, the Department of Justice has failed to provide such reports.

Just to come to the point, I am respectfully asking for a commitment that you will provide these periodic reports to Congress and review the department's policies with respect to its invoking the state secrets privilege so as to comply with the 2009 memo. I may have gone too quickly over the various actions of the Department, but I'm referring to the 2009 memo, which requires those periodic reports.

So, in the eight seconds that I have left and --

MERRICK GARLAND:
Yes. The answer to both questions is, yes, we are currently reviewing that memo, and if anything, we will strengthen it. And we do intend to make periodic reports. And it is not a periodic report to have not made a response since 2015, I assure you. So, we intend to do that, yes.

RICHARD BLUMENTHAL:
Thank you very much. Thank you, Chair.

DICK DURBIN:
Thank you, Senator Blumenthal. Senator Cotton.

TOM COTTON

Judge, I want to return to our exchange this morning. As I've reflected on it, you made a shocking admission. You issued this memo direct -- or seeking the feds on parents and school boards on Monday, October 4. You acknowledged that there was no effort in the Department of Justice, no initiative to draft this memo or create these task forces before Wednesday, September 29, when the National School Board Association issued that letter.

Is that correct?

MERRICK GARLAND

I don't know. All I know is that the first time I started working on this was after receiving the letter. That's all I --

TOM COTTON:

So, from your standpoint, there was -- you were not aware of any effort in the Department of Justice before that letter was sent on September 29.

MERRICK GARLAND:

I think it's fair to say, as you're suggesting, that this letter and what the other public notices of violence against school board members and teachers are what formed the basis for this memorandum, yes.

TOM COTTON:

This memo is dated October 4 with your signature on it.

MERRICK GARLAND

Yes.

TOM COTTON:

Did you sign it on October 4?

MERRICK GARLAND

I did.

TOM COTTON:

So, four intervening days, two of which were weekend days.

MERRICK GARLAND:

Yes.

TOM COTTON:

I'd say that sets a land speed record for the federal government.

MERRICK GARLAND

When we --

TOM COTTON:

Chuck Grassley pointed out that you have not responded to letters of his that have been outstanding for months. How is it the Department of Justice was able to move so rapidly on a single letter from a special interest group that has now repudiated that letter, said it regrets sending the letter, and apologized to its members for sending the letter?

How did your department move so fast on this matter?

MERRICK GARLAND:

When an organization that represents thousands of school board members --

TOM COTTON:

I would say they purport to represent thousands because state school boards across the country have been repudiating them and trying to withdraw their membership. That's why the National School Board Association withdrew its own letter. Who brought this to your attention?

MERRICK GARLAND
May I answer the question?

TOM COTTON:
I'm asking you it -- the question now. Who brought this to your attention?

MERRICK GARLAND:
You asked me a question. May I answer the question? The question is why speed. The answer is when we get reports of violence and threats of violence, we need to act very swiftly. I would have hated it to have gotten this letter and then acts of violence occurred in the interim before we were able to act.

TOM COTTON:
OK. OK, Judge --

MERRICK GARLAND
The only act here is assessing the circumstances. That's all there is here, and we can't wait until somebody dies.

TOM COTTON:
Judge, you keep citing --

MERRICK GARLAND:
That's why we did this.

TOM COTTON:
OK, well, you keep citing media reports. There were 24 incidents in that letter. As you've heard today, almost all of them were nonviolent. There weren't involved threats of violence --

MERRICK GARLAND
Those are not the media reports I was referring to.

TOM COTTON

You said earlier it was news reports. OK. What other reports that you saw about potential violence at school boards were you basing this memo on?

MERRICK GARLAND:

I don't recall them specifically, but I have now again seen since that time, people saying --

TOM COTTON:

So

MERRICK GARLAND:

That they're repeating what they said before.

TOM COTTON

That's a -- but that's all post-talk. It's all after the fact. It doesn't go into your mind -- your frame of mind on October 4. Who brought this to you? Who brought this memo to you and asked you to sign it?

MERRICK GARLAND:

I got -- nobody brought the memo to me and asked me to sign it.

TOM COTTON:

Well, someone had to bring it to your attention. Hey, Judge, we're about to stick the feds on parents.

MERRICK GARLAND:

I'm sorry, no one said we're about to stick the feds on parents.

TOM COTTON

Someone brought this --

MERRICK GARLAND:

That's not an accurate description.

TOM COTTON:
Was this an initiative of Lisa Monaco?

MERRICK GARLAND
This memorandum was -- went through the normal processes within the Department and I worked on it myself, and then signed --

TOM COTTON:
Someone is a proponent -- someone was a proponent. You -- I bet you didn't write the first draft of this. Where did it come from? Did it come from Lisa Monaco?

MERRICK GARLAND:
I didn't write the first draft, but I did work on this memorandum, and it represents my views and it represents my reading of the materials

TOM COTTON:
Did it come from Vanita Gupta's office?

MERRICK GARLAND
Look, I'm not going to discuss --

TOM COTTON:
Is this Matt Klapper's initiative?

MERRICK GARLAND:
I'm not going to discuss the internal workings of the Justice Department here. This memorandum respects my reflects my view, and I stand behind it and I continue to stand

TOM COTTON:

Are you aware of the are you aware of conversations between members of your Department of Justice and the White House leading up to that letter from the School Board Association?

MERRICK GARLAND:

I am sure there were -- there were no conversations with me. I'm sure there were conversations. It's perfectly appropriate when the White House receives a letter calling for law enforcement response across the board, not with respect to a specific case, for the Justice -- for the White House to have conversations with the Justice Department.

TOM COTTON

Are you aware of conversations between your Department of Justice officials and White House officials, and the members of the School Board Association, all cooperating together, which is why you were able to move in four days, Judge, four days, two of which were weekends?

MERRICK GARLAND:

As I said, I am sure there were conversations with the White House. I have no idea whether there were conversations with the School Board Association.

TOM COTTON:

Well, I bet we're going to find out there were. And if it doesn't happen now, it will happen in 15 months when Republicans are in charge again.

MERRICK GARLAND:

Well, there's nothing wrong with there being such conversations. Let me be clear again, this is not a request to investigate any particular person or prosecute any particular person. In the same way you ask me to worry about violence in the streets, it's perfectly appropriate for the White House to urge me to worry about violence in the streets.

Same way, they're perfectly appropriate for the White House or any other organization to urge me to worry about election threats. There's nothing that I know knew about this organization to suggest that it is in any way partisan. It's the National School Board Association. I certainly never in my mind viewed that as a partisan organization.

TOM COTTON

And now that they've repudiated their letter, why won't you just say you made a mistake?

MERRICK GARLAND:

Because they did not --

TOM COTTON:

Why won't you say you made a mistake and you relied on bad information?

MERRICK GARLAND:

Because they didn't repudiate their letter, they repudiated language in the letter which I did not adopt and don't agree with. But their concerns are about safety in the schools and about violence, and this is a core concern of the Justice Department. That's why.

DICK DURBIN

Thank you. Senator Blackburn has asked for three minutes, and I will conclude with my own three minutes after that. Senator Blackburn.

MARSHA BLACKBURN:

Thank you, Mr. Chairman. Attorney General Garland, you just told me that you don't think you ever met Susan Hennessey. Did you hire Susan Hennessey?

MERRICK GARLAND:

Look, I have sign off authority for everybody I suppose in the Justice Department, but the

MARSHA BLACKBURN:

I [Inaudible] have you --

MERRICK GARLAND

But I've --

MARSHA BLACKBURN

OK.

MERRICK GARLAND:

That's the best I can answer with respect to that.

MARSHA BLACKBURN:

OK.

MERRICK GARLAND:

But the question you were worried about, Senator, and I understand had to do with Durham. And as I explained, she has nothing to do with the Durham investigation.

MARSHA BLACKBURN

OK. Were you unaware of her comments before you hired her?

MERRICK GARLAND:

Again, the --

MARSHA BLACKBURN:

You don't know.

MERRICK GARLAND:

I hire 115,000 people in the Justice Department. I don't know --

MARSHA BLACKBURN

I'm fully aware of that. And it's amazing to us that those 115,000 people can't investigate things like crime on the border, can't investigate crime on the streets. And, you know, the -- I'm going to return to this memo of October 4. The memorandum cites harassment intimidation and threats of violence. And what I'd like to know is who chose that language, harassment, intimidation, and threats of violence.

You've said this reflected your views, but it's become apparent that you did not write this memo yourself. So, I would like to know who came up with that language. Was that yours or was that submitted language?

MERRICK GARLAND:
So, I don't know whether -- let me put it this way. This is language that law enforcement officers are very well understand. It is contained in the federal statutes --

MARSHA BLACKBURN
OK. Well, in the House and Judiciary Committee --

MERRICK GARLAND:
And in the Supreme Court opinion

MARSHA BLACKBURN:
Last week, you said you were concerned only about true threats.

MERRICK GARLAND:
Yes.

MARSHA BLACKBURN
So, are you going to revise your memorandum to make it clear that you -- this applies only to true threats of violence instead of classifying parents in this country with domestic terrorists such as Timothy McVeigh and Terry Nichols?

MARSHA BLACKBURN
The other thing I would like to know, you said to me earlier that your memo was based on the NSBA letter and the news reports. So, you've said there was not a lot of independent research done by you and your staff. So, if you would, please, submit to us, for the record, the news reports that you're referencing so that we will be able to have that as a frame of reference.

And, also, we would love to know who actually did write that memo and how they came up with the idea of calling parents a domestic terrorist. One other thing I've got for you: Do you agree with the Supreme Court that the Second Amendment is a civil right? And if so, what is your Civil Rights Division doing to ensure it is being protected?

MERRICK GARLAND:
So, just to back up on some of the questions --

MARSHA BLACKBURN
OK.

MERRICK GARLAND:
The memo doesn't say anything about domestic terrorism or calling parents domestic terrorists. I do agree, the Second Amendment is part of the Bill of Rights and is, therefore, civil right -- the Civil Rights Division has some generalized authorities, but it also has specific statutory authorities. I don't know whether there is a specific statutory authority, with respect to the Second Amendment, that has been given by Congress to the Civil Rights Division.

I'm not aware of one. There may be, but I'm not aware of it.

MARSHA BLACKBURN:
OK. So, we can depend on you and your Department of Justice to stand in support of the Second Amendment. Is that what you're saying to defend it?

MERRICK GARLAND:
Yes, of course.

MARSHA BLACKBURN:
OK, thank you.

MERRICK GARLAND
The Second Amendment is part of the Bill of Rights.

MARSHA BLACKBURN

What we would like to know -- and I'll look forward to the other submissions in writing. Thank you, Mr. Chairman.

DICK DURBIN:

Thank you, Senator. Mr. Attorney General, thank you for your patience. You have been sitting in that chair with a couple of breaks for four and a half hours. Many of these colleagues of mine have had ample opportunity to ask questions and then come back and ask some more, sometimes the same questions. I would just like to make this observation.

I understand completely why you issued that memo. I wish my colleagues would reflect for a single moment as to why that memo is important, not just for school board members, but to send a message across America that there's a line we're going to draw when it comes to political expression. When you say words, when you wave your arms, that's all protected.

But when you threaten someone with violence or engage in acts of violence, that is never going to be protected and shouldn't be. It isn't that long ago that Gabby Giffords, one of our colleagues in the house, was gunned down in Arizona. Her husband is now serving as our colleague in the United States Senate.

I don't know the political bent of the person who shot her. It's basically irrelevant, but we should never countenance that as adequate or proper political expression. Steve Scalise, the Republican Congressman from Louisiana, was gunned down on a baseball practice field by someone from my state, who I believe was identified with the left in politics.

It doesn't make any difference. It was an outrage that that good man has suffered as much as he has because of it. And now, we have the story in Great Britain, David Amess, who goes to a town meeting and is stabbed to death in his constituency in England. For goodness sakes, can't we, even if we disagree on issues to a great degree, agree with the premise that anyone who engages in violence or threats of violence has stepped over the line whether they come from the right or the left.

I think that's what you were trying to say in your memo about the school boards. And, like you, I have never heard the School Board Association identified as great, strong special interest group. I haven't seen that in the years I've been in Congress. And there are many great, strong special interest groups.

I would just say to you, thank you for doing that. It was the right thing to do. It has been mischaracterized and distorted, not only today, but since then. But I think we can prove, by our actions, that we are not trying to stifle free speech but only saying to people we're going to draw a line. I was — I find it fascinating that, at least, one of the people who was criticizing you today and talking about the situation on January 6 was actually cheering the demonstrators on on January 6. And there's ample evidence of that.

I would think we've got to draw a line that accepts in this civilized society we are going to be respectful of one another even if we disagree politically. I thank you for your testimony. Would you like to have a closing comment?

MERRICK GARLAND:
No. Thank you, Senator. I appreciate your remarks, though. Thank you.

DICK DURBIN:
Thank you very much. The committee stands adjourned.

List of Panel Members and Witnesses

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SEN. DICK DURBIN (D-ILL.), CHAIRMAN

SEN. PATRICK LEAHY (D VT.)

SEN. DIANNE FEINSTEIN (D-CALIF.)

SEN. SHELDON WHITEHOUSE (D-R.I.)

SEN. AMY KLOBUCHAR (D-MINN.)

SEN. CHRISTOPHER COONS (D DEL.)

SEN. RICHARD BLUMENTHAL (D-CONN.)

SEN. MAZIE K. HIRONO (D-HAWAII)

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SEN. CHUCK GRASSLEY (R-IOWA), RANKING MEMBER

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SEN. BEN SASSE (R-NEB.)

SEN. JOSH HAWLEY (R MO.)

SEN. TOM COTTON (R-ARK.)

SEN. JOHN KENNEDY (R-LA.)

SEN. THOM TILLIS (R-N.C.)

SEN. MARSHA BLACKBURN (R TENN.)

WITNESSES

DEPARTMENT OF JUSTICE ATTORNEY GENERAL MERRICK GARLAND

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House Judiciary Commitee 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. Secondarily, 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:

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 assistant 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 quandaring 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:

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 30days, 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 antiviolence 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 de 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 welcomely 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.)

REP. KAREN BASS (D-CALIF.)

REP. HAKEEM S. JEFFRIES (D-N.Y.)

REP. DAVID N. CICILLINE (D-R.I.)

REP. ERIC SWALWELL (D-CALIF.)

REP. TED LIEU (D-CALIF.)

REP. JAMIE RASKIN (D-MD.)

REP. PRAMILA JAYAPAL (D-WASH.)

REP. VAL BUTLER DEMINGS (D-FLA.)

REP. J. LUIS CORREA (D-CALIF.)

REP. MARY GAY SCANLON (D-PA.)

REP. SYLVIA R. GARCIA (D-TEXAS)

REP. JOE NEGUSE (D-COLO.)

REP. LUCY MCBATH (D-GA.)

REP. GREG STANTON (D-ARIZ.)

REP. MADELEINE DEAN (D-PA.)

REP. VERONICA ESCOBAR (D-TEXAS)

REP. MONDAIRE JONES (D-N.Y.)

REP. DEBORAH K. ROSS (D-N.C.)

REP. CORI BUSH (D-MO.)

REP. JIM JORDAN (R-OHIO), RANKING MEMBER

REP. STEVE CHABOT (R-OHIO)

REP. LOUIE GOHMERT (R-TEXAS)

REP. DARRELL ISSA (R-CALIF.)

REP. KEN BUCK (R-COLO.)

REP. MATT GAETZ (R-FLA.)

REP. MIKE JOHNSON (R-LA.)

REP. ANDY BIGGS (R-ARIZ.)

REP. TOM MCCLINTOCK (R-CALIF.)

REP. W. GREGORY STEUBE (R-FLA.)

REP. THOMAS P. TIFFANY (R-WIS.)

REP. THOMAS MASSIE (R-KY.)

REP. CHIP ROY (R-TEXAS)

REP. DAN BISHOP (R-N.C.)

REP. MICHELLE FISCHBACH (R-MINN.)

REP. VICTORIA SPARTZ (R-IND.)

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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OVERSIGHT OF THE UNITED STATES DEPARTMENT OF JUSTICE

Thursday, October 21, 2021

House of Representatives,

Committee on the Judiciary,

Washington, D.C.

The committee met, pursuant to call, at 10:12 a.m., in Room 200, Capitol Visitor Center, Hon. Jerrold Nadler [chairman of the committee] presiding.

Members present: Representatives Nadler, Lofgren, Jackson Lee, Cohen, Johnson of Georgia, Deutch, Bass, Jeffries, Cicilline, Swalwell, Lieu, Raskin, Jayapal, Demings, Correa, Scanlon, Garcia, Neguse, McBath, Stanton, Dean, Escobar, Jones, Ross, Bush, Jordan, Chabot, Gohmert, Issa, Buck, Gaetz, Johnson of Louisiana, Biggs, McClintock, Steube, Tiffany, Massie, Roy, Bishop, Fischbach, Spartz,

Fitzgerald, Bentz, and Owens.

Staff present: Perry Apelbaum, Staff Director and Chief Counsel; Aaron Hiller, Deputy Chief Counsel; Arya Hariharan, Deputy Chief Oversight Counsel; David Greengrass, Senior Counsel; John Doty, Senior Advisor; Moh Sharma, Director of Member Services and Outreach & Policy Advisor; Jacqui Kappler, Oversight Counsel; Roma Venkateswaran, Professional Staff Member/Legislative Aide; Cierra Fontenot, Chief Clerk; John Williams, Parliamentarian and Senior Counsel; Gabriel Barnett, Staff Assistant; Atarah McCoy, Staff Assistant; Merrick Nelson, Digital Director; Kayla Hamedi, Deputy Communications Director; Chris Hixon, Minority Staff Director; Tyler Grimm, Minority Chief Counsel for Policy and Strategy; Stephen Castor, Minority General Counsel; Katy Rother, Minority Deputy General Counsel and Parliamentarian; Ella Yates, Minority Member Services Director; Andrea Loving, Minority Chief Counsel for Immigration; Jason Cervenak, Minority Chief Counsel for Crime; Betsy Ferguson, Minority Senior Counsel; Ken David, Minority Counsel; Caroline Nabity, Minority Counsel; James Lesinski, Minority Counsel; Kyle Smithwick, Minority Counsel; Sarah Trentman, Minority Senior Professional Staff Member; Andrea Woodard, Minority Professional Staff Member; and Kiley Bidelman, Minority Clerk.

Chairman Nadler. The House Committee on the Judiciary will come to order. Without objection, the chair is authorized to declare recesses of the committee at any time. We welcome everyone to this morning's hearing on 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 addresses that have been previously distributed to your offices and we will circulate the materials to members and staff as quickly as we can.

I would also remind all members of the guidance in the Office of Attending Physician, which states that face coverings are required for all meetings in an enclosed space such as committee hearings except when you are recognized to speak. I will 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 that you have sworn to protect first as a judge, and now as Attorney General, was 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 6th, insurgents stormed the Capitol building in what appears to be a pre-planned, organized assault on our government, seeking to overturn the votes of their fellow Americans and believing in the lie told 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 6th 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 of 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 violence 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 the Constitution. But nobody has a right to threaten his or her fellow citizens with violence.

You were absolutely right to ask the FBI and federal prosecutors to meet with local law enforcement agencies instead of 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 who 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 choke holds 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 motive. 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 dust bin 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, coworkers, or even strangers if they suspect someone violated the law and helped the 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 statement.

Mr. 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 Board Association writes President Biden asking him to involve the FBI in 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.

Republicans on this committee have sent the Attorney General 13 letters in the last 6 months. It takes weeks and months to get a response. Eight of the letters, we have got nothing. They just gave us the finger and said we are not going to get back to you. And all of our letters were actually sent to the Attorney General.

Here is a letter sent to someone else asking for a specific thing to be done and in five days the Attorney General does it. Here is what the October 4th memo said. "I am 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. Dedicated lines of communication for

threat reporting. A snitch line on parents started five days after a left wing political organization asked for it. If that is not political, I don't know what is.

Where is the dedicated lines of communication with local leaders regarding our Southern border? Something that frankly is a federal matter.

Where is the dedicated lines of communication on violent crime in our cities? Violent crime that went up in every major urban area where Democrats have defunded the police. No, 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.

No, can't focus on the Southern border where 1.7 million illegal encounters have happened this year alone, a record, a record number. MS13 can just waltz right across the border, but the Department of Justice, they are going up 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. The Clinton campaign hired Perkins Coie, who hired Fusion GPS, who hired Christopher Steele, who 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 was Mr. Sussman. Mr. Sussman, who worked at Perkins Coie, the firm hired by the Clinton campaign. He cut out all the middle men. He just said I am just going to go directly to the FBI, and not just anyone at the FBI. Who did he go to? Jim Baker, the Chief Counsel at the FBI handed him a bunch of false information, told him false information, and of course, he has 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. 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 talk 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 is obvious why. Every single liberty we enjoy in the First Amendment has been assaulted over the last year. It is something to think about.

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 are 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 ten. In Pennsylvania, when you are in your home, you had to wear a mask. In Vermont, when you were in your home, you didn't have to wear to a mask because you weren't allowed to have friends and family over.

And of course, there is always the 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 have 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, 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. The government tells parents we are 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 are going to stand up to this accelerated march to communism that we now see. Americans are going to fight the good fight. They are going to finish the course. They are going to keep the faith because Americans value freedom.

Mr. Chairman, we have a video we would like to play.

Ms. Dean. Mr. Chairman. I object.

Chairman Nadler. For what purpose does Ms. Dean seek recognition?

Ms. Dean. I object. I am reserving my right to object to the video. 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?

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

Chairman Nadler. Responding to the gentlelady's request, he did not. He did not supply the 48 hours' rule -- 48 hours' notice required by the rule.

Ms. Dean. Then I insist on my objection, having failed to follow the bipartisan protocol, I insist on my objection.

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

Mr. Jordan. I appeal the ruling of the chair.

Chairman Nadler. There has been no ruling made. There has been an objection.

Mr. Jordan. Mr. Chairman, I would like to speak regarding --

Chairman Nadler. No. That is out of order. This is not debatable.

Mr. Jordan. What is out of order is there is no rule that requires a 48-hour notice. That is what is out of order.

Chairman Nadler. There is such a rule.

Mr. Jordan. There is not, not in our rules.

Mr. Roy. Mr. Chairman, what are you afraid of?

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

Mr. Roy. Mr. Chairman, what are our colleagues on the other side of the aisle afraid of? They are afraid of videos? Of parents?

Chairman Nadler. The gentleman was recognized for his opening statement. Are you finished with your opening statement?

Mr. Jordan. It is not a rule. It is not a rule. It is what you said -- I think you used is a protocol.

Chairman Nadler. The gentlewoman objected --

Mr. Jordan. -- conduct of the committee, rules do. That is not a rule. We had a video. We understood you had a video.

Mr. Gaetz. I seek recognition for a parliamentary inquiry?

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

Mr. Gaetz. I seek recognition for a parliamentary inquiry?

Mr. Jordan. I will yield back in just a second and

particularly --

Chairman Nadler. The gentleman yields back?

Mr. Jordan. No, I haven't yielded back yet. I said I will in a second. It is 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?

Chairman Nadler. It will not be played. An objection has been heard that you failed to give the 48 hours required by the rule and therefore it will not be heard.

Mr. Jordan. What rule?

Mr. Roy. Chairman, what rule? Parliamentary inquiry. What rule? Will you present the rule?

Chairman Nadler. The case of audio visual materials under the leadership of my predecessor, Chairman Goodlatte, a Republican, the committee developed a written protocol for managing the use of audio visual materials in our hearings. This protocol simply requires members to provide 48 hours' notice they are going to use audio visual material.

Until recently, this protocol was not controversial. It was a helpful tool we used to manage hearings and make sure videos were played properly.

The gentlewoman has objected to the materials because the gentleman did not provide the agreed upon 48 hours' notice. Playing audio visual 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.

Mr. Roy. Mr. Chairman, did we ever vote on that?

Mr. Johnson of Louisiana. That is a clever, written statement, but a protocol is not a rule.

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

Chairman Nadler. The gentleman yields back. A point of order. The gentleman will state his point of order.

Mr. Biggs. I would ask you if you are going to insist that this is a rule, please cite the rule, show us the actual written rule. This is not a rule.

Chairman Nadler. It is not a point of rule as I said before. Playing audio visual materials during committee hearings is the equivalent of introducing --

Mr. Biggs. I ask that you rule on my point of order.

Chairman Nadler. -- printed materials into the hearing record. In the normal course of business, we do not

object to each other's requests --

Mr. Biggs. That is not a rule, sir --

Chairman Nadler. -- members have the right to object if they so choose and an objection has been heard.

Mr. Biggs. That is a statement, not a rule, sir. I would ask you to rule on my point of order.

Chairman Nadler. The gentleman has not made a valid point of order.

Mr. Biggs. I appeal the ruling of the chair.

Chairman Nadler. There is nothing to appeal. There has been no ruling.

Mr. Biggs. You ruled that my --

Chairman Nadler. There has been no ruling.

Mr. Biggs. I am entitled to have --

Chairman Nadler. There is just been an objection and the objection has been heard.

Now we will introduce the Attorney General. I will now introduce today's witness.

Merrick Garland is sworn in as the 86th Attorney General of the United States on March 11, 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, the United States Court of Appeals for the Second Circuit and for Supreme Court Justice William Brennan.

We welcome the Attorney General and we thank him for participating today. And if you please rise, I will begin by swearing you in. Raise your right hand.

Do you swear or affirm under penalty of perjury that the testimony you are 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 witness has 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 is 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.

TESTIMONY OF MERRICK GARLAND, ATTORNEY GENERAL OF THE UNITED STATES

Attorney General 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 three 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 counter terrorism cooperation across all levels of government. For FY22, we are seeking more than $1.5 billion, a 12 percent increase for counter terrorism work.

We are also taking aggressive steps to counter cyber threats, 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 FY22 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, causing at least 70,000 fatal overdose 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 FY22 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 stand-alone 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 FY22, 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 and I look forward to your questions.

[The statement of Attorney General Garland follows:]

**********COMMITTEE INSERT**********

Chairman Nadler. Thank you for your testimony. We will now proceed under the five-minute rule for 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 pre-clearance provision inoperative. As a direct result of this decision, the right to vote has come under a renewed and steady assault and states have spent the past eight years enacting a slew of barriers to voting to target or impact communities of color and other historically disenfranchised groups.

Before this committee in August, the Assistant Attorney General Kristen Clarke testified that "Section 5 of the Voting Rights Act was truly the heart of the act and calls it the Department's most important tool for safeguarding voting rights in our country."

Why is Section 5 pre-clearance so crucial to combating discriminatory voting practices?

Attorney General Garland. Thank you, Mr. Chairman. The right to vote is a fundamental aspect of our democracy and in many ways it is the light from which all other rights occur. The Voting Rights Act was a gem of American legislation, President Ronald Reagan said, and 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 pre-clearance provision which required specified states where there had been discriminatory practices that provisions for changes in patterns or practices of voting to be submitted to the Department for pre-clearance to determine whether they violated the Act.

There was another alternative if a 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 pre-clearance 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. It is extremely difficult to attack unlawful prescriptions on voting practices.

Chairman Nadler. Thank you. Assistant Attorney General Clarke testified that Section 2 is no substitute for the important, swift preemptive review that was provided by way of Section 5 pre-clearance process. The full impact of the Supreme Court's recent decision in Brnovich v. DNC on Section 2 remains to be seen. However, in the absence of an operational Section 5 pre-clearance regime, what steps has the Justice Department taken to increase enforcement of voting rights under Section 2?

Attorney General Garland. Section 2 is our remaining

tool. It is 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 the one-by-one basis. We are going about doing that. We have brought one case, 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.

Chairman Nadler. If you should find that given states reapportionment, for example, is unconstitutional and you sued it could take six or eight years for those suits to be resolved, as we have seen, and that is one reason, another reason, for the necessity for Section 5 pre-clearance.

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's subpoenas. 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 in 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 and the law and expeditiously consider the referrals put forth by the Select Committee if and when they are approved by the full House?

Attorney General 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 spokesperson for the U.S. Attorney's Office and 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. It will apply the facts and the law and make a decision consistent with the principles of prosecution.

Chairman Nadler. Thank you very much.

Mr. Jordan. Could you pull the mic a little closer, Mr.

Attorney General?

Attorney General Garland. Oh, I'm sorry. Is that better, Mr. Chairman?

Chairman Nadler. Yeah. Mr. Chabot?

Mr. 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.

Chairman Nadler. Without objection.

[The information follows:]

**********COMMITTEE INSERT**********

Mr. 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 school teacher 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?

Attorney General Garland. Yes. I think parental involvement is very important in education.

Mr. Chabot. Thank you.

Now, with that in mind, having parents involved in their children's education, I have to say I found 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, quote, "Under FBI policy and federal law, no investigative activity related to domestic terrorism may be initiated based on First Amendment activity," unquote.

Now, parents speaking up at 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 a 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 a parent 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?

Attorney General 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. It's --

Mr. 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.

I yield back.

Chairman Nadler. The gentleman yields back. Once again, I would remind all members that guidance from the Office of Attending Physician states of face coverings are required for all meetings in an enclosed space such as committee hearings except when you are 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, et cetera.

So, please, everyone observe that rule.

I'll now recognize Ms. Lofgren for five minutes.

Ms. 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, quote, "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 system, 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, quote, "Presidential communications privilege applies only to documents solicited and received by the President or his immediate White House advisors 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?

Attorney General Garland. Yeah, I think the D.C. Circuit is a good source of law.

Ms. 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?

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

Ms. Lofgren. In the -- we were here in the Judiciary Committee pursuing testimony from Mr. McGahn and the court wrote in the 2019 case, and this is a quote, "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?

Attorney General Garland. I believe the McGahn case is still good law.

Ms. Lofgren. Recently, the Department of Justice informed a federal district court that, quote, "Conspiring to prevent the lawful certification of the 2020 election and the injured members of Congress and inciting the riot at the Capitol," quote, "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?

Attorney General Garland. Yes.

Ms. 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 One 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.

Chairman Nadler. The gentlelady yields back.

Mr. Gohmert?

Mr. Gohmert. Thank you, Mr. Chairman, and thank you, Judge Garland, for being here.

You stated a moment 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?

Attorney General Garland. I don't believe so.

Mr. 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?

Attorney General 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 --

Mr. 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 had 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?

Attorney General Garland. This is an ongoing criminal investigation and I'm really not at liberty to discuss. There have been some filings of -- in a nature of discovery

which has been provided to the defendants. But other than that, I can't discuss this now.

Mr. Gohmert. Well, we have seen some of those filings that talk about persons one 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?

Attorney General 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.

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

Attorney General Garland. Again, I think this was a matter that was investigated by the U.S. Attorneys Office and --

Mr. Gohmert. Well, there's a witness on video saying that it was a D.C. Metro policeman. I didn't know if you've 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 -- pre-trial 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 6th to appropriate sentences.

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

Attorney General Garland. So my understanding is Judge Lamberth, who I respect very much, has --

Mr. Gohmert. Yeah, he held the warden in contempt, but we haven't seen an improvement.

Attorney General Garland. Well, he asked for a review and the Justice Department is conducting a review of 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.

Chairman 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 of staff attending this hearing to wear face masks.

I came to this decision after the Office of the Attending Physician released his 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 their masks 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.

Ms. 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 and 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.

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.

Would 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?

Attorney General Garland. Congresswoman, the Justice Department has a very long-standing 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, a senator or ordinary citizen, and I'm going to have to rest on that that I can't comment on --

Ms. Jackson Lee. Thank you. I take that there's no

prohibition. But thank you so very much.

The Justice Department investigated Texas five secured juvenile facilities, finding sexual abuse. Can I quickly get an answer of 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?

Attorney General Garland. So we are investigating Texas. That was announced, and I believe the government welcomed that investigation, and that's being done by a combination of the Civil Rights Division and all four U.S. Attorneys Offices in Texas.

Ms. 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.

According to a New York Times article, 2,700 persons have died. There is a potential of the 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?

Attorney General 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.

Ms. 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 with parole, life without parole, virtual life, et cetera.

Eighty-six percent of women in jail have experienced sexual violence. Seventy-seven percent have experienced intimate partner violence. This has given a report as it relates to women of color. Can we have a more vigorous

trauma/mental health protocol for women in prison -- federal?

Attorney General Garland. So I think -- federal, yeah. So I think an important part of the First Step Act requires us to be careful about those things and we have 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.

Ms. Jackson Lee. Thank you. Can I quickly ask with 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 help you be more effective in prosecuting, moving forward.

Attorney General Garland. Yes. Yes, it would. We have strongly supported a reauthorization of the Violence Against Women Act.

Ms. 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.

Secondarily, 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 under Section Two.

I 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.

Chairman Nadler. The gentlelady's time -- the gentlelady's time has expired.

Ms. Jackson Lee. And so I'm asking whether or not --

Chairman Nadler. The gentlelady's time has expired.

Mr. Owens?

Mr. Owens. Thank you, Mr. Chairman.

Thank you, Attorney General Garland, for coming before our committee today.

I 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 a community that produced giant Americans like Clarence Thomas, Condoleezza Rice, Thomas Sowell, Walter Williams, and Colin Powell. This was not by accident, and it was also not rare. It was a community of faith, family, free market, and education.

Education was the very core of our success. I was

raised in a home with 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, add, subtract, and to think critically. Success in education was always based on parental involvement. It was both expected and welcomed.

In my great State of Utah, these expectations 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 has taken against parents are concerning, and I would like to direct my questions around that topic. Some of the questions have been asked, and I do want to make it very clear to some of my constituents some of the concerns I have.

We 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?

Attorney General 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 are worried about here.

Mr. Owens. Okay. Could I just say --

Attorney General Garland. Those are the only things we are worried about here.

Mr. Owens. Okay. Thank you so much for that.

Is there legal precedence for the Department of Justice to investigate peaceful protests or parental involvement at public school meetings?

Attorney General Garland. Just to say again, we are not investigating peaceful protests 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 are worried about.

We are worried about that across the board. We are worried about threats against Members of Congress. We are worried about threats against police.

Mr. Owens. Thank you very much. Thank you much for that.

I am 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 a concern about disparaging remarks that the Secretary had made against parents. In this letter, we requested 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?

Attorney General Garland. I am sorry, I don't recollect the letter, but I will ask my staff to find out where it is.

Mr. Owens. Okay. 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 led our country in the percentage of men matriculating from college, black men matriculating from college. I now have been aware of, in 2017, studies at the Department of Education that 75 percent of the black boys in the State of California cannot pass standard reading and writing tests. That is a big

shift. And the difference is, in those days when I was growing up, parents were involved. There was a trust that we can send our kids to school and they would be taught how to love our country, love each other, and love education. That has been changed drastically.

And I think I am going to implore 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, if we do that, we will get back to the old-school America, where we can really appreciate the fact of who we are and an education system that should be teaching us how to do that.

I yield back my time.

Chairman Nadler. The gentleman yields back.

Mr. Cohen?

Mr. Cohen. Thank you, Mr. Chair.

Welcome, General Garland. I feel it is 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 there are 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?

Attorney General Garland. All the boldfaced names that I know about 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 --

Mr. Cohen. Thank you. I would appreciate it if you would 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, and 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 in 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 are defending him.

Do you think that the public sees that as a proper use of Department of Justice resources, when it has been shown that we are short on personnel in the Civil Rights Division and that we need that personnel, and yet, we are defending President Trump's defamation lawsuit by a woman who he has defamed?

Attorney General Garland. Congressman, we are not defending the defamation made by the former President. As I have said publicly several times, sometimes being the Attorney General and sometimes being the judge, that 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 it wasn't defamation. It is solely on the question, on the application of the Tort Claims Act. And there is consistent precedent in the D.C. 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.

Mr. Cohen. If I may, sir, and I appreciate that and I have 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 have made clear -- and I know you believe this -- it is 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 is pretty well known that President Trump was "Individual One," as described in the indictment. He couldn't be indicted because of a Department of Justice policy you don't indict a sitting President. He is no longer a sitting President.

Do you believe that not looking into indicting Individual One equally, if not more, guilty than Michael Cohen, is not an abuse of equal protection under the law and an abrogation of the idea that the rule of law is a principle?

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

Mr. 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 is 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 seize 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?

Attorney General 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's deliberative privilege exception. 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 D.C. Circuit now. Everything I have just said is in our papers. So, I am not saying outside the record. And it will be resolved by the D.C. Circuit.

Mr. Cohen. Thank you. Chairman Nadler. The gentleman's time has expired.

Mr. Cohen. I yield back the balance of my time.

Chairman Nadler. Mr. Johnson of Louisiana?

Mr. Johnson of Louisiana. Thank you.

Mr. Attorney General, millions of Americans are deeply concerned today that, instead of addressing the most pressing issues facing our country, we are 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 political 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 is 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 cofounded a company called Panorama Education. We now know that that company publishes and sells Critical Race Theory and so-

called anti-racism 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 has surveyed more than 13 million students in the United States, it has 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?

Attorney General 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 --

Mr. Johnson of Louisiana. I understand your position on the free speech of parents.

Attorney General Garland. It is not a position; it is the words of the memorandum.

Mr. Johnson of Louisiana. Wait. 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 are very concerned about that.

Subpart E of that federal regulation says, "An employee of the executive branch is discouraged from 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 ethic official look into this? Did you seek guidance, as the federal regulation requires?

Attorney General Garland. This memorandum is aimed at violence and threats of violence.

Mr. Johnson of Louisiana. I understand that, but did you --

Attorney General Garland. There is no --

Mr. Johnson of Louisiana. 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?

Attorney General Garland. This memorandum does not relate to the financial interests of anyone. It is, again,

it is not --

Mr. Johnson of Louisiana. I take that as a no. I take that as a no.

Attorney General Garland. The memorandum is against violence and threats of violence. I don't know --

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

Attorney General Garland. This memorandum is aimed at violence and threats of violence.

Mr. Johnson of Louisiana. I understand your talking point. You are not asking my question, Mr. Attorney General.

Attorney General Garland. I am talking --

Mr. Johnson of Louisiana. With all due respect, will you submit to an ethics review of this matter? Yes or no?

Attorney General Garland. There is no company in America or, hopefully, no law-abiding citizen of America who believes that threats of violence should not be prevented. There are no conflicts of interest that anyone could have --

Mr. Johnson of Louisiana. According to you, but, sir, with due respect, that is 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 are the top, you are 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?

Attorney General Garland. I am exquisitely aware of the ethics requirements.

Mr. Johnson of Louisiana. But you are not following them.

Attorney General Garland. I have followed them and lived with them for the last 25 years --

Mr. Johnson of Louisiana. Did you seek an ethics review of this or not?

Attorney General Garland. I am going to say again, there are no conflicts of interest involved when the Justice Department asks the --

Mr. Johnson of Louisiana. Okay, okay. 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 are 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 are not two standards, that there is one standard of the law and that everyone --

Chairman Nadler. The time of the gentleman has expired.

Would the Attorney General like to respond to the innuendo?

Attorney General 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.

Mr. Johnson of Louisiana. But you will not submit to an ethics --

Chairman Nadler. The time of the gentleman has expired.

Mr. Johnson of Louisiana. I would just --

Chairman Nadler. The time of the gentleman has expired.

Mr. Jordan. It wasn't innuendo. It was a question.

Mr. Johnson of Louisiana. Yes. Thank you.

Mr. Jordan. It was a question.

Chairman Nadler. The question is -- the gentleman's time --

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

Chairman Nadler. I asked the Attorney General -- Mr.

Johnson of Georgia?

Mr. Johnson of Georgia. 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?

Attorney General Garland. The Justice Department supports that Act. Section 2 is what we have. Section 5 is

what we need.

Mr. Johnson of Georgia. 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?

Attorney General Garland. Yes, sir.

Mr. Johnson of Georgia. 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?

Attorney General Garland. We are doing that investigation. It is pursuant to a statute which authorizes the Civil Rights Division to bring those kinds of cases. I can't tell you what the timeline is. These kind of things take a considerable amount of time. And I am not sure what the legal requirements are with respect to briefings outside -- this is now in court. And so, I am not sure what additional material can be provided outside of what we provide in court. But we will look into it for you.

Mr. Johnson of Georgia. 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?

Attorney General Garland. Sorry, I don't know the answer to that question, but I will see if I can ask at the Civil Rights Division how they are using that material.

Mr. Johnson of Georgia. All right. Thank you.

General Garland, the Sackler 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 & 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 game to shield themselves from liability?

Attorney General 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.

Mr. Johnson of Georgia. Thank you.

Lastly, I will note that there has 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 have got to include an opposing view on the Holocaust. If you have any books that are teaching about that, you have got to have an opposing view. This is the danger that we --

Chairman Nadler. The gentleman's time has expired.

Mr. Jordan?

Mr. 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 in 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's letter went to the President?

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

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

Attorney General Garland. Obviously, the letter, which was public and asked for assistance from the Justice Department, was brought to our attention, and it is a relevant factor in --

Mr. Jordan. Who gave you the letter?

Attorney General Garland. I'm sorry?

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

Attorney General Garland. Well, I read about the letter in the news. That's how I read about --

Mr. Jordan. Who at the White House told you to write the memo?

Attorney General Garland. No one in the White House spoke to me about the memo at all. I am sure, at least I

certainly would believe, that the White House communicated its concerns about the letter to the Justice Department. And that is perfectly --

Mr. Jordan. Well, that was my next question.

Attorney General Garland. -- perfectly appropriate.

Mr. Jordan. Did you or anyone at the Justice Department discuss the memo with White House personnel or with anyone at the White House before the memo was sent?

Attorney General 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 --

Mr. Jordan. Who are those individuals? Who at the White House talked with who at the Justice Department?

Attorney General Garland. I don't know. I don't know.

Mr. Jordan. Did they talk to you? Did someone call you? Did --

Attorney General Garland. I think I have answered. No one from the White House spoke to me, but the White House is perfectly appropriately concerned about violence, just like they are concerned about violence in the streets. And they make requests of the Justice Department in that respect, just like they are --

Mr. 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?

Attorney General Garland. I did not. I don't know as to --

Mr. Jordan. You don't know if anyone else at the Justice Department did?

Attorney General Garland. I don't know.

Mr. Jordan. 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?

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

Mr. Jordan. Will FBI agents be attending local school board meetings?

Attorney General 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 is not --

Mr. 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 -- or 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 terrorists; we are not going to treat them 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 towards school personnel. Those efforts are expected to include the creation of a task force consisting of representatives from the Department's Criminal Division, Civil Rights Division, Executive Office of the U.S. Attorneys, the FBI, the Community Relations Service, Office of Justice Programs, and the National Security Division."

Now I find that interesting. You said there is no way you are going to be treating parents as domestic terrorists, but you have got the National Security Division in a press release regarding your memo that day.

Attorney General Garland. My memo does not mention the

National Security Division. It is addressed to --

Mr. 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 -- talks about --

Attorney General Garland. I want to be as clear as I can be --

Mr. Jordan. -- the National Security Division being part of this effort.

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

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

Attorney General Garland. Yes.

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

Attorney General Garland. So, I read the letter, and we have been seeing over time threats --

Mr. Jordan. Whoa, whoa, whoa. I didn't ask you -- so, you read the letter. That is your source?

Attorney General Garland. So, let me be clear. This is

not a prosecution or an investigation --

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

Attorney General 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 violence against all --

Mr. Jordan. So, the source for this, for the very first line in your memo --

Chairman Nadler. The time of the gentleman has expired.

Mr. Jordan. -- was the School Boards Association letter?

Chairman Nadler. The time of the gentleman has expired.

Mr. Deutch?

Mr. Deutch. Thank you, Mr. Chairman.

Thank you, General Garland, for being here.

What is so disturbing to me is the 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 when people were going behind her home and brandishing weapons.

She is 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 fist fight 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 am grateful to you for that.

My question is, as our Governor in Florida claimed that your efforts are weaponizing the DOJ, I would like to know whether Governor DeSantis in the State of Florida has been cooperative in your efforts to protect our schools?

Attorney General Garland. I don't know the answer to the question that you are asking. We are trying to prevent violence and threats of violence. It is 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.

Mr. 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 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 in 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 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 it for the record, Mr. Chairman.

Chairman Nadler. Without objection.

[The information follows:]

1717 **********COMMITTEE INSERT**********

Mr. 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, Tik Tok, Instagram, YouTube. 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?

Attorney General 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. Much of, I think, the article that you are referring to comes from a press conference that the DEA Administrator gave. A significant portion of these pills are a lethal overdose with one pill. And this is an extraordinarily dangerous problem that we are putting our

full attention to.

Mr. Deutch. Attorney General Garland, I assure you that there is strong, notwithstanding much of what else you will 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 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. The question is whether you believe, Attorney General Garland, that repealing PLCAA to hold gunmakers accountable for their products and the marketing of those products could improve gun safety in America.

Attorney General 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 is the position that the Justice Department takes. Whether we like the statute or not, we defend the constitutionality of Congress' work.

Chairman Nadler. The time of the gentleman has expired.

Mr. Deutch. You support the passage of the John Lewis Voting Rights Act. I hope that you will support the repeal of PLCAA --

Chairman Nadler. The time of the gentleman has expired.

Mr. Deutch. -- PLCAA.

Thank you.

Chairman Nadler. At this time, we will take a very short 5-minute break. We will return immediately after.

The committee stands in recess.

[Recess.]

Chairman Nadler. Committee will come to order.

Mr. Roy?

Mr. Roy. I thank the chairman.

Attorney General Garland, do you know where Broad Run High School is?

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 of Loudoun Valley High School. Despite my family having Texas reach back to the 1850s, I grew up in Loudoun. It was my home. And also I care because on October 6th, a mere 15 days ago, inside Broad Run High School in Loudoun 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 girl's bathroom, sodomized and raped a 14-year-old girl in a different Loudoun County high school on May 28? Are you aware of those facts?

The boy was -- are you aware of firmly -- are you aware further that the boy was arrested and charged for the first assault in July but released from juvenile detention?

Attorney General Garland. It sounds like a state case and I'm not familiar with it. I'm sorry.

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

Attorney General 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. But I don't know the facts of the case.

Mr. Roy. Is the FBI or the Department of Justice investigating the Loudoun school board for violating civil rights or under authority of, say, the Violence Against Women Act?

Attorney General Garland. I don't believe so. But I don't know the answer to that question.

Mr. Roy. And I would 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?

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

Mr. 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 said. Behind her, the victim's father seen being arrested, bloodied.

This man is arrested. 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 Boards 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.

Attorney General 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.

Mr. 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 in local disputes because a father gets mad?

Now, 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 that Loudoun County failed to report this sexual assault according to state law and are you investigating this?

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

Mr. Roy. Are you aware that the Virginia General Assembly, run by Democrats, voted for -- and 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?

Attorney General Garland. I don't know anything about the Virginia legislation.

Mr. 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 should be taught here and that this

is what should be taught here?"

Attorney General Garland. 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 --

Mr. Roy. I would note that that statement was by a Democratic gubernatorial candidate in the Commonwealth of Virginia.

I would note that there are a number of other issues of concern of the Virginia Department of Education, what's being taught there, and 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 incidents of January 6th on May 13th and on July 15th and have not gotten a response from the Department of Justice.

Chairman Nadler. The gentleman's -- the gentleman's time has expired.

Mr. Roy. Do you commit to responding?

Chairman Nadler. The gentleman's time has expired.

Ms. Bass?

Ms. 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 this 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.

Attorney General 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 give an explanation.

Ms. Bass. Okay. 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 Wrists in Cuffs: How Police Use Force Against Children."

Chairman Nadler. Without objection.

[The information follows:]

**********COMMITTEE INSERT**********

Ms. Bass. Out of 3,000 cases analyzed where police use force -- 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 U.S. 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.

Attorney General Garland. 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. I don't know the specifics.

Ms. Bass. Okay. 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, 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.

Attorney General 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 hold 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.

Ms. 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.

Attorney General Garland. Well, I mean, there are a lot of things that we're doing. We have begun, again, to look at pattern and 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 have 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 had 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 kinds of investigations.

Chairman Nadler. The time of the gentlelady has expired.

Mr. Tiffany?

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

Attorney General Garland. Ah. Oh, thank you. Okay. Sorry.

Mr. 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?

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

Mr. 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?

Attorney General Garland. So I believe you're referring

to a district court case in which that's at issue and so I can't really say any more than is in the pleadings in that case.

But if 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 that will tie it to race.

Mr. 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 --

Attorney General Garland. The question --

Mr. Tiffany. -- that our country has tried to rid itself of?

Attorney General 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 in the district court now is examining the record to determine whether there is a sufficient record in that respect [inaudible] department believes there is.

Mr. Tiffany. So it sounds like you -- sounds like you support the legislation then.

Attorney General Garland. The question for us is the

constitutionality of the legislation. That's the only question before us and the -- as I 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.

Mr. 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?

Attorney General Garland. No.

Mr. Tiffany. Are we criminals?

Attorney General Garland. Again, I don't know the facts that you're talking about. But the only way you're 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.

Mr. Tiffany. Have states -- have states asked for help?

Attorney General Garland. That's not --

Mr. Tiffany. The School Boards Association did but have states asked for help?

Attorney General 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.

Mr. Tiffany. As a -- 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 U.S. 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?

Attorney General Garland. Again, we can't, under the norms of the department, discuss whether there are pending investigations, actual investigations, the date of resolution.

Mr. Tiffany. Well, let me -- let me help. I understand your answer that you're going to give there. Let me help you along.

Title 8 U.S. 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 talk about increased crime. It is skyrocketing across the country, including in our biggest city, Milwaukee,

Wisconsin.

Chairman Nadler. Time of the gentlemen has expired.

Mr. Tiffany. Yet, we have parents that are silenced. We have parents that are silenced.

Chairman Nadler. The time of the gentleman has expired.

Mr. Jeffries?

Mr. Jeffries. Thank you -- 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 to 11 the Effective Assistance of Counsel in a Digital Error Act, which would limit the ability of the Bureau of Prisons to monitor private communications, email communications, between detainees in the BOP's custody and their attorneys.

We concluded in a bipartisan way that this practice, which has occurred under Democratic administrations and Republican administrations, needs to be addressed.

We are 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.

Chairman Nadler. Without objection.

[The information follows:]

**********COMMITTEE INSERT**********

Mr. Jeffries. And I look forward to your response and to working with the Department of Justice on this issue.

Voter fraud, if proven, a serious crime that carries a five-year prison sentence. Is that right?

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

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

Attorney General Garland. With respect to federal voting, yes.

Mr. 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?

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

Mr. Jeffries. Right. There's no evidence that voter fraud impacted the outcome of the 2020 presidential election. True?

Attorney General Garland. That's correct. That's correct.

Mr. 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?

Attorney General Garland. That is the conclusion of the Justice Department and of the intelligence community and of the Department of Homeland Security. Yes.

Mr. 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 6th 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?

Attorney General 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 challenges

of being unlawful.

Mr. 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?

Attorney General Garland. 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 Tow.

But as a general matter, my view is that everyone should have the ability to vote as readily and easily as possible.

Mr. Jeffries. 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 where the rights of African Americans were under assault.

We have come a long way. We still have a long way to go. We still see race baits, 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 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.

Attorney General Garland. Thank you, Congressman.

Chairman 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.

[Recess.]

Mr. Bishop. Thank you, Mr. Chairman. Mr. Attorney General, I am right here. I was going to do another subject in my questioning, Mr. Attorney General, but I have been so concerned about the interaction about the October 4 memo that I am going to follow up on that, if I might.

The memo is a one-pager. You read it before it was

issued, I assume.

Attorney General Garland. I certainly did, and I worked on it.

Mr. Bishop. Okay. 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, quote, "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 have 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 have offered the justification here also that this was not the initiation of an investigation, as if that; 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 right you included no guidance in your memo how the FBI should go about avoiding chilling, intimidating, legitimate First Amendment activity. You have 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 advanced notice of these meetings, indications of what content would be shared there.

We asked for that response within 10 days given the time frame that you set forth in your memo. More than half of that time has passed; no response. Are these meetings occurring?

Attorney General Garland. So let me just be clear again here. This memo is expressly addressed against threats of violence and violence. The federal statutes that are relevant--

Mr. Bishop. I am sorry--

Attorney General Garland. --prosecutors are well aware of where the First Amendment line is. This is addressed to prosecutors and members of law enforcement. These are the kinds of statutes that we deal with every single day.

Mr. Bishop. Well, I am not sure--

Attorney General Garland. They know the line.

Mr. Bishop. --you deal with it in this way, Mr. Attorney General. Are the meetings occurring? Do you know?

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

Mr. 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, have meetings in every judicial district across the country? You just don't know?

Attorney General Garland. I doubt there have been meetings in every jurisdiction. I expect there have been in some jurisdictions. And I hope so because that is the purpose of the memo, to have meetings to discuss whether there is a problem, to discuss strategies, to discuss whether local law enforcement needs assistance or doesn't need assistance. That is the purpose of these meetings.

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

Attorney General Garland. Doesn't that make -

Mr. Bishop. You don't even know if these meetings that you directed urgently to occur are even occurring. What is left indeed of the memo except 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--is opposed to the ideology upon 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.

Attorney General Garland. Well, the memorandum specifically--

Mr. Bishop. I haven't finished my--

Attorney General Garland. Oh, I am sorry.

Mr. Bishop. --point or my question, sir.

Attorney General Garland. I thought you did. I apologize.

Mr. Bishop. 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 is widespread First Amendment activity. There is a movement among school parents. That seems to me to be--

Chairman Nadler.The gentleman's time--

Mr. Bishop. My time is expired.

Chairman Nadler. Mr. Cicilline?

Mr. 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 is 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 have 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 Unlawful Gun Buyer Alert, that would require the NIC System to notify the local FBI office and the local law enforcement agency that someone who is prohibited from buying a gun because they are 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 NIC System to share information on prohibited purchasers so that we can in fact respond to people who illegal bought guns in the thousands each year?

Attorney General Garland. I don't know whether we are able to do that or not, but we will 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.

Mr. Cicilline. Thank you. And I will 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 play in the digital marketplace. This report was a culmination of a 60-month bipartisan investigation and the report concluded that decades of flawed antitrust jurisprudence had made it nearly impossible for antitrust enforcers and private players to get courts to stop harmful mergers and anticompetitive conduct in the digital markets. Courts have become fixated on market definition litigation even where there is direct evidence that a firm possesses market power and is engaging in anticompetitive conduct.

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?

Attorney General Garland. Yes, we are 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/practices that you are talking about, mergers. And we have been quite aggressive since we came to office. And I have also asked for in the fiscal year 2022 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 are going to need additional people and additional assistance.

Mr. 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 U.S. Court of Appeals for the Seventh Circuit. Judge Wood explained that the Supreme Court's antitrust jurisprudence over the past four decades has contributed to under-enforcement. 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 could give this 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?

Attorney General Garland. So I am not in a position to specify those now, but our staff will get back to you. I would be happy to do that and have the--

Mr. Cicilline. Great. And then finally, Mr. Attorney General, I want to say, as Congressman Deutch said, I am 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 sit-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 resulted in the death of five people in an effort to undermine our democracy I think was disgraceful. And with that I yield back.

Chairman Nadler. The gentleman yields back.

Mr. Buck?

Mr. Buck. Thank you, Mr. Chairman.

Mr. Attorney General, I would like to direct your attention to the easel behind me. The first painting is a

Claude Monet.

Attorney General Garland. I am sorry. I can't read any of the words.

Mr. Buck. You don't need to.

Attorney General Garland. Okay.

Mr. Buck. You just need to look at this great painting right--

Attorney General Garland. It is a very beautiful painting.

Mr. 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 this name, is a Hunter Biden.

[Laughter.]

Attorney General Garland. I don't recognize the painting.

Mr. Buck. The Hunter Biden painting sold for $500,000 also. Now you may think that 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 10 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 is the same Hunter Biden who is 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 this dubious track record inquiring minds might question why any art gallery would want to sell Hunter Biden's art. Well this particular art gallery had a 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?

Attorney General Garland. For the same reason that I am not able to respond to questions about investigations of the

former president or of anyone else I am not able to discuss any investigations, pending or otherwise with respect to any citizen of the United States.

Mr. 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 is my question.

Attorney General Garland. Well, apparently I just received the letter today from you and will be taking it under advisement, but I wasn't aware that you had sent me a letter.

Mr. Buck. Okay. 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 Receives $500,000 Federal COVID Loan, Records Show."

Chairman Nadler. Without objection.

[The information follows:]

**********COMMITTEE INSERT**********

Chairman Nadler. The gentleman yields back?

Mr. Buck. I yield back, yes.

Chairman Nadler. The gentleman yields back.

Mr. Swalwell?

Mr. 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 prosecutory. 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?

Attorney General Garland. Yes, sir.

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

Attorney General Garland. Yes, but generally that did not get that far. But yes, that is true.

Mr. Swalwell. That is one remedy you would have if someone does not show up?

Attorney General Garland. It is.

Mr. Swalwell. And today as we sit here in this room in 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' arrest?

Attorney General Garland. Well, again you are 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 Representatives vote to refer a criminal contempt matter to the department, we will review it and act according to the law and the facts as the principles of prosecution require.

Mr. 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?

Attorney General Garland. Again, since we are really now talking about a very specific case, I don't want to get into the law.

Mr. 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?

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

Mr. 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 am wondering would you commit to revisiting that principle, whether or not a president while sitting should be indicted?

Attorney General Garland. Well, like an office of legal counsel memorandum, particularly when they have been reviewed and reaffirmed by attorneys general and assistant attorneys general, or different parties, it is extremely rare to reverse them. We have the same kind of respect for our precedents as the courts do. I think it is also--would not normally be under consideration unless there was an actual issue arising, and I am not aware of that issue arising now. So I don't want to make a commitment on this question.

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

Attorney General Garland. Again I don't want to make any discussion about any particular former president or anything else. The memorandum that you are talking about is limited to acts while the person was in office. And that is all I can say.

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

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

Mr. 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 reexamining DOJ's posture in such cases as the law changes in different states?

Attorney General Garland. I am going to ask you to refresh my recollection as to the recent Pennsylvania decision about which you are speaking. I am sorry.

Mr. Swalwell. Sure.

Attorney General Garland. I have a lot of cases in my head, but that one doesn't came right up.

Mr. Swalwell. Last year a Pennsylvania state appeals court held the Protecting Lawful Commerce in Arms Act

unconstitutional. And so just asking in light of that would you commit to reexamining as new cases come in?

Attorney General Garland. The Justice Department has taken the position in court that we are 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 the Pennsylvania state court were brought to the attention of the solicitor general's office.

Mr. Swalwell. Thank you. 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.

Chairman Nadler. The gentleman yields back.

Mr. Fitzgerald?

Mr. Fitzgerald. Attorney General, thank you.

Attorney General Garland. Appreciate your waving at me because --

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

Attorney General Garland. Yes, let me just say first about the money. We are 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 is 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 is work.

Mr. Fitzgerald. I will take that as a confirmation that the investigation is continuing into the Clinton Foundation, and I think that is important that we--

Attorney General Garland. Oh, I don't want to--

Mr. Fitzgerald. --ultimately get to the bottom of--

Attorney General Garland. --say what it is about. That is up to Mr. Durham. I am not determining what he is investigating.

Mr. Fitzgerald. Very good. Very good. If I can move on, another thing that came up during your confirmation hearing: You said that the DOJ would be under your, quote, "protection for the purpose of preventing any kind of partisan or improper motive in making any kind of investigation or prosecution." And that is the end of your quote.

But I think there are 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 has been about election integrity measures, pro-life initiatives, and what has been discussed many times here today, the silencing of parents that kind of are very upset about what is 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 am wondering if you could respond to that.

Attorney General 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 their--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 question 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 have already heard some of those. And thee will be people from the Republican Party who will disagree with my determinations about our filings in civil cases. That comes with the territory. That is what happens to the Attorney General.

I am doing my best to ensure that we make decisions on the facts and the law. 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 which side of the aisle is criticizing me for it.

Mr. 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--

Chairman Nadler. The time of the gentleman has expired.

Mr. Lieu?

Mr. Fitzgerald --many of these actions. I yield back.

Chairman Nadler. The gentleman yields back.

Mr. Lieu?

Mr. 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 would 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 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 into these cases the only thing that was the same among all of them is that the defendants happened to look like me. They happened to be Asian-American. In response then Attorney General Loretta Lynch ordered implicit bias training for all her law enforcement agents and prosecutors at Department of Justice.

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

Attorney General Garland. So I thank you for your comments. As I know you know I am greatly attuned to this problem. That is why the very first memorandum I issued when I came to the Justice Department was to investigate hate crimes on a nationwide basis, and particularly against the AAPI community. That is 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 were already on that route. There is no excuse for this kind of discrimination and it is the obligation of the Justice Department to protect people.

Mr. 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 non-profit. They analyzed economic espionage cases brought by the department between 1996 and 2020 and the findings are deeply disturbing.

This study showed that one in three Asians 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 am 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?

Attorney General 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.

Mr. Lieu. So if you could look into that more, I would appreciate it. So thank you.

I would 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. Evidence against him was so flimsy that a federal judge dismissed the case under a Rule 29 motion.

I am a former prosecutor. I know that those motions are rarely if ever granted. The judge found that even viewing all of 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 happened to be of Japanese descent.

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

Attorney General Garland. Internment of Japanese-

Americans. A terrible stain on American people and on the American government, on 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 is 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, he will review all of the activities in the department, in 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.

Chairman Nadler. The time of the gentleman is expired.

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

Chairman Nadler. Without objection.

Mr. Lieu. Okay. The first is a study I referenced called, "Racial Disparities in Economic Espionage Act Prosecutions: a Window Into a 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.

Chairman Nadler. Without objection.

[The information follows.]

**********COMMITTEE INSERT**********

Chairman Nadler. The gentleman yields back.

Mr. Bentz?

Mr. 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 that I welcomed parents' involvement and I appreciated their attendance. I listened to their--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 no one condones violence, no one condones threats of harm, no one condemns--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 thousand, 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 have spoken with, but your department needs to be doing something about it at all the levels you can.

And I am tempted to 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 has 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.

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.

I want to mention that the creation of this situation doesn't all just harm those folks brought across the border. It harms the community. We have had people come in and tell us about going shopping down at the local supermarket and seeing folks wearing big bulky coats and under those coats they can see AK-47s.

They have had watermasters approached--the watermaster, the guy who is trying to take care of the water that is being stolen by these cartels, and they have come up to these--to the watermaster and said you know what, I am invisible. You can't see me. I can kill you and no one will ever know. That is a threat; that is intimidation. That is the kind of thing that is referred to your memo regarding parents. I

would just suggest there is a mis-prioritization.

Mr. Chair, I would like to offer for the record a letter from Josephine County commissioners to me, a letter from Josephine County commissioners to the Governor of the State of Oregon, the order just issued a week or so ago from Jackson County declaring an emergency because of this situation, and finally photos of the living--squalid living conditions and a video of the valley showing thousands of hoop houses, some of which we are absolutely sure may of which are illegal.

Chairman Nadler. Without objection.

[The information follows:]

**********COMMITTEE INSERT**********

Mr. Bentz. With that I will--

Mr. Jordan. Will the gentleman yield?

Mr. Bentz. I will yield.

Mr. Jordan. I appreciate the gentleman for yielding.

Mr. Attorney General, your memo you said that you--directing the Federal Bureau of Investigations 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?

Attorney General Garland. I don't know the answer. I am sure that there have been meeting, but I am sure that they have not occurred--

Mr. Jordan. Any idea?

Attorney General Garland. --in all--

Mr. Jordan. Any idea how many meetings have taken place?

Attorney General Garland. I don't know how many meetings. I am sure that there are not--

Mr. 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 a 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 come--you come to the Justice Department and you can't tell us what is going on?

Chairman Nadler. The time of the gentleman has expired.

Mr. Raskin?

Mr. Raskin. Thank you, Mr. Chairman.

Attorney General Garland, thank you for your service to the United States of America, which is a point of special pride for those of us who live in Maryland's Eighth Congressional District.

Right wing violence is now a lethal threat to American democracy. It came to the Capitol when QAnon followers, Three Percenters, Oath Keepers, Arian Nations, Militiamen 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 cult-like 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 6 attack, but also it is in schools and at school board 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." "Loudon County Board Members Have Faced Death Threats." "Prince William Meetings Have Broken Down With People Screaming." There has been violence across the country.

Here is another one: "A California Teacher is Hospitalized After He is Allegedly Attacked by a Parent Over Face Masks on the First Day of School."

Here is one: "An Angry Parent Allegedly Ripped Off a Teacher's Mask. It's Not the Only Physical Altercation Over Masks in Schools."

I am limited by time here, but there are cases like this all across the country.

Now I would like to ask you this question, Mr. Garland, because you have been vilified, you have been castigated by members of this committee for your responsiveness to the National School Boards Association, that as 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 Boards Association to reach out to you? Did you coach them to reach out to the FBI?

Attorney General Garland. No.

Mr. Raskin. 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?

Attorney General Garland. No.

Mr. Raskin. Okay. 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?

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

Mr. Raskin. I notice 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 re-edify our colleagues about what the First Amendment protects and what it doesn't protect?

Attorney General 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 are not allowed to do is threaten people with death or serious bodily injury, the so-called true threats line of cases.

Mr. Raskin. Okay. Do you think that it is going to be important for us to confront violence against public institutions, whether it is the United States Congress as we count electoral college votes, whether it is 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?

Attorney General Garland. I do think it is-

Mr. Johnson of Louisiana. 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 cult-like and

we don't allow personal attacks under the rules.

Mr. Raskin. I am sorry. Who did I refer to as cult-like?

Mr. Johnson of Louisiana. Andrew Clyde.

Mr. Raskin. I said that Andrew Clyde was in a religious cult?

Mr. Johnson of Louisiana. Yes. Cult-like. That is a derogatory characterization; it is not allowed under the rules.

Mr. Raskin. Well, I will wait for direction from the chair, but if he objects to the idea that--

Chairman Nadler. It is not a timely--

Mr. Johnson of Louisiana. We have regular order.

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

Mr. Johnson of Louisiana. Thank you.

Chairman Nadler. Mr. McClintock?

Mr. Johnson of Louisiana. Mr. Chairman, can you rule on my point of order? It is Rule 17, Clause 4. Standing Rules of the House.

Chairman Nadler. It's not a timely point of order.

Mr. Johnson of Louisiana. How could it not be timely? It was still--the gentleman--

Chairman Nadler. You have to raise it at the time--

Mr. Johnson of Louisiana. I did raise it at the time.

Chairman Nadler. Mr. McClintock?

Mr. Raskin. Look, in any event--look, I would be happy to resolve this right now.

Chairman Nadler. No, no, no, no.

Mr. Raskin. If any offense was given--

Chairman Nadler. Mr. McClintock?

Mr. Raskin. --I would be happy--

Chairman Nadler. Mr.--

Mr. Raskin. --very happy to withdraw the phrase cult-like as applied to Mr. Clyde of Georgia just so we can get on with our business. I am very happy to withdraw that. And we can talk about it in another context. It is interesting that our--the people--

Chairman Nadler. As I said, people should--

Mr. Raskin. --are interfering with my [inaudible], but I am quite fine with it, Mr. Chairman.

Mr. Johnson of Louisiana. I am just trying to follow the rules, Mr. Raskin. I am told that is important around here.

Mr. Raskin. [inaudible] the ACLU--

Chairman Nadler. Mr. Raskin, you have said enough. We all have strong feelings; people should avoid engaging in

personalities.

Mr. McClintock?

Mr. McClintock. Mr. Attorney 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 are being tracked down by the FBI with a rap on the door, maybe a SWAT Team in the morning because they simply happened to be there. That is a serious form of intimidation. Whether it was intended or not, that's clearly the effect it is having and I think you need to be sensitive of that.

But I want to talk about the news we received yesterday that we have seen the highest number of arrests of people illegally crossing our border in the history 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?

Attorney General Garland. Yes, it's a misdemeanor. That's true.

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

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

Mr. McClintock. No, no, but the Justice Department

is responsible for prosecuting them. How many are you prosecuting?

Attorney General Garland. I don't know the answer to that, but they--

Mr. McClintock. A lot or a little?

Attorney General Garland. --are being referred by the--

Mr. McClintock. Wait. 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--

Attorney General Garland. I can't--

Mr. McClintock. --you are prosecuting--

Attorney General Garland. I can't--

Mr. McClintock. --of the 1.7 million who have illegally crossed our border, committing a federal crime in doing so?

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

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

Attorney General Garland. I think there are a substantial number of issues driving migration towards the United States from the pandemic--

Mr. McClintock. Well, if you ask the migrants--

Attorney General Garland. --[inaudible] and the earthquakes and--

Mr. McClintock. If you ask the migrants, they will tell you specifically what is driving it: They can do it now. They can get in and not fear prosecution from you. 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 those who illegally overstay their visas should respect our laws and return to their home countries?

Attorney General Garland. I think they should respect our laws. That is up to the Department of Homeland Security to make determinations about how we resolve these matters.

Mr. 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 are telling us and what you are you doing are two

very different things.

Let me go on. It is unlawful for an employer to knowingly hire an illegal alien. How many prosecutions are you pursuing under this law?

Attorney General Garland. Agian I don't know the number off the top of my head but I would be happy to have staff try to get back to you.

Mr. McClintock. It shocks me. Given the fact that this is now an historic high on illegal border crossings, you are 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. I find that astonishing.

Let me ask you this: Do you agree that an alien who has received proper notice of his or her immigration court hearing who fails to appear at that hearing absent exception circumstances and is ordered removed in absentia should be removed from this country?

Attorney General Garland. I am not really familiar with exactly the circumstance you are talking about. There are rules about removal and there are rules--

Mr. McClintock. Well, when someone is ordered--

Attorney General Garland. --that the Department of Homeland Security--

Mr. McClintock. --deported by a court--

Attorney General Garland. --has established. I am sorry.

Mr. McClintock. If someone is ordered deported--

Attorney General Garland. Yes.

Mr. McClintock. --by a court, should they be removed?

Attorney General Garland. If they are ordered deported by a court, then we have an obligation to follow the court's order.

Mr. McClintock. And yet the President on his opening day in office instructed Customs and--or Immigration and Customs Enforcement not to conduct such deportations.

Attorney General Garland. I am not familiar with the specific thing you are talking about. I am sorry.

Mr. McClintock. What circumstances would justify an independent prosecutor?

Attorney General Garland. So we have had some history with independent prosecutors. Neither the Democrats nor the Republicans seem to like the result regardless of who is--

Mr. McClintock. No, but let me--there have been multiple reports that Hunter Biden made enormous sums of money, and he has admitted that is 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?

Attorney General Garland. So I am not going to comment about this investigation, but as everyone knows there is an investigation going on in Delaware by the U.S. Attorney who was appointed by the previous administration. And I can't comment on it any further than that.

Mr. McClintock. That is being done under the Justice Department, not independently and the Justice Department answers to the President who is implicated in these emails.

Chairman Nadler. The time of the gentleman is expired.

Ms. Jayapal?

Ms. 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 would 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 am 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?

Attorney General Garland. So I don't want to discuss these investigations in that respect. I would say that the Justice Department and the U.S. Attorney's Office working together have guidelines for the kinds of pleas that can be accepted so that there are not--I don't want to use the word discrimination in the racial sense, but that there is no unequal treatment between people who did the same thing. Now we can't have every individual prosecutor following a different set of plea arguments, so that is the extent to which that is being organized.

The question you asked, which is why this would take so long, this is really not long at all. I have been in lots of criminal investigations that took way longer. We have arrested 650 people already. And keep in mind that most of them were not investigated on the--arrested on the spot

because the Capitol Police were overwhelmed.

So they were people who had be found. And they had to be found by sometimes our--looking at our own video data; sometimes from citizen sleuths around the country identifying people. Then they have to be brought back to Washington, D.C. 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 am extremely proud of the work that the prosecutors are doing in this case and the agents are doing in this case. They are working 24/7 on this.

Ms. Jayapal. Okay. Thank you, General Garland. That is 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, quote, "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 have told DOJ officials that jailing rioters who weren't hardcore extremists could further radicalize them.

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

Attorney General 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 radicalization that has occurred with prison gangs, with white supremacist groups in prisons, and with radical Middle Eastern groups in prisons. And I was concerned that the Bureau of Prisons have a procedures for ensuring that that radicalization doesn't spread across prison populations. I believe--

Ms. Jayapal. General Garland--

Attorney General Garland. --that is what I was referring to.

Ms. Jayapal. --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 protestors 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 have 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 in the gravity of crimes when pursuing both sentencing and pretrial confinement or detention?

Attorney General Garland. The answer to 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 charge we are 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.

Ms. 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.

Chairman Nadler. The gentlelady yields back.

Mr. Issa?

Mr. Issa. Thank you, Mr. Chairman.

General Garland, it is good to see you and it is good to have you before this committee. I appreciate your 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 26 August of 13 U.S. troops falls under your jurisdiction, correct? Or at least the FBI is charged--

Attorney General Garland. Well, the FBI can--

Mr. Issa. --with investigating.

Attorney General Garland. --participate. It is likely also DOD. But it is some combination, yes.

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

Attorney General. Garland. I'm sorry, I don't -- I don't know the answer to that. I don't know the answer to that.

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

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

Mr. Issa. Well the -- the records of those incarcerated at the -- 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.

Attorney General. Garland. I don't think it would be a question of privacy rights --

(Laughter.)

Mr. Issa. Okay, just wanted to make sure we had that. The important point, though is -- 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 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 U.S. papers, no other documentations -- 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 or Qatar, 20 percent of them or more did not have any paperwork, of the remaining ones, at least 40 percent had only documentation that it was produced in Afghanistan. How do we know how many -- we know some, undoubtably, 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?

Attorney General 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 at Ramstein and the other bases where people were moved to, and then when they're moved to the United States. The --

(Simultaneous speaking.)

Mr. Issa. And I don't mean to interrupt you, but in the

remaining time, if you could respond for the record about how many -- how many you know who -- how many you've apprehended, how many you're following? Because once we know that 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 - of Afghan, slash, 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 -- 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 -- will the individuals who have committed crimes have their paroles pulled? And if so, can they then be deported, or at least begin the deportation

process?

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

Mr. Issa. And we're happy to accept it in a -- 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 -- 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 -- 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.

Chairman Nadler. The gentleman yields back. Mrs. Demings?

Mrs. 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 the responsibility is about. It is about keeping the American people safe.

Effective policing, though, requires resources and investment. We cannot sit here as policy makers and demand better policing, better training without providing the resources to achieve it. Attorney General Garland, I know you know -- 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 assistant 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.

Attorney General 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 -- it's $100 million for a new community violence intervention initiatives. And I met with community violence intervention experts in the Chicago earlier in the summer. I was extremely impressed by the results that they've 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.

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

Attorney General Garland. Of course.

Mrs. Demings. I want to talk about election security and threats that have been going on against 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?

Attorney General Garland. So like all of our anti-

violence initiatives, from the violence initiatives we were just talking about, to Project Safe Neighborhoods, to the memorandum that we've been discussing earlier today -- all of our activity in this regard involves partnership 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 the Congress, with threats against judges, threats against prosecutors, threats against police officers -- all of these things are done with tight coordination with state and local law enforcement.

(Simultaneous speaking.)

Mrs. Demings. Attorney General, thank you so much. I yield back.

Chairman Nadler. I understand Mr. Roy has a UC request?

Mr. 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 to insert that into the record.

Chairman Nadler. Without objection.

Mr. Roy. And then second item to insert in the record is the memorandum issued by the -- the Attorney General regarding what the federal review of investigation is supposed to do with respect to targeting parents and school boards throughout the United States.

Chairman Nadler. Without objection. Mr. Biggs?

Mr. Roy. Thank you, Mr. Chairman.

Mr. 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. 8 USC 1324 criminalizes aiding and abetting entry into the U.S. 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?

Attorney General Garland. I haven't seen the letter or information that you're talking about. But if it was sent to the Department, I will make sure that we look at it.

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

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

(Simultaneous speaking.)

Mr. Biggs. We're talking about the election of 2020. All of this has come out since then, and you've not --

(Simultaneous speaking.)

Attorney General Garland. I don't -- I don't know --

Mr. Biggs. You're totally unaware of that?

Attorney General Garland. I'm not aware of what you're talking about, I'm sorry.

Mr. 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) the IRS code, as well as other election laws -- and seems to be an orchestrated effort by the V.P. and McAuliffe to violate the law. Have you sent a letter or issued a memorandum directing departmental resources be dedicated to investigating this apparent violation of law, similar to the letter you issued -- or excuse me, the memorandum you issued on October 4 targeting parents to who exercised their First Amendment rights at local school boards?

Attorney General Garland. No.

Mr. Biggs. On May 24, 2021 under oath before Congressional Committee, Dr. Anthony Fauci denied the National Institute of health provided any funding for gain of function research saying, quote, that categorically was not done, closed quote. Today, this very day, the NIH issued a statement contradicting that testimony which suggested Dr. Fauci may have committed perjury. This is a criminal offense and I am left to wonder if you intend to look into that and send a communication such as a letter or a memo - similar to the October 4 memo that you issued regarding parents going to school board meetings -- to investigate Dr. Fauci's potential perjury?

Attorney General Garland. Again, I'll refer to the long-standing departmental norm that we don't comment about investigations pending or un-pending. The -- the general point that you're making normally comes with -- would come with a referral from the relevant committee. But other than that --

Mr. 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 Board 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, I didn't mean to provide a chill. But that's exactly what any sentient being would have assumed would happen when you asked 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. Do 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 southern border trying to illegally enter the country.

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

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

Mr. 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 U.S. attorneys to prosecute those cases? They are there constantly.

Chairman Nadler. The time of the Member -- the time of the gentleman has expired. Mr. Correa?

(Simultaneous speaking.)

Mr. 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 mention 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 7, the day after the insurrection, I was at Dulles Airport surrounded by -- it was probably about 20 people in my face. I remembered Bill Lockyer's words -- I didn't want to swing first. I had people in my face, surrounding me. My only thought was, you 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, that'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 concealed weapons? What is it exactly that we need to do? You know, I'll take the heat. I'm an elected official. But where does that First Amendment stop and that serious bodily injury concept come into play? Thank you.

Attorney General Garland. Well, the courts have been quite clear that threats that intend to commit an unlawful act of death or of 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.

Mr. Correa. They are protected?

Attorney General Garland. Yes, sir -- 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. 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 am going to have to leave that to the Capitol Police and other protective organizations to give those kind of -- 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 --

(Simultaneous speaking.)

Mr. Correa. Mr. 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. I'm out of Orange Country, California. We've had private poll workers threatening voters. We've had letter 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 am 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 the -- into their actions. Thank you. With that, I yield.

(Simultaneous speaking.)

Chairman Nadler. The gentleman yields back. Mr. Gaetz?

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

Attorney General Garland. You mean former lobbyists -- I hope you mean?

Mr. Gaetz. Yes, that's correct.

Attorney General Garland. No, there's no prohibition.

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

Attorney General Garland. Well a hiring of assistant U.S. attorneys is a -- this is a career hire made in the different U.S. Attorneys offices. There is a --

(Simultaneous speaking.)

Mr. 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?

Attorney General Garland. So again, I'm -- I'm not sure what kind of person you're speaking with. If you're talking about front-line prosecutors, there is a background check. Everybody, I'm sure, here is familiar with the SF-86. It has to be filled out. It includes all the people that you worked

for. The same is true is in main Justice.

Mr. Gaetz. But there's no special review for lobbyists as opposed to people who have been engineers? Or had any other career?

Attorney General Garland. I don't know. But I don't believe there's a difference. But obviously, lobbying may raise conflicts --

(Simultaneous speaking.)

Mr. Gaetz. Let's talk 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?

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

Mr. Gaetz. No, 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, is there?

Attorney General 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 --

(Simultaneous speaking.)

Mr. 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 they're 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 of not successful. No prohibition against the Department hiring partisan committee staff as prosecutors, is there?

Attorney General 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 --

(Simultaneous speaking.)

Mr. 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?

Attorney General Garland. It has jurisdiction over election crimes, yes.

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

Attorney General Garland. I will just say again -- the hiring in the public integrity sector is a career hire made under the civil service. It's not made --

Mr. Gaetz. I know. I'm worried about their prior career, though. See, what I think is that if someone has been a -- 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?

Attorney General Garland. Well 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.

Mr. Gaetz. And would you support that legislation?

Attorney General Garland. I'd have to look at what it is and I'd have to look at whether it itself violates the First Amendment, but I don't think there --

(Simultaneous speaking.)

Mr. Gaetz. Well I appreciate --

Attorney General Garland. -- there have ever been any restrictions like that before.

Mr. Gaetz. Well I appreciate your open-mindedness and I hope that persists during your time at 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?

Attorney General Garland. Well I don't intend to create a list of career officials and what their previous jobs were. I think that's highly --

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

(Simultaneous speaking.)

Attorney General Garland. I don't have any idea whether

there is any such --

Chairman Nadler. Time of the gentleman has expired. Ms. Scanlon.

Ms. 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. As 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 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

ten 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 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, it's 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?

Attorney General Garland. Yes, I do agree.

Ms. Scanlon. Moving on to election, attacks on elections, from 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?

Attorney General Garland. Yes, I can't -- let me just say on the previous point that you made, I gave 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.

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 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 the intimidating of, voters, both of which are sort of a core of the federal government's concern with respect to post-election audits.

Ms. Dean. I think the gentlelady's time has expired.

Ms. Scanlon. I yield back.

Ms. Dean. The gentlelady yields back. The Chair now recognizes Mr. Steube from Florida for five minutes.

Mr. Steube. Thank you, Madam Chairman.

Attorney General Garland, in your Senate confirmation hearing you referred to the January 6 protests as the, and I

quote, 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 15, 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, and I quote, As an assault on a mainstay of our democratic system. You have said that prosecuting extremist attacks on our democratic institution remain 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 protest. What is not clear, however, is if you will use the same force against violent left-wing domestic terrorists.

Just last week, on October 14, a group of extremist environmental and indigenous protesters forced their way into the Department of Interior. They fought with and 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?

Attorney General 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 --

Mr. Steube. This is the first that you know about an incident where protesters forced themself into a federal government building right here in DC, like you didn't hear about this at all.

Attorney General 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 non-partisan determination of how to do that.

Mr. Steube. All right, 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 6 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 these 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?

Attorney General Garland. Look, I'm not going to comment about particular matters. This is a matter that --

Mr. Steube. I'm not asking you to comment on a particular --

Attorney General Garland. Well, you are --

Mr. 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. In one, you very, as I laid out, very [inaudible] called them domestic terrorists, but you're refusing to call groups like this who commit the same atrocities here in Washington, DC domestic terrorists.

Attorney General Garland. One I know the facts of, the

other I don't know the facts of.

Mr. Steube. Well, I'm showing you pictures. Here's facts, right here. If you want, we'll act like we're in a court room. Exhibit A, Exhibit B. January 6, Department of Interior.

Attorney General Garland. Well, as you know --

Mr. Steube. Based on these pictures of people forcing themselves into the --

Attorney General Garland. One -- one picture is not going to be able -- 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 disclose exactly what happened then.

Mr. Steube. Speaker Pelosi, mind you, still hasn't released to the American public to view all the 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 is 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. It's because they're seeing what you guys are doing to the people on January 6, to the point where even a judge is saying --

Ms. Dean. The gentleman's time has expired.

Mr. Steube. There's -- 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 -- that's what is horribly wrong --

Ms. Dean. Time has expired.

Mr. Steube. And is happening in our country that the American people --

Ms. Dean. The gentleman's time has expired.

Mr. Steube. Are seeing your refusal to answer those questions.

Ms. 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.

[Recess.]

Mr. 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 have introduced a bill to ban the use of ketamine in custodial settings. That bill has earned the support of Chairman Nadler and subcommittee Chairwoman Sheila Jackson Lee, which I am both grateful and certainly 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 of Boulder, Colorado, experienced a horrific tragedy as a gunman killed 10 people at our local grocery store using an AR15-style pistol, which fired rifled 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 fire power.

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.

Attorney General Garland. Well, I believe that we are still in the rulemaking process. I can't remember whether the comment period has closed or not. But that is part of the Administrative Procedure Act, as you know, we have to go through our rulemaking procedure, and that is what is going on here to prevent the pistols from being used as short-barreled rifles, which are prohibited.

Mr. Neguse. 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 wanted to address in my limited time; first around grand jury material.

Now, I know Attorney General Garland, I think you would 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 is current law. Is that

right?

Mr. Neguse. Actually, I am embarrassed to say this, but I don't think that is 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, that will be the case.

But that is I think 30 years was the number that we recommended.

Mr. Neguse. So, we think. That is the subject 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 lawyer rather, at DOJ proposed the time period be extended to 50 years. 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. Were that to be adopted many of the materials released post-Watergate would still be secret today. So, I would certainly --

Attorney General Garland. We have sent another letter post the letter that you are speaking about to the Rules

Committee. There is no reason why we can't share it. It is not a private letter or anything. And it went back I believe in a shorter period than the Holder letter originally was.

So I will ask my staff to get that for you.

Mr. Neguse. Well, that is 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 is bipartisan interest in the Congress

in partnering with your department to ensure that those solutions are applied broadly across the country, including my state of Colorado.

Attorney General Garland. Well, this is a terrible epidemic. I, you know, went to the U.S. Attorneys offices all across California, also in Tucson, to find out what is 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 ten pills here, it is like playing Russian roulette, if you take one of those you die.

And the kids who are taking those have no idea that that is what is happening. Sometimes they think they are something else that they are buying other 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.

Our 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 it with respect to the high level security talks that we recently had with their

security minister, secretaries. I raised precisely this issue.

Chairman Nadler. The gentleman's time is expired.

Ms. Spartz.

Mrs. 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 in its power as a police state to suppress local public discourse. The FBI has started to resemble old KGB with secret words like surveillance, surveillance, wire tapping, and intimidation of citizens, overt related examples.

It is interesting that during the Soviet era the United States criticized use of the domestic terrorism concept in the U.S.S.R. 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? Just yes or no.

Attorney General Garland. Yes.

Mrs. Spartz. Do you believe recent inspector general FISA report citing widespread and material noncompliance by

the FBI with proper due process for surveillance of U.S. citizens is a violation of the Fourth Amendment?

Attorney General Garland. I think it is a violation of the FISA Act by itself, without even having to get to the Constitution. And we take this extraordinarily seriously. That is why we have an inspector general. That is 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.

Mrs. Spartz. Potentially, of course, the Fifth Amendment could be violated if you have --

Attorney General Garland. Of course.

Mrs. Spartz. -- material and widespread, as the report says, sir.

In your June 15th 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?

Attorney General Garland. Sorry, I didn't hear the last.

Mrs. Spartz. How often do you discuss the FISA violations when you get your nearly daily briefings with the FBI?

Attorney General Garland. Well, there is a quarterly review 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 is 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.

Mrs. Spartz. It seems like we still get material and widespread. Every report we have material -- material, not non-material -- and widespread violations.

But talking about another topic. I went to the border three times and recently visited the air base in Qatar, and Camp Atterbury in India, and housing of Afghanistan evacuees. And based on what I have 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?

Attorney General Garland. If you are asking about terrorism traveling across the border, I am concerned about that across all of our borders. This has been a continuing concern.

Mrs. Spartz. But do you agree with, you know, Border Patrol chief that what is happening right now makes us less secure and have a real, you know, increased terror threat?

Attorney General 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.

Mrs. Spartz. Can you assure 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?

Attorney General Garland. I can assure the American people that the FBI is working every day to 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.

Mrs. Spartz. Do you have any specific actions or plans that you are doing in light of what is happening right now on the border? Do you have a specific strategy that you are working directly with the critical --

Attorney General Garland. The FBI --

Mrs. Spartz. -- current situation.

Attorney General Garland. I am sorry, I didn't mean to talk over.

Mrs. Spartz. Yes. Considering current situation of the border do you take any specific actions at the border?

Attorney General 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 are doing everything they can to vet 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 border.

Mrs. Spartz. So, you can assure the American --

Chairman Nadler. The gentlelady's time --

Mrs. Spartz. -- people; the answer is yes?

Chairman Nadler. The gentlelady's time has expired.

Ms. McBath.

Mrs. Spartz. Yield back.

Mrs. 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 9 years ago now. He was simply sitting in the car with three of his friends playing loud music when a stranger complained about the volume of the music, called them gang -- called the boys gangbangers and thugs, and he took my son's life.

And I am very pleased that President has committed to preventing gun violence and that he has tasked you with the role of being supportive in gun violence prevention in America.

Extremist protection orders, also known as red flag orders, allow courts to temporarily remove firearms from those who pose imminent danger to themselves or risk of harming others. In April 7th, 2021, an announcement of initial actions to curb 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?

Attorney General Garland. We are in favor of a national red flag law. What we are doing now is making model red flag laws for the states. 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 is already a court violation of some kind. But it provides due process protections for those people to ensure there is not -- they haven't been inappropriately taken.

The, you know, the risk here is that people in distress can commit violent acts 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.

Mrs. McBath. Thank you. As do I.

Attorney General Garland, we lost 49 people, including many young people, at the mass shooting at Pulse Night Club in Orlando, Florida. And the shooter was previously the subject of a 10-month FBI investigation. And during this investigation the FBI interviewed the shooters 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 is often a history of domestic violence.

Since the Pulse shooting has the Department updated its domestic investigations and operations guide or U.S. Attorneys' manual to ensure that it is examining whether a person has a history of domestic violence?

Attorney General 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 the 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.

Mrs. McBath. Thank you very much. If you would do so, we would appreciate it.

Attorney General Garland. Of course.

Mrs. 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?

Attorney General Garland. That is our, this is our number one goal.

Mrs. McBath. Thank you.

And on May 7th -- I am going to switch gears a little bit -- May 7th, 2021, you signed a proposed ATF rule to ensure the proper marking, record keeping, 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?

Attorney General Garland. Well, ghost guns, which are ready, sometimes ready-build shoot they are called, are kits that you can buy in pieces and put them together, right now there is some, some lack of clarity or dispute about whether serial numbers have to be on them, and then whether you need a license -- I am sorry, whether a check has to be made in order to determine whether the person is appropriately a purchaser.

This rule will require that serial numbers be put on the pieces and that a fully licensed firearms dealer has to do the background check. This does two things: one, it will 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 have been in both Chicago and New York and been quite stunned to learn the high percentage of guns at murder scenes were -- 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 those guns are becoming more and more of a problem.

So, I am hopeful that this regulation will give us some chance to beat that back.

Chairman Nadler. The time of the gentlelady has expired.

Ms. Fischbach.

Mrs. Fischbach. Thank you, Mr. Chair.

Attorney General Garland, in a press release announcing the investigation -- and I will just preface, I am from Minnesota, so you can 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 most protests.

Will you also be investigating the origins of the deadly and destructive riots that ravaged large parts of Minneapolis?

Attorney General Garland. So, I think these are two

separate kinds of investigations. The one of the Police Department is one under the statute that authorizes us to do pattern or practice of unconstitutional policing. It is done by the Civil Rights Division. I was welcomed, I understand, by the chief and by the mayor. And that is a one, a separate one.

The investigations of the riots, which are undertaken by the U.S. Attorney's Office, as well as by the State's Attorney -- I think it is called State's Attorney, maybe it is the county, State's Attorney of Minneapolis, I guess -- and those are two separate sets of investigations.

Mrs. Fischbach. So, you will not be, so your, your department DOJ will not be investigating that?

Attorney General Garland. Well, the U.S. 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 --

Mrs. Fischbach. DOJ will not be investigating?

Attorney General Garland. Department of Justice, I don't believe so, no.

Mrs. Fischbach. Okay. 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?

Attorney General Garland. So, now I think, if I am understanding correctly, we are talking about 2020.

Mrs. Fischbach. After the death of George Floyd.

Attorney General Garland. Yes. And that investigation I think, you know, that was ordered by the previous attorney general. And I don't know whether there, whether that is concluding. I believe -- I don't know whether there are any ongoing investigations anymore from that, from that investigation except for the charges that were made at the time. And those cases are being followed, obviously.

Mrs. Fischbach. Well, and, Attorney General Garland, maybe you could get back me in particular or the committee on the status of those and what is happening with that.

Attorney General Garland. Be happy to have my staff get back to you with it.

Mrs. 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 are going to have a job in a few weeks given the resolution that is in front of

the, in front of the body they have a resolution. And you are probably not familiar with it. But they don't even know if they are 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 are demoralized, they are struggling. They don't feel supported at all. They are having a very hard time.

And you are the one initiating investigation of the Minneapolis Police Department. Considering all the scrutiny that they are under how do you propose Minneapolis can keep up police officer morale now that they are under investigation and criticism, all of the criticism they are taking as well?

Attorney General Garland. Let me say first of all on the defund the police issue the Department does not support defunding the police, nor does the President. So, we have asked for more than a billion dollars, a major increase in funds for local police departments.

Mrs. Fischbach. And, sir, I didn't imply you did. I just wanted you to know, understand the context of the question because it is in front of the Minneapolis residents right now.

Attorney General Garland. I do.

With respect to the pattern or practice investigation, where 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 it is, and from talking to many police officers, that they believe that it is 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, you know, the very large majority.

They need that trust in order to have the cooperation of the community. And that is the only way they can be safe, and that is 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.

Mrs. Fischbach. And, Attorney General, I think that the problem is that they are being -- it is 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.

Chairman Nadler. The time of the gentlelady has

expired.

Mrs. Fischbach. I yield back.

Chairman Nadler. Mr. Stanton.

Mr. Stanton. Attorney General, I want to discuss with you missing and murdered indigenous women and girls. It is a national shame that when native women are murdered or when they disappear the 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 tribal 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 am 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?

Attorney General Garland. I think this is a terrible tragedy, this circumstance, almost inexplicable tragedy. If I haven't spoken on it yet, I soon will be because under the President's executive order I will be co-chairing a commission, along with the Secretary of the Interior.

I have been to the U.S. Attorney's offices in Oklahoma which has 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.

Mr. 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 is 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?

Attorney General 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 is sufficient staff.

Mr. Stanton. In light of the facts I just laid out, will you commit today to adding staff to the Indian Country Program?

Attorney General Garland. Well, I am very interested. And, you know, our normal approach on this is cooperation with tribal offices 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 will be speaking with the Interior Secretary about.

Mr. Stanton. As you know, there is great frustration by many of our tribal leaders that when they ask 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 earned 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 the families to explain why?

Attorney General Garland. I don't think there is any excuse for not giving equal treatment to native and indigenous missing persons. And I don't believe there is 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. And I am not sure what else I can say about that.

Mr. 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 3 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. What I hope and expect from President Biden and yourself, Mr. Attorney General, is more than lip service or empty statements on this issue, --

Chairman Nadler. The gentleman's --

Mr. Stanton. -- more than sharing task force recommendations that will be left to sit on the shelf. I look forward to your words in the near future.

Thank you, Mr. Attorney General.

Chairman Nadler. The gentleman yields back.

Mr. Massie.

Mr. 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 Tenth Amendment bring to your effort to police those school board meetings and speech therein?

Attorney General Garland. 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 are referring to is about threats of violence and violence, and that is all it is about. We greatly respect the First Amendment right of

parents to appear before school boards and challenge and argue against positions that the school boards are doing. This memorandum has absolutely nothing to do with that.

Mr. Massie. So, you believe the sheriffs and the local police should police these school board meetings and investigate the threats of violence?

Attorney General Garland. Yes, sir. 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. But those do not, those do not apply at school board meetings.

Mr. Massie. Thank you. I was hoping that you would articulate the Tenth Amendment or some argument that comes from that because I am concerned that the announcement was an effort to, 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 is 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 have got some

pictures that I want to show you, if the staff could bring those to you.

[Video plays.]

Attorney General Garland. I'm afraid I can't see that at all.

[Video plays.]

Chairman Nadler. Is that an approved video?

Mr. Massie. All right. You have, you have those images there, and they are captioned. They were from January 5th and January 6th.

As far as we can determine, the individual who was saying he will probably go to jail, he will probably be arrested, but he wants every -- that they need to go into the Capitol the next day.

We see him 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 history.

Have you seen that video or those frames from that video?

Attorney General 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 the particular scenes or particular individuals.

This --

Mr. Massie. 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 6th, whether they agitated to go into the Capitol, and if any of them did?

Attorney General Garland. So, I am not going to violate this norm of the rule of law. I am not going to comment on an investigation that is ongoing.

Mr. 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 exemptions?

Attorney General Garland. The mandate, as I understand it, is a mandate which allows exceptions provided by law.

Mr. Massie. So, --

Attorney General Garland. Religious Freedom Restoration Act is a provision of law.

Mr. Massie. So, the religious exemption has a basis in the Constitution. So, that is required to be constitutional.

Can you tell me if anybody has been granted a religious exemption?

Attorney General Garland. I don't know.

Mr. Massie. So, I believe that it is fraud, in fact fraud to tell people that you are going to preserve their constitutional religious accommodations by telling them they can apply for an exemption and then not allowing any of those exemptions. And I am sad to see that you can't tell us that anybody has been granted an exemption.

Chairman Nadler. The gentleman's time has expired.

Ms. Dean.

Ms. Dean. Thank you, Mr. Chairman.

Welcome, Attorney General Garland. Thank you for your service to our country. I would like to get to three important areas.

Number one, let me follow up on some of the questions we have 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 nine-millimeter pistol.

Could you continue to talk about how the proliferation of ghost guns 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.

Attorney General 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, were finding that they were done by ghost guns.

Ghost guns have two problems, one of which is they are untraceable because they don't have serial numbers, and; second, they are not subject, or at least can say there has been some dispute about whether they are subject to requiring background checks.

That is the reason that we initiated a rulemaking 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 are talking about.

Ms. Dean. I thank you for that rulemaking. And I hope that we here in the legislature will do more to protect us and our safety from this 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's 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?

Attorney General Garland. I don't think I am able to talk about that. Basically, it is in litigation.

The only thing I would 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.

Ms. Dean. Well, 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. 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 governments, political prosecutions, violence, 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?

Attorney General Garland. Well, the use of the authority comes from the CDC itself. They are 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 a 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's authority under Title 42 to issue this kind of order.

Ms. Dean. It is my understanding, and maybe we could

all look at it more closely, but 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.

Thank you. I yield back.

Chairman Nadler. The gentlelady's time has expired.

Ms. Escobar.

Ms. 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 are 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 non-transparent, perhaps because Texas Republicans hired a political operative known to have Republican members of Congress sign non-disclosure 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."

Chairman Nadler. Without objection.

[The information follows:]

**********COMMITTEE INSERT**********

Ms. Escobar. 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?

Attorney General Garland. So, we announced before any of the redistricting plans began, because we knew 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 is why we doubled the size of the Voting Section, because the burden of this work is large, and there is a lot of it because of the census.

So, the Justice Department Civil Rights Division will be examining these plans and will act accordingly as the facts and the law provide.

Ms. 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?

Attorney General 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 the 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.

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.

Ms. 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 in 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 informally known as the shadow docket?

You have got about 20 seconds. I am so sorry.

Attorney General Garland. All right. Well, most of what I am 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 are 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 is about abortion or any other right.

And I think I will leave it with my, our briefs which were just filed and which explicate what I just said in greater detail and I am sure with greater style.

Ms. Escobar. Thank you so much.

Mr. Chairman, I yield back.

Chairman Nadler. The gentlelady yields back.

Mr. Jones.

Mr. 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 am deeply appreciative of that.

You won't be surprised, given the work that I have 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?

Attorney General Garland. This is on the public record. We sued Georgia.

Mr. 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 an 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?

Attorney General 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.

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.

Mr. Jones. I have great confidence in Kristen Clarke and yourself as well.

You mentioned that Section 5 has been hampered. Of course it has been hampered in that Shelby v. Holder decision in 2013.

You also mentioned earlier today that you are supportive of a 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 --

Attorney General Garland. I know what it is. And I know some provisions. But, to be honest, I don't know every provision.

Mr. Jones. Okay. All right. 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, 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?

Attorney General Garland. I think the right to vote is absolutely essential and is, as I have said repeatedly, and as you quoted, a cornerstone of democracy.

The question of the House rules are a question for the House. I am very mindful of separation of powers, that this is a judgment for the members of the House to determine and not the executive branch.

Mr. Jones. And, of course, the filibuster is a Senate rule.

Attorney General Garland. I am sorry. I am sorry. The Senate.

Mr. Jones. It is fine. I understood.

Attorney General Garland. My bad.

Mr. Jones. Mr. Attorney General, as an alumnus of the Justice Department and as an American I am 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.

Chairman Nadler. The gentleman's time has expired.

I recognize Mr. Roy for the purpose of a UC request.

Mr. 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 have 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 29th, the talks over the last several weeks with White House staff, quote/unquote, explaining the coordination with the White House.

I would like to insert that into the record.

Chairman Nadler. Without objection.

[The information follows:]

5155

5156 **********COMMITTEE INSERT**********

Chairman Nadler. Ms. Ross.

Mr. Roy. Thank you, Mr. Chairman.

Chairman Nadler. Ms. Ross is recognized.

Ms. 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's recently-launched Ransomeware 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 would like you to share why DOJ chose to be more aggressive in the Colonial Pipeline situation? And what

are the factors that would lead DOJ to get involved directly in a ransomware case?

Attorney General 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 had 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 -- atDepartment 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 are not always going to tell us in advance. And I think it would be very helpful if we were told in advance.

Ms. Ross. And would it also be helpful if you had reporting on what victims had paid in ransomware in a larger registry?

I have introduced legislation. There is companion

Senate legislation on this.

Attorney General Garland. The more information we can find out about who is demanding the ransoms, what victims are paying, how they are paying, what kind of wallets they are paying into, what kind of cyber crypto-wallets they are being asked to pay them into, all of those things help us understand the ecosystem. So, the more information we have, the better.

Ms. Ross. Thank you for those responses.

I am going to switch to the ERA and 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 interpretation, interpretations of legal precedent and directly contradicts previous IOLC opinions.

Attorney General Garland, it is 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?

Attorney General Garland. 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 will see if I can find out what OLC is doing in this respect.

Ms. Ross. Thank you very much.

And I yield back.

Chairman Nadler. The gentlelady yields back.

Ms. Bush.

Ms. Bush. St. Louis and I thank you, Attorney General Garland, for being here with us today and 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 U.S. That is 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?

Attorney General Garland. No one is above the law.

Ms. Bush. I completely agree. And let's see how well that is going.

Are you aware that Black and Brown people are disproportionately stopped, searched, and arrested by police, often for a minor infraction?

Attorney General Garland. I've certainly read that. And I am not surprised, however.

Ms. Bush. Thank you.

Are you aware that according to the FBI, White nationalists have infiltrated rank and file police departments?

Attorney General Garland. I am 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 ranks. And I know that many police departments are trying to make sure that

that is not the case. But I, I am not, I am not sure I know the reference that you are talking about.

Ms. Bush. Okay. I would like to seek unanimous consent to enter this report into the record from the Brennan Center 2020 report detailing white supremacy in police forces.

Chairman Nadler. Without objection.

[The information follows:]

**********COMMITTEE INSERT**********

Ms. Bush. Thank you.

Are you aware that from statistics we do have, we know that Black people are killed by police at three times the rate of White people?

Attorney General Garland. Again, I don't, I don't know the actual statistic. But I wouldn't be surprised if that were the case. And I am happy to accept, you know, your representation.

Ms. Bush. Thank you.

Again, I will ask unanimous consent to introduce a Harvard School of Public Health report on fatal police encounters into the record.

Chairman Nadler. Without objection.

[The information follows:]

********** COMMITTEE INSERT **********

Ms. Bush. Thank you.

In light of these realities, do you believe that systemic racism exists in law enforcement agencies?

Attorney General Garland. Oh, 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. That is the job of the Civil Rights Division to look at these matters, to take into account complaints in this area and to investigate them.

Ms. Bush. 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 for 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 to withholding funds to law enforcement agencies that discriminate in

violation of Title VI?

Attorney General Garland. So, as you correctly point out, our associate attorney general and our deputy attorney general are doing a review of Title VI and how it should be applied to 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 non-discriminatory police officers. We have to support them and root out the ones who violate the law. That is our job.

Ms. 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 are not a good one, you are 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 the 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.

Chairman Nadler. The gentlelady yields back.

Mr. Massie. Mr. Chairman.

Chairman Nadler. The Chair recognizes Mr. Massie for the purpose of a unanimous consent request.

Mr. 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 15th, and one dated May 13th.

Chairman Nadler. Without objection.

[The information follows:]

********** COMMITTEE INSERT **********

Mr. Massie. I have another unanimous consent request to submit for the record the frames from the video that were displayed in my testimony.

Chairman Nadler. Without objection.

[The information follows:]

********** COMMITTEE INSERT **********

Chairman Nadler. Ms. Jackson Lee has a UC request as well.

Ms. Jackson Lee. Mr. Chairman, thank you very much.

I ask unanimous consent to put into the record a document produced by the Citizen Project, "In the Extreme: Women Serve Life Without Parole and Death Sentences in the United States." I ask unanimous consent.

[The information follows:]

********** COMMITTEE INSERT **********

Ms. Jackson Lee. I ask unanimous consent to submit into the record, from the Senate Judiciary Committee, report "Subverting Justice." I ask unanimous consent.

Chairman Nadler. Without objection.

[The information follows:]

********** COMMITTEE INSERT **********

Ms. 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.

Chairman Nadler. Without objection.

[The information follows:]

********** COMMITTEE INSERT **********

Ms. Jackson Lee. Thank you, Mr. Chairman.

Chairman 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.

[Whereupon, at 3:46 p.m., the committee was adjourned.]