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CONFIRMATION HEARING ON THE NOMINATION OF HON. SALLY QUILLIAN YATES TO BE DEPUTY ATTORNEY GENERAL OF THE UNITED STATES

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

MARCH 24, 2015

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CONFIRMATION HEARING ON THE NOMINATION OF HON. SALLY QUILLIAN YATES TO BE DEPUTY ATTORNEY GENERAL OF THE UNITED STATES

TUESDAY, MARCH 24, 2015

UNITED STATES SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:07 a.m., in Room SD–226, Dirksen Senate Office Building, Hon. Charles E. Grassley, Chairman of the Committee, presiding.

Present: Senators Grassley, Sessions, Cornyn, Lee, Perdue, Durbin, Whitehouse, Klobuchar, Franken, and Blumenthal.

Chairman GRASSLEY. The Committee will come to order.

I think, out of respect for Congressman Lewis and Senator Isakson, I think we are going to start with Congressman Lewis. Normally, we would make opening statements, but because of your time schedule, I think we will start with you to introduce, Congressman Lewis, and then we'll go to Senator Isakson, then we'll go to Senator Perdue, then we'll have our opening statements.

Senator BLUMENTHAL. We're honored you are here, Congressman. Thank you for joining us.

Representative LEWIS. Mr. Chairman, this gentleman here is my friend. I know this is an upper body, and I will defer to him.

Chairman GRASSLEY. Well, thank you for your statement on how important the Senate is, but the Constitution——

Senator BLUMENTHAL. We are upper only in our own minds.

[Laughter.]

Chairman GRASSLEY [continuing]. The Constitution recognizes us as equal, but I was going to call on you first because you are the senior Member here today. You've been a respected Member of the House of Representatives and you know Ms. Yates, so I have chosen, right or wrong, to start with you and I hope you will start.

INTRODUCTION OF HON. SALLY QUILLIAN YATES, NOMINEE TO BE DEPUTY ATTORNEY GENERAL OF THE UNITED STATES, BY HON. JOHN LEWIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Representative LEWIS. Well, thank you very much, Mr. Chairman and Members of the Committee. Thank you very much. I am delighted and very pleased to be here. I am honored to be here with my friends from the Georgia delegation, Senator Isakson and Sen-

ator Perdue, to introduce the U.S. Attorney for the Northern District of Georgia, Sally Yates, who has been nominated to serve as Deputy Attorney General of the United States.

You might say Sally Yates' dedication to public service and the law is in her blood because both her father and her grandfather served on the Georgia State Court of Appeals. Her father was one of the great lawyers in the State of Georgia and in our Nation. She is principled, tough, for the rule of law, but has used her commitment to equal justice to strengthen law enforcement ties with the community.

She graduated with honor from the University of Georgia and began her career in private practice at the King & Spalding law firm in Atlanta, which is located in the heart of my congressional district. There, she tried 15 cases to verdict as the sole lead Counsel. In one of her first notable pro bono victories, she recovered property wrongly taken from the first African-American landowner in Berrien County, Georgia.

In 1989, she began her storied career in the U.S. Attorney's Office. Over the next two decades, she was known for her aggressive work, fighting violent crime, combatting public corruption, human trafficking, cyber crime, and gang activity. It was on her watch, Mr. Chairman, that the U.S. Attorney captured and prosecuted the infamous terrorist who bombed the 1996 Olympics in Atlanta.

Five years ago, Ms. Yates was unanimously confirmed as the first woman U.S. Attorney for the Northern District of Georgia. She took a unique approach to leadership. Her first action was to go on a listening tour to hear from the people she would serve. She made it clear, she made it crystal clear, she made it plain, she made it simple in every quarter that her mandate was simple: even-handed justice that served the highest interests of the people.

Her leadership was tough, but fair, and in this time when the link between law enforcement and the community has become so strained, Sally Yates made an effort to reach out and she continued to reach out. Under her leadership, the U.S. Attorney's Office organized a Youth Justice Summit at Georgia State University, a straight-talk student-forum initiative with communities and schools in Georgia, a Youth Advocate Advisory Council to meet with high school student leaders, and a Street Law and Mock Trial Program with Atlanta's John Marshall Law School.

She hosted a public discussion with Georgia's Governor and the Chamber of Commerce on the barrier facing formerly incarcerated individuals. She worked with the Urban League, Morehouse School of Medicine, and the State Board of Pardons and Paroles to establish a 12-week program to provide job training, counseling, and interview advice for parolees returning to the community.

In the last year, citizens across the country have let the Nation know they believe law enforcement is not fair and reports are now verifying that some of their concerns are valid. Long before these problems came to light, Sally Yates led her office to build community relationships and she is still doing it every day.

She knew it was important—very important—not only to seek out and prosecute crime whenever she found it, but to create an understanding that hard work and justice serves us all.

Mr. Chairman and Ranking Member, I introduce in this Committee a true champion of justice, a true champion of what is right, what is fair, and what is just, a leader who is a woman of principle, compassion, and faith, a daughter of Atlanta, a citizen of Georgia: Ms. Sally Yates, who I believe will make an outstanding Deputy Attorney General of the United States, and I support her nomination. Thank you.

Chairman GRASSLEY. Thank you, Congressman Lewis.

Now, Senator Isakson.

INTRODUCTION OF HON. SALLY QUILLIAN YATES, NOMINEE TO BE DEPUTY ATTORNEY GENERAL OF THE UNITED STATES, BY HON. JOHNNY ISAKSON, A U.S. SENATOR FROM THE STATE OF GEORGIA

Senator ISAKSON. Thank you very much, Chairman Grassley. I am pleased to share the dais with John Lewis, a Georgia hero, and is a legend of civil rights in our country. It's a pleasure to be with him and I'm happy to wish him his 75th birthday, which is this Saturday night. Happy Birthday, John.

Representative LEWIS. Well, thank you very much.

Senator ISAKSON. I hope you have 75 more.

Representative LEWIS. I hope so, too.

[Laughter.]

Senator ISAKSON. I hope I do, too.

You know, I've had the chance, in 37 years of elected office, to introduce a lot of Georgians in a lot of different venues. I've never had one I looked forward to more than today in introducing Sally Quillian Yates as the President's nominee for the Deputy Attorney General of the United States of America.

I have known Sally Yates and her husband, Comer, for a long, long time. Comer is here with her today, as well as her children, Kelley and Quill, and they're behind me. I'm sure she'll introduce them more formally when she speaks.

Sally is a great hero of the State of Georgia. For 25 years, she's been in the Office of the Northern District of Georgia, prosecuting criminals on public integrity, and all kinds of things, like the Olympic Park bombing.

For the last 5 years, she's been the Chief Attorney and she's proven herself over and over and over again to be effective, to be fair, to be diligent, and to be the kind of person you would want representing you in the U.S. Attorney's Office.

Sally is a graduate of the University of Georgia School of Journalism, and later a graduate of the University of Georgia School of Law. She is what we lovingly refer to as a double dog—the Bulldog is the mascot at the University of Georgia, and she has her two degrees from that school.

When she graduated from law school, she graduated magna cum laude in her class, one of the highest honors that could be bestowed on anyone. She has been referred to by many as tough and tenacious, but to introduce her, I thought I would quote from Mark Twain, whose famous quote said, "When confronted with a difficult decision, always do what's right; you'll surprise a few and you'll astonish the rest."

Sally Yates is going to astonish the United States of America. She is exactly what this country needs in the U.S. Attorney's Office in Washington, DC. She will be a hero of the American people, a hero of what is right. She will call them like she sees them, she will be fair, and she will be just. She is a lady of impeccable taste, impeccable integrity, and an impeccable record, and I am very proud to second her nomination today, and defer now to David Perdue of the Committee for his remarks.

INTRODUCTION OF HON. SALLY QUILLIAN YATES, NOMINEE TO BE DEPUTY ATTORNEY GENERAL OF THE UNITED STATES, BY HON. DAVID PERDUE, A U.S. SENATOR FROM THE STATE OF GEORGIA

Senator PERDUE. Thank you, Senator. Thank you, Mr. Chairman. It's my distinct honor this morning, Mr. Chairman, to join Senator Isakson and Congressman Lewis to welcome Sally Yates and her family to the Judiciary Committee this morning. I want to echo the words of my colleagues this morning regarding Ms. Yates' qualifications and her distinguished career in Federal service.

For years she has prosecuted the most violent criminal organizations in Georgia, MS–13 and other notorious gangs, drug cartels, human smuggling, sex traffickers. The Department and the people of Georgia are fortunate to have benefited from Ms. Yates' work in the service of justice for so many years.

So, today I join my colleagues in welcoming her to the Judiciary Committee and in congratulating her on the honor of this nomination. It is my privilege this morning, Mr. Chairman, that, as a Yellow Jacket, to welcome this Bulldog to this Committee. Thank you.

Chairman GRASSLEY. Thank you both, Senators. You are free to go if you want to go. Otherwise, we would be glad to have you listen to us as well.

OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S. SENATOR FROM THE STATE OF IOWA

Chairman GRASSLEY. Ms. Yates, I welcome you to the Senate Judiciary Committee. It has been a big day for you and your family. Congratulations on your nomination. Today we will consider the nomination of Sally Yates to be Deputy Attorney General. I would start by noting that she is already doing the job she has been nominated for.

She has been serving as Acting Deputy since the beginning of the year so she already has some experience with leading the Department and has been exposed to some of the challenges that the Department faces. Before her service as Acting Deputy Attorney General, she served in the U.S. Attorney's Office for the Northern District of Georgia for over 25 years, including 5 as the U.S. Attorney, so she also has experience in running an office and important experience as a prosecutor.

Too often, when nominees appear before our Committee, they avoid answering questions by claiming that they are not yet on the job so they are not in a position to provide responsive answers. However, because Ms. Yates has already been on the job for a few months, I assume she'll be able to answer questions about the Department for us.

I won't repeat all of my concerns with the way the Department of Justice has been run in the past 6 years because I outlined those concerns very thoroughly in Ms. Lynch's hearing. But my concerns remain, so I will be interested in discussing these important matters with Ms. Yates today.

She obviously has a lot of impressive experience as a prosecutor. Throughout her career she has been involved in a number of discussions on criminal law issues. One thing that I am going to discuss with Ms. Yates about today is the position she has taken regarding mandatory minimum sentences.

For example, in testimony before the Sentencing Commission, she said, "Mandatory minimum sentences increased deterrence and cooperation by those involved in the crime." She also called mandatory minimums as "essential law enforcement tools" and argued that mandatory minimum sentences have helped reduce crime rates.

Finally, let me say, just as I am hoping the next Attorney General provides an independent voice and works to de-politicize the Department, I have the same hope for the Deputy Attorney General. So, I am looking forward to hearing Ms. Yates' perspective on the current state of the Department as she provides her testimony and answers to our questions. I will be listening, in that case, for changes that she would make to the Department and improvements she would implement to make it more transparent. The Department of Justice remains deeply politicized and I am hopeful that the next Deputy Attorney General will have what it takes to make some changes badly needed.

With that, I now turn to our distinguished Ranking Member for today, Senator Blumenthal.

OPENING STATEMENT OF HON. RICHARD BLUMENTHAL, A U.S. SENATOR FROM THE STATE OF CONNECTICUT

Senator BLUMENTHAL. Thanks, Mr. Chairman, and thanks for conducting this hearing in such a bipartisan and gracious way. First of all, I hope at some point, we are going to clarify all this stuff about Bulldogs and Yellow Jackets. I come from a State where we have a school that has a bulldog as a mascot, but I do not think you were a graduate of that school. So, we welcome you anyway.

Today is a very proud one for me, as a former U.S. Attorney and as a former Attorney General of my State, and one who, like a number of us on this Committee, has a background in law enforcement. Because, I think you really epitomize the best of a public interest lawyer and a law enforcer—fair, just, honest, as Mr. Lewis referred to you—and I also think that you have gained the respect of the people who are maybe the most critical judges, the folks who are on the streets: FBI agents and DEA enforcers and postal inspectors and Secret Service who have contacted our Committee and who have spoken through others to say how much they have respected your work and admired your tenacity and your toughness, but also your essential fairness in enforcing the law. Those qualities, as you and I have discussed in our private meeting, will be critically important because the role of a prosecutor is not only to obtain convictions but to achieve justice.

In the words of Justice Jackson—and I am paraphrasing, not quoting—the Department of Justice faces enormous challenges ahead and new leadership will be important to that direction. But I want to say how much I appreciate the leadership that we have seen from Attorney General Holder.

I think he deserves gratitude from our Nation for his leadership during a very tough time, and I am hopeful that we will confirm his replacement very shortly. Loretta Lynch is eminently well qualified and I am hopeful that we will move quickly to your confirmation as well. I look forward to supporting you.

I want to just say, finally, my thanks to your family who are here today, Comer, Kelley and Quill. I know that your son and daughter may not have always believed that your edicts were, to quote Congressman Lewis, "right, fair and just." There were perhaps moments when your directions were questioned by them, but I know that you are proud of them, as they are extremely proud of you. I want to thank your husband for his public service, as well as yourself.

Thank you very much for being here and thanks for answering our questions today.

Chairman GRASSLEY. Before you speak, I would like to swear you, please.

[Witness is sworn in.]

Chairman GRASSLEY. You are free now to make any opening statement you want to make, and also to introduce family, friends, and anybody else that is proud of your nomination that you want to introduce to the Committee.

STATEMENT OF HON. SALLY QUILLIAN YATES, NOMINEE TO BE DEPUTY ATTORNEY GENERAL OF THE UNITED STATES

Ms. YATES. Well, thank you, Chairman Grassley and Ranking Member Blumenthal, and Members of the Committee. It is an honor to appear before you today.

I'm very grateful for this opportunity and grateful for President Obama's nomination. I'd also like to thank Senator Isakson and Senator Perdue and Congressman Lewis for their kind and generous introductions. I am truly humbled by their confidence in me and am grateful to them for their remarkable lives of service to our State and to our country.

It's particularly meaningful for me to appear today surrounded by my family, my husband, Comer, and daughter, Kelley, and son, Quill. I'm not only grateful to them for their love and support, but I'm also incredibly proud of each one of them. My husband Comer, a lawyer by training, followed his heart and now runs a school for children with learning disabilities and children who are deaf and hard of hearing.

My daughter, Kelley, is in her first year as a special education teacher in North Carolina, and my son, Quill, is a sophomore in college, where he is studying political science and environmental policy.

My only regret is that my parents, both of whom have passed away, are not here today. They instilled in me a love of the law and a call to public service. I come from a long line of lawyers—lawyers and Methodist preachers.

Even my grandmother was a lawyer. In fact, she was one of the earliest women admitted to the Georgia bar. But law firms weren't hiring many women to practice law back then so she served as a legal secretary instead. My father and his father before him were State Appellate Court judges and they demonstrated by example that the law is an instrument for ensuring that right is done in the world.

My father died shortly before I graduated from law school and I vividly recall him counseling me then to think about the job that I was going to pursue when I graduated from law school and to make sure that the work that I chose when I graduated was more than just a job or a way to earn a living.

Rather, he believed that we have an obligation to use our legal education for the greater good and he encouraged me to find a path where I could make a real difference in the world. That path took me to the Department of Justice. I joined the U.S. Attorney's Office in Atlanta in the fall of 1989 and the Department of Justice has been my home ever since.

When I joined the U.S. Attorney's Office, I certainly didn't expect that I would still be with the Department of Justice 25 years later. But once I experienced the privilege of representing the people of the United States, of getting to do what I believe is right, and fair, and just, in every case, anything else would have been just a job.

Bob Barr, then the U.S. Attorney for the Northern District of Georgia, entrusted me with my first position in the Department and that was that of a line prosecutor. I began the way all young prosecutors do: investigating and trying cases; working with agents and witnesses to ensure that those who violated the law in the Northern District of Georgia were held accountable; and that our community was made safe.

Over time, my cases became more complex and I assumed leadership positions within the office: Chief of the Fraud and Public Corruption Section; First Assistant U.S. Attorney; and, eventually, the first female U.S. Attorney for the Northern District of Georgia.

Throughout this time, I carried with me the values that were instilled by my family, that the law can be an instrument for good but only when it's applied fairly, and thoughtfully, and objectively. I believe that it's a credit to the institution that I love that I have held leadership positions in both Democratic and Republican administrations and that I've witnessed career men and women of the Department consistently following the facts and the law with great distinction and without regard to politics.

Over the years, I've seen the Department from a variety of vantage points. I personally prosecuted public corruption regardless of party, and led our team to holding accountable the Olympic bomber, Eric Rudolph. As a supervisor, I've ensured that our Office had the expertise and resources and focus to go after the worst of the worst, whether they were international gangs, human trafficking rings, or cyber criminals.

As U.S. Attorney, I was vice chair of the Attorney General's Advisory Committee where I gained additional insight about the challenges that each U.S. Attorney's Office faces across the country, challenges that I expect that you all hear about from your constituents every day.

When the President nominated me, a career prosecutor, to serve as the Deputy Attorney General of the United States, it was the greatest honor that I could imagine. I'm proud to say that in the brief period in which I've served as Acting Deputy Attorney General, I've seen on a national scale the same skill, and care, and dedication in our attorneys that I knew back in the Northern District of Georgia.

In taking on the day-to-day operations of the Department, it's $27 billion budget, and 114,000 employees, I also understand that we face critical national security and criminal justice challenges.

I believe that we can work together to face these challenges and, in my role as the chief operating officer of the Department, I will be committed to ensuring that the resources that Congress provides to the Department of Justice are used as effectively as possible to protect the public that we all serve.

I know that several of you have served previously in the Department and share my love of this great institution. As you all know, the Department of Justice is unique among Cabinet agencies. It is, and must be, independent and nonpartisan. We don't represent an ordinary client, and as the representatives of the people we must always be governed by doing what is just.

This has been my life's work. If I am fortunate enough to be confirmed, I can promise you that I will spend each and every moment guided solely by the Department's singular mission to seek justice.

Thank you, and I look forward to your questions.

Chairman GRASSLEY. Yes. Did you want to introduce family and friends?

Ms. YATES. Yes, certainly. This is my husband, Comer Yates, my son, Quill Yates, and my daughter, Kelley Yates.

Chairman GRASSLEY. And any friends and family you have here, if you want their names in the record, we'd be glad to include it if you give us that information.

Ms. YATES. Thank you, Senator.

Chairman GRASSLEY. Okay. We'll have 7-minute round questions, the first round; the second round will be 5 minutes. I will start.

In the last year, I have asked the Attorney General four times to disclose the Office of Legal Counsel's opinions regarding the lawfulness of the President's various controversial Executive actions. In response to my first letter, the Department refused to provide all OLC opinions, but said if I had any concerns about a particular Executive action I could follow up.

In less than 2 weeks, the President then released five senior Taliban commanders, the so-called Taliban Five, without notifying Congress as he was required to do by statute. So I took the Department up on its suggestion and asked for the legal advice DOJ provided before the decision was made to release the Taliban Five.

Six months later, the Department responded to me and instead of providing OLC advice, it provided a document that the Department of Defense gave the Government Accountability Office in an after-the-fact effort to defend its actions.

Of course, we all remember the Government Accountability Office had concluded that the administration had acted unlawfully when it released the Taliban Five.

Now, that document is not good enough. It's especially disappointing considering that the Attorney General sat before this Committee last year and assured me he would look for ways to get this information to Congress.

So, my question on this subject: Would you provide this Committee with the opinion of the Office of Legal Counsel that it offered on this matter, and whether in memorandum or less-than-formal format, the information before these senior Taliban commanders were released without congressional notification as the law requires?

Ms. YATES. Thank you, Senator for the question. And your question touches on a critically important issue, and that is the issue of transparency. It certainly is important that the people of the United States and this body, and that Congress, understand the basis for actions by various Departments of the U.S. Government. We're committed to getting you the information that you need to understand the basis for those actions.

I think traditionally the actual OLC, Office of Legal Counsel, opinions themselves have traditionally not been disclosed, and that's for good reason. We want to encourage the agencies in the executive branch to come to the Department of Justice and to seek counsel and for there to be a full and frank exchange of information and ideas and, just like a standard attorney-client relationship, don't want to have a chilling effect on that.

So, while we are absolutely committed to getting you the information about the underlying rationale, I think we generally follow the position that has been followed throughout the Department of Justice in many administrations to decline to provide the actual OLC opinions themselves.

Chairman GRASSLEY. Then I assume that you would not give me the opinion as I requested?

Ms. YATES. I'd certainly be happy to work with you and your staff about making sure that you have the information that you need and that you would like.

Chairman GRASSLEY. But not the opinion.

Ms. YATES. I'd be happy to talk with you about the underlying rationale.

Chairman GRASSLEY. I won't get the opinion?

Ms. YATES. I don't, at this point, believe that there's a reason to revisit the decision about the opinion itself, Senator.

Chairman GRASSLEY. In other words, the decision has been made that Congress can't have the opinion, and so we won't get the opinion. Is that what you just said?

Ms. YATES. I don't have any present intention to revisit that decision now, but would be delighted to work with you and your staff to try to get you all the information about the underlying rationale behind that.

Chairman GRASSLEY. Okay. Then let me follow up with this statement because the administration has released other OLC opinions, so I don't accept the idea that the administration can pick and choose which of these opinions it might release and which it won't, based on perceived political interests.

The Department of Justice explained the legal reasoning that it used to justify Executive amnesty. We have seen that that is a very

flimsy argument. It seems to me the Department owes the American people an explanation as to why it advised that the President could release the Taliban Five without notifying Congress, as the law requires.

So I intend to follow up and ask you about this in my written questions, and citing some sort of vague privilege is not good enough for me. But you and I had discussions of how important oversight is for me, and so just so you know, it is not reasonable that some OLC opinions can be released and others can't, and you don't want to revisit that.

Now I want to go to another point, and because I just have 2 minutes left this will probably be the last question I can ask you at this point. Your testimony before the Sentencing Commission in 2010 stated that as a result, in part, of mandatory minimum sentences and abolition of parole, crime rates were dramatically reduced.

You related that the experience of law enforcement is that, "There are tangible benefits to law enforcement and public safety from mandatory minimum sentencing laws. Mandatory minimum sentences increased deterrence and cooperation by those involved in crime." You called mandatory minimums then an "essential law enforcement tool."

Additionally, you stated that judges were exhibiting "undue leniency for some white-collar offenses and some child-exploitation offenses," and you recommended that it might be appropriate to create some new mandatory minimum sentences.

But at some later time you gave a speech saying, "We can't jail everybody," that prison spending was reducing other DOJ spending and that we can't afford to have so many people in prison.

So, question: You served as Federal prosecutor for over 25 years. Do you stand by your 2010 testimony that mandatory minimum sentences are "an essential law enforcement tool" and that they "increase deterrence and cooperation by those involved in crime"?

Ms. YATES. Senator, I believe that mandatory minimum sentences are an important tool for prosecutors, but I also think that we have an obligation to use that tool as effectively and as efficiently as possible. I'm a career prosecutor, as I've made clear this morning, and I certainly wouldn't support anything that I believed would undermine public safety.

But I also know that we have a serious fiscal reality that we are facing now, and that is that our prison population is exploding. And as a result of that, resources that would go to prosecutors and Federal agents to be able to investigate and prosecute crimes are being diverted to the Bureau of Prisons.

The Bureau of Prisons now takes up almost two-thirds of the Department's budget. That is really untenable and unsustainable, so I believe that mandatory minimum sentences are an important tool but that we need to use that tool effectively.

Chairman GRASSLEY. Senator Blumenthal.

Senator BLUMENTHAL. Thanks, Mr. Chairman. At the outset I'd like to ask permission to include in the record a statement from Senator Patrick Leahy, our colleague from Vermont, in support of Ms. Yates' nomination.

Chairman GRASSLEY. Without objection.

[The prepared statement of Senator Leahy appears as a submission for the record.]

Senator BLUMENTHAL. And I'd also like to include a number of letters—I referred to them earlier—from colleagues, law enforcement officials, officials in Georgia, in support of that nomination.

Chairman GRASSLEY. Without objection, that will be included.

[The information appears as submissions for the record.]

Senator BLUMENTHAL. Thank you. Thank you, Mr. Chairman.

Let me just ask you about OLC opinions, Ms. Yates. It's been a tradition common to, I think, most recent administrations that OLC opinions generally are not released. Is that true?

Ms. YATES. That's certainly my understanding, Senator, yes.

Senator BLUMENTHAL. Thank you.

Let me ask you about the Bureau of Prisons and mandatory minimums. My understanding is also that the policies on this issue have gone back and forth. I can remember a time when everybody was against mandatory minimums, then they were adopted by many States.

My own feeling is that we really need to do more research and study on what is effective in deterring wrongdoers and lawbreakers in this area and just use the most effective, cost-effective policy. You have rightly cited the cost of incarcerating convicted criminals beyond the point where it makes any difference to rehabilitation or deterrence, and so I assume you'd be open to that kind of research and study?

Ms. YATES. Absolutely, Senator. While I believe that mandatory minimums have a place in our criminal justice system, I believe that the most current research indicates that it is the certainty of punishment that really has the greatest deterrent effect, not necessarily the length of the sentence.

Senator BLUMENTHAL. And in particular you made reference to the very sizable amount of the Department's budget that is spent on the Bureau of Prisons. My understanding is that one of the growing segments of population are actually women prisoners in the system.

In fact, in Danbury, Connecticut, the Bureau of Prisons is constructing a new facility, and I'm hopeful that I can follow up with you on construction of that new minimum facility in Danbury because, in November 2013, the Bureau of Prisons estimated that the construction of this facility would take 18 months and the new facility would open in May 2015.

That construction has been delayed, I think, in that facility, and others around the country. There's a question about whether we're providing the kind of environment that makes for not only fair, but also effective, incarceration. So I hope that you would be willing to work with me and consult with me on that issue.

Ms. YATES. Absolutely, Senator. I would look forward to that.

Senator BLUMENTHAL. On another issue that is important, I think, to the administration of Justice, the Department opened a criminal investigation concerning the GM ignition switch and the circumstances surrounding that company's failure to disclose the defects in the ignition switch, which ultimately caused injuries and fatalities. I think the number of fatalities now is approaching 60, according to Ken Feinberg, of the Compensation Fund.

I hope that you will work with me and other Members of the Committee also in bringing that criminal investigation to a prompt and just conclusion because I think that the decisions to be made by those victims of the GM ignition switch over whether they accept the Compensation Fund awards will depend on the conclusion of that investigation.

Certainly deterrence of the kind of alleged wrongdoing that occurred, concealment and even potentially fraud against the U.S. Government, really depends on an effective conclusion of that investigation and I hope that you will work with me on that investigation as well.

Ms. YATES. Certainly. And I appreciated your raising this with me when we had an opportunity to talk last week. And if I'm fortunate enough to be confirmed, I would look forward to working with you on this issue as well.

Senator BLUMENTHAL. Let me ask you, in conclusion on this first round of questions, as a newcomer to your position, not to the Department of Justice, let me give you the opportunity to talk about where you think your priorities will be, whether it's human trafficking, or organized crime, or national security, or terrorist threats to this country and where you think the resources of the Department could be, and should be, enhanced?

Ms. YATES. Well, thank you, Senator. Certainly we face a number of challenges at the Department of Justice. National security and keeping our country safe from acts of terrorism always is, and must be, our number 1 priority. But we have other challenges as well.

Certainly cyber security is a very important issue for us. We are seeing that it impacts really the full spectrum, the national security issues, critical infrastructure issues, issues with respect to private industry, and our own personal privacy as well. So, cyber security is certainly a critically important issue for our Department.

There's another issue that, I think, that we also need to focus on now and that is really our relationship with law enforcement. I've been fortunate to be able to work with all levels of law enforcement for the 25 years that I've been a prosecutor, both State and local law enforcement and Federal agents. I think strengthening that relationship will be an important priority for us.

I hope that I will be able to bring the perspective of the field in assessing our priorities, because using our resources in the most effective way possible is a critically important priority for the Department of Justice.

I think we also need to make sure that we are bringing that focus to our investigative agencies. It's important that we not be generating stats, but actually having an impact on the communities that we serve to make them as safe as possible. So one of the things that I would like to do is to work with our law enforcement agencies to ensure that they are focused on making an impact on the safety of the communities rather than just, as I said, generating stats.

Senator BLUMENTHAL. Thank you. And part of aiding local law enforcement is determining what kinds of equipment and training really makes a difference to local law enforcement and assessing

carefully and accurately what will be of greatest assistance to them in dealing with the vast variety of challenges they face.

Ms. YATES. That's absolutely right, Senator. And, in fact, just last week I was fortunate to have a meeting with the heads of many of the local law enforcement organizations, the purpose of which was not for me to talk, which is sort of a change for a lawyer, but actually to listen to them and to hear from them their concerns and their priorities and how we can work together going forward in the most effective way possible.

Senator BLUMENTHAL. Thank you very much.

Ms. YATES. Thank you.

Senator BLUMENTHAL. My time has expired, Mr. Chairman. Thank you.

Chairman GRASSLEY. Before I call on Senator Cornyn, I want to go to the Agriculture Committee for 15 minutes. We've got enough people here to ask questions, so would you take over according to—until I get back? So it's my understanding it would be Cornyn, then Durbin, if he comes back, and then Perdue, then Lee. That's the way, I think, it works out.

Senator Cornyn, go ahead.

Senator CORNYN. Ms. Yates, congratulations on your nomination.

Ms. YATES. Thank you, Senator.

Senator CORNYN. Certainly you have an impressive career in public service and have all of the qualifications to prepare you for being the Deputy Attorney General. I take seriously the advice and counsel of our colleagues, Senator Perdue, Senator Isakson, and their testimonials to your public service, and Congressman Lewis as well.

I guess the biggest problem someone in your position has when they come to Washington, DC, as a line prosecutor, is the politics and the ambiguity that seems to exist, too often, in my view, about the role of the chief law enforcement officer of the United States, the Attorney General, and I would include high-level appointees like you, about where your loyalties lie. You've been very clear about your dedication to the law and pursuit of justice, and that's very admirable.

But sometimes here at the highest levels of the Department of Justice—and this has happened in Republican administrations and Democratic administrations—because you serve at the pleasure of the President, you are confirmed by the Senate, and you—when asked a question about the law, sometimes you get a political answer.

Could you just explain to me your perspective on where your loyalties will lie, given the fact that you are appointed by the President and serve at his pleasure? Can you tell the President "no"?

Ms. YATES. Well, thank you for the question, Senator, because I think you have raised, obviously, a critically important issue, and that is the independence of the Department of Justice. I can tell you very simply where my loyalties lie, and that is to the people of the United States and to the Constitution. That's what I've been doing for the last 25 years.

During the time that I was an Assistant United States Attorney, and as U.S. Attorney, I actually specialized in public corruption prosecutions. You have to stand up to some powerful people when

you bring a public corruption case, and that's what I've been doing the balance of my career. As I said, I've been doing this for a long time, and committed to the Department of Justice and to the cause of justice, and I'm not going to give that up in the last 2 years.

Senator CORNYN. According to an unclassified threat assessment from the Texas Department of Public Safety—this has to do with cartels that control human smuggling and drug trafficking—according to this unclassified threat assessment, "Mexican cartels control most of the human smuggling and human trafficking routes and networks in Texas. The nature of the cartels' command and control of human smuggling and human trafficking networks along the border is varied, including cartel members having direct organizational involvement and responsibility over human smuggling and human trafficking operations, as well as cartel members sanctioning and facilitating the operation of human smuggling and human trafficking organizations."

Do you agree that trans-national criminal organizations control much of the human trafficking in and about the United States?

Ms. YATES. Well, human trafficking was a significant issue for me as U.S. Attorney in the Northern District of Georgia. In fact, some accounts indicate that Atlanta is the number 1 city in the country for child sex trafficking. Some rank it lower. I'm not sure if we're number 1 or number 3, but I know whatever it was, it was too large.

We also are at the unfortunate crossroads in Atlanta of another issue, and that is, in Atlanta we were the East Coast hub for the Mexican cartels, and so I had an opportunity to have to combat both of these.

My experience with the cartels has been that they essentially go wherever the money is and wherever there is a profit to be made. We know that human trafficking now is the second fastest-growing illegal enterprise in the world, second only to drug trafficking. So, it's not surprising that the cartels would also want to be involved in human trafficking as well.

Senator CORNYN. Your answer reflects what I believe to be the fact, that they do go where the money is, whether it's people, drugs, weapons, you name it. That ought to cause us a lot of concern. Will you make that a priority, if confirmed to this office?

Ms. YATES. Absolutely, Senator. This was one of my top priorities when I was U.S. Attorney in Atlanta, and that was ensuring that we weren't just doing the one-off drug cases, but rather were doing everything we could to actually disrupt and dismantle the Mexican cartels and to work our way up as high as we possibly can in the organizational structure of those cartels.

Senator CORNYN. Well, I hope, if the Senate gets unstuck on human trafficking legislation that we are on—and I'm optimistic that we will eventually—we'll be able to provide additional resources to law enforcement, as well as the victims, to help them heal and return to as normal a life as they can.

Since I came to the Senate I have been very engaged with my friend, Senator Leahy, the Ranking Member, on freedom of information reform. Of course, as you know, the Department of Justice has oversight responsibility for implementation of the Freedom of Information Act.

According to a recent AP report, in response to a request regarding the First Lady's dresses—now, I don't know why somebody is curious about the First Lady's dresses, actually, I guess the question had to do with who pays for those—the responding agency blacked out the sentence, "We live in constant fear of upsetting the White House," and claimed an exemption which protects personnel and medical files, such as Social Security numbers and addresses.

In 2009, the Counsel to the President issued an unpublicized memorandum ordering all executive departments and agencies to consult with the White House Counsel's Office on any FOIA requested documents involving "White House equities."

I'm not quite sure what "White House equities" are, but do you believe that it's appropriate for the White House to review FOIA requests that are not directed to the White House but directed to executive branch agencies before responding?

Ms. YATES. Well, thank you for the question, Senator. I think that our FOIA laws are certainly in place to ensure the kind of transparency that is really the bedrock of our democracy. And certainly the Department of Justice is committed to ensuring that FOIA laws are followed not just in the letter, but also in the spirit.

I will confess that I am not familiar with the request for the First Lady's dresses and have not gotten deeply into FOIA litigation in the 8 weeks that I've been at main Justice now, but I can assure you that going forward I would be happy to work with you and other Members of the Committee to ensure that we are fulfilling our obligation under the FOIA laws.

Senator CORNYN. Just to clarify my question, I think it was about who pays for them. I wasn't clear about that initially. But I appreciate your commitment to work with us on this. I think there's a lot of work that needs to be done at the Department, and in the Federal Government generally, about transparency, which you referred to in your opening comments, and fidelity to the rule of law when it comes to freedom of information.

Thank you very much. Good luck.

Ms. YATES. Thank you, Senator.

Senator LEE [presiding]. Senator Durbin.

Senator DURBIN. Thanks, Mr. Chairman.

And Ms. Yates, thanks for being here today and thanks for coming by my office. Let me ask you at the outset about human trafficking and stipulate that I think that Senator Cornyn's bill is a good bill. We have been mired down on one aspect of the bill. We are hoping we can break through, but it is felt very strongly by this Committee on both sides that we need to address this.

You have undoubtedly dealt in some capacity with the victims of human trafficking and it strikes me that these victims, many of them, are very, very young. That is one of the tragic aspects of this. Most, if not all, of them are in some state of servitude because of the people who are controlling their lives.

Which leads me to a generalized question. By classic definition, the victims who are impregnated or apparently subject to sexual assault would be victims of statutory rape in most States, and certainly involuntarily sexual assault by definition in most categories. What we're trying to reach here is, a question about how they

would be treated if pregnant and whether they would be regarded as victims of rape. Could you make any observation on that?

Ms. YATES. Well, Senator, in the time that I've been involved in human trafficking prosecutions, which is actually much of my career at the U.S. Attorney's Office and particularly in the last 5 years, some of the most meaningful work that I've done is an opportunity to spend time with the victims of these cases. Actually, I'm careful oftentimes to try not to call them victims, but rather survivors, because that's what they are. Their courage is absolutely humbling.

Certainly I'm not familiar with the details of each State's statutory rape laws, but in my home State of Georgia, if you have sex with an underage woman, then she would be certainly—or an underage girl, it wouldn't be a woman—she would be a victim of statutory rape. But to be able to give you a real legal answer on that, I would really need to have a better understanding of each State's statutory rape laws.

Senator DURBIN. Understood, and fair. That is—we are kind of tied into this issue of rape and abortion. Many of us believe that by definition the victim/survivors would automatically be characterized as rape victims by virtue of their age or the circumstances of the sexual assault. But anyway, it's fair enough and I won't hold you to any strict standard on that.

Can I ask on this issue that's been raised, Senator Lee and I are cosponsoring a bill called the Smarter Sentencing Act, and we have discussed this. It was probably 1995, maybe earlier, when Congress established mandatory minimums, and for those mandatory minimums, or with them, we were trying to reduce the rate of crime.

We were trying to eliminate the uncertainty and variation in sentencing and generally send out a message to those who committed a crime that there was a price to be paid. The net result of it has been a dramatic, dramatic increase in the number of individuals incarcerated in our Federal system charged under these mandatory minimum statutes, and particularly in the category of nonviolent drug offenses. We have seen a dramatic increase.

Senator Lee and I have introduced a bill, the Smarter Sentencing Act. We do not eliminate any mandatory minimum crime, we do not eliminate the maximum penalty on any mandatory minimum crime. What we do try to provide is some flexibility to the sentencing court when it comes to the low end of a mandatory minimum for a narrow category of crime, nonviolent drug offenses. I guess my question to you is the same one raised by Chairman Grassley. Is this going to make it more difficult, in your estimation and opinion, for the prosecutor to get the cooperation of the defendant or to basically see that justice is served if such a change were made?

Ms. YATES. Thank you, Senator, for that question, because this is an issue that I feel very strongly about. I believe that the Smarter Sentencing Act is going to—if passed, will make our country much safer. And specifically with respect to the question that you have asked about the ability for prosecutors to be able to obtain cooperation from defendants, I'm not worried about that either and I can tell you why.

In the last year, we've gone back and done some research on statistics after the passage of the new Department policy on the Smart on Crime Initiative. This is an initiative where the Department is trying to use mandatory minimum sentences and the way that we'll ensure that those sentences are reserved for the defendants who are most in need of the long mandatory minimum sentences.

Now, many of my colleagues and local and line AUSAs were concerned that they wouldn't be able to get cooperation from defendants if they didn't have the hammer of a mandatory minimum hanging over their head, but the statistics from the last year indicate that that's not the case because over the last year the percentage of defendants pleading guilty in drug cases has remained precisely the same. Actually, it's gone up half a percentage, as it was prior to the time that we instituted Smart on Crime.

Likewise, the percentage of drug defendants who are cooperating in drug cases has also remained the same. And as a prosecutor who was doing this actually even before we had some of these mandatory minimums, or even the sentencing guidelines, I wasn't surprised by that because a defendant will always have an incentive to want to get a lower sentence, whether that's a sentence that's lower from a mandatory minimum or just the advisory guideline range.

So not only from a gut feeling did I not think that would be the case, the empirical evidence also indicates that that did not have a detrimental impact on the ability to get cooperation.

Senator DURBIN. I don't want to presume, when you said it would make us safer, but you noted earlier the vast expenditure of our Federal resources in incarceration. I think the average on mandatory minimums is about an 11-year incarceration. So without going too far, are you suggesting that those resources could be applied in other ways to make us safer?

Ms. YATES. Absolutely. As I've looked at the spending of the Department of Justice and seen that the Bureau of Prisons, each and every year, takes up a larger and larger percentage of the Department of Justice budget, that money has to come from somewhere. And where it's been coming from is money for agents and prosecutors, and also critically, importantly, money for State and local law enforcement assistance for the cop on the street. Those are the things that I believe keep our country safe.

Now, let me also say, though, there are some defendants who need those long sentences. There are some defendants who need to be in prison for a very long time because they are dangerous and our society needs to be protected from them. But I think we need to use those lengthy sentences in a smart way to keep our country safe.

Senator DURBIN. Just to reinforce your last point, that's why Senator Lee and I have not eliminated any mandatory minimums when it comes to the maximum side, nor eliminated them for any crimes. We are trying to narrow this into the category least likely to be a threat if their sentences were shorter.

Thank you for your testimony.

Ms. YATES. Thank you, Senator.

Senator LEE. Thank you, Senator Durbin. Thank you for your work with me on the Smarter Sentencing Act, and thank you for your insights into that legislative proposal which I wholeheartedly support and am honored to be working on with Senator Durbin and others.

First of all, Ms. Yates, I want to congratulate you on your nomination and thank you for coming here to answer questions today. I also want to thank Comer, Kelley, and Quill for joining you and being willing to support you in this effort.

As I am sure you have come to appreciate, that the Deputy Attorney General is, in many ways, the functional head of the U.S. Department of Justice, the Attorney General ultimately sets Department policy about the most important matters, but the day-to-day responsibility of carrying out those policies and overseeing the Department of Justice's work falls to the Deputy.

You and I have met a couple of times now and I've very much enjoyed our conversations. I've appreciated and have been impressed with your credentials, your experience, your approachable manner, and what seems to be a very good judgment on a whole host of issues. I'm sure those qualities serve you very well as the Acting Deputy Attorney General, and will continue to do so, if you are confirmed.

I want to ask you about two areas of concern that we have discussed a little bit before. First, the broader responsibility of the Department of Justice to give competent, credible, and independent advice; and second, what you would do, or have already done as Deputy, to restore the trust and the confidence of the Congress, and of the American people generally, in the work that's carried out by the Department?

On the first category, the Department of Justice is, of course, the U.S. Government's legal arm. Some might describe it as the Federal Government's internal law firm. As a member of its senior leadership and as its second-highest ranking lawyer in this position, who do you think is your client? Is the client the President, is it the Attorney General, is it the Congress? Who is the client?

Ms. YATES. There's a very clear answer to that, Senator, and that is the people of the United States. It's not the President, it's not the Congress, it's the people of the United States.

Senator LEE. And so that requires a degree of independence, in a sense, doesn't it?

Ms. YATES. It absolutely does. Yes, sir.

Senator LEE. Okay. I think that's important to remember. Lawyers generally always do well to remember who their client is, and in many cases, deciding who speaks for the client can be a difficult task that becomes especially difficult when dealing with government, especially a large one.

To that end, let's talk a little bit about the President's Executive action on immigration for a minute. I'm referring here to the Executive action announced in November 2014.

Now, before the President took that particular Executive action, some 22 times prior to that the President disclaimed any legal authority to regularize the status of individuals, immigrants, here unlawfully.

Then came along an opinion from the Office of Legal Counsel, part of the Department of Justice, explaining why a combination of maximally exercised prosecutorial discretion and some strained inferences from past practices made it legal for the President of the United States not only to refuse to carry out the immigration laws against entire broad categories of individuals, but also to affirmatively issue work permits to individuals that Congress has deemed ineligible for work permits.

Now, I'm going to ask you about that opinion in a minute, but I just want to review the landscape for a minute. When Ms. Lynch came before our Committee for her confirmation hearing just a few weeks ago, she testified that she had found that OLC opinion reasonable, and indeed, I think, make clear enough that she thought it was correct.

Since then, since that hearing was held a few weeks ago, there is something significant that has changed in that a Federal District Court in Texas, the U.S. District Court for the Southern District of Texas, issued a lengthy opinion in the context of a preliminary injunction rejecting the OLC's analysis and imposing an injunction against the President's action. Now, the Department, of course, is now fighting that injunction and we all have to wait and see how the Fifth Circuit resolves that dispute.

But I want to ask you, are you familiar, more or less, with that District Court opinion, or, at least, what it does, and in light of the opinion, in light of its findings, its conclusions and its analysis, do you think reasonable minds can, at least, differ as to whether the President's conclusions were lawful?

Ms. YATES. Well, thank you for raising this issue, Senator. This is obviously an issue on which people have very strongly held views, and I think that's certainly very understandable and it is an issue on which reasonable people can disagree.

The fact of the matter is, as you have pointed out, this matter is in the courts now. As everybody here knows, the Texas District Court has ruled, and the Department of Justice is going to abide by that ruling not just in Texas but across the country, unless and until a higher court reaches a different decision. And so this issue is now in the courts to be resolved and we will observe that ruling, whatever it turns out to be.

Senator LEE. Okay. I appreciate hearing from you that this is an issue on which reasonable minds can reach different conclusions. Have you read the Office of Legal Counsel memorandum that I'm describing?

Ms. YATES. I have. Yes, I'm generally familiar with it, Senator.

Senator LEE. And I know you weren't in your current position. You weren't serving as the Acting Deputy Attorney General at the time that was issued. But have you since formed your own legal opinion as to whether the legal analysis in that opinion was correct?

Ms. YATES. Well, as you noted, Senator, since mid-January I've been serving as the Acting Deputy Attorney General of the Department of Justice. The Department of Justice is now currently involved in litigation on precisely this matter, and as the Acting Deputy Attorney General it's really not appropriate for me to be giving my personal opinion on any matter in which the Department is in-

volved in pending litigation, which would include this matter as well. The Department's position is set forth in the pleadings, and I stand by those pleadings.

Senator LEE. Are there limits to prosecutorial discretion?

Ms. YATES. There certainly are limits. Yes, Senator, there are.

Senator LEE. If a future President decided that he or she would direct all personnel within that Presidential administration not to enforce any tax rate above 25 percent, would that strike you as an appropriate use of prosecutorial discretion?

Ms. YATES. You know, I think there certainly are limits, both legal and constitutional, to prosecutorial discretion and to the President's authority, but defining and drawing those lines really requires knowing all of the facts and looking at the law, both the statutory law, case law, and regulatory law and examining that and considering that. I wouldn't be much of a lawyer if I gave you a knee-jerk reaction to that.

Senator LEE. Sure. Sure. But there may be occasions, if you are confirmed as the Deputy Attorney General, when you might be serving, for one reason or another, at one time or another, as the Acting Attorney General. In that capacity there might be times when you get a call from the White House saying, hey, what do you think of X, and where you might be asked to offer up your knee-jerk reaction.

I assume your knee-jerk reaction would be one that would include a healthy amount of skepticism or one that would be weighed against a President saying, hey, I think I can reduce the Tax Code by Executive action just by saying no taxes will be collected above 25 percent. Would you agree with that?

Ms. YATES. Well, certainly. If I were called upon to give my on-the-spot reaction, I could give a gut reaction, as all of us have or all of us do when we are confronted with things. But before I would ever give a legal opinion on anything, I'm a careful lawyer and I would want to look at the law and I would want to talk with folks who are experts, and I would want to think about the ramifications of it and make sure I was giving a reasoned and considered opinion.

Senator LEE. Okay. But your gut reaction is that it sounds a little different than prosecutorial discretion, that one?

Ms. YATES. I think that, again, it doesn't sound quite like something I would think was probably a good idea.

Senator LEE. Okay.

Ms. YATES. But before I could give you a legal conclusion on that I would want to do all of the things I've just described.

Senator LEE. Okay. Thank you very much. I see my time has expired.

Senator Perdue.

Senator PERDUE. Thank you, Senator Lee.

Thank you, Ms. Yates, for being here this morning. I really appreciate putting your family through this today, Comer, Kelley, and Quill. You know, I don't know what it was like for Kelley and Quill growing up in the house of a top prosecutor, but the fact that they've survived, I would commend them on that.

[Laughter.]

Ms. YATES. They weren't the least bit intimidated, I can tell you that.

[Laughter.]

Senator PERDUE. I'm sure. I'm sure.

I've watched your career in Georgia, being from Georgia. I've watched you go after the human traffickers, the sex offenders, the drug cartels, and even the gangs, the Mexican gangs we've already talked about today, the MS–13, among others. But I also saw you go up against white-collar criminals, and even elected officials, even an ex-mayor in a public corruption case there in Georgia, and I commend you for that.

In your comments this morning you commented that—you made the comments that your loyalties were to the people of the U.S. and the U.S. Constitution, and that the Deputy Attorney General has to be, first and last, independent and nonpartisan.

I would second that. I would also put, for the record, my observation that that's exactly what you did in your role in Georgia, and I hope you bring that to this role in the Justice Department here in Washington. I want to change gears, though. I want to talk about the—you mentioned earlier in your comments that you would be the COO, in effect, of the Justice Department, and I think that's right, as a Deputy Attorney General.

It's a $27 billion budget. That would put you among the top probably 100 to 150 top commercial organizations in the country, if not the world. You've been there about 3 months. I think we started about the same time and you've been drinking from a fire hose, but I'd love, for the record, for you to give us your observations about what your priorities are now that you've been there for 3 months. You're still in your first 100 days. What reforms and changes do you see that you would like to make as priorities now as the COO of our Justice Department?

Ms. YATES. Well, thank you, Senator, for the question, and also, thank you again for your kind introduction this morning. You're right. I've been here since mid-January about the same time that you started and I have been drinking from a fire hose. But during this time I've tried to bring the same management skills that I had as U.S. Attorney in Atlanta to the Department of Justice. It's the same thing but on a much larger scale, obviously.

One of the things that I've tried to do there is to make sure that we are setting goals. I'm a big believer that you need to have strategic objectives, and that's right down to each and every component and each and every employee of the Department of Justice having a strategy and goals that they're setting.

So, that's something that we're working on now: What are the things that we're going to proactively push forward in the Department? So, as a manager, I'm trying to gather the information there and to be able to set some of those goals going forward for the next 2 years, or it's not quite 2 years that's left now.

I think I mentioned a little bit earlier that one of the—I think a critically important thing that we do at the Department of Justice is to continually reassess what our greatest law enforcement challenges are and to ensure that we are devoting our resources to those issues and those challenges rather than just continuing to do the same old thing that we've been doing before.

So I'm asking our law enforcement agencies, as well as our 38 components, to go through and to do a current assessment as to where we are and what our challenges are so that we can better focus our resources there going forward.

I know that being a chief operating officer and a business person is something that you have experience at, and so I would welcome any advice from you as to things that—of ways that we could best manage the Department of Justice.

Senator PERDUE. Spend less money.

[Laughter.]

Senator PERDUE. Let me follow up. You served as the vice chair of the Attorney General's Advisory Committee, I think, in your role in Georgia for several years, if I remember correctly. You were involved in their Smart on Crime initiative, if I'm correct. Can you discuss why you thought Smart on Crime was necessary and what your role in the design and implementation of that was and why it's pertinent today?

Ms. YATES. Thank you, Senator. Actually, as a business person I think it's something that you could relate to because Smart on Crime was really about ensuring that we were using our limited Federal resources, our prosecutive resources and our resources of Federal prison bed space, in a way that would keep our country as safe as possible.

Smart on Crime was designed to identify those defendants who are causing or wreaking the greatest havoc in our communities and to ensure that our lengthy prison sentences are reserved for those defendants so that we can free up the other resources that we so greatly need in the area of prosecutors, in the area of investigators, and in being able to provide resources to our State and local law enforcement officers. You know, having the cop on the street is one of the most important things that we can do for public safety.

Senator PERDUE. Let me change gears once again. You testified earlier—I think in 2011—that the Sentencing Commission, on the issue of supervised release for illegal immigrants who are in the Federal criminal justice system—I think in your testimony, you explained the Justice Department's position that these individuals should continue to be eligible for supervised release after sentencing. That was a position contrary to Commission recommendation. Can you talk a little bit about your position and the one ultimately taken by the Commission?

Ms. YATES. I believe the Commission ultimately did go the other way on that but I think at the time the Department believed that it was really important that we maintain supervision in the event that we have a defendant, for example, reenter, and reenter illegally, that we would be able to use the tools that we need to be able to bring them immediately back into the court system at that point.

Senator PERDUE. And one last question, with a minute left. I know this is a longstanding question. But in your role as Deputy, you support the Attorney General, obviously, and your ultimate boss is the President of the United States.

And when you disagree with the Attorney General, who's your boss, and you disagree with the President, and you have to command respect for the people inside the Department of Justice that

execute on a daily basis to make us safer, and you said safety and not statistics was your number 1 goal, help me understand how you will balance those three issues relative to the ultimate objective you have of making us safer as a country.

Ms. YATES. Well, Senator, throughout my career I have made it a practice to speak my mind. I've done that during the time that I was a line assistant, I've done that during the time that——

Senator PERDUE. Can we ask your husband that?

[Laughter.]

Ms. YATES. He might like me to speak my mind a little less, to be honest with you. But I have made it a practice to speak my mind, and that's something that I certainly would continue to do if I am fortunate enough to be confirmed in this position. You're right.

If I'm confirmed, I'm the Number 2, not the Number 1, person. I would not be the chief policymaker, but rather essentially the chief operating officer. But I still expect that my view would be solicited, and even if it's not solicited I might give it.

Senator PERDUE. Thank you for your testimony.

Thank you, Mr. Chairman.

Ms. YATES. Thank you.

Chairman GRASSLEY [presiding]. Senator Franken.

Senator FRANKEN. So it's up to me to decide whether I'm ready or not?

Senator BLUMENTHAL. You have a right to remain silent.

[Laughter.]

Chairman GRASSLEY. But difficulty doing so.

Senator FRANKEN. I'm not ready.

Chairman GRASSLEY. Okay. Senator——

Senator FRANKEN. Actually, I'm doing this just out of respect for Senator Sessions and I'm completely ready, but I'd rather he go because of my great respect for him.

Senator SESSIONS. Senator Franken is always ready and he's very good at timing, you can be sure of that.

Well, Ms. Yates, you are going into a different world than the United States Attorney's Offices. I've got to tell you, I've observed both over the years and you're going to need all those values that you learned appearing before Federal judges every day, knowing that you prosecute one person one day and another one the next, and it's absolutely essential that in both cases the law was applied fairly.

I feel that almost every United States Attorney that has any good character understands the pressure and the burdens to do that. Director Freeh, the former FBI Director, is so complimentary of you and came by, even though he had to struggle a bit, to make sure we knew that he thought you were exceptional. Your background is a good background for this job, and the Atlanta office has always been a good office. And the King & Spalding team, with former Attorney General Griffin Bell, is a good firm to have been associated with, that's for sure.

But this tends to be a political world at the top of the Department of Justice and I guess my first question to follow up on is, do you understand that in this political world there will be people calling, demanding, pushing, insisting on things that they do not

know what they're asking for and could, indeed, be corrosive of the rule of law, could diminish the respect the Department of Justice has, could diminish the rule of law in the United States? Are you aware of that? Maybe you've already learned that in the time you've been there.

Ms. YATES. Well, you're right, Senator, I'm not from here. I have only been here for a couple of months. But I can tell you, I am committed to the Department of Justice. I love our Department. I care deeply about our mission and I would do everything in my power to protect the integrity that is the Department of Justice.

Senator SESSIONS. Well, I understand that. Senator Lee asked you about this tax situation, whether President—I think I heard him say if he just decides that the 35 percent tax rate is too high, he's going to say we're not going to collect more than 25 percent, and you said, after pressed a little bit, doesn't sound like something I'd agree with. I'd say that shouldn't take you too long to say, "No, this isn't right."

Ms. YATES. Well, I agree, Senator. I think what I was telling you was that that was certainly my gut reaction to it. But if I'm going to be doing battle with anybody, I want to make sure that I have the law and the facts and the precedent behind me to be able to give a reasoned judgment. And if I'm in a discussion where people have different views, I want to make sure I've got what I need to back up my views.

Senator SESSIONS. Well, you have to watch out because people will be asking you to do things you just need to say "no" about. Do you think the Attorney General has a responsibility to say "no" to the President if he asks for something that's improper?

A lot of people have defended the Lynch nomination, for example, by saying, well, he appoints somebody who's going to execute his views. What's wrong with that? But if the views the President wants to execute are unlawful, should the Attorney General or the Deputy Attorney General say "no"?

Ms. YATES. Senator, I believe that the Attorney General or the Deputy Attorney General has an obligation to follow the law and the Constitution and to give their independent legal advice to the President.

Senator SESSIONS. Does the Office of Legal Counsel, which makes many of these opinions that impact policy, does it report through the Deputy's Office or directly to the Attorney General?

Ms. YATES. Well, when you look at the org chart, the Office of Legal Counsel reports to the Deputy's office. But it's important that the Office of Legal Counsel also be independent because Federal agencies across our Government regularly come to the Office of Legal Counsel seeking advice and guidance about what is permissible and what isn't. It's critically important that the OLC advice, the Office of Legal Counsel advice, be just that, advice, and that it not be advocacy.

Senator SESSIONS. Well, that's true. And, like any CEO with a law firm, sometimes the lawyers have to tell the CEO, Mr. CEO, you can't do that. Don't do that, you'll get us sued. It's going to be in violation of the law. You'll regret it. Please, no matter how headstrong they might be. Do you feel like that's the duty of the Attorney General's Office?

Ms. YATES. I do believe that that's the duty of the Attorney General's Office, to fairly and impartially evaluate the law and to provide the President and the administration with impartial legal advice.

Senator SESSIONS. And just as in a fraud case or any other drug case you might have prosecuted—excellently, it appears over the years—immigration law is important to be consistently and effectively enforced, should it not?

Ms. YATES. I believe that all of our laws should be consistently and effectively enforced and within the confines of the Constitution.

Senator SESSIONS. Well, and that's a good answer, but they're not being. So you're taking over as a Deputy to the Attorney General of the United States of America and we have just a collapse of integrity in immigration enforcement and the President's position on Executive amnesty just accelerates collapse of integrity, resulting in, for example, the lowest morale in the Department of Homeland Security officers who enforce the law of any Department in the entire Government, maybe even sued their supervisors because they're being told to not follow their oath to enforce the law, but to carry out political policies. There's a lawsuit over that. They sued their bosses over that, and I think they're correct.

Now, I remember John Ashcroft, as Attorney General for Bush, he's been celebrated for being—when he was in the hospital they tried to get him to sign a document that dealt with terrorism that he thought went too far. He refused to do so. So I hope that you feel free to say "no" in the character of John Ashcroft, and others who said "no" to President Nixon on certain issues.

Let me just ask you briefly this question. I'd like to have a clear answer, if I could. Do you think that the President's Executive action announced on November 20th is legal and constitutional? Can you give us a "yes" or "no" answer?

Ms. YATES. Well, Senator, since mid-January I've been serving as the Acting Deputy Attorney General of the Department of Justice and the Department of Justice is currently litigating this matter, and so since I'm the Acting Deputy Attorney General of the Department of Justice when it's litigating this, it's really not appropriate for me to give you my personal opinion about this matter, or any other matter that the Department of Justice is litigating.

Senator SESSIONS. Well, the only thing I care about is your official position. So your official position is, you're defending the President's action in court. Isn't that correct?

Ms. YATES. The Department of Justice has filed pleadings with its position and I stand by those pleadings.

Senator SESSIONS. Thank you.

Chairman GRASSLEY. Senator Klobuchar.

Senator KLOBUCHAR. Well, thank you very much, Mr. Chairman, and thank you so much, Ms. Yates, for being here. I enjoyed the visit we had. I know one of the things that Senator Cornyn asked you about that the two of us have been working on together very hard is the trafficking issue, and I know he asked you about some of the border issues. And I actually went down there with Cindy McCain on this issue of trafficking and had a very good visit about that last year.

But I thought I'd just ask you what you have done in the Northern District of Georgia to address human trafficking in your former job and how you see it going forward domestically with the Department of Justice.

Ms. YATES. Well, as we've talked about some here this morning, human trafficking is one of the most pressing criminal justice issues that we're facing in the Department and in our country right now. When I became U.S. Attorney 5 years ago, I highlighted human trafficking as being an area where we were going to prioritize resources.

We actually were one of the first offices in the country to form an ACT team, which is essentially a task force of Federal agencies and prosecutors, as well as State and local prosecutors, to go after, as aggressively as we possibly could, the traffickers and those who were assisting the traffickers with these young women and children.

As important as aggressive enforcement is, though, that alone is not enough. So one of the first things that I did was to hold a human trafficking summit and to ensure that we were first educating our community about what's going on within their very neighborhoods.

That's important for a couple of reasons, not just general public education, but because it's also important that we educate people about the signs of human trafficking so that when they see someone that they think could be in that position, that they'll alert law enforcement.

A third thing that we did was actually to train law enforcement in Georgia about, again, recognizing the signs of human trafficking. It's oftentimes the local street cop who's most likely to encounter the trafficking victim. They really didn't know what to be looking for, and oftentimes they looked at these young women and children as willing prostitutes as opposed to trafficking victims.

So we engaged in some very intense training so that they would recognize those signs and, in fact, just a couple of weeks after one of our first trainings a local law enforcement officer pulled over a car on the interstate and there was a man and a young girl, a teenaged girl there, that just didn't feel quite right to him based on the training he had received.

So, he did what he was trained to do, and that was to separate the two of them. And when he did, he learned from this young girl that she had been trafficked for 2 years, since she was 14 years old, and had been praying to be rescued. Because of the training he had received, she was rescued. I say that not to pat us on the back for doing the training, but rather to highlight how important it is that we do more than just focus on enforcement, that we need to educate and train as well.

Senator KLOBUCHAR. Exactly. Well, I appreciate that and we're hopeful we'll reach some kind of agreement on the legislation on the floor and be able to move forward and help with some funding, as well as the Safe Harbor bill that I'm leading that passed through this Committee unanimously a few weeks ago, which I think gives some guidance and incentives for the States.

The Civil Rights bill. This marks the 50th anniversary. So many people gathered in Selma. I know that Senator Sessions was there,

and others. Half a century later we've made tremendous progress in ensuring the voting rights, but I've been disappointed that we haven't been able to move forward on the Voting Rights Amendment Act. As we know, there are some Republicans that are cosponsoring it in the House.

What are your plans to ensure that the Justice Department remains committed to protecting the right to vote?

Ms. YATES. Well, I was incredibly privileged to be able to be in Selma for the anniversary, and I think that Congressman Lewis' presence here earlier today, it's a really powerful reminder of the sacrifices that he and our other fellow citizens have made to ensure that everyone has the right to vote.

I can tell you that if I am confirmed as Deputy Attorney General, I believe it is my responsibility to do everything I can to safeguard that precious right to vote. Indeed, I think it's the responsibility of all citizens to do everything they can to safeguard the right to vote of their fellow citizens.

Senator KLOBUCHAR. Well, thank you. I have some questions I'll put in the record.

Senator KLOBUCHAR. Senator Lee chairs, now, the Anti-Trust Subcommittee and I'm the Ranking Member, so we care a lot about that. I think you and I briefly talked about the metal theft issue. But I think I'll end with synthetic drugs, something that the Chairman and I have worked on, along with Senator Schumer. They continue to be a big problem across the country. We have made some headway.

We actually have some bills to reclassify some of the substances that were very helpful, actually, in a major case that the U.S. Attorney's Office successfully won in Minnesota. But part of the problem here is that sellers of these drugs have managed to continue to find loopholes in the law. They simply make a minor change to the molecular compound and then slap a not-for-human-consumption label on the drug.

I've worked with bipartisan support over the past several years to help close those loopholes dealing with these not-for-consumption labels. It's necessary for law enforcement to be able to successfully prosecute these cases. We actually have been working on a bill, working with the DEA.

I think our work is not done, Mr. Chairman, on these issues. I know Senator Feinstein is also interested. But could you talk about the problem with trying to go after those cases with the not-for-consumption labels?

Ms. YATES. Well, thank you, Senator, for your work on that and for your interest in this issue because synthetic drugs are a real danger, particularly for our youth. They are incredibly deadly. In fact, this has been a real problem in the State of Georgia and an area where we really have emphasized again the public education, as well as prosecution.

You're also absolutely right that they just keep changing up the chemical structure in it. So for Federal prosecutions we've had to use the analog statute. The analog statute is very difficult and convoluted.

Senator KLOBUCHAR. And that's what we're trying to make some changes to.

Ms. YATES. Yes.

Senator KLOBUCHAR. Yes.

Ms. YATES. And it makes it essentially a battle of chemistry experts, which you can talk about—you know, as compelling as these cases are, the jury's eyes are glazing over as they are hearing the battle of the chemistry experts.

Senator KLOBUCHAR. Not to mention, in some of the rural jurisdictions, finding chemical experts and paying for them. Yes.

Ms. YATES. It can end up becoming more of a science class than a trial where you have individuals, oftentimes teenagers, who have died as a result of these drugs. So we are very grateful to you for your leadership on this issue and think that this is both, as so many areas are in our criminal justice area, it's a criminal justice issue but this is a public health issue as well.

Senator KLOBUCHAR. Okay. Thank you very much. I appreciate it.

Thank you, Mr. Chairman.

Chairman GRASSLEY. Thank you.

Now, Senator Franken.

Senator FRANKEN. Thank you. Thank you, Mr. Chairman.

Ms. Yates, first of all, congratulations on your nomination.

Ms. YATES. Thank you.

Senator FRANKEN. During your short time as Acting Deputy Attorney General you and I have had occasion to speak on a number of occasions and on some issues that I care about. I'd like to thank you for taking those concerns to heart and working with my office to see that they're addressed. We also met in my office earlier about this nomination earlier this month, and I'm impressed by your grasp of the issues and your commitment to enforcing the law.

You and I have spoken twice about the issue of terrorist recruitment. It's an issue that I and Senator Klobuchar have been very focused on because we've seen it happening in Minnesota for some time, starting before I came to office, first with al-Shabaab, and more recently with ISIL.

I've pressed the FBI Director and others publicly on the issue over the years and it's something that I and Senator Klobuchar will continue to press DOJ on. Last September, we urged the Department to make sure it was focusing its resources on countering violent extremism in the United States in places where those efforts are needed most, and we were pleased to see that Minnesota was chosen as one of those sites for the new DOJ pilot program on that.

We've been in touch with law enforcement, as well as the local community in Minnesota, on an ongoing basis. I'm going to continue, and so will Senator Klobuchar, the implementation of the program and we'll keep pressing the administration and make sure both the State is getting the resources it needs and that the affected communities are fully engaged. Real cooperation with the community and responsiveness to their concerns is essential for this program's success.

Now, I understand you've been in communication with Andy Luger, our U.S. Attorney there, about the need for the program to start as soon as possible. We have some real momentum. When we had the Summit at the White House, I thought that our pilot program showed that it was in motion. Will you commit to working

with us to make sure that this happens so that we can be sure that our efforts to counter violent extremism are effective, and do you have any thoughts on how to improve or expand upon the pilot program?

Ms. YATES. Yes. Well, thank you for the question, Senator, and thank you for meeting with me and giving me an opportunity to talk with you on a couple of occasions now about these issues. Certainly countering violent extremism has always been important, but even more so now.

We've seen a level of sophistication from ISIL that really demands a comprehensive response. And it can't just be a law enforcement response, it has to be a response in coordination with our communities. That's what these pilot programs are designed to do.

When you and I had an opportunity to speak, I think I told you that Minneapolis has been at the very top of the list in terms of the effectiveness of that program and the really comprehensive approach being taken there and partnership between law enforcement and the communities. This is crime prevention and it is the most essential crime prevention that we can be doing. So the Department is absolutely committed to working with you, and with all, in ensuring that we're doing this as effectively as possible.

Senator FRANKEN. And hopefully that we'll get the resources that we need without delay so that the momentum that Andy has started will continue, right?

Ms. YATES. Absolutely, Senator. In fact, I was at the same CV conference as well and had an opportunity to not just hear from various folks in the different cities who were engaged in this, but to feel the energy in the room. There is an urgency about this. And I agree with you that the resources will be critical to being able to do that as well.

Senator FRANKEN. Thank you.

I want to talk about mental health and law enforcement. For years, public officials have been concerned about our Nation's overflowing prison system. America has 5 percent of the world's population but 25 percent of its inmates. I think one of the biggest problems is that we've used our criminal justice system as a substitute for a well-functioning mental health system.

Use of solitary confinement and a lack of adequate mental health resources are part of a vicious cycle in our prisons. It's a cycle that especially poor individuals, those who have been unable to afford to access mental health services, are especially likely to get caught up in and with devastating consequences.

This is why I will be reintroducing my bill on criminal justice and mental health very soon, called the Comprehensive Justice and Mental Health Act, and it makes smart investments in law enforcement training, critical intervention training, treatment and counseling, corrections-based programs, and mental health and veterans' courts.

My question is, Will you work with me on these efforts and what do you think you can do as Deputy Attorney General to promote a positive approach to dealing with mental health in our criminal justice system?

Ms. YATES. Well, thank you, Senator. Absolutely, I would look forward to working with you on this. This is one of the most chal-

lenging issues that we have in the Department of Justice now. Within the last couple of years there has been a push toward veterans' treatment courts, as an example of the issue that you talked about there. This is something that U.S. Attorneys across the country are now exploring, and certainly that's something I believe, as Deputy Attorney General, that I can encourage those types of courts as well.

Senator FRANKEN. Well, this Act would fund veterans' treatment courts and mental health courts where the prosecutor, the arresting officer, the defense attorney, and the judge all agree that this person does not belong in the criminal justice system.

It may be, in the case of a drug court, someone who's medicating a mental illness—and certainly are men and women who came back from Iraq and Afghanistan, have been doing that to a great degree—and they deserve to not be put in prison, but to have the opportunity to be diverted into a treatment program.

Ms. YATES. Yes. Well, I would look forward to working with you on that, Senator.

Senator FRANKEN. Okay. I've run out of my time. I'll submit a couple of questions for the record. Thank you very much, Mr. Chairman.

[The questions appear as a submission for the record.]

Ms. YATES. Thank you.

Chairman GRASSLEY. Senator Whitehouse.

Senator WHITEHOUSE. Thank you very much, Mr. Chairman. Welcome, Ms. Yates. Good to have you here. Congratulations on your nomination. I look forward to working with you. As a refugee of the Department of Justice, I know what an absolutely essential role the Deputy Attorney General, the DAG, has in the operations of the Department.

Our Chairman, Senator Grassley, and I will be working together on the reauthorization of the Juvenile Justice bill, and I know that that's an important area to the Department. We look forward to working with you to enable that bill to move forward and get passed into law. It's been many years since there's been an authorization.

We've learned a lot about how juveniles are treated in the system and what's effective and what isn't since then, so I think there are very positive bipartisan effects that we can have through this legislation. I want to thank the Chairman for taking the leadership role in this reauthorization. It's obviously significant when a Chairman is willing to do that, so thank you, sir.

We've talked in the hearing quite a bit about sentencing reform. I'm obviously very involved in that with Senator Cornyn on the reentry side of the discussion and we hope that our bill will be a vehicle that can move forward and perhaps get other elements added to it as well into a more comprehensive package. I also have a bill on comprehensive addiction recovery. That's less immediately DOJ's business, but we do have it in this. It's a very related issue, let me put it that way.

I hope that we can get your support in working through any issues that come up in the context of addiction recovery. There was a school of thought for a while that drug use was a moral failing and an evil and that the best way to get after it was to punish it

in a whole variety of ways, including creating a whole raft of collateral consequences that ensure if you have a drug conviction that—I mean, there are hundreds of these laws that have been put all over the place.

I think upon more mature reflection, we've seen that treatment works, recovery works, and when somebody's on a path to recovery you're really not helping them or anybody else by saying you can't work in schools, you can't get a college loan, you can't do this, you can't do that, you can't do the other.

So, I hope you will work with us on that, and I'd just like to hear your thoughts about the role of moving from a more treatment-based response to addiction and away from a incarcerative and punitive response.

Ms. YATES. Well, thank you, Senator, for your work on this and for your question. We certainly have seen in States across the country, red States and blue States, that have taken really more creative approaches to addressing criminal justice and particularly drug use issues.

We see in our criminal justice system that drug addiction does fuel many crimes, and that I look at this as really a form of crime prevention, of trying to address an addiction issue to ensure that that person has a path forward and to ensure that others then are not victimized when they commit crimes that are driven, in part at least, by their drug addiction. So I would look forward to working with you and others on that matter.

Senator WHITEHOUSE. Good.

The last topic I wanted to address with you is cyber security. Cyber security has a lot of different elements to it. It has a national security element. Obviously there's considerable capacity for sabotage against the electric grid and other very essential elements of our infrastructure.

There is a huge flow of intellectual property that is stolen out of people's computers. I think the vast majority of it probably ends up in China, where they have a policy of trying to steal American intellectual property for mercantile reasons so they can compete with us without having to pay to license the technology.

There's enormous amounts of financial crime, not just around America, but around the world, hugely lucrative for these criminals, and then there are privacy concerns obviously when your Social Security information is being hacked, stolen, and sold on a website so that somebody can open up a credit card in your name, that kind of stuff.

So I think it's a very big deal. I think we need to be deliberating what our law enforcement response to it should look like. I noticed that it is basically a subset of the FBI's responsibilities, with Secret Service and other agencies having also a piece of it. That does not seem particularly thoughtfully organized. I note that cyber is probably a greater risk to our country now than narcotics trafficking and alcohol, tobacco, firearms, and explosives.

Yet, we have entire agencies dedicated to those and no agency specifically dedicated to cyber. I note that within the Department of Justice the cyber responsibility is divided between the Criminal Division and the National Security Division, and I note that about

every 6 months there's a new iteration of the structure for dealing with cyber that emerges from the Department.

So clearly we have a work in progress, but I would like to ask you if you would commit to working with us and with OMB—we're bringing OMB to these conversations because I know how awkward it is for an executive agency to have a conversation about budget without the OMB keepers present in the room. They get quite cross about that if they're not there. To have a conversation about, in the out years, what should our cyber law enforcement structure look like? I don't think we're there yet. I don't know if you think we're there yet, but I certainly think it's a conversation worth having and I'd like to hear your thoughts.

Ms. YATES. Thank you, Senator. You have really touched on one of the most critical challenges that faces the Department of Justice and our law enforcement community, and our national security intelligence community now. You rightly pointed out that it touches every aspect of our lives and there is certainly great work being done to attempt to coordinate our efforts in this area, both on the national security side and on the criminal side.

But I think that you're right, that we need to step back and try to think about how we can structure ourselves in a way that would be most efficient going forward. You know, this is an area, too, in contrast to a lot of other criminal justice challenges, that is evolving, that is changing every day and changing rapidly.

I think it's incumbent upon us not to just keep up with it, but to get out in front of it and to try to project where we're going to be 5, 10, 20 years from now and to be structured in a way that we will be able to adequately respond.

Senator WHITEHOUSE. Well, thank you, Chairman. I look forward to the conversations between OMB, DOJ, and Members of this Committee to look forward and make sure we're set up properly to deal with this threat.

Thank you, Chairman.

Chairman GRASSLEY. I have two or three questions, and we have a vote at noon. I think both I and Senator Blumenthal will be able to finish our questioning. I would ask if you would finish up the meeting after I go. Is that okay?

Senator BLUMENTHAL. That's fine.

Chairman GRASSLEY. Okay.

But before I ask the questions, just to thank you for your appearance today. Members who couldn't be here, or even in my case, will have some questions in writing and people will have a few days to submit those questions. We'd like to have those back before you go on the agenda, and I think you'll be able to do that. The few days I was talking about, is the record will stay open for 1 week.

I have a question dealing with whistleblowers. This may have been something we discussed privately, but I want to go over it again. Earlier this month we held a hearing looking into the regulations that are supposed to protect FBI whistleblowers.

The Justice Department and the Government Accountability Office have both published reports concluding that many FBI whistleblower cases are dismissed on technicalities because the whistleblower reported wrongdoing to, quote, unquote, "the wrong person."

Do you think the system is working as it should to encourage and protect the whistleblower at the FBI, and then in regard to the wrong person, why wouldn't it be all right to protect—to have protected disclosure if made to a direct supervisor?

Ms. YATES. Well, thank you, Senator. First, let me thank you for the honor of appearing here before you today, and I also want to thank you for your work with respect to whistleblower protections. I know that this is something that has been a priority for you. You've been at this for a very long time. And, as a U.S. Attorney who prosecuted False Claims cases, for example, I know how important whistleblowers are. They help to root out fraud and corruption and malfeasance, and they're critical.

I will tell you, in my role as the chief operating officer of the Department, I also think that they will play a critical role for me in helping to identify problems within our own organization so that we can operate as efficiently and fairly as we are charged with doing.

I have not yet seen this report. I'm looking forward to reviewing that report and determining what actions, if any, need to be taken to ensure that whistleblowers are having the kind of protection that they need to be able to come forward.

Chairman GRASSLEY. Well, I think you answered my next question just now.

Ms. YATES. That's a relief.

[Laughter.]

Chairman GRASSLEY. Because it was about that report—again, I would suggest to you, but also your comment whether or not DOJ regulations should be amended to clearly protect FBI employee disclosures to Congress, and if you don't think so, why?

Ms. YATES. Well, Senator, I've not had an opportunity to look at that specific issue. I can tell you I certainly believe that whistleblowers need to be protected. That's critically important for them to feel comfortable to be able to come forward, and if there are revisions that need to be made, I certainly would want to look at those and to work with you to make those revisions. I simply have not had an opportunity to look at that specific provision to be able to give you a reasoned or a knowledgeable answer on that.

Chairman GRASSLEY. Well, then, instead of two questions along this line that I was going to finish my line of questioning on this issue, let me suggest to you that the Department of Justice should make sure that whistleblowers aren't sanctioned for violating gag orders that are—and gag orders are used to thwart congressional oversight of whistleblower cases. And there, at least, ought to be an exception in any gag order for disclosures to the Congress. And then, my final admonition would be, whether you would review that report before you answer my written questions.

Ms. YATES. I would certainly be happy to review that report, yes, Senator.

Chairman GRASSLEY. Thank you. And then this will help you maybe give thorough answers to the questions that I just gave.

This will have to be my last issue. In the last 2 months, the Inspector General has notified Congress that the FBI impeded his access to records four separate times as part of four separate IG reviews. Apparently the delay is due to the FBI's desire to review the

materials first and then obtain permission to disclose from the Attorney General or from you in your Deputy position.

One of the delays involved the IG's review of two FBI whistleblower complaints. How is it appropriate for the FBI to decide which documents it will produce to independent investigators looking into whether the whistleblower retaliated against the FBI? We're talking about the power of the Inspector General.

Ms. YATES. Thank you, Senator. I believe that the Inspector General plays a really critical role at the Department of Justice, again, in helping us to identify misconduct or malfeasance, or just waste, fraud and abuse. That's one of the reasons why one of the first things I did when I became Acting Deputy Attorney General was to ask to sit down with our Inspector General.

He and I have known each other for a long time. We were public corruption chiefs, he in the Southern District of New York and I in Atlanta, years ago, and have known each other for a long time. I talked with him about this issue that you have described here.

My understanding of this issue is, that it's an issue that relates to how certain documents that are protected by the grand jury secrecy privilege or are protected pursuant to wiretap orders are reviewed and produced to the IG.

It's my understanding that those documents have never been withheld, but rather our investigative agencies believed they needed to do a review of those documents and have—and go through a particular process before they could be provided to the Inspector General.

Despite the fact they've always been provided, I understand, I get that he needs to get those documents quickly and so for the last few weeks I've been working with folks in the Department of Justice to try to come up with a procedure that will expedite our ability to be able to provide those documents very quickly to the Inspector General.

If that is not satisfactory to him, we would be happy to work with you and other Members of Congress on any legislation, if it's needed, to be able to make sure that we can comply with the law, yet also be able to get our IG the documents that he needs as quickly as possible.

Chairman GRASSLEY [off microphone]. I think the law is pretty clear that the IG——

Ms. YATES. Okay.

Chairman GRASSLEY. Now, I thank Senator Blumenthal for finishing the meeting.

Senator BLUMENTHAL. Actually, I'm going to finish it right now because I don't have any additional questions. I want to thank Ms. Yates and her family again. Thank you for your public service and your willingness to undertake this very, very important responsibility and for your excellent testimony today. Thank you.

Chairman GRASSLEY. Yes.

Ms. YATES. Thank you, Mr. Chairman and Senator Blumenthal. It has been a privilege. Thank you.

Chairman GRASSLEY. Once again, meeting adjourned. Thank you. Thank you.

[Whereupon, at 11:57 a.m., the hearing was adjourned.]

[Additional material submitted for the record follows.]

APPENDIX

Additional Material Submitted for the Record

Witness List

Hearing before the
Senate Committee on the Judiciary

On

"Deputy Attorney General Nomination"

Tuesday, March 24, 2015
Dirksen Senate Office Building, Room 226
10:00 a.m.

Sally Quillian Yates, to be Deputy Attorney General

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

1. **Name: State full name (include any former names used).**

   Sally Quillian Yates, formerly Sally Caroline Quillian.

2. **Position: State the position for which you have been nominated.**

   Deputy Attorney General, Department of Justice

3. **Address: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.**

   950 Pennsylvania Avenue, N.W.
   Washington, D.C. 20530

4. **Birthplace: State date and place of birth.**

   1960, Atlanta, Georgia

5. **Education: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.**

   University of Georgia School of Law, 1983-1986, J.D., *magna cum laude*, 1986
   University of Georgia, 1978-1982, B.A., 1982

6. **Employment Record: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.**

   United States Department of Justice
   950 Pennsylvania Avenue, N.W.
   Washington, D.C. 20530
   Acting Deputy Attorney General
   1/2015 - present

United States Attorney's Office
Northern District of Georgia
75 Spring Street, S.W., Suite 600
Atlanta, GA 30303
1989 to 1/12/2015
Assistant United States Attorney (AUSA), 9/1989 - 7/1994
Chief, Fraud and Public Corruption Section, 7/1994 - 3/2002
First Assistant United States Attorney, 3/2002 - 3/2010
Acting United States Attorney, 7/2004 - 11/2004 and 8/2009 - 3/2010
United States Attorney for the Northern District of Georgia, 3/2010 - 1/2015

King & Spalding
1180 Peachtree Street, N.E.
Atlanta, GA 30309
Associate
9/1986 – 9/1989

Troutman, Sanders Lockerman and Ashmore
127 Peachtree Street
Atlanta, GA 30043
Summer Associate
7/1985 - 8/1985

King & Spalding
1180 Peachtree Street
Atlanta, GA 30309
Summer Associate
6/1985 - 7/1985

Swift, Currie McGhee and Hiers
771 Spring Street
Atlanta, GA 30379
Summer Associate
5/1984 - 8/1984

Congressman Jack Brinkley
U.S. House of Representatives
Washington, D.C. 20515
Staff Assistant
10/1981 - 12/1982

7. **Military Service and Draft Status: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.**

I have not served in the U.S. Military. I am not subject to selective service registration requirements.

8. **<u>Honors and Awards</u>: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.**

Urban League of Greater Atlanta Champion of Justice Award, 2013

Georgia Asylum and Immigration Network Award for Human Trafficking, 2013

Islamic Speakers Bureau of Atlanta Building Bridges Award, 2011

Stonewall Bar Association Award, 2011

University of Georgia School of Law Distinguished Alumni Advocacy Award, 2010

Director's Award from the Executive Office for United States Attorneys, 2008
Presented for the prosecution of 12 city officials and contractors, including former Mayor Bill Campbell.

National Association of Former United States Attorneys Exceptional Service Award, 2008
Presented for leadership of the U.S. Attorney's office as a line Assistant U.S. Attorney, Section Chief, and First Assistant U.S. Attorney.

Georgia Chief Justice's Commission on Professionalism, 2008 - 2010

Atlanta Bar Association Leadership Award, 2006

Attorney General's John Marshall Award, 2006
Selected to receive the Department of Justice's highest award for excellence in legal performance for the prosecution of Olympic Bomber Eric Rudolph.

Common Cause of Georgia Democracy Award, 2006 (est.)
Recognized for career contributions in the area of public corruption.

Director's Award from the Bureau of Alcohol, Tobacco and Firearms, 2006
Awarded for the prosecution of Eric Rudolph.

Internal Revenue Service Award, 2006
Presented for the prosecution of former Mayor Bill Campbell.

Foundation for Improvement of Justice Award, 2006
Presented award seeking to "recognize innovative and effective work and/or programs whose efforts have made positive influential differences in the United States criminal and civil judicial arenas."

Federal Bureau of Investigation Director's Award, 2005
Presented for the prosecution of a former City of Atlanta Commissioner.

American College of Trial Lawyers, 2004 - present
Selected from over 100 inductees from the United States and Canada to address the College on behalf of all of the inductees.

Georgia State Committee, 2005 - 2010: Chosen to serve on Committee to select attorneys from Georgia to be nominated for membership in the College.

Leadership Atlanta, 2002 - present
Co-Chair, Criminal Justice Day, 2008

American Inn of Court, Master of the Bench, 2002 - present

Federal Employee of the Year Hammer Award, 2000

Department of Health and Human Services Integrity Award, 1995

Drug Enforcement Administration Award, 1994
Presented for a series of trials and convictions for cocaine trafficking organization.

Small Business Administration Award, 1991

Department of Justice Special Achievement Awards for Sustained Superior Performance
Received multiple awards during career with the Department of Justice.

President, Atlanta Council of Younger Lawyers, Atlanta Bar Association, 1994

Georgia Law Review, Executive Articles Editor; Order of the Coif; Order of the Barristers; Edenfield Scholar; Mock Trial Best Advocate in State Award

9. **Bar Associations: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.**

State Bar of Georgia
At large delegate, Younger Lawyers Section, 1987 - 1989 (est.)
Atlanta Bar Association
President, Atlanta Council of Younger Lawyers, 1993 - 1994
Member, Atlanta Council of Younger Lawyers, 1989 - 1995 (est.)
11th Circuit Judicial Conference, participant, 2002 (est.)
Georgia Chief Justice's Commission on Professionalism, 2008 - 2010

10. **Bar and Court Admission:**

a. **List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.**

State Bar of Georgia, 1986. No lapses in membership.

b. **List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.**

United States District Court for the Northern District of Georgia, 1987 - present
United States Court of Appeals for the Eleventh Circuit, 1990 - present
Supreme Court of Georgia, 1986 - present
Georgia Court of Appeals, 1986 - present
No lapses in membership.

11. **Memberships:**

a. **List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.**

American College of Trial Lawyers, 2004 - present
American Inn of Court, 2002 - present (est.)
Chief Justice's Commission on Professionalism, 2008 - 2010
Atlanta Bar Association, 1986 - 1995 (est.); President, Atlanta Council of Younger Lawyers, 1994
Leadership Atlanta, 2007 - 2010
State Bar of Georgia, 1986 - present
University of Georgia School of Law Alumni Association Council, 1996 - 1998

b. **Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.**

To my knowledge, none of these organizations have ever discriminated on the basis of race, sex, religion, or national origin.

12. **Published Writings and Public Statements:**

a. **List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.**

April 2013
The Atlanta Lawyer

Op-Ed, Combatting Modern Day Slavery in Georgia in the Twenty-First Century
Copy Attached

April 16, 2011
Gwinnett Daily Post
Op-Ed, The Face of Terrorism is Multi-Hued
Copy Attached

Fall 1984
Georgia Law Review (19 Ga. L. Rev. 159)
Case Comment Analyzing a Supreme Court Decision
Ohio v. Johnson: Prohibiting the Offensive Use of Guilty Pleas to Invoke Double Jeopardy Protection
Copy Attached

b. **Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.**

None.

c. **Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.**

I have done my best to identify any testimony, official statements, or other communications related, in whole or in part, to matters of public policy or legal interpretation, including a thorough review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find, or remember. I have located the following:

June 10, 2014 – Testimony before the United States Sentencing Commission in my capacity as a Department of Justice official on retroactive application of the pending drug guideline amendment to the Federal Sentencing Guidelines.
Copy Attached

February 16, 2011 – Testimony before the United States Sentencing Commission in my capacity as a Department of Justice official on proposed amendments to the Federal Sentencing Guidelines.
Copy Attached

May 27, 2010 – Testimony before the United States Sentencing Commission in my capacity as a Department of Justice official on mandatory minimum sentences.
Copy Attached

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

During the time that I was an AUSA, I spoke at Department of Justice annual training seminars on public corruption and Institute of Continuing Legal Education seminars on various legal topics. I do not have transcripts of these events, nor do I have copies of any notes.

I have done my best to identify transcripts or recordings of all speeches or talks delivered, including through a review of personal files and searches of publicly available electronic databases. I frequently use the text of a speech from a prior event, speak without notes, or speak from a handwritten outline. I did not retain the majority of the handwritten outlines and have attached all that I could find. Despite my searches, there may be other materials I have been unable to identify, find, or remember. I have located the following:

Speeches:

December 1, 2014
Law Enforcement and Community
Ebenezer Baptist Church
Atlanta, GA
Copy Attached

November 13, 2014
United States Attorney's Office Reentry Initiatives
Home for Good Reentry Forum
John Marshall Law School
Chicago, IL
Record Available at:
http://www.johnmarshall.edu/2014/12/ajmls-honored-u-s-attorneys-office-community-outreach-award/

November 12, 2014
Reentry Speech
Oglethorpe University
Atlanta, GA
Copy Attached

October 16, 2014
Welcoming Remarks
At-Risk Adults at Care Facilities Seminar
Atlanta Metropolitan State College
1630 Metropolitan Parkway, S.W.

Atlanta, GA
Copy Unavailable

August 20, 2014
Welcoming Remarks
Law Enforcement Training Regarding Transgender, Community Relations Service
Sam Nunn Federal Center
61 Forsyth Street, S.W.
Atlanta, GA
Copy Unavailable

July 30, 2014
Opening Remarks
Synthetic Drug Conference
Georgia State University
33 Gilmer Street
Atlanta, GA
Copy Unavailable

May 20, 2014
Everybody Wins
Mary McLeod Bethune Elementary
220 Northside Drive, N.W.
Atlanta, GA
Copy Unavailable

May 14, 2014
Atlanta Law Enforcement Agencies Memorial Service
Woodruff Park
Peachtree Street, N.E.
Atlanta, GA
Copy Unavailable

April 14, 2014
Welcoming Remarks
United States Attorney's Office Synthetic Drug Conference
Georgia World Congress Center
285 Andrew Young International Boulevard, N.W.
Atlanta, GA
Copy Unavailable

March 31, 2014
Concerned Black Clergy – Prisoner Reentry
Vicars Community Center
838 Cascade Road, S.W.
Atlanta, GA
Copy Unavailable

March 14, 2014
Introduction for Dr. C.T. Vivian
Constitutional Law Symposium
Atlanta-Buckhead Westin
Atlanta, GA
Copy Attached

February 5, 2014
Opening Remarks
Reentry Summit
United States Attorney's Office and Governor's Officer of Transition, Support, and Reentry
75 Spring Street, S.W.
Atlanta, GA
Record Available at:
http://www.justice.gov/usao/gan/community/summitonreentry.html

January 24, 2014
Outreach Event
2014 In-Girls Leadership Symposium
75 Spring Street, S.W.
Atlanta, GA
Record Available at:
https://www.facebook.com/media/set/?set=a.237305099785037.1073741843.134084430107105&type=3

November 21, 2013
Opening Remarks
Washington High School Law Symposium
Atlanta, GA
Copy Attached; Notes Attached

November 19, 2013
Grant Presentation to Boys & Girls Clubs of Atlanta
Boys & Girls Clubs of Atlanta
Atlanta, GA
Copy Attached

November 18, 2013
Healthcare Speech - Initiatives in Healthcare Fraud
Atlanta, GA
Copy Attached

November 16, 2013
Keynote Address
Atlanta Young Muslim Professionals
Atlanta, GA
Copy Attached

October 30, 2013
Opening Remarks
Third Annual Federal Law Enforcement Symposium
Booker T. Washington High School
45 Whitehouse Drive, S.W.
Atlanta, GA
Copy Unavailable

October 16, 2013
Protecting Civil Liberties While Assuring Public Safety
Anti-Defamation League Civil Rights Symposium
Emory University
Atlanta, GA
Copy Attached

October 10, 2013
Welcome to Law Enforcement Chiefs
Anti-Gang Training
U.S. Attorney's Office for the Northern District of Georgia
75 Spring Street, S.W.
Atlanta, GA
Copy Unavailable

September 26, 2013
Crime Challenges in Atlanta
Buckhead Business Association
Atlanta, GA
Copy Attached

August 13, 2013
Diversity
Georgia Asian-Pacific Judges Recognition, McKenna Long Aldridge
Atlanta, GA
Copy Attached

June 18, 2013
Crime Challenges in Atlanta
Eggonomics Breakfast
All Saints Episcopal Church
Atlanta, GA
Copy Attached

April 24, 2013
Welcoming Remarks
FBI Active Shooter Training
Georgia World Congress Center
285 Andrew Young International Boulevard, N.W.
Atlanta, GA
Copy Unavailable

March 22, 2013
Represent Your City Essay Contest & Awards Ceremony
Morehouse College
830 Westview Drive, S.W.
Atlanta, GA
Copy Unavailable

February 19, 2013
Welcoming Remarks
National Black History Month Program
L.D. Strom Auditorium
75 Spring Street, S.W.
Atlanta, GA
Copy Unavailable

January 17, 2013
Crime Challenges in Atlanta
Cobb County Bar Association
Marietta, GA
Copy Attached

November 13, 2012
Crime Challenges in Atlanta
Atlanta Capital Bank Business Leaders Breakfast
Atlanta, GA
Record available at:
http://archive.constantcontact.com/fs143/1104540986126/archive/1112872178133.html

November 10, 2012
Introduction of the Award Recipient
Islamic Speakers Bureau
Cobb Galleria Centre
2 Galleria Parkway, S.E.
Atlanta, GA
Copy Unavailable

November 4, 2012
Combatting Child Sex Trafficking Summit
The Temple
1589 Peachtree Street, N.E.
Atlanta, GA
Record available at:
http://wabe.org/post/atlanta-jewish-community-vows-fight-child-sex-trafficking

October 29, 2012
Crime Challenges in Atlanta
Buckhead Rotary Club Meeting
Atlanta, GA
Copy Attached

October 4, 2012
Investor Fraud Summit
U.S. Department of Justice
Vanderbilt University School of Law
Flynn Auditorium
131 21st Avenue South
Nashville, TN
Copy Unavailable

June 6, 2012
Crime Challenges in Atlanta
Atlanta Metropol Meeting
Georgia Power Company
241 Ralph McHill Boulevard, N.E.
Atlanta, GA
Copy Unavailable

May 17, 2012
Crime Challenges in Atlanta
Leadership Atlanta Speaker Series
The Commerce Club
191 Peachtree Street, N.E.
Atlanta, GA
Copy Unavailable

April 17, 2012
Introduction of Attorney General Eric Holder
Good Apple Awards, Georgia Appleseed Center for Law & Justice
Atlanta, GA
Copy Attached

March 29, 2012
Welcoming Remarks
Reentry Program at the Atlanta Food Bank
Atlanta Community Food Bank
732 Joseph E. Lowery Boulevard, N.W.
Atlanta, GA
Copy Unavailable

March 20, 2012
Women's Law Alumni Meeting
Georgia Law
Atlanta, GA
Copy Attached

March 14, 2012
Opening Remarks
FBI Public Corruption Seminar
Centers for Disease Control

1600 Clifton Road
Atlanta, GA
Copy Unavailable

February 28, 2012
Opening Remarks
Georgia Bureau of Investigation Human Trafficking Training Program
Street Address Unavailable
Atlanta, GA
Copy Unavailable

February 17, 2012
Corporate Criminal Liability
Atlanta, GA
Copy Attached

December 15, 2011
Luncheon Speech
Southeast Healthcare Fraud Conference
State Bar of Georgia
Street Address Unavailable
Atlanta, GA
Copy Unavailable

December 1, 2011
Crime Challenges in Atlanta
Georgia District Attorneys Association
Hilton-Atlanta
255 Courtland Street, N.E.
Atlanta, GA
Copy Unavailable

November 18, 2011
Enforcement Priorities for the Northern District of Georgia
Atlanta Bar Breakfast Meeting
Colonnade Restaurant
1879 Cheshire Bridge Road, N.E.
Atlanta, GA
Copy Unavailable

September 21, 2011
Human Trafficking
Georgia Association for Women Lawyers Annual Judicial Conference
Street Address Unavailable
Atlanta, GA
Copy Unavailable

September 13, 2011
Welcoming Remarks

Youth Justice Summit
Georgia State University
33 Gilmer Street
Atlanta, GA
Copy Unavailable

August 12, 2011
Welcoming Remarks
Reentry Event
Morehouse School of Medicine
720 Westview Drive, S.W.
Atlanta, GA
Copy Unavailable

August 8, 2011
Voting Rights Act
First Congressional Forum on Voting Rights
Ebenezer Baptist Church
Atlanta, GA
Copy Attached

August 1, 2011
Welcoming Remarks
Human Trafficking Summit
Georgia State University
Atlanta, GA
Copy Attached

June 30, 2011
Prisoner Reentry
Lindsay Baptist Church
550 Lindsey Street, N.W.
Atlanta, GA
Copy Unavailable

June 30, 2011
Violent Crime in the Northern District of Georgia
Community Forum, U.S. Attorney's Office for the Northern District of Georgia
Atlanta, GA
Copy Attached

June 3, 2011
Welcoming Remarks
Federal Agencies Sharing Successes and Resources with the Locals
Internet Crimes Against Children Task Force Quarterly Meeting with the Georgia Bureau of Investigation
Street Address Unavailable
Atlanta, GA
Copy Unavailable

June 2, 2011
Women In Law
Atlanta Women's Foundation
Atlanta, GA
Copy Attached

May 13, 2011
Outreach Event
Booker T. Washington High School
Atlanta, GA
Copy Attached

April 21, 2011
Crime Challenges in Atlanta
DeKalb County Bar Association
Decatur, GA
Copy Attached

April 20, 2011
Welcoming Remarks
Elder Abuse Training Seminar
Street Address Unavailable
Atlanta, GA
Copy Unavailable

April 17, 2011
Human Trafficking
Glenn Memorial Baptist Church
1660 Decatur Road
Atlanta, GA
Copy Unavailable

April 12, 2011
Introduction of Georgia Bureau of Investigation Director Vernon Keenan for the Charles Weltner Freedom of Information Award
Georgia First Amendment Foundation
Woodruff Arts Center
1280 Peachtree Street, N.E.
Atlanta, GA
Copy Unavailable

March 25, 2011
Women's History Month
Drug Enforcement Administration
Atlanta, GA
Copy Attached

March 22, 2011
Women's History Month

Securities and Exchange Commission
950 East Paces Ferry, N.E.
Atlanta, GA
Copy Unavailable

March 2, 2011
Welcoming Remarks
Prescription Drug Forum
Georgia State University Student Center, Speakers' Auditorium
44 Courtland Street
Atlanta, GA
Copy Unavailable

February 7, 2011
Crime Challenges in Atlanta
Atlanta Rotary Club
Atlanta, GA
Copy Attached

February 4, 2011
Human Trafficking
Atlanta Women's Foundation
North Avenue Presbyterian Church
607 Peachtree Street, N.E.
Atlanta, GA
Record Available at:
http://jjie.org/band-of-women-volunteers-hunt-for-pimps-who-sell-children-for-sex-online/9441/comment-page-1/

January 25, 2011
Keynote Address
Atlanta Police Department Graduation
Atlanta Civic Center
395 Piedmont Avenue
Atlanta, GA
Copy Attached

January 25, 2011
Welcoming Remarks
Georgia Association of Chiefs of Police Winter Conference
Omni Hotel
100 CNN Center
Atlanta, GA
Copy Unavailable

November 4, 2010
Crime Challenges in Atlanta
Leadership Atlanta Public Safety Day
Atlanta City Hall

68 Mitchell Street, S.W.
Atlanta, GA
Copy Unavailable

August 11, 2010
The Evolution of Federal Prosecution in the Northern District of Georgia: An Informal Discussion with the New United States Attorney
Atlanta Bar Association Criminal Law Luncheon
Gordon Biersch
848 Peachtree Street, N.E.
Atlanta, GA
Copy Unavailable

July 21, 2010
Project Safe Neighborhood Youth Leadership Summit
Atlanta, GA
Copy Attached

June 25, 2010
ABA Summer Law Intern Program
Alston & Bird
Atlanta, GA
Copy Attached

June 11, 2010
Investiture Ceremony
Atlanta, GA
Copy Attached

June 10, 2010
Welcoming Remarks
FBI All Georgia Agents Conference
Street Address Unavailable
Atlanta, GA
Copy Unavailable

May 18, 2010
Welcoming Remarks
Hate Crimes Training
Atlanta, GA
Copy Attached

May 14, 2010
Welcoming Remarks
ATAC Training
2635 Century Parkway, N.W.
Atlanta, GA
Copy Unavailable

April 16, 2010
Federal Bar Luncheon
Kilpatrick Stockton
1100 Peachtree Street, N.E.
Atlanta, GA
Record available at:
http://www.fedbaratlanta.org/pdf/fba_-_2010jun11_-_newsletter.pdf

March 29, 2010
Welcoming Remarks
Law Enforcement Executive Development Association Conference
Federal Bureau of Investigation
Atlanta Marriott Marquis
265 Peachtree Center Avenue, N.E.
Atlanta, GA
Copy Unavailable

March 20, 2010
Women's Law Alumni, University of Georgia Law School
Athens, GA
Copy Attached

September 22, 2006
Acceptance Speech
Foundation for Improvement of Justice Award
The Ritz-Carlton
181 Peachtree Street, N.E.
Atlanta, GA
Copy Attached

April 28, 2006
Acceptance Speech for Leadership Award
Atlanta Bar Association
Atlanta, GA
Copy Attached

2006 (est.)
Acceptance Speech for Democracy Award
Common Cause of Georgia
The Park Tavern
500 10th Street, N.E.
Atlanta, GA
Copy Unavailable

October 23, 2004
Acceptance Speech at the Induction Ceremony On Behalf Of The Class Of Inductees
American College of Trial Lawyers
St. Louis, MO
Copy Attached

Additional general handwritten notes for speeches (3); copies attached.

Panels:

November 21, 2014
Panel Discussion on Human Trafficking
Rotary International Human Trafficking Zone meeting
Omni Grove Park Inn
290 Macon Avenue
Asheville, NC
Copy Unavailable

September 12, 2014
Panel Discussion on Law Enforcement Initiatives
Southeast White Collar Crime Institute
Chateau Elan
100 Rue Charlemagne
Braselton, GA
Copy Unavailable

July 29, 2014
Panel Discussion on False Claims Act
AAJ Convention
Baltimore Convention Center
One West Pratt Street
Baltimore, MD
Copy Unavailable

May 8, 2014
Panel Discussion on "Leading a Life of Purpose"
United Way Women's Leadership Council
Georgia Public Broadcasting
260 Fourteenth Street, N.W.
Atlanta, GA
Copy Unavailable

April 22, 2014
Panel Discussion on Voting Rights
Atlanta Law Day
State Bar of Georgia
104 Marietta Street, N.W.
Atlanta, GA
Record available at: http://www.gabar.org/lawday.cfm

April 21, 2014
Panel Discussion on Human Trafficking
Atlanta Rotary Club
Loudermilk Center

40 Courtland Street, N.E.
Atlanta, GA
Copy Unavailable

March 7, 2013
Panel Discussion on Discovery
White Collar Crime Institute Conference
The Cosmopolitan of Las Vegas
3708 South Las Vegas Boulevard
Las Vegas, NV
Copy Unavailable

January 25, 2012
Panel Discussion on Human Trafficking
National Association of Hispanic Journalists
Street Address Unavailable
Atlanta, GA
Copy Unavailable

October 30, 2012
Panel Discussion for "Life in the Law" Series
Georgia Association for Women Lawyers
Emory University School of Law
1301 Clifton Road, N.E.
Atlanta, GA
Copy Unavailable

October 13, 2011
Panel Discussion
Criminal Justice Forum and Public Safety Day
Fulton County Superior Court
136 Pryor Street, S.W.
Atlanta, GA
Copy Unavailable

August 8, 2011
Panel Discussion on Engaging Law Enforcement in the Community
NeighborWorks Training Institute
Street Address Unavailable
Atlanta, GA
Copy Unavailable

May 3-5, 2011
U.S. Attorney Panel
Gatlinburg Law Enforcement Conference
Gatlinburg Convention Center
234 Historic Nature Trail
Gatlinburg, TN
Copy Unavailable

April 15, 2011
Panel Discussion
South Carolina Bar Association
Street Address Unavailable
Columbia, SC
Copy Unavailable

May 4, 2010
Panel Discussion on Role of U.S. Attorney
Gatlinburg Law Enforcement Conference
Gatlinburg Convention Center
234 Historic Nature Trail
Gatlinburg, TN
Copy Unavailable

April 3, 2009
Panel Discussion on Ethics, Public Corruption
American Bar Association, White Collar Crime Subcommittee
Renaissance Ross Bridge Golf Resort and Spa
4000 Grand Avenue
Birmingham, AL
Record Available at:
http://apps.americanbar.org/crimjust/calendar/2009springconference.pdf

2008 (est.)
Panel Discussion on Criminal Trials
American College of Trial Lawyers
Chicago, IL
Copy Unavailable

CLE:

February 29, 2012
Crime Challenges Facing Atlanta
Continuing Legal Education hosted by Jones Day
Atlanta, GA
Copy Attached

January 31, 2012
Panel Discussion
Continuing Legal Education
Lawyers Club
1230 Peachtree Street, N.E.
Atlanta, GA
Copy Unavailable

April 30, 2010
Role of U.S. Attorney
Foreign Corrupt Practices Act (FCPA) Program
Institute for Continuing Legal Education
104 Marietta Street, N.W.
Atlanta, GA
Copy Unavailable

October 16, 2009
Panel Discussion Concerning Trials
Legal Ethics and Professionalism Symposium
Institute for Continuing Legal Education
104 Marietta Street, N.W.
Atlanta, GA
Copy Unavailable

March 20, 2009
Panel Discussion on Corporate Internal Investigations
Institute of Continuing Legal Education in Georgia
104 Marietta Street, N.W.
Atlanta, GA
Copy Unavailable

March 19, 2008
Panel Discussion on Corporate Internal Investigations
Institute of Continuing Legal Education
104 Marietta Street, N.W.
Atlanta, GA
Copy Unavailable

March 16, 2007
Panel Discussion on Corporate Internal Investigations
Institute of Continuing Legal Education
104 Marietta Street, N.W.
Atlanta, GA
Copy Unavailable

January 25, 2007
Panel Discussion on White Collar Crime
Institute of Continuing Legal Education
104 Marietta Street, N.W.
Atlanta, GA
Copy Unavailable

November 4, 2005
Panel Discussion on Trial Strategy
Institute of Continuing Legal Education
University of Georgia School of Law
120 Herty Drive

Athens, GA
Copy Unavailable

December 2, 2004
Panel Discussion on the Corporate Counsel Institute
Institute of Continuing Legal Education
104 Marietta Street, N.W.
Atlanta, GA
Copy Unavailable

September 17, 2004
Panel Discussion on Federal Criminal Practice
Institute of Continuing Legal Education
104 Marietta Street, N.W.
Atlanta, GA
Copy Unavailable

April 10, 2003
Panel Discussion at the Health Care Fraud Institute
Institute of Continuing Legal Education
104 Marietta Street, N.W.
Atlanta, GA
Copy Unavailable

March 28, 2003
Panel Discussion on Securities Law
Institute of Continuing Legal Education
104 Marietta Street, N.W.
Atlanta, GA
Copy Unavailable

December 4, 2003
Panel Discussion on White Collar Crime
Institute of Continuing Legal Education
104 Marietta Street, N.W.
Atlanta, GA
Copy Unavailable

List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

I have done my best to identify all interviews given, including through a review of personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find or remember. I have located the following:

July 21, 2014
National Public Radio, All Things Considered, Carrie Johnson

By Putting Interrogations on Tape, FBI Opens Window into Questioning
Transcript Attached

July 17, 2014
National Public Radio, Morning Edition, Carrie Johnson
Commission to Decide If Some Federal Inmates Will Be Let Out Early
Transcript Attached

July 5, 2014
Focus Atlanta-Channel 69
New Beginnings Program, Keisha Lancelin
Reentry, Recidivism
Interview available at:
https://www.youtube.com/watch?v=N6ZUTJX61GA and https://vimeo.com/102144942

June 4, 2014
The Atlanta Journal-Constitution, Steve Visser
Probe of Botched Raid Grows
Copy Attached

March 14, 2014
Washington Post, Sari Horwitz
Prosecutors Fight Plan to Lower Drug Sentences
Copy Attached

March 2, 2014
Fox 5 News - Atlanta
Prescription Drug Forum
Video Unavailable

January 21, 2014
Fulton County TV
Interview with Commissioner Joan Garner
Crime in Atlanta
Video Unavailable

November 13, 2013
WSB-TV
Interview for Urban League of Greater Atlanta Awards Gala
Video Unavailable

September 15, 2013
The Atlanta Journal-Constitution, Henry Unger
5 Questions for the Boss Lessons Learned by Top Executives; Sally Yates: 'Nobody is a Success on Their Own'
Copy Attached

September 11, 2013
WSB-TV, Mark Winne

Top Federal Officials Say Sequestration Cuts Putting People's Safety At Risk
Interview available at:
http://www.wsbtv.com/news/news/local/top-federal-officials-say-sequestration-cuts-putti/nZtMZ/

August 13, 2013
The Atlanta Journal-Constitution, Steve Visser, Bill Rankin
Crime and Punishment; U.S. Drug Penalties May See Changes
Copy Attached

April 14, 2013
The Atlanta Journal-Constitution, Kelly Yamanouchi
The Leaders; Women Helping Women
Copy Attached

April 7, 2013
The Atlanta Journal-Constitution, Kelly Yamanouchi
High Expectations
Copy Attached

March 31, 2013
The Atlanta Journal-Constitution, Kelly Yamanouchi
Aiming for the Top
Copy Attached

March 26, 2013
The Atlanta-Journal Constitution, Phil Skinner
Powerful Women
Transcript Unavailable

August 19, 2012
The Atlanta Journal-Constitution, Bill Rankin
High Cost of Prosecution: Death Penalty Bid Falls Apart
Copy Attached

June 4, 2012
National Public Radio, Pat Walters
Militia of Georgia Defendants
Audio Unavailable

February 15, 2012
Christian Broadcasting Network, Heather Sells
Human Trafficking
Video Unavailable

February 15, 2012
Georgia Public Television
Primetime Lawmakers, Lara Fawaz
Human Trafficking

Interview available at:
http://www.gpb.org/lawmakers-tv/2012/02/15

January 25, 2012
WSB Radio
Interview on Human Trafficking
Audio Unavailable

March 24, 2011
The Atlanta Journal-Constitution, Marcus K. Garner
Cop Killing Signals a Nationwide Trend
Copy Attached

February 25, 2011
The Associated Press, Greg Bluestein
Prescription Drugs
Video Unavailable

June 20, 2011
CNN
Human Trafficking
Video Unavailable

March 28, 2011
CNN
Sex Trafficking
Video Unavailable

March 24, 2011
MSNBC
Sex Trafficking
Video Unavailable

March 3, 2011
Channel 46
Human Trafficking
Video Unavailable

February 28, 2011
Georgia Public Television
Human Trafficking
Video Unavailable

February 28, 2011
Channel 2
Prescription Drug Forum
Video Unavailable

November 12, 2010
The Deal, George Bailey
The Dark Side
Copy Attached

October 15, 2010
Hip Hop Enquirer (www.hiphopenquirer.tv)
Remarks Regarding Probation Violation and Sentencing for Mr. Clifford Harris (aka "TI")
Interview at:
https://www.youtube.com/watch?v=KXzfT0xmJMo

April 29, 2010
The Atlanta Journal-Constitution, Bill Rankin, Paul Donsky
Failed GA Banks Probed; Feds Won't Say How Many or Which Ones Are Being Investigated
Copy Attached

April 4, 2010
Gainesville Times, Stephen Gurr
Federal Prosecutor Yates Recognizes 'Sacred Privilege': Newly Appointed U.S. Attorney Comes from Line of Lawyers
Copy Attached

October 29, 2009
PR Newswire, U.S. Attorney's Office for the Northern District of Georgia Press Release
Atlanta Man Pleads Guilty in Connection with Sex Trafficking Scheme and Mann Act Charges
Copy Attached

October 27, 2009
Targeted News Service, DEA Atlanta Field Office Press Release
Mexican Drug Traffickers Arrested Here as Part of Nationwide 'Project Coronado' Takedown
Copy Attached

October 20, 2009
US Fed News, U.S. Attorney's Office for the Northern District of Georgia Press Release
Retail Sales Associates Sentenced for Assisting Credit Card Fraud Schemes
Copy Attached

October 15, 2009
Targeted News Service, FBI Atlanta Field Office Press Release
Former Polk County Jail Sergeant Sentenced to Federal Prison for Beating Inmate
Copy Attached

October 15, 2009
UPI
Deputy Imprisoned for Inmate Assault
Copy Attached

October 9, 2009
Targeted News Service, FBI Atlanta Field Office Press Release

Atlanta Chiropractors Indicted for Health Care Fraud
Copy Attached

October 8, 2009
US Fed News, U.S. Attorney's Office for the Northern District of Georgia Press Release
Three-Time Convicted Felon Sentenced to 15 Years for Possession of Ammunition
Copy Attached

October 8, 2009
US Fed News, U.S. Attorney's Office for the Northern District of Georgia Press Release
Miami Man Convicted in Million Dollar Medicaid Fraud
Copy Attached

October 8, 2009
US Fed News, U.S. Attorney's Office for the Northern District of Georgia Press Release
Former Housing Authority Director Sentenced
Copy Attached

October 8, 2009
US Fed News, U.S. Attorney's Office for the Northern District of Georgia Press Release
Marietta Driver's License Examiner Charged With Extortion
Copy Attached

October 1, 2009
US Fed News, U.S. Attorney's Office for the Northern District of Georgia Press Release
Mississippi Woman Indicted on Charges Related to Hurricane Katrina Fraud
Copy Attached

October 1, 2009
US Fed News, U.S. Attorney's Office for the Northern District of Georgia Press Release
Adairsville Man Sentenced for Child Pornography
Copy Attached

October 1, 2009
US Fed News, U.S. Attorney's Office for the Northern District of Georgia Press Release
Illegal Alien Sentenced for Illegal Re-entry Into U.S.
Copy Attached

October 1, 2009
US Fed News, U.S. Attorney's Office for the Northern District of Georgia Press Release
Former Fulton County Jail Detention Officer Pleads Guilty to Lying to Federal Grand Jury About Death of Inmate
Copy Attached

September 28, 2009
US Fed News, U.S. Attorney's Office for the Northern District of Georgia Press Release
Gainesville Man Sentenced for Child Pornography Offenses
Copy Attached

September 21, 2009
US Fed News, U.S. Attorney's Office for the Northern District of Georgia Press Release
Former Army Official and Former Military Contractor Sentenced for Multi-million Dollar Bribery, Kickback Scheme
Copy Attached

September 19, 2009
US Fed News, U.S. Attorney's Office for the Northern District of Georgia Press Release
Former Randstad Branch Manager Sentenced to Federal Prison for Embezzlement
Copy Attached

September 19, 2009
US Fed News, U.S. Attorney's Office for the Northern District of Georgia Press Release
Defendant Pleads Guilty to Making Bomb Threats to the Atlanta Housing Authority
Copy Attached

September 19, 2009
US Fed News, U.S. Attorney's Office for the Northern District of Georgia Press Release
'Career Criminal' Pleads Guilty to Armed Bank Robbery
Copy Attached

September 14, 2009
US Fed News, U.S. Attorney's Office for the Northern District of Georgia Press Release
Kavaklov Sentenced for Major ATM Skimming Operation
Copy Attached

September 14, 2009
US Fed News, U.S. Attorney's Office for the Northern District of Georgia Press Release
Head of English Language School Sentenced to Federal Prison for Immigration Fraud Conspiracy
Copy Attached

September 14, 2009
US Fed News, U.S. Attorney's Office for the Northern District of Georgia Press Release
Deposit of Stolen Economic Stimulus Checks & Income Tax Refund Checks Leads to Indictment of Tax Preparer on Charges of Bank Fraud, Bank Bribery
Copy Attached

September 14, 2009
US Fed News, U.S. Attorney's Office for the Northern District of Georgia Press Release
Airline Passenger Sentenced to Federal Prison for Attempting to Smuggle Heroin into U.S.
Copy Attached

September 14, 2009
The Associated Press
2 Men Sentenced in Georgia Bribery Scheme
Copy Attached

August 27, 2009
US Fed News, FBI Atlanta Field Office Press Release
Former Fulton County Jail Lieutenant Pleads Guilty to Using Excessive Force Against Inmate, Lying to FBI Agent
Copy Attached

June 29, 2007
U.S. Department of Justice Press Release
Acuity Specialty Products Group Pleads Guilty to Violating Clean Water Act; Company Fined $3.8 Million
Copy Attached

June 9, 2007
The Atlanta Journal-Constitution, Bill Torpy
Campbell Claims Unjust Sentencing; Attorney Says Judge Punished Ex-mayor for Some Things of Which He Was Acquitted
Copy Attached

June 14, 2006
The Atlanta Journal-Constitution, Bill Torpy, Jeffry Scott, Beth Warren
Prison for Ex-Mayor; 30-month Sentence is an 'Abomination,' Campbell Says
Copy Attached

June 9, 2006
The Associated Press
Piedmont Hospital to Pay $3 Million to Settle Whistleblower Lawsuit
Copy Attached

June 9, 2006
Atlanta Business Chronicle
Piedmont Hospital Settles Suit
Copy Attached

March 20, 2006
Atlanta Business Chronicle, Ryan Mahoney
'Cesspool of Corruption'; Federal Prosecutors Describe City's Former 'Pay-to-play' Government
Copy Attached

March 18, 2006
Atlanta Inquirer
Former Mayor Receives Split Verdict
Copy Attached

March 13, 2006
02 WSB Atlanta, News Network Inc.
Both Sides in the Trial of Former Atlanta Mayor Bill Campbell Continue to Claim Victory
Transcript Attached

March 13, 2006
46 WGCL Atlanta, News Network Inc.
Campbell was Found Guilty of Tax Evasion Charges Friday and Acquitted on More Serious Corruption Charges
Transcript Attached

March 12, 2006
The Atlanta Journal-Constitution, Jeffry Scott, Beth Warren
Juror Confusion Aided Campbell on Bribe Charge
Copy Attached

March 11, 2006
The Atlanta Journal-Constitution, Bill Torpy, Jeffry Scott, Beth Warren
The Bill Campbell Verdict: Split Decision: Ex-Mayor Cleared of Public Corruption; Conviction on Tax Evasion Charges Could Lead to Prison Time
Copy Attached

March 11, 2006
The New York Times, Brenda Goodman
Split Verdict Ends Trial of Ex-Mayor of Atlanta
Copy Attached

October 18, 2005
States News Service, U.S. Department of Justice Press Release
Three Indicted in Forced Prostitution Scheme
Copy Attached

November 24, 2004
US Fed News, U.S. Attorney's Office for the Northern District of Georgia Press Release
Federal Grants Given for Law Enforcement Work in Human Trafficking Cases
Copy Attached

November 23, 2004
States News Service, U.S. Department of Justice Press Release
Atlanta Man Pleads Guilty to Lying to Federal Agents
Copy Attached

November 16, 2004
UPI, Les Kjos
Analysis: School Computers Fraud Targets
Copy Attached

November 11, 2004
The Atlanta Journal-Constitution, James Salzer
U.S. indicts Linda Schrenko; State's Former Top School Official is Accused of Stealing $500,000, Including $9,300 for Face-lift
Copy Attached

November 11, 2004
Augusta Chronicle, Walter C. Jones
School Official Named in Theft
Copy Attached

November 10, 2004
The Atlanta Journal-Constitution, Bill Rankin
Illegal Worker Scheme Alleged
Copy Attached

November 9, 2004
US Fed News, U.S. Attorney's Office for the Northern District of Georgia Press Release
'Operation Sugar Crisp' Takes Down Ring, Indictment Unsealed Naming 19 Defendants
Copy Attached

October 29, 2004
The Atlanta Journal-Constitution
Election 2004: On the Campaign Trail
Copy Attached

September 3, 2004
Atlanta Business Chronicle, Jacques Couret, Ryan Mahoney, Steven Sloane
Feds Indict Bill Campbell
Copy Attached

August 30, 2004
CNN.com
Former Atlanta Mayor Indicted
Copy Attached

December 17, 2003
The Atlanta Journal-Constitution, Richard Whitt
Skandalakis Pleads Guilty: 'We're satisfied justice has been done'; Ex-Fulton Chief Lied to FBI on Corruption
Copy Attached

December 5, 2003
The Atlanta Journal-Constitution, Richard Whitt
Ex-Fulton Official Gets 6 Months; Kenyon: 'Temptation' Present Daily
Copy Attached

October 18, 2002
The Atlanta Journal-Constitution, Richard Whitt, Alan Judd
Campbell Fund-Raiser Indicted; Contractor Accused of Lying to Jurors
Copy Attached

September 6, 2002
The Atlanta Journal-Constitution, Richard Whitt, Bill Rankin
Campbell Pal Guilty; Ex-mayor's Top Aide Admits to Taking Bribes

Copy Attached

October 19, 2001
The Atlanta Journal-Constitution, Alan Judd, Richard Whitt
Thornton Admits Bid to Buy Access; Contractor gave $130,000 to mayor
Copy Attached

October 18, 2001
The Associated Press, Megan Scott
Key Contributor to Mayor's Campaign Pleads Guilty to Federal Charge
Copy Unavailable

October 26, 2000
The Atlanta Journal-Constitution
CityLights: A Weekly Column of This and That
Copy Attached

October 18, 2000
The Atlanta Journal-Constitution, Sandra Eckstein
Hightower Gets 6 Months in Prison in Bribe Case
Copy Attached

October 17, 2000
The Atlanta Journal-Constitution, Bill Rankin, Sandra Eckstein
Hightower Gets Six Months in Jail
Copy Attached

June 6, 2000
The Associated Press, Russ Bynum
Fulton Commissioner Pleads Guilty, Resigns in Corruption Case
Copy Attached

March 30, 1999
The Atlanta Journal-Constitution, Bill Rankin
Ex-DeKalb Sheriff Headed to Prison; Pat Jarvis Also Fined $40,000 for Kickback Scams He Ran While in Office from 1976 to '95
Copy Attached

January 28, 1999
The Atlanta Journal-Constitution, R. Robin McDonald
Law Thwarted DA in Jarvis Probe; Ex-Sheriff Has Pleaded Guilty on Fraud Count
Copy Attached

January 21, 1999
The Associated Press, Pam Easton
Former Braves Pitcher, DeKalb County Sheriff Pleads Guilty to Fraud
Copy Attached

October 27, 1998
CNN, Bobbie Battista
Manhunt: The Searches for Eric Robert Rudolph and Dr. Barnett Slepian's Killer
Copy Attached

October 16, 1998
The Atlanta Journal-Constitution, Ron Martz, Kathy Scruggs
Feds mum on Rudolph's Atlanta Ties
Copy Attached

October 15, 1998
Cox News Service, Ron Martz, Kathy Scruggs
Officials Continue to Withhold Details about Rudolph Link to Atlanta
Copy Unavailable

October 14, 1998
Federal News Service
News Conference with Attorney General Janet Reno and FBI Director Louis Freeh
Copy Attached

January 24, 1998
The Atlanta Journal-Constitution, Kathy Scruggs
Airport Scam Felon Says Jail Could Kill Him; Paradies' Pleas: Court Hears Man's Claim His Health is Too Poor for Him to Serve Time for His Role in Kickback Scheme
Copy Attached

October 1997
Georgia Trend, Tom Barry
Forty Under 40
Copy Attached

September 24, 1996
The Atlanta Journal-Constitution, Bill Rankin
Convictions Upheld in Hartsfield Scandal
Copy Attached

January 11, 1996
The Atlanta Journal-Constitution, Bill Rankin
Two Convicted in Airport Scandal Make Appeals Today
Copy Attached

December 24, 1995
The Atlanta Journal-Constitution, Darryl Fears
Airport Taking Off Again After Kickback Scandal; Only Distractions Now Are Related to Construction, Hartsfield Chief Says
Copy Attached

September 2, 1994
The Atlanta Journal-Constitution, Douglas Blackmon
Guilty Plea Doesn't End Airport Probe
Copy Attached

August 23, 1994
The Atlanta Journal-Constitution, Douglas Blackmon
Fowlkes Guilty on 4 Counts
Copy Attached

August 23, 1994
The Atlanta Journal-Constitution, Douglas Blackmon, David Pendered
Airport Corruption Trial Prosecution Almost Faced a Hung Jury
Copy Attached

May 18, 1994
The Atlanta Journal-Constitution, Douglas Blackmon
Fowlkes Faces More Bribery Counts
Copy Attached

May 5, 1994
The Atlanta Journal-Constitution, Bill Rankin
Female Lawyer Going After Milestone
Copy Attached

January 23, 1994
The Atlanta Journal-Constitution, Douglas Blackmon
The Airport Trial: The Jury Decides Ira Jackson, Paradies Guilty in Airport Case One of Three is Innocent
Copy Attached

January 23, 1994
The Atlanta Journal-Constitution, Richard Whitt
The Airport Trial: The Jury Decides . . . but the Scandal is Far From Over
Copy Attached

January 22, 1994
The Associated Press
Former Atlanta Official Convicted in Airport Corruption Trial
Copy Attached

April 3, 1993
The Augusta Chronicle, John Winters
Plant Vogtle Criminal Probe Dropped
Copy Attached

13. **Public Office, Political Activities and Affiliations:**

a. **List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.**

Acting United States Attorney for the Northern District of Georgia
7/2004 - 11/2004 and 8/2009 - 3/2010

Member, Georgia Chief Justice's Commission on Professionalism
2008 - 2010 (est.; appointed by Chief Justice Leah Ward Sears)

United States Attorney for the Northern District of Georgia
3/2010 - 1/2015 (appointed by President Barack Obama)

Acting Deputy Attorney General
1/2015 - present (designated by President Barack Obama)

b. **List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.**

None.

14. **Legal Career:**

a. **Describe chronologically your law practice and legal experience after graduation from law school including:**

i. **whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;**

I never served as a judicial law clerk.

ii. **whether you practiced alone, and if so, the address and dates;**

I have never practiced alone.

iii. **agencies with which you have been affiliated, and the nature of your affiliation with each, the dates, names and addresses of law firms or offices, companies or governmental.**

King & Spalding
1180 Peachtree Street, N.E.
Atlanta, GA 30309

Associate
9/1986 - 9/1989

United States Attorney's Office
Northern District of Georgia
75 Spring Street, S.W.
Atlanta, GA 30303
1989 - 2015
Assistant United States Attorney, 9/1989 - 7/1994
Chief, Fraud and Public Corruption Section, 7/1994 - 3/2002
First Assistant United States Attorney, 3/2002 - 3/2010
Acting United States Attorney, 7/2004 - 11/2004; 8/2009 - 3/2010
United States Attorney, Northern District of Georgia, 3/2010 - 1/2015

Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Acting Deputy Attorney General, 1/2015 - present

iv. **whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.**

I have never served as a mediator or arbitrator.

b. **Describe:**

i. **the general character of your law practice and indicate by date when its character has changed over the years.**

ii. **your typical clients and the areas at each period of your legal career, if any, in which you have specialized.**

At King & Spalding, I was a commercial litigation associate. I was assigned to a wide variety of civil cases in all phases of litigation. I participated in civil discovery, motion practice, and appellate work. I worked in both state and federal court. As is discussed in more detail below, I also tried my first case, a civil jury trial, while at King & Spalding. When I joined the United States Attorney's Office, my practice shifted from civil to criminal. Between 1989 and 1994, while serving as a "line" AUSA, I prosecuted a broad spectrum of criminal matters, concentrating on fraud and public corruption cases, but also prosecuting some drug and violent crime cases as well. I handled all aspects of the prosecution, from grand jury investigation through plea or trial and appeal.

In 1994, I was promoted to Chief of the Fraud and Public Corruption Section of the office. In that position, I oversaw the investigation and prosecution of all white collar matters in the office and directly supervised fifteen attorneys. As Fraud Chief, I coordinated with the investigative agencies and determined what matters would be accepted for prosecution. I made all case assignments, monitored the progress of cases, and reviewed and approved all prosecutive decisions, such as indictments and plea agreements.

In 2002, I was promoted to the position of First Assistant United States Attorney. As First Assistant, I was the senior manager in the office of approximately 80 AUSAs and over 100 support personnel, overseeing all of its work in both criminal and civil litigation and administrative matters. Additionally, while First Assistant, I continued to handle a significant caseload. I served as the Acting United States Attorney from July 2004 until November 2004 and from August 2009 to March 2010.

In March 2010, I was appointed United States Attorney for the Northern District of Georgia. In that capacity, I oversaw the prosecution of all federal crimes and the litigation of civil matters in which the government had an interest in a district encompassing over 6 million residents. I supervised a staff of approximately 95 lawyers and 80 support personnel. I represented the Office in interactions with the public, the bench, and the defense bar. I also interacted with Department officials on policy issues.

From January 2013 to January 2015, I served as Vice Chair of the Attorney General's Advisory Committee of U.S. Attorneys.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

All of my practice has been in litigation. I appeared occasionally in state court as an associate at King & Spalding, frequently in federal court as a line AUSA in the United States Attorney's Office, and somewhat less frequently in court as Chief of the Fraud Section and First Assistant. As noted below, I did not directly litigate as U.S. Attorney.

i. Indicate the percentage of your practice in:
1. **federal courts** 95%;
2. **state courts of record** 5%
3. **other courts**
4. **administrative agencies**

ii. Indicate the percentage of your practice in:
1. **civil proceedings** 20%
2. **criminal proceedings** 80%.

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

Most criminal cases are resolved through guilty pleas and consequently most court appearances are for evidentiary hearings, sentencing hearings, etc. I have tried approximately 15 cases to verdict as sole or lead counsel. Additionally, I have assisted in numerous other cases, acting as a guide or mentor, with less experienced AUSAs.

i. What percentage of these trials were:
1. **jury** 100 %
2. **non-jury**

e. **Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.**

I have not practiced before the Supreme Court of the United States.

15. **Litigation: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also, state as to each case:**

a. **the date of representation;**

b. **the name of the court and the name of the judge or judges before whom the case was litigated; and**

c. **the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.**

Lovie Morrison Jones v . Michael R. Clarke, *et al.*, 87-CV-467-B (Sup. Ct. Barrow County 1987)

While an associate at King & Spalding, I represented *pro bono* the family of the first African-American landowner in Barrow County, Georgia, in a dispute over ownership of part of their 92-acre parcel. The family I represented had obtained a deed to the property, but being distrustful of the court system, had failed to record it in a timely manner. In the late 1980's, the property adjoining my client's land was sold to a local real estate developer and a conflicting survey, filed prior to my client's deed, reflected the annexation of part of the family's property.

I filed a civil action to recover my client's property. I tried the case, my first, over the course of a week. My colleague, the late Charles Kirbo, sat at counsel table with me to provide advice. The jury returned a verdict for my client.

I was sole counsel for Ms. Jones and her family, but I relied upon Mr. Kirbo for guidance.

Dates of Representation: 1987 - 1988
Court: Barrow County Superior Court
Judge: The Honorable L. Brooks (deceased)

Opposing Counsel: Robert Adamson (now Superior Court Judge)
P.O. Box 39
Homer, GA 30547
706-677-6282

United States v. Ira Jackson, *et al.*, 14 F. Supp. 1315 (N.D. Ga. 1998); 98 F.3d 1266 (11th Cir. 1996)

I served as lead counsel in a series of prosecutions concerning corruption and fraud in the Atlanta airport concessions industry. There were ten convictions of public officials and contractors in five separate schemes.

The Commissioner of Aviation and former City Councilman Ira Jackson, two local businessmen, and two corporations were prosecuted in a 133-count indictment on charges of fraud and corruption in connection with the concession program at the Atlanta airport. The investigation was long, complex, and involved thousands of documents, interviews of scores of witnesses, and the full spectrum of investigative techniques. Jackson and the two businessmen and two corporations were charged with violations of the mail fraud statute based upon Jackson's acquisition of a secret interest in an Atlanta airport concession owned by Dan Paradies. In a separate scheme, Jackson was charged with accepting regular payoffs from another concession owner, and Paradies was charged with conspiring with that concessionaire to make the illegal payoffs.

I was lead counsel on the case throughout the investigation, trial, and appeal. After a three week trial, Ira Jackson was convicted on all counts except one tax count; Dan Paradies, The Paradies Shops, and The Paradies Corporation were convicted on all counts; and Mack Wilbourn was acquitted on all counts. Ira Jackson was sentenced to 42 months in prison; Dan Paradies was sentenced to 33 months in prison; and the Paradies Corporations were ordered to pay a $1.5 million fine. The Eleventh Circuit affirmed all convictions and sentences.

Dates of Representation: 1992 - 1996
Court: United States District Court for the Northern District of Georgia
Judge: The Honorable Anthony A. Alaimo (deceased)

Co-counsel: William McKinnon
United States Attorney's Office
Northern District of Georgia
75 Spring Street, S.W.
Atlanta, GA 30303
404-581-6000

Opposing Counsel:
Ira Jackson: Bruce Kirwan
Kirwan, Parks Chesin & Remar
2600 The Grand
75 Fourteenth Street
Atlanta, GA 30309
404-873-8000

Dan Paradies: Bobby Lee Cook
P.O. Box 370
Summerville, GA 30309
706-857-3421

Larry Thompson
formerly with King & Spalding, now professor at University of Georgia Law

Athens, GA
706- 542-5185

The Paradies Shops
Paradies Midfield Corporation:
Emmet Bondurant
Bondurant, Mixon & Elmore
Suite 3900, Atlantic Center
Atlanta, GA 30309
404-881-4100

Mack Wilbourn: Jerry Froelich
2 Midtown Plaza Pl., Suite 1680
Atlanta, GA 30309
404-881-1111

United States v. Douglas "Buddy" Fowlkes, 100 F.3d 970 (11th Cir. 1996)

Buddy Fowlkes, a member of the Atlanta City Council and chairman of the Transportation Committee overseeing the Hartsfield-Jackson International Airport, was charged with accepting payoffs from one of the concessions owners and for failing to report those payoffs on his tax returns. In the course of an investigation into unrelated allegations of kickbacks to the former president of the principal concessionaire at the airport, evidence developed that Fowlkes had been accepting payoffs from one of the concessions owners. After that concessions owner pled guilty, he cooperated in the investigation and one of the payments was captured on tape.

I was lead counsel throughout the investigation, trial, and appeal. Fowlkes was convicted on one count of accepting corrupt payments and three counts of tax fraud. He was acquitted on the remaining counts. He was sentenced to 41 months in prison. The Eleventh Circuit affirmed the conviction and sentence.

Dates of Representation: 1992 - 1996
Court: United States District Court for the Northern District of Georgia
Judge: The Honorable Robert L. Vining, Jr.

Co-Counsel: William McKinnon
United States Attorney's Office
Northern District of Georgia
75 Spring Street, S.W.
Atlanta, GA 30303
404-581-6000

Opposing Counsel: Ed Garland
Don Samuel
Garland, Samuel and Loeb
3151 Maple Drive, N.E.
Atlanta, GA 30305
404-262-2225

United States v. Sanchez, *et al.*, 983 F.2d 1082 (11th Cir. 1993); 986 F.2d 507 (11th Cir. 1993); 11 F.3d 167 (11th Cir. 1993)

This case involved the prosecution of five members of a national cocaine distribution organization. The drug ring, originating in Mexico, was distributing significant quantities of cocaine in Atlanta every week. The case was particularly challenging because with respect to three of the defendants, it was what is known as a "dry conspiracy," meaning there was circumstantial evidence of a historical drug conspiracy, but no undercover transactions or drugs in evidence. The case was severed into three separate trials totaling approximately five weeks.

I was sole counsel on all three trials. One defendant pled guilty; the other four defendants were tried on a fourteen-count indictment, and all were convicted on all counts, with the exception of one count for one defendant. Defendants' sentences ranged from 10 to 22 years in prison. The Eleventh Circuit affirmed the convictions and sentences.

Dates of Representation: 1990 - 1993
Court: United States District Court for the Northern District of Georgia
Judge: The Honorable Robert L. Vining

Opposing Counsel:

R. Contrerras:	Paul Kish Kish & Lietz, P.C. 1700 South Tower 225 Peachtree Street, N.E. Atlanta, GA 30303 404-588-3991
A. Sanchez:	Michael Mears 985 Ponce De Leon Ave. Atlanta, GA 30306 404-894-2595 (Last available address)
R. Parks:	Steve Roberts 2786 North Decatur Road Decatur, GA 30033 404-296-5300
G. Lopez:	Martin Cowen P.O. Box 1195 Jonesboro, GA 30237 770-471-1683

United States v. Eric Robert Rudolph, 1:00-CR-805, 224 F.R.D. 503 (N.D. Ala. 2004)

I was the lead prosecutor on the Atlanta prosecution of Olympic bomber Eric Rudolph. I was assigned to the case in August 1996, shortly after Richard Jewell was eliminated as a suspect. Rudolph's bombings began in July 1996, during the Olympic Games in Atlanta when he placed a pipe bomb in Centennial Olympic Park that exploded and killed a 42 year-old woman and seriously injured more than

100 other people. The investigation expanded as more bombs exploded at an Atlanta abortion clinic in January 1997, an Atlanta night club in February 1997, and an abortion clinic in Birmingham in January 1998, killing an off-duty Birmingham police officer and maiming a nurse.

Rudolph was identified as a suspect in all the bombings shortly after the Birmingham bombing. He was indicted in Atlanta and Birmingham in 2001 and captured in 2003.

During the course of litigation on Rudolph's suppression motions, his counsel raised the possibility of a guilty plea that would spare him the death penalty. After discussions with family of Alice Hawthorne, the woman killed in Centennial Park; the family of Sandy Sanderson, the police officer killed in Birmingham; and with other victims, we entered into plea negotiations for the government, seeking a guilty plea to all the bombings and Rudolph's identifying the location of more than 250 pounds of highly volatile dynamite and other bomb-making components that the government believed he had hidden in western North Carolina. Rudolph ultimately agreed to the terms, and his dynamite and components – including a fully-constructed bomb that had been hidden close to roads and residences – were located and rendered safe. On April 13, 2005, Rudolph pled guilty to all four bombings in Atlanta and Birmingham. Rudolph was sentenced to five life sentences to be served in the Administrative Maximum Federal Prison in Florence, Colorado.

Dates of Representation: 1996 - 2005
Court: United States District Court for the Northern District of Georgia
Judge: The Honorable Charles Pannell

Co-Counsel:

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United States Attorney's Office
Northern District of Georgia
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404-581-6000

Joey Burby
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Fourteenth Floor
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Atlanta, GA 30309-3488
Phyllis Sumner
King and Spalding
1180 Peachtree Street, N.E.
Atlanta, GA 30309-3521

The Honorable Russell Vineyard
United States Magistrate Judge
2027 United States Courthouse
75 Spring Street, S.W.
Atlanta, Georgia 30303

Opposing Counsel:

Paul Kish
Kish & Lietz, P.C.
1700 South Tower

225 Peachtree Street, N.E.
Atlanta, GA 30303
404-588-3991

United States v. Mitch Skandalakis, 1:03-CR-746 (N.D. Ga. 2003)
United States v. Josh Kenyon, 1:00-CR-390 (N.D. Ga. 2000)
United States v. Michael Hightower, 1:00-CR-377 (N.D. Ga. 2003)
United States v. George Greene, 1:00-CR-389 (N.D. Ga. 2003)

Beginning in 2000, I served as lead counsel in a series of corruption prosecutions in Fulton County, Georgia, involving corrupt payments to public officials and obstruction of justice. Mitch Skandalakis, former Chairman of the Fulton County Commission, was convicted of making false statements to federal investigators; Josh Kenyon, Skandalakis's Chief of Staff, was convicted of accepting corrupt payments from a county contractor; Michael Hightower, former Fulton County Commissioner, was convicted of accepting corrupt payments from a county contractor; and George Greene, a Fulton County telecommunications contractor, was convicted of making corrupt payments to Commissioner Hightower.

Dates of Representation: 2000 - 2003
Court: United States District Court for the Northern District of Georgia
Judge: The Honorable Richard L. Story presided over all the cases

Mitch Skandalakis
Opposing Counsel: David Nutter
6 Concourse Parkway, Suite 1950
Atlanta, GA 30328
404-256-4545

Josh Kenyon
Opposing Counsel: Bruce Morris
Finestone & Morris
3340 Peachtree Road, Suite 2540
Atlanta, GA 30326
404-262-2500

Co-counsel: (Opposing) Justice David E. Nahmias
Supreme Court of Georgia
514 State Judicial Building
Atlanta, GA 30334
404-656-3474

Michael Hightower
Opposing Counsel: Larry Thompson
(Formerly with King & Spalding)
University of Georgia
School of Law
212 Hirsch Hall
Athens, GA 30602
706-542-5496

George Greene
Opposing Counsel: Buddy Parker
3490 Piedmont Road, N.E.
Atlanta, GA 30305
404-842-0343

Co-Counsel: Justice David E. Nahmias
(Opposing) Supreme Court of Georgia
514 State Judicial Building
Atlanta, GA 30334
404-656-3474

United States v. Larry Wallace, 1:01-CR-826-01 (N.D. Ga. 2001)
United States v. Joseph Reid, 1:01-CR-822-01 (N.D. Ga. 2001)
United States v. Fred Prewitt, 1:00-CR-419 (N.D. Ga. 2000)
United States v. Samuel Barber, 1:02-CR-661 (N.D. Ga. 2002)
United States v. Vertis McManus, 1:01-CR-826 (N.D. Ga. 2001)
United States v. Ronnie Thornton, 1:01-CR-706 (N.D. Ga. 2001)
United States v. Thodur Bavan, 1:00-CR-703 (N.D. Ga. 2000)
United States v. Jonathan Dodd, 1:02-CR-386 (N.D. Ga. 2002)

I was the lead prosecutor in a series of public corruption prosecutions involving the City of Atlanta government that ultimately resulted in the convictions of former Atlanta Mayor William Campbell; the City of Atlanta's Chief Operating Officer and Deputy Chief Operating Officer; the Commissioner of Administrative Services; the head of the City Civil Service Board, the Deputy Director of the City Water Department; the Director of Motor Transport Services; and four City contractors.

Larry Wallace, the City's Chief Operating Officer, was convicted of tax fraud and accepting corrupt payments from a city contractor in connection with the City's telecommunications contracts. He was sentenced to 46 months.

Joseph Reid, the City's Deputy Chief Operating Officer, was convicted of accepting corrupt payments from a City contractor. He was sentenced to 24 months in prison.
Fred Prewitt, head of the City's Civil Service Board, was convicted of tax fraud in 2000 and making false statements to federal investigators in 2004. He was sentenced to six months in prison.

Jonathan Dodd, Director of the Bureau of Motor Transport Services, was convicted of tax fraud and embezzling over $400,000. He was sentenced to 30 months in prison.

Thodur Bavan, Deputy Chief of the Water Department, was convicted of accepting corrupt payments from a water contractor. He was sentenced to five months in prison.

Vertis McManus, a City contractor, was convicted of making corrupt payments to Larry Wallace and Joseph Reid. He was sentenced to 13 months in prison.

Sam Barber, a City contractor, was convicted of perjury before the grand jury. He was sentenced to 24 months' probation.

Ronnie Thornton, a City contractor, was convicted of structuring financial transactions in connection

with fraudulent campaign contributions. He was sentenced to 24 months' probation.

None of these defendants filed appeals.

Dates of Representation: 2000 through 2004
Court: United States District Court for the Northern District of Georgia
Judge: The Honorable Richard L. Story presided over all the cases except for Samuel Barber (assigned to the Honorable Orinda D. Evans)

Larry Wallace
Opposing Counsel: Bruce Harvey
146 Nassau Street
Atlanta, GA 30303
404-659-4628

Co-counsel: (Opposing) Daniel P. Griffin
Miller & Martin
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Atlanta, GA 30309
404-962-6154

Joseph Reid
Opposing Counsel: Joe Whitley
Greenberg Traurig
3290 Northside Parkway, Suite 400
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Co-Counsel: (Opposing) Daniel P. Griffin
Miller & Martin
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404-962-6154

Fred Prewitt
Opposing Counsel: Bruce Maloy
Maloy & Jenkins
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Co-Counsel: (Opposing) Phyllis Sumner
King & Spalding
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Atlanta, GA 30309
404-572-4799

Jonathan B. Dodd
Opposing Counsel: Franklin Biggins

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Co-counsel: (Opposing)	Daniel P. Griffin Miller & Martin 1170 Peachtree Street, N.E. Atlanta, GA 30309 404-962-6154
Thodur Bavan Opposing Counsel:	Bruce Morris Finestone & Morris 3340 Peachtree Road, Suite 2540 Atlanta, GA 30326 404-262-2500
Co-Counsel: (Opposing)	Justice David E. Nahmias Supreme Court of Georgia 514 State Judicial Building Atlanta, GA 30334 404-656-3474
Vertis McManus Opposing Counsel:	Brian Steel The Steel Law Firm 1800 Peachtree Street, N.W., Suite 300 Atlanta, GA 30309 404-605-0023
Co-Counsel: (Opposing)	Phyllis Sumner King & Spalding 1180 Peachtree Street, N.E. Atlanta, GA 30309 404-572-4799
Samuel Barber Opposing Counsel:	Ed Garland and Don Samuel Garland, Samuel & Loeb 3151 Maple Drive Atlanta, GA 30305 404-262-2225
Co-Counsel: (Opposing)	Russell Vineyard 2027 United States Courthouse 75 Spring Street, S.W. Atlanta, Georgia 30303 404-215-1375

Phyllis Sumner
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1180 Peachtree Street, N.E.
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Ronnie Thornton
Opposing Counsel: Richard Hendrix
Finch, McCranie, Brown, Hendrix & Sullivan
225 Peachtree St.
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Atlanta, GA 30303
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Co-counsel: Justice David E. Nahmias
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United States v. Herb McCall, 1:01-CR-826-05 (N.D. Ga. 2001); 107 Fed Appx. 182 (11th Cir. 2004)

Herb McCall, the City's Commissioner of Administrative Services, was convicted at trial of perjury before the grand jury and obstructing the grand jury. He was sentenced to 21 months in prison. McCall appealed and challenged the district court's denial of his motion to dismiss, the admission of out-of-court statements, government evidence and argument during trial, and government questions to a witness about his plea agreement but precluding cross examination on the witness's prior convictions that were over ten years old. The Eleventh Circuit affirmed McCall's conviction and sentence. I served as lead counsel.

Dates of Representation: 2000 through appeal in 2004
Court: United States District Court for the Northern District of Georgia
Judge: The Honorable Richard L. Story

Opposing Counsel: Jerry Froelich
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Co-Counsel:
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(Opposing) Daniel P. Griffin
Miller & Martin
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404-962-6154

(Appeal)
(Opposing) Phyllis Sumner
King & Spalding
1180 Peachtree Street, NE
Atlanta, GA 30309
404-572-4799

United States v. William C. Campbell, 491 F.3d 1306 (11th Cir. 2007)

Former Mayor William Campbell was the final defendant charged in the City of Atlanta corruption investigation. He was tried on Racketeer Influenced and Corrupt Organizations Act (RICO) and tax fraud charges over the course of a seven-week trial. He was convicted on all tax fraud charges and acquitted on the RICO charges. He was sentenced to 30 months in prison. His conviction and sentence were upheld by the Eleventh Circuit on appeal. I served as lead counsel.
Dates of Representation: 2000 through appeal in 2007
Court: United States District Court for the Northern District of Georgia
Judge: The Honorable Richard L. Story

Opposing Counsel:

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Thomas S. Robinson, III
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Snellville, GA 30039
404-285-8367

William R. Martin
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202-783-0800

Jerry Froelich
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W. Fred Orr (deceased)
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404-377-1786

Co-Counsel: (Opposing)

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404-215-1375

Phyllis Sumner
King & Spalding
1180 Peachtree Street, N.E.
Atlanta, GA 30309
404-572-4799

United States v. Gregg Junnier, 1:07-CR-00129-JEC-1 (N.D. Ga. 2007)
United States v. Jason R. Smith, 1:07-CR-00129-JEC-2 (N.D. Ga. 2007)
United States v. Arthur B. Tesler, 1:08-CR-00424- JEC (N.D. Ga. 2007)

In November 2006, Kathryn Johnston, a 92-year-old Atlanta woman, was fatally shot in her home during the execution of a search warrant obtained by Atlanta Police Department (APD) officers based upon false information. The investigation revealed that not only had the APD officers presented false

information to a magistrate to obtain the warrant for Ms. Johnston's home, which they mistakenly believed to be that of a drug dealer, but their conduct was part of a pattern of civil rights violations involving false statements in narcotics search warrants. The investigation also revealed an extortion scheme where these same officers were paid by certain businesses to provide "extra" police protection in high-crime areas while they were on duty, leaving those who did not pay to receive diminished police protection.

After extensive communication with Ms. Johnston's family and representatives of the community, the government negotiated interlocking guilty plea agreements with the U.S. Attorney's Office and the Fulton County District Attorney's Office with two of the officers involved in shooting. As a result of their cooperation, the government was able to identify other misconduct by APD officers, resulting in convictions of the narcotics team sergeant for civil rights violations, conviction of another officer involved in the Kathryn Johnston incident for civil rights violations, and conviction of two other narcotics team members for extorting business owners for payments for extra police protection while on duty. We worked with the FBI to prepare a report to the APD about other officer misconduct and troubling police practices to help ensure that the tragedy of Ms. Johnston's death is not repeated. Consistent with this report, the APD instituted reforms, as well as pursued administrative action against other officers.

Dates of Representation: 2006 - 2009
Court: United States District Court for the Northern District of Georgia
Judge: The Honorable Julie E. Carnes

Opposing Counsel: Wilmer Parker, III
Maloy, Jenkins and Parker
75 Fourteenth Street
Atlanta, GA 30309
404-875-2700

John Garland
Garland, Samuel & Loeb
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404-262-2225

William J. McKenney
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Co-Counsel: (Opposing) Yonette Buchanan
Ashe, Rafuse & Hill
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Jon Peter Kelly
Delta Air Lines, Inc.

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404-714-5631

16. **Legal Activities: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, plea se omit any information protected by the attorney-client privilege.)**

While I have not directly litigated as U.S. Attorney, I have supervised numerous significant cases. A representative sampling is below.

1. **U.S. v. Mackey, *et al.***, 1:10-CR-310-WSD (N.D. Ga. 2010). This case involved a Ponzi scheme that victimized more than 150 people, netting the defendants more than $12 million. The defendants falsely represented to investors that they were financial experts who would use the investors' financial resources in private and confidential business deals that would generate 20 percent profits. The defendants used unwitting intermediaries who received commissions to help them recruit new investors, and these intermediaries in turn repeated the defendants' false promises. The defendants invested less than one third of the investors' money and never generated any profits. The rest of the money was used by the defendants to operate their scheme, pay their own personal expenses, and to distribute make-believe profits to investors that actually came from the investors' own money. The defendants were convicted by a jury of 15 counts of wire fraud, mail fraud, and conspiracy, after an eight day trial. One defendant was sentenced to serve 27 years in federal prison; the other was sentenced to serve 14 years.

2. **U.S. v. Houser, *et al.***, 4:10-CR-12-HLM (N.D. Ga. 2010). In this case, defendant George Dayln Houser conspired with his wife to defraud Medicare and Medicaid by billing for $32.9 million of worthless or not provided services in the operation of three deficient nursing homes. Houser billed the Medicare and Medicaid programs based on his certifications and promises that he was providing the residents with a safe and clean physical environment, nutritional meals, medical care, and other services that would promote or enhance the residents' quality of life. During the trial, the government introduced evidence that instead of providing for the nursing home residents, the money was diverted to personal use including expensive cars, furniture and vacations, and personal financial investments in hotels. Houser was convicted after a four-week bench trial, and was sentenced to serve 20 years in federal prison and to pay over $7.6 million in restitution.

3. **U.S. v. Allergan, Inc.**,1:10-CR-375-ODE (N.D. Ga. 2010). Allergan, Inc. agreed to plead guilty and to pay $600 million to resolve its criminal and civil liability arising from its unlawful promotion of Allergan's Botox Therapeutic product, for uses not approved as safe and effective by the Food and Drug Administration (FDA). According to the criminal information, Allergan promoted its product for headache, pain, spasticity, and juvenile cerebral palsy, none of which were approved by the FDA. Allergan agreed to plead guilty to a criminal misdemeanor for misbranding its product in violation of the Food, Drug and

Cosmetic Act. The resolution included a criminal fine and forfeiture totaling $375 million and a civil settlement with the federal government and state governments of $225 million. The civil settlement resolved three federal lawsuits filed in the Northern District of Georgia under the *qui tam*, or whistleblower provisions, of the False Claims Act. The whistleblowers in this matter received $37.8 million from the federal share of the settlement amount.

4. **U.S. v. Cortes-Meza, *et al.***, 1:08-CR-55-RWS (N.D. Ga. 2008). The defendant was the ringleader of an organization that brought 10 victims to the United States, including four juveniles. The defendant and co-conspirators promised to be romantically interested in the girls and young women, promising them they would have a life together, and then tell them they needed to travel to the United States to make money. He obtained false identification for the victims, and made arrangements with "coyotes" to smuggle the victims and himself into the United States, and forced the victims into prostitution. The victims testified about physical abuse used by the defendant to control them. The defendant was sentenced to 40 years' imprisonment, 5 years' supervised release, and was ordered to pay restitution to a number of victims.

5. **U.S. v. Tsurikov, *et al.***, 1:09-CR-491-SCJ (N.D. Ga. 2009). The defendant and others obtained unauthorized access into the computer network of RBS WorldPay, which was then the U.S. payment processing division of the Royal Bank of Scotland Group PLC, located in Atlanta. The group used sophisticated hacking techniques to compromise the data encryption that was used by RBS WorldPay to protect consumer data on payroll debit cards. The hacking ring raised the account limits on compromised accounts, which provided a network of cashers counterfeit debit cards, which were in turn used to withdraw more than $9 million from 2,100 ATMs in at least 280 cities worldwide – within a span of less than 12 hours. The defendant was sentenced to eleven years in prison for conspiracy to commit wire fraud and computer intrusion.

6. **U.S. v. Martin, *et al.***, 1:12-CR-364-RWS (N.D. Ga. 2012). In this matter, the office prosecuted an insider trading conspiracy involving a portfolio manager from a multibillion dollar hedge fund in New York and two executives of Carter's, Inc., a major children's clothing company. The illegal trading and tipping in the matter resulted in over $7 million in insider trading gains and losses avoided by the two executives and others downstream. The case represented the first major insider trading investigation of its kind in the district.

7. **U.S. v. Lasseter, *et al.***, 1:12-CR-150-CAP (N.D. Ga. 2012). This case involved an FBI undercover investigation into allegations of corruption by members of the Board of Commissioners of Gwinnett County, one of the largest and most economically vibrant counties in the metro Atlanta area. The investigation resulted in guilty pleas from and significant sentences for a County Commissioner, her son, and their "bag man," for soliciting and accepting bribes to approve real estate developments, and for attempting to personally profit from the potential privatization and expansion of the County's local airfield. Commissioner Shirley Lasseter was sentenced to 33 months, while her son, Johnny Fanning, and Carl "Skip" Cain, each received sentences of 57 months in prison. Fanning and Cain were also sentenced for transporting purported cocaine, which they did to prove their bona fides in auditioning for roles in what they believed to be a larger criminal enterprise in which the undercover agent was involved.

8. **U.S. v. Doe, *et al.*, U.S. v. Soberanis, *et al.*, U.S. v. Alfarro-Rivera, *et al.*,** 1:09-CR-361, 1:09-CR-359, 1:10-CR-407 (N.D. Ga. 2009 & 2010). This case dismantled a substantial component of the Hector Beltran-Leyva drug trafficking cartel in Mexico after a three-year wiretap investigation. The cartel was importing drugs across the border and transporting them in tractor trailer trucks to Atlanta, where the drugs would be unloaded and redistributed to cities across the eastern United States. The case resulted in the indictment of 23 defendants and the seizure of 973 kilograms of cocaine, 1,445 kilograms of marijuana, and $31 million in drug proceeds. The investigation further led to the identification of three high-level Mexico-based Beltran-Leyva Cartel supervisors who were indicted by a federal Grand Jury in the Northern District of Georgia for drug and money laundering charges. Provisional arrest warrants are pending for these three supervisors, while prosecutors convicted all 18 defendants who were located and arrested.

9. **United States v. Alvarado-Linares, *et al.*,** 1:10-CR-086 (N.D. Ga. 2010). This racketeering case charged 26 members of the international gang MS-13 with numerous violent crimes, including seven murders, ten shootings that did not result in death, and multiple robberies and firearm crimes. Several of the murders and attempted murders were against juveniles, including instances in which recruits to the gang were required to shoot into a group of kids playing basketball on a playground in order to gain entrance to the gang. In one murder, the defendant, an MS-13 gang member, lay in wait for a 16-year-old boy who was believed to be in a rival gang, and shot and killed him while he worked to earn extra money painting parking lines at a gas station. In another murder, a gang member who wanted to leave the gang was directed by the gang leader to simply pick out a vehicle and shoot into it in a drive-by shooting. For each of these horrific events, the government charged the shooters and, importantly, the gang leaders who ordered the shootings. In all, the case spanned three trials during 2013 and 2014, and every defendant who was apprehended (there are four defendants who are still fugitives) was convicted either by guilty plea or at trial. To date, the court has imposed a total of four life sentences. Several defendants are awaiting sentencing.

Finally, in addition to overseeing these matters, I had the pleasure of serving as the Vice Chair of the Attorney General's Advisory Committee of U.S. Attorneys.

17. **Teaching: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.**

During the course of my career with the Department of Justice, I have spoken at Department of Justice training seminars on public corruption, complex prosecutions, and trial advocacy. Some of these events occurred at the Department of Justice National Advocacy Center. I do not have transcripts, notes, or syllabi.

18. **Deferred Income/ Future Benefits: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the**

arrangements you have made to be compensated in the future for any financial or business interest.

The only future benefits I expect to receive are from a federal government Thrift Savings Plan and my spouse's personal individual retirement account, which are listed on my Net Worth Statement, attached.

19. **Outside Commitments During Service: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.**

    No.

20. **Sources of Income: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).**

    I earn a salary as a federal employee. For other information, see my SF-278 as provided by the Office of Government Ethics.

21. **Statement of Net Worth: Please complete the attached financial net worth statement in detail (add schedules as called for).**

    See attached Net Worth Statement.

22. **Potential Conflicts of Interest:**

    a. **Identify the family members or other persons, parties, affiliations, pending and categories of litigation, financial arrangements or other factors that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.**

       In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Justice's designated agency ethics official to identify potential conflicts of interest. Any potential conflict of interest will be resolved in accordance with the terms of an ethics agreement that I have entered with the Department's designated agency ethics official.

    b. **Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.**

       In the event of a potential conflict of interest, I will consult with ethics officials in the Department of Justice.

23. **<u>Pro Bono Work</u>: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.**

For over twenty years, I have been a public servant representing the people of the United States. During this time, I served for a number of years as a high school mock trial coach for the local magnet school for law and government spending numerous hours working with the students each year. I have also volunteered at trial advocacy programs for public interest lawyers. While in private practice, I represented *pro bono* the first African-American land owner in Barrow County in a lawsuit to recover a portion of her property. I devoted hundreds of hours to that case through trial.

During the time that I served as U.S. Attorney, I spent considerable time participating in crime prevention programs, specifically those focused on children and youth. I also significantly expanded our Office's focus on crime prevention and developed a community engagement program within the Office.

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		550	000	Notes payable to banks-secured			
U .S. Government securities-add schedule				Notes payable to banks-unsecured			
Listed securities-add schedule	4	185	065	Notes payable to relatives			
Unlisted securities--add schedule				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due		5	000
Due from relatives and friends				Un paid income tax			
Due from others (approximate value of ½ interest in mother's undistributed estate)		100	000	Other unpaid income and interest			
Doubtful				Real estate mortgages payable-add schedule		302	040
Real estate owned-add schedule	1	185	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other persona l property		75	000				
Cash value-life insurance							
Other assets itemize:							
CREF Equity Index, Russell 3000		494	468				
Thrift Savings Plan		484	944				
				Total liabilities		307	040
				Net Worth	6	767	437
Total Assets	7	074	477	Total liabilities and net worth	7	074	477
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor		none		Are any assets pledged? (Add schedule)		No	
On leases or contracts				Are you defendant in any suits or legal actions?		No	
Legal Claims		none		Have you ever taken bankruptcy?		No	
Provision for Federal Income Tax		none					
Other special debt		none					

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
Coca Cola	$535,929
Equifax, Inc.	$2,514,546
Fidelity National Information Services	$1,020,511
Fidelity National Financial, Inc.	$74,006
Fidelity National Financial Ventures, Inc.	$12,079
Real Estate Owned	
Personal residence (Atlanta, GA)	$1,185,000
Real Estate Mortgages Payable	
Personal residence (Atlanta, GA)	$302,000

AFFIDAVIT

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

1/21/15
(DATE)

Gary Q. Yates
(NAME)

Alice F. Gladden
(NOTARY)

District of Columbia : SS
Subscribed and Sworn to before me, in my presence,
this 21st day of January, 2015
Alice F. Gladden
Notary Public, D.C.
My commission expires May 14, 2017

ALICE F. GLADDEN NOTARY PUBLIC DISTRICT OF COLUMBIA MY COMMISSION EXPIRES MAY 14, 2017

Prepared Statement by Senator Chuck Grassley of Iowa
Chairman, Senate Judiciary Committee
Before the Committee on the Judiciary regarding the Nomination of:
Sally Yates, to be Deputy Attorney General
Tuesday, March 24, 2015

Today, we will consider the nomination of Sally Yates to be Deputy Attorney General. Let me start by noting that she's already doing the job she's been nominated for. She's been serving as the Acting Deputy Attorney General since the beginning of the year, so she already has some experience with leading the Department and has been exposed to some of the challenges the Department is facing.

Before her service as Acting Deputy Attorney General, Ms. Yates served in the U.S. Attorney's office for the Northern District of Georgia for over 25 years, including five as the U.S. Attorney. So, she also has experience in running an office and important experience as a prosecutor.

Too often, when nominees appear before our Committee, they avoid answering questions by claiming that they aren't yet on the job, so they aren't in a position to provide responsive answers. However, because Ms. Yates has already been on the job for several months, I assume she'll be able to answer questions about the Department for us.

I won't repeat all my concerns with the way the Department of Justice has been run the past six years. I outlined those concerns at Ms. Lynch's hearing. But my concerns remain. So, I'll be interested in discussing these important matters with Ms. Yates today.

Ms. Yates obviously has a lot of impressive experience as a prosecutor. Throughout her career, she's been involved in a number of discussions on criminal law issues. One thing I'm going to ask Ms. Yates about today is the positions she's taken regarding mandatory minimum sentences.

For example, in testimony before the Sentencing Commission she said, "Mandatory minimum sentences increase deterrence and cooperation by those involved in crime." She also called Mandatory Minimums an "essential law enforcement tool" and argued that mandatory minimum sentences have helped reduce crime rates.

Finally, let me say, just as I'm hoping the next Attorney General provides an independent voice and works to de-politicize the Department, I have the same hope for the Deputy Attorney General.

So, I'm looking forward to hearing Ms. Yates' perspective on the current state of the Department. As she provides her testimony and answers to our questions, I'll be listening for the changes she'd make to the Department and the improvements she'd implement to make it more transparent. The Department of Justice remains deeply politicized, and I'm hopeful that the next Deputy Attorney General will have what it takes to make some of the changes so badly needed.

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Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Judiciary Committee
Hearing On The Nomination Of Sally Yates To Be Deputy Attorney General
March 24, 2015

Today the Judiciary Committee considers the President's nomination of Sally Yates to be Deputy Attorney General. The Deputy Attorney General is responsible for the day-to-day management of the Department and is an essential partner to the Attorney General in safeguarding Americans.

The duties and responsibilities of the Deputy Attorney General are as diverse as the components of the Justice Department. In addition to coordinating the work of the U.S. Attorneys' offices, the Criminal Division, the National Security Division, and the other component divisions at the Department, the Deputy Attorney General also oversees the Federal Bureau of Investigation, the Drug Enforcement Administration, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, and the Marshals Service. Through the efforts of the dedicated prosecutors, agents, and civil servants in these components, the Department of Justice has increased its efforts to fight terrorism and combat crime, particularly violent crime and fraud. Unfortunately, these efforts are hampered by the unsustainable growth of our Federal prison population and the fact that nearly a third of the Department's operating budget goes to the Bureau of Prisons – money that could be spent on prosecutorial and investigative resources. I will continue to work with the Justice Department and other Senators on a bipartisan basis to push common sense legislative reforms to our sentencing laws. I trust that the next Deputy Attorney General will also reaffirm her commitment to the clemency initiatives started under the leadership of Attorney General Holder.

I am confident that Sally Yates is eminently qualified for the job of Deputy Attorney General. For more than 25 years, Ms. Yates has served as a prosecutor in the U.S. Attorney's Office for the Northern District of Georgia. For the past five years, she has served as the U.S. Attorney in that district, following her unanimous confirmation by the Senate in 2010. And since January 2015, she has served as the Acting Deputy Attorney General. She is an experienced prosecutor with a well-deserved reputation for fairness, integrity, and toughness. She knows how the Department of Justice works, and understands the issues at the center of the Deputy Attorney General's job. I thank Ms. Yates for her willingness to serve, and her family for their support of her service.

Her nomination is supported by a broad array of individuals from across the political spectrum. For instance, six former U.S. Attorneys from the Northern District of Georgia, who were appointed during both Republican and Democratic administrations, wrote a letter to express "strong support" for Ms. Yates and lauded her "unimpeachable integrity and exceptional judgment." One of the signatories to the letter was Larry Thompson, who also served as Deputy Attorney General during the George W. Bush administration.

Ms. Yates has also received letters of support from Georgia's Republican Attorney General, Samuel Olens; Atlanta's Chief of Police, George Turner; former senior Justice Department officials who served in Republican and Democratic administrations, including three former Deputy Attorneys General from the Bush administration and former Acting Deputy Attorney

General Gary Grindler; the National Organization of Black Law Enforcement Executives; the Association of Prosecuting Attorneys; 16 partners at the law firm of King & Spalding; 41 current, former, and future Presidents of the Atlanta Bar Association; the Urban League of Greater Atlanta; Reverend Raphael G. Warnock, Senior Pastor at Ebenezer Baptist Church; and Reverend C.T. Vivian.

I want to thank my friend John Lewis for coming to this side of the Capitol to introduce Ms. Yates today. I also appreciate Senator Isakson coming this morning to introduce Ms. Yates. As Senator Isakson noted when Ms. Yates was first nominated this past December, "Sally Yates is an exceptionally skilled attorney with a strong record of public service and a well-qualified nominee to be deputy attorney general. She has served with distinction as U.S. attorney for Georgia's Northern District and throughout her career has demonstrated her abilities as a talented prosecutor in a wide array of challenging cases."

I could not agree more and I look forward to working with Senator Isakson to ensure a swift and fair confirmation process for this outstanding nominee. This nomination should not be an occasion for further partisanship. The responsibilities of the Deputy Attorney General are too important to the safety and security of all Americans for that. The dedicated public servants at the Justice Department deserve a confirmed leader in this crucial position, and we should work to confirm Ms. Yates without unnecessary delay.

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Senator Richard Durbin
Written Questions for Deputy Attorney General Nominee Sally Quillian Yates

1. In December 2014, the Justice Department issued updated "Guidance for Federal Law Enforcement Agencies regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity." Please describe what steps the Justice Department has taken to implement this Guidance. Is there an office in the Department that is primarily responsible for implementing the Guidance?

2. The Guidance states, "In order to ensure its implementation, this Guidance finally requires that Federal law enforcement agencies take the following steps on training, data collection, and accountability."

    a. With respect to training, the Guidance mandates, "Law enforcement agencies therefore must administer training on this Guidance to all agents on a regular basis, including at the beginning of each agent's tenure. Training should address both the legal authorities that govern this area and the application of this Guidance. Training will be reviewed and cleared by agency leadership to ensure consistency through the agency." What steps has the Justice Department taken to implement this requirement for Department employees? Has the Department created a curriculum or other materials for use in training? When will the first training take place? What assistance has the Department provided to other federal law enforcement agencies in implementing this requirement?

    b. With respect to data collection, the Guidance requires, "Each law enforcement agency therefore (i) will begin tracking complaints made based on the Guidance, and (ii) will study the implementation of this Guidance through targeted, data-driven research projects." What steps has the Justice Department taken to implement this requirement for Department employees? What assistance has the Department provided to other federal law enforcement agencies in implementing this requirement?

    c. With respect to accountability, the Guidance requires, "Therefore, all allegations of violations of this Guidance will be treated just like other allegations of misconduct and referred to the appropriate Department office that handles such allegations. Moreover, all violations will be brought to the attention of the head of the Department of which the law enforcement agency is a component." What steps has the Justice Department taken to implement this requirement for Department employees? What assistance has the Department provided to other federal law enforcement agencies in implementing this requirement?

3. The Justice Department's Bureau of Justice Assistance operates an important program called the John R. Justice (JRJ) program, which provides student loan repayment assistance to state and local prosecutors and public defenders across the nation.

Congress enacted the JRJ program in 2008, modeling it after the Attorney Student Loan Repayment Program that the Department of Justice operates for its own attorneys. The JRJ program helps state and local prosecutors and public defenders pay down their student loans in exchange for a three-year obligation to continue serving in their positions. This has proven to be an effective recruitment and retention tool for prosecutor and defender offices. And since the Department of Justice is awarding hundreds of millions of dollars in grants each year to state and local law enforcement, which generates higher numbers of arrests and criminal cases, it is critical that we help prosecutor and defender offices keep experienced attorneys on staff to handle these cases.

The JRJ program has helped thousands of prosecutors and defenders across the country. But for the program to remain successful, the Department of Justice must remain committed to this program and to carefully administering and overseeing it. Will you commit to work with me to keep this program operating effectively during your tenure if you are confirmed?

Question for the Record from Senator Dianne Feinstein for Sally Quillian Yates, Acting Deputy Attorney General of the United States

Senate Committee on the Judiciary

Senator Dianne Feinstein

On September 23, 2009, the Attorney General issued a memorandum establishing new policies and procedures governing the Department of Justice's invocation of the state secrets privilege.

The Attorney General's memorandum states that the "Department is adopting these policies and procedures to strengthen public confidence that the U.S. Government will invoke the privilege in court only when genuine and significant harm to national defense or foreign relations is at stake and only to the extent necessary to safeguard those interests."

As an accountability mechanism, the memorandum includes the following congressional reporting requirement: "The Department will provide periodic reports to appropriate oversight committees of Congress with respect to all cases in which the Department invokes the privilege on behalf of departments or agencies in litigation, explaining the basis for invoking the privilege."

On April 29, 2011, the Department issued its first periodic state secrets privilege report. That report discussed the two cases in which the privilege had been invoked under the new policy, but those are no longer the only two cases. A second periodic state secrets privilege report has not been issued.

When I asked Loretta Lynch at her hearing to provide the appropriate oversight committees with the second periodic report, she testified: "I certainly commit to you that I will do my best to ensure that the department lives up to its obligations that it has set forth."

I do not understand the significant delay in producing the second periodic report to the appropriate oversight committees of Congress. The Department, which invokes the state secrets privilege in litigation, has the information needed to provide to Congress, so there is no apparent reason for delay.

- ***In your role as Acting Deputy Attorney General, will you commit to me that this report will be released by April 29, 2015, four years after the first periodic report was provided?***

Hearing before the Senate Committee on the Judiciary
"Deputy Attorney General Nomination"
Questions for the Record Submitted by Senator Al Franken

Questions for Sally Quillian Yates:

Question 1. During our meeting last month I explained to you that I am very concerned about the proliferation of so-called "stalking apps" on mobile phones. These are apps that allow users to track the locations of victims, listen to their phone calls, or read their text messages. Stalking is illegal under state law, but federal law does not currently prohibit developers from creating apps that track geo-location data. I plan to reintroduce legislation on this topic, because I think we need to close that loophole.

DOJ does have authority under existing wiretap laws to prosecute creators of apps that allow stalkers to listen to victims' phone calls, intercept text messages, or otherwise intercept content from victims' phones. And I'm pleased that DOJ prosecuted one app developer who created an app to do all those things. I had asked that you do just that.

But looking ahead, first of all: will you work with me on my bill to make sure that the federal government has all the tools it needs to go after stalking apps and other location privacy problems? And second: I believe there is more DOJ could be doing now—specifically, DOJ could include more robust questions in the National Crime Victimization Survey regarding GPS stalking. Will you do that?

Question 2. I want to ask you about efforts to rein in abuses in the credit rating industry—this is a topic you and I discussed when we met earlier and it is something that I have been focused on since I came into office, because those abuses played an important role in helping to cause the financial meltdown and the Great Recession. The current business model for credit rating agencies is deeply flawed. It's a system that allows banks to shop around among agencies to get a good initial rating on a financial product, and encourages the ratings agencies to loosen their standards to chase the business of big banks. The result is a "pay-to-play" system that encourages risky, inflated ratings at the expense of public investors. I've been working with a bipartisan group of colleagues, pushing for common-sense reforms to fix the system.

I know that DOJ has been looking back at what happened in the financial crisis and working to hold the credit rating agencies accountable for the inflated ratings that contributed to the crisis. But so far, DOJ has filed suit against just one credit rating agency, S&P—a suit that S&P settled for nearly $1.4 billion. But when that suit commenced, the Department suggested that more suits might be forthcoming. I am deeply concerned that these risky practices remain business-as-usual for the big ratings agencies and that a simple slap on the wrist won't be enough to change the misaligned incentives of their flawed business model.

Will you take an aggressive approach to holding the ratings agencies—including but not limited to S&P—accountable for their role in the financial crisis? And will you commit to ensuring that DOJ will remain vigilant and hold rating agencies accountable for engaging in the kind of "pay-to-play" schemes that led to the crisis in the first place?

Question 3. At the time of the founding of our nation, no one could conceive of the many technologies we have today. Even 20 years ago, we did not foresee the invention and prevalence of the smart phone—a device with which nearly everyone is now familiar.

There is no question that new technologies—from drones to facial recognition software—have enormous potential in both commercial and law enforcement applications. But I am deeply troubled by the limited privacy protections current law grants. Our privacy laws just have not kept pace with technological innovation. We need to be thinking carefully about the privacy implications of these technologies, and we need to get clear, strong privacy laws on the books. How will you go about balancing privacy and law enforcement interests? Will you commit to carefully considering the privacy implications for any DOJ programs and working with me to update our laws?

Question 4. DOJ's Antitrust Division is currently reviewing Comcast's proposed acquisition of Time Warner Cable. In March of last year, I sent a letter to the Antitrust Division, raising my concerns about the deal, which—if approved—would result in a company with unprecedented power in the telecommunications industry. It would threaten to seriously compromise the open, competitive nature of the Internet, while also raising prices and restricting consumer choice. Strong antitrust enforcement by DOJ is essential to protecting consumers.

If confirmed, will you commit to reviewing the serious concerns about the proposed Comcast-Time Warner Cable deal that I and so many others have raised, and to doing all that you can to ensure that the Antitrust Division is empowered to stand up to telecommunications giants like Comcast?

Senator Grassley, Chairman
Questions for the Record
Sally Yates
Nominee, to be United States Deputy Attorney General

1. In April 2014, the Department of Justice submitted a report to the President examining the FBI whistleblower regulations.[1]In January of this year, the U.S. Government Accountability Office (GAO) published a report examining those regulations and the Department's handling of FBI whistleblower complaints.[2] During the March 24 hearing, you indicated that you had not reviewed the Department's report. I encourage you to review the Department's analysis and recommendations, as well as those of the GAO.

   In its April 2014 report, the Justice Department recommended expanding whistleblower protections to disclosures made to the second-in-command of an FBI field office.[3] Despite the urgings of employees, whistleblower advocates, and even the Office of Special Counsel, however, the Department did not recommend expanding protections to disclosures made to direct supervisors or other management within an FBI employee's chain of command.

   As the Department notes, "[The Office of Special Counsel (OSC)] believes that to deny protection unless the disclosure is made to the high-ranked supervisors in the office would undermine a central purpose of whistleblower protection laws."[4] The U.S. Government Accountability Office (GAO) report examining the Department's handling of FBI whistleblower cases similarly stresses that employees who report to a "nondesignated entity," whether they intend to officially blow the whistle or not, leaves those employees with "no recourse" against retaliation.[5] GAO explains that it is common for whistleblowers in the FBI to report wrongdoing to their immediate supervisors, and some report concerns without realizing or expecting to make a "whistleblower disclosure."[6] Moreover, internal FBI policy *encourages* reporting wrongdoing within the chain of command.[7] The policy "specifically prohibits retaliation against employees who report compliance risks to any supervisor in the employees' chain of command, as well as additional specified officials, but *does not offer any means of pursuing corrective action if an employee experiences retaliation for such a disclosure*."[8]

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[1] Department of Justice Report on Regulations Protecting FBI Whistleblowers (Apr. 2014), at 12-13 (The current regulations protect disclosures made to the first-in-command of an FBI field office) [Hereinafter "DOJ Report"].
[2] U.S. Government Accountability Office, Report to the Chairman, Committee on the Judiciary, U.S. Senate, Whistleblower Protection: Additional Actions Needed to Improve DOJ's Handling of FBI Retaliation Complaints (Jan. 2015) [Hereinafter "GAO Report"].
[3] DOJ Report at 12-13.
[4] *Id.* at 14.
[5] GAO Report at 18.
[6] *Id.* at 19; Notably, the impulse to report wrongdoing to a direct or immediate superior is common in the private sector as well as in the government. *See* Ethics Resource Center, Inside the Mind of a Whistleblower: A Supplemental Report of the 2011 National Business Ethics Survey, at 11 (2012) ("In 2011, 56 percent of first reports were made to the employee's direct supervisor."); *available at* http://www.ethics.org/files/u5/reportingFinal_0.pdf.
[7] GAO Report at 19 n. 41 (citing Policy Directive 0032D, Non-Retaliation for Reporting Compliance Risks (Feb. 11, 2008) and Policy Directive 0727D Update (Sept. 23, 2014)).
[8] *Id.*

It is not surprising, then, that during the course of its review the Department examined its handling of 89 FBI whistleblower cases, and determined that 69 of them were deemed "non-cognizable." A "significant portion" of those involved disclosures that were "not made to the proper individual or officer under 28 C.F.R. § 27.1(a)."[9]

a. Given the clear findings of both reports that a significant number of FBI whistleblowers are left with no recourse for reporting wrongdoing, why shouldn't the law or regulations protect disclosures made to direct supervisors and others within an FBI employee's chain of command?

b. The Department released its report recommending changes to the FBI whistleblower regulations almost a year ago. What steps has the Department taken to implement its own recommendations, and when will the changes that the Department already has recommended take effect?

2. During the March 24 hearing, I asked you whether the FBI regulations should be amended to clarify that FBI whistleblower disclosures to Congress are protected. I also noted that the Department recommended in its April 2014 report establishing sanctions for violations of protective orders in the context of OARM proceedings.[10] During the Committee's March 4 hearing examining the FBI whistleblower regulations, witnesses from the first panel noted that this sanctions proposal could be used to significantly disadvantage whistleblowers in Department proceedings. The proposal also has no exception for disclosures to Congress or the Department of Justice Inspector General, and thus could function as gag orders.

   a. Will the Department's proposed regulations incorporate provisions endorsed by GAO, the IG, and the FBI at the Committee's March 4, 2015 hearing to explicitly protect disclosures made by FBI employees to Congress?

   b. Do you agree that the proposal to sanction whistleblowers for violating protective orders could severely disadvantage FBI whistleblowers that do not have routine access to investigative files outside the OARM process? Why or why not?

   c. Do you agree that the sanctions proposal could be used to thwart Congressional oversight of whistleblower cases? Why or why not?

   d. Why should there not at least be an exception to these gag orders for disclosures to Congress and the Inspector General?

   e. Will the Department include this recommendation in its proposed regulatory amendments? Why or why not?

3. On October 10, 2014, Representative John Conyers and I wrote to Acting Assistant Attorney General Karl Thompson requesting that the Office of Legal Counsel provide to the House and Senate Judiciary Committees a copy of the opinion requested by Inspector General Michael

[9] DOJ Report at 7.
[10] *Id.* at 14-15.

Horowitz regarding OIG's access to Department records.[11] When will the OLC complete the opinion? Will you commit to making the opinion public by a date certain?

4. On March 18, 2015, I sent a letter to the Director of the U.S. Marshals Service, Stacia Hylton, asking for information about the alleged misuse of Asset Forfeiture Funds to purchase extravagant office furnishings.[12] In that letter, I also asked for information about whistleblower allegations that the Marshals Service is unlawfully spending funds allocated for Joint Law Enforcement Operations.

   On March 19, 2015, I sent another letter regarding the Marshals Service to you.[13] I inquired about whistleblower allegations that Director Hylton recommended an individual for a lucrative contract position, even though he was not qualified. The whistleblower alleges that the Assistant Director of the Marshals Service's Asset Forfeiture Division, Kimberly Beal, improperly influenced subordinates to waive the contract qualifications in order to hire the contractor, in hopes of obtaining her current position.

   a. Will you commit to providing my office with a timely and thorough response to this letter?

   b. Will you investigate these very serious allegations of using Department funds to award highly-paid contract work to favored insiders, who the Department has determined are unqualified to perform that work?

5. State and local governments are outright ignoring Immigration and Customs Enforcement (ICE) detainers and putting criminal aliens back on the street, instead of helping ICE deport them. Earlier this month, in a hearing before the House Committee on Oversight and Government Reform, the Director of U.S. Immigration and Customs Enforcement, Sarah Saldaña, testified that since January 1, 2014, state and local jurisdictions have declined more than 12,000 ICE detainer requests. She further testified that "there are over 200 jurisdictions, including some of the largest in the country, that refuse to honor ICE detainers, while some have also denied ICE access to their jails and prisons." At that same hearing Director Saldaña was asked: "Would it help you if we clarified the law to make it clear that it was mandatory that those local communities cooperate with you?" Director Saldaña immediately replied: "Thank you, amen, yes."

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[11] Letter from Charles E. Grassley, Ranking Member, U.S. Senate Committee on the Judiciary and John Conyers, Ranking Member, U.S. House of Representatives Committee on the Judiciary to Karl R. Thompson, Acting Assistant Attorney General (Oct. 10, 2014).

[12] Letter from Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary to Stacia A. Hylton, Director, U.S. Marshals Service (Mar. 18, 2015), *available at*: http://www.grassley.senate.gov/sites/default/files/judiciary/upload/2015-03-18%20CEG%20to%20USMS%20%28Misuse%20and%20Waste%20of%20AFF%20Resources%29.pdf.

[13] Letter from Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary to Sally Quillian Yates, Acting Deputy Attorney General (Mar. 19, 2015), *available at*: http://www.grassley.senate.gov/sites/default/files/judiciary/upload/2015-03-19%20CEG%20to%20DOJ%20%28USMS%20Contracting%29.pdf.

Would you, like Director Saldaña, also support legislation requiring state and local law enforcement to comply with immigration detainer requests by the feds, especially if the individuals in question are criminals? If no, how would you, as a liaison to law enforcement officials in states, get them to comply with detainers?

6. Since October 2013, I have three times requested from the Department information on its handling of twelve specific instances of misconduct by employees of the National Security Agency. It has been reported that these employees intentionally and willfully abused the agency's surveillance authorities by spying on private citizens, many of whom were their spouses or significant others. When the Attorney General testified before the Judiciary Committee on January 29, 2014, he promised to provide a "fulsome response to indicate how these cases were dealt with by the Justice Department" and that he would "do that soon."

   Almost a year and a half later, the Department has provided me only the most cursory information – that it "declined to prosecute these individuals for varying reasons, including issues with jurisdiction and venue."[14] The Department also indicated that prosecuting these cases would risk disclosing sensitive and classified information in open court, but this isn't a sufficient response.

   Will you arrange to have my staff briefed, in a classified setting if necessary, on the details of why these individuals have not been held criminally accountable for abusing these surveillance authorities?

7. On March 9, 2015, I was joined by 52 of my Senate colleagues in a letter to the Director of ATF regarding ATF's actions to limit access to rifle ammunition. One day after the letter, ATF withdrew the ammunition ban proposal. The Second Amendment is a fundamental right and as such it requires not only access to firearms but to ammunition. If law-abiding gun owners cannot obtain rifle ammunition, or face substantial difficulty in finding ammunition available and at reasonable prices because government entities are banning it, then the fundamental nature of the Second Amendment is at risk.

   a. Do you agree that the Second Amendment, as a fundamental right, requires access to ammunition?

   b. Do you believe that the ATF can regulate ammunition out of existence? If so, are there no limits on ATF regulating ammunition? If there are limits, what are they?

   c. If confirmed, what will you do to ensure that the federal government does not limit access to ammunition, such as M855, a steel-core bullet, as a pretext for limiting the exercise of the Second Amendment?

8. Recently, it was reported that Lois Lerner's missing emails in the IRS targeting scandal may have been stored in storage sites in Pennsylvania and West Virginia. Amazingly, the IRS never looked for the missing emails at these sites. But what was perhaps even more disturbing, however, is that when one of the parties affected by IRS targeting asked the District Court to

[14] Letter from Assistant Attorney General Peter J. Kadzik to Senator Charles E. Grassley (March 9, 2015).

appoint an independent investigator to look for these emails at these storage sites, Department of Justice lawyers objected.

a. Why did the Department object to independent investigators having access to these off-site storage facilities?

b. What has the Department done to rectify the situation?

9. I have serious concerns about how DOJ whistleblowers are treated. Under federal law, "the right of employees… to petition Congress … or to furnish information to either House of Congress… may not be interfered with or denied."

   To give you one example, I wrote to DOJ regarding allegations that the Office of Justice Programs, or OJP, knowingly granted millions of taxpayer dollars to states that incarcerated vulnerable minors in violation of federal funding requirements. Additionally, I requested that OJP notify employees of their rights to cooperate with the Judiciary Committee's inquiry.

   In response, DOJ asserted that its "current procedures for advising employees of their rights regarding whistleblower protections are sufficient." However, there are allegations that OJP management has impeded this Committee's inquiry by physically moving individuals with knowledge to other departments, preventing suspected whistleblowers from applying for positions, and allowing individuals within the Office of General Counsel to improperly influence a review of this matter.

   a. As acting Deputy Attorney General, what steps have you taken to ensure that DOJ personnel – and OJP employees in particular – understand their rights to cooperate with the Judiciary Committee?

   b. Will you ensure that all DOJ personnel properly notify employees of their rights to cooperate with congressional inquiries?

   c. Can you state with complete confidence that OJP has not punished whistleblowers or wrongfully impeded this Committee's right to the juvenile justice grant inquiry?

   d. Are you aware of whistleblowers being silenced within the DOJ? If so, what steps will you take to ensure whistleblowers are treated fairly under the law?

10. As you know, in 2013, the Department of Justice decided that it would not seek to strike down state laws in Colorado, Washington, and elsewhere that have legalized the recreational use of marijuana, so long as these states implement effective regulatory regimes that protect key federal interests. This policy is outlined in the August 29, 2013 Cole Memorandum.

    a. In some of these states, like Colorado, businesses are currently advertising the availability of recreational marijuana on websites and on television news programs such as 60 Minutes. Do you believe that individuals that manufacture and distribute marijuana in that state are breaking federal law, no matter what state law permits?

b. I understand the Department of Justice is not gathering data on the federal priorities identified in the Cole Memorandum to evaluate whether that policy needs re-visiting. Yet these priorities are already being negatively affected, including through the increasing diversion of recreational marijuana to nearby states like Iowa. This sounds to me like the Department does not want to know how its policy is functioning. Even the New York Times has editorialized that it's important to evaluate whether the states are "holding up their end of the bargain." Do you believe the Department should be systemically collecting data related to these federal priorities in a centralized place, establishing metrics, and analyzing the data for the purpose of evaluating whether the policy outlined in the Cole Memorandum is working, and if you are confirmed will you commit to taking these steps?

c. In some of these states there is a specific problem presented by edible marijuana products falling into the hands of children. Some of these marijuana products, as well as other products containing different illegal drugs like methamphetamine, are marketed and packaged like candy. Would you support legislation to address this problem by increasing the penalties for those manufacturers or distributors of controlled substances that know, or have reasonable cause to believe, that their controlled substances will be distributed to minors? If confirmed, would you commit to working with me on such legislation?

d. Attorney General Holder has indicated that he believes that marijuana businesses in states like Colorado should have access to the U.S. banking system. Do you agree? If so, doesn't depositing the proceeds of marijuana businesses into banks violate the federal laws prohibiting money laundering, and do you believe it is appropriate for the nation's top law enforcement officer to advocate for conduct that violates those laws?

11. I have four times requested from the Department of Justice the Office of Legal Counsel ("OLC") opinion advising the President's decision to exchange five senior Taliban commanders (the "Taliban 5") for Sgt. Bowe Bergdahl. During your testimony, you stated your reluctance to "revisit the issue." But, of course, this Committee has an important oversight function of the Department, and simply choosing not to answer is not sufficient.

According to testimony by Department of Defense General Counsel, Stephen Preston, before the House Armed Services Committee last June, the OLC advice offered to the President was provided via email.

a. Is this accurate?

b. If accurate, please provide the email correspondence providing the advice.

c. If not accurate, please provide the document that was furnished to the President before he released the Taliban 5.

d. Notwithstanding your responses to Questions (b) and (c), please provide the dates when the advice was sought by the administration and when it was provided.

12. In a 2010 memorandum on the best practices for OLC legal advice and written opinions, Acting Assistant Attorney General David J. Barron wrote, "[I]n deciding whether an opinion is significant enough to merit publication . . . the Office [of Legal Counsel] operates from the presumption that it should make its significant opinions fully and promptly available to the public." In fact, "[T]his presumption furthers the interests of Executive Branch transparency, thereby contributing to accountability and effective government, and promoting public confidence in the legality of government action," he stated.

    The OLC released its legal advice to the public regarding the President's executive amnesty action the day before the President announced his order, but the Office still has not released its advice on the President's exchange of the Taliban 5 for Sgt. Bowe Bergdahl. Clearly, the Department of Justice deemed its advice on executive amnesty as "significant" enough to warrant contemporaneous release with the execution of the order.

    Whatever opinion the Department offered to the President on releasing five senior Taliban commanders is clearly a matter of significant public interest since these terrorists will likely return to the battlefield, and the President released them in exchange for a soldier who has since been charged with deserting his unit. All of this was done in the face of a statute that was written to prevent enemy combatants from being released from Guantanamo Bay and returning home to plan further attacks against the United States and our allies.

    In light of the Department's own presumption on the importance of releasing those OLC opinions that are "significant," please explain why either the Department does not consider its advice on the exchange of terrorists for Sgt. Bergdahl to be one of its "significant opinions" deserving of public disclosure, or, alternatively, what factors lead the Department to believe the presumption has been overcome.

13. As specified below, please explain the discrepancy between (a) and (b).

    a. As mentioned in Question 13, the Acting Assistant Attorney General's 2010 memorandum continues:

       > Timely publication of OLC opinions is especially important where the Office concludes that a federal statutory requirement is invalid on constitutional grounds and where the Executive Branch acts (or declines to act) in reliance on such a conclusion . . . so that Congress can consider those reasons and respond appropriately, and so that the public can be assured that Executive action is based on sound legal judgment and in furtherance of the President's obligation to take care that the laws, including the Constitution, are faithfully executed.

    b. In addition, according to Department of Defense General Counsel, Stephen Preston's testimony, "The administration sought the guidance from the Department of Justice

on the applicability and impact of the 30-day notice requirement . . . and received guidance from the Department of Justice." He stated, "The question was the constitutional implications of its application in the [Bergdahl exchange]. And the administration determined that it was necessary to forego the full 30-day formal notice." He further stated that "the exercise of [the President's] constitutional authority is in tension with [the National Defense Authorization Act of 2014] . . . [so] the statute yields to the constitutional authority either as a matter of interpretation or through the application of separation of powers principles."

The Acting Assistant Attorney General's own reasoning was that "[t]imely publication of OLC opinions is especially important where the Office concludes that a federal statutory requirement is invalid on constitutional grounds and where the Executive Branch acts (or declines to act) in reliance on such a conclusion."
Moreover, Mr. Preston stated that the administration received legal advice from the Department, and given that advice, the administration determined that the 30-day notice statutory requirement was invalid in this circumstance on constitutional grounds.

Please explain how the Department can reconcile the refusal to release this legal advice with its own internal guidelines on the release of opinions which invalidate laws based on constitutional grounds.

14. During my years in the Senate, I have been committed to combating fraud, waste, and abuse in the government and government programs. I believe that the False Claims Act has proved to be the most effective tool in the effort to prevent fraud and abuse against the government and has enabled the government to recover over $40 billion since 1986. The *qui tam* provisions of the False Claims Act encourage citizens, who have knowledge and evidence of false claims of fraud, to report the illegal activity. These patriotic whistleblowers are the federal government's greatest allies in the fight against fraud.

    As the Senate author of the 1986 Amendments to the False Claims Act, I am one of the Act's biggest supporters and defenders. It is my hope that as the Deputy Attorney General, you will also vigorously support the False Claims Act and its *qui tam* provisions.

    a. As Deputy Attorney General, will you vigorously enforce the False Claims Act?

    b. Do you have any question as to the constitutionality of the FCA and the *qui tam* provision?

    c. Will you oppose efforts by industry groups, including the health care industry and the defense industry, to weaken the False Claims Act and the *qui tam* provisions of the FCA?

    d. Will you ensure that Civil Division attorneys aggressively enforce the False Claims Act, and will you work with the U.S. Attorneys to ensure their vigorous support and enforcement of the False Claims Act and the *qui tam* provisions of the FCA?

e. Will you agree to promote a close working relationship between *qui tam* relator's counsel and the Justice Department for the purpose of establishing the public/private relationship envisioned when the FCA was signed into law by President Reagan?

15. Starting in 2010, the Department of Justice (DOJ) filed complaints against Arizona, Alabama, South Carolina, and Utah because of their pro-enforcement immigration laws. If confirmed, would you support the continuance of this policy of filing complaints against states that have passed such laws?

16. While Department of Justice filed lawsuits against states that enacted pro-enforcement immigration laws, other cities enacted policies that expressly prohibited law enforcement from cooperating with the federal government on undocumented immigrant issues. What steps would you take to encourage sanctuary communities to reverse their ordinances?

17. While Sanctuary Communities refuse to cooperate with the federal government, they continue to collect money from DOJ grant programs. Would you advise the Attorney General to instruct the Department to withhold grant money for sanctuary communities that refuse to comply with our immigration laws?

18. The administration has acknowledged that over 36,000 convicted criminals were released from ICE custody in fiscal year 2013, and an additional 30,000 were released in fiscal year 2014. Many of these criminals were guilty of heinous crimes, including homicide, sexual assault, abduction, and aggravated assault. Yet, Immigration and Customs Enforcement (ICE) used its discretion and released these criminals back into the community. Do you believe the government, unless ordered by a court, should release convicted criminal aliens guilty of dangerous crimes, such as murder, rape, and kidnapping?

19. DHS cited the 2001 Supreme Court decision *Zadvydas v. Davis*, 533 U.S. 678 (2001), as another reason so many illegal aliens with criminal records were released. In *Zadvydas*, the court held that immigrants admitted to the United States that are subsequently ordered removed could not be detained for more than six months. Four years later, the Court extended this decision to people here illegally in *Clark v. Martinez*, 543 U.S. 371 (2005). Since *Zadvydas*, Congress has tried to pass legislation to require DHS to detain criminal aliens beyond six months. Would you support such legislation?

20. The Fourth Circuit Court of Appeals issued a decision in 2014 that provides a loophole for violent gang members who are here illegally to remain in the United States. In *Martinez v. Holder*, 740 F.3d 902 (4th Cir. 2014), Martinez appealed a Board of Immigration Appeals decision that denied him "withholding of removal" relief because he was a former member of the violent MS-13 gang in El Salvador. The Fourth Circuit reversed the decision holding that Martinez's former gang membership was "immutable" and met the "particular social group" element of the statute.

    a. Do you agree that the Fourth Circuit decision creates a dangerous threat to national security?

b. After the Fourth Circuit handed down its decision, concern was expressed over the effect this decision could have on national security and public safety. Chairman Goodlatte of the House Judiciary Committee along with Representative J. Randy Forbes wrote a letter to AG Holder to express their concern with the holding and ask whether he would appeal or seek review of the decision. However, Holder did not appeal or seek review of this dangerous decision.

    i. Would you agree that the DOJ, under AG Holder, should have appealed the 4th circuit decision?

    ii. Since it wasn't appealed, what do you see as a remedy to the problem?

21. The 287(g) program allows ICE to delegate some of its immigration enforcement authority to participating states. In 2012, ICE announced that it would no longer renew its 287(g) agreements stating, "other enforcement programs, including Secure Communities, are a more efficient use of resources." However, Secure Communities serves a completely different function. The 287(g) program trains local officers to determine whether a person is lawfully in the country, whereas Secure Communities only allows local law enforcement to identify undocumented aliens after their incarceration. Secretary Johnson has announced that the Secure Communities program is being discontinued, and replaced by another program. So, statutory authority exists for the administration to elicit state and local cooperation with the federal government; nevertheless, this administration refuses to use it.

    a. Do you support the 287(g) program, and similar programs, that authorize the federal government to allow states to participate in enforcing federal law?

    b. In your opinion, should the 287(g) program be made available to local law enforcement agencies that want to protect their communities and participate in immigration enforcement?

    c. As states and local law enforcement approach you for help in enforcing federal law, will you find a way to work with them, or will you ignore them, as the current Attorney General has?

22. In June 2014, DOJ announced a program, Justice Americorp, where it will issue $2 million in grants to lawyers to represent unaccompanied minors who crossed the borders illegally. Under current law, there is no right to a lawyer in a removal proceeding. The law provides only that an immigrant may obtain a lawyer, "at no expense to the government." Do you agree that the statutory language is clear: the government may not provide a lawyer to immigrants in a removal proceeding at the expense of the taxpayers?

23. By its very nature, Justice Americorps has due process and equal protection issues. The Department is treating similar people in similar situations differently. How can the administration avoid due process and equal protection issues if it provides lawyers to some immigrants in removal proceedings, but not to others? Couldn't such a policy lead to the requirement of providing a lawyer to all immigrants in removal proceedings?

24. Immigration is a civil proceeding, and as a Constitutional matter, the government is not required to provide counsel in civil proceedings. Are you concerned that if the government starts providing counsel to individuals in removal proceedings, the government could be required to provide counsel in other civil proceedings?

25. ICE has brought removal charges against only 143,000 of the 585,000 removable aliens encountered in fiscal year 2014. That's a mere 24 percent of removable aliens that ICE encountered in 2014. What's even more troubling is that nearly 900,000 aliens who have final removal orders still remain in the country. Now, however, all people with final removal orders are encouraged to seek deferred action and other relief made available through the President's recent executive action.

    a. Do you support the administration's catch-and-release actions?

    b. Don't you agree that individuals whom a judge has ordered removed, should, in fact, be removed?

26. At your hearing, you stated that your 2010 position on mandatory minimum sentences has changed because of "fiscal reality." You indicated that money for prosecutors and federal agents is being diverted to prisons instead. If money is shifted from prisons to prosecutors and federal agents, who would presumably do their jobs in investigating and prosecuting additional federal crimes, why would the result not be increased numbers of convicted federal offenders who would be sentenced to prison, adding to the cost of the BOP budget?

27. I don't see how "fiscal reality" can form the basis for the shift in your position on mandatory minimum sentences. You testified at the hearing that BOP "takes up about two-thirds of the Department's budget." That statement seems to bear little relation to reality. According to the Congressional Research Service, in 2014, BOP spending represented 25% of the Department's discretionary budget authority. That is no greater a proportion of DOJ's budget than was true in the 1990's. And in 2010, when you heartily endorsed mandatory minimum sentences and recommended to the Sentencing Commission that additional such sentences be created, BOP spending represented nearly as high a percentage of DOJ's budget then as now, at 23%. Since "fiscal reality" cannot form the basis for your changed view of mandatory minimum sentences, what in fact did?

Senator Grassley, Chairman
Follow-up Questions for the Record
Sally Yates
Nominee, to be United States Deputy Attorney General
April 16, 2015

1. At a hearing in the House of Representatives, on April 15th, Congressman David Young and ICE Director Sarah Saldana had the following exchange:

   Young: "Director Saldana, I want to reread that quote from the President on February 25th at Florida International University when he said "There may be individual ICE officials or border patrol who aren't paying attention to our new directives. But they are going to be answerable to the head of the department of homeland security because he has been very clear about what our priorities should be. If somebody is working for ICE, and there is a policy and they don't follow the policy, there are going to be consequences for it." What did you think about when the President said that, when you learned about it? Did that concern you at all? Did you have any red flags go up at all?"

   Saldana: "I'm trying to be honest with you sir, No…No it didn't strike me as unusual"

   Young: "Well if I had policies and directives that were contrary to the law I would understand if they didn't want to follow them. I would expect them to follow the law first."

   Saldana: "And that's where you and I probably have a fundamental disagreement."

   I find it distressing that Director Saldana would take the position that ICE agents should follow policy directives, even where those policy directives conflict with clear statutory commands.

   Do you agree with Director Saldana that law enforcement officers should follow policy directives, even if those directives instruct a law enforcement officer to perform a duty or function that is contrary to statutory law?

2. I asked if you agreed that the Second Amendment, as a fundamental right, requires access to ammunition. You responded that you would make sure that all proposals within the purview of the Department of Justice are lawful under the Constitution. Regardless of ATF's position on the issue, do you believe that the ability to access ammunition is required by the Second Amendment?

3. According to testimony by the Department of Defense General Counsel, Stephen Preston, before the House Armed Services Committee last June, the OLC advice offered to the

President was provided via email. In my Questions for the Record, I asked you if this was accurate. You did not answer that question but instead discussed the need to have some materials remain confidential in order to "preserve and protect the Executive Branch's proper functioning under the Constitution." Of course, disclosure of facts related to how and in what form the OLC advice was offered, including if it was offered via email, could not possibly be covered by any privilege. Confirmation of a medium is not advice, and it does not put in jeopardy any interests the executive branch may have, as a constitutional matter.

a. Was Stephen Preston's testimony that the OLC advice was provided via email accurate?

b. If you will not answer whether Mr. Preston's testimony was accurate, please identify the privilege you are asserting, as well as the legal rationale supporting this claim.

c. I also asked you to provide the date(s) the advice was sought as well as the date(s) when it was provided. Given your response to this question, please explain the privilege you are asserting and the legal rationale supporting this privilege.

d. Finally, I reiterate my request for the Department to provide the OLC advice it provided to the President, in whatever form it took. If you are unwilling to do so, please identify the privilege and legal reasoning.

4. Regarding the ongoing Congressional investigation of quid pro quo hiring allegations within the USMS Asset Forfeiture Division, you wrote in response to Question 4 that you "take seriously all allegations of employee misconduct" and that the Department "remains committed to addressing any such allegations and taking action where appropriate". However, information obtained by the Committee suggests the Department's denial of these allegations may have been premature and was prepared prior to the completion of the USMS's more thorough internal investigation into the matter.

   a. What steps does the Department take to ensure the accuracy of its responses to Committee inquiries?

   b. When the Office of Legislative Affairs (OLA) issued its April 3, 2015 response to the Committee, was OLA aware that the internal USMS investigation of this matter remained incomplete?

   c. Will you personally ensure that DOJ's review of this matter is completed in a professional and comprehensive manner and report your findings to this Committee?

5. Your answers to my questions for the record 1(a) and (b), and 2(a),(b),(c), and (d) were unresponsive, please answer the questions:

   a. Do you believe the Department's proposed changes should include within the category of persons to whom a protected disclosure may be made an FBI employee's direct supervisor and others within the employee's chain of command? If not, why not?

   b. When will the Department issue regulations implementing additional recommendations in its own report, issued a year ago?

   c. Why shouldn't the Department's proposed regulations incorporate provisions endorsed by GAO, the IG and the FBI at the Committee's March 4, 2015 hearing to explicitly protect disclosures made by FBI employees to Congress? Please explain how the Department's proposed changes to OARM procedures, discussed in your response, are relevant to whether the Department supports explicitly protecting disclosures to Congress.

   d. What steps does the Department propose to take to exercise effective oversight over OARM and ensure that any sanctions for violations of protective orders are not used as methods of retaliation themselves against whistleblowers?

   e. Do you agree that the sanctions proposal could be used to thwart Congressional oversight of whistleblower cases? Why or why not?

   f. Why should there not at least be an exception to these gag orders for disclosures to Congress and the Inspector General?

6. On March 26, 2015, the Office of Inspector General (OIG) released a report which found that Drug Enforcement Administration (DEA) agents engaged in "sex parties" with prostitutes hired by drug cartels in Colombia.[1] According to the report, seven DEA agents admitted to attending these parties, but none of them were dismissed.[2] Instead, the penalties imposed on these agents ranged from a 2-day suspension to a 10-day suspension.[3]

   On the same day, I wrote you a letter expressing concerns that the Justice Department (DOJ) may not be taking adequate steps to prevent its employees from buying sex and thereby contributing to the demand for the human sex trade. On April 10th, DOJ responded as follows:

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[1] U.S. Department of Justice, Office of Inspector General, *The Handling of Sexual Harassment and Misconduct Allegations by the Department's Law Enforcement Components* (March 2015), at 27-28 [hereinafter OIG Report].
[2] *Id.* at 28
[3] *Id.*

> The Attorney General and Acting Deputy Attorney General share your concerns about the conduct detailed in the OIG report (report). We are also troubled by the apparent *inadequacy* of the Drug Enforcement Administration's (DEA) response to that and other conduct that we have learned about since the release of the report. . . . While discipline was imposed on each of the agents who admitted to the [sex parties] misconduct, *none of the agents were dismissed.* Although *we have significant concerns about the lack of severity of this discipline,* federal civil service protections preclude us from reopening these closed matters.[4]

Yet, also on April 10th, the Attorney General issued a memorandum that imposes that same inadequate measure of discipline on employees who solicit sex, going forward: the possibility of mere suspension, instead of automatic termination.[5] This is far from zero tolerance.

The Attorney General's April 10th memo appears to be a tacit admission that under certain circumstances, the U.S. Department of Justice will tolerate employees who engage in a practice that, by its own terms, "creates a greater demand for human trafficking victims and a consequent increase in the number of minor and adult persons trafficked into commercial sex slavery."[6]

As such, the memo may send a similar message of tolerance to would-be johns, pimps, and human-traffickers, both domestically and abroad. The memo may also perpetuate a cynical perception held by some that reducing the demand for the sex trade is unviable. Given the Department's demonstrated commitment to combating the human sex trade, I doubt that this was the intent of Department leadership.

During consideration of Ms. Loretta Lynch's nomination to be the next Attorney General, I asked if she would commit to implementing a zero-tolerance policy that requires the dismissal of DOJ employees who are found to have engaged in solicitation of prostitution.[7] I did so in response to a January 2015 OIG report disclosing problems in the DOJ's policies governing the off-duty conduct of its employees,[8] including the lack of a Department-wide policy concerning solicitation of prostitution, much less a zero tolerance policy. This review followed a 2012 OIG finding that three DEA officials paid for sexual services while in Cartagena, Colombia.[9]

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[4] Letter from The Hon. Peter J. Kadzik, Assistant Attorney General, U.S. Department of Justice, to Sen. Charles E. Grassley, Chairman, Sen. Comm. on the Judiciary (April 10, 2015), at 1 (emphases added).
[5] U.S. Department of Justice, Office of the Attorney General, Memorandum for all Department Personnel, Prohibition on the Solicitation of Prostitution (April 10, 2015).
[6] *Id.*
[7] Nomination of Loretta E. Lynch to be Attorney General of the United States, Questions for the Record, Submitted February 9, 2015, http://www.judiciary.senate.gov/imo/media/doc/Lynch%20QFR%202-9-15.pdf, at 43-44.
[8] U.S. Department of Justice, Office of Inspector General, *Review of Policies and Training Governing Off-Duty Conduct by Department Employees Working in Foreign Countries* (Jan. 2015), at ii, 7, 40, 48-50.
[9] Letter from U.S. Department of Justice, Office of Inspector General to Sen. Joseph Lieberman, Chairman, and Sen. Susan Collins, Ranking Member, Sen. Comm. on Homeland Security and Governmental Affairs (Dec. 20, 2012).

In her February 9th response to my question on this subject, Ms. Lynch failed to commit to a zero-tolerance policy, saying only that she will review policies to ensure that those who violate the "highest standards" of conduct are held accountable.[10] I hope this includes a zero tolerance policy, but I simply do not know based on the nominee's response. Also, the nominee's answer indicates a failure to appreciate the deterrence value of a zero tolerance policy.

As I noted in my March 26th letter, it is not enough to set anti-human trafficking as a prosecutorial priority – it must also be a managerial and personnel priority. A bright line rule warning all employees to steer clear of contributing to the demand for human trafficking is needed, with a sufficiently serious penalty attached to a violation of that rule. Anything short of the penalty of termination is not zero tolerance.

Please respond to the following questions – which are nearly identical to the questions that I asked you in my March 26th letter, but were left unanswered by the Department's April 10th response.

a. Will you adopt a zero-tolerance policy that requires the dismissal of any DOJ employee who is determined to have engaged in the solicitation of prostitution, without exception?

b. What legal barriers and restrictions, if any, are currently in place that would prevent the Department from adopting an effective zero-tolerance policy?

c. What additional authority, if any, do you need from Congress to ensure that DOJ employees are terminated for engaging in the solicitation of prostitution?

d. According to the March 26, 2015 OIG report, the OIG "cannot be completely confident that the FBI and DEA provided the OIG with all information relevant to its review."[11] Will you instruct all DOJ components to fully cooperate with the OIG in its reviews, including providing timely access to all documents requested by the OIG?

7. Since February of this year, the OIG has already sent four reports informing Congress that the FBI has violated an appropriations rider that prohibits the use of appropriated funds to deny the OIG timely access to all records.[12] On April 14, 2015, the OIG sent another report affirming

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[10] Nomination of Loretta E. Lynch to be Attorney General of the United States, Questions for the Record, Submitted February 9, 2015, http://www.judiciary.senate.gov/imo/media/doc/Lynch%20QFR%202-9-15.pdf, at 43-44.
[11] OIG Report, at ii.
[12] Letter from Michael Horowitz, Inspector General, U.S. Department of Justice, to Sen. Comm. on Appropriations and House Com. on Appropriations (Feb. 3, 2015); Letter from Michael Horowitz, Inspector General, U.S. Department of Justice, to Sen. Comm. on Appropriations and House Com. on Appropriations (Feb. 19, 2015); Letter from Michael Horowitz, Inspector General, U.S. Department of Justice, to Sen. Comm. on Appropriations and House Com. on Appropriations (Feb. 25, 2015); Letter from Michael Horowitz, Inspector General, U.S. Department

that the FBI is still refusing to comply, and that "document requests remain outstanding in every one of the reviews and investigations that were the subjects of those letters."[13]

One day later, on April 15, 2015, the FBI responded to my February 26 and March 6, 2015 letters on this subject,[14] and stated as follows:

> Indeed, in order to resolve the disagreement [with the OIG], consistent with standard Department practice, the Office of the Deputy Attorney General has asked the Office of Legal Counsel (OLC) to render an opinion as to the correct reading of the law. As we await the OLC opinion or other dispositive guidance, in order to comply with the Inspector General Act *and* all other applicable provisions of law, we must conduct a legal review of the large volume of documents that we regularly produce to the OIG.[15]

Section 6(a)(1) of the Inspector General Act of 1978 means what it says when it gives Inspectors General a right to access all Department records,[16] but apparently the FBI needs an affirmation of this clear reading of the statute from OLC.

On October 10, 2014, Representative John Conyers and I wrote to Acting Assistant Attorney General Karl Thompson requesting that the Office of Legal Counsel provide to the House and Senate Judiciary Committees a copy of the opinion.[17]

In your April 13, 2015 response to my question to you on this subject, you stated that you "expect [OLC's] work to be completed as soon as possible."[18]

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of Justice, to Sen. Comm. on Appropriations and House Com. on Appropriations (Feb. 3, 2015); Letter from Michael Horowitz, Inspector General, U.S. Department of Justice, to Sen. Comm. on Appropriations and House Com. on Appropriations (Mar. 4, 2015); Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, 128 Stat. 2130, (2014), at Div. B, Title II, Sec. 218.

[13] Letter from Michael Horowitz, Inspector General, U.S. Department of Justice, to Sen. Comm. on Appropriations and House Com. on Appropriations (Mar. 4, 2015).

[14] Letter from Charles E. Grassley, Chairman, Sen. Comm. on the Judiciary, to the Hon. James Comey, Director, Federal Bureau of Investigation (Feb. 26, 2015); Letter from Charles E. Grassley, Chairman, Sen. Comm. on the Judiciary, to the Hon. James Comey, Director, Federal Bureau of Investigation (Mar. 6, 2015).

[15] Letter from the Hon. Stephen D. Kelly, Assistant Director, Federal Bureau of Investigation, to Charles E. Grassley, Chairman, Sen. Comm. on the Judiciary, (Apr. 15, 2015).

[16] Section 6(a)(1) of Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101, as amended.

[17] Letter from Charles E. Grassley, Ranking Member, U.S. Senate Committee on the Judiciary and John Conyers, Ranking Member, U.S. House of Representatives Committee on the Judiciary to Karl R. Thompson, Acting Assistant Attorney General (Oct. 10, 2014).

[18] Nomination of Sally Yates to be Deputy Attorney General of the United States, Questions for the Record, Submitted April 13, 2015, at 4-5.

To date, the OLC opinion remains outstanding. Your answer to question 3 was unresponsive. Please answer the questions:

a. When will the OLC complete the opinion?

b. Will you commit to making the opinion public by a date certain?

8. In response to Question 5 asking if you would support legislation requiring state and local law enforcement to comply with immigration detainer requests by federal authorities, you stated you would look forward to working with the Committee on "any legislation that would help to improve our immigration system in a manner that protects national security and public safety." Do you believe that legislation requiring state and local law enforcement to comply with immigration detainer requests by the feds would help to improve our immigration system in a manner that protects national security and public safety?

9. In response to Question 6 regarding misconduct by NSA employees, you cited "the Department's long-standing practice not to disclose non-public information about investigations that did not result in publicly filed criminal charges" as justification for the Department's failure to comply with my requests for information on this issue. However, that practice is far from consistently followed. The Department does release information about investigations that did not result in filing criminal charges when it believes it is in its interests. For example, according a February 10, 2010 FBI press release:

> Earlier today, representatives of the FBI and Justice Department provided a 92-page investigative summary along with attachments to victims of the attacks, relatives of the victims and appropriate committees of Congress. This document sets forth a summary of the evidence developed in the "Amerithrax" investigation, the largest investigation into a bio-weapons attack in U.S. history. As disclosed previously, the Amerithrax investigation found that the late Dr. Bruce Ivins acted alone in planning and executing these attacks.

The investigative summary and the attachments are now accessible to the public and have been posted to the Justice Department Web site at www.usdoj.gov/amerithrax under the Freedom of Information Act. In addition, roughly 2,700 pages of FBI documents related to the Amerithrax case are now accessible to the public and have been posted to the FBI website athttp://foia.fbi.gov/foiaindex/amerithrax.htm under the Freedom of Information Act.[19]

[19] http://www.justice.gov/opa/pr/justice-department-and-fbi-announce-formal-conclusion-investigation-2001-anthrax-attacks

Accordingly, the Department has recognized in its prior practice that the release of such information can be appropriate when there is a strong public and Congressional interest in its work despite the lack of any criminal charges being filed. How do you distinguish the Departments previous releases of such information from your current position? Additionally, is it your position that Congressional oversight responsibilities may be overridden or ignored because of the Justice Department's "long-standing practices"?

10. In light of ongoing civil litigation and the criminal investigation of the IRS targeting scandal, has the Justice Department instituted a litigation hold or other preservation effort to the storage sites, mentioned in Question 8, in Pennsylvania and West Virginia to cover all potentially relevant information, including electronically stored information? If so, when? If not, why not?

11. In your attempt to justify the Department's refusal to provide OLC information in your reply to Question 11, you cite to the "Best Practices Memo" for the contention that, although the Department favors publication of significant OLC opinions, countervailing considerations may make it improper to publish. The Best Practice Memo says such a countervailing consideration can be "when an agency requests advice regarding a proposed course of action, the Office concludes it is legally impermissible, and the action is therefore not taken." In your opinion, would a situation in which the President requests advice regarding a proposed course of action, the Office concludes it is legally impermissible, and the action is taken anyway also qualify as a countervailing consideration justifying withholding publication of the OLC opinion?

12. Follow-up to Question 5 and 19 – I asked you whether you would support legislation that would clarify that it is mandatory for local jurisdictions to comply with detainer requests issued by Immigration and Customs Enforcement so that criminal aliens were not released. Your response was vague and unresponsive. I hope you will take the time to study the issue and review the pending legislation that would address the *Zadvydas v. Davis* decision with regard to length of detention for foreign nationals. Would you support legislative efforts to allow the government to hold certain aliens longer than six months pending removal, as is current practice? If not, why not?

13. Follow-up to Question 15 – In your response to my question regarding federal lawsuits against certain states, you say that you "will continue the Department's efforts to work closely with our federal, state, and local law enforcement partners to ensure that national security and public safety are our top priorities in enforcement of immigration laws." However, the problem is that the Department is doing the exact opposite and not working with state and local partners. It is punishing states for cooperating with the federal government and rewarding states that are not. While I understand you will evaluate state laws on a case by case basis, I would like to know if there are any state laws relating to immigration enforcement currently in place that you find objectionable. Please elaborate.

14. Follow-up to Question 16 – The responses you have provided regarding several of my questions are repetitive and nonresponsive. While I appreciate that you will work closely with law enforcement partners, it is not clear how you will do that. I asked specifically how you would work with state and locals to reverse potential sanctuary policies and what solutions you would bring to the table to ensure more cooperation. Please elaborate on this issue.

15. Follow-up to Question 17 – In your response related to grant funding for sanctuary cities, you appear to recognize that the purpose of the Department's grants is to keep the public safe. However, sanctuary communities are not keeping the public safe when they release dangerous illegal aliens back into the community. This is especially true after ICE has requested that they detain such dangerous or criminal aliens in order to provide time for the agency to take custody of them. Therefore, would you advise the Attorney General to instruct the Department to withhold funding when communities refuse to cooperate with federal law enforcement, especially if any funding from the Department is not related to public safety?

16. Follow-up to Question 20 – Your answer to my question about the Department's failure to appeal the decision in *Martinez v. Holder* was not responsive. I would like to know whether you agree that Martinez weakens national security. You responded that there are other elements besides being a member of a "particular social group" that an alien has to meet for withholding of removal. However, the decision in this case makes it easier for gang members to remain in the United States. Do you think alien gang members should be allowed to remain in the country? Should they be a priority for removal?

17. Follow-up to Question 22 – You write that the statute, in your view, does not bar the government from exercising its discretion to fund legal representation to certain alien children in immigration proceedings. Do you support using taxpayer funding for legal representation of people who have illegally entered the country or overstayed their visa, regardless of age?

18. Follow-up to Question 25(a) – You stated that, throughout your career, you have worked to secure our borders. Please specify these efforts.

19. Follow-up to Question 25(a) - You stated that, throughout your career, you have worked to protect our national security through the enforcement of federal immigration laws. Specifically, how have you done so?

20. Follow-up to Question 25(a) – While I understand that the Department of Homeland Security is responsible for following through with a judge's removal order, the safety of the public is the Department of Justice's joint responsibility. Given the Department's charge over law enforcement matters in the United States, I would like to know more about where you stand with regard to catch and release policies. Please explain your thoughts about the release of

criminal aliens by the Obama administration in the last few years and what can be done to prevent this in the future.

Senator David Perdue
Questions for the Record

On the Nomination of Sally Quillian Yates
To be Deputy Attorney General of the United States

March 31, 2015

1. As a former federal prosecutor, I know you are familiar with the concept of prosecutorial discretion. What, if any, are the limits of the President's discretion to enforce federal law?

2. In his Memorandum Opinion and Order in *Texas v. United States*, B-14-254 (S.D. Tex. Feb. 16, 2015), Judge Hanen enjoined the implementation of President Obama's Deferred Action for Parental Accountability Program ("DAPA") and of the "three expansions/additions to the [Deferred Action for Childhood Arrivals Program, hereinafter "DACA"]," finding that the government had "clearly legislated a substantive rule without complying with the procedural requirements under the Administrative Procedure Act." *Mem. Op.* at 123. Do you agree that in promulgating and implementing DAPA and the DACA expansions, the government acted unlawfully?

3. According to press reports, at a recent hearing on the injunction in the *Texas* case, Judge Hanen told the government that "I was made to look like an idiot. I believed your word that nothing would happen." The judge was referring to the more than 100,000 three-year DACA renewals the government processed in the weeks following issuance of the injunction. Is it the Justice Department's position that the government is authorized to continue processing of DACA renewals during the pendency of the *Texas* injunction? If so, please explain the legal basis for your answer.

4. With respect to the President's executive actions on immigration implemented through the DACA and DAPA programs, please explain whether you share the view of Attorney General nominee Loretta Lynch that the Office of Legal Counsel memorandum setting forth the argument for the President's actions are constitutional and "reasonable."

5. Please explain your view on how, or whether, the President's executive action on immigration implemented through the DACA and DAPA programs comports with the Constitution's Take Care Clause and Congress's Article I authority over immigration and naturalization.

6. It's now indisputable that the Internal Revenue Service ("IRS") targeted conservative organizations that were seeking to obtain tax-exempt status. Senate investigators with the Permanent Subcommittee on Investigations found that over 80% of the targeted groups had a

conservative political ideology. The Department of Justice ("DOJ" or "Department") responded by initiating a criminal probe led by a Civil Rights Division attorney who had contributed to President Obama's campaign in 2012. Little, if any, progress has been made in that investigation thus far.

a. With respect to IRS targeting of individuals and organizations who ostensibly identify with a conservative or Tea Party viewpoint, do you believe that reassignment of the DOJ's investigation to a special prosecutor is appropriate?

b. Do you believe it was appropriate to assign management of the DOJ's investigation of IRS targeting to a DOJ lawyer who contributed to President Obama's campaign?

c. Do you believe that assigning management of the DOJ's investigation of IRS targeting to a DOJ lawyer who contributed to President Obama's campaign could reasonably be expected to create the appearance of partiality or lack of objectivity on the part of the DOJ?

d. If you are confirmed, will you commit to keeping Congress informed in a more timely way than the current DOJ leadership has about the status of the investigation?

7. National security is always of paramount importance for the Justice Department. The January 2015 Paris attack and the rise of ISIS are episodes that show two emerging national security threats that you will confront, if confirmed: foreign fighters and so-called "lone wolf" attacks.

a. In your view, does the recent emergence of these threats have any impact on the debate over the impending renewal of the Foreign Intelligence Surveillance Act of 1978 ("FISA")?

b. Do you believe that the current "bulk collection" regime under FISA Section 215 is lawful?

c. Do you believe that the incidental collection provision, Section 702, is lawful?

d. President Obama has indicated that he supports a legislative reform of Section 215's bulk collection regime. What are your thoughts on amending Section 215?

e. Do you think law enforcement currently has sufficient investigative and legal authority to address the increasing threat from foreign fighters and "lone wolves"?

8. Are you committed to transparency between the DOJ and Congress, and will you commit to prompt, complete, and truthful responses to requests for information from Congress about outstanding issues related to Operation Fast and Furious?

9. Do you believe that detainees currently being held at the United States Naval Base at Guantanamo Bay, Cuba, are entitled to criminal trials in the civilian court system within the United States?

10. In 2013, the DOJ intervened in litigation over the Louisiana Scholarship Program, a state initiative that provides school vouchers to low-income families. An analysis by the State of Louisiana found that the program promoted diversity in Louisiana schools and actually assisted in speeding up federal desegregation efforts. Most of the schoolchildren who benefit from this program are members of minority groups. This year, more than 13,000 students applied and nearly 7,500 schoolchildren were awarded a scholarship voucher. These children now get the chance to excel and attend high-quality schools that their parents can choose for them because of the program. Ultimately, after public pressure, the Justice Department backed off trying to kill the program entirely, but still insisted that the State provide demographic data about the students to a federal judge overseeing the lawsuit. Accordingly, now Louisiana has to provide data for the upcoming school year and for every school year as long as the program is in place.

    a. Do you agree with the DOJ's decision to intervene in this case?

    b. If confirmed, will you use Justice Department resources to obstruct, monitor, or regulate school-choice programs?

    c. Will you commit to asking the federal district court with jurisdiction over this case to discontinue the reporting requirement if you are confirmed?

11. A 2013 report by the DOJ's Inspector General revealed disturbing systemic problems related to the operation and management of the DOJ's Civil Rights Division. If confirmed, will you commit to implementing the recommendations made by the Inspector General in that report?

12. Do you agree with the recommendation of the U.S. Sentencing Commission in its 2011 report to Congress, *Mandatory Minimum Penalties in the Federal Criminal Justice System*, that Congress should amend 18 U.S.C. § 924(c) to confer on federal district judges the discretion to impose concurrent sentences under that provision?

13. As the former U.S. Attorney for the Northern District of Georgia and the former Vice Chair of the Attorney General's Advisory Committee, you are no doubt familiar with the DOJ's recent "Smart on Crime" Initiative, which addresses a number of criminal justice issues like prioritizing prosecutions, sentencing disparities, recidivism, and incarceration of non-violent offenders. Attorney General Holder has advocated reduction of the federal sentencing guideline levels that apply to most drug-trafficking offenses, including trafficking of hard drugs like heroin. The Holder Justice Department also announced a new clemency initiative last year that invites clemency petitions from offenders who meet a number of criteria. Thousands of offenders, including drug traffickers, fall within those criteria.

    a. What are your views on those DOJ initiatives and proposals?

    b. Do they make the work of federal prosecutors harder?

    c. Do they make the American People safer?

    d. Are you going to continue them if you are confirmed as Deputy Attorney General?

    e. Do you believe that these or other DOJ initiatives should be expanded to encompass early release for violent offenders who have served a substantial portion of their sentences?

    f. Do you believe that these or other DOJ initiatives should be expanded to encompass early release for offenders who have received so-called "stacked" or consecutive mandatory minimum sentences under 18 U.S.C. § 924 or other provisions of federal law?

14. The 2013 Cole Memorandum explains the DOJ's priorities on enforcement of federal law regarding marijuana offenses. Several jurisdictions have recently legalized cultivation and distribution of marijuana for personal use, in effect, initiating a series of state regulatory regimes that contravene federal drug laws.

    a. Do you agree with the current DOJ enforcement policies and priorities outlined in the Cole Memorandum?

    b. Do you consider the DOJ's policy, as it is being implemented now, to reflect legitimate enforcement discretion consistent with the Take Care Clause?

c. If you are confirmed, how do you plan to measure the effect of the DOJ's policy on the federal interest in enforcement of drug laws?

15. A number of commentators have expressed the opinion that voter fraud simply doesn't exist or the alternative opinion that, if it does, it is a minor problem with no real effect on the integrity of elections.

    a. Do you agree that voter fraud does not exist or is so insignificant that it does not threaten the integrity of elections?

    b. Do you think that voter fraud is a *bona fide* issue that states should be entitled to address with voter ID laws?

16. First Amendment freedoms that protect the press became a lot more tenuous during Mr. Holder's administration of the DOJ. In May 2013, the Department obtained phone records for the Associated Press ("AP") without the knowledge of that organization, reportedly as part of an investigation of an AP story on CIA operations in Yemen. It then came to light that in 2010 the Holder Justice Department obtained a warrant to search the emails of Fox News reporter James Rosen – the Department claimed that Rosen was a potential co-conspirator with a State Department contractor in violation of the Espionage Act. Since then, the DOJ has issued new guidelines governing how it obtains evidence from journalists. The guidelines maintain that notice of a subpoena may be withheld only if notifying the journalist would present a "clear and substantial threat" to an investigation or to national security.

    a. Do you agree that the Department's treatment of journalists has been heavyhanded and that reform of DOJ practices was necessary?

    b. Do you believe that the DOJ investigations described above pose a serious risk of chilling free speech?

    c. Do you support the new guidelines?

    d. As a former federal prosecutor, you are no doubt aware of the balance between individual liberties and the need to conduct thorough and effective investigations. Do the guidelines strike the right balance?

    e. Going forward, how should the Justice Department distinguish itself from the Holder Justice Department when it comes to investigation of journalists?

17. There have been significant developments recently at the DOJ regarding policies on civil asset forfeiture in response to abuses by U.S. Attorney's Offices and federal and state agencies. Attorney General Holder recently announced that the DOJ will end the Equitable Sharing Program, which essentially apportions billions of dollars in seized assets between federal, state, and local authorities – a huge pool of money that clearly created a risk of encouraging aggressive, if not unlawful, seizures from individuals who are not charged with a crime, have not been indicted, and have not enjoyed any due process whatsoever.

    a. Do you believe that there have been inappropriate or excessive seizures by your office or by the DOJ with respect to civil asset forfeitures, adoptive seizures, and equitable sharing practices?

    b. What steps do you plan to take, if confirmed as Deputy Attorney General, to ensure that the DOJ returns wrongfully seized assets promptly and does not continue to seize assets wrongfully?

Senator Jeff Sessions
Questions for the Record
Sally Quillian Yates, to be Deputy Attorney General of the United States

1. Do you believe that President Obama has exceeded his executive authority in any way? If so, how?

2. On April 23, 2014, Deputy Attorney General Cole announced a new clemency initiative, under which the President intends to grant clemency to "perhaps thousands" of convicted federal drug offenders, including those who have limited ties to gangs and drug cartels. This policy would give federal drug offenders the benefit of changes in law that took place after they were convicted, even though many of these legislative changes were specifically negotiated to not apply retroactively. On March 20, 2015, President Obama stated that he plans to grant clemency "more aggressively" during the remainder of his term. If confirmed, you will be in a position to advise the President on clemency and pardon petitions.

   a. Do you agree that the pardon power exists to mitigate injustice in individual cases?
   b. Do you agree that the pardon power should not be used to target laws that the President disagrees with on policy grounds?
   c. How will you ensure that the individuals whose petitions are granted under this policy are not dangerous criminals convicted of serious federal offenses?

3. I am told that litigating attorneys within Main Justice are paid significantly more than similarly-situated federal prosecutors within the 93 U.S. Attorney Offices across the country. This pay variance is especially large at the entry level, and can differ as much as $30,000 between similarly situated Assistant U.S. Attorneys and Justice Department trial attorneys. I am also told that the Department has the authority to correct the problem because it arises out of the uneven treatment in pay of Assistant U.S. Attorneys, covered under the specialized Administratively Determined pay schedule for Assistant U.S. Attorneys, and the pay of all other Department attorneys, covered under the government-wide General Schedule. Serving as vice chair of the Attorney General's Advisory Committee, you must have been aware of this situation. Do you believe it is justified? If not, will you take action to correct it?

4. In response to a question at your nomination hearing regarding what your priorities will be if confirmed, you stated:

   "It's important that we not be generating stat[istics] but actually having an impact on the communities that we serve to make them as safe as possible. And so one of the things that I would like to do is to work with our law enforcement agencies to ensure that they are focused on making an impact on the safety of the communities rather than just, as I said, generating stat[istics]."

Starting in the 1990s, the "broken windows" crime prevention theory was used in New York with great success. Do you believe there is a danger in failing to prosecute smaller crimes as those smaller crimes lead to larger crimes and undermine public safety?

5. If confirmed, would you advocate for legislation to close the so-called "gun show loophole"?

6. In April 2013, the Senate rejected measures that would have instituted a ban on so-called "assault weapons" and large capacity magazines, required universal background checks, and created new high criminal penalties for firearms offenses. In October 2014, Attorney General Holder referred to these as "really reasonable gun safety measures." Do you agree with Attorney General Holder's statement?

7. Have you ever expressed an opinion on whether the death penalty is unconstitutional? If so, what was that opinion? If not, do you have such an opinion and what is it?

8. President Obama was quoted in a January 2014 article in *The New Yorker* as saying the following: "I smoked pot as a kid, and I view is as a bad habit and a vice, not very different from the cigarettes that I smoked as a young person up through a big chunk of my adult life. I don't think it is more dangerous than alcohol." Do you agree with the President's statement?

9. DEA Administrator Michele Leonhart has testified before Congress that "it's important to have the facts about marijuana out there in ways that kids, teens, young adults, parents can look at it to see that what they've been sold – that [legalization] is no big deal – is not true." Do you agree with Administrator Leonhart?

10. The American Medical Association has stated that it believes "(1) cannabis is a dangerous drug and as such is a public health concern; (2) the sale of cannabis should not be legalized."

    a. Do you agree with that statement?
    b. Do you support the legalization of marijuana at either the state or Federal level?
    c. Do you support the legalization of medical marijuana, as proposed in S. 683 (introduced in the 114th Congress)?
    d. Will you speak out against efforts to eliminate the enforcement of Federal drug laws?

Nomination of Sally Quillian Yates for Deputy Attorney General
Questions for the Record
March 31, 2015

QUESTIONS FROM SENATOR TILLIS

1. As you know, the Inspector General serves as an independent checking power to deter fraud and promote efficiency within the Department of Justice and other agencies. Under the Inspector General Act, the Inspector General has the authority, "to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable establishment which relate to programs and operations with respect to which that Inspector General has responsibilities under this Act." 5 U.S.C. App. § 6 (a)(1). This information includes Title III wiretap information, grand jury documents, and consumer credit information under the Fair Credit Reporting Act. In some situations, the Attorney General may prohibit investigations, audits, or issuance of subpoenas if the Attorney General provides written notice to the Inspector General explaining the reason such action complies with 5 U.S.C. App. § 8E (1), (2), and (3).

   According to testimony from Inspector General Michael Horowitz in 2013, the Department of Justice obstructed his authority to access non-privileged documents. Instead, the practice implemented by Attorney General Holder required the Inspector General to receive written permission before the Inspector General obtained access to non-privileged records. In my view, this practice violates the plain reading of the Inspector General statute and requires the Inspector General to give deference to the very agency it is supposed to audit, which clearly defeats the statutory purpose and independence vested in the Inspector General by statute. To me, it seems like the Attorney General and Deputy Attorney General would welcome recommendations from the Inspector General to promote efficiency and eliminate fraud and waste to increase the Department's resources.

   As acting Deputy Attorney General, has this practice continued since your appointment?

   a. If yes, specifically explain your statutory interpretation that gives the Attorney General the ability to violate the plain meaning of the IG's powers under the statute.

      i. Furthermore, specifically explain where you find statutory authority to require the Inspector General to comply with the current administration's practice of requiring written permission from the Attorney General in order for the IG to access non-privileged documents?

      ii. Specifically explain what power the Inspector General holds to effectively audit, recommend efficiency proposals, and eliminate waste if the Attorney General can unilaterally withhold access information that is not privileged?

      iii. If the Attorney General can unilaterally withhold information from the Inspector General contrary to the IG statute, what prevents other components within the

Department from obstructing investigations and interfering with the independent powers specifically given to the Inspector General?

b. If no, please specifically explain what steps you will take ensure the independence of the Inspector General's statutory authority and ability to audit the Department of Justice and how you will prioritize his recommendations.

c. In addition, this month, OIG issued a report entitled "The Handling of Sexual Harassment and Misconduct Allegations by the Department's Law Enforcement Components." This report reviewed the Department of Justice's law enforcement components and their handling of internal sexual misconduct and sexual harassment allegations. The report specifically stated, "The OIG's ability to conduct this review was significantly impacted and delayed by the repeated difficulties we had in obtaining relevant information from both the FBI and DEA as we were initiating this review in mid-2013."

   i. Do you believe the Department's law enforcement components have the authority to unilaterally withhold information from the Office of Inspector General? If yes, please explain your justification.

   ii. If no, please explain what steps you will take to ensure that the Department's law enforcement components do not continue to obstruct investigations by the Office of the Inspector General.

2. In a December 2014 Report entitled "Professional Misconduct: DOJ Could Strengthen Procedures For Disciplining Its Attorneys," the Government Accountability Office concluded: "The Department of Justice (DOJ) has made changes to improve its processes for managing complaints of attorney professional misconduct since 2011 but has not implemented plans to improve processes for demonstrating that discipline is implemented, or achieving timely and consistent discipline decisions."

   a. Surely we can agree that attorneys who have committed prosecutorial misconduct or who have been disciplined by a state bar have not always carried out their duties with integrity and professionalism. Do you, in fact, agree with that statement?

   b. Secondly, would you, consistent with any due process rights of such an employee, dismiss an employee who does not uphold the professional standards and duties required of them as an attorney and a Department of Justice employee?

   c. Would you agree that any attorney at the Department of Justice who has actually been disbarred should be dismissed?

   d. What actions have you taken as acting Deputy Attorney General to comply with the recommendations offered by the Government Accountability Office in its report?

3. As of today, 34 states have passed laws requiring voters to show some form of identification at the polls. As of October 13, 2015, thirty one states have voter identification laws that are already in force. My home state of North Carolina enacted a Voter ID law in 2013, which doesn't even go into effect until 2016. As you are also likely aware, the Department of Justice filed a lawsuit challenging this reform. To date, both a Federal District Court Judge in North Carolina and the United States Supreme Court have refused to agree with the arguments advanced in the litigation by the Department of Justice. When Ms. Lynch was before the Committee, she continually stressed that the Department has limited resources and must "balance priorities with resources."

   a. Would you agree that the Department must set priorities and pursue the cases that the Department views as the most critical to the nation from a law enforcement perspective?

   b. Do you believe challenging the implementation of Voter Identification requirements that have been upheld by the Supreme Court in *Crawford v. Marion County Election Board,* 553 U.S. 181 (2008), that are widely popular with the American public, and now law in a majority of states, is an appropriate "balance of priorities with resources" for the Department of Justice?

      i. If yes, please explain why you believe this is an appropriate use of Department resources?

         1. Furthermore, it is my understanding that there are no fewer than 10 Department of Justice lawyers working on the North Carolina case alone. This does not include the numerous attorneys working on other similar cases in Wisconsin, Texas, and Ohio. Do you feel this is an appropriate expense and use of the Department's time, money, and attorneys given the concerns expressed by Attorney General nominee Loretta Lynch about "resource constraints" within the Department, and should these Voter ID cases receive priority over prosecuting cybercrimes, terrorism threats, and human trafficking?

      ii. If no, please explain what criteria you would use to decide which cases should receive priority consistent with the Department's and the AG nominee's claims of "resource constraints?"

4. In 1976, Congress established the Public Safety Officers' Benefits (PSOB) program, which is administered by the Department of Justice and provides lump-sum payments to eligible public safety officers and their survivors after a line-of-duty death or permanent and total disability. The program also provides educational benefits to an eligible officer's spouse and children. In 2009, the Government Accountability Office found that families of fallen or injured officers were waiting as long as a year and a half for a determination on a claim to the Public Safety Officer's Benefits Program.

Just this past week, Peter J. Kadzik, Assistant Attorney General, responded to a February 2015 inquiry from Senate Judiciary Chairman Grassley regarding this program. That communication indicates there are 36 pending PSOB death benefit claims pending at DOJ, a number of which have been pending for over four years.

a. This is an area where we cannot make excuses. In your time as acting Deputy Attorney General, what have you done to streamline this process and to ensure that outstanding PSOB claims are handled efficiently and quickly?
b. Notably, Mr. Kadzik's March 27, 2015 letter refers to a willingness to implement recommendations to improve the program's operation from the Department's Inspector General and the Office of Justice Program's Office of Audit, Assessment, and Management. Please explain whether you believe the program should have to be audited by two different entities just to ensure it is run efficiently and effectively. Please also explain what actions you will take to hold the employees managing the program accountable and to ensure that claims are managed in a timely manner in the coming years.

5. In your testimony before the Senate Judiciary Committee, you stated, "I'm a big believer that you need to have strategic objectives and that's down to each and every component and employee of the Department of Justice having a strategy and goals they're setting. So that's something we're working on now."

   a. Please describe what observations you have had concerning the biggest challenges the department has had thus far concerning where the Department of Justice needs to improve the allocation of its resources?

   b. What plan do you have for systematically reassessing these goals for your remaining time at the Department?

   c. What issues and initiatives do you plan on prioritizing, if confirmed, over the next two years, and how and why did you reach your decisions?

6. This month, the Office of Inspector General (OIG) issued a report entitled "The Handling of Sexual Harassment and Misconduct Allegations by the Department's Law Enforcement Components." This report reviewed the Department of Justice's law enforcement components and their handling of sexual misconduct and sexual harassment allegations. Specifically, there were several instances of questionable reporting of sexual harassment by supervisors in the Drug Enforcement Agency (DEA), Bureau of Alcohol, Tobacco, Firearms, and Explosive (ATF), Federal Bureau of Investigation (FBI), and the United States Marshalls Service (USMS). OIG found that these supervisors were not disciplined or reprimanded for their improper reporting.

   a. While I am pleased to know that the OIG did not find many instances of improper reporting, I am concerned that the various supervisors that did not properly report

sexual harassment were not disciplined. Do you intend to follow OIG's recommendation, namely that the Deputy Attorney General, "should ensure that the Department's zero tolerance policy on sexual harassment is enforced in the law enforcement components and that the components' tables of offenses and penalties are complimentary and consistent with respect to sexual harassment?"

i. In addition, what procedures will you put in place to reprimand supervisors who fail to effectively report potential instances of sexual harassment and misconduct?

b. The report also found that law enforcement agents in the DEA, who held Top Secret clearances, engaged in "sex parties" while working overseas.

i. Do you intend to follow the OIG's recommendation regarding an explicit ban on the solicitation of prostitution, even in foreign jurisdictions where such conduct may be legal?

c. Finally, the report found that law enforcement components failed to have appropriate technology to archive, monitor and detect sexually explicit images and text messages. This failure limited the OIG's ability to determine the actual quantity of explicit emails, images, and texts transmitted; thus, the Department's failure hindered the OIG's ability to effectively investigate sexual harassment and misconduct claims.

i. What steps do you plan to take to ensure that sexually explicit communications are monitored and stored in a way to make sexual harassment and sexual misconduct claims investigations as transparent as possible?

Senator Richard Durbin
Questions for the Record
Sally Quillian Yates
Nominee to be United States Deputy Attorney General

1. **In December 2014, the Justice Department issued updated "Guidance for Federal Law Enforcement Agencies regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity." Please describe what steps the Justice Department has taken to implement this Guidance. Is there an office in the Department that is primarily responsible for implementing the Guidance?**

RESPONSE: As a career prosecutor, I have dedicated my career to improving public safety. I recognize that racial profiling undermines the trust between police forces and the communities they serve, and I know firsthand that fair law enforcement is effective law enforcement. Consequently, I have directed my staff in the Office of the Deputy Attorney General to oversee the implementation of the Department's updated guidance, which is an ongoing process, and to provide me with regular updates.

My staff is working with the executive staff of the Department's Civil Rights Division and Office of Legal Policy to ensure that the Department's vision of unbiased, even-handed law enforcement, as reflected by the policy, is fully realized, and that progress is communicated to appropriate stakeholders, including interested civil rights groups. The implementation process has included meeting with the Department's components to determine what steps have been, or need to be, taken to implement the guidance, particularly with respect to training, data collection, and accountability. I am confident this process will lead to successful implementation of the updated guidance and I am committed to that goal.

2. **The Guidance states, "In order to ensure its implementation, this Guidance finally requires that Federal law enforcement agencies take the following steps on training, data collection, and accountability."**

   a. **With respect to training, the Guidance mandates, "Law enforcement agencies therefore must administer training on this Guidance to all agents on a regular basis, including at the beginning of each agent's tenure. Training should address both the legal authorities that govern this area and the application of this Guidance. Training will be reviewed and cleared by agency leadership to ensure consistency through the agency." What steps has the Justice Department taken to implement this requirement for Department employees? Has the Department created a curriculum or other materials for use in training? When will the first training take place? What assistance has the Department provided to other federal law enforcement agencies in implementing this requirement?**

   b. **With respect to data collection, the Guidance requires, "Each law enforcement agency therefore (i) will begin tracking complaints made based on the Guidance, and (ii) will study the implementation of this Guidance through targeted, data-**

driven research projects." What steps has the Justice Department taken to implement this requirement for Department employees? What assistance has the Department provided to other federal law enforcement agencies in implementing this requirement?

c. **With respect to accountability, the Guidance requires, "Therefore, all allegations of violations of this Guidance will be treated just like other allegations of misconduct and referred to the appropriate Department office that handles such allegations. Moreover, all violations will be brought to the attention of the head of the Department of which the law enforcement agency is a component." What steps has the Justice Department taken to implement this requirement for Department employees? What assistance has the Department provided to other federal law enforcement agencies in implementing this requirement?**

RESPONSE: I have directed my staff to oversee the implementation of the Department's updated guidance, which is an ongoing process. The implementation process will include meeting with the Department's components to determine what steps have been, or need to be, taken to implement the guidance, particularly with respect to training, data collection, and accountability. I am confident this process will lead to successful implementation of the updated guidance.

3. **The Justice Department's Bureau of Justice Assistance operates an important program called the John R. Justice (JRJ) program, which provides student loan repayment assistance to state and local prosecutors and public defenders across the nation.**

   Congress enacted the JRJ program in 2008, modeling it after the Attorney Student Loan Repayment Program that the Department of Justice operates for its own attorneys. The JRJ program helps state and local prosecutors and public defenders pay down their student loans in exchange for a three-year obligation to continue serving in their positions. This has proven to be an effective recruitment and retention tool for prosecutor and defender offices. And since the Department of Justice is awarding hundreds of millions of dollars in grants each year to state and local law enforcement, which generates higher numbers of arrests and criminal cases, it is critical that we help prosecutor and defender offices keep experienced attorneys on staff to handle these cases.

   The JRJ program has helped thousands of prosecutors and defenders across the country. But for the program to remain successful, the Department of Justice must remain committed to this program and to carefully administering and overseeing it. Will you commit to work with me to keep this program operating effectively during your tenure if you are confirmed?

RESPONSE: Yes, I commit to working with Congress to ensure that the Department's Bureau of Justice Assistance continues to properly oversee the John R. Justice program. As a career federal prosecutor and now as the Acting Deputy Attorney General, I know that it is critical to have a robust workforce of prosecutors and defense attorneys to support the criminal justice system.

Senator Dianne Feinstein
Questions for the Record
Sally Quillian Yates
Nominee to be United States Deputy Attorney General

1. **On September 23, 2009, the Attorney General issued a memorandum establishing new policies and procedures governing the Department of Justice's invocation of the state secrets privilege.**

   The Attorney General's memorandum states that the "Department is adopting these policies and procedures to strengthen public confidence that the U.S. Government will invoke the privilege in court only when genuine and significant harm to national defense or foreign relations is at stake and only to the extent necessary to safeguard those interests."

   As an accountability mechanism, the memorandum includes the following congressional reporting requirement: "The Department will provide periodic reports to appropriate oversight committees of Congress with respect to all cases in which the Department invokes the privilege on behalf of departments or agencies in litigation, explaining the basis for invoking the privilege."

   On April 29, 2011, the Department issued its first periodic state secrets privilege report. That report discussed the two cases in which the privilege had been invoked under the new policy, but those are no longer the only two cases. A second periodic state secrets privilege report has not been issued.

   When I asked Loretta Lynch at her hearing to provide the appropriate oversight committees with the second periodic report, she testified: "I certainly commit to you that I will do my best to ensure that the department lives up to its obligations that it has set forth."

   I do not understand the significant delay in producing the second periodic report to the appropriate oversight committees of Congress. The Department, which invokes the state secrets privilege in litigation, has the information needed to provide to Congress, so there is no apparent reason for delay.

   In your role as Acting Deputy Attorney General, will you commit to me that this report will be released by April 29, 2015, four years after the first periodic report was provided?

RESPONSE: I recognize your interest in this issue, and assure you that the Department is actively working to finalize this report. We are working to release the report before April 29, 2015, or as soon thereafter as is practicable.

Senator Al Franken
Questions for the Record
Sally Quillian Yates
Nominee to be United States Deputy Attorney General

1. **During our meeting last month I explained to you that I am very concerned about the proliferation of so-called "stalking apps" on mobile phones. These are apps that allow users to track the locations of victims, listen to their phone calls, or read their text messages. Stalking is illegal under state law, but federal law does not currently prohibit developers from creating apps that track geo-location data. I plan to reintroduce legislation on this topic, because I think we need to close that loophole.**

   DOJ does have authority under existing wiretap laws to prosecute creators of apps that allow stalkers to listen to victims' phone calls, intercept text messages, or otherwise intercept content from victims' phones. And I'm pleased that DOJ prosecuted one app developer who created an app to do all those things. I had asked that you do just that.

   But looking ahead, first of all: will you work with me on my bill to make sure that the federal government has all the tools it needs to go after stalking apps and other location privacy problems? And second: I believe there is more DOJ could be doing now—specifically, DOJ could include more robust questions in the National Crime Victimization Survey regarding GPS stalking. Will you do that?

RESPONSE: As Acting Deputy Attorney General, and as a career prosecutor, I share your concern about these "stalking apps" and I thank you for your attention to this issue. The Department is committed to cracking down on those who seek to profit from stalking-type applications by using them to commit individual privacy invasions. As you reference, an individual in the Eastern District of Virginia was recently prosecuted and pleaded guilty to advertising and selling a spyware application. In addition, the Administration's January 2015 legislative proposals to update cybercrime laws included provisions authorizing the forfeiture of proceeds from the sale of spyware, and adding the sale of spyware as a predicate offense under the money laundering statutes, both of which would increase our ability to go after those who propagate spyware such as stalking apps.

In addition to our criminal enforcement efforts, the Department also has available a range of resources for state and local authorities to address issues of cyberstalking. The Department's Office of Justice Programs and Office on Violence Against Women are providing grants, training, and technical assistance on this issue. We also have victim assistance funds available for victims of cybercrime. In addition, the Department's Bureau of Justice Statistics will be revising and expanding the National Crime Victimization Survey for 2016 to address cyberstalking and related issues, and we would welcome the opportunity to discuss this issue further with you and your staff.

2. **I want to ask you about efforts to rein in abuses in the credit rating industry—this is a topic you and I discussed when we met earlier and it is something that I have been focused on since I came into office, because those abuses played an important role in helping to cause the financial meltdown and the Great Recession. The current business model for credit rating agencies is deeply flawed. It's a system that allows banks to shop around among agencies to get a good initial rating on a financial product, and encourages the ratings agencies to loosen their standards to chase the business of big banks. The result is a "pay-to-play" system that encourages risky, inflated ratings at the expense of public investors. I've been working with a bipartisan group of colleagues, pushing for common-sense reforms to fix the system.**

   I know that DOJ has been looking back at what happened in the financial crisis and working to hold the credit rating agencies accountable for the inflated ratings that contributed to the crisis. But so far, DOJ has filed suit against just one credit rating agency, S&P—a suit that S&P settled for nearly $1.4 billion. But when that suit commenced, the Department suggested that more suits might be forthcoming. I am deeply concerned that these risky practices remain business-as-usual for the big ratings agencies and that a simple slap on the wrist won't be enough to change the misaligned incentives of their flawed business model.

   Will you take an aggressive approach to holding the ratings agencies—including but not limited to S&P—accountable for their role in the financial crisis? And will you commit to ensuring that DOJ will remain vigilant and hold rating agencies accountable for engaging in the kind of "pay-to-play" schemes that led to the crisis in the first place?

RESPONSE: Thank you for raising this issue in our meeting last month. I assure you that I am committed to using all of the Department's enforcement tools, both civil and criminal, to target financial fraud and to continue to pursue and hold accountable those who contributed to the financial crisis. The Department has aggressively prosecuted a wide range of complex and sophisticated financial fraud cases, and a number of major investigations remain ongoing. The Department's recent enforcement efforts demonstrate its focus on misconduct of every kind that contributed to the financial crisis, including that of credit rating agencies. The February 2015 settlement with Standard & Poor's Financial Services (S&P) is one example of the Department's efforts, and it is the largest penalty of its type ever paid by a ratings agency.

Another significant aspect of this resolution is S&P's admission of its own unlawful role in the financial crisis. Specifically, S&P admitted that, while it had promised investors and the public that its ratings would be independent and objective and not affected by any existing or potential business relationship, its decisions on its rating models were, in fact, affected by business concerns, and that it was with an eye to business concerns that S&P maintained and continued to issue positive ratings on securities despite a growing awareness of quality problems with those securities. This resolution, along with others of the last two years, demonstrates the Department's commitment to protect the integrity of our financial system and the best interests of the American people. In my current role as Acting Deputy Attorney General, and if confirmed, I can assure you that the Department will continue to remain vigilant in its efforts to

combat corporate fraud, and, above all, to ensure that the individuals who commit the fraud at those institutions are held to account.

3. **At the time of the founding of our nation, no one could conceive of the many technologies we have today. Even 20 years ago, we did not foresee the invention and prevalence of the smart phone—a device with which nearly everyone is now familiar.**

   There is no question that new technologies—from drones to facial recognition software—have enormous potential in both commercial and law enforcement applications. But I am deeply troubled by the limited privacy protections current law grants. Our privacy laws just have not kept pace with technological innovation. We need to be thinking carefully about the privacy implications of these technologies, and we need to get clear, strong privacy laws on the books. How will you go about balancing privacy and law enforcement interests? Will you commit to carefully considering the privacy implications for any DOJ programs and working with me to update our laws?

RESPONSE: I agree that it is important to balance privacy and law enforcement interests, and I am committed to carefully considering the privacy implications for any Department programs. As technology plays an increasingly important role in promoting public safety, the Department remains deeply committed to utilizing law enforcement resources in a manner that is consistent with the requirements and protections of the Constitution, and with high respect for the important privacy interests of the American people.

The Department's privacy compliance program has steadily evolved since the enactment of the Privacy Act of 1974. Privacy and civil liberties are key considerations taken into account in virtually all Department programs, and they play an important role in the decisions of the senior leadership of the Department. In February 2006, the Department created an Associate Deputy Attorney General position in the Office of the Deputy Attorney General to serve as the Department's Chief Privacy and Civil Liberties Officer (CPCLO), who reports to both the Deputy Attorney General and to the Attorney General. The CPCLO leads the Department's privacy and civil liberties program, and is supported by the Office of Privacy and Civil Liberties. In addition, the Department has designated a senior official within each component to serve as the Senior Component Official for Privacy to ensure privacy issues are reviewed at the component-level.

As demonstrated by the legal review and privacy assessments that have been conducted by our components and the development of privacy best practices and operational guidelines, the Department has always had a long-standing, firm commitment to preserving the privacy and civil liberties of the public that we serve. If confirmed, I will continue to uphold that commitment as Deputy Attorney General, and I will be happy to work with you on these important issues.

4. **DOJ's Antitrust Division is currently reviewing Comcast's proposed acquisition of Time Warner Cable. In March of last year, I sent a letter to the Antitrust Division, raising my concerns about the deal, which—if approved—would result in a company with unprecedented power in the telecommunications industry. It would threaten to seriously compromise the open, competitive nature of the Internet, while also raising**

prices and restricting consumer choice. Strong antitrust enforcement by DOJ is essential to protecting consumers.

If confirmed, will you commit to reviewing the serious concerns about the proposed Comcast-Time Warner Cable deal that I and so many others have raised, and to doing all that you can to ensure that the Antitrust Division is empowered to stand up to telecommunications giants like Comcast?

RESPONSE: I agree that vigorous enforcement of the antitrust laws by the Department is essential to protecting competition and consumers. Although I cannot comment on an active investigation, I can assure you that the Antitrust Division is conducting a comprehensive investigation of Comcast's proposed acquisition of Time Warner Cable. The Department appreciates your concerns and as part of its investigation will analyze the issues you have raised. The Department is also working closely with the FCC to ensure that competition is protected in the marketplace for video distribution, broadband, and content production.

Senator Grassley, Chairman
Questions for the Record
Sally Yates
Nominee to be United States Deputy Attorney General

1. **In April 2014, the Department of Justice submitted a report to the President examining the FBI whistleblower regulations.[1] In January of this year, the U.S. Government Accountability Office (GAO) published a report examining those regulations and the Department's handling of FBI whistleblower complaints.[2] During the March 24 hearing, you indicated that you had not reviewed the Department's report. I encourage you to review the Department's analysis and recommendations, as well as those of the GAO.**

   In its April 2014 report, the Justice Department recommended expanding whistleblower protections to disclosures made to the second-in-command of an FBI field office.[3] Despite the urgings of employees, whistleblower advocates, and even the Office of Special Counsel, however, the Department did not recommend expanding protections to disclosures made to direct supervisors or other management within an FBI employee's chain of command.

   As the Department notes, "[The Office of Special Counsel (OSC)] believes that to deny protection unless the disclosure is made to the high-ranked supervisors in the office would undermine a central purpose of whistleblower protection laws."[4] The U.S. Government Accountability Office (GAO) report examining the Department's handling of FBI whistleblower cases similarly stresses that employees who report to a "nondesignated entity," whether they intend to officially blow the whistle or not, leaves those employees with "no recourse" against retaliation.[5] GAO explains that it is common for whistleblowers in the FBI to report wrongdoing to their immediate supervisors, and some report concerns without realizing or expecting to make a "whistleblower disclosure."[6] Moreover, internal FBI policy *encourages* reporting

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[1] Department of Justice Report on Regulations Protecting FBI Whistleblowers (Apr. 2014), at 12-13 (The current regulations protect disclosures made to the first-in-command of an FBI field office) [Hereinafter "DOJ Report"].

[2] U.S. Government Accountability Office, Report to the Chairman, Committee on the Judiciary, U.S. Senate, Whistleblower Protection: Additional Actions Needed to Improve DOJ's Handling of FBI Retaliation Complaints (Jan. 2015) [Hereinafter "GAO Report"].

[3] DOJ Report at 12-13.

[4] *Id.* at 14.

[5] GAO Report at 18.

[6] *Id.* at 19; Notably, the impulse to report wrongdoing to a direct or immediate superior is common in the private sector as well as in the government. *See* Ethics Resource Center, Inside

wrongdoing within the chain of command.[7] The policy "specifically prohibits retaliation against employees who report compliance risks to any supervisor in the employees' chain of command, as well as additional specified officials, but *does not offer any means of pursuing corrective action if an employee experiences retaliation for such a disclosure*."[8]

It is not surprising, then, that during the course of its review the Department examined its handling of 89 FBI whistleblower cases, and determined that 69 of them were deemed "non-cognizable." A "significant portion" of those involved disclosures that were "not made to the proper individual or officer under 28 C.F.R. § 27.1(a)."[9]

a. Given the clear findings of both reports that a significant number of FBI whistleblowers are left with no recourse for reporting wrongdoing, why shouldn't the law or regulations protect disclosures made to direct supervisors and others within an FBI employee's chain of command?

RESPONSE: I believe strongly that whistleblowers play an important role in discovering and preventing waste, fraud, and abuse in the government, and I can assure you that the Department takes reports of retaliation very seriously. The Department is working with the FBI to improve the process for adjudicating claims of retaliation. These changes will ensure that the Department has a fair and efficient process for adjudicating these claims, and include expanding the list of persons to whom a protected disclosure may be made. As Acting Deputy Attorney General, and if confirmed, I will work to ensure that our employees, whether at the FBI or in any other part of the Department, do not face retaliation for making a protected disclosure.

b. The Department released its report recommending changes to the FBI whistleblower regulations almost a year ago. What steps has the Department taken to implement its own recommendations, and when will the changes that the Department already has recommended take effect?

RESPONSE: The Department has already taken a number of steps to implement the recommendations in the report, including providing whistleblowers with access to Alternative Dispute Resolution, implementing a policy of referring any final decision that includes a finding of unlawful reprisal to the FBI Office of Professional Responsibility – copying the FBI Director, expanding resources for the office that handles appeals of FBI whistleblower cases, committing to publicly release the Office of Attorney Recruitment and Management (OARM) annual reports

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the Mind of a Whistleblower: A Supplemental Report of the 2011 National Business Ethics Survey, at 11 (2012) ("In 2011, 56 percent of first reports were made to the employee's direct supervisor."); *available at* http://www.ethics.org/files/u5/reportingFinal_0.pdf.

[7] GAO Report at 19 n. 41 (citing Policy Directive 0032D, Non-Retaliation for Reporting Compliance Risks (Feb. 11, 2008) and Policy Directive 0727D Update (Sept. 23, 2014)).

[8] *Id.*

[9] DOJ Report at 7.

in the future, and working with the DOJ Office of the Inspector General (OIG) to develop improved training for FBI employees. Implementation of the other recommendations in the report requires additional regulatory authority, and the process of drafting those regulations is ongoing.

2. **During the March 24 hearing, I asked you whether the FBI regulations should be amended to clarify that FBI whistleblower disclosures to Congress are protected. I also noted that the Department recommended in its April 2014 report establishing sanctions for violations of protective orders in the context of OARM proceedings.[10] During the Committee's March 4 hearing examining the FBI whistleblower regulations, witnesses from the first panel noted that this sanctions proposal could be used to significantly disadvantage whistleblowers in Department proceedings. The proposal also has no exception for disclosures to Congress or the Department of Justice Inspector General, and thus could function as gag orders.**

    a. **Will the Department's proposed regulations incorporate provisions endorsed by GAO, the IG, and the FBI at the Committee's March 4, 2015 hearing to explicitly protect disclosures made by FBI employees to Congress?**

RESPONSE: The Department's review of the regulations necessary to implement this change is ongoing. While we do not yet know everything that will be incorporated into the regulations, we will seriously consider these suggestions.

As you noted, the Department's report of April 2014, indicated that the Department supports revising its regulations and/or OARM's procedures, as appropriate, to include a provision providing sanction authority similar to that provided to Merit System Protection Board (MSPB) administrative judges under 5 C.F.R. § 1201.43. Under that provision, MSPB judges may impose sanctions upon the parties "as necessary to serve the ends of justice." As amended in October 2012, see 77 FR 62350, 62366, the rule provides that an MSPB judge must provide appropriate prior warning, allow a response to the actual or proposed sanction when feasible, and document in the record the reasons for any resulting sanction.

OARM has used protective orders in the past only in limited circumstances, including where the parties have requested the investigative file from FBI's Office of Professional Responsibility (OPR) or OIG. In those cases, the parties have agreed to enter a joint stipulated protective order to prevent the release of privacy-protected or sensitive law enforcement information. Although it has yet to had occasion to do so, OARM could also issue a protective order if necessary to protect from harassment a witness or other individual who testifies before it.

    b. **Do you agree that the proposal to sanction whistleblowers for violating protective orders could severely disadvantage FBI whistleblowers that do not have routine access to investigative files outside the OARM process? Why or why not?**

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[10] *Id.* at 14-15.

RESPONSE: The purpose of this proposal is to ensure that FBI whistleblowers have access to OIG and FBI OPR investigative files during the OARM process. OARM has used protective orders in the past only in limited circumstances, including where the parties have requested the investigative files. In those cases, the parties have agreed to enter a joint stipulated protective order to prevent the release of privacy-protected or sensitive law enforcement information. As noted above, this proposal is very narrow and is similar to the authority provided to MSPB administrative judges.

c. **Do you agree that the sanctions proposal could be used to thwart Congressional oversight of whistleblower cases? Why or why not?**

RESPONSE: As explained above, the purpose of the proposal is to ensure that whistleblowers have access to the documents they need as part of the OARM proceedings, while at the same time preventing the release of privacy-protected or sensitive law enforcement information.

d. **Why should there not at least be an exception to these gag orders for disclosures to Congress and the Inspector General?**

RESPONSE: As explained above, our review of the regulations is ongoing. While we do not yet know everything that will be incorporated into the regulations, we will seriously consider these suggestions.

e. **Will the Department include this recommendation in its proposed regulatory amendments? Why or why not?**

RESPONSE: As explained above, our review of the regulations is ongoing. While we do not yet know everything that will be incorporated into the regulations, we will seriously consider these suggestions.

3. **On October 10, 2014, Representative John Conyers and I wrote to Acting Assistant Attorney General Karl Thompson requesting that the Office of Legal Counsel provide to the House and Senate Judiciary Committees a copy of the opinion requested by Inspector General Michael Horowitz regarding OIG's access to Department records.[11] When will the OLC complete the opinion? Will you commit to making the opinion public by a date certain?**

RESPONSE: I believe that the Inspector General plays a particularly critical role at the Department of Justice in helping us to identify misconduct or malfeasance, or simply waste, fraud and abuse, and that the Inspector General should receive all documents that he needs to complete his reviews. I understand that OLC, in response to a request from former Deputy

[11] Letter from Charles E. Grassley, Ranking Member, U.S. Senate Committee on the Judiciary and John Conyers, Ranking Member, U.S. House of Representatives Committee on the Judiciary to Karl R. Thompson, Acting Assistant Attorney General (Oct. 10, 2014).

Attorney General James Cole, is preparing a legal opinion addressing the circumstances in which the Inspector General is legally authorized to gain access to information obtained pursuant to the Federal Wiretap Act, Title III of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 18 U.S.C. §§ 2510-2522 (2012); grand jury material protected by Rule 6(e) of the Federal Rules of Criminal Procedure; and information obtained pursuant to section 1681u of the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq. (2012). I expect their work to be completed as soon as possible. Although it is my understanding that the Inspector General has never been denied access to Title III or Rule 6(e) material when necessary to complete his reviews, I am developing a department-wide policy that will expedite the production of such documents to the Inspector General, and I expect that policy to be finalized in the coming weeks.

4. **On March 18, 2015, I sent a letter to the Director of the U.S. Marshals Service, Stacia Hylton, asking for information about the alleged misuse of Asset Forfeiture Funds to purchase extravagant office furnishings.[12] In that letter, I also asked for information about whistleblower allegations that the Marshals Service is unlawfully spending funds allocated for Joint Law Enforcement Operations.**

   On March 19, 2015, I sent another letter regarding the Marshals Service to you.[13] I inquired about whistleblower allegations that Director Hylton recommended an individual for a lucrative contract position, even though he was not qualified. The whistleblower alleges that the Assistant Director of the Marshals Service's Asset Forfeiture Division, Kimberly Beal, improperly influenced subordinates to waive the contract qualifications in order to hire the contractor, in hopes of obtaining her current position.

   a. **Will you commit to providing my office with a timely and thorough response to this letter?**

RESPONSE: I understand that the Marshals Service and the Department responded to your March 18, 2015 and March 19, 2015 letters, and we will respond promptly to the follow-up letter that we received from you on April 7, 2015.

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[12] Letter from Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary to Stacia A. Hylton, Director, U.S. Marshals Service (Mar. 18, 2015), *available at*: http://www.grassley.senate.gov/sites/default/files/judiciary/upload/2015-03-18%20CEG%20to%20USMS%20%28Misuse%20and%20Waste%20of%20AFF%20Resources%29.pdf.

[13] Letter from Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary to Sally Quillian Yates, Acting Deputy Attorney General (Mar. 19, 2015), *available at*: http://www.grassley.senate.gov/sites/default/files/judiciary/upload/2015-03-19%20CEG%20to%20DOJ%20%28USMS%20Contracting%29.pdf.

b. **Will you investigate these very serious allegations of using Department funds to award highly-paid contract work to favored insiders, who the Department has determined are unqualified to perform that work?**

REPSONSE: I believe strongly in the rights and protections afforded to all government employees who report wrongdoing or mismanagement, in accordance with the federal laws that you helped write. I can also assure you that I take seriously all allegations of employee misconduct. The Department remains committed to addressing any such allegations and taking action where appropriate.

5. **State and local governments are outright ignoring Immigration and Customs Enforcement (ICE) detainers and putting criminal aliens back on the street, instead of helping ICE deport them. Earlier this month, in a hearing before the House Committee on Oversight and Government Reform, the Director of U.S. Immigration and Customs Enforcement, Sarah Saldaña, testified that since January 1, 2014, state and local jurisdictions have declined more than 12,000 ICE detainer requests. She further testified that "there are over 200 jurisdictions, including some of the largest in the country, that refuse to honor ICE detainers, while some have also denied ICE access to their jails and prisons." At that same hearing Director Saldaña was asked: "Would it help you if we clarified the law to make it clear that it was mandatory that those local communities cooperate with you?" Director Saldaña immediately replied: "Thank you, amen, yes."**

   Would you, like Director Saldaña, also support legislation requiring state and local law enforcement to comply with immigration detainer requests by the feds, especially if the individuals in question are criminals? If no, how would you, as a liaison to law enforcement officials in states, get them to comply with detainers?

RESPONSE: If confirmed as Deputy Attorney General, I would look forward to working with the Committee on any legislation that would help to improve our immigration system in a manner that protects national security and public safety. Moreover, I will continue to engage with state and local law enforcement partners to achieve consistent policies for the apprehension, detention, and removal of undocumented aliens. I will continue the Department's efforts to work closely with the Department of Homeland Security and state and local law enforcement partners to ensure that national security and public safety are our top priorities in the enforcement of our immigration laws.

6. **Since October 2013, I have three times requested from the Department information on its handling of twelve specific instances of misconduct by employees of the National Security Agency. It has been reported that these employees intentionally and willfully abused the agency's surveillance authorities by spying on private citizens, many of whom were their spouses or significant others. When the Attorney General testified before the Judiciary Committee on January 29, 2014, he promised to provide a "fulsome response to indicate how these cases were dealt with by the Justice Department" and that he would "do that soon."**

Almost a year and a half later, the Department has provided me only the most cursory information – that it "declined to prosecute these individuals for varying reasons, including issues with jurisdiction and venue."[14] The Department also indicated that prosecuting these cases would risk disclosing sensitive and classified information in open court, but this isn't a sufficient response.

Will you arrange to have my staff briefed, in a classified setting if necessary, on the details of why these individuals have not been held criminally accountable for abusing these surveillance authorities?

RESPONSE: Generally speaking, prior to seeking charges in a matter, prosecutors evaluate the facts and the law, and make decisions about whether evidence supports guilt of a crime beyond a reasonable doubt, which is the burden of proof to obtain a conviction on criminal charges. Charging decisions in specific cases are made in accordance with the Principles of Federal Prosecution. See United States Attorneys' Manual 9-27.000, http://www.justice.gov/usam/usam-9-27000-principles-federal-prosecution.

With respect to the matters you refer to, it is the Department's long-standing practice not to disclose non-public information about investigations that did not result in publicly filed criminal charges. Still, we appreciate your interest in this issue and have provided the following information to address your request for information consistent with our law enforcement and litigation responsibilities. As the Department noted in letters dated November 10, 2014 and March 9, 2015, NSA Inspector General Dr. George Ellard identified seven reports of possible wrongdoing by individuals that had been sent to, or discussed with, the Department since 2004.

According to the available records, the Department declined to prosecute these individuals for varying reasons, including issues with jurisdiction and venue. We have not identified a record why one matter from 2005 was declined. As we previously described to you and as you note above, in some of these instances, significant concerns were raised that pursuing these matters in open criminal proceedings would risk disclosing sensitive information about highly classified systems.

If it would be helpful, please have your staff contact the Department's Office of Legislative Affairs to schedule a briefing on this topic.

7. **On March 9, 2015, I was joined by 52 of my Senate colleagues in a letter to the Director of ATF regarding ATF's actions to limit access to rifle ammunition. One day after the letter, ATF withdrew the ammunition ban proposal. The Second Amendment is a fundamental right and as such it requires not only access to firearms but to ammunition. If law-abiding gun owners cannot obtain rifle ammunition, or face substantial difficulty in finding ammunition available and at reasonable prices because**

[14] Letter from Assistant Attorney General Peter J. Kadzik to Senator Charles E. Grassley (March 9, 2015).

government entities are banning it, then the fundamental nature of the Second Amendment is at risk.

a. Do you agree that the Second Amendment, as a fundamental right, requires access to ammunition?

RESPONSE: I was not involved in the initial review of ATF's proposed framework, but I support ATF's decision to refrain from issuing a final framework at this time. My understanding is that ATF will process the comments it received, further study the issues raised therein, and provide additional open and transparent process (for example, through additional proposals and opportunities for comment) before proceeding with any framework.

As the Acting Deputy Attorney General, and if confirmed, I will review any future proposal to ensure it maintains fidelity to the statute and strikes an appropriate balance for all of the important interests involved, including those of law enforcement and sportsmen.

As with any issue within the purview of the Department of Justice, I will ensure that any proposal is lawful under the Constitution, including the Second Amendment, and federal law.

b. Do you believe that the ATF can regulate ammunition out of existence? If so, are there no limits on ATF regulating ammunition? If there are limits, what are they?

Response: As explained above, I believe that any proposed ATF regulation must be consistent with the statute and strike an appropriate balance for all of the important interests involved, including those of law enforcement and sportsmen. As with any issue within the purview of the Department of Justice, I will ensure that any proposed regulation is lawful under the Constitution, including the Second Amendment, and federal law.

c. If confirmed, what will you do to ensure that the federal government does not limit access to ammunition, such as M855, a steel-core bullet, as a pretext for limiting the exercise of the Second Amendment?

RESPONSE: As explained above, I believe that any proposed ATF regulation must be consistent with the statute and strike an appropriate balance for all of the important interests involved, including those of law enforcement and sportsmen. As with any issue within the purview of the Department of Justice, I will ensure that any proposed regulation is lawful under the Constitution, including the Second Amendment, and federal law.

8. Recently, it was reported that Lois Lerner's missing emails in the IRS targeting scandal may have been stored in storage sites in Pennsylvania and West Virginia. Amazingly, the IRS never looked for the missing emails at these sites. But what was perhaps even more disturbing, however, is that when one of the parties affected by IRS targeting asked the District Court to appoint an independent investigator to look for these emails at these storage sites, Department of Justice lawyers objected.

a. **Why did the Department object to independent investigators having access to these off-site storage facilities?**

RESPONSE: The plaintiffs in *True the Vote, Inc. v. Internal Revenue Service* (D.D.C.), *appeal pending,* asked the District Court to authorize a third party forensic expert to search all IRS computers for Ms. Lerner's missing emails. In denying plaintiff's request on August 7, 2014, Judge Walton shared the government's concerns that allowing the search would compromise the tax return information of third parties in violation of the tax confidentiality protections of 26 U.S.C § 6103. The court also noted that "... while the recovery of the emails at issue is certainly in the public interest to the extent that government records were included among those emails, the public interest is already being served through the ongoing TIGTA investigation."

b. **What has the Department done to rectify the situation?**

RESPONSE: Throughout my career at the Department of Justice, I have developed tremendous faith in the ability of career prosecutors and professional law enforcement agents to conduct investigations in a fair, objective, professional, and impartial manner, without regard to politics or other outside influence. I can assure you that the Department is conducting a thorough, fair, and impartial investigation of the IRS targeting matter.

9. **I have serious concerns about how DOJ whistleblowers are treated. Under federal law, "the right of employees... to petition Congress ... or to furnish information to either House of Congress... may not be interfered with or denied."**

   To give you one example, I wrote to DOJ regarding allegations that the Office of Justice Programs, or OJP, knowingly granted millions of taxpayer dollars to states that incarcerated vulnerable minors in violation of federal funding requirements. Additionally, I requested that OJP notify employees of their rights to cooperate with the Judiciary Committee's inquiry.

   In response, DOJ asserted that its "current procedures for advising employees of their rights regarding whistleblower protections are sufficient." However, there are allegations that OJP management has impeded this Committee's inquiry by physically moving individuals with knowledge to other departments, preventing suspected whistleblowers from applying for positions, and allowing individuals within the Office of General Counsel to improperly influence a review of this matter.

   a. **As acting Deputy Attorney General, what steps have you taken to ensure that DOJ personnel – and OJP employees in particular – understand their rights to cooperate with the Judiciary Committee?**

RESPONSE: As the Department has explained in its letter to you, we regularly advise Department personnel of their rights with respect to disclosures of information regarding waste, fraud, abuse, or misconduct. This includes through required No Fear Act training and through public postings available to all employees and to the public at large.

b. **Will you ensure that all DOJ personnel properly notify employees of their rights to cooperate with congressional inquiries?**

RESPONSE: As stated above, the Department regularly advises Department personnel of their rights with respect to disclosures of information regarding waste, fraud, abuse, or misconduct.

c. **Can you state with complete confidence that OJP has not punished whistleblowers or wrongfully impeded this Committee's right to the juvenile justice grant inquiry?**

RESPONSE: I believe that the Department has responded to the allegations you have cited above, both in a briefing on March 27, 2015, and in a letter dated April 1, 2015.

d. **Are you aware of whistleblowers being silenced within the DOJ? If so, what steps will you take to ensure whistleblowers are treated fairly under the law?**

RESPONSE: I am not aware of whistleblowers being silenced within DOJ, but if the Committee believes that it has information to the contrary, I would appreciate the chance to review it and ensure that whistleblowers are treated fairly.

10. **As you know, in 2013, the Department of Justice decided that it would not seek to strike down state laws in Colorado, Washington, and elsewhere that have legalized the recreational use of marijuana, so long as these states implement effective regulatory regimes that protect key federal interests. This policy is outlined in the August 29, 2013 Cole Memorandum.**

a. **In some of these states, like Colorado, businesses are currently advertising the availability of recreational marijuana on websites and on television news programs such as 60 Minutes. Do you believe that individuals that manufacture and distribute marijuana in that state are breaking federal law, no matter what state law permits?**

RESPONSE: The Department and the Administration do not support the legalization of marijuana, nor do I. I have been committed to enforcing the Controlled Substances Act (CSA) throughout my career as a prosecutor, and that commitment will continue if I am confirmed as Deputy Attorney General.

The Department remains committed to enforcing the CSA and federal money laundering laws in a way that most efficiently uses its limited resources to address the most significant threats to public health and safety, particularly with respect to violent offenders and gang activity, among other key priorities outlined in the Department's August 2013 and February 2014 guidance to all United States Attorneys on these issues.

a. **I understand the Department of Justice is not gathering data on the federal priorities identified in the Cole Memorandum to evaluate whether that policy needs re-visiting. Yet these priorities are already being negatively affected,**

including through the increasing diversion of recreational marijuana to nearby states like Iowa. This sounds to me like the Department does not want to know how its policy is functioning. Even the New York Times has editorialized that it's important to evaluate whether the states are "holding up their end of the bargain." Do you believe the Department should be systemically collecting data related to these federal priorities in a centralized place, establishing metrics, and analyzing the data for the purpose of evaluating whether the policy outlined in the Cole Memorandum is working, and if you are confirmed will you commit to taking these steps?

RESPONSE: The Department of Justice currently possesses and utilizes quantitative and qualitative measurements to inform federal drug enforcement efforts. The Drug Enforcement Administration publishes an annual National Drug Threat Assessment (NDTA) Summary, which provides timely strategic drug-related intelligence. The 2014 NDTA Summary addressed emerging developments related to the trafficking and use of primary illicit substances of abuse, including marijuana, and the nonmedical use of controlled prescription drugs. The Executive Office for United States Attorneys compiles U.S. Attorneys' Offices case-related data through the Legal Information Online Network System and regularly provides statistical information that reflects the efforts of the United States Attorneys' Offices in prosecuting violations of federal law. The Organized Crime Drug Enforcement Task Force (OCDETF) Executive Office collects data on OCDETF cases on a national, regional, and district level through the Management Information System. The OCDETF strategy aims to reduce the availability of drugs by disrupting and dismantling major drug trafficking organizations and money laundering organizations and related criminal enterprises.

These data collection systems collectively assist in informing the Department's counterdrug policy, establishing law enforcement priorities, and making resource allocations. The Department of Justice also relies on other federal agencies and programs, such as the High Intensity Drug Trafficking Area program and the National Institute on Drug Abuse, to conduct public safety and public health studies.

The Department will continue to consider data of all forms—including existing federal surveys on drug usage, state and local research, and, of course, feedback from the community and from federal, state, and local law enforcement—on the degree to which existing Department policies and the state systems regulating marijuana-related activity protect federal enforcement priorities and the public. The Department will continue to collect data and make these assessments through its various components and will continue to work with the Office of National Drug Control Policy and other partner agencies throughout the government to identify other mechanisms by which to collect and assess data on the effects of these state systems.

b. **In some of these states there is a specific problem presented by edible marijuana products falling into the hands of children. Some of these marijuana products, as well as other products containing different illegal drugs like methamphetamine, are marketed and packaged like candy. Would you support legislation to address this problem by increasing the penalties for those manufacturers or distributors of controlled substances that know, or have reasonable cause to**

believe, that their controlled substances will be distributed to minors? If confirmed, would you commit to working with me on such legislation?

RESPONSE: I share your concern about edible marijuana products and the possibility that these products could fall into the hands of children. These concerns are reflected by the Department's explicit enforcement priority of preventing the distribution of marijuana to minors, as well as the Department's enforcement priority of addressing threats to public health. I can assure you that our federal prosecutors, in every part of the country, will not hesitate to prosecute individuals and businesses whose conduct involves distribution to minors or poses serious public health risks due to the dangers associated with consumption – accidental or intentional – by minors. If I am confirmed as Deputy Attorney General, I look forward to continuing to work with this Committee to address this issue in a comprehensive manner that most effectively protects public health and safety.

c. **Attorney General Holder has indicated that he believes that marijuana businesses in states like Colorado should have access to the U.S. banking system. Do you agree? If so, doesn't depositing the proceeds of marijuana businesses into banks violate the federal laws prohibiting money laundering, and do you believe it is appropriate for the nation's top law enforcement officer to advocate for conduct that violates those laws?**

RESPONSE: I remain committed to enforcing the Controlled Substances Act (CSA) and federal money laundering laws in a manner that efficiently applies the Department's limited resources to address the most significant threats to public health and safety.

Pursuant to the Department's February 14, 2014 guidance, investigations and prosecutions of offenses related to financial transactions based upon marijuana-related activity are focused on using the Department's limited investigative and prosecutorial resources to address the most significant public health and public safety threats. Accordingly, in determining whether to charge individuals or institutions with offenses related to financial transactions based upon marijuana-related activity, prosecutors should assess this activity in light of the Department's stated enforcement priorities. Further, as made clear in the Department's February 14, 2014 guidance, financial institutions must continue to apply appropriate risk-based anti-money laundering policies, procedures, and controls sufficient to address the risks posed by customers engaged in marijuana-related activity, including by conducting customer due diligence designed to identify conduct that implicates any of the eight priority factors. As the Department of Justice's and the Department of the Treasury's FinCEN guidance are designed to complement each other, it also is essential that financial institutions adhere to guidance issued by FinCEN on this subject.

11. **I have four times requested from the Department of Justice the Office of Legal Counsel ("OLC") opinion advising the President's decision to exchange five senior Taliban commanders (the "Taliban 5") for Sgt. Bowe Bergdahl. During your testimony, you stated your reluctance to "revisit the issue." But, of course, this Committee has an important oversight function of the Department, and simply choosing not to answer is not sufficient.**

According to testimony by Department of Defense General Counsel, Stephen Preston, before the House Armed Services Committee last June, the OLC advice offered to the President was provided via email.

a. Is this accurate?

RESPONSE: OLC plays a vital role within the Executive Branch in providing unbiased, thorough advice with respect to the legal questions its clients ask the Office to consider. In order to ensure that OLC attorneys continue to provide full and frank advice that considers all sides of every issue, and that agencies and the President continue to trust OLC to provide confidential and unvarnished advice, the Department's longstanding practice across administrations of both parties has generally been to disclose OLC opinions only through the formal publication process and not to disclose less formal forms of confidential legal advice. Therefore, to preserve and protect the Executive Branch's proper functioning under the Constitution, some materials need to remain confidential.

However, I appreciate your interest in understanding the legal rationale for the Administration's conclusion that the transfer of the five individuals was lawful. To assist you in understanding the rationale for that decision, I understand the Department previously provided to you a memorandum that was provided to the Government Accountability Office (GAO).

If confirmed as Deputy Attorney General, I will continue to be committed to ensuring that where possible, consistent with national security and other confidentiality interests, this Committee has the information it needs to understand the basis for the Department's actions.

b. If accurate, please provide the email correspondence providing the advice.

RESPONSE: As explained above, in order to ensure that OLC attorneys continue to provide full and frank advice that considers all sides of every issue, and that agencies and the President continue to trust OLC to provide confidential and unvarnished advice, the Department's longstanding practice across administrations of both parties has generally been to disclose OLC opinions only through the formal publication process and not to disclose less formal forms of confidential legal advice. Therefore, to preserve and protect the Executive Branch's proper functioning under the Constitution, some materials need to remain confidential.

c. If not accurate, please provide the document that was furnished to the President before he released the Taliban 5.

RESPONSE: As explained above, in order to ensure that OLC attorneys continue to provide full and frank advice that considers all sides of every issue, and that agencies and the President continue to trust OLC to provide confidential and unvarnished advice, the Department's longstanding practice across administrations of both parties has generally been to disclose OLC opinions only through the formal publication process and not to disclose less formal forms of confidential legal advice. Therefore, to preserve and protect the Executive Branch's proper functioning under the Constitution, some materials need to remain confidential.

d. Notwithstanding your responses to Questions (b) and (c), please provide the dates when the advice was sought by the administration and when it was provided.

RESPONSE: As explained above, in order to ensure that OLC attorneys continue to provide full and frank advice that considers all sides of every issue, and that agencies and the President continue to trust OLC to provide confidential and unvarnished advice, the Department's longstanding practice across administrations of both parties has generally been to disclose OLC opinions only through the formal publication process and not to disclose less formal forms of confidential legal advice. Therefore, to preserve and protect the Executive Branch's proper functioning under the Constitution, some materials need to remain confidential.

12. In a 2010 memorandum on the best practices for OLC legal advice and written opinions, Acting Assistant Attorney General David J. Barron wrote, "[I]n deciding whether an opinion is significant enough to merit publication . . . the Office [of Legal Counsel] operates from the presumption that it should make its significant opinions fully and promptly available to the public." In fact, "[T]his presumption furthers the interests of Executive Branch transparency, thereby contributing to accountability and effective government, and promoting public confidence in the legality of government action," he stated.

The OLC released its legal advice to the public regarding the President's executive amnesty action the day before the President announced his order, but the Office still has not released its advice on the President's exchange of the Taliban 5 for Sgt. Bowe Bergdahl. Clearly, the Department of Justice deemed its advice on executive amnesty as "significant" enough to warrant contemporaneous release with the execution of the order.

Whatever opinion the Department offered to the President on releasing five senior Taliban commanders is clearly a matter of significant public interest since these terrorists will likely return to the battlefield, and the President released them in exchange for a soldier who has since been charged with deserting his unit. All of this was done in the face of a statute that was written to prevent enemy combatants from being released from Guantanamo Bay and returning home to plan further attacks against the United States and our allies.

In light of the Department's own presumption on the importance of releasing those OLC opinions that are "significant," please explain why either the Department does not consider its advice on the exchange of terrorists for Sgt. Bergdahl to be one of its "significant opinions" deserving of public disclosure, or, alternatively, what factors lead the Department to believe the presumption has been overcome.

RESPONSE: As I stated in my testimony before the Committee, it is important that Congress and the public understand the legal basis for actions by the Government. As noted above, OLC plays a vital role within the Executive Branch in providing unbiased, thorough advice with respect to the legal questions its clients ask the Office to consider. In order to ensure that OLC attorneys continue to provide full and frank advice that considers all sides of every issue, and

that agencies and the President continue to trust OLC to provide confidential and unvarnished advice, the Department's longstanding practice across administrations of both parties has generally been to disclose OLC opinions only through the formal publication process and not to disclose less formal forms of confidential legal advice.

Although the Department now favors publication of significant OLC opinions where possible, as the OLC best practices memorandum signed by Acting Assistant Attorney General David J. Barron ("Best Practices Memo") explains, countervailing considerations—such as the preservation of internal Executive Branch deliberative processes; protecting the confidentiality of information covered by the attorney-client relationship between OLC and its Executive Branch clients; and protecting classified and other sensitive information relating to national security—may make it improper or inadvisable to publish OLC legal advice. In such circumstances, it is customarily up to the agency that received the legal advice to explain the legal basis for any action it ultimately takes. If confirmed as Deputy Attorney General, I will continue to be committed to ensuring that where possible, consistent with national security and other confidentiality interests, this Committee has the information it needs to understand the basis for the Department's actions.

13. As specified below, please explain the discrepancy between (a) and (b).

a. As mentioned in Question 13, the Acting Assistant Attorney General's 2010 memorandum continues:

Timely publication of OLC opinions is especially important where the Office concludes that a federal statutory requirement is invalid on constitutional grounds and where the Executive Branch acts (or declines to act) in reliance on such a conclusion . . . so that Congress can consider those reasons and respond appropriately, and so that the public can be assured that Executive action is based on sound legal judgment and in furtherance of the President's obligation to take care that the laws, including the Constitution, are faithfully executed.

b. In addition, according to Department of Defense General Counsel, Stephen Preston's testimony, "The administration sought the guidance from the Department of Justice on the applicability and impact of the 30-day notice requirement . . . and received guidance from the Department of Justice." He stated, "The question was the constitutional implications of its application in the [Bergdahl exchange]. And the administration determined that it was necessary to forego the full 30-day formal notice." He further stated that "the exercise of [the President's] constitutional authority is in tension with [the National Defense Authorization Act of 2014] . . . [so] the statute yields to the constitutional authority either as a matter of interpretation or through the application of separation of powers principles."

The Acting Assistant Attorney General's own reasoning was that "[t]imely publication of OLC opinions is especially important where the Office concludes that a federal statutory requirement is invalid on constitutional

grounds and where the Executive Branch acts (or declines to act) in reliance on such a conclusion."
Moreover, Mr. Preston stated that the administration received legal advice from the Department, and given that advice, the administration determined that the 30-day notice statutory requirement was invalid in this circumstance on constitutional grounds.

Please explain how the Department can reconcile the refusal to release this legal advice with its own internal guidelines on the release of opinions which invalidate laws based on constitutional grounds.

RESPONSE: As noted above, OLC plays a vital role within the Executive Branch in providing unbiased, thorough advice with respect to the legal questions its clients ask the Office to consider. In order to ensure that OLC attorneys continue to provide full and frank advice that considers all sides of every issue, and that agencies and the President continue to trust OLC to provide confidential and unvarnished advice, the Department generally does not disclose OLC opinions except through the publication process described in the Best Practices Memo and generally does not disclose less formal forms of confidential legal advice.

Although the Department favors publication of significant OLC opinions where possible, as the Best Practices Memo explains, countervailing considerations—such as the preservation of internal Executive Branch deliberative processes; protecting the confidentiality of information covered by the attorney-client relationship between OLC and its Executive Branch clients; and protecting classified and other sensitive information relating to national security—may make it improper or inadvisable to publish OLC legal advice. In such circumstances it is customarily up to the agency that received the legal advice to explain the legal basis for any action it ultimately takes. This practice is consistent with the Best Practices Memo, which recognized that some Department legal advice is not appropriate for release outside of the Executive Branch and is designed to ensure that Congress can receive explanations of the legal basis for Executive Branch conduct while preserving the confidentiality of the attorney-client communications of Executive Branch lawyers. If confirmed as Deputy Attorney General, I will continue to be committed to ensuring, where possible consistent with national security and other confidentiality interests, that this Committee has the information it needs to understand the basis for those Department's actions.

14. During my years in the Senate, I have been committed to combating fraud, waste, and abuse in the government and government programs. I believe that the False Claims Act has proved to be the most effective tool in the effort to prevent fraud and abuse against the government and has enabled the government to recover over $40 billion since 1986. The *qui tam* provisions of the False Claims Act encourage citizens, who have knowledge and evidence of false claims of fraud, to report the illegal activity. These patriotic whistleblowers are the federal government's greatest allies in the fight against fraud.

As the Senate author of the 1986 Amendments to the False Claims Act, I am one of the Act's biggest supporters and defenders. It is my hope that as the Deputy Attorney

General, you will also vigorously support the False Claims Act and its *qui tam* provisions.

a. **As Deputy Attorney General, will you vigorously enforce the False Claims Act?**

RESPONSE: Yes. I am committed to enforcing the False Claims Act and will continue that commitment if confirmed as Deputy Attorney General. As you are aware, the False Claims Act plays a critical role in the Department's ability to ensure honest and accurate conduct on the part of those doing business with the Government. As you may know, the Department recovered nearly $6 billion in settlements and judgments in Fiscal Year 2014. We are proud to note that this marks the fifth straight year that False Claims Act recoveries have exceeded $3 billion. Since 1986, the Department, working with United States Attorneys' Offices, government agencies, and private citizens, has returned more than $45 billion in public monies to government programs and the Treasury. I thank you for your continued leadership on this issue over three decades.
In addition, nearly $3 billion of the nearly $6 billion recovered by the Department this past Fiscal Year were associated with *qui tam* cases. Since 1986, the Department has recovered over $30 billion in *qui tam* cases. If I am confirmed as Deputy Attorney General, I will continue my longstanding, robust use of the False Claims Act and its *qui tam* provisions, including by ensuring that the Department has adequate resources to investigate and pursue FCA cases.

b. **Do you have any question as to the constitutionality of the FCA and the *qui tam* provision?**

RESPONSE: No, I do not have any question as to the constitutionality of the False Claims Act and the *qui tam* provisions.

c. **Will you oppose efforts by industry groups, including the health care industry and the defense industry, to weaken the False Claims Act and the *qui tam* provisions of the FCA?**

RESPONSE: As stated above, the False Claims Act is one of the government's most effective tools for combatting fraud, protecting taxpayers and supporting the integrity of government programs. The Department's enforcement of the FCA has unquestionably deterred additional potential fraud schemes that would have otherwise had an impact on the federal fisc. I will oppose efforts to weaken the Act, including its *qui tam* provisions.

d. **Will you ensure that Civil Division attorneys aggressively enforce the False Claims Act, and will you work with the U.S. Attorneys to ensure their vigorous support and enforcement of the False Claims Act and the *qui tam* provisions of the FCA?**

RESPONSE: Yes. I will ensure that Civil Division attorneys aggressively enforce the False Claims Act, and I am committed to working with the U.S. Attorneys to ensure their vigorous support and enforcement of the False Claims Act and the *qui tam* provisions.

e. **Will you agree to promote a close working relationship between *qui tam* relator's counsel and the Justice Department for the purpose of establishing the public/private relationship envisioned when the FCA was signed into law by President Reagan?**

RESPONSE: Yes. I will promote a close working relationship between *qui tam* relator's counsel and the Justice Department for the purpose of establishing the public/private relationship.

15. Starting in 2010, the Department of Justice (DOJ) filed complaints against Arizona, Alabama, South Carolina, and Utah because of their pro-enforcement immigration laws. If confirmed, would you support the continuance of this policy of filing complaints against states that have passed such laws?

RESPONSE: I believe that coordination and engagement between law enforcement entities is critical in our efforts to enforce our immigration laws. I support efforts to engage with state and local law enforcement partners to achieve consistent policies for the apprehension, detention, and removal of undocumented aliens. If I am confirmed as Deputy Attorney General, I will continue the Department's efforts to work closely with our federal, state, and local law enforcement partners to ensure that national security and public safety are our top priorities in the enforcement of our immigration laws. In considering questions of the validity of state laws seeking to regulate immigration, I will evaluate them on a case-by-case basis under the principles set forth by the Supreme Court in its 2012 decision in *Arizona v. United States*.

16. While Department of Justice filed lawsuits against states that enacted pro-enforcement immigration laws, other cities enacted policies that expressly prohibited law enforcement from cooperating with the federal government on undocumented immigrant issues. What steps would you take to encourage sanctuary communities to reverse their ordinances?

RESPONSE: As noted above, I believe that coordination and engagement between law enforcement entities is critical in our efforts to enforce our immigration laws. I support efforts to engage with state and local law enforcement partners to achieve consistent policies for the apprehension, detention, and removal of undocumented aliens. If I am confirmed as Deputy Attorney General, I will continue the Department's efforts to work closely with our federal, state, and local law enforcement partners to ensure that national security and public safety are our top priorities in the enforcement of our immigration laws.

17. While Sanctuary Communities refuse to cooperate with the federal government, they continue to collect money from DOJ grant programs. Would you advise the Attorney General to instruct the Department to withhold grant money for sanctuary communities that refuse to comply with our immigration laws?

RESPONSE: Our priority is keeping the public safe. The Department's grant programs can play a critical role toward this end. For instance, we provide key grants to communities, ranging from support for new law enforcement personnel, law enforcement technology and equipment, and many forms of assistance for victims and at-risk youth. Any penalty for a community's

failure to enforce U.S. immigration laws must be balanced against the important public safety function that grant funds play. As such, if I am confirmed as Deputy Attorney General, I would consider all options on how to respond to communities that fail to enforce U.S. immigration laws in a manner consistent with federal priorities.

18. The administration has acknowledged that over 36,000 convicted criminals were released from ICE custody in fiscal year 2013, and an additional 30,000 were released in fiscal year 2014. Many of these criminals were guilty of heinous crimes, including homicide, sexual assault, abduction, and aggravated assault. Yet, Immigration and Customs Enforcement (ICE) used its discretion and released these criminals back into the community. Do you believe the government, unless ordered by a court, should release convicted criminal aliens guilty of dangerous crimes, such as murder, rape, and kidnapping?

RESPONSE: As United States Attorney in the Northern District of Georgia, my office pursued federal criminal prosecutions of dangerous undocumented aliens, prioritizing prosecution of those with violent criminal records and those engaged in gang activity. I believe that the government's removal efforts should prioritize the most dangerous undocumented aliens, particularly those involved in terrorist activity, violent crime, gang activity, and those with criminal records. Questions concerning the exercise of discretion by Immigration and Customs Enforcement (ICE) are best directed to the Department of Homeland Security, which administers the immigration detention system and is responsible for determining whether to release particular aliens from its custody.

19. DHS cited the 2001 Supreme Court decision *Zadvydas v. Davis*, 533 U.S. 678 (2001), as another reason so many illegal aliens with criminal records were released. In *Zadvydas*, the court held that immigrants admitted to the United States that are subsequently ordered removed could not be detained for more than six months. Four years later, the Court extended this decision to people here illegally in *Clark v. Martinez*, 543 U.S. 371 (2005). Since *Zadvydas*, Congress has tried to pass legislation to require DHS to detain criminal aliens beyond six months. Would you support such legislation?

RESPONSE: While I cannot comment on specific legislation I have not yet reviewed, if confirmed as Deputy Attorney General, I would certainly look forward to working with the Committee on any legislation that would help to fix our country's immigration system. This would include proposals that are both consistent with constitutional limits and designed to address the issues created by *Zadvydas*, including protecting the public from terrorists and criminal aliens who pose a threat to public safety.

20. The Fourth Circuit Court of Appeals issued a decision in 2014 that provides a loophole for violent gang members who are here illegally to remain in the United States. In *Martinez v. Holder*, 740 F.3d 902 (4th Cir. 2014), Martinez appealed a Board of Immigration Appeals decision that denied him "withholding of removal" relief because he was a former member of the violent MS-13 gang in El Salvador. The Fourth Circuit reversed the decision holding that Martinez's former gang membership was "immutable" and met the "particular social group" element of the statute.

a. **Do you agree that the Fourth Circuit decision creates a dangerous threat to national security?**

RESPONSE: I understand that finding that an alien falls under a "particular social group" is only one of several elements that the alien has to meet under the law to qualify for withholding of removal. Apart from the specifics of this case, I believe that the government's removal efforts should prioritize the most dangerous aliens, including members of criminal gangs.

b. **After the Fourth Circuit handed down its decision, concern was expressed over the effect this decision could have on national security and public safety. Chairman Goodlatte of the House Judiciary Committee along with Representative J. Randy Forbes wrote a letter to AG Holder to express their concern with the holding and ask whether he would appeal or seek review of the decision. However, Holder did not appeal or seek review of this dangerous decision.**

i. **Would you agree that the DOJ, under AG Holder, should have appealed the 4th circuit decision?**

RESPONSE: Decisions in the matter described in this question took place while I was United States Attorney for the Northern District of Georgia. As such, I was not involved in this case. However, having spent over two decades as a prosecutor, I know firsthand that many factors go into the decision whether to seek review of a court of appeals decision. It is my understanding that the Department continues to litigate this issue in other cases. If I am confirmed as Deputy Attorney General, I will work to ensure that national security and public safety are our top priorities in the enforcement of our immigration laws.

ii. **Since it wasn't appealed, what do you see as a remedy to the problem?**

RESPONSE: I believe that when it comes to immigration policy, the Government's removal efforts should prioritize the most dangerous undocumented aliens, including members of criminal gangs, along with those involved in terrorist activity and violent crime.

21. **The 287(g) program allows ICE to delegate some of its immigration enforcement authority to participating states. In 2012, ICE announced that it would no longer renew its 287(g) agreements stating, "other enforcement programs, including Secure Communities, are a more efficient use of resources." However, Secure Communities serves a completely different function. The 287(g) program trains local officers to determine whether a person is lawfully in the country, whereas Secure Communities only allows local law enforcement to identify undocumented aliens after their incarceration. Secretary Johnson has announced that the Secure Communities program is being discontinued, and replaced by another program. So, statutory authority exists for the administration to elicit state and local cooperation with the federal government; nevertheless, this administration refuses to use it.**

a. **Do you support the 287(g) program, and similar programs, that authorize the federal government to allow states to participate in enforcing federal law?**

RESPONSE: In my position as the United States Attorney for the Northern District of Georgia, I had no role in addressing ICE's implementation of the 287(g) program and have not yet had occasion to consider the issue in my current role as Acting Deputy Attorney General. This said, if I am confirmed as Deputy Attorney General, I will continue the Department's efforts to work closely with our partners to foster public safety, secure our borders, and protect our national security through the enforcement of federal immigration laws.

b. **In your opinion, should the 287(g) program be made available to local law enforcement agencies that want to protect their communities and participate in immigration enforcement?**

RESPONSE: As indicated above, the 287(g) program is not one that I have had any role in implementing. The question appears to involve matters within the purview of the Department of Homeland Security and I am not in a position to comment further. I am committed, however, to the Department's efforts to work closely with our partners to foster public safety, secure our borders, and protect our national security through the enforcement of federal immigration laws.

c. **As states and local law enforcement approach you for help in enforcing federal law, will you find a way to work with them, or will you ignore them, as the current Attorney General has?**

RESPONSE: As stated above, I am committed to the Department's efforts to work closely with our partners to foster public safety, secure our borders, and protect our national security through the enforcement of federal immigration laws.

22. In June 2014, DOJ announced a program, justice Americorps, where it will issue $2 million in grants to lawyers to represent unaccompanied minors who crossed the borders illegally. Under current law, there is no right to a lawyer in a removal proceeding. The law provides only that an immigrant may obtain a lawyer, "at no expense to the government." Do you agree that the statutory language is clear: the government may not provide a lawyer to immigrants in a removal proceeding at the expense of the taxpayers?

RESPONSE: Although I was not involved in the development or implementation of this program, I understand that it is designed to provide funding for legal representation to certain unaccompanied alien children in immigration proceedings in order to increase the efficient and effective adjudication of those proceedings. I believe that the law to which this question refers is 8 U.S.C. § 1362, which provides that an alien's right to counsel in immigration proceedings does not include a right of representation at the government's expense. It does not appear that the statute bars the government from exercising its discretion to fund legal representation in certain of those proceedings.

23. By its very nature, justice Americorps has due process and equal protection issues. The Department is treating similar people in similar situations differently. How can the

administration avoid due process and equal protection issues if it provides lawyers to some immigrants in removal proceedings, but not to others? Couldn't such a policy lead to the requirement of providing a lawyer to all immigrants in removal proceedings?

RESPONSE: I understand that aliens in removal proceedings have only the right to a full and fair hearing, a guarantee that does not require the appointment of taxpayer-funded counsel. The Department has not identified any due process or equal protection issues with the program.

24. Immigration is a civil proceeding, and as a Constitutional matter, the government is not required to provide counsel in civil proceedings. Are you concerned that if the government starts providing counsel to individuals in removal proceedings, the government could be required to provide counsel in other civil proceedings?

RESPONSE: No. I am not concerned that justice Americorps creates a problematic precedent for other proceedings. The government does not have a constitutional obligation to provide counsel to individuals in removal proceedings.

25. ICE has brought removal charges against only 143,000 of the 585,000 removable aliens encountered in fiscal year 2014. That's a mere 24 percent of removable aliens that ICE encountered in 2014. What's even more troubling is that nearly 900,000 aliens who have final removal orders still remain in the country. Now, however, all people with final removal orders are encouraged to seek deferred action and other relief made available through the President's recent executive action.

a. Do you support the administration's catch-and-release actions?

RESPONSE: Throughout my career, I have worked to foster public safety, secure our borders, and protect our national security through the enforcement of federal immigration laws. If I am confirmed as Deputy Attorney General, I would continue these efforts. After a judge has issued a removal order, the matter is within the jurisdiction of the Department of Homeland Security, and I would respectfully direct you to DHS regarding this question.

b. Don't you agree that individuals whom a judge has ordered removed, should, in fact, be removed?

RESPONSE: After a judge has issued a removal order, the matter is within the jurisdiction of the Department of Homeland Security, and I would respectfully direct you to DHS regarding this question.

26. At your hearing, you stated that your 2010 position on mandatory minimum sentences has changed because of "fiscal reality." You indicated that money for prosecutors and federal agents is being diverted to prisons instead. If money is shifted from prisons to prosecutors and federal agents, who would presumably do their jobs in investigating and prosecuting additional federal crimes, why would the result not be increased numbers of convicted federal offenders who would be sentenced to prison, adding to the cost of the BOP budget?

RESPONSE: Mandatory minimum sentences are an important tool for prosecutors, and a tool that should be used effectively and efficiently. As I explained both in 2010 and at my confirmation hearing last month, prison spending has increasingly displaced other critical public safety investments, including resources for investigations, prosecutions, prevention, intervention, prison reentry, and aid to local law enforcement. We must find a way to allocate our limited resources without compromising public safety.

Your question asks whether this effort is, essentially, self-defeating—whether better funding for agents and prosecutors will eventually result in more prisoners. I believe the issue is best viewed in the broader context of the Department's Smart on Crime Initiative. One of the goals of the initiative is to encourage prosecutors and agents to focus on the quality of their cases, not simply the quantity. This allows the Department to devote the time and energy needed to prosecute the worst of the worst—and to ensure that these complex, resource-intense cases are resolved successfully and expeditiously. By prioritizing the most dangerous suspects, the Department can better utilize its prosecutors and agents while reducing the burden on BOP's budget.

The initial results are promising. Since the start of the Smart on Crime Initiative, the number of federal drug cases has declined, but the average guideline minimum sentence for drug trafficking cases has risen, indicating a focus on more serious cases and more significant or violent defendants. Moreover, the rate of guilty pleas has risen and, despite concerns raised by some, drug defendants have cooperated with the government at the same rate as before the Initiative. In many ways, the early success of the initiative parallels similar criminal justice reforms in the states—including my home state of Georgia—where the violent crime rate has declined along with a reduction in prison admissions and the cost of incarceration.

27. I don't see how "fiscal reality" can form the basis for the shift in your position on mandatory minimum sentences. You testified at the hearing that BOP "takes up about two-thirds of the Department's budget." That statement seems to bear little relation to reality. According to the Congressional Research Service, in 2014, BOP spending represented 25% of the Department's discretionary budget authority. That is no greater a proportion of DOJ's budget than was true in the 1990's. And in 2010, when you heartily endorsed mandatory minimum sentences and recommended to the Sentencing Commission that additional such sentences be created, BOP spending represented nearly as high a percentage of DOJ's budget then as now, at 23%. Since "fiscal reality" cannot form the basis for your changed view of mandatory minimum sentences, what in fact did?

RESPONSE: At my hearing, I realized that I had inadvertently misspoken moments after giving the two-thirds figure, but did not have a chance to correct my statement. To this end, I appreciate your giving me the opportunity to clarify my testimony here. Today, BOP's budget comprises a little less than one-third of the Department's budget. However, since Fiscal Year 1994, the federal prison population has more than doubled. In Fiscal Year 2015, BOP's budget authority is $6.9 billion, compared to $3.1 billion in 1998 and $3.8 billion in 2000. And, as BOP's budget authority has increased, prison spending has increasingly displaced other critical public safety investments – such as resources for investigation, prosecution, prevention, intervention, prison reentry, and aid to local law enforcement.

To be clear, however, I reiterate a statement I made at my hearing: I believe that mandatory minimum sentences are an effective tool for prosecutors. That was my view in 2010, and continues to be my view now. We simply have an obligation to use that tool as effectively and as efficiently as possible and, as a career prosecutor, I would not support anything that I believe would undermine public safety. As I stated in response to question 26, above, the Department has proven through its criminal justice reforms that conserving the public's precious resources and maintaining public safety are not mutually exclusive. Both of these have been focuses throughout my career, and will continue to be priorities for me, should I be confirmed as Deputy Attorney General.

Senator Grassley, Chairman
Follow-up Questions for the Record
Sally Yates
Nominee, to be United States Deputy Attorney General
April 16, 2015

1. **At a hearing in the House of Representatives, on April 15th, Congressman David Young and ICE Director Sarah Saldana had the following exchange:**

   Young: "Director Saldana, I want to reread that quote from the President on February 25th at Florida International University when he said "There may be individual ICE officials or border patrol who aren't paying attention to our new directives. But they are going to be answerable to the head of the department of homeland security because he has been very clear about what our priorities should be. If somebody is working for ICE, and there is a policy and they don't follow the policy, there are going to be consequences for it." What did you think about when the President said that, when you learned about it? Did that concern you at all? Did you have any red flags go up at all?"

   Saldana: "I'm trying to be honest with you sir, No...No it didn't strike me as unusual"

   Young: "Well if I had policies and directives that were contrary to the law I would understand if they didn't want to follow them. I would expect them to follow the law first."

   Saldana: "And that's where you and I probably have a fundamental disagreement."

   I find it distressing that Director Saldana would take the position that ICE agents should follow policy directives, even where those policy directives conflict with clear statutory commands.

   Do you agree with Director Saldana that law enforcement officers should follow policy directives, even if those directives instruct a law enforcement officer to perform a duty or function that is contrary to statutory law?

RESPONSE: I cannot speak to Director Saldaña's specific comments. In my experience, policy directives from the Department of Justice are subjected to review prior to issuance to ensure, among other things, that they are not contrary to law. Law enforcement officers must always perform their duties and functions in a lawful manner.

2. **I asked if you agreed that the Second Amendment, as a fundamental right, requires access to ammunition. You responded that you would make sure that all proposals within the purview of the Department of Justice are lawful under the Constitution. Regardless of ATF's position on the issue, do you believe that the ability to access ammunition is required by the Second Amendment?**

RESPONSE: Yes, I believe that the Second Amendment requires some level of access to ammunition. The U.S. Supreme Court has made it clear that, like the other rights articulated within the Bill of Rights, the rights protected by the Second Amendment are not unlimited, and the nature and extent of that access to ammunition must be evaluated in the context of the facts presented in specific cases.

3. **According to testimony by the Department of Defense General Counsel, Stephen Preston, before the House Armed Services Committee last June, the OLC advice offered to the President was provided via email. In my Questions for the Record, I asked you if this was accurate. You did not answer that question but instead discussed the need to have some materials remain confidential in order to "preserve and protect the Executive Branch's proper functioning under the Constitution." Of course, disclosure of facts related to how and in what form the OLC advice was offered, including if it was offered via email, could not possibly be covered by any privilege. Confirmation of a medium is not advice, and it does not put in jeopardy any interests the executive branch may have, as a constitutional matter.**

   a. **Was Stephen Preston's testimony that the OLC advice was provided via email accurate?**

RESPONSE: In order to preserve and protect the proper functioning of Executive Branch deliberations under the Constitution, it has been the Department's longstanding practice across administrations of both parties generally to maintain the confidence of the nature, timing, and content of confidential legal advice provided by the Department's lawyers, including whether the Department's advice was sought on a particular question. The exception to this practice is where disclosure is approved through processes, such as OLC's formal publication process, that ensure that attorney-client confidences are appropriately protected.

I was U.S. Attorney for the Northern District of Georgia at the time of the Bergdahl transfer and as such did not participate in any decisions related to the issue. The Department of Justice, however, can confirm that the Department provided informal legal advice relating to the Bergdahl transfer, by email. Those attorney-client communications remain confidential. However, I appreciate your interest in understanding the legal rationale for the Administration's conclusion that the transfer of the five individuals was lawful. To assist you in understanding the rationale for that decision, I would again direct you to the memorandum the Department previously provided to you that was provided to the Government Accountability Office (GAO).

b. If you will not answer whether Mr. Preston's testimony was accurate, please identify the privilege you are asserting, as well as the legal rationale supporting this claim.

RESPONSE: Not applicable.

c. I also asked you to provide the date(s) the advice was sought as well as the date(s) when it was provided. Given your response to this question, please explain the privilege you are asserting and the legal rationale supporting this privilege.

RESPONSE: As explained above, it has been the Department's longstanding practice across administrations of both parties generally to maintain the confidence of the nature, timing, and content of confidential legal advice provided by the Department's lawyers, except where disclosure is approved through processes, such as OLC's formal publication process. In light of the testimony by the Department of Defense, however, the Department of Justice can confirm that the Department provided informal legal advice relating to the Bergdahl transfer, by email, in May and June of 2014.

d. Finally, I reiterate my request for the Department to provide the OLC advice it provided to the President, in whatever form it took. If you are unwilling to do so, please identify the privilege and legal reasoning.

RESPONSE: As I explained during the hearing, the Department previously decided not to publicly release OLC's informal legal advice and I do not intend to revisit that decision. As you know, it has been the Department's longstanding practice across administrations of both parties generally to maintain the confidence of the nature, timing, and content of confidential legal advice provided by the Department's lawyers, including whether or not the Department's advice was sought on a particular question, except where disclosure is approved through processes, such as OLC's formal publication process, that ensure that attorney-client confidences are appropriately protected.

4. Regarding the ongoing Congressional investigation of quid pro quo hiring allegations within the USMS Asset Forfeiture Division, you wrote in response to Question 4 that you "take seriously all allegations of employee misconduct" and that the Department "remains committed to addressing any such allegations and taking action where appropriate". However, information obtained by the Committee suggests the Department's denial of these allegations may have been premature and was prepared prior to the completion of the USMS's more thorough internal investigation into the matter.

a. What steps does the Department take to ensure the accuracy of its responses to Committee inquiries?

RESPONSE: The Department and its components strive to provide complete and accurate responses to all Congressional inquiries. We recognize the importance of ensuring accuracy while also being mindful of the need to respond to Congress in a timely manner. I understand

that with regard to this particular matter, the USMS has initiated an extensive review of these issues, and that the Department provided you further information and advised you of this review on April 17, 2015. The USMS continues to collect and review information so the Department may provide a complete and thorough response to you as expeditiously as possible.

b. When the Office of Legislative Affairs (OLA) issued its April 3, 2015 response to the Committee, was OLA aware that the internal USMS investigation of this matter remained incomplete?

RESPONSE: With regard to your letter referenced above, dated March 19, 2015, I understand that the Office of Legislative Affairs (OLA) replied on the stated deadline of March 26, 2015. In light of concerns raised by your staff, the USMS has continued its review of the issues raised in your letter, as well as your subsequent letter dated April 7, 2015. We take seriously the important issues you have brought to our attention and we are grateful that you have done so. As you are aware, OLA sent you a letter regarding this matter on April 17, 2015, reflecting our concerns that the ongoing review had brought to light an email chain that was inconsistent with representations in our letter of March 26, 2015. As noted above, the USMS continues to collect and review information so the Department may provide a complete and accurate response to your letters as expeditiously as possible.

c. Will you personally ensure that DOJ's review of this matter is completed in a professional and comprehensive manner and report your findings to this Committee?

RESPONSE: Yes.

5. Your answers to my questions for the record 1(a) and (b), and 2(a),(b),(c), and (d) were unresponsive, please answer the questions:

a. Do you believe the Department's proposed changes should include within the category of persons to whom a protected disclosure may be made an FBI employee's direct supervisor and others within the employee's chain of command? If not, why not?

RESPONSE: As you know, the Department's report of April 2014 was the culmination of a working group of attorneys from the FBI, the Justice Management Division, the Office of Attorney Recruitment and Management, the Office of the Inspector General, the Office of Professional Responsibility, and the Office of the Deputy Attorney General. Ultimately, in the report, this group advocated expanding the list of persons to whom a protected disclosure may be made to the second-highest ranking tier of field office officials. As we formulate these proposed regulations, we will consider this report and all of the testimony before the Senate Judiciary Committee regarding the appropriate category of persons to whom a protected disclosure may be made. As is the normal course, any new regulations will be subject to the requisite notice and comment process, through which we will gather more information and views on this issue.

b. When will the Department issue regulations implementing additional recommendations in its own report, issued a year ago?

RESPONSE: The Department will issue the regulations necessary to implement the recommendations in the report as soon as possible, which, as described above, will be subject to the requisite notice and comment process.

c. Why shouldn't the Department's proposed regulations incorporate provisions endorsed by GAO, the IG and the FBI at the Committee's March 4, 2015 hearing to explicitly protect disclosures made by FBI employees to Congress? Please explain how the Department's proposed changes to OARM procedures, discussed in your response, are relevant to whether the Department supports explicitly protecting disclosures to Congress.

RESPONSE: As previously described, the Department's review of proposed regulations is not complete. While we do not know what will or will not be included, we are seriously considering the GAO's report and all of the testimony before the Senate Judiciary Committee on these matters. The response regarding possible changes to OARM procedures was an attempt to address not just the enumerated question 2(a), but also the concerns articulated in the larger preface of question 2.

d. What steps does the Department propose to take to exercise effective oversight over OARM and ensure that any sanctions for violations of protective orders are not used as methods of retaliation themselves against whistleblowers?

RESPONSE: The proposal regarding OARM sanction authority would, if included in any new regulation, be modeled on the rule that is currently in place for MSPB judges, including that an MSPB judge must provide appropriate prior warning, allow a response to the actual or proposed sanction when feasible, and document on the record the basis for a sanction.

e. Do you agree that the sanctions proposal could be used to thwart Congressional oversight of whistleblower cases? Why or why not?

RESPONSE: The purpose of the sanctions proposal is to ensure that FBI whistleblowers have access to OIG and FBI OPR files during the OARM process, which may be privacy-protected or law enforcement sensitive.

f. Why should there not at least be an exception to these gag orders for disclosures to Congress and the Inspector General?

RESPONSE: As stated above, our review of proposed regulations is not complete, but we appreciate the perspectives provided in the hearing held by the Senate Judiciary Committee, as well as the follow-up questions you have asked. We will consider all of this as we move forward with any new regulations.

6. On March 26, 2015, the Office of Inspector General (OIG) released a report which found that Drug Enforcement Administration (DEA) agents engaged in "sex

parties" with prostitutes hired by drug cartels in Colombia.[1] According to the report, seven DEA agents admitted to attending these parties, but none of them were dismissed.[2] Instead, the penalties imposed on these agents ranged from a 2-day suspension to a 10-day suspension.[3]

On the same day, I wrote you a letter expressing concerns that the Justice Department (DOJ) may not be taking adequate steps to prevent its employees from buying sex and thereby contributing to the demand for the human sex trade. On April 10th, DOJ responded as follows:

The Attorney General and Acting Deputy Attorney General share your concerns about the conduct detailed in the OIG report (report). We are also troubled by the apparent *inadequacy* of the Drug Enforcement Administration's (DEA) response to that and other conduct that we have learned about since the release of the report. . . . While discipline was imposed on each of the agents who admitted to the [sex parties] misconduct, *none of the agents were dismissed.* Although *we have significant concerns about the lack of severity of this discipline,* federal civil service protections preclude us from reopening these closed matters.[4]

Yet, also on April 10th, the Attorney General issued a memorandum that imposes that same inadequate measure of discipline on employees who solicit sex, going forward: the possibility of mere suspension, instead of automatic termination.[5] This is far from zero tolerance.

The Attorney General's April 10th memo appears to be a tacit admission that under certain circumstances, the U.S. Department of Justice will tolerate employees who engage in a practice that, by its own terms, "creates a greater demand for human trafficking victims and a consequent increase in the number of minor and adult persons trafficked into commercial sex slavery."[6]

As such, the memo may send a similar message of tolerance to would-be johns, pimps, and human-traffickers, both domestically and abroad. The memo may also perpetuate a cynical perception held by some that reducing the demand for the sex trade is unviable. Given the Department's demonstrated commitment to combating the human sex trade, I doubt that this was the intent of Department leadership.

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[1] U.S. Department of Justice, Office of Inspector General, *The Handling of Sexual Harassment and Misconduct Allegations by the Department's Law Enforcement Components* (March 2015), at 27-28 [hereinafter OIG Report].
[2] *Id.* at 28
[3] *Id.*
[4] Letter from The Hon. Peter J. Kadzik, Assistant Attorney General, U.S. Department of Justice, to Sen. Charles E. Grassley, Chairman, Sen. Comm. on the Judiciary (April 10, 2015), at 1 (emphases added).
[5] U.S. Department of Justice, Office of the Attorney General, Memorandum for all Department Personnel, Prohibition on the Solicitation of Prostitution (April 10, 2015).
[6] *Id.*

During consideration of Ms. Loretta Lynch's nomination to be the next Attorney General, I asked if she would commit to implementing a zero-tolerance policy that requires the dismissal of DOJ employees who are found to have engaged in solicitation of prostitution.[7] I did so in response to a January 2015 OIG report disclosing problems in the DOJ's policies governing the off-duty conduct of its employees,[8] including the lack of a Department-wide policy concerning solicitation of prostitution, much less a zero tolerance policy. This review followed a 2012 OIG finding that three DEA officials paid for sexual services while in Cartagena, Colombia.[9]

In her February 9th response to my question on this subject, Ms. Lynch failed to commit to a zero-tolerance policy, saying only that she will review policies to ensure that those who violate the "highest standards" of conduct are held accountable.[10] I hope this includes a zero tolerance policy, but I simply do not know based on the nominee's response. Also, the nominee's answer indicates a failure to appreciate the deterrence value of a zero tolerance policy.

As I noted in my March 26th letter, it is not enough to set anti-human trafficking as a prosecutorial priority – it must also be a managerial and personnel priority. A bright line rule warning all employees to steer clear of contributing to the demand for human trafficking is needed, with a sufficiently serious penalty attached to a violation of that rule. Anything short of the penalty of termination is not zero tolerance.

Please respond to the following questions – which are nearly identical to the questions that I asked you in my March 26th letter, but were left unanswered by the Department's April 10th response.

a. Will you adopt a zero-tolerance policy that requires the dismissal of any DOJ employee who is determined to have engaged in the solicitation of prostitution, without exception?

RESPONSE: In response to the Inspector General's report, the Attorney General immediately issued guidance that unequivocally prohibits its personnel from soliciting prostitutes under any circumstances, including in places where doing so is otherwise legal. The guidance was developed in conjunction with the Department's human resources and administrative components and includes the stiffest possible sanctions, including termination from employment. To send a clear message to Department personnel and deter future misconduct, the guidance also mandates a minimum penalty of suspension. The guidance addresses the concerns associated

[7] Nomination of Loretta E. Lynch to be Attorney General of the United States, Questions for the Record, Submitted February 9, 2015, http://www.judiciary.senate.gov/imo/media/doc/Lynch%20QFR%202-9-15.pdf, at 43-44.
[8] U.S. Department of Justice, Office of Inspector General, *Review of Policies and Training Governing Off-Duty Conduct by Department Employees Working in Foreign Countries* (Jan. 2015), at ii, 7, 40, 48-50.
[9] Letter from U.S. Department of Justice, Office of Inspector General to Sen. Joseph Lieberman, Chairman, and Sen. Susan Collins, Ranking Member, Sen. Comm. on Homeland Security and Governmental Affairs (Dec. 20, 2012).
[10] Nomination of Loretta E. Lynch to be Attorney General of the United States, Questions for the Record, Submitted February 9, 2015, http://www.judiciary.senate.gov/imo/media/doc/Lynch%20QFR%202-9-15.pdf, at 43-44.

with the solicitation of prostitution by Department employees, while respecting employees' due process rights consistent with federal civil service laws.

b. What legal barriers and restrictions, if any, are currently in place that would prevent the Department from adopting an effective zero-tolerance policy?

RESPONSE: The guidance does not establish a penalty of mandatory termination. The Department has not explored the legality of adopting such a policy.

c. What additional authority, if any, do you need from Congress to ensure that DOJ employees are terminated for engaging in the solicitation of prostitution?

RESPONSE: The guidance does not establish a penalty of mandatory termination. Accordingly, the Department has not explored the legality of adopting such a policy.

d. According to the March 26, 2015 OIG report, the OIG "cannot be completely confident that the FBI and DEA provided the OIG with all information relevant to its review."[11] Will you instruct all DOJ components to fully cooperate with the OIG in its reviews, including providing timely access to all documents requested by the OIG?

RESPONSE: Yes. The Department has previously and will continue to direct all components and agencies to provide the Inspector General, in a timely fashion, with all of the documents he needs to complete his reviews. In the coming weeks, I will be implementing a new Department-wide policy to ensure that the IG promptly receives wiretap, grand jury, and Fair Credit Reporting Act material when he believes that material is necessary for him to complete his reviews, consistent with my authority under the relevant statutes.

7. Since February of this year, the OIG has already sent four reports informing Congress that the FBI has violated an appropriations rider that prohibits the use of appropriated funds to deny the OIG timely access to all records.[12] On April 14, 2015, the OIG sent another report affirming that the FBI is still refusing to comply, and that "document requests remain outstanding in every one of the reviews and investigations that were the subjects of those letters."[13]

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[11] OIG Report, at ii.

[12] Letter from Michael Horowitz, Inspector General, U.S. Department of Justice, to Sen. Comm. on Appropriations and House Com. on Appropriations (Feb. 3, 2015); Letter from Michael Horowitz, Inspector General, U.S. Department of Justice, to Sen. Comm. on Appropriations and House Com. on Appropriations (Feb. 19, 2015); Letter from Michael Horowitz, Inspector General, U.S. Department of Justice, to Sen. Comm. on Appropriations and House Com. on Appropriations (Feb. 25, 2015); Letter from Michael Horowitz, Inspector General, U.S. Department of Justice, to Sen. Comm. on Appropriations and House Com. on Appropriations (Feb. 3, 2015); Letter from Michael Horowitz, Inspector General, U.S. Department of Justice, to Sen. Comm. on Appropriations and House Com. on Appropriations (Mar. 4, 2015); Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, 128 Stat. 2130, (2014), at Div. B, Title II, Sec. 218.

[13] Letter from Michael Horowitz, Inspector General, U.S. Department of Justice, to Sen. Comm. on Appropriations and House Com. on Appropriations (Mar. 4, 2015).

One day later, on April 15, 2015, the FBI responded to my February 26 and March 6, 2015 letters on this subject,[14] and stated as follows:

Indeed, in order to resolve the disagreement [with the OIG], consistent with standard Department practice, the Office of the Deputy Attorney General has asked the Office of Legal Counsel (OLC) to render an opinion as to the correct reading of the law. As we await the OLC opinion or other dispositive guidance, in order to comply with the Inspector General Act *and* all other applicable provisions of law, we must conduct a legal review of the large volume of documents that we regularly produce to the OIG.[15]

Section 6(a)(1) of the Inspector General Act of 1978 means what it says when it gives Inspectors General a right to access all Department records,[16] but apparently the FBI needs an affirmation of this clear reading of the statute from OLC.

On October 10, 2014, Representative John Conyers and I wrote to Acting Assistant Attorney General Karl Thompson requesting that the Office of Legal Counsel provide to the House and Senate Judiciary Committees a copy of the opinion.[17]

In your April 13, 2015 response to my question to you on this subject, you stated that you "expect [OLC's] work to be completed as soon as possible."[18]

To date, the OLC opinion remains outstanding. Your answer to question 3 was unresponsive. Please answer the questions:

a. When will the OLC complete the opinion?

RESPONSE: I expect OLC to undertake a thorough and independent analysis of the applicable law in its opinion. OLC's value to the President and Executive Branch turns on the strength of its analysis, and so I believe OLC's advice should be clear, accurate, thoroughly researched, and soundly reasoned. I appreciate that it may not be possible for OLC to predict precisely when its analysis, which involves four complex statutory schemes, will be completed, but I have made sure that OLC understands that completing this opinion as soon as possible without sacrificing the quality of its analysis is a high priority for the Department.

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[14] Letter from Charles E. Grassley, Chairman, Sen. Comm. on the Judiciary, to the Hon. James Comey, Director, Federal Bureau of Investigation (Feb. 26, 2015); Letter from Charles E. Grassley, Chairman, Sen. Comm. on the Judiciary, to the Hon. James Comey, Director, Federal Bureau of Investigation (Mar. 6, 2015).

[15] Letter from the Hon. Stephen D. Kelly, Assistant Director, Federal Bureau of Investigation, to Charles E. Grassley, Chairman, Sen. Comm. on the Judiciary, (Apr. 15, 2015).

[16] Section 6(a)(1) of Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101, as amended.

[17] Letter from Charles E. Grassley, Ranking Member, U.S. Senate Committee on the Judiciary and John Conyers, Ranking Member, U.S. House of Representatives Committee on the Judiciary to Karl R. Thompson, Acting Assistant Attorney General (Oct. 10, 2014).

[18] Nomination of Sally Yates to be Deputy Attorney General of the United States, Questions for the Record, Submitted April 13, 2015, at 4-5.

b. Will you commit to making the opinion public by a date certain?

RESPONSE: Once OLC completes its analysis, I expect OLC immediately to consider the opinion for publication. In the interim, since my appointment as Acting Deputy Attorney General, I have worked hard to find a solution to this problem. In the coming weeks, I will be implementing a new Department-wide policy to ensure that the IG promptly receives wiretap, grand jury, and Fair Credit Reporting Act material when he believes that material is necessary for him to complete his reviews, consistent with my authority under the relevant statutes.

8. In response to Question 5 asking if you would support legislation requiring state and local law enforcement to comply with immigration detainer requests by federal authorities, you stated you would look forward to working with the Committee on "any legislation that would help to improve our immigration system in a manner that protects national security and public safety." Do you believe that legislation requiring state and local law enforcement to comply with immigration detainer requests by the feds would help to improve our immigration system in a manner that protects national security and public safety?

RESPONSE: If the Department of Homeland Security identifies a need for additional statutory authority, I would welcome the opportunity to work with DHS, as well as you and your staff, on the content of any such legislation.

9. In response to Question 6 regarding misconduct by NSA employees, you cited "the Department's long-standing practice not to disclose non-public information about investigations that did not result in publicly filed criminal charges" as justification for the Department's failure to comply with my requests for information on this issue. However, that practice is far from consistently followed. The Department does release information about investigations that did not result in filing criminal charges when it believes it is in its interests. For example, according a February 10, 2010 FBI press release:

Earlier today, representatives of the FBI and Justice Department provided a 92-page investigative summary along with attachments to victims of the attacks, relatives of the victims and appropriate committees of Congress. This document sets forth a summary of the evidence developed in the "Amerithrax" investigation, the largest investigation into a bio-weapons attack in U.S. history. As disclosed previously, the Amerithrax investigation found that the late Dr. Bruce Ivins acted alone in planning and executing these attacks.

The investigative summary and the attachments are now accessible to the public and have been posted to the Justice Department Web site at www.usdoj.gov/amerithrax under the Freedom of Information Act. In addition, roughly 2,700 pages of FBI documents related to the Amerithrax case are now accessible to the public and have been posted to the FBI website at

http://foia.fbi.gov/foiaindex/amerithrax.htm under the Freedom of Information Act.[19]

Accordingly, the Department has recognized in its prior practice that the release of such information can be appropriate when there is a strong public and Congressional interest in its work despite the lack of any criminal charges being filed. How do you distinguish the Departments previous releases of such information from your current position? Additionally, is it your position that Congressional oversight responsibilities may be overridden or ignored because of the Justice Department's "long-standing practices"?

RESPONSE: I assure you that I value the role played by Congress in overseeing the Executive Branch, and I am committed to working with you and other members of the House and Senate Judiciary Committees to accommodate your legitimate oversight interests. The Department strives to ensure that Congress has the documents and information it needs to conduct oversight, while also protecting the Department's law enforcement and confidentiality interests.

I appreciate your specific interest in the Department's handling of seven cases of possible wrongdoing by individuals, which have been sent to, or discussed with, the Department since 2004. Although it is the Department's long-standing practice not to disclose non-public information about investigations that did not result in publicly filed criminal charges, we have, nonetheless, sought to accommodate your interest in these matters by providing you with information from the available records as to why the Department declined to prosecute these individuals. I also understand that the Department's Office of Legislative Affairs would be pleased to schedule a briefing on this topic to further satisfy your information needs in this matter.

10. In light of ongoing civil litigation and the criminal investigation of the IRS targeting scandal, has the Justice Department instituted a litigation hold or other preservation effort to the storage sites, mentioned in Question 8, in Pennsylvania and West Virginia to cover all potentially relevant information, including electronically stored information? If so, when? If not, why not?

RESPONSE: The Department's Tax Division issued a separate litigation hold letter describing the claims raised to the Internal Revenue Service and the Office of Chief Counsel in each of the 501(c)(4) cases shortly after each case was filed. During the course of litigation, the Tax Division has had contact with both the IRS and TIGTA to discuss the proper steps to take to preserve information relevant to the claims raised in the litigation.

11. In your attempt to justify the Department's refusal to provide OLC information in your reply to Question 11, you cite to the "Best Practices Memo" for the contention that, although the Department favors publication of significant OLC opinions, countervailing considerations may make it improper to publish. The Best Practice

[19] http://www.justice.gov/opa/pr/justice-department-and-fbi-announce-formal-conclusion-investigation-2001-anthrax-attacks

Memo says such a countervailing consideration can be "when an agency requests advice regarding a proposed course of action, the Office concludes it is legally impermissible, and the action is therefore not taken." In your opinion, would a situation in which the President requests advice regarding a proposed course of action, the Office concludes it is legally impermissible, and the action is taken anyway also qualify as a countervailing consideration justifying withholding publication of the OLC opinion?

RESPONSE: As U.S. Attorney for the Northern District of Georgia and as Acting Deputy Attorney General, I have not been involved in the publication determinations by the Office of Legal Counsel (OLC). As I understand it, there is an array of factors that OLC considers during the publication process, as outlined in the Best Practices Memo, and many of those factors turn on the particular circumstances and nature of the advice, which makes it difficult to answer questions about the publication of a hypothetical opinion in the abstract.

12. **Follow-up to Question 5 and 19 – I asked you whether you would support legislation that would clarify that it is mandatory for local jurisdictions to comply with detainer requests issued by Immigration and Customs Enforcement so that criminal aliens were not released. Your response was vague and unresponsive. I hope you will take the time to study the issue and review the pending legislation that would address the *Zadvydas v. Davis* decision with regard to length of detention for foreign nationals. Would you support legislative efforts to allow the government to hold certain aliens longer than six months pending removal, as is current practice? If not, why not?**

RESPONSE: Under current law, the government has the authority to detain aliens for longer than 6 months pending removal if there is either a significant likelihood of removal in the foreseeable future, or in certain circumstances if the alien is a danger to the community or a threat to national security. I am always interested in working with members of Congress on legislation to fix our country's immigration system and protect the general public, and would be interested in working with you on any immigration legislation that you are proposing to offer in either area. This could include legislative efforts that would address the length of time that the government could detain certain aliens pending removal.

13. **Follow-up to Question 15 – In your response to my question regarding federal lawsuits against certain states, you say that you "will continue the Department's efforts to work closely with our federal, state, and local law enforcement partners to ensure that national security and public safety are our top priorities in enforcement of immigration laws." However, the problem is that the Department is doing the exact opposite and not working with state and local partners. It is punishing states for cooperating with the federal government and rewarding states that are not. While I understand you will evaluate state laws on a case by case basis, I would like to know if there are any state laws relating to immigration enforcement currently in place that you find objectionable. Please elaborate.**

RESPONSE: While I have not undertaken a review of specific laws and policies, there are a number of factors that go into evaluating state laws. When it comes to immigration enforcement, the Department works with our federal partners, particularly the Department of Homeland Security. Part of the evaluation entails an assessment of state laws on a case-by-case basis under the principles set forth by the Supreme Court in *Arizona v. United States*, notably assessing whether particular state laws are consistent with the federal government priorities on immigration enforcement. To reiterate, those priorities currently focus on national security and public safety. However, in our assessment of state laws, other federal priorities are also taken into account, including broader law enforcement and civil rights priorities. Thus, where a particular state law focuses on immigration, it is possible that it could affect other, equally important federal equities that need to be considered. It would therefore not be appropriate for me to comment on particular state laws without that broader assessment.

14. Follow-up to Question 16 – The responses you have provided regarding several of my questions are repetitive and nonresponsive. While I appreciate that you will work closely with law enforcement partners, it is not clear how you will do that. I asked specifically how you would work with state and locals to reverse potential sanctuary policies and what solutions you would bring to the table to ensure more cooperation. Please elaborate on this issue.

RESPONSE: As noted in my response to Question 13, particular laws could affect not just immigration enforcement, but other federal priorities. Sanctuary policies could touch those other federal priorities, requiring a consideration beyond only the law's effect on immigration enforcement.

15. Follow-up to Question 17 – In your response related to grant funding for sanctuary cities, you appear to recognize that the purpose of the Department's grants is to keep the public safe. However, sanctuary communities are not keeping the public safe when they release dangerous illegal aliens back into the community. This is especially true after ICE has requested that they detain such dangerous or criminal aliens in order to provide time for the agency to take custody of them. Therefore, would you advise the Attorney General to instruct the Department to withhold funding when communities refuse to cooperate with federal law enforcement, especially if any funding from the Department is not related to public safety?

RESPONSE: Protecting public safety is the Department of Justice's primary responsibility. As I said at my confirmation hearing, as a career prosecutor, I would not support any action that I believed would undermine public safety. It is through this lens that I would approach providing advice to the Attorney General regarding funding to communities.

As you are aware, Department of Justice grant programs are very important to state, local, and tribal law enforcement. These programs provide criminal justice funding to state, local and tribal governments that help to reduce crime, address significant gaps in local funding, and respond to emerging criminal justice issues. The Department takes seriously its oversight of these grants, and works to ensure that grantees comply with all requirements and laws.

Many of the Department's grant funds are formula-based, with eligibility criteria and associated penalties set firmly by statute. Moreover, withholding grant funding can have a significant impact on key local criminal justice programs. Accordingly, the Department must carefully consider whether suspending funding, when it has discretion to do so, would be in the best interest of public safety and national security.

16. Follow-up to Question 20 – Your answer to my question about the Department's failure to appeal the decision in *Martinez v. Holder* was not responsive. I would like to know whether you agree that Martinez weakens national security. You responded that there are other elements besides being a member of a "particular social group" that an alien has to meet for withholding of removal. However, the decision in this case makes it easier for gang members to remain in the United States. Do you think alien gang members should be allowed to remain in the country? Should they be a priority for removal?

RESPONSE: Violent criminals, including violent gang members, represent one of the highest priorities this administration has for the use of its limited enforcement and removal resources. If confirmed to be the Deputy Attorney General, I will work to ensure that our policies and enforcement resources continue to protect the general public from violent criminal aliens – including violent gang members – in a manner that is consistent with our statutory and international law obligations with regard to the removal of aliens.

17. Follow-up to Question 22 – You write that the statute, in your view, does not bar the government from exercising its discretion to fund legal representation to certain alien children in immigration proceedings. Do you support using taxpayer funding for legal representation of people who have illegally entered the country or overstayed their visa, regardless of age?

RESPONSE: I believe that the government's discretion to fund legal representation in immigration proceedings may be appropriately exercised when doing so is intended to improve the effective and efficient adjudication of those proceedings. For example, there are some categories of individuals who appear in our immigration courts, such as younger children and those deemed mentally incompetent, for whom providing legal representation may increase the efficiency of those proceedings (regardless of outcome). If confirmed, I would carefully review and evaluate any proposal, immigration court-related or otherwise, to improve the conduct of Department operations, and determine whether the proposal would comport with applicable law and serve the interests of justice.

18. Follow-up to Question 25(a) – You stated that, throughout your career, you have worked to secure our borders. Please specify these efforts.

RESPONSE: Thank you for the opportunity to clarify my answer on this important question involving national security and public safety. Indeed, the Northern District of Georgia is not a border district and as such, I did not have the robust immigration docket of several of my colleagues. This said, as U.S. Attorney and before that as First Assistant U.S. Attorney, I supervised the work of prosecutors that had a substantial impact on border security in three important ways.

First, the International Terminal at Hartsfield-Jackson International Airport services millions of international passengers each year; in 2012, this number reached nearly 10 million passengers traveling to and from 50 countries. The office regularly prosecuted document fraud cases involving false passports or other fraudulent papers arising from the international terminal, as well as instances in which international passengers smuggled drugs or currency on their flights. In addition to our efforts at the airport, the office maintained an active program working with the State Department's Diplomatic Security Service (DSS) to prosecute passport fraud cases originating in the Atlanta area. The defendants in these cases are typically foreign nationals who are illegally present in the United States and are subject to removal from the country after their conviction. They lied on U.S. passport applications, falsely claiming to be a United States citizen and eligible for a U.S. passport. In 2014 alone, the office received and prosecuted five such cases from DSS.

Second, the office prosecuted many cases involving drug trafficking by the Mexican cartels and human trafficking of international victims, as Atlanta is a national hub for both crimes. While the criminal activity in these matters occurred hundreds of miles from the actual border, many of these prosecutions involved significant matters that were well known in Central America. These prosecutions often deterred or had impacts on the criminal organizations in their operations that involved crossings of the U.S. border.

Third, the office prosecuted hundreds of illegal reentry cases, involving foreign nationals who reentered the United States after previously having been removed, during my tenure as U.S. Attorney, and, prior to that, as First Assistant U.S. Attorney.

19. Follow-up to Question 25(a) - You stated that, throughout your career, you have worked to protect our national security through the enforcement of federal immigration laws. Specifically, how have you done so?

RESPONSE: The Northern District of Georgia prosecuted a significant number of immigration cases during my tenure as U.S. Attorney and, prior to that, as First Assistant U.S. Attorney. As described in the response above, the office prosecuted illegal reentry cases and document fraud matters involving false passports or immigration applications.

20. Follow-up to Question 25(a) – While I understand that the Department of Homeland Security is responsible for following through with a judge's removal order, the safety of the public is the Department of Justice's joint responsibility. Given the Department's charge over law enforcement matters in the United States, I would like to know more about where you stand with regard to catch and release policies. Please explain your thoughts about the release of criminal aliens by the Obama administration in the last few years and what can be done to prevent this in the future.

RESPONSE: I am not in a position to comment on the Department of Homeland Security's administration of the immigration detention system. That said, based on my experience in the Northern District of Georgia, I believe that prosecutors with limited resources must (1) prioritize

enforcement efforts by focusing on criminals who pose risks to public safety; and (2) make custodial decisions on a case-by-case basis, taking applicable law and public safety into account.

Senator David Perdue
Questions for the Record
On the Nomination of Sally Quillian Yates
To be Deputy Attorney General of the United States
March 31, 2015

1. **As a former federal prosecutor, I know you are familiar with the concept of prosecutorial discretion. What, if any, are the limits of the President's discretion to enforce federal law?**

RESPONSE: There are certainly legal limits to prosecutorial discretion and a President's authority. Defining and drawing those limits, however, requires knowing all of the facts relevant to a particular issue, carefully examining the pertinent legal authorities, and reviewing any relevant judicial opinions.

2. **In his Memorandum Opinion and Order in *Texas v. United States*, B-14-254 (S.D. Tex. Feb. 16, 2015), Judge Hanen enjoined the implementation of President Obama's Deferred Action for Parental Accountability Program ("DAPA") and of the "three expansions/additions to the [Deferred Action for Childhood Arrivals Program, hereinafter "DACA"]," finding that the government had "clearly legislated a substantive rule without complying with the procedural requirements under the Administrative Procedure Act." *Mem. Op.* at 123. Do you agree that in promulgating and implementing DAPA and the DACA expansions, the government acted unlawfully?**

RESPONSE: As I noted in my testimony, this is an issue on which reasonable people can disagree. As Acting Deputy Attorney General, and if I am confirmed as Deputy Attorney General, I commit to follow the referenced preliminary injunction nationwide unless and until the injunction is stayed, lifted, or altered by the district court itself or by an appellate court. This matter is currently in litigation and so, as Acting Deputy Attorney General, it would not be appropriate for me to opine further. Therefore, I would respectfully direct you to the Department's court filings in this matter. As I noted in my testimony before the Committee, I stand by the Department's filings in this matter.

3. **According to press reports, at a recent hearing on the injunction in the *Texas* case, Judge Hanen told the government that "I was made to look like an idiot. I believed your word that nothing would happen." The judge was referring to the more than 100,000 three-year DACA renewals the government processed in the weeks following issuance of the injunction. Is it the Justice Department's position that the government is authorized to continue processing of DACA renewals during the pendency of the *Texas* injunction? If so, please explain the legal basis for your answer.**

RESPONSE: The Justice Department's view is that the government is not authorized to continue processing three-year DACA renewals during the pendency of the Texas injunction. Beyond that, as Acting Deputy Attorney General, it would not be appropriate for me to opine on the active litigation. I would respectfully direct you to the Department's court filings in *Texas et al. v. Johnson et al.* (SDTX Case No. B-14-254) that address these issues.

4. **With respect to the President's executive actions on immigration implemented through the DACA and DAPA programs, please explain whether you share the view of Attorney General nominee Loretta Lynch that the Office of Legal Counsel memorandum setting forth the argument for the President's actions are constitutional and "reasonable."**

RESPONSE: As mentioned in my answer above, the legality of the President's executive actions on immigration is currently a matter of pending litigation. As Acting Deputy Attorney General, it would not be appropriate for me to opine on the active litigation.

5. **Please explain your view on how, or whether, the President's executive action on immigration implemented through the DACA and DAPA programs comports with the Constitution's Take Care Clause and Congress's Article I authority over immigration and naturalization.**

RESPONSE: As mentioned in my answer above, these issues currently are matters of pending litigation. As Acting Deputy Attorney General, it would not be appropriate for me to opine on active litigation. The Department's position is set forth in court filings in *Texas et al. v. Johnson et al.* (SDTX Case No. B-14-254), and I stand behind the Department's filings in this matter.

6. **It's now indisputable that the Internal Revenue Service ("IRS") targeted conservative organizations that were seeking to obtain tax-exempt status. Senate investigators with the Permanent Subcommittee on Investigations found that over 80% of the targeted groups had a conservative political ideology. The Department of Justice ("DOJ" or "Department") responded by initiating a criminal probe led by a Civil Rights Division attorney who had contributed to President Obama's campaign in 2012. Little, if any, progress has been made in that investigation thus far.**

    a. **With respect to IRS targeting of individuals and organizations who ostensibly identify with a conservative or Tea Party viewpoint, do you believe that reassignment of the DOJ's investigation to a special prosecutor is appropriate?**

RESPONSE: Since I began my career as a line prosecutor in the United States Attorney's Office for the Northern District of Georgia 25 years ago, moving on to be a supervisor and then head of that office, and now as the Acting Deputy Attorney General, I have had the honor of witnessing the work of the career criminal prosecutors of the Department. I can assure you that these men and women work on a daily basis in pursuit of justice, following the facts and the law.

In this case, I know that career prosecutors from the Department's Criminal Division and Civil Rights Division are working alongside professional law enforcement agents from the FBI and the Treasury Inspector General for Tax Administration (TIGTA). I understand that before I was in my current role, the Attorney General carefully considered your question and determined that the appointment of a special prosecutor is not warranted.

    b. **Do you believe it was appropriate to assign management of the DOJ's investigation of IRS targeting to a DOJ lawyer who contributed to President**

Obama's campaign?

RESPONSE: As stated above, it is my understanding that the investigation is being conducted by a team of experienced career prosecutors and law enforcement agents from the Department and the TIGTA.

c. **Do you believe that assigning management of the DOJ's investigation of IRS targeting to a DOJ lawyer who contributed to President Obama's campaign could reasonably be expected to create the appearance of partiality or lack of objectivity on the part of the DOJ?**

RESPONSE: As I have described above, through my experience at the Department, I am confident that our career prosecutors follow the facts and the law without any regard to politics or other inappropriate considerations. It is also my understanding that the investigation is being conducted by a team that includes attorneys from the Criminal and Civil Rights Divisions and agents from the FBI and TIGTA.

d. **If you are confirmed, will you commit to keeping Congress informed in a more timely way than the current DOJ leadership has about the status of the investigation?**

RESPONSE: If I am confirmed as Deputy Attorney General, I look forward to working with Congress to accommodate your information needs, consistent with our law enforcement and litigation responsibilities.

7. **National security is always of paramount importance for the Justice Department. The January 2015 Paris attack and the rise of ISIS are episodes that show two emerging national security threats that you will confront, if confirmed: foreign fighters and so-called "lone wolf" attacks.**

a. **In your view, does the recent emergence of these threats have any impact on the debate over the impending renewal of the Foreign Intelligence Surveillance Act of 1978 ("FISA")?**

RESPONSE: National security threats posed by foreign fighters and lone-wolf attacks should inform the congressional debate regarding the reauthorization of certain expiring FISA provisions. It is important that our intelligence and law enforcement professionals have access to all available and appropriate investigative tools and techniques to deal with the ever-evolving threat presented by terrorism and other national security threats, while also ensuring that we use those tools in a way that effectively protects privacy and civil liberties. If I am confirmed as Deputy Attorney General, I will work with Congress to ensure the Intelligence Community has the authority necessary to meet our national security needs consistent with our shared commitment to privacy and civil liberties.

b. **Do you believe that the current "bulk collection" regime under FISA Section 215 is lawful?**

RESPONSE: Yes. The "bulk collection" program under Section 215 operates pursuant to court order, has been reviewed and approved by nineteen federal judges, and is subject to rigorous oversight by all three branches of government.

c. Do you believe that the incidental collection provision, Section 702, is lawful?

RESPONSE: Yes. Section 702 collection operates pursuant to court authorization, is subject to rigorous oversight by all three branches of government, and has been reviewed and found constitutional by our courts. Section 702 may only be used to target non-United States persons located outside the United States and may not be used to target foreigners for the purpose of targeting Americans' communications. Some communications of Americans, however, may be incidentally collected when an American communicates with a Section 702 target located outside the United States. Congress understood that this would be the case when it drafted Section 702, and required that collection under this program be governed by court-approved procedures to minimize the acquisition, retention, and dissemination of Americans' communications consistent with our need for foreign intelligence information. If confirmed as Deputy Attorney General, I will ensure that Section 702 collection continues in a lawful manner that meets our national security needs and appropriately protects privacy and civil liberties.

d. President Obama has indicated that he supports a legislative reform of Section 215's bulk collection regime. What are your thoughts on amending Section 215?

RESPONSE: If confirmed as Deputy Attorney General, I will work with Congress to amend Section 215 in a manner consistent with the President's proposal to end the Section 215 bulk telephone metadata program and establish a new mechanism to preserve the capabilities we need without the government holding this bulk metadata.

e. Do you think law enforcement currently has sufficient investigative and legal authority to address the increasing threat from foreign fighters and "lone wolves"?

RESPONSE: It is important that our intelligence and law enforcement professionals have access to all available and appropriate investigative tools and techniques to deal with the ever-evolving threat presented by terrorism and other national security threats, while also ensuring that we use those tools in a way that effectively protects privacy and civil liberties. If confirmed as Deputy Attorney General, I will work with law enforcement and Congress to evaluate any gaps in existing authorities and to ensure all appropriate tools are brought to bear to respond to these threats.

8. Are you committed to transparency between the DOJ and Congress, and will you commit to prompt, complete, and truthful responses to requests for information from Congress about outstanding issues related to Operation Fast and Furious?

RESPONSE: I appreciate the importance of transparency as well as congressional oversight of the Department's programs and activities. I commit to working with you to get you the information you need, while preserving the Executive Branch's proper functioning and the separation of powers, and consistent with the Department's law enforcement interests.

As you are aware, there is ongoing litigation related to your question, and I understand that the

Department has produced documents consistent with the district court's order in that litigation.

9. Do you believe that detainees currently being held at the United States Naval Base at Guantanamo Bay, Cuba, are entitled to criminal trials in the civilian court system within the United States?

RESPONSE: Consistent with the 2001 AUMF, as informed by the law of war, and subject to habeas review of the lawfulness of their detention by the courts, continued detention of enemy combatants at the military facility at Guantanamo Bay is lawful.

Although every case presents its own unique set of facts that would bear on a decision about appropriate trial venue, I can attest to the ability of our criminal justice system to serve as one effective tool among several to address the threat posed by terrorists. I would support the careful evaluation of all lawful options in the fight against terrorism, including military, diplomatic, economic, law enforcement, and intelligence activities, and including prosecutions in federal courts or in military commissions in appropriate cases.

10. In 2013, the DOJ intervened in litigation over the Louisiana Scholarship Program, a state initiative that provides school vouchers to low-income families. An analysis by the State of Louisiana found that the program promoted diversity in Louisiana schools and actually assisted in speeding up federal desegregation efforts. Most of the schoolchildren who benefit from this program are members of minority groups. This year, more than 13,000 students applied and nearly 7,500 schoolchildren were awarded a scholarship voucher. These children now get the chance to excel and attend high-quality schools that their parents can choose for them because of the program. Ultimately, after public pressure, the Justice Department backed off trying to kill the program entirely, but still insisted that the State provide demographic data about the students to a federal judge overseeing the lawsuit. Accordingly, now Louisiana has to provide data for the upcoming school year and for every school year as long as the program is in place.

a. Do you agree with the DOJ's decision to intervene in this case?

b. If confirmed, will you use Justice Department resources to obstruct, monitor, or regulate school-choice programs?

c. Will you commit to asking the federal district court with jurisdiction over this case to discontinue the reporting requirement if you are confirmed?

RESPONSE: Because this issue is in active litigation, I cannot comment on this matter at this time. It is my understanding that the Department sought the Court's assistance in ensuring that Louisiana provided information on its school voucher program in a timely fashion as required by court orders, and that Louisiana implemented its voucher program in full compliance with federal law, including the desegregation orders in the case. The Court ultimately granted the relief that the United States had been seeking. It is also my understanding that the Department has not taken a position against school voucher programs. That would continue to be my position if I am confirmed as Deputy Attorney General.

11. A 2013 report by the DOJ's Inspector General revealed disturbing systemic problems related to the operation and management of the DOJ's Civil Rights Division. If confirmed, will you commit to implementing the recommendations made by the Inspector General in that report?

RESPONSE: If I am confirmed as Deputy Attorney General, I will commit to ensuring that all Department components are responsive to recommendations made by the Office of Inspector General, including those recommendations made to the Civil Rights Division.

12. Do you agree with the recommendation of the U.S. Sentencing Commission in its 2011 report to Congress, *Mandatory Minimum Penalties in the Federal Criminal Justice System*, that Congress should amend 18 U.S.C. § 924(c) to confer on federal district judges the discretion to impose concurrent sentences under that provision?

RESPONSE: I believe that mandatory minimum sentences are an important tool for prosecutors—and a tool that should be deployed effectively and efficiently. In 2010, I had the opportunity to testify before the Sentencing Commission as it was considering the issue of mandatory minimums, including the mandatory sentences for certain firearm offenses under 18 U.S.C. § 924(c). As I noted then, Section 924(c) has been subject to some criticism, in part because it appears that the statute may have been originally intended to target recidivist offenders, but nonetheless requires judges to impose lengthy consecutive sentences regardless of the defendant's criminal history. If I am confirmed as Deputy Attorney General, I look forward to continuing the dialogue between the Department, the Sentencing Commission, and Congress regarding the use and application of mandatory minimums. It would be premature for me to opine on that specific recommendation before soliciting input from all relevant stakeholders, including prosecutors and law enforcement.

13. As the former U.S. Attorney for the Northern District of Georgia and the former Vice Chair of the Attorney General's Advisory Committee, you are no doubt familiar with the DOJ's recent "Smart on Crime" Initiative, which addresses a number of criminal justice issues like prioritizing prosecutions, sentencing disparities, recidivism, and incarceration of non-violent offenders. Attorney General Holder has advocated reduction of the federal sentencing guideline levels that apply to most drug-trafficking offenses, including trafficking of hard drugs like heroin. The Holder Justice Department also announced a new clemency initiative last year that invites clemency petitions from offenders who meet a number of criteria. Thousands of offenders, including drug traffickers, fall within those criteria.

a. What are your views on those DOJ initiatives and proposals?

b. Do they make the work of federal prosecutors harder?

c. Do they make the American People safer?

d. Are you going to continue them if you are confirmed as Deputy Attorney General?

RESPONSE to a-d: As I evaluate Department policies, it is critical that that our sentencing and corrections policies protect the public, are fair to both victims and defendants, reduce recidivism, and control the prison population. The Smart on Crime Initiative is allowing the Justice Department to help ensure that our sentences are sensible, effective, and proportional to the crime; to hold offenders accountable; to conserve precious public safety resources; and to improve outcomes. Since Smart on Crime was announced, federal prosecutors are able to better focus resources on the most serious offenders, and the result has been enhanced public safety. Under the policies announced as part of the Initiative, Federal prosecutors are able to better focus resources not on quantity of prosecutions, but rather on the most serious offenders. The result has been a steady decline in the prison population and enhanced public safety. It has also meant an enhanced focus on fewer, but more significant, defendants being admitted to BOP custody. After the Initiative was announced, the number of drug cases brought federally has declined, but the average guideline minimum sentence for drug trafficking cases has risen, indicating a focus on more serious cases and more significant or violent defendants. Moreover, the rate of guilty pleas has risen, and, despite concerns raised by some, drug defendants have cooperated with the government at the same rate as before the Initiative.

Importantly, this Initiative is based on models from states, like my home state of Georgia, which successfully enacted criminal justice reforms to address the high cost of incarceration. In Georgia, like other states, not only have prison admissions and cost of incarceration fallen but, since the enactment of reforms, violent crime has decreased as well.

As Acting Deputy Attorney General, I have continued to implement the Smart on Crime Initiative with an eye towards reducing the prison population. Prison spending has increasingly displaced other critical public safety investments – such as resources for investigation, prosecution, prevention, intervention, prison reentry, and aid to local law enforcement. I look forward to working with Congress to ensure that we maximize resources to enhance public safety.

e. **Do you believe that these or other DOJ initiatives should be expanded to encompass early release for violent offenders who have served a substantial portion of their sentences?**

f. **Do you believe that these or other DOJ initiatives should be expanded to encompass early release for offenders who have received so-called "stacked" or consecutive mandatory minimum sentences under 18 U.S.C. § 924 or other provisions of federal law?**

RESPONSE to e-f: As you know, more than 90% of federal offenders will eventually be released to the community, including many who have a history of violence. Congressional policy has for decades recognized that modest incentives are appropriate to encourage good behavior in prison and participation in recidivism reducing programs. Under current law, all prisoners accrue good time credits. While this law is part of sensible corrections policy, we must be careful to ensure that violent offenders are sentenced in a manner that reflects the seriousness of their conduct and protects society from future harm. I also believe it is critical to do everything we can to reduce reoffending, especially among those who have a history of dangerousness. There are a number of proposals that have been introduced in Congress over the past few years to better reduce reoffending. I look forward to working with Congress to explore how to accomplish this goal in

the most effective and just way.

14. The 2013 Cole Memorandum explains the DOJ's priorities on enforcement of federal law regarding marijuana offenses. Several jurisdictions have recently legalized cultivation and distribution of marijuana for personal use, in effect, initiating a series of state regulatory regimes that contravene federal drug laws.

a. Do you agree with the current DOJ enforcement policies and priorities outlined in the Cole Memorandum?

RESPONSE: I have been committed to enforcing the Controlled Substances Act (CSA) throughout my career as a prosecutor, and that commitment will continue if I am confirmed as Deputy Attorney General. The Cole Memorandum articulates eight priority areas for the enforcement of federal marijuana laws. In addition, the Cole Memo acknowledges the importance of examining the particular circumstances of each case and the authority of the Department to pursue investigations and prosecutions that otherwise serve an important federal interest. As such, the Department's focus is on applying its limited investigative and prosecutorial resources to enforcing the CSA in a manner that addresses the most significant threats to public health and safety.

To be clear, the Department and the Administration do not support the legalization of marijuana, nor do I. The Department remains committed to enforcing the CSA and federal money laundering laws in a way that most efficiently uses its limited resources to address the most significant threats to public health and safety, particularly with respect to violent offenders and gang activity.

b. Do you consider the DOJ's policy, as it is being implemented now, to reflect legitimate enforcement discretion consistent with the Take Care Clause?

RESPONSE: As I have seen firsthand through my over two decades as a federal prosecutor, the Department uses its discretionary enforcement authority in a manner that seeks to focus limited investigative and prosecutorial resources to address the most significant public health and public safety threats. This principle applies in all areas of civil and criminal enforcement. In every instance, prosecutors across the country must determine how limited resources are marshaled to best confront those threats. The Department's policies, including in the area of marijuana enforcement as in others, are crafted to provide guidance on doing so in an effective, consistent and rational way, while leaving prosecutors discretion within the constraints of that guidance to take into account the particular circumstances of each case.

c. If you are confirmed, how do you plan to measure the effect of the DOJ's policy on the federal interest in enforcement of drug laws?

RESPONSE: If I am confirmed as Deputy Attorney General, I will ensure that the Department continues to consider data of all forms. These data can include the results of existing federal surveys on drug usage, state and local research, and, of course, feedback from the community and from federal, state, and local law enforcement. The degree to which existing Department policies and the state systems regulating marijuana-related activity protect federal enforcement priorities and the public is an important issue, and one on which I will remain focused in my current position,

and if confirmed. The Department will continue to collect data and make these assessments through its various components and will continue to work with our partners throughout the government to identify other means by which to collect and assess data on the effects of these state systems.

15. A number of commentators have expressed the opinion that voter fraud simply doesn't exist or the alternative opinion that, if it does, it is a minor problem with no real effect on the integrity of elections.

a. Do you agree that voter fraud does not exist or is so insignificant that it does not threaten the integrity of elections?

RESPONSE: I am not personally familiar with the specifics of studies regarding the prevalence of voter fraud. The Department of Justice has a number of important law enforcement responsibilities, including investigating and prosecuting violations of the federal criminal laws that criminalize various types of election fraud. If I am confirmed as Deputy Attorney General, I can assure you that where the Department finds credible evidence of voter fraud, it will enforce the federal criminal laws regarding election fraud, according to their terms, as appropriate.

b. Do you think that voter fraud is a *bona fide* issue that states should be entitled to address with voter ID laws?

RESPONSE: As the Supreme Court held in *Crawford v. Marion County Election Board*, voter identification laws are not per se unconstitutional. Nor do they necessarily violate the Voting Rights Act. I understand that before the *Shelby County* decision, the Department did preclear some voter identification laws under Section 5 of the Voting Rights Act, such as in Virginia and New Hampshire.

The analysis of a voter identification law is very specific to the particular law, the particular jurisdiction, and a wide range of factors that Congress has identified as relevant to determining whether a particular voting practice comports with the Voting Rights Act. As such, it is difficult for me to comment on the merits of any law (or in the abstract) without a full understanding of how the law actually operates or would operate in that jurisdiction. Nor can I comment on voter identification laws that are the subject of pending litigation to which the Department is a party.

16. First Amendment freedoms that protect the press became a lot more tenuous during Mr. Holder's administration of the DOJ. In May 2013, the Department obtained phone records for the Associated Press ("AP") without the knowledge of that organization, reportedly as part of an investigation of an AP story on CIA operations in Yemen. It then came to light that in 2010 the Holder Justice Department obtained a warrant to search the emails of Fox News reporter James Rosen – the Department claimed that Rosen was a potential co- conspirator with a State Department contractor in violation of the Espionage Act. Since then, the DOJ has issued new guidelines governing how it obtains evidence from journalists. The guidelines maintain that notice of a subpoena may be withheld only if notifying the journalist would present a "clear and substantial threat" to an investigation or to national security.

a. Do you agree that the Department's treatment of journalists has been heavyhanded and that reform of DOJ practices was necessary?

RESPONSE: I take very seriously any legal process used with respect to the news media. Any such processes must strike an appropriate balance among several vital interests, including protecting national security; ensuring public safety; promoting effective law enforcement and the fair administration of justice; and safeguarding the essential role of the free press in fostering government accountability and an open society. To this end, I believe that the revisions to the Department's policies and practices regarding the use of certain law enforcement tools to obtain information from, or records of, members of the news media struck that balance. Significantly, the revised policies and practices cover law enforcement tools and records, and ensure thorough, high-level consideration of the use of those tools to obtain information from, or records of, members of the news media.

b. Do you believe that the DOJ investigations described above pose a serious risk of chilling free speech?

RESPONSE: I believe that a free press plays a critical role in ensuring government accountability, but that as a general matter, persons entrusted with safeguarding national security information should be held accountable when they violate that trust. I believe the Department's revised media policies and practices strike the proper balance among several vital interests, including protecting national security; ensuring public safety; promoting effective law enforcement and the fair administration of justice; and safeguarding the essential role of the free press in fostering government accountability and an open society.

c. Do you support the new guidelines?

RESPONSE: Yes. I support the new guidelines. The revised policies and practices strike the proper balance among several vital interests, including protecting national security; ensuring public safety; promoting effective law enforcement and the fair administration of justice; and safeguarding the essential role of the free press in fostering government accountability and an open society.

d. As a former federal prosecutor, you are no doubt aware of the balance between individual liberties and the need to conduct thorough and effective investigations. Do the guidelines strike the right balance?

RESPONSE: Yes, in my view, the Department's revised policies and practices strike the proper balance between among several vital interests, including protecting national security; ensuring public safety; promoting effective law enforcement and the fair administration of justice; and safeguarding the essential role of the free press in fostering government accountability and an open society.

e. Going forward, how should the Justice Department distinguish itself from the Holder Justice Department when it comes to investigation of journalists?

RESPONSE: Members of the news media play a critical role in our society. As a result, the use

of certain law enforcement tools to obtain information from, or records of, non-consenting members of the news media should be seen as extraordinary measures. If I am confirmed as Deputy Attorney General, I would give careful consideration to, and closely scrutinize, any request for authorization to use law enforcement tools to obtain information from, or records of, a member of the news media; or to investigate or prosecute a member of the news media. In my view, the revised media policies and practices both provide an appropriate framework with which to conduct this critical analysis, and strike the appropriate balance between law enforcement and free press interests.

17. There have been significant developments recently at the DOJ regarding policies on civil asset forfeiture in response to abuses by U.S. Attorney's Offices and federal and state agencies. Attorney General Holder recently announced that the DOJ will end the Equitable Sharing Program, which essentially apportions billions of dollars in seized assets between federal, state, and local authorities – a huge pool of money that clearly created a risk of encouraging aggressive, if not unlawful, seizures from individuals who are not charged with a crime, have not been indicted, and have not enjoyed any due process whatsoever.

a. Do you believe that there have been inappropriate or excessive seizures by your office or by the DOJ with respect to civil asset forfeitures, adoptive seizures, and equitable sharing practices?

RESPONSE: Attorney General Holder's January 16, 2015, Order generally prohibited the practice of federal adoptions of assets seized by state and local law enforcement. It did not end the Equitable Sharing Program, but came as part of the Department's comprehensive, ongoing review of the Asset Forfeiture Program, including the Equitable Sharing Program.

As part of that ongoing review, the Department recently announced additional important policy changes in this area. On February 11, 2015, the Department issued follow-on guidance on task force participation and adoption. Most recently, on March 31, 2015, the Department issued guidance restricting seizures for structuring violations unless a defendant has been criminally charged, there is probable cause that the structured funds are tied to additional criminal activity, or the U.S. Attorney or Chief of the Asset Forfeiture and Money Laundering Section (AFMLS) personally determines that there is a compelling law enforcement interest served by the seizure.

b. What steps do you plan to take, if confirmed as Deputy Attorney General, to ensure that the DOJ returns wrongfully seized assets promptly and does not continue to seize assets wrongfully?

RESPONSE: I take seriously the concerns that have been raised about civil asset forfeiture. As mentioned above, the Department has embarked on an ongoing review of its Asset Forfeiture Program, which has so far resulted in the policy change on adoptions. If I am confirmed as Deputy Attorney General, I look forward to continuing that review to ensure that Asset Forfeiture tools are used effectively and appropriately to take the profit out of crime and return assets to victims, while safeguarding civil liberties and the rule of law.

I should note that the Department's March 31, 2015, guidance on structuring imposes a 150-day

deadline to file a criminal charge or civil complaint against seized structured funds. If no charge or complaint is filed within this time period, the new guidance requires DOJ prosecutors to direct the seizing agency to return the full amount to the person from whom it was seized unless the claimant consents to extending the deadline or the U.S. Attorney or Chief of AFMLS personally approves an extension.

Senator Jeff Sessions
Questions for the Record
Sally Quillian Yates
Nominee to be United States Deputy Attorney General

1. **Do you believe that President Obama has exceeded his executive authority in any way? If so, how?**

RESPONSE: Neither in my capacity as the United States Attorney for the Northern District of Georgia, nor in my current capacity as Acting Deputy Attorney General, have I been charged with determining when and whether the President has exceeded his executive authority. However, I can assure you that, if confirmed as Deputy Attorney General, I would commit to consistently and effectively enforcing the law within the confines of the Constitution. I can also assure you that I believe that the Attorney General and the Deputy Attorney General have an obligation to follow the law and the Constitution and to give their independent legal advice to the President.

2. **On April 23, 2014, Deputy Attorney General Cole announced a new clemency initiative, under which the President intends to grant clemency to "perhaps thousands" of convicted federal drug offenders, including those who have limited ties to gangs and drug cartels. This policy would give federal drug offenders the benefit of changes in law that took place after they were convicted, even though many of these legislative changes were specifically negotiated to not apply retroactively. On March 20, 2015, President Obama stated that he plans to grant clemency "more aggressively" during the remainder of his term. If confirmed, you will be in a position to advise the President on clemency and pardon petitions.**

   a. **Do you agree that the pardon power exists to mitigate injustice in individual cases?**
   b. **Do you agree that the pardon power should not be used to target laws that the President disagrees with on policy grounds?**
   c. **How will you ensure that the individuals whose petitions are granted under this policy are not dangerous criminals convicted of serious federal offenses?**

RESPONSE: Commutation reduces a sentence that is currently being served, in whole or part, but does not change the fact of conviction. Clemency, either in the form of a pardon or commuted sentence, is an extraordinary remedy, but may be appropriate in some circumstances consistent with the interests of justice.

As you know, the Constitution gives the President the exclusive authority to grant or deny clemency petitions without restriction. That authority has never been delegated to any person or agency. Presidents, however, have sought advice from the Department of Justice on the exercise of their authority for more than a century.

The Department has an extensive clemency review process, which factors in the views of the United States Attorney in the district of conviction, the sentencing judge, and the Bureau of

Prisons. It has been the Department's practice that all recommendations for commutation made by the Department to the President under the initiative include a period of supervised or prerelease custody for the Petitioner. The President alone decides which petitions are granted.

Under the clemency initiative announced by Deputy Attorney General Cole on April 23, 2014, the Department will consider six criteria when reviewing clemency applications from federal inmates. Among those criteria are several specifically designed to ensure that dangerous criminals are not released under this policy, including that the applicants are "non-violent, low-level offenders without significant ties to large scale criminal organizations, gangs, or cartels," they lack a "significant criminal history;" they have "demonstrated good conduct in prison;" and that they "have no history of violence prior to or during their current term of imprisonment."

3. **I am told that litigating attorneys within Main Justice are paid significantly more than similarly-situated federal prosecutors within the 93 U.S. Attorney Offices across the country. This pay variance is especially large at the entry level, and can differ as much as $30,000 between similarly situated Assistant U.S. Attorneys and Justice Department trial attorneys. I am also told that the Department has the authority to correct the problem because it arises out of the uneven treatment in pay of Assistant U.S. Attorneys, covered under the specialized Administratively Determined pay schedule for Assistant U.S. Attorneys, and the pay of all other Department attorneys, covered under the government-wide General Schedule. Serving as vice chair of the Attorney General's Advisory Committee, you must have been aware of this situation. Do you believe it is justified? If not, will you take action to correct it?**

RESPONSE: As the United States Attorney for the Northern District of Georgia, I witnessed on a daily basis the talent and dedication of our Assistant U.S. Attorneys—many of whom have passed up higher paying jobs in the private sector to do the work that they love. I think it is important that all federal prosecutors—both at Main Justice and in the Districts—are compensated in a fair and equitable way for the hard work that they do.

Before I was appointed Acting Deputy Attorney General, I had the opportunity to serve as vice chair of the Attorney General's Advisory Committee, which was briefed by a working group of Department officials on the topic of disparity between the General Schedule and the Administratively Determined pay schedule. The topic continues to be examined. As Acting Deputy Attorney General, I remain committed to ensuring appropriate compensation for all Department attorneys, and I will continue that commitment if confirmed.

4. **In response to a question at your nomination hearing regarding what your priorities will be if confirmed, you stated:**

   "It's important that we not be generating stat[istics] but actually having an impact on the communities that we serve to make them as safe as possible. And so one of the things that I would like to do is to work with our law enforcement agencies to ensure that they are focused on making an impact on the safety of the communities rather than just, as I said, generating stat[istics]."

Starting in the 1990s, the "broken windows" crime prevention theory was used in New York with great success. Do you believe there is a danger in failing to prosecute smaller crimes as those smaller crimes lead to larger crimes and undermine public safety?

RESPONSE: Throughout my career as a federal prosecutor, I have followed the facts and the law in making commonsense decisions about which cases to prosecute. Given the Department's limited resources, we simply cannot prosecute every violation of federal law. This said, we are nonetheless committed to protecting the safety and security of the American people. In instances where there is evidence of a crime that may not rise to a violation of federal law, we will work with our state and local partners to address those crimes.

5. **If confirmed, would you advocate for legislation to close the so-called "gun show loophole"?**

RESPONSE: As a United States Attorney and a career prosecutor, protecting the public from violent crime has been among my top priorities. I will continue that commitment if confirmed as Deputy Attorney General. As a general matter, I believe the Department should do what it can to ensure that firearms do not wind up in the hands of criminals and others who are prohibited by law from having them, and would look forward to working with Congress toward this goal.

6. **In April 2013, the Senate rejected measures that would have instituted a ban on so-called "assault weapons" and large capacity magazines, required universal background checks, and created new high criminal penalties for firearms offenses. In October 2014, Attorney General Holder referred to these as "really reasonable gun safety measures." Do you agree with Attorney General Holder's statement?**

RESPONSE: As noted above, throughout my career as a federal prosecutor, one of my highest priorities has been to protect Americans from violent crime, including gun crime. I am sure we agree that the Department should do what it can to prevent criminals and others who are prohibited by law from obtaining firearms. Background checks are an important step to help block criminals and other prohibited persons from easily—and unlawfully—procuring firearms.

In addition, as you know, high capacity magazines allow semi-automatic weapons to fire a large number of rounds without reloading, often with tragic results, as we saw in Tucson, Aurora, and Newtown. Large capacity magazines also increase the danger to law enforcement officers, because criminals can fire more rounds before having to reload.

7. **Have you ever expressed an opinion on whether the death penalty is unconstitutional? If so, what was that opinion? If not, do you have such an opinion and what is it?**

RESPONSE: I believe the death penalty is constitutional, and while I was U.S. Attorney in Atlanta, my office sought the death penalty.

8. President Obama was quoted in a January 2014 article in *The New Yorker* as saying the following: "I smoked pot as a kid, and I view is as a bad habit and a vice, not very different from the cigarettes that I smoked as a young person up through a big chunk of my adult life. I don't think it is more dangerous than alcohol." Do you agree with the President's statement?

RESPONSE: The Department and the Administration do not support the legalization of marijuana, nor do I. As a United States Attorney, a career prosecutor, and the Acting Deputy Attorney General, I have been committed to the enforcement the Controlled Substances Act (CSA), and if confirmed as Deputy Attorney General I will continue that commitment. Likewise, the Department has not wavered in enforcing the CSA and federal money laundering laws, but does so in a way that most efficiently uses its limited resources to address the most significant threats to public health and safety, particularly with respect to violent offenders and gang activity, among other key priorities outlined in the Department's August 2013 and February 2014 guidance to all United States Attorneys on these issues.

9. DEA Administrator Michele Leonhart has testified before Congress that "it's important to have the facts about marijuana out there in ways that kids, teens, young adults, parents can look at it to see that what they've been sold – that [legalization] is no big deal – is not true." Do you agree with Administrator Leonhart?

RESPONSE: Again, I do not support the legalization of marijuana, nor does the Department or the Administration. As a career prosecutor, I can assure you that I have been committed to enforcing the CSA throughout my career, and if confirmed as Deputy Attorney General, I will continue that commitment. Likewise, the Department remains committed to enforcing the CSA with regard to marijuana, as well as all other illegal drugs. Moreover, marijuana potentially falling into the hands of children is of particular concern to the Department and to me. These concerns are reflected by the Department's explicit enforcement priority of preventing the distribution of marijuana to minors, as well as the Department's enforcement priority of addressing threats to public health.

I also believe that it is important that the American public has the facts about marijuana and other dangerous drugs. To that end, while I am either acting or confirmed as Deputy Attorney General, the Department will continue to work with the Office of National Drug Control Policy and other partner agencies throughout the government to make that information available and accessible to the public.

10. The American Medical Association has stated that it believes "(1) cannabis is a dangerous drug and as such is a public health concern; (2) the sale of cannabis should not be legalized."

a. Do you agree with that statement?
b. Do you support the legalization of marijuana at either the state or Federal level?
c. Do you support the legalization of medical marijuana, as proposed in S. 683 (introduced in the 114th Congress)?

d. Will you speak out against efforts to eliminate the enforcement of Federal drug laws?

RESPONSE: As noted above, I do not support the legalization of marijuana, nor does the Department or the Administration. As a former United States Attorney and a career prosecutor, I have been committed to the enforcement the Controlled Substances Act (CSA), and if confirmed as Deputy Attorney General I will continue that commitment. Likewise, the Department remains committed to enforcing the CSA and federal money laundering laws in a way that most efficiently uses its limited resources to address the most significant threats to public health and safety. I can assure you that the Department does not support efforts to minimize or eliminate its enforcement of federal drug laws. As I noted in my hearing, I would welcome the opportunity to work with Congress on all issues, including federal drug enforcement.

Senator Thom Tillis
Questions for the Record
Sally Quillian Yates
Nominee to be United States Deputy Attorney General

1. **As you know, the Inspector General serves as an independent checking power to deter fraud and promote efficiency within the Department of Justice and other agencies. Under the Inspector General Act, the Inspector General has the authority, "to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable establishment which relate to programs and operations with respect to which that Inspector General has responsibilities under this Act." 5 U.S.C. App. § 6 (a)(1). This information includes Title III wiretap information, grand jury documents, and consumer credit information under the Fair Credit Reporting Act. In some situations, the Attorney General may prohibit investigations, audits, or issuance of subpoenas if the Attorney General provides written notice to the Inspector General explaining the reason such action complies with 5 U.S.C. App. § 8E (1), (2), and (3).**

   According to testimony from Inspector General Michael Horowitz in 2013, the Department of Justice obstructed his authority to access non-privileged documents. Instead, the practice implemented by Attorney General Holder required the Inspector General to receive written permission before the Inspector General obtained access to non-privileged records. In my view, this practice violates the plain reading of the Inspector General statute and requires the Inspector General to give deference to the very agency it is supposed to audit, which clearly defeats the statutory purpose and independence vested in the Inspector General by statute. To me, it seems like the Attorney General and Deputy Attorney General would welcome recommendations from the Inspector General to promote efficiency and eliminate fraud and waste to increase the Department's resources.

   As acting Deputy Attorney General, has this practice continued since your appointment?

RESPONSE: I believe that the Inspector General plays a particularly critical role at the Department of Justice in helping us to identify misconduct or malfeasance, or simply waste, fraud and abuse, and that the Inspector General should receive all documents that he needs to complete his reviews. I understand that OLC, in response to a request from former Deputy Attorney General James Cole, is preparing a legal opinion addressing the circumstances in which the Inspector General is legally authorized to gain access to information obtained pursuant to the Federal Wiretap Act, Title III of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 18 U.S.C. §§ 2510-2522 (2012); grand jury material protected by Rule 6(e) of the Federal Rules of Criminal Procedure; and information obtained pursuant to section 1681u of the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.* (2012). I expect their work to be completed as soon as possible. Although it is my understanding that the Inspector General has never been denied access to Title III or Rule 6(e) material when necessary to complete his reviews, I am

developing a department-wide policy that will expedite the production of such documents to the Inspector General, and I expect that policy to be finalized in the coming weeks.

a. **If yes, specifically explain your statutory interpretation that gives the Attorney General the ability to violate the plain meaning of the IG's powers under the statute.**

   i. **Furthermore, specifically explain where you find statutory authority to require the Inspector General to comply with the current administration's practice of requiring written permission from the Attorney General in order for the IG to access non-privileged documents?**

   ii. **Specifically explain what power the Inspector General holds to effectively audit, recommend efficiency proposals, and eliminate waste if the Attorney General can unilaterally withhold access information that is not privileged?**

   iii. **If the Attorney General can unilaterally withhold information from the Inspector General contrary to the IG statute, what prevents other components within the Department from obstructing investigations and interfering with the independent powers specifically given to the Inspector General?**

b. **If no, please specifically explain what steps you will take ensure the independence of the Inspector General's statutory authority and ability to audit the Department of Justice and how you will prioritize his recommendations.**

RESPONSE (to a-b): As explained above, I believe that the Inspector General plays a critical role at the Department of Justice in helping us to identify misconduct and malfeasance as well as waste, fraud and abuse. To ensure the independence of the Inspector General, I am working hard to develop a new department-wide policy that will expedite the production of documents to the Inspector General, and I expect that policy to be finalized in the coming weeks.

c. **In addition, this month, OIG issued a report entitled "The Handling of Sexual Harassment and Misconduct Allegations by the Department's Law Enforcement Components." This report reviewed the Department of Justice's law enforcement components and their handling of internal sexual misconduct and sexual harassment allegations. The report specifically stated, "The OIG's ability to conduct this review was significantly impacted and delayed by the repeated difficulties we had in obtaining relevant information from both the FBI and DEA as we were initiating this review in mid-2013."**

   i. **Do you believe the Department's law enforcement components have the authority to unilaterally withhold information from the Office of Inspector General? If yes, please explain your justification.**

ii. **If no, please explain what steps you will take to ensure that the Department's law enforcement components do not continue to obstruct investigations by the Office of the Inspector General.**

RESPONSE (to c): As I explain above, I am working hard to develop a department-wide policy that will expedite the production of documents to the Inspector General, and I expect that policy to be finalized in the coming weeks.

2. **In a December 2014 Report entitled "Professional Misconduct: DOJ Could Strengthen Procedures For Disciplining Its Attorneys," the Government Accountability Office concluded: "The Department of Justice (DOJ) has made changes to improve its processes for managing complaints of attorney professional misconduct since 2011 but has not implemented plans to improve processes for demonstrating that discipline is implemented, or achieving timely and consistent discipline decisions."**

   a. **Surely we can agree that attorneys who have committed prosecutorial misconduct or who have been disciplined by a state bar have not always carried out their duties with integrity and professionalism. Do you, in fact, agree with that statement?**

   b. **Secondly, would you, consistent with any due process rights of such an employee, dismiss an employee who does not uphold the professional standards and duties required of them as an attorney and a Department of Justice employee?**

   c. **Would you agree that any attorney at the Department of Justice who has actually been disbarred should be dismissed?**

   d. **What actions have you taken as acting Deputy Attorney General to comply with the recommendations offered by the Government Accountability Office in its report?**

RESPONSE (to a-d): I am committed to ensuring that all Department attorneys carry out their duties with the highest level of integrity and professionalism, and to pursuing appropriate discipline for those who do not. The Department takes into consideration all aspects of a candidate's suitability for employment when making hiring decisions, including whether the attorney has a history of professional misconduct. By their nature, professional misconduct findings are fact-based and varied, and the Department carefully considers the allegations and conclusions of any prior discipline or misconduct findings when evaluating an attorney's suitability for employment. I will follow the Department's suitability rules and policies as applied at the time of hiring, and will support measures that ensure Department attorneys carry out their duties using excellent judgment and consistently adhering to all applicable professional responsibilities. Public service is a public trust, and I believe it is important for the Department to maintain the highest standards for all of its employees.

It is my understanding that there has not been an instance where a person who has been disbarred has continued to serve as an attorney in the Department. Any time the Department takes disciplinary action against an employee for findings of misconduct, we are obligated to follow the due process and procedural statutory requirements for Adverse Actions set forth in 5 U.S.C. Chapter 75. By statute and Department policies, however, all Department attorneys are required to be active members of a state bar. If a Department attorney were disbarred and not an active member of a bar, then his or her employment with the Department would be terminated.

GAO made two recommendations to the Department in its report on professional misconduct. First, GAO recommended that the Department require components that impose discipline to demonstrate that they actually implemented the discipline. The Department adopted the recommendation, and this requirement is now part of the discipline process. Second, GAO recommended that the Department take steps towards expanding the jurisdiction of the Professional Misconduct Review Unit (PMRU) to all Department attorneys. The Department has done so, and all attorneys in the Department's litigating components are now subject to PMRU's jurisdiction.

3. **As of today, 34 states have passed laws requiring voters to show some form of identification at the polls. As of October 13, 2015, thirty one states have voter identification laws that are already in force. My home state of North Carolina enacted a Voter ID law in 2013, which doesn't even go into effect until 2016. As you are also likely aware, the Department of Justice filed a lawsuit challenging this reform. To date, both a Federal District Court Judge in North Carolina and the United States Supreme Court have refused to agree with the arguments advanced in the litigation by the Department of Justice. When Ms. Lynch was before the Committee, she continually stressed that the Department has limited resources and must "balance priorities with resources."**

    a. **Would you agree that the Department must set priorities and pursue the cases that the Department views as the most critical to the nation from a law enforcement perspective?**

    b. **Do you believe challenging the implementation of Voter Identification requirements that have been upheld by the Supreme Court in *Crawford v. Marion County Election Board,* 553 U.S. 181 (2008), that are widely popular with the American public, and now law in a majority of states, is an appropriate "balance of priorities with resources" for the Department of Justice?**

        i. **If yes, please explain why you believe this is an appropriate use of Department resources?**

            1. **Furthermore, it is my understanding that there are no fewer than 10 Department of Justice lawyers working on the North Carolina case alone. This does not include the numerous attorneys working on other similar cases in Wisconsin, Texas, and Ohio. Do you feel this is an appropriate expense and use of the Department's time, money, and attorneys given the concerns expressed by Attorney General nominee Loretta**

Lynch about "resource constraints" within the Department, and should these Voter ID cases receive priority over prosecuting cybercrimes, terrorism threats, and human trafficking?

ii. **If no, please explain what criteria you would use to decide which cases should receive priority consistent with the Department's and the AG nominee's claims of "resource constraints?"**

RESPONSE: Because the right to vote is one of our most sacred rights, it is critical that all eligible citizens are able to register and to cast a ballot. For this reason, if confirmed as Deputy Attorney General, I will be committed to using every available tool to ensure that all eligible Americans can exercise the franchise.

As the Supreme Court held in *Crawford v. Marion County Election Board*, voter identification laws are not per se unconstitutional. Nor do they necessarily violate the Voting Rights Act. In fact, I understand that before the *Shelby County* decision, the Department did preclear some voter ID laws under Section 5 of the Voting Rights Act, such as in Virginia and New Hampshire. The analysis of any specific law, however, is very specific to the details of the law, the particular jurisdiction, and a range of factors that Congress has identified as relevant to determining whether a particular voting practice comports with the Voting Rights Act.

When considering questions under Section 2 of the Voting Rights Act, the Department considers whether there is a racially discriminatory purpose behind the enactment of a specific voting practice in a particular jurisdiction and/or whether the specific voting practice leads to a racially discriminatory result in that particular jurisdiction. In evaluating questions of discriminatory purpose under Section 2, the Department considers the factors discussed by the Supreme Court in the *Arlington Heights* case. Further, in evaluating questions under Section 2, the Department considers the Senate factors that are described in the 1982 legislative history of Section 2, and further discussed in the case law. Among the factors considered in making the evaluation of possible discriminatory purpose and discriminatory results is the nature, scope and severity of impediments faced by citizens in a particular jurisdiction regarding a specific voting practice, and what protections or alternatives may be available for citizens for whom a voting practice results in barriers to full and equal participation in the political process. A number of these questions are at issue in pending litigation in which the Department is participating, and for this reason, I am unable to comment further.

4. **In 1976, Congress established the Public Safety Officers' Benefits (PSOB) program, which is administered by the Department of Justice and provides lump-sum payments to eligible public safety officers and their survivors after a line-of-duty death or permanent and total disability. The program also provides educational benefits to an eligible officer's spouse and children. In 2009, the Government Accountability Office found that families of fallen or injured officers were waiting as long as a year and a half for a determination on a claim to the Public Safety Officer's Benefits Program.**

Just this past week, Peter J. Kadzik, Assistant Attorney General, responded to a February 2015 inquiry from Senate Judiciary Chairman Grassley regarding this program. That communication indicates there are 36 pending PSOB death benefit claims pending at DOJ, a number of which have been pending for over four years.

a. **This is an area where we cannot make excuses. In your time as acting Deputy Attorney General, what have you done to streamline this process and to ensure that outstanding PSOB claims are handled efficiently and quickly?**

b. **Notably, Mr. Kadzik's March 27, 2015 letter refers to a willingness to implement recommendations to improve the program's operation from the Department's Inspector General and the Office of Justice Program's Office of Audit, Assessment, and Management. Please explain whether you believe the program should have to be audited by two different entities just to ensure it is run efficiently and effectively. Please also explain what actions you will take to hold the employees managing the program accountable and to ensure that claims are managed in a timely manner in the coming years.**

RESPONSE: The Public Safety Officer Benefit (PSOB) is a critically important program, and the Department takes seriously our responsibilities in administering PSOB. As we indicated in a February 26, 2015, letter to Chairman Grassley, the Office of Justice Programs has undertaken several recent steps to streamline and improve our process of reviewing PSOB claims. Following the 2009 GAO report, OJP implemented a number of changes to the PSOB program in light of GAO's recommendations. Improvements include: hiring additional PSOB personal to handle outreach to claimants; hiring additional attorneys to review claims; limiting non-critical paperwork required by applicants; clarifying the process to revolve disputed medical evidence; and increasing collaboration with stakeholders. While these changes have improved some aspects of the claim determination process, we recognize that additional changes are needed to decrease the overall time period for processing claims. Thus, in January 2015, OJP's Assistant Attorney General directed the Office of Audit, Assessment and Management (OAAM) to conduct an internal business process improvement review, and recommendations from this review are expected later this year. We are also aware that the Department's OIG is conducting an independent audit of the PSOB Program. We look forward to reviewing the recommendations from both OAAM and OIG in order to assist our continuing efforts to improve the PSOB Program.

5. **In your testimony before the Senate Judiciary Committee, you stated, "I'm a big believer that you need to have strategic objectives and that's down to each and every component and employee of the Department of Justice having a strategy and goals they're setting. So that's something we're working on now."**

   a. **Please describe what observations you have had concerning the biggest challenges the department has had thus far concerning where the Department of Justice needs to improve the allocation of its resources?**

RESPONSE: As Acting Deputy Attorney General, I greatly appreciate this Committee's efforts to ensure the Department has the tools and resources it needs to vigorously enforce federal law, and keep our nation and communities safe. In order to fulfill our duties, the Department continues to work to restore the loss of staffing it incurred due to Sequestration and related budget constraints. Our people are the Department's strongest asset and the key to preserving and promoting public safety, yet the Department lost over 4,500 staff, including six percent of its attorneys and over 700 law enforcement agents.

In terms of strategic objectives and priorities, I believe the Department should stay the course on its number one objective to protect Americans from terrorism and other threats to sational security. In addition, we need to aggressively address all aspects of cybercrime, including criminal and national security threats; continue the fiscal savings and public safety enhancements of the Smart on Crime Initiative; strengthen our relationships with, and training and capabilities of, our law enforcement partners; protect vulnerable populations; and ensure we maximize the benefits of our information technology budget.

b. What plan do you have for systematically reassessing these goals for your remaining time at the Department?

RESPONSE: The Department is currently reviewing and updating its Priority Goals for FY 2016 and 2017. I recently met with the senior leadership of the Justice Management Division to launch this work. We have already begun the process of assessing our strategic and priority goals, and most importantly, establishing performance metrics for each of our identified goal areas to ensure we are providing proper management and oversight to our work and achieving our objectives.

c. What issues and initiatives do you plan on prioritizing, if confirmed, over the next two years, and how and why did you reach your decisions?

RESPONSE: First, the Department should continue its efforts outlined in the current strategic plan, specifically to: prevent terrorism and promote national security consistent with the rule of law; prevent crime, protect the rights of the American people and enforce federal law; and ensure the fair, impartial efficient and transparent administration of justice at all levels of government, including Tribal entities.

These core responsibilities are critical to the country. Additionally, in my meetings with our component heads, and in my recent meeting with the senior leaders of our management division, I've identified other priorities within these broad goals. For example, because prison and detention costs are 30 percent of our budget, it is important that we provide more systemic re-entry programming in our prisons as a mean of helping reduce recidivism and ultimately reducing incarceration costs. I also intend to elevate our focus on preventing and prosecuting cybercrime, which is an area with substantial risks to our economy, businesses, and citizens. I am working to strengthen the relationships between law enforcement and the communities they serve by providing better training to law enforcement and improved community policing programs. Finally, I've asked our management leaders to work to address what I perceive to be unevenness in our Information Technology capabilities in the Department. We need to

modernize our mission critical investigative and litigation tools to better support all aspects of delivering fair and impartial justice, including investigation, prosecution, discovery, and litigation operations. Finally, we need to continue hardening our networks and data centers so our infrastructure can provide and protect our mission-critical technology needs.

6. **This month, the Office of Inspector General (OIG) issued a report entitled "The Handling of Sexual Harassment and Misconduct Allegations by the Department's Law Enforcement Components." This report reviewed the Department of Justice's law enforcement components and their handling of sexual misconduct and sexual harassment allegations. Specifically, there were several instances of questionable reporting of sexual harassment by supervisors in the Drug Enforcement Agency (DEA), Bureau of Alcohol, Tobacco, Firearms, and Explosive (ATF), Federal Bureau of Investigation (FBI), and the United States Marshalls Service (USMS). OIG found that these supervisors were not disciplined or reprimanded for their improper reporting.**

   a. **While I am pleased to know that the OIG did not find many instances of improper reporting, I am concerned that the various supervisors that did not properly report sexual harassment were not disciplined. Do you intend to follow OIG's recommendation, namely that the Deputy Attorney General, "should ensure that the Department's zero tolerance policy on sexual harassment is enforced in the law enforcement components and that the components' tables of offenses and penalties are complimentary and consistent with respect to sexual harassment?"**

      i. **In addition, what procedures will you put in place to reprimand supervisors who fail to effectively report potential instances of sexual harassment and misconduct?**

RESPONSE: The solicitation of prostitution by Department personnel is inconsistent with the standards of the Department of Justice. Such activity creates a heightened risk of compromising national security and classified information, invites extortion and blackmail, and jeopardizes the Department's ability to execute its mission. On April 10, 2015, the Attorney General issued a memorandum reiterating that Department employees are prohibited from soliciting or procuring commercial sex. This prohibition covers all Department personnel, including attorneys, law enforcement officers, contractors, and subcontractors, and applies at all times during an individual's employment, contract, or subcontract, including while on personal leave. This policy prohibits accepting commercial sex purchased on one's behalf, and applies regardless of whether the sexual activity is legal or tolerated in a particular jurisdiction, foreign or domestic. Department employees who violate these prohibitions will be subject to suspension or termination. Supervisors and managers are subject to discipline for failing to report alleged violations.

   b. **The report also found that law enforcement agents in the DEA, who held Top Secret clearances, engaged in "sex parties" while working overseas.**

i. **Do you intend to follow the OIG's recommendation regarding an explicit ban on the solicitation of prostitution, even in foreign jurisdictions where such conduct may be legal?**

RESPONSE: As I stated above, and consistent with the OIG's recommendation, the Attorney General has issued a memorandum reiterating that Department employees are prohibited from soliciting or procuring commercial sex. This prohibition covers all Department personnel, including attorneys, law enforcement officers, contractors, and subcontractors, and applies at all times during an individual's employment, contract, or subcontract, including while on personal leave. This policy prohibits accepting commercial sex purchased on one's behalf, and applies regardless of whether the sexual activity is legal or tolerated in a particular jurisdiction, foreign or domestic.

c. **Finally, the report found that law enforcement components failed to have appropriate technology to archive, monitor and detect sexually explicit images and text messages. This failure limited the OIG's ability to determine the actual quantity of explicit emails, images, and texts transmitted; thus, the Department's failure hindered the OIG's ability to effectively investigate sexual harassment and misconduct claims.**

i. **What steps do you plan to take to ensure that sexually explicit communications are monitored and stored in a way to make sexual harassment and sexual misconduct claims investigations as transparent as possible?**

RESPONSE: Consistent with the Department's response to the OIG report, over the next few months, senior members of my staff will work closely with leadership and IT personnel in the Department's law enforcement components to ensure the proper preservation of text messages and images for a reasonable period of time. The Department will also work with the components to ensure that this information is available for misconduct investigations.

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March 20, 2015

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary
United States Senate
437 Russell Senate Building
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Leahy:

The Association of Prosecuting Attorneys (APA), a national organization made up of elected and appointed prosecuting attorneys from throughout the nation, supports the confirmation of Acting Deputy Attorney General Sally Yates as Deputy Attorney General for the United States Department of Justice (USDOJ).

APA provides prosecutors across the country with valuable resources such as training and technical assistance in an effort to develop proactive and innovative prosecutorial practices that prevent crime, ensure equal justice, and help make our communities safer.

Sally Yates is a non-partisan career prosecutor who has proven herself as a leader with 25 years of USDOJ experience. She is uniquely qualified to serve as the Deputy Attorney General overseeing day-to-day operations of the department.

Starting as a career line prosecutor in the U.S. Attorney's Office in Atlanta in 1989, she worked her way up throughout her 25-year career to become the

1615 L Street, NW, Suite 1100 Washington, DC 20036 202-861-2480 www.prosecutingattorneys.org

first woman to serve as the Senate confirmed United States Attorney for the Northern District of Georgia in 2010.

After her five years of remarkable accomplishments as U.S. Attorney, Yates has been called on again to bring her experience from a life of public service and her talents as a career prosecutor to serve as Deputy Attorney General.

She is universally respected by law enforcement, prosecutors and her peers and has dedicated her life to public safety.

APA is proud to support Ms. Yate's nomination and we hope for a swift and impartial nomination hearing.

Sincerely,

David LaBahn
President

Atlanta, Georgia

March 19, 2015

Senator Chuck Grassley
Chairman, Unites States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Our support for the confirmation of Sally Quillian Yates to be United States Deputy Attorney General

Dear Senator Grassley:

We, the undersigned current, future and former Presidents of the Atlanta Bar Association, submit this letter to urge you to confirm Sally Quillian Yates to be United States Deputy Attorney General.

The Atlanta Bar Association, founded in 1888, is the largest voluntary bar association in the Southeastern United States with 6000 members. The Atlanta Bar Association has a storied history of advancing the Rule of Law while also making a difference in our community.

Sally Yates has been a long-time, highly respected member of the Atlanta legal community. She began her legal career at King & Spalding in 1986 before moving to the United States Attorney's office for the Northern District of Georgia in October 1989. In 2010 she became the first female United States Attorney for the Northern District of Georgia. During the past twenty-nine years Sally Yates has earned a sterling reputation in the Atlanta legal community for integrity, fairness and fearlessness.

In 2006 the Atlanta Bar Association awarded Sally Yates its highest honor, the Leadership Award. The Leadership Award is given to lawyers "who inspire by their example, challenge by their deeds, and remind us all of our debt to our profession and our community." Previous recipients of the Leadership Award have included United States Attorney General Griffin B. Bell (2004), United States Deputy Attorney General Larry D. Thompson (2002) and United States Ambassador to Australia Robert D. McCallum (2002).

We are proud to submit this letter in full and heartfelt support of Sally Yates' confirmation to be United States Deputy Attorney General. Thank you for your consideration.

Sincerely,

Hon. Jack P. Etheridge, 1962-1963
Hon. David H. Gambrell, 1965-1966
W. Stell Huie, 1968-1969
Ben L. Weinberg, Jr., 1969-1970
A. Paul Cadenhead, 1970-1971
R. Byron Attridge, 1971-1972
John T. Marshall, 1974-1975
Ronald L. Reid, 1976-1977
Charles M. Shaffer, Jr., 1980-1981
Jack S. Schroder, Jr., 1982-1983
John A. Chandler, 1983-1984
W. Seaborn Jones, 1984-1985
Frank B. Strickland, 1985-1986
Robert G. Wellon, 1986-1987
Paul M. Talmadge, Jr., 1987-1988
Hon. Melvin K. Westmoreland, 1988-1989
Christopher Glenn Sawyer, 1989-1990
W. Terence Walsh, 1991-1992
William D. Barwick, 1992-1993
Terrence Lee Croft, 1993-1994
C. Wilson DuBose, 1995-1996
Deborah B. Zink, 1997-1998
Gregory S. Smith, 1998-1999
Paula J. Frederick, 1999-2000
Jeffrey O. Bramlett, 2000-2001
Seth D. Kirschenbaum, 2001-2002
William D. deGolian, 2002-2003
S. Wade Malone, 2003-2004
William M. Ragland, Jr., 2004-2005
Elizabeth A. Price, 2005-2006
Richard B. Herzog, Jr., 2006-2007
W. Ray Persons, 2007-2008
Shayna M. Steinfeld, 2008-2009
David N. Schaeffer, 2009-2010
Michael B. Terry, 2010-2011
Rita A. Sheffey, 2011-2012
Lynn M. Roberson, 2012-2013
Wade H. Watson, III, 2013-2014
Jacquelyn H. Saylor, 2014-2015
Harold E. Franklin, Jr., 2015-2016
James D. Blitch, IV, 2016-2017

March 20, 2015

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary
United States Senate
437 Russell Senate Building
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Leahy:

We are writing to support the confirmation of Sally Yates to become Deputy Attorney General. We have served in a senior positions in the Department of Justice in Republican and Democratic administrations. We know the demands of the position and we know Sally Yates. Ms. Yates is highly qualified to serve as Deputy Attorney General. For the last five years, prior to her appointment as Acting Deputy, Ms. Yates was the United States Attorney for the Northern District of Atlanta, a large and busy office. She has had experience in the private sector, working at one of the finest firms in Georgia. She spent the bulk of her career – twenty-five years – as a prosecutor in the U. S. Attorney's Office, rising from a line attorney to First Assistant. She supervised all of the Office's white collar criminal cases, tried a wide variety of cases herself and handled many cases of note, including the prosecution of Olympic bomber Eric Rudolph.

Ms. Yates has demonstrated the legal acumen and the management skills that are required of a Deputy. She knows the Department well and has the respect of her peers both in the Department and out. She is a Fellow in the American College of Trial Lawyers, one of the highest honors in the trial bar.

We are confident that Ms. Yates would serve the Department and the nation well if the Senate were to confirm her.

Sincerely,

Alice S. Fisher
Assistant Attorney General, Criminal Division, 2005-2008

Mark Filip
Deputy Attorney General, 2008-2009
United States District Judge, 2004-2008

Jamie S. Gorelick
Deputy Attorney General, 1994-1997

Paul J. McNulty
Deputy Attorney General, 2006-2007
US Attorney for the Eastern District of Virginia, 2001-2006

Craig S. Morford
Acting Deputy Attorney General, 2007-2008

Paul B. Murphy
Interim United States Attorney for the Southern District of Georgia, 2004

David W. Ogden
Deputy Attorney General, 2009- 2010
Assistant Attorney General, Civil Division, 1999-2001

John C. Richter
US Attorney for the Western District of Oklahoma, 2005-2009
Acting Assistant Attorney General, Criminal Division, 2005

Larry D. Thompson
Deputy Attorney General, 2001-2003
United States Attorney for the Northern District of Georgia, 1982-1986

Tony West
Associate Attorney General, 2012-2014
Assistant Attorney General, Civil Division, 2009-2012

Joe D. Whitley
Acting Associate Attorney General, 1989-1989
United States Attorney for the Northern District of Georgia, 1990-1993
United States Attorney for the Middle District of Georgia, 1981-1987

Christopher A. Wray
Assistant Attorney General, Criminal Division, 2003-2005

March 20, 2015

The Honorable Charles E. Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary
United States Senate
437 Russell Senate Building
Washington, DC 20510

Re: Nomination of Sally Yates as Deputy Attorney General

Dear Chairman Grassley and Ranking Member Leahy:

We write to express our strong support for the nomination of Sally Quillian Yates to be the next Deputy Attorney General of the United States. Before her recent assignment to serve as the Acting Deputy Attorney General, Sally served for 25 years in the United States Attorney's Office for the Northern District of Georgia – 20 years as an Assistant U.S. Attorney, including 15 as a supervisor, and the past five years as the United States Attorney appointed by President Obama and confirmed unanimously by the Senate. We are six of the seven United States Attorneys who preceded Sally (the seventh, William S. Duffey, Jr., is now a federal judge). Four of us were appointed by Republican Presidents, and two by Democratic Presidents, and each of us has been extraordinarily impressed by Sally Yates.

Sally was hired as an Assistant U.S. Attorney in 1989 by a Ronald Reagan appointee based on her outstanding academic record and her experience in private practice at one of the nation's leading law firms. After only five years in the office, Sally was promoted by a Bill Clinton appointee to be Chief of the

Fraud and Corruption Section, based on the skills she had already demonstrated in prosecuting complex and high-profile fraud and public corruption cases – skills that she has continued to demonstrate throughout her career, earning her a national reputation and membership as one of the few active prosecutors in the prestigious American College of Trial Lawyers. In 2001, Sally was promoted by a George W. Bush appointee to be the First Assistant U.S. Attorney, the top career position in the office, based on her talents not only as a prosecutor but also as a leader and manager, including her ability to establish strong relationships with law enforcement and community partners. On top of her new duties as the First Assistant, Sally continued to serve as the lead prosecutor on major cases, including the successful prosecutions of the Atlanta Olympics bomber and a former Atlanta Mayor. And when she became the United States Attorney in 2010, Sally took the office to a new level of distinction in areas ranging from cybercrime and financial fraud to civil rights, human trafficking, and violent crime, while also becoming a national leader for the Justice Department as Vice-Chair of the Attorney General's Advisory Committee and in the areas of sentencing reform and community outreach.

We have all worked closely with Sally, and several of us have also litigated against her since leaving the government. We can attest that Sally is among the very best federal prosecutors in the country. She understands that the core mission of the Justice Department is the vigorous, fair, and non-partisan enforcement of the law. Indeed, we know no one more dedicated to or competent in pursuing that mission. And because Sally does things the right way for the right reasons, she is admired and respected, personally and professionally, by her colleagues and adversaries, law enforcement officers, judges, and the community at large.

As United States Attorneys, we all reported to the Deputy Attorney General, and we are familiar with the demands and challenges of that high office. Several of us are also familiar with the position from service at Main Justice, particularly Mr. Thompson, who served as the Deputy Attorney General from 2001-2003. We are confident that Sally will make an excellent Deputy Attorney General. Her long experience in the field will give her a valuable perspective on many of the issues facing the Department and the nation; her

unimpeachable integrity and exceptional judgment will allow her to make the hard decisions that need to be made; and her grace and humor will help forge productive and cooperative relationships. Above all, Sally will always enforce the law without fear or favor, as she has throughout her distinguished career.

To sum up, we know Sally Yates well, and we know that she is a superb selection to be our country's next Deputy Attorney General. We urge the Judiciary Committee to act favorably on her nomination, and we urge the Senate to promptly confirm Sally Yates for this important position.

Respectfully submitted,

Larry D. Thompson
John A. Sibley Professor of Law,
University of Georgia School of Law;
Former Executive Vice-President
and General Counsel, PepsiCo;
Former Deputy Attorney General;
U.S. Attorney (1982-1986)

Kent B. Alexander
Former General Counsel, CARE
and Emory University;
U.S. Attorney (1994-1997)

Robert L. (Bob) Barr, Jr.
Former Member of Congress;
U.S. Attorney (1986-1990)

Richard H. Deane, Jr.
Partner-in-Charge, Atlanta Office,
Jones Day; U.S. Attorney (1998-
2001)

Joe D. Whitley
Shareholder, Baker Donelson;
Former Acting Associate Attorney
General; Former General Counsel,
U.S. Department of Homeland Security;
U.S. Attorney (1990-1993)

David E. Nahmias
Justice, Supreme Court of Georgia;
Former Deputy Assistant Attorney
General, Criminal Division;
U.S. Attorney (2004-2009)

(Signatories' affiliations are listed for identification purposes only.)

KING & SPALDING

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Tel: +1 202 737 0500
Fax: +1 202 626 3737
www.kslaw.com

Gary G. Grindler
Direct Dial: +1 202 626 5509
Direct Fax: +1 202 626 3737
ggrindler@kslaw.com

March 19, 2015

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary
United States Senate
437 Russell Senate Building
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Leahy:

I am writing to support the confirmation of Sally Yates to become this nation's next Deputy Attorney General.

I have known Sally Yates for more than 25 years. I watched her progress from serving as an Assistant U.S. Attorney to the position of First Assistant with the Atlanta United States Attorney's Office. Most recently, I had the privilege of working directly with Sally after she was confirmed as the United States Attorney for the Northern District of Georgia during the time I served as Acting Deputy Attorney General and Chief of Staff to the Attorney General.

Sally is an extraordinary public servant who has worked tirelessly to seek justice throughout her career. She brings a breadth of knowledge of the Department of Justice and the U.S. Attorney community to this position which will be invaluable when

addressing the many challenging issues that will come before her for decision. This knowledge comes from her service as a federal prosecutor, a United States Attorney, as vice-chair of the Attorney General's Advisory Committee and now as Acting Deputy Attorney General. Sally also has worked closely with federal and state law enforcement agencies which has provided her with a deep understanding of the crucial role agents play in investigating criminal activity.

I worked directly with Sally when she served as vice-chair of the Attorney General's Advisory Committee and when she played a key role in formulating policy and guidance to ensure that federal prosecutors not only meet but exceed their discovery obligations under *Brady* and beyond. In her role with the AGAC, Sally demonstrated her ability to address and navigate matters presented by many United States Attorney's Offices – a key responsibility of the Deputy Attorney General. Through all of this work, she has gained the respect of career DOJ attorneys, the U.S. Attorney community and the leadership of the Department.

From my own experience, I am aware of the many demands placed on the Deputy Attorney General. I am confident that Sally will keep an open mind, listen to what others have to say, ask tough questions and carefully think through the complex issues that will be presented to her. She has excellent judgment and has demonstrated the ability to make sound decisions under pressure. Sally is a consummate professional who, as Deputy Attorney General, will serve with absolute integrity and an unwavering commitment to do what is right and to protect the security of this nation.

Respectfully,

Gary G. Grindler

KING & SPALDING

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Atlanta, GA 30309-3521
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Fax: +1 404 572 5100
www.kslaw.com

March 19, 2015

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary
United States Senate
437 Russell Senate Building
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Leahy:

We are partners in King & Spalding LLP, and have had the privilege of working closely with Sally Yates either when she practiced at our firm or during her 25 years of service in the United States Attorney's Office for the Northern District of Georgia. We strongly support her nomination to serve as Deputy Attorney General.

Sally began her law career with King & Spalding and worked at the firm for several years before joining the United States Attorney's Office. A number of us knew Sally as an associate at the firm, and, even as a young lawyer, she exemplified extraordinary legal skill and judgment. Those attributes, combined with her strong work ethic and engaging personality, earned Sally a reputation within the firm as a capable lawyer and one with whom people wanted to work. It was no surprise to those of us who worked with her that she was recruited by the United States Attorney's Office and went on to have a remarkable career in public service.

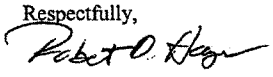
In fact, Sally's record of service is extraordinary. Over the last two and a half decades, she has been a powerful force for justice and a strong advocate for the metro Atlanta community. Perhaps best known for her skilled work as a prosecutor of public corruption cases, Sally led the successful prosecutions of a former Atlanta Mayor, a former State School Superintendent, and numerous other corrupt local officials and contractors. In addition, Sally led the team that prosecuted the Atlanta Olympic bomber, Eric Rudolph. Atlanta is a far better and safer city today thanks in part to Sally's extraordinary efforts.

In addition, Sally is a talented advocate. She was elected to membership in the prestigious American College of Trial Lawyers, a professional organization that recognizes the best of the country's trial lawyers. Those same advocacy skills have made her a powerful voice in the community, who has been willing to address directly and publicly difficult issues like human trafficking and the use of force by law enforcement officers. Sally has done an outstanding job of earning the respect and support of both the political and business communities, and she has consistently kept front of mind the fact that her first commitment is to the people she serves.

Several of us served with Sally in the United States Attorney's Office in Atlanta, and three of us also formerly served in the Deputy Attorney General's Office during the George W. Bush Administration. We understand the need for federal prosecutors to be fearless and non-partisan advocates of the rule of law. We also understand the incredible demands placed on the Deputy Attorney General and the qualities and skills that are required to be successful in this important leadership position. In particular, the Deputy Attorney General must provide strong, dedicated and experienced leadership; be attuned to the myriad of challenges that face the U.S. Attorneys' offices nationwide; and be able to effectively establish and communicate the Justice Department's priorities. Sally brings a wealth of practical experience as well as the highest standards of excellence and integrity to this position.

All of us strongly believe Sally possesses the necessary qualities to make her an effective leader of the Justice Department, and we are honored to support her nomination to be the next Deputy Attorney General.

Respectfully,



Robert D. Hays, Chairman

Bruce W. Baber
J. Kevin Buster
Theodore M. Hester
L. Joseph Loveland
Richard A. Schneider
Michael Smith
M. Robert Thornton
Chilton Davis Varner

Stephen S. Cowen *(former Interim U.S. Attorney, NDGA, and Assistant U.S. Attorney, NDGA)*
Alan R. Dial *(former Assistant U.S. Attorney, NDGA)*
Paul B. Murphy *(former Associate Deputy Attorney General; Chief of Staff to the Deputy Attorney General; and Interim U.S. Attorney, SDGA)*
Catherine M. O'Neil *(former Associate Deputy Attorney General and Assistant U.S. Attorney, NDGA)*
John C. Richter *(former Acting Assistant Attorney General, Criminal Division, and Assistant U.S. Attorney, NDGA)*
Phyllis B. Sumner *(former Assistant U.S. Attorney, NDGA)*
Christopher A. Wray *(former Assistant Attorney General, Criminal Division; Principal Associate Deputy Attorney General; and Assistant U.S. Attorney, NDGA)*

NATIONAL ORGANIZATION OF
BLACK LAW ENFORCEMENT EXECUTIVES
HUBERT T. BELL, JR. OFFICE COMPLEX
4609 PINECREST OFFICE PARK DR. • SUITE F
ALEXANDRIA, VA 22312-1442
(703) 658-1529 • FAX: (703) 658-9479
Website: http://www.noblenational.org

March 19, 2015

The Honorable Senator Charles E. Grassley, Chairman
711 Hart Senate Office Building
Washington, DC 20510-3802

The Honorable Senator Patrick J. Leahy, Ranking Member
433 Russell Senate Office Building
Washington, DC 20510-4502

Dear Chairman Grassley and Ranking Member Leahy:

On behalf of the National Organization of Black Law Enforcement Executives (NOBLE), our Executive Board, local chapters, and members, we write to express our formal support for the nomination of Sally Q. Yates to the position of United States Deputy Attorney General. Ms. Yates has the qualifications, skills, and temperament to be an outstanding Deputy Attorney General.

Ms. Yates has a demonstrated record of pursuing justice without regard for politics. From serving as the lead prosecutor for domestic terrorist Eric Rudolph for the Olympic Park bombing to prosecuting corrupt politicians who have violated the public's trust, Ms. Yates has proven time and again that she has the experience and dedication to provide leadership to the Department of Justice.

NOBLE applauds the selection of Ms. Yates for this position and urges you to support this nomination.

Should you have any questions, please have a member of your staff contact Dwayne Crawford, at (404) 849-8966, dcrawford@noblenatl.org.

Sincerely,

Dwayne A. Crawford
Executive Director
NOBLE

Cedric L. Alexander
Dr. Cedric L. Alexander
National President
NOBLE

GEORGIA DEPARTMENT OF LAW
40 CAPITOL SQUARE SW
ATLANTA, GA 30334-1300

SAMUEL S. OLENS
ATTORNEY GENERAL

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(404) 656-3300

Writer's Direct Dial:
404.656.3300
Fax 404.657.8733

March 11, 2015

The Honorable Charles E. Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary
United States Senate
437 Russell Senate Building
Washington, DC 20510

Re: Nomination of Sally Quillian Yates as Deputy Attorney General

Dear Chairman Grassley and Ranking Member Leahy:

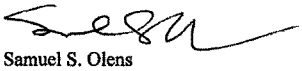
I write today to endorse Sally Quillian Yates to serve as Deputy Attorney General, and to urge your favorable consideration of her nomination. I have known Ms. Yates during her long and distinguished tenure in the United States Attorney's Office for the Northern District of Georgia, both as a career prosecutor and, more recently, as the United States Attorney. Ms. Yates has wide-ranging experience and has exhibited the best traits of a government prosecutor, particularly one who specializes in public corruption cases. She has pursued the latter cases without regard to favor or politics. She is motivated by the search for justice, regardless of the politics of those who abuse their public trust and violate the law. For example, she successfully prosecuted a former Democratic mayor of Atlanta and a former Republican State School Superintendent. Throughout her career as a prosecutor, she has been an outstanding public official.

As Attorney General of Georgia, my office has worked hand in hand with Ms. Yates and the U.S. Attorney's Office on a number of important issues. Whether on matters of public safety – such as fighting the scourge of human trafficking or the abuse of prescription drugs – or investigating and prosecuting cases of public corruption or Medicaid fraud, Ms. Yates has been an active and concerned partner whose assistance and dedication has strengthened the state and federal relationship critical to protecting our citizens. I am very proud of the work we have done

together, and value her willingness to ignore political differences in favor of producing beneficial results.

In closing, I wholeheartedly support the nomination of Ms. Yates as our next Deputy Attorney General. I sincerely hope that she will receive your unqualified support as well.

Sincerely,



Samuel S. Olens
Attorney General

SSO/jlm

CITY OF ATLANTA

Kasim Reed
Mayor

226 Peachtree Street, SW
Atlanta, Georgia 30303
(404) 546-6900

Atlanta Police Department
George N. Turner
Chief of Police

March 20, 2015

To Whom It May Concern:

The Atlanta Police Department and I am pleased to support Sally Quillian Yates' nomination to be Deputy Attorney General. Her leadership and experience has been an asset in her position as the United States Attorney in the Northern District of Georgia and as a former prosecutor. She has partnered with our department and provided support that has been instrumental in forging positive relationships within our department and in our communities.

We want to congratulate Ms. Yates on her nomination and thank her for her unsurpassed fortitude and service. Please contact me if I can be of further assistance.

Sincerely,

George N. Turner
Chief of Police

GNT/bc

Urban League of Greater Atlanta

Empowering Communities. Changing Lives.

March 19, 2015

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary
United States Senate
437 Russell Senate Building
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Leahy:

It is my honor to write to you in support of the nomination of Sally Yates to be named Deputy Attorney General at the U.S. Justice Department. Throughout her more than 25-year career, Sally Yates has proven herself to be a non-partisan problem solver – a public servant and lawyer's lawyer, a prosecutor who ardently defends the justice system and actively works to see justice applied fairly for people of all races and income levels. Where she has found disparities, Sally Yates has worked hard to address them.

As President of the Urban League of Greater Atlanta, I have witnessed Sally Yates' commitment to justice first-hand. In 2013, we worked together to build and strengthen a program to address recidivism. Sally Yates clearly understood the issue and the necessity of building community partnerships to solve such a problem. She contributed the quote below to an article written to introduce the Urban League of Greater Atlanta's "New Beginnings" adult reentry and transitional employment program to supporters in a newsletter last year.

"A key component of building safer communities is proactively addressing the high rates of recidivism. The New Beginnings program is a sterling example of how the collaborative efforts of state, local, federal, and non-profit entities can unite to address the serious issue of reentry and assist returning citizens with job training and life skills development, GED and secondary education, occupational skills training, linkages to meaningful employment and the social service support that they need to successfully reintegrate into society. As U.S. Attorney for the Northern District of Georgia, I am proud that our office is a partner in the New Beginnings reentry program..."

The Urban League of Greater Atlanta was delighted when Sally Yates accepted the *Champion of Justice Award* from us at our 2013 Equal Opportunity Day Dinner. Her nomination for the honor had been enthusiastically endorsed by board members and other supporters of the League in the greater Atlanta region who were quite familiar with the excellent work Sally Yates had accomplished since 2010 as the first woman to serve as United States Attorney in the Northern District of Georgia.

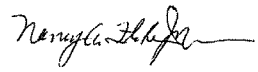
In an era that shows collaboration to be in short supply, we need public servants like Sally Yates who has served important roles in Democratic and Republican administrations and has earned a well-deserved reputation as a fair and skilled problem solver. She also is extremely knowledgeable about potential partners and their skillsets.

In determining how she would promote programs to address recidivism, Sally Yates pulled from her knowledge of organizations and their talents. Recognizing the ULGA's growing expertise in the "re-entry" arena, Sally Yates helped guide the collaboration between the Urban League and a multi-agency coordinating council that included the Morehouse School of Medicine Community Voices, United States Department of Pardons and Paroles, Federal Bureau of Prisons, Georgia Department of Corrections, the Davis–Bozeman Law Firm, Gate City Bar Association and the Atlanta Workforce Development Agency.

Participants said that the program helped them improve their job readiness, connect with employment, connect with supportive services and housing and social and interpersonal skills, which led to reuniting with their families. Research has shown strong family connections and employment are the two most critical elements that reduce the likelihood of ex-offenders returning to prison. This is the kind of "outcomes focused" work Sally Yates engages in, understands and promotes. It is the kind of outreach that strengthens communities and reduces recidivism.

On behalf of the Urban League of Greater Atlanta and colleagues in partner organizations, I heartily endorse Sally Yates for this position in the Justice Department. If I can be of any more assistance, please feel free to contact me. Thank you.

Sincerely,



Nancy Flake Johnson
President/CEO

700 Martin Luther King Jr Drive SW, Atlanta, GA 30314

March 23, 2015

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary
United States Senate
437 Russell Senate Building
Washington, DC 20510

Re: Nomination of Sally Q. Yates

Dear Senators Leahy and Grassley and Members of the Judiciary Committee:

I have had the pleasure of knowing Attorney Yates for many years as a member of the Atlanta Metropolitan community. She has proven herself through the course of our relationship to be a top-notch attorney, a brilliant and thoughtful legal mind, and a person with an eye towards the fair application of justice. It is my opinion that she will continue to bring all of these traits to the Department of Justice and for this reason I strongly recommend she be swiftly confirmed as the next Deputy Attorney General of the United States.

Sally was previously nominated by President Obama to serve as the United States Attorney for the Northern District of Georgia, a position for which she was confirmed in 2010. In doing so, she became the first woman to serve as United States Attorney in the Northern District. As the head of this district she took charge of prosecuting all federal crimes and the litigation of the government's civil matters in the district of over 6 million residents. Her staff numbered approximately 95 lawyers as well as 80 support personnel who all looked to her stalwart leadership for guidance direction. I am confident she would bring this same sense of purpose, guidance and direction to Washington, as the Deputy Attorney General.

Ms. Yates has also spent the majority of her professional career in public service and has over 20 years of prosecutorial experience in the U.S. Attorney's office. She has previously served as the First Assistant United States Attorney and also as the Chief of the Fraud and Public Corruption Section where she supervised the prosecution of all white collar cases. She is a highly qualified and experienced trial lawyer with experience in complex matters including public corruption cases, cybercrime, and domestic terrorism including the prosecution of the Olympic bomber Eric Rudolph. Prior to her work as an AUSA she practiced at the law firm of King & Spalding, where she worked in commercial litigation. The depth and breadth of her experience make her an ideal candidate for the Deputy Attorney General position and I am happy to offer my recommendation in her support.

Very Truly Yours,

Rev. Dr. C.T. Vivian

The Reverend Raphael G. Warnock, Ph.D.
Senior Pastor

March 20, 2015

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United State Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary United States Senate
437 Russell Senate Building
Washington, D.C. 20510

Dear Chairman Grassley & Ranking Member Leahy:

As a citizen of the Northern District of Georgia, I am delighted by the President's nomination of Sally Yates as Deputy Attorney General and I am honored to send this expression of my enthusiastic support for what I hope will be a speedy confirmation.

I know that I speak for many of my clergy colleagues and indeed people across the great State of Georgia and beyond when I say that Sally Yates is the consummate public servant, a real leader whose character, integrity and commitment to the common good is expressed not only in her words but embodied in her deeds. As a prosecutor, her record shows her to be an extremely competent enforcer of law and order, a fierce facilitator of public safety and national security. Yet, she understands that Martin Luther King Jr., the celebrated pastor of Ebenezer church, was right when he said that "peace is not merely the absence of tension but the presence of justice." Accordingly, Sally Yates has also embodied in her professional practice a genuine interest and commitment to civil rights, basic fairness and equal treatment under the law.

I saw that up close recently when she accompanied Attorney General Eric Holder to our church, as he came to speak at a Town Hall meeting, organized in the wake of the Michael Brown case in Ferguson, Missouri, the Eric Garner case in Staten Island, New York and the urgent national conversation that ensued. Ms. Yates stepped into our 2,000 seat sanctuary, packed to capacity, spilling over outside and brimming with the raw emotion, pain and disappointment of ordinary citizens - parents, students and young activists - many of whom have known personally the real consequences of lingering contradictions and unfinished business in America's trek toward a more perfect union.

Sally Yates appointed herself well that night in a tense situation, showing real empathy and appropriate sensitivity to context and experiences different from her own. She later said to me that while she felt she had a good sense of the experiences of African Americans and the criminal justice system, she "learned a lot" that night. I submit that, in large measure, it is this willingness to listen and learn that has made Sally Yates such a great public servant, highly regarded across the political and ideological spectrum. It is a trait that will serve her and our nation well in the office of Deputy Attorney General.

It is a basic premise of our great democracy that leaders cannot lead and govern without the consent and respect of the governed. Sally Yates earned that public trust in Georgia the old fashioned way, through hard work, compassionate regard for all, but especially for our most vulnerable citizens, and steady, unpretentious leadership. She will do the same in this new role. I trust and pray that the United States Senate will confirm her quickly and overwhelmingly. She is the right person at the right time.

Sincerely,

The Rev. Dr. Raphael Gamaliel Warnock
Senior Pastor

"America's Freedom Church"

101 Jackson Street, N.E. • Atlanta, Georgia 30312 • Office (404) 688-7300 • Fax (404) 521-1129 • info@ebenezerchurch.us • www.historicebenezer.org

Sam Nunn
1180 Peachtree Street, NE
Atlanta, Georgia 30309
(404) 572-4949

March 19, 2015

The Honorable Charles E. Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Patrick J. Leahy
Ranking Member, Committee on Judiciary
United States Senate
437 Russell Senate Office Building
Washington, DC 20510

Dear Chuck and Pat:

I am writing in strong support of Sally Quillian Yates' nomination to serve as Deputy Attorney General in the U.S. Department of Justice. I have known Sally since she was a law student, and I have followed her legal career with interest and great pride. I am honored to recommend her to the Senate Judiciary Committee, and to recommend that she be confirmed by the full Senate as Deputy Attorney General.

With the challenges and opportunities facing our nation, we would be fortunate to have a Deputy Attorney General with the character, experience and leadership that Sally Yates has displayed so clearly for so many years. Sally is a critical thinker and honestly evaluates the facts and the challenges. I am confident that she will provide her best judgment to the Attorney General, to the President and to Congress. Sally comes to the job without biases, fixed ideologies and pre-judgments, and she has demonstrated for years her considerable skills as a manager.

As you well know, this important position requires a remarkable public servant, and I believe that Sally fits this description. Sally is superbly qualified to serve our nation as Deputy Attorney General, and she is a great fit for this job at this important time in our nation's history. She has the depth of experience and leadership skills that we need to help protect our citizens and inspire confidence in our justice system.

Before Sally joined the U.S. Attorney's office in 1989, she practiced law at King & Spalding, the law firm from which I am retired. She spent the last 25 years in the U.S. Attorney's Office in Atlanta prosecuting violent crime, human trafficking, public corruption, and civil rights violations, among other crimes. She was very successful both as an Assistant U.S. Attorney and as U.S. Attorney, and she gained the well-deserved reputation of following the facts without fear or favor.

Sally is an Atlanta native, and she is committed to public service. She has served in both Democratic and Republican administrations, and she has a clear record of commitment to the fair and impartial administration of justice and public safety. Sally Yates is uniquely suited for this position, and I urge you to recommend Sally's nomination to the full Senate.

With my best wishes to you both, and my thanks for your records of service to the Senate and our nation.

Sincerely,

Sam Nunn

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Anti-Defamation League®

March 27, 2015

The Honorable Chuck Grassley
Chairman
Senate Judiciary Committee
United States Senate
Washington, DC 20510

The Honorable Patrick J. Leahy
Ranking Member
Senate Judiciary Committee
United States Senate
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Leahy:

On behalf of the Anti-Defamation League, we write to express our support for the nomination of Sally Yates to serve as Deputy Attorney General of the United States. We believe that Ms. Yates is an outstanding choice to serve as Deputy Attorney General because of her professionalism, temperament, and longstanding commitment to public service, civil rights, and fair treatment for all.

We have worked with Ms. Yates over the past two decades – as US Attorney for the Northern District of Georgia and, previously, as a prosecutor in that office. She has often participated in ADL programs and been very accessible to us. We also have worked with Ms. Yates in her capacity as Vice Chair of the Attorney General's Advisory Committee, through which she participated in a number of meetings with ADL representatives on civil rights, equality, and hate crime issues.

In all our dealings with Ms. Yates, we have found her to be an individual of highest character and integrity. We are very confident that she would serve the nation with distinction as Deputy Attorney General.

We urge you to act expeditiously and favorably on her nomination.

Sincerely,

Barry Curtiss-Lusher
National Chair

Abraham H. Foxman
National Director

STATE OF GEORGIA
OFFICE OF THE GOVERNOR
ATLANTA 30334-0090

Nathan Deal
GOVERNOR

March 26, 2015

The Honorable Chuck Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary
United States Senate
437 Russell Senate Building
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Leahy:

I write to express my support for the nomination of Sally Quillian Yates to be the next Deputy Attorney General of the United States. I have known Sally through her exemplary service in the United States Attorney's Office for the Northern District of Georgia. She has served as the United States Attorney for the Northern District of Georgia for the past five years and served as an assistant United States Attorney for twenty years prior to becoming United States Attorney. Sally has served these past 25 years in the United States Attorney's Office with class, dignity and a high level of competence. Sally and her husband, Comer Yates, have been pillars of the community in Georgia for many years and their civic pursuits have no doubt made Georgia and Atlanta a better place.

Sally Yates' leadership in the United States Attorney's Office, both as United States Attorney and as a supervisor in that office, has had the residual effect of training many fine lawyers who have matriculated out into the practice of law here in Georgia. I have had the privilege of appointing attorneys who worked under Sally to various courts here in our State and I know of other lawyers who worked under Sally who are serving our community in many other fine ways.

I am particularly fond of the bipartisan support Sally has garnered over the years. Sally was hired in the United States Attorney's Office during the

Reagan Administration and promoted within that office during the Clinton and George W. Bush administrations. She handled the high-level prosecutions of the Atlanta Olympics bomber and a former Mayor of Atlanta. Sally has shown an ability to handle sensitive matters in a way that maintains the appropriate objectivity that is required of a federal prosecutor.

Thanks to the diligence of many individuals involved in my criminal justice reform efforts, and through the use of Accountability Courts, rehabilitation and education programs, Georgia has seen a dramatic reduction in recidivism rates and is saving valuable taxpayer funds. Sally's support of my criminal justice reform efforts has been invaluable and very much appreciated.

I am confident that Sally Yates will make an excellent Deputy Attorney General and will handle that role with the same level of class, dignity and competence that she has exhibited in her 25 years in the Northern District of Georgia. Thus, I urge the Senate Judiciary Committee to act favorably on her nomination and urge the Senate to confirm Sally Yates as Deputy Attorney General.

Sincerely,

Nathan Deal

Nathan Deal

1275 Peachtree Street NE, Suite 500
Atlanta, GA 30309

March 25, 2015

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United State Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary
United States Senate
437 Russell Senate Building
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Leahy:

With confidence I endorse Sally Yates to serve as the Deputy Attorney General to oversee the day-to-day operations of the Department of Justice.

Sally has a proven record of highly qualified experience, judgment, and dedication to lead the Department of Justice. Knowing Sally as I do, I can say that she is well respected across the country and a strong leader. She has been an outstanding U.S. Attorney and is a non-partisan career prosecutor, having served in leadership positions within the Department of Justice in both Republican and Democratic Administrations.

Her greatest skill is that of having an open mind to be a visionary, working under pressure and the ability to make good decisions that impact many. She is dedicated to public safety and is well respected by law enforcement, particularly, FBI street agents, the DEA agents, postal inspectors and the Secret Service, all of whom have nothing but praise for her dedication and work.

In closing, I will say that Sally comes from a family of community servants. She began her career as a public corruption prosecutor and later supervised all the white collar cases in the office. She was the lead prosecutor in the successful prosecution of Olympic bomber Eric Rudolph. If confirmed, she would be the first Deputy Attorney General to have risen from line prosecutor to Deputy Attorney General without having left the Department of Justice.

Sincerely,

Missy P. Dugan
President & CEO
Boys & Girls Clubs of Metro Atlanta

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April 10, 2015

The Honorable Chuck Grassley
224 Dirksen S.O.B.
Washington, D.C. 20510

The Honorable Patrick Leahy
437 Russell S.O.B.
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Leahy:

On behalf of the largest metropolitan law enforcement agencies in the Nation, I am writing to support a swift confirmation process for Sally Quillian Yates to be the next Deputy Attorney General of the United States.

Sally Yates has a long and distinguished record of service to the Nation and the Department of Justice. She has been a longtime public servant, rising through the ranks become the United States Attorney for the Northern District of Georgia. As a prosecutor, she has managed many high-profile cases such as the murders of public officials, the 1996 Atlanta Olympic bombing, and the Birmingham health clinic murders. During all of her cases, she has shown the skills, steady hand, and dedication to justice necessary to be a successful Deputy Attorney General of the United States. We have confirmed with law enforcement officials in her region that her work over the years has been exemplary and represents the highest standards of professional conduct as a prosecutor.

We look to you for strong leadership on this matter and ask that you swiftly move her nomination through the Committee so she may be confirmed by the Senate and begin to serve the American people in this critical post.

Sincerely,

J. Thomas Manger
Chief of Police
Montgomery County Police Department
President, Major Cities Chiefs Association