

COMMERCE, JUSTICE, SCIENCE, AND RELATED  
AGENCIES APPROPRIATIONS FOR 2022

HEARINGS  
BEFORE A  
SUBCOMMITTEE OF THE  
COMMITTEE ON APPROPRIATIONS  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED SEVENTEENTH CONGRESS  
FIRST SESSION

SUBCOMMITTEE ON COMMERCE, JUSTICE, SCIENCE,  
AND RELATED AGENCIES

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# **COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS FOR 2022**

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THURSDAY, APRIL 29, 2021.

## **VIOLENT EXTREMISM AND DOMESTIC TERRORISM IN AMERICA: THE ROLE AND RESPONSE OF DOJ**

### **WITNESSES**

**JILL SANBORN, EXECUTIVE ASSISTANT DIRECTOR, FBI NATIONAL SECURITY BRANCH**

**BRAD WIEGMANN, DEPUTY ASSISTANT ATTORNEY GENERAL, DOJ NATIONAL SECURITY DIVISION**

Mr. CARTWRIGHT. Let us gavel in and begin. As this hearing is fully virtual, we have to address a few housekeeping matters. For today's meeting, the chair or staff designated by the chair may mute participants' microphones when they are not under recognition for the purposes of eliminating inadvertent background noise.

Members are responsible for muting and unmuting themselves. If I notice that you have not unmuted yourself, I may ask you if you would like the staff to unmute you. If you indicate approval by nodding, staff will then unmute your microphone.

I remind all members and witnesses that the 5-minute clock still applies. If there is a technology issue, we will move to the next member until the issue is resolved and you will retain the balance of your time. You will notice the clock on your screen that will show how much time is remaining. At 1 minute remaining, the clock will turn to yellow. At 30 seconds remaining, I will gently tap the gavel to remind members that their time is almost expired. When your time has expired, the clock will turn red, and I will begin to recognize the next member.

In terms of the speaking order, we will begin with the chair and ranking member; then members present at the time the hearing is called to order will be recognized in order of seniority; and, finally, members not present at the time the hearing is called to order.

Finally, House rules require me to remind you that we have set up an email address to which members can send anything they wish to submit in writing at any of our hearings or markups. That email address has been provided in advance to your staff.

The subcommittee will come to order. Good morning. We meet today to explore a crisis of grave concern to this subcommittee and the American people: the rise of domestic terrorism and extremist violence in this country, the threat it poses to public safety, free speech, the rule of law, and our core democratic principles. We also

will discuss how the Department of Justice and the FBI are addressing this crisis.

The January 6th riot and the insurrection perpetrators are not, sadly, part of an insignificant minority. Whether actors have been lone wolves or conspiring and acting in groups this is a growing and metastasizing blight on our society.

We, as Members of Congress, all personally experienced the January 6th insurrection. And we owe it not only to the people of our Nation but to the democratic institutions in which we serve to ensure such an event never happens again. The attack on the Capitol took domestic terrorism to a level that must not be downplayed.

As FBI Director Wray testified to the Senate Judiciary Committee in March, quote: January 6th was not an isolated event. The problem of domestic terrorism has been metastasizing across the country for a long time now, and it is not going to go away any time soon, unquote.

We have used the word “metastasizing” twice now, and that is not an accident. This is a cancer on our country. All the evidence of the past 2 years documented in the comprehensive database of terrorist incidents maintained by the Center for Strategic and International Studies shows that right-wing extremist attacks and plots have greatly outnumbered those from all other groups combined and caused more deaths as well.

Since 2015, White supremacists, extremist militia supporters, and like-minded individuals were involved in 267 plots or attacks and 91 fatalities, while incidents alleged to be from all other groups accounted for 66 incidents, leading to 19 deaths, including only 5 percent associated with Salafi-Jihadists, the lowest share since 2008. And the CSIS data show that the January 6th breach was just one of 11 far-right terrorism attacks in January, the most for any January on record.

Now, despite all this evidence, we have to deal with uninformed public commentary and even intentionally inflammatory words from leaders who seek to deflect outrage or to resort to what-aboutism tactics to seek to minimize news about this crisis, some infamously after domestic terrorism incidents used terms such as “fine people on both sides.”

And our law enforcement agencies, including the FBI, need to revise bureaucratic mindsets and catch up to these new threats and our new reality in their investigative efforts, as suggested by former DEA Administrator and FBI Chief of Staff Chuck Rosenberg.

Now, Attorney General Garland said recently, in reference to his role as the lead prosecutor in the 1995 Oklahoma City bombing case, quote: I have a chance to lead a department that needs to fight against domestic violent extremists so that the kind of tragedy that we had in Oklahoma City doesn’t occur, unquote.

We on this subcommittee want to help the Attorney General and the Department of Justice in this fight. To do that, we welcome two senior leaders from the Department of Justice.

Executive Assistant Director Jill Sanborn leads the FBI National Security Branch, and she is a veteran of the efforts to deal with terrorism at home and abroad and was the first woman to lead the FBI’s Counterterrorism Directorate.

Deputy Assistant Attorney General Brad Wiegmann represents the National Security Division, which was established in 2006 to consolidate the Department's primary national security operations and to ensure that Federal counterintelligence and counterterrorism activities do not violate the law.

And for today, so that we are all on the same page in describing domestic terrorism, we will use the definition the FBI provided in a July 2020 report to the subcommittee, which described, quote, "domestic violent extremists," unquote, as those who pose a persistent threat of violence and economic harm but distinct from those connected with international terrorism. And of these, the greatest threat is from, quote, "racially or ethnically motivated violent extremists," unquote, especially White supremacists.

Because this hearing is in open session, we understand many matters of interest to the subcommittee may be too sensitive to discuss in detail. I believe we can have a fruitful and informative session at the unclassified level, but should some answers need to be handled under secure procedures, this subcommittee can certainly accommodate that requirement as well.

Executive Assistant Director Sanborn and Deputy Assistant Attorney General Wiegmann, we look forward to your testimony.

And now I yield to the ranking member for his opening statement.

Mr. ADERHOLT. Well, thank you, Mr. Chairman. It is good to be with you today, along with our subcommittee members, even though we are virtually meeting today, but on this very important topic of domestic violent extremism.

And I do appreciate our witnesses from the FBI who have joined us today and the Department of Justice, so we welcome both of you for taking time to meet with us this morning.

Our First Amendment guarantees every American the right to speak freely and assemble peacefully. And I have always supported peaceful protests and, of course, the right to peaceful protests. Unfortunately, over the past year, we have seen stark examples of extremists using tragedies and other notable events to disguise their attempts to incite and to engage in violence and even domestic terrorism.

All forms of domestic terrorism must be condemned, including violent extremism from the political left, like that which has alarmed the mayor of Portland, Maine, but also threats such as the violence associated with White supremacy.

I hope that this hearing this morning is an opportunity to discuss the purported rise of domestic terrorism in the United States, evaluate the role of the Federal Government in combating domestic terrorism, and discuss potential solutions to address all forms of domestic terrorism.

We can't surrender American cities or the safety of our communities to extremists who seek to intimidate, who seek to coerce or assault our American citizens. We must find ways to mitigate the simmering threat of violent extremists through measures that help promote deradicalization, reduce violent extremism, and prevent violence that is driven by ideology, all while at the same time preserving American rights to hold sometimes unpopular views.

Today I look forward to hearing about the efforts of the FBI Joint Terrorism Task Forces, the role of the U.S. Attorney Anti-Terrorism Advisory Councils, and how the Department of Justice coordinates the interagency partners to mitigate domestic terrorism threats.

I also look forward to hearing what the Justice Department has learned and implemented as a result of 10 years of funding for research on domestic radicalization at the National Institute of Justice, including the degree in which abuse, trauma, economic struggles, bullying and discrimination can lead some individuals to actually be radicalized.

We also need to discuss whether the Department has the proper resources in place to address these threats that are posed by violent extremists. If not today, then we will have this opportunity when the Attorney General appears before our committee in the coming days.

America is governed by law, not violence. It is not governed by intimidation nor mobs. We must deal with this problem with the seriousness that it deserves.

Assistant Director Sanborn, Deputy Assistant Attorney General Wiegmann, thank you for both being here today to testify. I look forward to your testimony.

Again, thank you, Mr. Chairman, for yielding, and I look forward to the hearing.

Mr. CARTWRIGHT. Thank you, Mr. Aderholt.

And at this time, we are going to recognize our witnesses for testimony.

And Executive Assistant Director Sanborn, you are recognized for 5 minutes. Keep your eye on the clock. We prefer you don't go over. And always remember that your entire written testimony will be submitted for the record, so you don't have to feel like you left out any points.

You are recognized for 5 minutes, Executive Assistant Director Sanborn.

Ms. SANBORN. Good morning, Chairman Cartwright, Ranking Member Aderholt, and members of the subcommittee. It is an honor to be here with you today. As I told your Senate colleagues in a hearing last month, I am always excited to have the opportunity to speak with you because I actually started my career in public service as a Senate page in 1987.

Before I get too far into my testimony today, I want to take a minute to offer my condolences to all of you and the officers who served the United States Capitol Police and the Washington, DC, Metropolitan Police Department, who had to endure up close and personally the violence and destruction that occurred on January 6.

The siege on the Capitol complex while you were carrying out your duties as our elected representatives was not just unacceptable and disturbing, it was criminal. Violence designed to intimidate the population and influence the government is exactly what the FBI's Counterterrorism Division was designed to combat. And the American people deserve nothing less than our commitment to see this investigation through and, maybe even more importantly, to prevent acts of violence like this in the future because the FBI's

number one priority is preventing acts of terrorism from any place by any actor.

Across the board, the greatest terrorism threat we face is the threat posed by lone actors, both domestic violent extremists and homegrown violent extremists. These actors are especially challenging for law enforcement because, by definition, their insular nature makes them particularly difficult to identify and disrupt before they have an opportunity to act.

I know today you are particularly interested in talking about domestic terrorism, and I appreciate your attention to this threat. The FBI has been investigating domestic terrorism throughout our organization's history, but today's threat is different than it was years ago and continues to evolve.

And just in the last year, we have surged resources to our domestic terrorism investigations to counter this threat, representing a 260-percent increase in domestic terrorism personnel. Let me walk you through some of the themes we are looking at.

2019 was the most fatal year for domestic violent extremist attacks since the Oklahoma City bombing in 1995. And, as you know, the 26th anniversary of that bombing was just last week.

Between 2015 and 2020, racially or ethnically motivated violent extremists were responsible for the most fatal domestic terrorism attacks. However, three of the four fatal domestic extremist attacks in 2020 were perpetrated by antigovernment or anti-authority violent extremists.

One of those attacks was perpetrated by an anarchist violent extremist in Portland, Oregon, which was actually the first fatal anarchist violent extremist attack in over 20 years.

Looking forward, we assess domestic violent extremists will continue to pose an elevated threat of violence to the United States. We expect racially or ethnically motivated violent extremists and antigovernment or anti-authority violent extremists will very likely pose the greatest domestic terrorism threats throughout 2020 and likely into 2022.

At the same time, it is important to note that the threats from international terrorism have not diminished. Rather, as we head into 2021, potentially for the first time in my 20 years, the threats from domestic terrorism, Salafi-Jihadism, and state-sponsored terrorism are all elevated simultaneously.

As we work to counter these threats, I want to underscore the importance of partnerships to the counterterrorism fight. Our investigations and disruptions rely on our cooperation with our Federal, State, and local law enforcement partners, as well as the communities we serve.

In fiscal year 2020 alone, the FBI-led Joint Terrorism Task Forces across the country, representing the States that you all represent, arrested 235 terrorism subjects, both international and domestic.

Just to highlight a few of those, in March of 2020, we disrupted a racially or ethnically motivated violent extremist who advocated for the superiority of the White race who was plotting to bomb a Missouri hospital.

Last May, we arrested a Florida-based individual who was planning and attempting to carry out an attack on behalf of ISIS.

In June, we arrested a Kentucky-based U.S. soldier who was planning a deadly attack on his Army unit by disclosing sensitive information to multiple extremists, to include individuals associated with racially or ethnically motivated violent extremism and al-Qaida.

Later in October, we prevented multiple militia violent extremists from executing a plan to kidnap the Governor of Michigan in response to COVID-19 policies.

Lastly, in November, initially based on a tip we received from our foreign law enforcement partners, we arrested a New York-based militia violent extremist for making threatening interstate communications towards New York Senator Schumer.

We also continue to expand our partnerships in academia, the private sector, and within the communities we serve. This is critical because nearly half of our cases are predicated on tips from the public or referrals from other law enforcement agencies.

I also want to take this opportunity to reemphasize the FBI's mission to uphold the Constitution, protect the American people. This is dual and simultaneous and not contradictory. That said, when a person crosses the line from expressing beliefs to violating Federal law, we aggressively pursue those threats.

I want to conclude my remarks by expressing the FBI's appreciation for the support that you have provided and continue to provide the men and women of the FBI. I look forward to answering any questions you might have.

[The information follows:]

**JILL SANBORN  
EXECUTIVE ASSISTANT DIRECTOR, NATIONAL SECURITY BRANCH  
FEDERAL BUREAU OF INVESTIGATION  
STATEMENT BEFORE THE HOUSE APPROPRIATIONS COMMITTEE,  
SUBCOMMITTEE ON COMMERCE, JUSTICE, SCIENCE  
AND RELATED AGENCIES  
WASHINGTON, D.C.**

**APRIL 29, 2021**

Good morning Chairman Cartwright, Ranking Member Aderholt and members of the Subcommittee. Thank you for the opportunity to appear before you today to discuss the FBI's role in combatting Domestic Terrorism. I am pleased to be here representing the dedicated men and women of the FBI's Counterterrorism Division.

As has been stated multiple times before, preventing terrorist attacks, from any place, by any actor, remains the FBI's top priority. The nature of the threat posed by terrorism—both international terrorism (IT) and domestic terrorism (DT)—continues to evolve.

It is not possible to discuss the evolving domestic terrorism threat in the United States today without examining the January 6 attack on the U.S. Capitol. To be clear, the violence and destruction of property at the U.S. Capitol building on January 6 showed a blatant and appalling disregard for our institutions of government and the orderly administration of the democratic process. The FBI has deployed the full force of our investigative resources and is working closely with our federal, state, local, tribal, and territorial partners to aggressively pursue those involved in the violent siege of the Capitol Complex on January 6, 2021. FBI special agents, intelligence analysts, and professional staff have been hard at work gathering evidence, sharing intelligence, and working with federal prosecutors to bring charges against the individuals involved.

In 2020, the FBI assessed the greatest terrorism threat to the United States was from lone actors or small cells who typically radicalize online and look to attack soft targets with easily accessible weapons; we remain confident in that assessment today. We see these threats manifested within both Domestic Violent Extremists (DVEs) and Homegrown Violent Extremists (HVEs), two distinct threats, both of which are located primarily in the United States and most frequently radicalize and mobilize to violence on their own. Individuals who commit violent criminal acts in furtherance of social or political goals stemming from domestic influences—some of which include racial or ethnic bias, or anti-government or anti-authority sentiments—are described as DVEs, whereas HVEs are individuals who are inspired primarily by global jihad, but not receiving individualized direction from Foreign Terrorist Organizations (FTOs) .

Both Domestic and Homegrown Violent Extremists are often motivated and inspired by a mix of sociopolitical, ideological, and personal grievances against their targets, and more recently have focused on soft targets to include civilians, members of law enforcement and the military, symbols or members of the U.S. government, houses of worship, retail locations, and mass public gatherings. Selecting these types of accessible targets, in addition to the insular nature of their radicalization and mobilization to violence and limited discussions with others regarding their plans, challenges law enforcement to detect and disrupt the activities of lone actors before they occur.

DVEs pose a steady and evolving threat of violence and economic harm to the United States. Trends may shift, but the underlying drivers for domestic violent extremism—which includes socio-political conditions, racism, and anti-Semitism, just to name a few—remain constant. As stated above, the FBI is most concerned about lone offender attacks; primarily shootings, as they have served as the dominant lethal mode for domestic violent extremist attacks. More deaths were caused by domestic violent extremists than international terrorists in recent years. In fact, 2019 was the deadliest year for domestic violent extremism since the Oklahoma City Bombing in 1995; a tragic note on the state of domestic terrorism as we look back and remember the victims and their families, with last week marking 26 years since that horrific attack.

The top threat we face from DVEs continues to be those we categorize as Racially or Ethnically Motivated Violent Extremists (RMVEs), specifically those who advocate for the superiority of the white race, and who were the primary source of fatalities perpetrated by DVEs in 2018 and 2019. It is important to note that we have recently seen an increase in fatal DVE attacks perpetrated by Anti-Government or Anti-Authority Violent Extremists, specifically Militia Violent Extremists and Anarchist Violent Extremists, over the last year. Anti-Government or Anti-Authority Violent Extremists were responsible for three of the four fatal DVE attacks in 2020. Also, in 2020, we saw the first fatal attack committed by an Anarchist Violent Extremist in over 20 years.

Consistent with our mission, the FBI does not investigate First Amendment-protected speech or association, peaceful protests, or political activity. The FBI holds sacred the rights of individuals to peacefully exercise their First Amendment freedoms. Non-violent protests are signs of a healthy democracy, not an ailing one. Regardless of their specific ideology, the FBI will aggressively pursue those who seek to hijack legitimate First Amendment-protected activity by engaging in violent criminal activity such as the destruction of property and violent assaults on law enforcement officers that we witnessed on January 6 and during lawful protests throughout the United States during the summer of 2020. We will actively pursue the opening of FBI investigations when an individual uses, or threatens the use of, force, violence, or coercion, in violation of federal law and in the furtherance of a social or political goals. But the FBI will aggressively pursue those who engage in violent criminal activity carried out under the guise of a protest, such as the violent assaults on law enforcement officers, threats to Members of Congress and their staffs, and destruction of property that we witnessed on January 6.

The FBI assesses HVEs are the greatest, most immediate IT threat to the United States. As described above, HVEs are located in and radicalized primarily in the United States, and do not receive individualized direction from global jihad-inspired foreign terrorist groups FTOs, but rather are inspired largely by the Islamic State of Iraq and ash-Sham (ISIS) and al-Qa'ida to commit violence. An HVE's lack of a direct connection with a foreign terrorist groups, ability to rapidly mobilize without detection, and use of encrypted communications pose significant challenges to our ability to proactively identify and disrupt them.

The FBI remains concerned that foreign terrorist groups, such as ISIS and al-Qa'ida, intend to carry out or inspire large-scale attacks in the United States. Despite their loss of physical territory in Iraq and Syria, ISIS remains relentless in its campaign of violence against the United States and our partners, both here at home and overseas. To this day, ISIS continues to aggressively promote its hate-fueled rhetoric and attract like-minded violent extremists with a willingness to conduct attacks against the United States and our interests abroad. ISIS' successful use of social media and online messaging applications to attract individuals seeking a sense of belonging is of continued concern to us. Like other foreign terrorist groups, ISIS advocates for lone offender attacks in the United States and Western countries via videos and other high-quality English language propaganda that have at times specifically advocated for attacks against civilians, the military, law enforcement, and other intelligence community personnel.

The al-Qa'ida threat today is relentless, but different, as was demonstrated by the attack at Naval Air Station Pensacola in December 2019. Due to the impressive technical and analytical work of our teams, we now know the shooter had conversations with overseas al-Qa'ida in the Arabian Peninsula (AQAP) associates in the months leading up to his attack, during which they discussed plans and how to carry them out, right up until the night before he carried out the murders. It is clear al-Qa'ida maintains its desire to both conduct and inspire large-scale, spectacular attacks. Because continued pressure has degraded some of the group's senior leadership, in the near term, we assess al-Qa'ida is more likely to continue to focus on cultivating its international affiliates and supporting small-scale, readily achievable attacks in regions such as East and West Africa.. Over the past year, propaganda from al-Qa'ida leaders sought to inspire individuals to conduct their own attacks in the United States and other Western nations.

Iran and its global proxies, including Iraqi Shia militant groups, continue to attack and plot against the United States and our allies throughout the Middle East in response to U.S. presence and pressure. Iran's Islamic Revolutionary Guard Corps-Qods Force (IRGC-QF) continues to provide support to militant resistance groups and terrorist organizations. Iran also continues to support Lebanese Hizballah and other terrorist groups. Lebanese Hizballah has sent operatives to build terrorist infrastructures worldwide. The arrests of individuals in the United States allegedly linked to Lebanese Hizballah's main overseas terrorist arm, and their intelligence collection and procurement efforts, demonstrate Lebanese Hizballah's interest in long-term contingency planning activities here in the United States. Lebanese Hizballah Secretary-General Hasan

Nasrallah also has threatened retaliation for the death of IRGC-QF Commander Qassem Soleimani.

As an organization, we continually adapt and rely heavily on the strength of our federal, state, local, tribal, territorial, and international partnerships to combat all terrorist threats to the United States and our interests around the world. To that end, we use all available lawful investigative techniques and methods to combat these threats while continuing to collect, analyze, and share intelligence concerning the threat posed by violent extremists, in all their forms, who desire to harm Americans and US interests. We will continue to share information and encourage the sharing of information among our numerous partners via our Joint Terrorism Task Forces across the country, and our legal attaché offices around the world.

### **Conclusion**

Looking forward, the FBI assesses DVEs pose an elevated threat of violence to the United States, and that some of these actors have been emboldened in the aftermath of the breach of the US Capitol. We expect Racially or Ethnically Motivated Violent Extremists, Anti-Government or Anti-Authority Violent Extremists, and other DVEs citing partisan political grievances will very likely pose the greatest domestic terrorism threats in 2021 and likely into 2022. The FBI urges federal, state, local, tribal, and territorial government counterterrorism and law enforcement officials and private sector partners, and the American public, to remain vigilant in light of the persistent threat posed by DVEs and their unpredictable target selection in order to effectively detect, prevent, preempt, or respond to domestic violent extremist threats and terrorist attacks in the United States.

The work being done by the FBI is immeasurable; however, we cannot afford to be complacent. We must continually seek out new technologies and solutions for the problems that exist today, as well as those that are on the horizon. We must build toward the future so that we are prepared to deal with the threats we will face at home and abroad and understand how those threats may be connected. To that end, we gather intelligence, consistent with our authorities, to help us understand and prioritize identified threats and to determine where there are gaps. We must stay ahead of the threats we face, working with our partners to try to fill gaps and continuing to learn as much as we can about the threats we face today, and those we may face tomorrow.

The expectation to respond to a wide range of complex and ever-changing threats is not new to the FBI. Our success in meeting these challenges is, however, directly tied to the resources provided to the FBI. The resources this committee provides each year are critical to the FBI's ability to address existing and emerging national security threats, including those outlined today.

Chairman Cartwright, Ranking Member Aderholt, and members of the Subcommittee, I would like to close by thanking you for this opportunity to discuss the threat posed by domestic terrorism. We are grateful for the leadership that you and this Subcommittee have provided to the

FBI. We would not possess the capabilities to deal with these threats and challenges today without your support. Your willingness to invest in and support our workforce and our physical and technical infrastructure allows the men and women of the FBI to make a difference every day in communities large and small throughout our nation and around the world. We thank you for that support.

I look forward to answering any questions you may have.

Mr. CARTWRIGHT. Thank you, Ms. Sanborn.

And at this time, we recognize Deputy Assistant Attorney General Wiegmann for 5 minutes of testimony. And the same request goes to you.

Mr. Wiegmann, please keep your remarks to 5 minutes. Remember, your entire written submission will be included in the record. You are recognized.

Mr. WIEGMANN. Thank you, Chairman Cartwright, Ranking Member Aderholt, members of the subcommittee. I appreciate the opportunity to testify today about the work being done by the Department of Justice to counter domestic terrorism.

As has been said, the events of January 6th have underscored that domestic terrorism continues to pose a significant threat to the public and to the rule of law. The attack on our Nation's Capitol was an intolerable assault on a fundamental institution of our democracy. It showed an appalling disregard for institutions of government and the safety of legislators, law enforcement, and the public.

Since that day, DOJ and the FBI have launched an extraordinary effort to hold accountable all those who engaged in criminal acts at the Capitol. The investigation spanned almost the entire country, and agents and prosecutors in multiple States are a vital part of it. The prosecution efforts are being led by the U.S. Attorney's Office for the District of Columbia. More than 430 individuals have been charged thus far, and that number continues to grow.

We have also recently witnessed efforts to intimidate members of our communities, apparently based only on who they are, as has been the case with recent horrific attacks directed at Asian Americans.

The Department and the FBI are fully supporting State and local investigations into those attacks, while assessing whether Federal hate crimes were involved. Regardless of the motivation, our goals at DOJ are to prevent such attacks and to bring those responsible to justice.

Today I would like to give you just a brief overview of how the Department of Justice is organized to handle domestic terrorism cases and the legal authorities on which we rely. We use all of the tools at our disposal to take a holistic approach to combating this threat.

On the front lines are 94 U.S. Attorney's Offices. Each office coordinates a group of Federal, State, and local law enforcement in the district, called the Anti-Terrorism Advisory Council, or ATAC. The ATAC works in close partnership with its corresponding FBI Joint Terrorism Task Force. The ATACs promote training and information sharing among Federal, State, and local law enforcement.

Each U.S. Attorney's Office also has a senior prosecutor who serves as the ATAC coordinator. This designee is specially trained and serves as the lead counterterrorism prosecutor for the district. Many offices have also designated national security sections that focus on counterterrorism and other national security threats.

At Main Justice here in Washington, the National Security Division of which I am a part was created in 2006 to integrate the Department's national security work nationwide. We have a counter-

terrorism section with more than 35 attorneys, all of whom are equipped to work on both domestic and international terrorism matters. We also have a counsel for domestic terrorism and four domestic terrorism coordinators.

Department policy now requires notification to the National Security Division of any investigations or prosecutions with a nexus to domestic terrorism, and NSD attorneys coordinate and provide assistance in those matters.

In addition, other divisions of the Department play an important role. For example, the Civil Rights Division is responsible for overseeing the prosecution of hate crimes, some of which may also qualify as acts of domestic terrorism.

Turning to our legal authorities, we have prosecuted domestic terrorists using a wide range of criminal statutes. These include weapons and explosives charges, threat, hoax or riot charges, and charges proscribing attacks on Federal officials and facilities. As I mentioned, hate crimes charges may also be appropriate where conduct is motivated by bias against race, religion, or ethnic minority.

We also work closely with our State and local partners to confront domestic terrorism. Some cases are best prosecuted under State law, and in those circumstances, we support our State and local partners where we can.

While there is no single Federal crime labeled domestic terrorism, the Criminal Code does include a definition of domestic terrorism as well as Federal crime of terrorism. These definitions provide us with an array of expanded authorities. For example, judges can issue nationwide search warrants. Government attorneys have additional authority to share grand jury information. And Congress has created a presumption of pretrial detention for terrorism offenses. Finally, the sentencing guidelines also provide a significant enhancement for these offenses.

In my written testimony, I provided a number of examples of recent cases that we brought. Consistent with longstanding Department policy, our practice is always to charge and pursue the most serious, readily provable offense available, based on the facts of the case.

It is important to emphasize that we prosecute individuals for their criminal acts, not for their beliefs or associations. The FBI may not investigate solely on the basis of First Amendment protected activity. But the FBI will pursue and DOJ will prosecute those who use violence in violation of Federal law in an attempt to further their ideological goals.

With that, I will close, and I appreciate the opportunity to discuss these issues today and look forward to answering your questions.

[The information follows:]

**STATEMENT OF  
BRAD WIEGMANN  
DEPUTY ASSISTANT ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE**

**BEFORE THE  
COMMITTEE ON APPROPRIATIONS  
SUBCOMMITTEE ON COMMERCE, JUSTICE, SCIENCE  
AND RELATED AGENCIES**

**U. S. HOUSE OF REPRESENTATIVES**

**AT A HEARING ENTITLED**

**“VIOLENT EXTREMISM AND DOMESTIC TERRORISM IN AMERICA:  
THE ROLE AND RESPONSE OF THE DEPARTMENT OF JUSTICE”**

**APRIL 29, 2021**

Good morning Chairman Cartwright, Ranking Member Aderholt, and distinguished Members of the Subcommittee, and thank you for the opportunity to testify on behalf of the Department of Justice. Protecting the American people from terrorism and other national security threats has long been the top priority of the Department. This includes protecting against both international and domestic terrorism.

As the events of January 6<sup>th</sup> have underscored, domestic terrorism continues to pose a significant threat to the public and the rule of law. The violence at our nation’s Capitol was an intolerable assault on a fundamental institution of our democracy. The shocking violence and destruction of property showed an appalling disregard for our institutions of government, the orderly administration of the democratic process, and the safety of legislators, law enforcement officials, and the public.

Since the Capitol attack, the Department of Justice and the Federal Bureau of Investigation (“FBI”) have launched an extraordinary effort to hold accountable all who engaged in criminal acts at the Capitol on that day. In just over 100 days, the Department made over 430 arrests in connection with the events of January 6<sup>th</sup>, and that number continues to grow. The investigations span almost the entire country. The prosecution efforts are being led by the United States Attorney’s Office for the District of Columbia (“USAO-DC”), where the events occurred. The USAO-DC is being assisted by the National Security Division’s Counterterrorism Section and other attorneys from across the Department. Charges include assaulting, resisting or impeding federal officers in violation of 18 U.S.C. § 111; obstructing law enforcement officers incident to commission of a civil disorder in violation of 18 U.S.C. § 231; obstruction of official proceedings in violation of 18 U.S.C. § 1512; unlawful entry on restricted grounds in violation of 18 U.S.C. § 1752; theft of government property in violation of 18 U.S.C. § 641; illegal possession of a destructive device in violation of 26 U.S.C. § 5861; and conspiracy to commit an offense against

the United States in violation of 18 U.S.C. § 371. These offenses carry significant maximum sentences, and several charged defendants have been ordered to be detained pending trial. As the investigation continues, and as sufficient additional evidence is gathered and other criminal perpetrators are identified, we will continue to charge additional defendants with offenses relating to the events of January 6<sup>th</sup>. The unprecedented speed and scale of the Department's response to these attacks is evidence of the Department's strong commitment to combatting domestic terrorism.

Unfortunately, the January 6<sup>th</sup> attack was not an isolated incident. The FBI has recently assessed that our country faces an elevated threat of violence from domestic violent extremists, some of whom may have been emboldened by the Capitol attack. We have also recently witnessed efforts to intimidate or terrorize members of our communities based only on who they are and what they look like, as has been the case with some horrific recent attacks directed at Asian Americans. The Department, including the FBI, is fully supporting state and local investigations into those attacks, while independently assessing the motivations of the attackers to determine whether such attacks involved federal hate crimes. Whether motivated by racism, an anti-government or anti-authority animus, or social or political grievances, domestic violent extremists will likely continue to pose a serious threat to public safety for the foreseeable future.

In the United States, espousing an extremist ideology is not a crime, nor is expressing hateful views or associating with hateful groups. But where an individual tries to impose or promote an ideology through acts of violence, often on a mass scale, those acts can be among the most serious crimes we confront as a society. At the Department of Justice, we are committed to protecting all Americans from such attacks, regardless of the motivation. No matter who is behind the violence and intimidation, we will use every tool at our disposal to deter and disrupt domestic terrorists and bring them to justice.

The FBI is the lead federal agency for investigating domestic terrorist threats. In my testimony today, I will focus first on how the Department of Justice is organized to handle domestic terrorism cases, working in close collaboration with the FBI. I will then describe the legal authorities we rely on in prosecuting domestic terrorists. Finally, I will explain how we have used those authorities in some of our recent cases.

## I.

The Department of Justice uses all of the tools at its disposal — including the authorities exercised by the U.S. Attorney's Offices, the National Security Division, the Civil Rights Division, the Tax Division, the Criminal Division, and other components — to take a whole-of-Department approach to combatting domestic terrorism.

On the front lines of our efforts to prosecute domestic terrorism as well as international terrorism are our 94 U.S. Attorney's Offices. Each U.S. Attorney's Office coordinates a group of federal, state, and local, tribal and territorial ("SLTT") law enforcement in the district, called the Anti-Terrorism Advisory Council ("ATAC"). The ATAC works in close partnership with its corresponding FBI Joint Terrorism Task Force ("JTTF") in each FBI field office across the country. The ATACs, in conjunction with the JTTFs, promote training and information-sharing

among federal, State, and local law enforcement, as well as private sector partners, in matters relating to terrorism, both international and domestic. This training and information-sharing is critical because there are many more local law enforcement officers on the ground than there are federal agents, and they may be the first to come across individuals planning terrorist acts within their communities. We thus often have federal and SLTT officials evaluating the same threats, including assessing whether federal or state charges are available to disrupt them, with the goal being the prevention of terrorist attacks before they occur. Each U.S. Attorney's Office has also designated a senior prosecutor to serve as the National Security/ATAC Coordinator. The National Security/ATAC Coordinator serves as the lead counterterrorism prosecutor for the district as well as the primary point of contact for the Department on terrorism matters. Many U.S. Attorneys' Offices also have designated National Security Sections or Units within the office that are specifically focused on counterterrorism and other national security matters. The National Security/ATAC Coordinator and other national security prosecutors in the U.S. Attorney's Offices are specially trained in domestic and international terrorism matters and work closely with the JTTFs to investigate and prosecute terrorism matters.

At Main Justice here in Washington, the National Security Division ("NSD") was created in 2006 to integrate, coordinate, and advance the Department's counterterrorism and other national security work nationwide. The National Security Division has a Counterterrorism Section with more than 35 attorneys, all of whom are equipped to work on both domestic and international terrorism cases in concert with U.S. Attorney's Offices. Those NSD attorneys include a Counsel for Domestic Terrorism and four domestic terrorism coordinators who focus on domestic terrorism cases and regularly coordinate with the FBI's Domestic Terrorism Operations Section. Our National Security Division is closely connected with the U.S. Attorney's Offices around the country for purposes of all terrorism matters. NSD attorneys serve as important resources and partners in litigating legal issues and can also participate actively as co-prosecutors. Domestic terrorism cases share a core of practice, including common motions and defenses, which makes these attorneys' experience invaluable.

In addition, other divisions of the Department play an important role in countering domestic terrorism. The Civil Rights Division, for example, is responsible for overseeing the prosecution of hate crimes, some of which may also qualify as acts of domestic terrorism. Some anti-government violent extremists who are engaged in domestic terrorism sometimes refuse to pay taxes. The Tax Division is responsible for overseeing prosecution of tax offenses committed by such individuals. The Criminal Division also plays a vital role in some domestic terrorism prosecutions, particularly when cases are in the courts of appeal and in the Supreme Court. The Department's grant-making components also support programs aimed at preventing terrorist incidents. For example, the Bureau of Justice Affairs within the Office of Justice Programs supports the State and Local Anti-Terrorism Training Program, which provides no-cost training and resources to SLTT law enforcement officers and members of the intelligence community.

The Department is committed to enhancing coordination across the Department to address this threat and to ensure we are bringing the right resources and tools to bear in cases nationwide. The Department has recently issued a memorandum to all federal prosecutors that provides "Guidance Regarding Investigations and Cases Related to Domestic Violent Extremism." The memorandum stresses the need for coordination and consistency across the Department in holding accountable

domestic violent extremists who engaged in criminal conduct, explaining that in order to do so, the Department must have the ability to identify and internally track investigations and prosecutions involving conduct related to domestic violent extremism. Accordingly, the memorandum establishes a new, expanded notification requirement for Department trial attorneys for investigations and cases with a nexus to domestic violent extremism.

The Department's efforts also include supporting an interagency, whole-of-government approach to combatting domestic terrorism. For example, the Department coordinates a Domestic Terrorism Executive Committee ("DTEC") that includes representatives of the U.S. Attorney's Offices, the National Security Division, other divisions of Main Justice, the FBI, the Department of Homeland Security ("DHS"), and other law enforcement agencies. The DTEC provides a national-level forum for information-sharing at the leadership level on domestic terrorism matters. The Department of Justice, DHS, and the Office of the Director of National Intelligence recently released an unclassified summary of a joint comprehensive threat assessment on domestic violent extremism. Additionally, the Department is currently participating in a 100-day interagency assessment of our efforts to counter domestic terrorism, as called for by President Biden. Extensive collaboration within the Department, the whole federal government, and the nationwide law enforcement community requires a significant investment of resources, but ultimately is vital to addressing the threat from domestic terrorism.

In terms of resource allocation, in FY 2021, the FBI has redirected \$21.6 million and 135 positions (including 67 Special Agents) to address the surge in overall domestic terrorism cases.

Additionally, while the President's Budget request for FY 2022 has not yet been released, the President's request for FY 2022 discretionary funding, which was released in April of this year, provides an additional \$101 million to address the rising threat of domestic terrorism, while respecting civil rights and civil liberties. This increase includes \$45 million for the FBI for domestic terrorism investigations, \$40 million for the U.S. Attorneys to manage increasing domestic terrorism caseloads, \$12 million for additional response capabilities at the United States Marshals Service, and \$4 million to the National Institute of Justice to support research on domestic terrorism threats.

## II.

### A.

The Department of Justice has prosecuted individuals whose conduct involves domestic terrorism or a threat thereof using a range of criminal statutes. These include weapons charges, *e.g.*, 18 U.S.C. §§ 922, 924; charges relating to use or possession of explosives, *e.g.*, 26 U.S.C. §§ 5845, 5861; threat, hoax, or riot charges, *e.g.*, 18 U.S.C. §§ 871, 875, 876, 1038, 2101; and charges proscribing attacks on federal officials or facilities, *e.g.*, *id.* §§ 111, 115, 351, 844, 930, 1114, 1361, 1751. Hate crimes charges, *e.g.*, *id.* §§ 245, 247, 249, and 42 U.S.C. § 3631; may be appropriate where individuals engage in domestic terrorism that is motivated by biases against a race, religion, ethnicity, or other specified factors. Arson, *id.* § 844, or specific charges relating to violence against animal enterprises, *id.* § 43, may apply to eco-terrorists or animal rights terrorists. Moreover, several statutes reach conduct that may be associated with terrorism,

without regard to whether the offense itself involves domestic or international terrorism. These include statutes relating to aircraft sabotage, 18 U.S.C. § 32; weapons of mass destruction, *e.g.*, *id.* §§ 175, 175b, 175c, 229, 831, 832, 2332a, 2332h, 2332i; arson and bombing of federal property, *e.g.*, *id.* §§ 844, 2332a, 2332f; and causing injury or death to a federal official, *e.g.* *id.* §§ 111, 115, 351, 1114, 1751; among others. And it is a crime to provide material support or resources to another knowing or intending that they be used in preparation for or carrying out certain terrorism-related offenses. *Id.* § 2339A.

We also work closely with our SLTT partners to confront domestic terrorism. Some cases of domestic terrorism do not involve violations of federal law, but are prosecuted by State and local authorities under State law. Other cases may involve violations of both federal law and State law, and the State charge, in some circumstances, may be the most effective way to prosecute an individual. In those circumstances, we support our State and local partners in any way we can.

It is important to emphasize that we prosecute domestic terrorists for their criminal acts, not for their beliefs or based on their associations. In fighting domestic terrorism, we respect the constitutional rights of freedom of speech, association, and assembly of all Americans. The FBI opens cases on suspected criminal violations, not ideologies. The FBI may not investigate solely on the basis of First Amendment-protected activity.

## B.

The federal criminal code also includes a definition of “domestic terrorism” that enhances our authority in cases involving this conduct. The definition covers activities that—

- (A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;
  - (B) appear to be intended—
    - (i) to intimidate or coerce a civilian population;
    - (ii) to influence the policy of a government by intimidation or coercion; or
    - (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and
  - (C) occur primarily within the territorial jurisdiction of the United States[.]
- 18 U.S.C. § 2331(5).

Where incorporated into other authorities, this definition provides us with an array of expanded investigative tools and sentencing enhancements in domestic terrorism matters:

- Judges can issue nationwide search warrants in cases involving domestic terrorism, just as they are authorized to do in cases involving international terrorism. Typically, judges can only issue warrants pertaining to their districts.

This expanded authority reduces delays and burdens on investigations with regional or national scope. Fed. R. Crim. P. 41(b)(3).

- Judges may grant orders giving investigators greater access to certain educational and taxpayer records in domestic and international terrorism investigations. 20 U.S.C. §§ 1232(j)(1)(A), 9573(e); 26 U.S.C. § 6103(i)(7)(C).
- Investigative and law enforcement officers have additional authority to share intercepted communications and derivative evidence, including with appropriate federal, State, local, or foreign officials, when disclosing information revealing a threat of terrorism, including domestic terrorism. *See* 18 U.S.C. § 2517(8).
- Government attorneys also have additional authority to share grand-jury matter, including with appropriate federal, State, local, or foreign officials, when disclosing information to prevent or respond to a threat of terrorism, including domestic terrorism. *See* Fed. R. Crim.P. 6(e)(3)(D).
- Some statutes, particularly ones relating to conduct that impedes our investigations, carry enhanced statutory maximums if the offense involves or is intended to facilitate domestic or international terrorism. *See, e.g.*, 18 U.S.C. § 1001 (material false statements); *id.* § 1505 (obstruction of justice); *id.* § 1028 (fraudulent identification); *cf. id.* § 226 (including definition within an element of the offense for bribery affecting port security).

In addition, the federal criminal code contains a definition of “Federal crime of terrorism,” to mean an offense that “is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct,” and violates one of the enumerated statutes prohibiting terrorism-related offenses, such as statutes related to weapons of mass destruction. 18 U.S.C. § 2332b(g)(5). That definition includes domestic as well as international terrorism. It enhances our authority with respect to investigations, detention, sentencing, and supervised release. Congress has extended the statute of limitations, *id.* § 3286, and created a rebuttable presumption of pretrial detention for the offenses listed in the definition of “Federal crime of terrorism,” *id.* § 3142(e)(3), better empowering the government to protect the public and hold individuals accountable for those criminal activities. The Sentencing Guidelines then provide a significant sentencing enhancement for offenses that involve, or are intended to promote, a “federal crime of terrorism”—often increasing the guideline range to the statutory maximum. *See* USSG § 3A1.4. The Sentencing Guidelines also provide for a similar upward departure for other offenses that were calculated to influence or affect the conduct of government by intimidation or coercion, to retaliate against government conduct, or to intimidate or coerce a civilian population. *See id.* cmt. n.4. Further, once a sentence has been served, Congress has authorized lifetime supervised release for the offenses listed in the definition of “Federal crime of terrorism,” *see* 18 U.S.C. § 3583(j), which helps to prevent recidivism.

### III.

As noted above, the Department's goal is to stop terrorist attacks before they occur, and to bring the perpetrators of such attacks to justice. We will use whatever legal authorities are available in support of stopping terrorist attacks.

Our U.S. Attorney's Offices, Criminal Division, and National Security Division have worked together in recent cases to bring charges under a variety of terrorism-related statutes, including ones prohibiting weapons of mass destruction. In several, we have disrupted, prosecuted, and convicted domestic terrorists before violence occurred:

- Jerry Varnell was arrested in August 2017 after trying to detonate an inoperable Vehicle Borne Explosive Device at the BancFirst building in downtown Oklahoma City to send an anti-government message. He was indicted for attempting to use a weapon of mass destruction, in violation of 18 U.S.C. § 2332a, and attempting to destroy by fire or explosive a property used in interstate commerce, in violation of 18 U.S.C. § 844(i). Varnell was convicted on both counts in February 2019, and, in March 2020, was sentenced to 25 years in prison.
- Cesar Sayoc was arrested in October 2018 for mailing 16 improvised explosive devices to 13 victims throughout the United States, including Democratic politicians and a media outlet. He was charged in the Southern District of New York with use of a weapon of mass destruction, in violation of 18 U.S.C. § 2332a; interstate transportation of explosives, in violation of 18 U.S.C. § 844(d); threatening interstate communications, in violation of 18 U.S.C. § 875(c); illegal mailing of explosives, in violation of 18 U.S.C. § 1716(j)(2); and use of explosives to commit a felony, in violation of 18 U.S.C. § 844(h). Sayoc pleaded guilty to 65 counts in March 2019, and, in August 2019, was sentenced to 20 years in prison.
- Christopher Hasson was arrested in February 2019, on four federal charges, including unlawful possession of unregistered silencers, unlawful possession of firearm silencers unidentified by serial number, possession of firearms by an addict to and unlawful user of a controlled substance, and possession of a controlled substance. According to his plea agreement, Hasson was a Lieutenant in the United States Coast Guard. As detailed in the Government's sentencing memo, Hasson self-identified as a "White Nationalist" for over 30 years and in writings advocated for "focused violence" in order to establish a white homeland. Review of Hasson's e-mail accounts, saved documents, text messages, and Internet searches show that he was inspired by racist murderers, stockpiled assault weapons, studied violence, and intended to exact retribution on minorities and those he considered traitors. In January 2020, Hasson was sentenced in the District of Maryland to 160 months in prison, followed by four years of supervised release.
- Jarrett Smith was arrested in September 2019, on charges of unlawfully distributing instructions for making explosive devices over social media while he was a member

of the U.S. Army. The FBI received information that Smith gave out guidance to others on how to construct improvised explosive devices. He spoke to others on social media about wanting to travel to Ukraine to fight with a violent, far-right military group. In February 2020, Smith pleaded guilty to two counts of distributing information related to explosives, destructive devices and weapons of mass destruction, and, in August 2020, Smith was sentenced in the District of Kansas to 30 months in prison, followed by 3 years of supervised release.

We continue to work on pending domestic terrorism cases as well:

- William Allen was arrested in October 2018, for allegedly sending threatening letters to the President, Secretary of Defense, Director of the CIA, Director of the FBI, Secretary of the Air Force, and Chief of Naval Operations. He was indicted in the District of Utah for threatening to use a biological toxin (ricin) as a weapon, in violation of 18 U.S.C. § 175(a); mailing a threat against the President, in violation of 18 U.S.C. § 871(a), and mailing threatening communications to an officer or an employee of the United States, in violation of 18 U.S.C. § 876(c).
- In late 2018, Robert Rundo, Robert Boman, Tyler Laube, and Aaron Eason were indicted in the Central District of California for rioting, in violation of 18 U.S.C. § 2101, and conspiring to riot, in violation of 18 U.S.C. § 371. Benjamin Daley, Thomas Gillen, Michael Miselis, and Cole White were indicted in the Western District of Virginia in connection with the same conduct. The defendants are purported members of the white supremacist group “Rise Above Movement,” and are alleged to have assaulted multiple people at political rallies, including at the Unite the Right rally in Charlottesville, Virginia. Some have pleaded guilty, and several have been sentenced, including Daley (37 months in prison), Gillen (33 months), Miselis (27 months), and White (14 months).
- Joseph Dibee, an alleged environmental extremist and member of a group known as “The Family,” was indicted in 2006, along with 12 co-conspirators in California, Oregon, and Washington. “The Family” has been linked to over 40 criminal acts and \$45 million in property damage. Dibee was charged with arson, conspiracy to commit arson, conspiracy to destroy an energy facility, and other offenses, in violation of 18 U.S.C. §§ 371, 844(f), (i), (n), 924(c), and 1366. He was returned from Cuba to the United States in August 2018, and his trial is set for June 2021.
- On February 26, 2020, four members of the neo-Nazi group “Atomwaffen Division,” were arrested and charged in Seattle with a conspiracy to threaten and intimidate journalists and activists. The defendants included Cameron Brandon Shea, Kaleb Cole, Taylor Parker-Dipeppe, and Johnny Garza. Garza pleaded guilty and, in December 2020, was sentenced in the Western District of Washington to 16 months in prison. Parker-Dipeppe pleaded guilty as well and was sentenced in March 2021 to time served followed by 3 years of supervised release. Shea pleaded

guilty in April 2021, and his sentencing is scheduled for June 2021. Cole is scheduled to go to trial in September 2021.

- On June 22, 2020, Ethan Melzer was charged in the Southern District of New York with allegedly planning an attack on his U.S. Army unit by sending sensitive details about the unit – including information about its location, movements, and security – to members of an organization named “Order of the Nine Angles (O9A),” an occult-based neo-Nazi and white supremacist group. No trial date has been set.
- On June 6, 2020, Santa Cruz County (California) sheriff’s deputies attempted to arrest Steven Carrillo at his home for the May 29 murder of a security guard at a federal courthouse. Carrillo allegedly ambushed the officers with gunfire and improvised explosives, killing Sergeant Damon Gutzwiller and seriously wounding two others. Carrillo was eventually arrested and charged with multiple felonies, including murder, multiple counts of attempted murder, and explosives charges. Carrillo is allegedly associated with the anti-government “boogaloo” movement. A trial date has not yet been set.
- On October 8, 2020, six men were arrested and charged federally with conspiring to kidnap the Governor of Michigan, Gretchen Whitmer. According to the federal criminal complaint, Adam Fox, Barry Croft, Ty Garbin, Kaleb Franks, Daniel Harris, and Brandon Caserta conspired to kidnap the Governor from her vacation home in the Western District of Michigan. Garbin pleaded guilty on January 27, 2021, and scheduled to be sentenced in July 2021. Trial for the remaining five defendants is set for October 2021.

In addition, the Department’s Civil Rights Division has worked with U.S. Attorney’s Offices, the Criminal Division, and the National Security Division to pursue domestic terrorism cases involving hate crimes or violations of civil rights statutes, including some of the most serious attacks in recent years:

- In June 2015, Dylann Roof killed nine African-American parishioners engaged in religious worship and Bible study at Emmanuel African Methodist Episcopal Church in Charleston, South Carolina. In December 2016, he was convicted of 33 counts of federal hate crimes, civil rights, and firearms charges, including nine capital counts of obstruction of exercise of religion resulting in death, in violation of 18 U.S.C. § 247, and nine capital counts of use of a firearm to commit murder during and in relation to a federal crime of violence, in violation of 18 U.S.C. § 924. In January 2017, the jury sentenced Roof to death on all 18 capital counts. The sentence of death has been imposed by the court but not yet carried out.
- In 2016, Curtis Allen, Patrick Stein, and Gavin Wright were arrested for plotting to attack an apartment complex and mosque used by Somali immigrants in Kansas. In 2018, they were convicted of conspiracy to use a weapon of mass destruction, in violation of 18 U.S.C. § 2332a — a terrorism-related offense — as well as conspiracy

to violate the housing rights of their victims, in violation of 18 U.S.C. § 241. They received sentences of between 25 and 30 years imprisonment.

- In August 2017, James Fields Jr. intentionally drove a car into a diverse crowd of counter-protestors at the Unite the Right rally in Charlottesville, Virginia, killing one woman and injuring dozens. In March 2019, he pleaded guilty to one count of a hate crime act that resulted in death and 28 other hate crimes charges, all in violation of 18 U.S.C. § 249. In June 2019, he was sentenced to life imprisonment.
- In October 2018, Robert Bowers killed 11 Jewish congregants gathered to engage in religious worship at the Tree of Life Synagogue in Pittsburgh, Pennsylvania, according to the indictment. Bowers has been indicted with 63 counts of hate crimes and firearm offenses, including 11 counts of obstruction of free exercise of religious beliefs resulting in death, in violation of 18 U.S.C. § 247, and 11 counts of use and discharge of a firearm to commit murder during and in relation to a crime of violence, in violation of 18 U.S.C. § 924. He faces a maximum penalty of death.
- In August 2019, Patrick Crusius allegedly shot and killed 23 and injured several others at a retail store in El Paso, Texas, reportedly targeting Hispanic victims. The individual's alleged manifesto, "The Inconvenient Truth," stated, "This attack is a response to the Hispanic invasion of Texas." In his manifesto, Crusius cited inspiration from Brenton Tarrant, who conducted a like-minded ideological attack killing 51 people in Christchurch, New Zealand, in March 2019. Crusius has been indicted on a total of 90 counts, including 23 counts of hate crimes resulting in death, carrying a maximum penalty of death or life imprisonment. His trial date is pending.
- On February 26, 2021, Richard Holzer was sentenced to over 19 years in prison, followed by 15 years of supervised release. Holzer previously pleaded guilty to federal hate crime and explosives charges for plotting to blow up the Temple Emanuel Synagogue in Pueblo, Colorado, conduct that constituted acts of domestic terrorism. Holzer told undercover FBI agents that he wanted the bombing to send a message to Jewish people that they must leave his town, "otherwise people will die."

The Department also supports efforts to prosecute domestic terrorists under SLTT laws. For example, in 2013, the Department secured the first conviction under the District of Columbia's Anti-Terrorism Act. Floyd Corkins was charged for an attempted shooting at the Family Research Council. He was motivated by his disagreement with the organization's stance against gay marriage. He was sentenced to 25 years in prison. Our State and local partners have been successful in prosecuting domestic terrorism cases, too. For example, in January 2019, James Jackson pleaded guilty to murder, terrorism, hate crimes, and weapons offenses under New York law, relating to a racially motivated stabbing of an African-American man. In February 2019, he was sentenced to life in prison.

Some domestic terrorists never get prosecuted because they die in the course of their attacks. In June 2017, James Hodgkinson wounded four people at a congressional baseball practice, including House Majority Whip Steve Scalise. In July 2019, Willem van Spronsen set

fire to a detention center and a vehicle using improvised incendiary devices in Tacoma, Washington. In December 2019, David Anderson and Francine Graham fatally shot a local law enforcement officer at a cemetery in New Jersey, and then targeted a nearby kosher supermarket, where the subjects killed three individuals and injured several others. In August 2020, Michael Reinoehl, an anti-fascist activist, killed a person during a protest in downtown Portland, Oregon. Reinoehl was charged with second-degree murder and unlawful use of a weapon but refused to turn himself in after the fatal shooting and became a fugitive. In each of these cases, the perpetrators died before they could be prosecuted, but the Department's role continued. When domestic terrorists are killed during their attacks, the Department's Main Justice divisions and U.S. Attorney's Offices will assist the FBI and other law enforcement to run down possible leads, including any co-conspirators or copycats planning further acts of violence.

Domestic terrorism presents an evolving and persistent threat, and it can be motivated by a wide variety of different ideologies and beliefs, as the foregoing cases demonstrate. As the FBI Director has recently explained, the top threat we currently face from domestic violent extremists continues to be those we identify as racially or ethnically motivated violent extremists, the majority of whom advocate for the superiority of the white race. We have also seen an increase in lethal attacks perpetrated by anti-government or anti-authority violent extremists. The Department's Main Justice Divisions and U.S. Attorney's Offices have been assisting the FBI and local law enforcement with those cases and will continue to do so. Domestic terrorism cases are top priorities.

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The Department is committed to using every tool, and working with every partner, to fight domestic terrorism. I appreciate the opportunity to discuss these issues with you, and I would be pleased to answer your questions.

Mr. CARTWRIGHT. Thank you, Mr. Wiegmann.

We proceed now to the question-and-answer session. I will recognize myself first for 5 minutes, then go to Ranking Member Aderholt, and then we will go back and forth between Democrats and Republicans for the full first round, then probably proceed to a second round as well.

I recognize myself for 5 minutes.

Assistant Director Sanborn, we have to talk about definitions, as Mr. Wiegmann just mentioned. I understand the FBI applies the term “domestic terrorism” to criminal acts that violate Federal law, in particular 18 United States Code—that is the Crimes Code—section 2331, subpart 5, primarily within the territorial jurisdiction of the United States, which represent more than simply First Amendment protected speech, no matter how vitriolic or hateful.

Ms. Sanborn, is that an accurate description of the FBI’s approach to the definition of domestic terrorism?

Ms. SANBORN. Yes, sir. The definition is defined by section 2331.

Mr. CARTWRIGHT. So here is a question for the both of you. In an unclassified March 2021 summary, the Office of the Director of National Intelligence stated that, quote: Domestic violent extremists, DVEs, who are motivated by a range of ideologies and galvanized by recent political and societal events in the United States, pose an elevated threat to the Homeland in 2021.

For each of you, do you concur with that assessment?

Ms. SANBORN. I will start. This is Jill. We definitely—we published some recent products saying just that. So, yes, sir, we do agree that that is something that we should pay attention to as we go into the future.

Mr. CARTWRIGHT. Thank you, Ms. Sanborn.

Mr. Wiegmann.

Mr. WIEGMANN. That is my understanding as well.

Mr. CARTWRIGHT. Okay. So this month, The Washington Post reported, based on multiyear data collected by the Center for Strategic and International Studies, that incidents of domestic terrorism have, quote, soared to new highs in the United States, driven chiefly by White supremacists, anti-Muslim and antigovernment extremists on the far right.

Again, I toss out for both of you, do you agree with that analysis, and, if not, could you elaborate?

Ms. SANBORN. Sir, I will start. I am not familiar specifically with the CSIS analysis, but 2019 was the deadliest year since Oklahoma City bombing. So, yes, we have definitely seen an increase in lethality.

And the trend that I mentioned in my opening, interestingly, last year the majority of the attacks were from those who espouse antigovernment, anti-authority violent extremists.

Mr. CARTWRIGHT. And Mr. Wiegmann?

Mr. WIEGMANN. I really would defer to the FBI, but that is my understanding as well, that there has been an increase and it has been attributable to racially motivated violent extremists and antigovernment, anti-authority extremists.

Mr. CARTWRIGHT. All right. Extremists of all varieties use hate speech and social media to motivate and indoctrinate and, in some cases, conspire to commit or facilitate violence.

While expressing hateful ideas may have First Amendment protection, it is also Black Letter Law that the First Amendment prohibits governmental sanctioning of speech unless that speech incites, quote, imminent lawless action and is likely to incite such action, unquote.

Drawing a line between what is free expression and what is terrorism is something we are clearly still struggling with. Possibly because there are numerous types of groups, there seem to be many different popular perceptions of what violent extremism and terrorism mean. Government agencies need legal clarity.

In your opinions, are the current legal and practical definitions of domestic terrorism and violent extremism working? And if not, what areas do you see as problematic and in need of improvement or clarification?

We will start with you, Ms. Sanborn.

Ms. SANBORN. Sir, I would actually defer to Mr. Wiegmann on this, but I think you pointed out what we believe is a challenge for us, which is separating where hateful speech is just speech and where that has turned to planning and plotting. And that is why we try to focus so much on the indicators of behavior changing.

Mr. CARTWRIGHT. Thank you. And you are deferred to, Mr. Wiegmann.

Mr. WIEGMANN. So I think we are comfortable with the definitions that we have in the U.S. Code today. There are always some gray areas, as you pointed out, with respect to when do you cross that line from speech, let's say, to a true threat or to incitement. But those are things where the courts have given us guidance, and they are things that we work with in our prosecutions on a regular basis and have done for many years.

Mr. CARTWRIGHT. Well, thank you for that. And my time has expired. So I am going to yield to our distinguished ranking member, Mr. Aderholt, for 5 minutes.

Mr. ADERHOLT. Thank you, Mr. Chairman.

And, again, thanks for both of our guests being here today before our committee virtually.

As Mr. Wiegmann had noted, it was domestic terrorists who shot and injured four people at the congressional baseball practice back in 2017. Included in that injuries was the majority whip at the time, Steve Scalise, and a lobbyist that was working with the baseball team, Matt Mika. They were both critically wounded.

The shooter was a deranged supporter of Bernie Sanders who had actually, in my understanding, had a list of Republican Members of Congress in his pocket when he actually ambushed the group.

Some of us learned just last week that the FBI classified the 2017 congressional baseball shooting as a suicide by cop. And as my colleague, Brad Wenstrup, has stated, classifying the attack as suicide by cop really defies logic.

Ms. Sanborn, has the FBI cleared up this by reclassifying the incident as an act of domestic terrorism?

Ms. SANBORN. Thank you for the question. It is fair to say that the shooter was motivated by a desire to commit an attack on Members of Congress and then knowing by doing so he would likely be killed in the process.

Cases like this are challenging because there were, as you mentioned, a couple clues left behind, but he died in the process, never allowing us to fully examine through, say, an interview his motivation.

This is also a good example of what I will talk about probably as we go on today with a trend that we started to see probably 2016-ish, which is that the motivation and sort of what drove somebody to mobilize is a very personalized grievance that they hold, which is something different from the domestic terrorism threat that we saw in years past.

There are also indicators that the shooter intended for the shooting to be his final act on Earth, but those things are not inconsistent with someone who is motivated by a variety of factors to commit violent acts based on a blend of ideological or personal motivations. And this conduct is something that today we would characterize as a domestic terrorism event.

Mr. ADERHOLT. So it is being considered an act of domestic terrorism?

Ms. SANBORN. If it were to happen today, we would open this as a domestic terrorism case.

Mr. ADERHOLT. What was the rationale behind the decision not to classify it as domestic terrorism?

Ms. SANBORN. I am not aware of the rationale. I was not in my seat at the time, so I would have to get back to you on the specifics of what that rationale was. But in going back and looking at it and, honestly, the trend we have seen of sort of that personalized grievance motivation, it fits squarely into the phenomena that the Director and I have talked about often, which is this very personalized sort of blending of ideologies that motivates somebody.

Mr. ADERHOLT. Yeah, I think we would be interested in knowing just what the rationale was. So, if you could provide that for us, it would be great.

Director Wray has said that social media has become in many ways the key amplifier to domestic violent extremism, just as it has for evil foreign influence.

I will address this question to you, Mr. Wiegmann. When social media platforms kick offensive groups off their sites, does it make it more difficult for the FBI to monitor and track their behavior and threats?

Mr. WIEGMANN. I would actually look to Ms. Sanborn to answer that question.

Ms. SANBORN. Yes, sir. Social media definitely has increased the speed and dissemination of violent material online. And so that definitely, because of its existence of speed, the amount of rhetoric, as I mentioned previously, there is definitely a challenge for us in trying to filter through all the noise out there and figure out what individual may actually have the intent to then take their hate-fueled, you know, free speech farther into an act of breaking Federal law.

Mr. ADERHOLT. What would you consider more dangerous—and either one of you can answer this—dangerous domestic violent extremists promoting violence in the open or underground, such as on the dark web?

Ms. SANBORN. I think the method that they express their intent doesn't necessarily make one more dangerous than the other. I think—what would I put out there for you something to think about is it would propose a challenge to us, right?

Like, we have the potential—and, again, half of our cases are generated on tips and leads, thankfully, to partners and community members. If it is not something that we see, that potential tip or lead, and if we can't get to it with a lawful warrant, it is something that could go unnoticed and unprevented.

So sort of the dark web, encrypted, unable-to-get-to poses definitely probably a greater challenge for us because of that inability.

Mr. ADERHOLT. Thank you.

All right. Thank you, Mr. Chairman. I see my time has lapsed.

Mr. CARTWRIGHT. Thank you, Mr. Aderholt.

And the chair recognizes Representative Grace Meng for 5 minutes of questions.

Ms. MENG. Thank you, Mr. Chairman.

And thank you to our witnesses for your work and for being here today.

I actually wanted to follow up on Mr. Aderholt's questioning about social media. Platforms like Twitter and Facebook have really played a central role in elevating conspiracy theories, hate, bigotry.

And while some of these companies have occasionally banned from their platforms certain individuals or dangerous rhetoric, there are still other social media apps like Parler, Telegraph, or even Signal. And I just wanted to know what some of these companies can do. And I know that I have heard that platforms like Signal, for example, are even harder to sort of monitor. So what can these companies do better and what can Congress do?

And the second part of this question: Are there any noticeable trends after the January 6th insurrection that you are seeing with how domestic right-wing groups are using some of these platforms?

Ms. SANBORN. Yes, thank you for the question. I will start. You know, we have a very good relationship with a lot of the private sector partners that you mentioned in your question. And so that relationship is always increasing, and I am encouraged by the cooperation with them.

And I think one of the important things about the partnerships that we have with them that we have learned is very fruitful is when we can educate them on the things that they should be worried about, the threats that we collectively are facing, it allows them to be very thoughtful and mindful about that when they build out, say, a terms of use agreement with a user.

And so I think that that is one way that we are partnering with them. In fact, there is a specific section inside the Counterterrorism Division that focuses on nothing but those sort of strategic private sector partners.

As far as the second half of your question on trends, I don't know that it is unique or anything new, but oftentimes across both international and domestic terrorism, we see individuals potentially initiate their first sort of relationship or connection with, say, a like-minded individual in the open sort of social media forum, but then

often they look to move those conversations to some sort of encrypted application.

Ms. MENG. Thank you. I also wanted to ask about the [inaudible] Some of these right wing extremist groups. There are anecdotes of affinities between American-based right-wing groups and those abroad. They may feed off each other. And while we can ban certain individuals from visiting the U.S., we can't stop their hateful ideas from proliferating across the internet.

So I just wanted to ask about your concerns about domestic groups potentially sharing info with international groups and vice versa. And are there gaps in your efforts to understand some of these efforts and, you know, what additional resources or personnel could you need?

Ms. SANBORN. Thank you very much for that question. I mean, I would tell you, having grown up sort of working international terrorism for most of my career, I will never be at a point where I think I have the intel I need. I always want more. So there are always gaps.

I would also say we don't necessarily—I think it is important to lay this foundation. We do not investigate ideology or groups.

But to your question about sort of the foreign connection, obviously—and this is across all threats that the FBI faces—the internet poses the potential and allows for the facilitation of like-minded individuals to link up across the globe.

And so we are always looking for individuals here in the United States that may be reaching out to foreign entities and using that link-up to then incite violence or mobilize to violence here in the United States.

And so one of the ways we tackle that is with our Legal Attache Program and try to work very closely with our foreign partners to see what indicators and warnings we can get of potential violence, not only here in the United States but overseas.

Ms. MENG. Thank you. I yield back.

Mr. CARTWRIGHT. Thank you, Representative Meng.

At this time, the chair recognizes Congressman Cline for 5 minutes of questions.

We may have to bounce back to Mr. Cline. And so, in default with him, the chair recognizes Mr. Garcia for 5 minutes of questions.

Mr. GARCIA. Thank you, Mr. Chairman. With respect to Mr. Cline, I see he is online now. I would hate to cut in front of him unnecessarily here, seeing him, if we want to go back. I prefer to yield back to Mr. Cline, if that is all right.

Mr. CARTWRIGHT. Mr. Cline is recognized for 5 minutes. Nice to have you back, Mr. Cline. Oh, I think we scared him off, Mr. Garcia.

Mr. GARCIA. Sorry, Mr. Chairman.

Mr. CARTWRIGHT. Back to you again. We are going to go with you, Mr. Garcia. Go ahead, 5 minutes.

Mr. GARCIA. Sounds good, Mr. Chairman.

Thank you.

Thank you both for your testimony and your service to our Nation. Just to level-set as we were kind of hitting on the edges of

the definition of domestic terrorism, can one of you please just recite the language?

I am seeing in the package that was brought forth on page 6 there is a definition, but I just want to just make sure that we are all on the same page. Maybe, Ms. Sanborn, if you are able to do that.

Mr. WIEGMANN. I can do that. I have it right in front of me.

Mr. GARCIA. Okay.

Mr. WIEGMANN. So it is 18 U.S. Code 2331, section 5. And I will just read it: The term "domestic terrorism" means activities that involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State.

And they must appear to be intended either, one, to intimidate or coerce a civilian population; two, to influence the policy of a government by intimidation or coercion; or, three, to affect the conduct of a government by mass destruction, assassination, or kidnapping; and then. Finally, they must occur within the territorial jurisdiction of the United States.

Mr. GARCIA. Great. Thank you for level-setting us there.

Would you agree that this definition applies to the entire political spectrum, not just the far right but also the far left and any American or any threat to American lives in between?

Mr. WIEGMANN. Absolutely.

Mr. GARCIA. And would you agree also that this applies to all races and all ethnicities? Mr. Wiegmann, you mentioned that this was focused primarily on actions taken against ethnic minorities, in your words, but the reality is this legislation, this law, I should say, is actually applicable to protecting all Americans. Is that an accurate statement?

Mr. WIEGMANN. That is totally correct. Whatever the race might be would be covered, absolutely.

Mr. GARCIA. Absolutely. And so my question is relative to what we have seen over the course of the last year and a half in cities like Portland, Seattle, and Minneapolis, where we have organizations and individuals not just protesting, which is obviously constitutional and encouraged—peaceful protests are the core of our American heritage and should be encouraged. But these protests have devolved into riots, looting, the destruction of small businesses, the occupation many times of cities and suburbs and small segments of metropolitan areas with the interest of intimidating or coercing a civilian population and influencing the policy of governments by intimidation or coercion and to affect the conduct of a government by mass destruction, assassination, or kidnapping. I think there has been murders in several of these cities.

Are these riots and destruction in these various metropolitan areas like Portland, Seattle, and Minneapolis being treated as acts of domestic terrorism, as defined by the law as you describe?

Mr. WIEGMANN. I do believe the previous Attorney General did conclude that some of those acts were qualified as domestic terrorism. And what we would do in any case is apply the evidence in any specific case against this legal standard. And if it meets that legal standard, absolutely, it would be considered domestic terrorism.

Mr. GARCIA. Do you have any idea how many active charges or cases are actually in the system right now for domestic terrorism relative to the riots in the various metropolitan areas?

Mr. WIEGMANN. So, again, as I explained earlier in my testimony, there isn't a Federal domestic terrorism charge. Typically, the types of charges, it could be riots, it could be threats, it could be assaulting a Federal officer, et cetera. So there is not necessarily on the face of the charges indication as to whether in that particular case it qualifies as domestic terrorism. So that would be individualized, based on each case.

But I do know that there were several hundred charges brought as a result of unrest over the last summer between May and let's say September. So there were several hundred Federal charges. I don't know the number of State charges.

Mr. GARCIA. Okay. And then just to help us put to bed or help in the debate of an issue that we have seen is a statement from a sitting official, elected official, whether a Member of Congress or State legislature, along the lines of we need to become more confrontational in our protests in the midst of a heated environment around race issues, would you consider that to fall underneath the definition of the Criminal Code as you described earlier of domestic terrorism?

Mr. WIEGMANN. Again, in general, I wouldn't want to comment on hypotheticals. But on that, it clearly wouldn't meet the definition because it is not dangerous to human life or anything like that. So—

Mr. GARCIA. There is not coercion inferences in that statement?

Mr. WIEGMANN. I would not think that statement alone would qualify.

Mr. GARCIA. Okay. Thank you, sir.

I yield back, Mr. Chairman.

Mr. CARTWRIGHT. Thank you, Mr. Garcia.

At this time, the chair recognizes Representative Crist for 5 minutes of questions.

Mr. CRIST. Thank you, Mr. Chairman. I appreciate the hearing and the opportunity to be here.

Ms. Sanborn, an incident involving the neo-Nazi organization Atomwaffen hit pretty close to home for my constituents in 2017. In neighboring Tampa, a double murder occurred at a house where four members of the organization lived when one of the members turned on two others.

When they looked in the house, in addition to firearms cache, they found buckets of explosives. You probably know better than myself, Ms. Sanborn, but, to my knowledge, these people were not on the authorities' radar, despite their recruitment and planning being done online. And who knows what would have happened if they had not turned on one another.

So my question, it seems to me that my constituents in the Tampa area are pretty lucky that nothing worse did happen. Has anything changed over the last 4 years, to your knowledge, to keep the situation I described from happening again?

Ms. SANBORN. Sir, I mean, we have talked about this a little bit. I think the biggest challenge we face is, how do we get the indica-

tors and warnings? How do we get the tip, the lead, exactly what you mentioned those individuals were plotting to do?

We rely heavily, and this is something that we use a heavy amount of our resources for, is having sources and undercovers that can help us get that information, or educating the community that can pay attention to that and warn us of something they might have seen that is just out of sorts. And so you definitely pinpoint the challenge for us in trying to get those indicators and warnings and what we really need to get to the bottom of that.

Mr. CRIST. Thank you very much. Recently, the water treatment plant in Oldsmar, Florida, right next to my district, was hacked. Whoever hacked the plant raised the sodium hydroxide levels, the main ingredient in drain cleaner, from 100 parts per million to about 11,000 per million. I understand that, at that level, it is considered corrosive to any human tissue that it might touch.

While a plant operator noticed the hack and was able to correct it, it does raise questions about cybersecurity for facilities in places like Oldsmar that don't have the security resources of larger cities and whether or not they are targets for terrorism and violent extremism.

For either witness, how does the work you do to prevent terrorism apply to preventing cyberterrorism in communities that are smaller, such as Oldsmar, Florida?

Ms. SANBORN. Sir, I will start. I think you present I think a very important point. Not only are the elevation of the threats that I outlined in my opening high, but we are also at a time when the threats from China and Russia as well as the threats we face from cyber in general also are very high. We work that very closely with our Cyber Division.

And, again, one of our biggest tools in our toolbox outside the Joint Terrorism Task Force is really those partnerships with the private sector. And we are sort of helping them understand potential vulnerabilities, and working with them is probably the best defense we have to defend any of their networks against any actor.

Mr. CRIST. Thank you very much.

For either witness, if somebody is under investigation for their ties to violent extremism or domestic terrorism and they have not yet been charged with a crime that prohibits them from purchasing a firearm, will their ties to domestic terrorism be flagged if they attempt to purchase an assault weapon, and would they be prevented from purchasing one? Also, would you be notified if a subject of an investigation has purchased a firearm?

Ms. SANBORN. I will start and then, Brad, if you want to chime in with anything on your side.

Sir, I do know that if they are an outright prohibited possessor, that there are definitely red flags that would put that on our radar.

I would have to get back to you on just the sheer presence of them being, you know, an assessment or a case, whether or not that would be a red flag. I don't have the granularity to give you the specifics on that, if you would want a followup on that.

Mr. CRIST. That would be great. Thank you.

I am running to the end of my time.

So, Mr. Chairman, I will yield back, and thank you.

And I thank both the witnesses.

Mr. CARTWRIGHT. Thank you, Mr. Crist.

At this time, the chair recognizes Representative Cline for 5 minutes of questions.

Mr. CLINE. Thank you, Mr. Chairman.

Am I coming through?

Mr. CARTWRIGHT. Yes. Don't touch anything. It is working now.

Mr. CLINE. I apologize. I appreciate the patience.

Ensuring the security of the American people is the primary duty of all Members of Congress, and it is imperative that we are doing everything possible to prevent attacks on the citizens of our Nation.

Violence committed by any individual or group has no place in our society, and Congress must ensure that law enforcement is working efficiently and effectively to combat an ever-changing landscape of threats.

Ms. Sanborn, through 2020, throughout the last year, the FBI observed activity that indicated there was the potential for increased violent extremist activity at lawful protests taking place in communities all across the United States.

Has the FBI determined what contributing factors led to this uptick in potential?

Ms. SANBORN. Sir, that is a great question, and I alluded to a little bit of it in my opening in I think the answer to the baseball game question.

Really pinpointing what is driving somebody to mobilize and commit their acts of violence is incredibly complex in general but more so probably in the domestic violent extremist space than any others because what we have found as we go back and we look at post-incident is it is a blend of their ideology but oftentimes really partnered closely with a personalized grievance.

And so, as you can imagine, that makes it very hard to figure out what truly was the motivating factor in pushing them to mobilization. And so that is an incredible challenge for us because of that personalized nature.

Mr. CLINE. Was this the fact when you were looking at extremist activity at lawful protests on both or across the political spectrum, were these contributing factors existing, no matter whether it was on the right or the left? Because we had those protests on both the right and the left taking place across the United States.

Ms. SANBORN. Yes, sir, exactly. Trying to figure out throughout the whole country in 2020 what was the specific mobilization factor for each case that we looked at was incredibly challenging and oftentimes, like I said, very personalized. And, you know, depending on if they interviewed with us and if they told us what that mobilization factor is, very unlikely that we may ever get to the real bottom of what motivated them that day.

Mr. CLINE. All right. Can you talk about what the FBI has done to counteract domestic violent extremists? And if these groups are on the rise, how will the FBI work to prevent future attacks?

Ms. SANBORN. Yes, sir. That is a great question. Again, the majority of what we do outside investigative techniques—and I will hit on that in a second—is really educating the community. Right? Half of our cases are predicated on a tip and a lead from somebody in the community or another law enforcement partner seeing something that rises to the level of telling us. And that happens time

and time again. And I would say, the more we do that, the better, right? If we can kick that 50 percent to a 60 or a 70, that is great. And so that is an effort well worth our time.

But also, it is using our resources, especially when you think about the potential issues with encryption and collection on the technical side, how do we get more sources and undercoverers in the right places. You know, very similar to the Michigan plot. How do we get people in the right space that can tell us about a plot that is in the making.

Mr. CLINE. Right. While still going through the appropriate legal procedures, obtaining court orders before sifting through the NSA's collection of communications, things like that, correct?

Ms. SANBORN. Yes, sir.

Mr. CLINE. Ms. Sanborn, Director Wray has stated that the greatest threat we face in the homeland is that posed by loan actors radicalized online who look to attack soft targets. Can you tell me what the FBI is doing to combat this disturbing trend, and are additional tools needed to prevent radicalized individuals from terrorizing our communities?

Ms. SANBORN. Yeah, absolutely. I mean, I think that speaks to the insular nature. It is very hard when somebody can be online in the privacy of their home and sort of come up with whatever their plot might be and actually even mobilize, acquire a weapon, acquire a knife, whatever it happens to be, without any indicators and warnings that they are doing that. So that is a challenge for us.

I think with resources, some of the things we could do better potentially is data analytics. Right? When I was a case agent, the most voluminous data I might come across would be hundreds of pages of telephone records. Our case agents today are faced with petabytes of information that comes from a plethora of avenues, PayPal, Snapchat, WhatsApp. And so we are sifting and trying to sift through an enormous amount of data to look just for exactly the kinds of things that you are talking about.

Mr. CLINE. All right. Thank you.

Mr. Chairman, with that, I yield back.

Mr. CARTWRIGHT. Thank you, Mr. Cline.

The chair recognizes Mr. Case for 5 minutes of questions.

Mr. CASE. Thank you, Mr. Chair.

To the witnesses, this being appropriations, my basic question is, do you think you have the resources you need to do your job, especially as it seems to have become so much more critical, especially in the past couple of months?

And so, Ms. Sanborn, let me just kind of start with you. I think I heard you say during your testimony that you had seen a 260 percent increase in domestic terrorism personnel. I think it was year over year, if I am not mistaken. I am looking at the budget numbers and I think I understand this correctly, that your department, DOJ counterterrorism, started in fiscal year 2019 at \$1.235 billion. Fiscal year 2021, \$1.294 billion for 5 percent over 2 years. That just seems to me to be pretty insufficient given what has happened in the last number of years.

Is that a fair statement? You made the comment earlier that you could always use more resources and, of course, we could always

use more resources. Kind of a difference between, you know, want and critical need. So I am asking for your assessment. Are you asking for a significant increase in terms of your fiscal year 2022 budget?

Ms. SANBORN. So I will let Brad comment after I am done, and I will try to, you know, stay away from the specific appropriation conversations as my role is AD. But just to highlight a few things is, the 260 percent personnel increase that we talked about was just last year alone, and the cases doubled last year, right? So both the effort and cases are increasing.

And what I would just leave you with is, while we are aggressively trying to do that, and I think the surge in our arrest numbers show you we are trying to get ahead of that, that is not really a recipe for a long-term, strategic prevention approach for the FBI. And some of the things that more resources would get us, which we have kind of alluded to already, is better and more data analytics, more task force officers, the ability to create more sources, the ability to pay and have more undercover operations. And so if we had more resources, we would definitely be good stewards of those and use those things in those sort of categories that I put out.

But, Brad, defer to you on a formal sort of appropriation conversation.

Mr. WIEGMANN. Yeah. So as was alluded to in my written testimony, the President's request for fiscal year 2022 discretionary funding, which was released in April, does ask for additional resources to address the surge in domestic terrorism threat. So it is asking for another \$101 million in this area, which would be \$45 million for the FBI for DT-related investigations, \$40 million for U.S. Attorney's Offices to handle the increase in caseload, \$12 million for the Marshals, and \$4 million for National Institute of Justice for additional research.

So that is the amount that the administration will be requesting as an increase over and above, I think, has already been some shifting of resources in the fiscal year 2021 to counter the threat as well, so—

Mr. CASE. Okay. So 10 percent year on year, roughly. Fiscal year 2021 to fiscal year 2022. Okay.

Let me ask you a kind of a broader question. I mean, I am listening to you and also, you know, taking a look at some of the other budgets, such as Department of Homeland Security. One of the major conclusions of the post-9/11 Commission was stovepiping across too many departments throughout government, where there was no coordination, where intelligence was not shared, where there was not any kind of central coordinating body. And we made corrections and perhaps the result has been mixed, but the conclusion was still, I think, anybody would agree, was a valid one.

Is that happening in the area of domestic terrorism? Do you perceive that there is a comparable situation here? We fund to DOJ, we fund to the Department of Homeland Security, we fund a lot of places from this perspective. Does there need to be a better coordination of those resources across departments or agencies of government? Do you feel comfortable in the coordination?

Ms. SANBORN. I will start. It is not necessarily a resource answer per se, but having lived through 9/11 and the Commission Report, I can appreciate where you are coming from with that and having been a detailee to the CIA for 2 years, I am a very huge proponent of partnerships. I believe that as we counter the domestic violent extremist threat, we really take near and dear to us our partnership with DHS as well as the support we get from NCTC and our State and local partners.

I don't think there is silos and stovepipes. There is always room to sort of educate State and local partners of more indicators and warnings, and so I think that is room for, you know, growth for us is to continue those training efforts, but I don't think they are silos or stovepipes. I think the partnerships, when you look at the fact that we have over 2,000 State and local partners on the Joint Terrorism Task Forces across the country, we represent just that, sir.

Mr. CASE. Okay. Thank you. My time is up, so I will defer back. Appreciate it.

Mr. CARTWRIGHT. Thank you, Mr. Case.

The chair recognizes Mr. Trone for 5 minutes of questions.

Mr. TRONE. Thank you, Mr. Chairman.

I want to thank both our witnesses also for your service. Really appreciate it.

During last month's Senate Judiciary hearing on this topic, FBI Director Wray stated, quote: Racially motivated violent extremism, specifically the sort for advocates for the superiority of the White race is persistent, evolving threat. It is the biggest chunk of our racially motivated violent extremism cases for sure, and racially motivated violent extremism is the biggest chunk of our domestic terrorism portfolio, if you will.

So, Ms. Sanborn, we talked a bit today already about the rise of this toxic discourse, this toxic disinformation. And if you could expand more, we could hear more about the role of social media and what social media and even direct media, some of the networks who seem to think this is a good thing in radicalizing and recruiting individuals who are receptive to this extremist messaging.

Ms. SANBORN. Yeah. I think we talked about it a little bit, but, obviously, social media has increased, not only the speed, but the ability to disseminate and the accessibility of all kinds of violent extremist rhetoric, both international and domestic. I am, again, very happy with the amount of cooperation that we get with the social media companies. We spend a lot of time. There is always, of course, room for growth on that, but as I mentioned, sort of educating them on what the threats are that we face allows them to be very thoughtful and mindful as they think about their terms of use. And I think that is a great sign and definitely a move forward.

Mr. TRONE. What do you think, though, about some of our networks that actually have an opinion? It is no longer the news. It is instead their position and what they think the news means and are pushing people to the left or pushing people to the right. Do you think that serves as sort of a backdrop, a supporting mechanism to ferment these radicalized behaviors? Because a lot of information we are hearing on respected networks is clearly disinformation.

Ms. SANBORN. Yes. I think that is an interesting topic. I don't really think I know enough specifically to have an opinion one way or the other, but I do think, you know, we talked about this a little bit briefly, but we really take to heart our dual-headed mission of protecting an individual's First Amendment rights, as much as it is our right to protect the American people. And so we are very cognizant of trying to walk the line of really focusing on the violence and the intent and not focusing on necessarily the ideology or the even assembly with like-minded individuals. We look really closely at trying to find that individual that is about ready to break Federal law.

Mr. TRONE. Thank you. How has the migration of the violent extremists to the frenzy's encrypted platforms impacted your ability amongst individuals in groups who share this ideology? And talk more about what challenges it is creating, these encrypted platforms, for law enforcement's ability to detect domestic terrorist threats.

Ms. SANBORN. Yeah. I think encrypted communications definitely present a great challenge for us and will continue to do so as we go into the future. And while it is not a domestic violent extremist example, I think the best example I could throw out for you of that challenge is the attack in Pensacola, right? Like, that individual was talking with al-Qaida up until the night before, and we were unable to get that information as quickly as, you know, the citizens of this country should expect. And so encrypted communications and the inability with lawful process to get those is probably one of the most significant challenges we face into the future.

Mr. TRONE. Quickly, we are almost out of time, Mr. Wiegmann, what can Congress do to properly ensure that the resources we allocate to protect our national security while also ensuring these resources are not later used to target the very communities that are the most vulnerable that are perhaps the most overly surveilled already?

Mr. WIEGMANN. Well, as Ms. Sanborn just explained, we have strict rules about when we can initiate an investigation. We have the attorney general domestic operations guidelines. FBI has implementing guidelines as well that are about a phone book about a thick set of rules that FBI strictly follows in terms of when they can initiate any investigative activity, what the standards are. It is detailed both for online activity and for operational activity. And I know that is something that the FBI takes very seriously, and that would be for minority groups, majority groups, religion, race, any of those sensitive categories. We are super careful about how we conduct these investigations and making sure that we comply with the constraints that don't have a chilling effect on First Amendment protected speech.

Mr. TRONE. Thank you. I yield back.

Mr. CARTWRIGHT. Thank you, Mr. Trone.

We begin our next round of questioning. And I want to pick up from where Mr. Trone left off. Christopher Wray did talk about the rise of a right-wing violent extremism, and this is what he said in addition to what Mr. Trone quoted: "So when it comes to racially motivated violent extremism, that number, again, number of investigations and number of arrests has grown significantly on my

watch. And the number of arrests, for example, of racially motivated violent extremists who are what you would categorize as White supremacists last year was almost triple the number it was in my first year as director.”

And, Ms. Sanborn, is that a trend you have been seeing?

Ms. SANBORN. Yes, sir.

Mr. CARTWRIGHT. Okay. And so I guess the question is, can either of you identify which domestic violent extremist categories should receive the closest attention with some context as to how we should gauge their significance, and can you also explain the basis for identifying the categories you have identified as deserving the most attention?

Ms. SANBORN. Yes, sir. Thank you for the question. This is a process I am fairly passionate about, but we go through a process every year to look at all of the threats that we face going into the next year, and we really think about, you know, what is the risk there and how can we mitigate the risk. And as we went through that process this year and, actually, it first started a couple years ago with the Director, we definitely see racially or ethnically motivated violent extremists, the highest domestic threat we face on par with ISIS in what we refer to as the homegrown violent extremists.

That being said, that process has also shown us that antigovernment/antiauthority is something we should pay attention to as it was right below those other top priority threats.

Mr. CARTWRIGHT. All right. The next question is, estimating the number of persons who might be involved with, support, or be sympathetic to domestic violent extremism objectives is certainly a difficult task given the need to protect civil liberties and acknowledging the problem of lone actors as we have touched on before. So for either witness, while you may not be able to provide any form of estimate of the number of persons who may be considered engaged in DVE-related activity, could you say whether the FBI carries out such analysis? And if so, if more detail might be provided to the committee in a secure setting?

Ms. SANBORN. Yes, sir. I think what you are asking is how do we find sort of the unknowns, right? And I think we do that two different ways. We are constantly, again, using community outreach, as well as our State and local partners for some referrals. But we also use our already predicated investigations. Right? The same sort of network analysis that we would have done back in the day with gang and drug cases, we have, you know, continued applying those same tools in our toolbox to terrorism cases, and that includes domestic violent extremism. And so sort of target discovery of what that unknown threat might be from an individual is something that we dedicate a significant amount of our resources to.

Mr. CARTWRIGHT. Now, this question is for you, Mr. Wiegmann, and it is one suggested by our colleague Congresswoman Brenda Lawrence of Michigan, who could not be with us. She is in transit right now, but she is interested in this, and I am too.

In the criminal code and the sentencing guidelines, is the involvement of domestic violent extremism, is that taken into ac-

count? Is that an aggravating factor as far as sentencing? Walk us through that, if you will, Mr. Wiegmann.

Mr. WIEGMANN. Yes, it is, absolutely. In the U.S. Code, in 18 U.S.C. 2332E(g)(5) defines what is considered a Federal crime of terrorism, that could be domestic or international. And if it qualifies as a Federal crime of terrorism under the sentencing guidelines, you get a significant sentencing enhancement for offenses that involve a Federal crime of terrorism, which can often increase the guideline's range for that conduct to the statutory maximum.

There is also an upward departure for other offenses that could be calculated to influence or affect the conduct of government by intimidation or coercion. So, absolutely, there is provision in the sentencing guidelines and the U.S. Code for sentencing enhancement for terrorism matters.

Mr. CARTWRIGHT. Thank you. My time's up.

And I am going to yield the floor to our ranking member, Mr. Aderholt, for 5 minutes.

Mr. ADERHOLT. Thank you. Thank you, Mr. Chairman.

I will direct to Ms. Sanborn. All forms of domestic terrorism must be condemned, and I think we all agree with that, and no one should tolerate agitators or extremists who plan to commit violence.

Does the FBI designate any domestic terrorist groups by name?

Ms. SANBORN. No, sir, the FBI is not a part of any domestic terrorism designation process. In my understanding, one does not exist for the United States.

Mr. ADERHOLT. Do you believe that the mental health impacts related to COVID-19 isolation have contributed to domestic—the growth that we have seen in domestic terrorism?

Ms. SANBORN. I don't have any specific data related to COVID-19, but we definitely—this is something we work very closely with our State and local partners is just the mental health in general across the country and the effects of that potentially on individuals and the potential risks that could put somebody at to conduct acts of violence.

Mr. ADERHOLT. And I will address this to either one of you. In the United States, of course, we depend on law enforcement to focus on actions and not thoughts. What challenges does it present as the Justice Department works to conduct threat assessments related to violent extremism when, again, we focus on actions and we don't on thoughts?

Ms. SANBORN. I will start, and, Brad, if you want to chime in. I think it definitely poses kind of a big challenge for us, and I would say primarily the reason is, is because the amount of just sort of rhetoric out there in general and that rhetoric could be hateful. And so looking specifically for maybe that one sliver of, this is an individual who is planning or plotting something is definitely a challenge because of the amount of data out there and being cognizant of individual's rights.

Mr. ADERHOLT. Let me follow up on that. Given your extensive experience in counterterrorism operations over the years, what strategies do you think can be employed to prevent domestic terror without violating the actual privacy rights of Americans citizens?

Ms. SANBORN. Thank you for that question. I think, again, really our see something, say something, right? Like, community members, employers, parents, et cetera. We have found that almost every single time—we call it the bystander phenomena—almost every single time somebody engages in an attack, when we go back and we interview family members and friends, they say, yes, I started to notice something. Something was just starting to change with this individual or not right.

And so educating people and getting them to warn not only allows for potential prevention, but potentially allows us to get that person, if it is a mental health issue, right, help instead of them being jailed later on.

So I definitely think the community and awareness in teaching them is our strongest tool.

Mr. ADERHOLT. Thank you. Sometimes politicians will, in my opinion, inaccurately claim that President Trump called White supremacists “fine people”, and that can provoke heated reactions. For either witness, do you believe that efforts to combat disinformation can help to counteract the growth of domestic terrorism?

Ms. SANBORN. I don’t really have—I don’t know a background or enough information to comment on like specific disinformation avenues.

Mr. WIEGMANN. I would just add, yeah, I do think that disinformation is something that we are concerned about in the administration; in other words, I think conspiracy theories and so forth are things that can contribute to a culture of violence in general. It is a difficult problem, but it is something that, I think, that we want to wrestle with. In other words, domestic terrorism or other types of violence just with the prevalence of social media and so forth, it is something that is—that we need to be concerned about.

Mr. ADERHOLT. What other strategies do you think can be implemented to deter domestic terrorism in this political climate that we live in that is very divided right now? Any thoughts on that?

Ms. SANBORN. I mean, Brad, I will let you chime in too, but I think, you know, people getting held accountable for their actions is a deterrent and, you know, the great partnership we have with our prosecutors in holding people accountable, I think, can be a great deterrent for the future.

Mr. WIEGMANN. So I agree with that. And then I would also just say on the other side of it is identifying people when people do what Jill said and identify someone who they think is headed down a path towards violence, we have worked on violence prevention programs with local communities where we can try to work to turn people away from violence, as Jill explained earlier, can be idiosyncratic. They may have personal grievances mixed up with kind of conspiracy theories they see online, mixed up with other problems they may be having. And if we can have interventions with those individuals, if they can be flagged to us, then there may be other ways, even apart from the criminal justice system, that they can be turned away from violence.

And those are things that we work on, that DHS has funding to pursue. It is really important at the local level, it is not something

that we have law enforcement take the lead on, but it is something that we could try to facilitate with local communities and social services, things like that. So I just wanted to mention that as another piece of it that I think both the last administration and this administration have both been focused on.

Mr. ADERHOLT. Thank you. Thank you, Mr. Chairman. I see my time is expired.

Mr. CARTWRIGHT. Thank you, Mr. Aderholt.

Mr. Case, you are recognized for 5 minutes.

Mr. CASE. Thank you.

Ms. Sanborn, I will start here. And following up a little bit on our prior discussion about coordination, and I appreciate that you mentioned State and local partners because that is kind of where I was going next. We, of course, fund many of these programs. We have got, you know, State Homeland Security grants, we have got Urban Area Security Initiatives, and then Byrne JAG program. And actually, if we add all of those grant members up, it actually exceeds the Justice's counterterrorism budget. Of course, those are not all directed to domestic terrorism; they are across the spectrum of law enforcement.

But my question is a very general one. I just would like you to expand on how those programs are going with your State and local law enforcement partners? And how are they morphing, I guess I would ask you, as you are own responsibilities ramp up and our collective concerns ramp up? Are those programs—you know, do they have enough flexibility in them to adjust to the exigencies of the times?

Ms. SANBORN. Yes, sir, I think they do, and I think those programs are going well. We benefit greatly from the Department of Homeland Security's fusion centers. One of the ones that I have personal experience with and I can tell you the partnership—thanks to the partnership with them has often predicated a lot of cases for us. There is one out of Orange County, California. So we benefit greatly from the funding of those fusion centers and the relationship that we, the FBI, have with them.

Also, there is lots of instances that I could tell you about where, thanks to the work of our State and local partners, and say they are on the heels of a search warrant in somebody's home, they notice something that alerts them to potentially a domestic violent extremist ideology might be present there and we benefit from the referrals of those. So teaching them what to look for in that partnership has continued to pay off as well.

Mr. CASE. Is that teaching, is that part of those grant programs? I mean, we provide that money to them to partner with you, but where do they actually get that? Where is the actual interaction going on from a teaching perspective, that sensitization, I guess I would say, perspective? Because I would assume that throughout the country, with thousands and thousands of probably agencies out there at the State and local level, that there are—there are some that are just very good at recognizing the signs that are reporting back and some that are perhaps a little bit more removed from Washington, D.C. in that way. How do you actually get that education across?

Ms. SANBORN. Yeah. That is a great question. And so anything we do on their behalf is definitely coming out of our funding. So that would be something that we would fund sort of a teaching them the different things that we want them to pay attention to, but it also comes from the day-to-day interaction with them on the JTTF, and that, again, is something we would fund would be their spot on the Joint Terrorism Task Force. And so they get both formal training from us. They participate in JTTF executive board meetings that happen, at minimum, quarterly and oftentimes monthly. And then their day-to-day presence on the JTTF is also almost like on-the-job training as they work hand-in-hand with us.

Mr. CASE. Going back to kind of the middle part of my question. I assume you are saying that, yes, they are in their current construct flexible enough to adjust to what you believe you need from your State and local law enforcement partners right now?

Ms. SANBORN. I believe so, sir. And, you know, as I mentioned earlier, that is one area that we would potentially grow, you know, with our increase in potential resources would be to add task force officers, more training, et cetera.

Mr. CASE. Okay. Mr. Wiegmann, anything to add in my remaining time?

Mr. WIEGMANN. No, sir.

Mr. CASE. Okay. And then I will just take a little bit more time then and ask you kind of the same general question about your ATAC, Anti-Terrorism Advisory Councils, with the U.S. attorneys. Ms. Sanborn, set up, operating well. I think you would agree part of your front lines as well?

Mr. WIEGMANN. Yeah, they are all on the front lines and they work very closely—

Mr. CASE. I am sorry. I am sorry. I got the wrong person to ask the question of. Go ahead.

Mr. WIEGMANN. Yes. They work—we think they work pretty well. We want to make sure that—I mean, historically they focus on international terrorism and domestic terrorism, but we want to re-emphasize [inaudible] The domestic terrorist threat and they are doing that. They work very closely with the JTTF that Jill has already described. So we think they are functioning effectively, but we are doubling down just in light of the current threat environment to increase the training to make sure we are doing everything possible with our different U.S. attorney's offices to make sure they have the tools they need and the people, the personnel, and the training to make sure they are on top of this.

Mr. CASE. That is part of your 10 percent budget increase request also?

Mr. WIEGMANN. It would be, and the U.S. attorney's offices they would plus up in that area.

Mr. CASE. Okay. Thank you very much.

Mr. CARTWRIGHT. Thank you, Mr. Case.

Mr. Cline, you are recognized for 5 minutes.

Mr. CLINE. Thank you, Mr. Chairman.

I want to circle back to Mr. Wiegmann's answer to a question. I was having some technical difficulty from a remote location.

Mr. Wiegmann, the mission of the National Security Division is to protect the United States from threats to our national security

by pursuing justice through law. And you mentioned your position on proposals to codify a domestic terrorism charge in the criminal code.

Can you reiterate your position on that, whether you think that is necessary, and what sections of the code are already in use to combat domestic terrorism?

Mr. WIEGMANN. Yes. So thanks for that question. That is something that we are thinking about as we are looking at all of our tools to see, in light of a threat environment, are we doing everything we can to counter the threat. So one of the things we are looking at is would we need new authorities.

We think we have been pretty successful using the authorities that we have already. And just to mention the different statutes that we have used in this area, we have, you know, weapons charges, charges related to explosives, threat, riot, hoax charges, attacks on Federal officials and facilities, hate crimes when that is available, arson. There is a long laundry list of charges that really depend on the facts of the case that we use.

And so the question we are really wrestling with is, are there gaps? Is there some type of conduct that we can envision that we can't cover or would there be a benefit, otherwise benefit in having something else, other than what we are having now.

We haven't reached any conclusions on that. It is something that we are thinking about. And if we do come up with something, well, obviously, we will work with this committee and others in Congress towards that, but we haven't identified anything yet that would be a need for legislation, but it is something that we are actively considering.

Mr. CLINE. Okay. Thank you. I would ask that you keep in touch with members on both sides of the aisle on this committee and on the Judiciary Committee if you are working towards that end.

Mr. WIEGMANN. Absolutely.

Mr. CLINE. Thank you.

Mr. Chairman, that was my remaining question, and I yield back.

Mr. CARTWRIGHT. Thank you, Mr. Cline.

Mr. Garcia, you are recognized for 5 minutes.

Mr. GARCIA. Thank you, Mr. Chairman.

I just wanted to follow up on our previous conversation. We defined domestic terrorism. We talked about some of the cases—or some of the situations around the Nation and our metropolitan areas as well as January 6. You ended with, Mr. Wiegmann, that domestic terrorism itself is not an applicable or available charge. That is a correct statement, right? I just want to make sure that I captured that last statement correctly.

Mr. WIEGMANN. That is correct. There is no domestic terrorism offense as such.

Mr. GARCIA. With the Federal code, it does provide the enhancements, one of which you talked about which is maximizing the statutory—enhancing the statutory maximums for offenses involving or intended to facilitate domestic or international terrorism. But it also defines other expanded investigative tools beyond just the sentencing enhancements, to include the search warrants, expediting search warrants and investigations, reducing delays, allowing

judges to grant orders giving investigators greater access to certain educational and taxpayer records and domestic and international terrorism. There is a few other things. The statutory maximums probably being the most important piece of that.

I guess to follow up on the questions that I had relative to really any of the events over the last call it year and a half, are you seeing the application of any of these enhancement tools to either the events on—well, let's start with the events on January 6. Are the enhancement tools available as defined under this domestic terrorism clause being applied at all to folks who were arrested or investigated during January 6 events?

Mr. WIEGMANN. So those are ongoing cases. I don't think we have gotten any cases that have gotten to that stage yet in terms of sentencing, so I don't think we will be in a position yet to—

Mr. GARCIA. But there is tools that are presentencing, right? There is the application of search warrants in cases involving domestic terrorism. Outside of their districts, judges can now authorize search warrants, expedited search warrants. Judges may grant orders giving investigators a greater access to certain educational and taxpayer records. Have any of those tools presentencing been applied for the events of January 6?

Mr. WIEGMANN. It is a good question. I don't know the answer. My expectation would be some of them would. I know that some people, for example, have been held in a pretrial detention and that we have invoked that provision that is a presumption for pretrial detention in those cases. I don't know if Ms. Sanborn has any more specific information about that. Ask her.

Mr. GARCIA. Ms. Sanborn?

Ms. SANBORN. Nothing to add to it, Brad.

Mr. GARCIA. Have any of these enhancement tools been applied either in the presentencing or sentencing stage, which I am assuming we are there now, for riots in cities like Portland, Seattle, or Minneapolis?

Mr. WIEGMANN. So it is a good question, Congressman. I just don't know the answer. I can get back to you.

Mr. GARCIA. I think it is really important to understand that. I mean, if we are talking about how prolific and expanded domestic terrorism is and DVE is becoming more prolific, I think it is very important, especially with these agencies, to understand where we are applying these enhancements as defined under the code as you have outlined and really understand not only where they are being used, but the effectivity of their use so that we can communicate to our constituents what the government is doing to protect them. I think that is very important.

Has anyone—and I understand that domestic terrorism itself is not an applicable charge, but is terrorism being charged in any of the events around January 6?

Mr. WIEGMANN. No. There is no terrorism—there is no really—there are charges related to international terrorism. Those obviously would not be applicable to January 6, but there is no terrorism charge per se that is being used for the Capitol.

Mr. GARCIA. There is a Federal crime of terrorism, right? It is not just international terrorism. The crime is terrorism, correct?

Mr. WIEGMANN. The one that I think of the most is 2339B, which is material support to terrorism. That is to a designated foreign terrorist organization, so that is only for international. There is also terrorism that transcends national boundaries. That is an international terrorism charge. So we have some things in the international terrorism area that are closer to what you would call a terrorism offense that we don't have on the domestic side.

Mr. GARCIA. I am out of time. I would love to get your input on whether there should be a discrete charge for domestic terrorism under these statutes, but we can defer that for later conversations.

I yield back.

Mr. CARTWRIGHT. Thank you, Mr. Garcia.

And you will get that chance in a third round. We are going to go to a third round, since there are only four of us remaining.

I want to pick up with our witnesses on something Mr. Case was talking about, coordination among agencies in the fight against terrorism of any strife.

Data on domestic terrorism, unlike that of international terrorism, is not maintained in any single repository. It certainly doesn't pop up easily on an internet search. FBI, NSD, ATF, and BJS all keep different data, some only accessible through Freedom of Information Act requests. And there are also multiple private databases such as TRAC, T-R-A-C, at Syracuse, and START at the University of Maryland.

This alphabet soup of information may keep researchers employed, but it is not easy to sift through. So, Mr. Wiegmann, here is the question: Does NSD routinely track prosecutions and convictions related to domestic terrorism and DVEs? And if not, please explain.

Mr. WIEGMANN. Yes. So here is the challenge. You are absolutely right, it can be confusing on the data tracking, at least on the prosecution side. And the reason for that is—there are a few reasons for that. Until very recently, the Department's process for tracking these cases was totally decentralized. In other words, you can have U.S. attorney's office around the country bringing cases, as I mentioned earlier. If there is none, a domestic terrorism charge. So it could just be a weapons charge, or could be a threat charge, could be arson. You don't know what the charge might be. And there wasn't a centralized mechanism for overseeing all of those cases.

Also within Main Justice, you have the Civil Rights Division, you have even a Tax Division because some terrorists refuse to pay taxes, antigovernment people. You have the National Security Division. So even within Main Justice, you had different divisions. So, recently, we have taken steps to address that situation, because that made data collection for DOJ on prosecutions very challenging in a way that it wasn't on the international side. So we just recently issued guidance, and I talked about this a little bit in my written testimony, to the field which is creating a new mechanism whereby they are going to have to report to the National Security Division, the counterterrorism section, any case that is designated as DVE related.

It creates standards for setting a case as DVE related, and so we are going to have a more centralized mechanism that will help us

track data going forward. That is a new change. It just was instituted last month, but we are taking steps in that direction.

Mr. CARTWRIGHT. I would think that is particularly important, and please pass it up the chain, if more resources are needed to get that done, we want to know about it.

And, by the way, to both of our witnesses, you have received requests from members of our subcommittee, I think, notably Mr. Cline and Mr. Garcia, for more information. And I would consider it the right thing to do on behalf of the entire subcommittee. Please cooperate with them and give them what they need.

Now, Ms. Sanborn, I want to note, the fiscal year 2021 appropriation requires the FBI report not later than 180 days after enactment of the act on, quote, the number of incidents in fiscal years 2016 through 2020 that required surveillance, investigation, and prosecution of White supremacists' activity or racially motivated violent extremism associated with White supremacists' ideology, and include, if available, incidents in which the FBI deferred to State or local authorities, unquote.

Is the Bureau on track to provide that report?

Ms. SANBORN. Sir, I am not tracking the specific report that you are referencing, so I will look into that, but I am aware of the report that we are in the process of publishing under the NDAA, which I think will feed into exactly what you started your questioning with, which is sort of a holistic view of the domestic violent extremist threat.

Mr. CARTWRIGHT. Let's follow up on that. And to the extent statistics on DVE incidents could be shared in more transparent, if sanitize or aggregate form to Congress and the public, is that something that the FBI would support, Ms. Sanborn?

Ms. SANBORN. Sir, yes, I think that is exactly what the product under the NDAA will provide. Historically, I think that has been classified. And what the NDAA report that is in the works and it is getting coordinated on now is at the unclassified level so that it is shareable with you all and the communities.

Mr. CARTWRIGHT. Thank you.

I yield to our ranking member, Mr. Aderholt.

Mr. ADERHOLT. Thank you, Mr. Chairman.

In his testimony before the United States Senate, Director Wray depicted the group that came into the Capitol on January the 6, the protesters, as an inverted pyramid, with peaceful protesters compromising the largest numbers of those that were involved. The next level were people who attended the protest and were swept up in the momentum of the day, mostly engaging in low-level trespassing. And finally, the third group was the most threatening, and those were those that breached the grounds of the Capitol and engaged in acts of actual violence.

And I would ask this question to either one of you. Among those who protested at the Capitol on January 6, how many or what percentage do you estimate were actual domestic violent extremists?

Ms. SANBORN. Sir, so we wouldn't necessarily have any collection on just those individuals who were exercising their First Amendment right to protest. Really, what we focused on in that inverted pyramid as was described by the Director is that smaller bucket that showed up intent on conducting harm, and those would be the

individuals who assaulted Federal officers, breached the building, and got inside. And of those cases, there definitely are some of those individuals that we look at as domestic violent extremists. Can't comment on any specific particulars because those are still ongoing, but that smaller tip of the pyramid, again, is what we focused on, and some of those individuals definitely fall in the domestic violent extremist category.

Mr. ADERHOLT. And would you distinguish those from perhaps what the Director said was low-level trespassing?

Ms. SANBORN. Yes, sir. We do just have some cases on individuals who made it into the Capitol that maybe potentially weren't involved in the actual breach and/or the assault on Federal officers. And the evidence we presented to the United States Attorney likely would just result in trespassing charges.

Mr. ADERHOLT. As far as the people that has actually been charged in connection with the January 6, with the militant and domestic terrorism networks, what will be your guess or do you know how many people have actually been charged?

Mr. WIEGMANN. There is over 430 people who have been charged total, and that number keeps changing, so that will keep going up, if that was your question.

Mr. ADERHOLT. Yes, sir. Yes, thank you.

Do you believe that the prolonged security measures that we currently have at the U.S. Capitol have been appropriate to prevent domestic terror threats?

Ms. SANBORN. I will start and, Brad, you can comment. I don't have any specifics on, you know, the actual mechanisms in place. I would just say to you one phenomena that we have at least seen in the international terrorism side is, we do know that our adversaries in the terrorism space pay attention to hardened and soft targets. And so having the appearance of it being a hardened target is always a potential deterrent. So we have at least seen them pay attention to that and comment on soft versus hard targets, and so I would imagine that that is true for all of our adversaries.

Mr. ADERHOLT. Okay.

Mr. WIEGMANN. I would just defer to the security experts on that.

Mr. ADERHOLT. And then lastly, what are some examples or incidences where the FBI have identified acts of Antifa violence or people subscribing to Antifa in recent months or years? And how successful has the Justice Department been in prosecuting members of the Antifa extremist violent groups?

Ms. SANBORN. I will start with just highlighting that, you know, Antifa definitely is a real thing and it actually falls into our antigovernment/antiauthority overarching bucket and specifically anarchist violent extremists. We definitely have cases on individuals who self-identify with Antifa.

Thinking back on my last year as the AD of CTD, I can only think of one individual in particular who would have self-identified with Antifa, who then went on to conduct a violent act, and that would be the individual in Portland, Mr. Reinoehl, when he shot Aaron Danielson.

Mr. ADERHOLT. Mr. Wiegmann, you have anything to add?

Mr. WIEGMANN. There have been cases that we have brought against, as Ms. Sanborn mentioned, in the category of anarchist extremists, which is what Antifa falls into that bucket. Whether we have any individual case where the person self-identified as Antifa, I am not sure. We do have some cases against anarchists. We have the case that Ms. Sanborn mentioned where the individual was killed before he was able to be apprehended, where that person, I think, did self-identify as Antifa. And then, obviously, the absence of an indication on the charging document whether someone self-identifies with Antifa is not necessarily an indication that there aren't any cases because that is true in a lot of our cases. You don't necessarily have a specific group or ideology that someone has identified with. You think they have been associated with a riot or other behavior, but you just may not have that based on the charges or may not be necessary for the case.

So I am sorry. It is a little bit complicated to your question, but we are not necessarily going to know because the people may not always announce themselves as to what group they are affiliated with and so forth. But we do have a number of cases that we would put in the anarchists bucket, that is, this is the bucket that Antifa and people associated with the Antifa movement would fall into.

Mr. ADERHOLT. Thank you. Thank you, Mr. Chairman.

Mr. CARTWRIGHT. Thank you Mr. Aderholt.

Mr. Case, you are recognized for 5 minutes.

Mr. CASE. Thank you.

And before I ask my question, I just want to say that I personally appreciate your testimony and your service. I think it is a very hard time to get this right, and I appreciate your realistic assessment of where we are and what we need to do.

Let me talk a little bit about our military, because one of the unfortunate and tragic, in many cases, realities we have had to face is extremism within our armed services. And the FBI, of course, has reviewed this and reported to our Armed Services Committees on the subject about last June I think it was. And I am interested in following up on that and understanding the broader picture of what coordinated activities are taking—well, I guess I would ask you two questions.

Is the primary perceived threat more a matter of individual action by folks enlisting or gaining entry to our military who are predisposed perhaps to violence, as we have seen in some cases, or is there a realistic threat of kind of a more organized attempt to get into our military from a terrorism perspective that would, you know, give rise to a broader set of concerns? And what is the coordination going on, I suppose, between the FBI or Justice overall and our military? How is that issue being addressed right now? What is its status and where is it going?

Ms. SANBORN. Thank you for the question. And I understand the importance of it, obviously, because those are individuals that are in positions of trust and we—while we certainly have domestic violent extremist cases on individuals that are associated with the military and law enforcement, that number is actually relatively small, and it is primarily on individuals that are formers, not currents. And so that is one thing I would note.

I would also note that we don't necessarily see sort of a concerted organized effort, and we also don't necessarily know whether an individual, say, seeks out military or law enforcement because of an ideology or whether they are in the military and law enforcement and some sort of violent extremist ideology comes later. But, like I said, we have seen some instances of that. It is fairly small.

What I can tell you that is a very positive is, we have a great relationship with the U.S. military. They actually sit on the National Joint Terrorism Task Force, the most sits out there at Liberty Crossings with us. And so we often get not only referrals from them, but work those cases closely, and actually they take this very seriously and I think had a stand-down day where we actually then did an employee all hands for them and we talked to their workforce about violent extremism.

Mr. CASE. What about the basics of just advance, advance joining the military or, for that matter, after people are in the military, you know, data collection to identify potential risks, just as you are doing in the general population, using, you know, the early warning systems that you have in place through State and local partners.

Is that coordinated with the military so that they have the information they need to make basic decisions about whether to, you know, enlist or otherwise admit people to the Armed Services?

Ms. SANBORN. Yes, sir. I think the process that I highlighted for you of the relationship once the individual is in the military is very mature and robust. I think you definitely have highlighted something that we are working on, which is a closer relationship with them in sort of the application process because if somebody ends up washing out for some reason, how do we potentially have a relationship with them where that could be a potential referral to us. And so that is something months ago we started working on them with and something we hope to keep continuing and perfecting.

Mr. CASE. Do they routinely consult with you on enlistments from the perspective of, you know, cross-coordinating between their information sources and your information sources?

Ms. SANBORN. No, sir, not that I am aware of. Like I said, we both have had conversations with, you know, how to have a process and improve on that process. Again, not mature yet, but at this point, that is one area I think we can continue to work closer with them on and try to make it as effective as the process of the individual that is already in service.

Mr. CASE. Okay. Mr. Wiegmann, anything to add?

Mr. WIEGMANN. No, sir.

Mr. CASE. Okay. Thank you very much. I yield back.

Mr. CARTWRIGHT. Thank you, Mr. Case.

And, Mr. Garcia, we recognize you for the last 5 minutes of questions. Make them good ones.

Mr. GARCIA. Thank you, Mr. Chairman. I will do my best.

Ms. Sanborn, you mentioned something a few minutes ago where you said—I think I have got it written down—that there has only been one member who has self-identified as Antifa that went on to commit violent acts that you are aware of. I think you cited, I think it was Mr. Michael Reinoehl, who killed Aaron Danielson, as the example of that.

Is what I just stated what you meant to say? Really only one person who has self-identified as Antifa went on to commit violent acts?

Ms. SANBORN. Yes, sir. Thank you for the question, because it does afford some clarification.

So, of our predicated subjects, so of people that are on our radar screen, in my last 1 year as the Assistant Director, I cannot think—it doesn't mean that there is not one there I can't remember, but I can only think of one subject that self-identified with Antifa as part of our anarchist violent extremist cases that went on to conduct a violent act, and that would be Mr. Reinoehl.

So it is very possible that other self-identifying Antifa individuals might have done something that just are not an FBI predicated case or not on our radar.

Mr. GARCIA. Thank you for that clarification. I would submit there have been dozens if not hundreds of self-identified Antifa members who have, maybe not killed someone or committed murder, but have been looting, violently confronting law enforcement around our Nation in various cities, have started fires, torn down businesses, et cetera.

So I just want to make sure that we are not—while we are putting a spotlight on what you all have called the far right domestic violence that we are not also forgetting those from the far left and, frankly, everyone in between. This is a problem that is full spectrum and deserves to be treated as such.

Thank you for that clarification.

Mr. Wiegmann, I want to go back to the last question, my fade-away shot from the last round there, if you will. Do you think that having a discrete charge for domestic terrorism is warranted? And, if so, why? If not, why not?

Mr. WIEGMANN. As I mentioned in response to one of the other questions, that is something that we are actually considering. Our overall position is we think we have been pretty successful with the authorities we have already. We have a lot of criminal statutes in our toolkit that we have talked about today that we use.

We have been pretty successful. We haven't identified a lot of cases where we can't charge someone based on a lack of authority. But we are looking at it to see whether we think an additional charge would be useful. And if we come up with something, then we would obviously work with the Congress on that proposal.

Mr. GARCIA. I am keenly interested. As Chairman Cartwright mentioned, I do want to see the data behind the enhancement tools, whether they have been applied, the success of those applications in presentencing and during the sentencing phase.

I think, you know, these words matter. The statutes matter. The enhancements matter. And having that closed feedback loop on the effects of these enhancements and these tools that are being made available is very important and that it is not just being used as a political tool or to weaponize something against a certain demographic. So really interested.

Just to be clear, the ask is, if we can, especially, you know, let's bound it with an 18-month scope here, places where these enhancement tools, not the charges but just the tools that come with the enhanced capabilities have been applied in any of the riots

throughout our Nation but also in addition to the events on January 6th.

And, obviously, if there are any charges that have gotten through the sentencing phase, if there has been any application of the enhanced statutory maximums being applied to those charges as a result of having a flavor of domestic terrorism, that specifically is the information.

I am not asking you to boil the ocean or give us every charge that is currently being, you know, looked at that may have these enhancements, but just the riots within our cities related to the various movements as well as January 6th, if that makes sense.

Mr. WIEGMANN. We will see what kind of information we can generate for you, sir.

Mr. GARCIA. Thank you, sir.

I yield back, Mr. Chairman.

Mr. CARTWRIGHT. Thank you, Mr. Garcia.

And to our witnesses, Executive Assistant Director Sanborn and Deputy Assistant Attorney General Wiegmann, thank you for appearing today for questioning. It is a particular pleasure for Members of Congress to be able to interrogate FBI agents and Federal prosecutors, but we appreciate your answers. I appreciate your willingness to further engage with our members to satisfy their concerns.

And, with that, this hearing is hereby adjourned.

[CLERKS NOTE: The Department of Justice did not respond to additional questions for the record in time for publication.]



TUESDAY, MAY 4, 2021.

**FISCAL YEAR 2022 BUDGET REQUEST FOR THE  
DEPARTMENT OF JUSTICE**

**WITNESS**

**HON. MERRICK B. GARLAND, ATTORNEY GENERAL OF THE UNITED STATES**

Mr. CARTWRIGHT. Let us gavel in and begin.

As this hearing is fully virtual, we have to address a few house-keeping matters.

For today's meeting, the chair or staff designated by the chair may mute participants' microphones when they are not under recognition for the purposes of eliminating inadvertent background noise.

Members are responsible for muting and unmuting themselves. If I notice that you have not unmuted yourself, I may ask you if you would like the staff to unmute you. If you indicate approval by nodding, staff will go ahead and unmute your microphone.

I remind all members and witnesses that the 5-minute clock still applies. If there is a technology issue, we will move to the next member until the issue is resolved and you will retain the balance of your time.

You will notice a clock on your screen that will show how much time is remaining. At 1 minute remaining, the clock will turn to yellow. At 30 seconds remaining, I will gently tap the gavel to remind members that their time has almost expired. When your time has expired, the clock will turn red and I will begin to recognize the next member.

In terms of the speaking order, we will begin with the chair and ranking member. Then, members present at the time the hearing is called to order will be recognized in order of seniority. And, finally, members not present at the time the hearing is called to order will be recognized.

Finally, House rules require me to remind you that we have set up an email address to which members can send anything they wish to submit in writing at any of our hearings or markups. That email address has been provided in advance to your staff.

The subcommittee will come to order. Good morning. We meet today to review the President's fiscal year 2022 budget request for the Department of Justice.

I am pleased to welcome our new Attorney General, Merrick Garland, for his first appearance before this subcommittee. Our Attorney General has a distinguished career in public service. With an enviable academic record and an impressive trajectory in private practice, he chose to take up the mantle of Federal prosecutor.

In the course of that work, he led the investigation and prosecution of the Oklahoma City bombing case and supervised major cases, such as the Unabomber case, before joining the second-highest court in our Nation, the United States Court of Appeals for the District of Columbia. He served there with great distinction for 24 years, 7 as chief judge, where his reputation as an influential and formidable jurist was widely acknowledged.

The Department of Justice mission encompasses the whole range of public and civic life, protecting the fundamental freedoms to vote, express ourselves, worship, study, and work without fear. Above all, the Department of Justice ensures the rule of law is followed under our Constitution.

As a result, the Attorney General, through the Department, exercises many broad functions, including leading the domestic Federal response to terrorism and foreign threats; employing expansive criminal and civil investigative enforcement and regulatory responsibilities; serving as a watchdog for civil and human rights; playing a key role in our immigration system, determining benefits and citizenship; leading national efforts against trafficking in human beings, illicit drugs, and firearms; operating detention and correction programs responsible for hundreds of thousands of people who are awaiting trial or serving Federal sentences; and, through its grants and related service programs, improving access to and administration of justice at State, local, and Tribal levels.

To carry out the Department's many missions, the so-called skinny budget that the Office of Management and Budget provided Congress on April 9 proposes a funding level of \$35.2 billion in fiscal year 2022, a \$1.8 billion or 5.3 percent increase over the fiscal year 2021 enacted level.

And, of course, the Department continues to operate during this global health pandemic, albeit one that should be lessening under your watch, General Garland.

While we are a somewhat limited because we have yet to receive the full budget proposal, today we will discuss and review the initiatives highlighted in the skinny budget that was forwarded.

The proposed increase for civil rights enforcement is sorely needed. This is a historic opportunity to address systemic barriers to full participation in society, ensure access to economic opportunities, and protect the right to vote.

As we face unprecedented threats from domestic violent extremism, such as the attack on the Capitol on January 6 this year, and a national epidemic of firearm deaths and injuries, your proposed increases to address those problems are critical, and we look forward to your testimony and your explanation of how these funds will be utilized.

We also want to hear how the Department would use proposed increases to the Office of Violence Against Women to support victims and aid in our fight against heinous gender-based crimes.

The administration has proposed a \$157 million increase for the Executive Office for Immigration Review to reduce delays in immigration processing. We expect to learn more about how the Department can help make our immigration system work fairly and efficiently.

We also are interested in your plans in other priority areas, including environmental justice and protecting intellectual property rights to ensure the U.S. can compete fairly on the global stage as well as protect American industries and jobs.

The Department is, like our country, at a crossroads. As a Nation, we must work to restore faith, not only in our political system but in the ties that bind us together as a society. These ties have been tested, certainly, but not broken, and we must ensure that remains true.

Attorney General Garland, you are entrusted to restore faith in the Department and its ability to carry out impartially on a non-partisan basis its historic responsibilities. I know these are challenges you will face head-on. We look forward to working with you on all of these challenges, Attorney General Garland, and we look forward to your testimony.

And, at this time, I would like to turn to our esteemed ranking member, Mr. Aderholt, and yield to him for his opening statement.

Mr. ADERHOLT. Thank you, Mr. Chairman. It is good to be with you this morning, and thank you for yielding.

I, too, would like to welcome Attorney General Garland to the Commerce, Justice, and Science Subcommittee of Appropriations to testify regarding the Department of Justice 2022 budget request.

First of all, congratulations to you, Attorney General Garland, on your new role. And your stewardship there at the Department of Justice is important to all of our communities around this Nation, and we sincerely do wish you well.

While we still don't have your full budget to review, as the chairman mentioned, I have taken note of the administration's budget summary for the Department of Justice and the programmatic increases highlighted therein.

These substantial increases, such as the doubling of the budget for the Office of Violence Against Women, hundreds of millions of dollars for new sensitivity training programs and other efforts to improve police-community relationships, and the \$100 million to incentivize States to enact new gun control laws, just to name a few, add up very quickly and likely come at the expense of some of the more important national priorities.

And yet it is important to know, are there any tradeoffs that are being made? Because your budget summary only tells one side of the story. However, we can glean from what we have been provided that among the lower priorities are resources to address foreign terrorist threats, improve human trafficking prosecutions, and protect U.S. intelligence property against foreign government interference and exploitation.

I do believe that there will be opportunities to find some agreement on measures to reduce violent crime, fight the scourge of addiction, and protect the vulnerable from those who would seek to abuse or exploit them. But I am concerned that, if implemented, this budget would irresponsibly invest taxpayer dollars in initiatives that lack the proper grounding in evidence or in science, such as the highly questionable gun buyback schemes and controversial restorative justice programs.

Serious initiatives are needed to address the violent crime plaguing many U.S. cities. If the Department of Justice truly wants to

address gun crime, it must not waste its precious resources on these liberal, feel-good programs like gun buybacks and incentives for licensing restrictions that infringe upon the Second Amendment rights of law-abiding citizens while there are those that are on the streets that ignore those with impunity the same way they ignore every other gun law that is on the books today.

It is my opinion that if you truly want to make a difference, piling on new laws and burdensome reporting requirements will not be the solution. America needs tough, no-nonsense enforcements to remove not just the guns but the shooters from the streets once and for all. Sustained, systemic, and coordinated law enforcement initiatives, like Operation Legend, which surged resources and Federal law enforcement assistance into major cities last year to fight crime alongside State and local officers, are a good start.

Further, the budget summary is signaling some troubling policy shifts. I will have some questions as we move forward in this hearing today about whether these policy priorities comport with the bipartisan, bicameral agreement that funded the Department of Justice for the current fiscal year, as new initiatives and undertakings necessarily require resources to implement.

Investigating and prosecuting alleged civil rights violations by police officers is a legitimate focus for the Department of Justice. I nevertheless have concerns about the decision to revive the Obama administration's heavy-handed, constitutionally troubling, and questionably effective approach to consent decrees.

I am also interested in hearing your perspective on the humanitarian and the security crisis on our southern border and how it affects the workload of the Department of Justice. Also, I would like to hear how the Justice Department is working to prevent the proceeds of human smuggling operations from further fueling violent cartels, creating even more dangerous conditions in Mexico and the Northern Triangle countries.

I strongly believe that supporting law enforcement and immigration policies that serve to mitigate the crisis on our southern border should be a top priority for this subcommittee.

Attorney General Garland, we recognize that you have an incredibly demanding job. No one would minimize that. And I hope your testimony today will reveal a well-reasoned approach to the many difficult criminal justice issues that affect our local communities in reflection to your years of service to our community and certainly also as a Federal judge. We want to work with you to ensure that the programs you administer are as effective and efficient as possible in supporting the rule of law.

And I look forward to working with Chairman Cartwright in support of funding of the many important missions of the Department of Justice as this year's appropriations process moves forward.

Again, we do appreciate you being here today virtually to answer our questions. And we look forward to receiving the Department's complete budget submission while there is still time to give it our full attention.

So, again, thank you for your testimony today.

And, Mr. Chairman, I yield back.

Mr. CARTWRIGHT. Thank you, Mr. Aderholt.

And, Attorney General Garland, you are recognized for your 5 minutes of testimony. Please don't worry about leaving something out. Your entire written submission will be included for the record, and try to hit the highlights in 5 minutes.

You are recognized, Attorney General Garland.

Attorney General GARLAND. Good morning, Chairman Cartwright, Ranking Member Aderholt, and other distinguished members. I am honored to make my first appearance before the subcommittee.

I am here today to discuss the President's Department of Justice budget request for fiscal year 2022. Let me start by thanking you for your support for the Department in the recently enacted Fiscal Year 2021 Omnibus Appropriations Act.

In remarks to the 115,000-plus employees of the Justice Department on my first day in office, I explained how I will approach this job. Quote, "All of us are united by our commitment to the rule of law and to seeking equal justice under law. We are united by our commitment to protecting our country, as our oath says, from all enemies, foreign and domestic, and by our commitment to enforcing our country's laws and to ensuring the civil rights and civil liberties of our people."

My approach reflects the Justice Department's mission, and the Department's mission is reflected in our \$35.2 billion fiscal year 2022 budget request. I will share a few highlights with you now.

First, our budget supports my commitment to protecting our national security, including addressing both international and domestic terrorism, while respecting civil liberties. It includes increases of \$45 million for the FBI domestic terrorism investigations and \$40 million for the U.S. attorneys to manage increasing domestic terrorism caseloads.

Second, almost 65 years after its creation, the Civil Rights Division's work remains vital to addressing unlawful discrimination and bias. Our budget seeks to increase the Department's civil rights funding by \$33 million, providing a total of \$209 million for the Civil Rights Division, the Community Relations Service, and related civil rights work.

From protecting voting rights to prosecuting hate crimes like those experienced by our Asian-American and Pacific Islander communities during the pandemic, DOJ's civil rights work is critical to protecting the American Dream.

Another highlight of the President's request is a historic investment of \$1 billion to support the work of the Justice Department's Office of Violence Against Women. The important grant programs administered by OVW will assist our State, local, territorial, and Tribal partners in addressing gender-based violence. In addition, \$120 million is provided to expand our efforts to address widespread rape-kit backlogs and to fund new investigative training programs for law enforcement officers and prosecutors in units dedicated to investigating gender-based violence.

Promoting public trust between communities and law enforcement is essential to making both communities and policing safer. Our budget proposes increased investment in programs that support community-oriented policing and addressing systemic inequities, including \$1.2 billion, an increase of \$304 million.

Gun deaths continue to occur at a staggering rate in our country. There is more that we can do to make our communities safer. This is both a law enforcement and a public health issue. We are seeking to increase our support to combat gun violence by \$232 million for fiscal year 2022, supporting both DOJ Federal law enforcement resources as well as grant funding for community violence intervention programs, improved background checks, and more comprehensive red-flag laws.

We are also stepping up our work on environmental justice. Communities of color, low-income communities, and Tribal communities often suffer the most harm from environmental crimes and pollution. Among our efforts, we are seeking increased resources for our Environment and Natural Resources Division to help these vulnerable populations.

The antitrust laws are the charter of our economic liberty, and the Justice Department is committed to enforcing them. The fiscal year 2022 request for increased resources for the Antitrust Division reflects that commitment.

Finally, there are nearly 1.3 million cases pending before the immigration courts. A 21-percent budget increase for the Executive Office for Immigration Review will help support 100 new immigration judges, improve technology, and other efficiency mechanisms to reduce that backlog.

I have mentioned only a few of the Department's important programs this morning. I ask your support for our budget as the entire Department works to ensure adherence to the rule of law, protection of public safety, and equal justice for all Americans.

Thank you very much.

[The information follows:]

**STATEMENT OF**  
**MERRICK B. GARLAND**  
**ATTORNEY GENERAL**

**BEFORE THE**  
**UNITED STATES HOUSE OF REPRESENTATIVES**  
**APPROPRIATIONS SUBCOMMITTEE ON COMMERCE,**  
**JUSTICE, SCIENCE, AND RELATED AGENCIES**

**FOR A HEARING ON**  
**THE FISCAL YEAR 2022**  
**DEPARTMENT OF JUSTICE BUDGET REQUEST**

**MAY 4, 2021**  
**10:00 am**

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**“All of us are united by our commitment to the rule of law and to seeking equal justice under law. We are united by our commitment to protecting our country, as our oath says, “from all enemies foreign and domestic,” and by our commitment to enforcing our country's laws and to ensuring the civil rights and the civil liberties of our people.”**

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Mr. CARTWRIGHT. Thank you, Attorney General Garland.

At this time, we will start the questioning period. I will open by recognizing myself for 5 minutes of questioning.

I want to start with civil rights and, in particular, voting rights.

I am 60 years old, Attorney General Garland, and, for almost my entire life, what was normal in the United States was that, if a jurisdiction wanted to change its voting laws, it had to get preclearance from the Justice Department or the district court in the District of Columbia. That was because of the Voting Rights Act of 1965.

Now, the Voting Rights Act of 1965 came about largely because of the efforts of our dear departed colleague, John Lewis, and his efforts that culminated in Bloody Sunday in Selma, Alabama, in the spring of 1965, and it led to the passage of that bill into law in August.

That was sustained by the United States Supreme Court in *South Carolina v. Katzenbach* the next year. And it has been called one of the most effective pieces of civil rights legislation in American history. In fact, it was called that by the Justice Department in 2014.

All of that was upended in 2013 by the Shelby County decision, which all of a sudden invalidated the preclearance requirement. So, now, instead of normal, what we have is, the Justice Department has to file suit every time there is an unconstitutional change in voting laws that offends the 15th Amendment or some other part of the Constitution.

And, as a result, your Justice Department has to spend a lot more money filing lawsuits to reverse these voting law changes. Am I correct in that?

You are muted, sir.

Attorney General GARLAND. I am sorry. We will try to get the technology better. This is my first virtual hearing.

Yes, you are correct. Shelby County invalidated the coverage formula which permitted the preclearance program to continue. So it is now the case that the Justice Department is largely limited to bringing affirmative cases in which it finds, under section 2 of the act, an unconstitutional pattern of practices or procedures with respect to voting that discriminate against race.

This does require us to bring individual cases. That is a much more time-consuming and more expensive process.

Mr. CARTWRIGHT. In fact, what it does is it reverses the burden of proof. It was normal during the vast bulk of my lifetime that, if a jurisdiction wanted to change their voting laws, if it was a jurisdiction that was listed as among those having traditionally and historically violated the Constitution for voting rights—if a jurisdiction like that wanted to change its voting laws, you know, to make people guess how many jellybeans are in the jar or to enact sweeping purges of voting rules, things like that, they had to get preclearance, they had to get permission from the Attorney General. And so the Attorney General was in control of that.

Now, it is all flipped on its head. The Attorney General has to file a lawsuit and carry the burden of proof, which could involve months and months and even years of litigation to invalidate, you know, a Jim Crow kind of a voting law change like that.

Am I correct, Attorney General?

You are muted again, sir.

Attorney General GARLAND. Am I muted now?

Mr. CARTWRIGHT. I can hear you.

Attorney General GARLAND. Thank you. I am sorry. I am just—to get back to the question, you are correct. The burden of proof is now on the Justice Department to prove in each individual case a violation of the Voting Rights Act.

Mr. CARTWRIGHT. Well, what we are here to talk about are resources for your Department of Justice. What does that mean?

If we have any hope of preserving voting rights in the parts of this country that historically discriminated against African Americans and others on the basis of race for voting rights, if we have any hope of combating these changes, you know, that are being enacted vigorously now in the United States, how much money is it going to cost the American taxpayer because of that Shelby County decision?

Attorney General GARLAND. The right to vote is absolutely fundamental. It is the cornerstone of a democracy. The Justice Department is pledged, as part of its original purpose in its establishment during Reconstruction, to protect voting rights.

The 1965 Voting Rights Act gave us additional authorities, one part of which was removed as a consequence of the Shelby County case. We do now have to bring each case individually, and you are correct, that is a very large investment of resources. And that is part of the reason why we are asking for the 15.8-percent increase in the budget for the Civil Rights Division.

Mr. CARTWRIGHT. Well, I thank you for that.

And I yield now to our distinguished ranking member, Mr. Adersholt, for 5 minutes of questions.

Mr. ADERHOLT. Okay. Thank you, Mr. Chairman.

Attorney General, my first question would involve the immigration courts.

Advocates have claimed that 89 percent of all asylum applicants attended their final court hearing to receive a decision on their application. However, this claim is misleading, because the DOJ's own stats demonstrate that 38 percent of individuals whose cases began with a credible fear never even bothered to file an asylum application, despite claiming a fear of returning to their home country. Hence, they are not even being counted among the pool of asylum applicants.

Based on this information, do you agree that stats, like the doubtful 89-percent statistic I mentioned, don't tell the whole story of the immigration enforcement crisis that is currently going on in this country?

Attorney General GARLAND. Congressman, I am not familiar with the specific statistics nor the rebuttal to the specifics that you presented. But I will certainly ask my team and the people who know those statistics to get back to your staff on that.

Mr. ADERHOLT. Okay. That would be helpful, if you could do that.

And could you tell us what specific measures that you have implemented or maybe that you plan to implement to enforce the immigration laws and protect the current rule of law?

Attorney General GARLAND. Yes. So, for the Department of Justice, there are a number of issues. I will make clear, of course, that the Border Patrol and the Customs and ICE are all in the Department of Homeland Security, and so they have the primary responsibility at the border. We have a large number of U.S. attorneys at the border who prosecute the cases that are brought to them by the Department of Homeland Security agents, and so part of our budget request is for money for them.

Then we do manage the immigration courts, the immigration judges. That is our Executive Office for Immigration Review. That is the principal amount of the increase in money that we are asking for in this area, an increase of 21 percent. That is because we had, at the time the new administration took office, over a million cases backlogged in that system, and we are going to need new, additional immigration judges.

So part of this increase is to add 100 immigration judges, plus the teams of support and technology that are necessary to accelerate the hearings in those cases.

Mr. ADERHOLT. Okay.

As was noted, the immigration courts' backlog stands at over 1.3 million cases. I think that you had noted that. In 25 hearing locations I understand that an individual will wait over 3 years for adjudication, and in 3 locations they will wait over 4 years.

The previous administration implemented case-based performance metrics as a basis for evaluating immigration court judicial resources. Are those performance metrics still being utilized under your administration?

Attorney General GARLAND. Well, my understanding—can you hear me?

Mr. ADERHOLT. Yes.

Attorney General GARLAND. My understanding is that the Executive Offices for Immigration Review is reviewing the nature of those metrics, trying to figure out ways of accelerating performance.

Of course, any system requires some set of metrics. Precisely which metrics are reviewed, you know, on a regular, routine basis, we are going to be doing that on to ensure that we both provide due process for the people coming through the system but also efficiency for the system itself.

Mr. ADERHOLT. What effect is the pending caseload having on due process? And do you have any concern about that issue at all?

Attorney General GARLAND. I am very concerned about the backlog. I think it obviously is not working for the people who are in the system and not working for the government with respect to evaluating those people.

We have cut IJ hiring times—IJ, immigration judges—from 2-plus years now to approximately 6 months. So we expect to be able to get a lot more immigration judges in than, so far, we have been able to hire. And then we are asking for an additional 100 as well. That should, of course, cut the backlog.

Mr. ADERHOLT. Okay. But due process is something you are concerned about?

Attorney General GARLAND. Yes. Yes, of course. The longer people are waiting and the bigger the workload and the faster judges

have to decide, the less due process is provided. So we are concerned to get the right balance.

Mr. ADERHOLT. Thank you.

Thank you, Mr. Chairman.

Mr. CARTWRIGHT. Thank you, Mr. Aderholt.

At this time, the chair recognizes Representative Grace Meng for 5 minutes of questions.

Ms. MENG. Thank you, Mr. Chairman.

Congratulations again, Mr. Attorney General Garland.

I wanted to applaud your March 30 memorandum which directs a 30-day review and commitment to a whole-of-agency approach to addressing hate-based violence and incidents against the Asian/Pacific-American community. I appreciate so much your leadership, and it shows the communities that their concerns are our government's concerns.

As you know, May is Asian/Pacific-American Heritage Month. And I believe this month's celebration should be a clarion call for the community and our Nation to shout that anti-Asian hate is unequivocally wrong.

Can you share with this subcommittee what the findings and recommendations are? And what additional resources do you need to ensure the change you envision will succeed?

And part two of this question is: While your memo discusses the need for better resources to combat hate crimes, you also state correctly that communities will need additional tools to heal after hateful incidents occur.

There is a great role for DOJ's Community Relations Service to play in healing those affected by hate crimes and violence, including those who are the ones who commit the acts. Some communities are distrustful of law enforcement and attorneys' offices but may be more receptive to someone from CRS for solutions that bring restorative justice and peace to their communities.

So I wanted to ask, from your perspective, is CRS scalable? And how can we work, if increasing funds, that to—work to ensure that CRS will engage with communities on the ground?

And, separately, how can DOJ help local community groups seek help outside of the criminal justice system, developing alternatives to carceral punishment, for those convicted of hate crimes?

Attorney General GARLAND. Well, you hit on a question that I only recently realized was extremely important—not the hate crimes issue, but the Community Relations Service one.

So I am very familiar with the service, it having been quite important the last time I was at the Justice Department in doing the kind of work you are talking about, in developing better relationships between communities, victims, and police. So one of the first things I did when we were all concerned about what might be happening in Minneapolis was to call and ask that members of the Community Relations Service assess how many there were there and how many more could be brought.

Sadly, I learned we only had about 26 or 27 total members at the Community Relations Service at this point. That service has, I would say, badly withered over the years—over quite a number of years. And so an important part of our request for a budget in-

crease for the Civil Rights Division is to increase hiring for the Community Relations Service.

So I think it is a very good point you raise, and I am not sure that many people understand what good work the Community Relations Service can do.

With respect to the hate crimes issue, a significant part, also, of the money increase for Civil Rights Division will go to hate crime prosecutions. That division does prosecute those, and with the additional money we will be able to look into that further.

You are also right that prosecution isn't the only solution here. And so we have grant programs under the Office of Justice Programs, and we are hoping to move in that direction.

You asked for non-incarceral resolutions, and so part of that is what is called restorative justice, a chance for victims and victimizers to get together in a certain way to both reduce recidivism and to reduce the pain felt by the victim.

So there are a number of—it is a pretty broad set of programs that we have available in this area.

Ms. MENG. Thank you so much. I really look forward to working with you on this issue.

Attorney General GARLAND. Thank you.

Ms. MENG. I yield back.

Mr. CARTWRIGHT. Thank you, Representative Meng.

At this time, the chair recognizes Mr. Palazzo for 5 minutes of questions.

Mr. PALAZZO. Well, thank you, Mr. Chairman.

And, Attorney General Garland, thank you for being here today.

I would like to briefly address the crisis that we have on our southern border. It seems to be somewhat of a manufactured crisis, but it is a crisis. It is a huge challenge. We basically have an invasion taking place on our southern border.

And, listen, I know we gotta handle this in a humanitarian way, and I am all for that, but we are also a Nation of law and order. And without law and order, we are creating chaos.

My biggest concern is the flow of people, not those who are coming through the points of entry, but it is the ones that are taking advantage of this crisis, and it is the human trafficking, it is the drug smuggling, it is the bringing in of foreign nationals, some who have been apprehended that we know are on the terror watchlist.

So can you address, what does the Department of Justice see at the border? Are there foreign actors coming across that could be dangerous? I mean, what are we doing?

I mean, because we all respect, you know, the FBI and our law enforcement communities and officers, and I just feel like we are just adding a huge burden upon them, but more so upon our local law enforcement officers, who are going to have to be basically dealing with the criminal activity that is coming across and the hard narcotics in their backyards.

Could you quickly address what the Department of Justice is doing? And how are you advising the administration to get this under control?

Attorney General GARLAND. Look, the issue of major narcotics traffickers sending narcotics across the border is a vital concern to us, particularly, now, the transition to synthetic opioids, to the

fentanyl analogs. The precursors of these are coming in some part from China, moving into Mexico, then moving across the border.

We have put a lot of effort into interdiction and into enforcement on this. We are spending \$2.2 billion in the current fiscal year 2021 budget across DOJ for immigration and southwest border enforcement. This funds our DEA agents and, as I mentioned in the previous question, our prosecutors in the southwest border.

One of the first things I did internationally as Attorney General was to speak to the Attorney General of Mexico to seek and confirm his cooperation with respect to fighting transnational narcotics organizations, and he pledged his support to this as well.

So this is a serious problem, and we are seized with it.

Mr. PALAZZO. Well, one thing is for sure: The transnational criminal organizations are making a fortune off the crisis at the border. And the flow of drugs—I mean, if you just look at what the Coast Guard is pulling off the oceans before it makes its way into America, we are talking about hundreds of millions of tons of cocaine over the past several years. And it is going to be a huge crisis. I mean, we already have, you know, so many issues facing our country.

Real quick, can you address, what are we doing to counter China, especially in their theft of intellectual property?

We know they love to steal our technology, and it has actually allowed them to close the technological gap to actually exceed us in some areas, which is a national security crisis as well, but it is also just a theft of, you know, trillions of dollars of our resources paid for either private or public institutions here in America. Obviously, it is unfair. They don't see it that way. They see it as all being, you know, fair game to steal other countries', you know, intellectual property.

What is the DOJ doing to counter that? And are you all prosecuting individuals engaged in theft of our intellectual property?

Attorney General GARLAND. Well, within the last month or so, the intelligence community has identified China as a threat in precisely the regard that you mention, with respect to espionage, with respect to theft of intellectual property. So, you know, the FBI is working very hard on these issues.

There is also, obviously, an important cyber crime and cyber hacking element of this. And so a lot of money and new resources are being put into protecting against that hacking and then prosecuting where we are unsuccessful in protection and then plugging the holes.

Mr. PALAZZO. Well, thank you, sir. I appreciate your time.

And I yield back, Mr. Chairman.

Mr. CARTWRIGHT. Thank you, Mr. Palazzo.

At this time, the chair recognizes Mr. Case of Hawaii for 5 minutes of questions.

Mr. CASE. Thank you, Attorney General Garland.

First of all, I want to, as the Representative from Hawaii, with the highest percentage of Asian/Pacific Americans in the entire country, I want to fully associate myself with my colleague Ms. Meng's remarks as to hate crimes, as well as to endorse your efforts to take a whole-of-government approach. That is critical for

us to get to the bottom of this and do whatever we can in that regard. So I appreciate your effort on that front.

Second, as to Mr. Palazzo's comments about China, the Department of Justice does have the China Initiative underway, which I believe is appropriate under the circumstances. I don't think any of us should be under any illusions as to what China is up to here. However, there have been many concerns across our country, especially in our Chinese-American community, as to really profiling of Chinese Americans in connection with our reviews of China's interference and theft of our intellectual property, et cetera, particularly in our institutions of higher learning.

So I would simply relay a caution to you, that please be very attentive to those concerns and take them seriously. The intelligence community has done that, and within your own organization I hope you will as well.

Let me cover an issue which is not specific to Hawaii but impacts us in particular, and that is that, in our Federal district court system, our district of Hawaii has been without a residential reentry center for almost 2 years now. We had a residential reentry center—or halfway house, if you want to refer to it as—for 29 years, until 2019, when the situation changed. And we have been struggling with DOJ and the Bureau of Prisons in particular to get one up and running again.

And, of course, you know from your own experience that the consequence of the absence of a residential reentry center not only prevents a reintegration of Federal inmates into their community but, in the case of the district of Hawaii—and I think this is true beyond the district of Hawaii—the courts utilize that as an alternative to incarceration for two distinct populations: pretrial release and those on supervised release or so-called public law placement.

When you dig down to the bottom of this issue, it seems to be a question of unrealistic expectations being placed on the solicitation process and the bid process. We are in a unique situation here in Hawaii, and essentially the solicitations are ruling out any effective bids on this. And that is just not acceptable. We cannot send our, you know, prisoners and former inmates, you know, to the continental United States for these purposes. We shouldn't have to do that. The discussion has been the alternative of day release, which is not going to do the trick.

And so I would simply ask for your own personal review and attention to this issue to see whether we can't punch through this and get that solution in place as soon as possible. May I respectfully request that?

Attorney General GARLAND. Yes, of course. Residential reentry is critical to the First Step Act and the Second Chance Act approaches, which were passed by Congress. They are the way both to reduce our prison population and also to prevent recidivism and to make it easier for people to reintegrate into the community and become good citizens within the community. So they are quite essential in that regard.

I don't know the specifics with respect to the reentry program in Hawaii, although I do understand that there is a new solicitation being worked on. And I will ask my members of the team to work this up and then talk to your staff about it directly.

Mr. CASE. Thank you very much, Attorney General.

In my remaining time, let me just follow up on Mr. Palazzo's comments on immigration. And I won't have time for your response, but I leave this with you.

In reviewing immigration and especially a recent trip to the border, it became crystal-clear to me that the burden on our immigration judges is, in fact, very, very acute and is essentially incentivizing, as Mr. Palazzo said, the cartels to manipulate weaknesses in our system to basically enhance human trafficking and their profits. And the critical weakness here is a lack of adjudication on a timely matter of immigration-related issues.

And so my question to you—and we can take this up after the fact—is: Is your request itself sufficient to handle what you view correctly as a huge problem? Is that going to do the job in terms of reincentivizing that?

And I am afraid I am going to have to leave you with that hanging question and hopefully take it up with you in some other way, but it is a rhetorical question. Is that enough?

Thank you, Mr. Chair.

Mr. CARTWRIGHT. Thank you, Mr. Case. And we will allow the witness to answer.

Take 30 seconds and tell us what you can in that space of time, Attorney General.

Attorney General GARLAND. Can you hear me?

Mr. CARTWRIGHT. Yes.

Attorney General GARLAND. Yes. Yeah, so we have asked for a substantial increase for immigration judges and, equally important, for the whole team that supports the immigration judges. This will be extremely helpful for us at this point. This is the amount that we need right now.

Mr. CASE. Thank you.

Mr. CARTWRIGHT. At this time, the chair recognizes Congressman Ben Cline for 5 minutes of questions.

Mr. CLINE. Thank you, Chairman Cartwright. I appreciate you and Ranking Member Aderholt for holding today's hearing. Ensuring that our justice system is operating effectively and efficiently in accordance with the law is essential. And I appreciate the Attorney General, his appearance before us today to discuss the Department's funding request.

I will go out of order on my questions briefly, just to address the burden on immigration judges. I would posit that it is a direct result of this administration's changes in policies and put in place a catch-and-release program, repealing of remain across the border while their asylum claims are being heard, the numerous policy changes that have incentivized individuals to make this journey with small children and claim asylum for no other reason other than they are trying to escape poverty. Now, that is a reason to explore legal immigration process and reforms, but I would argue that it is not cause for asylum.

And I would argue that, before we grant a significant increase in funding for immigration judges, we need to see some recognition by this administration that it is, first, indeed a crisis and, secondly, that they are taking steps to address this crisis by restoring some order to the border and some structure to enforcing our border.

I want to ask the Attorney General, in the past, GAO has estimated that the Department has not collected most of the outstanding criminal debt, both fines and restitution, due to, among other factors, the nature of the debt and a lack of coordination between relevant DOJ components. My last report was that it was under a 5-percent collection rate. That is abhorrent. At the end of fiscal year 2016, DOJ had identified \$10 billion of outstanding collectable restitution debt.

So, as you come asking for an increase in budgeting, is collecting this debt a priority for the Department at all? And is DOJ adequately measuring its criminal debt collection performance against any established goals?

Attorney General GARLAND. Well, certainly, bringing in the money is that owed is very important to the Department. This problem of debt collection has been a problem for—you know, since the last time I was in the Justice Department. And I certainly will draw my attention to this again.

Of course, the restitution issue doesn't go to the government. The restitution goes to the victims.

But I will certainly look at this question. The more money we can bring in from people who owe us money, the less money we would need from you, although, again, I don't believe the debt goes directly to the Justice Department, but to the Treasury, as is appropriate.

Mr. CLINE. I appreciate that.

Shifting over to another topic, last year we saw an unprecedented and overwhelming number of firearm sales and, with those sales, an unprecedented increase in checks run through the National Instant Criminal Background Check System. In fact, the 1-year increase from 2019 to 2020 alone was nearly 40 percent.

In your opinion, does NICS have the necessary resources to handle what I would imagine is continued strain on the system? And can you provide the committee with the latest stats on the percentage of background checks that fall into, rather than "proceed" or "denied" status, "delayed" status and the percentage of those checks that are then resolved within 3 business days, 10, 30, and 88 business days when they are purged from the system?

Attorney General GARLAND. Well, Congressman, you are absolutely right that the more sales there are, the more pressure there is on NICS to do the background checks. Obviously absolutely right.

In fiscal year 2021, we received \$168 million for expanding NICS capacity and to address the workload increases for FBI and ATF, so we have resources that we are now being able to put into this problem.

I don't know the statistics—I know the issue that you are talking about. I don't know the statistics on how long a delay there is and whether it is satisfied within the 3-day proceed window—

Mr. CLINE. Well, if you could get those to us, I would appreciate that.

Attorney General GARLAND. Of course, and we will do that.

Mr. CLINE. Let me just ask one more question. Current law requires a prospective buyer of a firearm to provide a photo ID to ex-

ercise this core constitutional right. Would you argue that that is a reasonable requirement?

Attorney General GARLAND. I would, but I don't know what the requirements are. Again, this is slightly beyond my area of expertise, and I would have to look into what the requirements are.

Mr. CLINE. Well, 26(a) on the form requires a valid government photo ID. So——

Attorney General GARLAND. Okay. Then that is the answer.

Mr. CLINE. And you would argue that that is a responsible requirement?

Attorney General GARLAND. I would.

Mr. CLINE. Would you also argue that, to exercise your constitutional right to vote, that requiring a photo ID, government-issued photo ID, would also be a reasonable requirement?

I am sorry. You are muted, sir.

Attorney General GARLAND. I am sorry. I think I may be being muted by the subcommittee every time a member speaks, but we are doing the best we can here, so——

Mr. CLINE. I appreciate that.

Attorney General GARLAND [continuing]. I am sorry.

Mr. CLINE. Would you consider that?

Attorney General GARLAND. So the question on voter ID is what kind of disparate impact it has on voters of different races, colors, and language groups and whether it violates the Constitution by having a disparate impact on people's ability to vote.

The Supreme Court has held that voter ID as a concept is constitutional. And the issue is what in any individual case, as the records show, about whether it deprives certain groups protected by the 14th Amendment right to vote.

That is the question. It is not a question of whether voter ID is sensible or not sensible. It is a question of how it impacts and what the cost of that impact is and what——

Mr. CLINE. But you don't ask that question for a Second Amendment right when purchasing a firearm.

Attorney General GARLAND. I think——

Mr. CARTWRIGHT. Mr. Cline, we are going to have a second round of questions.

Mr. CLINE. Okay. Thank you, Mr. Chairman.

Mr. CARTWRIGHT. All right.

At this time, the chair recognizes Congresswoman Brenda Lawrence for 5 minutes of questions.

Mrs. LAWRENCE. Hello, everyone. Thank you so much.

And congratulations, Attorney General.

I wanted to ask the question about mental health and law enforcement. The Biden administration's skinny budget includes an incentive to partner mental health providers with law enforcement across the country, which I believe is incredibly important as we look toward ensuring that community policing is meeting the needs of all of our residents.

Will the Department be taking any efforts to prioritize grant applicants who intend to use funds to expand or create partnerships between mental health providers and law enforcement?

Attorney General GARLAND. I think the answer in general to that is yes.

We do believe that taking the burden off of law enforcement, particularly with respect to some of these very high-risk contacts with people who have mental disabilities or who are in crisis for any other reason, and to bring along or to substitute social workers and mental healthcare professionals is a good way to reduce risk both for the officer and for the person who is involved.

So there is \$271 million in our OJP increase request, the Office of Justice Programs, to performing core processes. And this also includes separately that question of having mental health courts and drug courts, which is another related issue to the one you were asking about.

Mrs. LAWRENCE. Thank you so much.

I want to talk to you a little bit about the Civil Rights Division. For example, after years of arguing that a Texas voter ID law intentionally discriminated against minorities, the previous administration's Justice Department abandoned that position. Today, States across the country, including my home State of Michigan, are attempting to pass restrictive measures that would clearly make it harder for Americans to vote.

Additionally, even the number of hate crimes across the country spiked, and Federal prosecutors of hate crimes haven't come close to keeping pace.

Can you explain how the Civil Rights Division will once again return to its mission to uphold civil and constitutional rights for all Americans?

Attorney General GARLAND. The Justice Department, as I mentioned, was founded with the principal original purpose of protecting the rights of African Americans during Reconstruction—their rights particularly with respect to voting but also with respect to protection against domestic violent extremists and the first incarnation of the Ku Klux Klan. That was the original purpose of the Department, reinvigorated when the Civil Rights Division was created by one of the Civil Rights Acts.

We are carrying that forward now by requesting an 18.6-percent increase in our budget for civil rights enforcement over last year. A portion of that money will go into the voting rights issues about which you were just speaking, and a portion of that money will also go into protection against and enforcement of hate crimes statutes which Congress has provided us.

Mr. CARTWRIGHT. Mrs. Lawrence, you are muted, I think.

Mrs. LAWRENCE [continuing]. Two things that are really important to me. The mental health piece, when we look at justice in policing and we see so many people who are mentally ill, and we see police officers who are not equipped to respond to a person having a psychotic episode versus a criminal.

In addition to that, if you truly believe in something, it will be funded, and it will be a department under your leadership that will actively uphold their responsibility when it comes to civil rights.

So I look forward to your leadership. Thank you so much. And we have a lot of work to do in your department.

Thank you so much, and I yield back.

Mr. CARTWRIGHT. Thank you, Congresswoman Lawrence.

At this time, the chair recognizes Mr. Garcia for 5 minutes of questions.

Mr. GARCIA. Thank you, Mr. Chairman.

Attorney General, thank you. Congratulations on the appointment, and thank you for your service to our beautiful Nation and the monumental mission you have in front of you here.

I am from California, northern L.A. County. We are a State where we have a legal cannabis industry. But we are also a State, and especially in my district in the deserts above Los Angeles, where we are seeing a massive influx of an illegal marijuana industry. And I think it is being understated at local levels, at State levels, and certainly not appreciated at the Federal level.

I have been able to take a tour with the local law enforcement agencies to see it from the air. And I can tell you firsthand that, if you remember the first time you went flying over a small neighborhood, your reaction was probably, "Wow, I can't believe there are this many pools in our neighborhoods." I had the same reaction when I toured our Antelope Valley area with regards to these illegal pot operations. There are literally hundreds, if not thousands, of these greenhouses being propped up in our deserts, in areas where, frankly, vegetation should not be growing. It is difficult to farm out here.

What is happening is we have folks who are operating illegally on a black market who are stealing natural resources; they are stealing water. In many cases, the folks working these illegal pot operations are indentured servants illegally here, trying to make ends meet and being taken advantage of. We have local citizens being intimidated by some of these transnational criminal organizations that are running these illegal marijuana operations.

The magnitude of this problem is staggering. And I know that the Federal Government, I know that DOJ, under DEA, has pots of money that do go towards eradicating these illegal marijuana operations, but it is at a magnitude, like I said, that is beyond comprehension, I think. And I really do believe it is worth the DOJ's attention, not only at the Federal level but also in support of the local law enforcement agencies.

My question is, what, in your opinion, can be done from a Federal level to help prosecute folks who are growing marijuana illegally?

There is a series of charges that have been deemed, really, misdemeanors. The distribution, the sale, the growing of marijuana in California is treated as misdemeanors. But the stealing of natural resources, in some cases, the squatting on land, the intimidation against local residents for illegal purposes is rising to the level of felony behavior. And, frankly, it is a true security issue at the local level but also national security.

What can we do at the Federal level under your administration and your leadership to help us eradicate the illegal marijuana problem?

Attorney General GARLAND. Well, I am not precisely familiar with the specifics, obviously, that you were able to see through your aerial flights, but the Department's view on marijuana use is that enforcement against use is not a good use of our resources. I understand that is not what you are talking about. You are really talking about growing it and manufacturing it on a large scale.

It is probably not a good use of our resources where it is regulated by the State. And, again, I take it that that is not what you are asking about. So to the extent you are asking, for example, about transnational operations of large amounts coming from Mexico or of transnational operators who are coming into the United States to do the growing, these are certainly within our jurisdiction and within our scope of concern.

Mr. GARCIA. Well, thank you, Attorney General. I would love to host you out here to get you and your respective points of contact a first-row view of what is going on out here. It is staggering.

The local law enforcement agencies get about \$19,000 per year from the Federal Government for overtime to help fight this. They hit that cap, that \$19,000 limit, usually in June or July of each year, and it is, frankly, not enough.

And, like I said, this—we have had seven dead bodies show up at these illegal grows here in southern California just in the last few months.

Would really appreciate hosting you out here and getting not only the DEA but also ATF and FBI representatives to see first-hand what we are seeing on the ground here.

And I yield back, Mr. Chairman.

Mr. CARTWRIGHT. Thank you, Mr. Garcia.

At this time, the chair recognizes Mr. Trone of Maryland for 5 minutes of questions.

Mr. TRONE. Thank you, Mr. Chairman.

And, Attorney General Garland, it is great to be here with you today. For the last decade or so, my office has been in Bethesda, so we are neighbors. And it is awesome to have someone of your qualifications in this job.

I want to start off today about pretrial and jail incarceration rates. Even short stays, pretrial detention, is associated with harmful outcomes, costing people their jobs, their homes, lose custody of their kids. This practice also leads to an increased likelihood of being convicted, receiving a harsher sentence, and future involvement in the criminal justice system.

The pretrial detention rates in the Federal system are at a record level: 75 percent of individuals detained pretrial. Disproportionately, this falls on people of color. Federal prosecutors have requested from 56 percent in 1997, now up to 77 percent, even though the data shows 99 percent of those released return to court.

So, Mr. Garland, could you speak to DOJ's current pretrial retention policies and your views on pretrial detention?

Attorney General GARLAND. Well, Congressman, I quite agree with the concerns you express. I do think that unnecessary pretrial detention does make it harder for somebody to build a case to defend themselves, which is one point, and, point two, often means they lose their job, which, even if they are then adjudicated as not guilty, damages their ability to make a livelihood. So there is no question about that.

I served, when I was the chief judge of the U.S. Court of Appeals for the D.C. Circuit, on the Executive Committee of the Pretrial Services Agency for the District of Columbia. That is a statutory appointment. That agency has a Nation-leading reputation for analyzing pretrial detainees and making recommendations to judges

about which ones need to be detained, which ones don't, and what kind of more minimal conditions can be required, because they have a very good method of figuring out who might recidivate while on release or after release.

And I know that the judges of both the Federal court and the superior court are happy with the results of that. So one thing might be to help model that program in other districts.

The Federal law permits pretrial detention only if there is no combination of other kinds of conditions that will ensure the return of the person who has been arrested and secure the safety of the community. That is the underlying test. There are provisions that provide a presumption of detention when the sentence faced is extremely high or when the crime itself is extremely dangerous, but even in those circumstances, it is only a presumption.

Mr. TRONE. According to the Vera Institute of Justice, after the enactment of the [inaudible] Crime bill, you spent \$127 million a year on pretrial detention in today's dollars. Today, that is over \$2 billion, yet our prison population has been reduced significantly from where it was three decades ago. Does this seem like somewhat of an outsized increase to you, given these crime rates are lower?

Attorney General GARLAND. You know, I honestly don't know. I don't know the Vera statistics, whether the reference is to Federal pretrial detention or not. As you can imagine, we are not charging people with low-level crimes, in order to prioritize our resources and, frankly, to be fair and just. We are looking for only, in the area of street crime, violent offenders, big-time offenders.

So it may be that our detention statistics are higher than you might guess, for example, if what we are looking at is what a local prosecutor brings in. But, to be honest, I simply don't know the statistics that you are citing.

Mr. TRONE. Thank you. That is the Federal number.

Quickly, the President's skinny budget outlined \$1.5 billion, an increase of \$500 million, for grants that support the reform of State and local criminal justice systems, including funding to support diversions and alternative court programs.

Attorney General GARLAND. Right.

Mr. TRONE. Can you expand on how the funding could be used or allocated to safely reduce rates of pretrial detention?

Attorney General GARLAND. Well, that is part of the important role that these alternative programs provide. The drug courts, the mental health courts often allow people released on personal recognizance released altogether pending various kinds of agreements to monitoring and substance abuse—taking substance abuse programs, that sort of thing.

And, as you said, there is \$271 million in the OJP, Office of Justice Programs, proposal which can be given for those kinds of programs.

Mr. TRONE. Thank you.

I yield back.

Mr. CARTWRIGHT. Thank you, Mr. Trone.

Attorney General Garland and members of our subcommittee, we will now take a 10-minute recess, and we will resume for our second round of questioning at 11:25 a.m.

We are in recess.

[Recess.]

Mr. CARTWRIGHT. All right. Let us gavel back in and resume our hearing with the Attorney General of the United States.

Mr. Attorney General, I am going to recognize myself for 5 more minutes of questions, and we will begin our second round.

I know you are acutely aware of the security needs of the Federal judiciary. Now, last summer, we saw the shocking attack at the home of Judge Esther Salas in New Jersey, resulting in the death of her 20-year-old son and the wounding of her husband—a horrible incident by any measure. And, in fact, it was found out later that the perpetrator was an antifeminist extremist who had plans to conduct a similar attack on Associate Justice of the Supreme Court of the United States Sonia Sotomayor.

The Judicial Conference of the United States has noted significant concerns about the physical security of courthouses, that judges and courts are the targets of higher numbers of serious threat communications. And related measures indicate judiciary security is at greater risk.

Do you agree that the Federal judiciary faces a more dangerous security environment now than it has in times past?

Attorney General GARLAND. I do, Mr. Chairman. And, as you mentioned, I am acutely aware of this. I served, when I was a judge, on the Security Committee of the Judicial Conference of the United States, and I served as the chair of the Executive Committee of the Judicial Conference. And, in both positions, I and the Conference as a whole were extremely concerned about judicial security.

I think with the rise of domestic violent extremism, judges, as is true of many other government officials, both in the Federal and State governments, are becoming more likely to be targets. So this is something we have to be very, very concerned about.

Mr. CARTWRIGHT. Well, having said that, Attorney General, could you share how the Justice Department, particularly through the United States Marshals Service, can improve security and whether there will be more judicial security resources in your fiscal year 2022 request?

Attorney General GARLAND. Yes. Thank you.

You are right, it is the Marshals Service who are responsible for the protection of Federal judges. The fiscal year 2021 budget included an additional \$7.4 million for Marshals intelligence to use looking at open sources for threats and to expand their intelligence unit and another \$4.4 million to modernize the home-intrusion security systems that Congress authorized a while ago for each Federal judge.

The specifics of the fiscal year 2022 budget are not yet available, but they will include money for judicial security.

Mr. CARTWRIGHT. Thank you for that.

We had a short discussion earlier about illegal drugs. Now, the Department of Justice devotes significant resources to reduce the impact of drugs on society. On the enforcement side, in fiscal year 2021, your overall DEA and Federal Organized Crime and Drug Task Force funding is just shy of \$3 billion, with almost \$400 mil-

lion for grants under the Comprehensive Addiction and Recovery Act.

The question is, how will the Department ramp up efforts under your leadership to reduce the damage from prescription opioids and synthetic drugs.

Attorney General GARLAND. Right. So this is a terrible scourge on our society, the consequences of prescription opioids. And we are spending currently \$9.5 billion really across all of DOJ on all drug enforcement issues, which include diversion of opioids. DEA is working with FDA to limit the availability, consistent with the needs of medical practice.

But a significant part of this is not just law enforcement. A significant part is also in the President's budget, but not for DOJ, but for HHS, some \$394 million in grants under the Comprehensive Addiction and Recovery Act as well.

So there is a significant amount of money on both sides of this issue, protecting from a law enforcement point of view and then helping addiction recovery.

Mr. CARTWRIGHT. Thank you.

Well, Attorney General, in your view, what are the largest challenges still facing the Department in its efforts to address the American opioid epidemic?

Attorney General GARLAND. I am glad you gave me an opportunity, because I think I mixed up the programs I was talking about. The President's budget with respect to the opioid problem for HHS is an increase in \$3.9 billion. So I have my decimal point in the wrong place, for which I apologize. It is a pretty big number.

Those are the two kinds of areas in which we are trying to work here—one on the law enforcement side and the other on the health side and the relief for people who are addicted.

Mr. CARTWRIGHT. Thank you, sir.

My time is up, and I am going to yield to our ranking member, Mr. Aderholt, for 5 additional minutes of questions.

Mr. ADERHOLT. Okay. Can you hear me?

Mr. CARTWRIGHT. Yep.

Mr. ADERHOLT. Okay.

Attorney General, last week, we had a chance to have someone from the FBI before our subcommittee. And one of the questions that I asked was about if they had reclassified the 2017 congressional baseball shooting as a domestic terrorist attack rather than a case of suicide by cop. Unfortunately, I think the answer that I received was wholly unsatisfactory.

As Attorney General, are you able to right this obvious wrong?

Attorney General GARLAND. I did read about your question. I have not yet had a chance to speak with the FBI about it, but we, the Department, will speak with the FBI about this and find out what the situation was.

Mr. ADERHOLT. But, from your understanding, obviously, it was well-documented that the shooter was not aware that the Capitol Police would be there, and he clearly undertook defensive measures to shield himself from the bullets, but yet it was still classified as suicide by cop.

So, you know, just from what you understand about the case, you know, would you be able to come in there and correct this wrong that has been—you know, how it was classified?

Attorney General GARLAND. I don't know enough about what the classification means at this point or in what record it is, but I promise I will raise this issue with the FBI.

Mr. ADERHOLT. Well, I would love to get some feedback on that, because this is clearly one of the cases where I think it needs to be reclassified, because I think the evidence is very clear. And, actually, you know, many Members of Congress could have lost their lives in that situation, so it is a very important issue, I think, for all Members of Congress, whether Democrat or Republican.

One thing I want to—or another thing I would like to ask about is about the private prisons. The Marshals Service maintains custody of approximately, as I understand it, around 60,000 prisoners. And since the Marshals Service neither owns nor does it operate its own facilities, it typically partners with the State and with local governments or the Bureau of Prisons or enters into agreements with contract-operated detention facilities in order to satisfy the—and humanely house detainees.

According to the Marshals Service, in several areas of the United States, the Bureau of Prison facilities and State and local facilities either do not exist or they have limited space for them to use. In those events, the Marshals Service houses inmates in contractor-operated facilities.

Nevertheless, in January, the President signed an executive order that arbitrarily eliminates the use of contractor-operated detention facilities, including those used by the Marshals Service.

Have you had a chance to evaluate the impact that this decision will have on the Marshals Service's budget and the administration of justice?

Attorney General GARLAND. So the Marshals Service's contracting is with respect to pretrial detainees. And there are 13 private contracts that the Marshals Service currently manages. The Marshals Service began the process of ending two of those contracts that were set to expire within 90 days.

The Marshals Service will be doing this evaluation in a way to ensure that it is able to safely house prisoners after transitions and also make sure that their location near the community is still available.

So this is not an immediate setoff with respect to the Marshals Service. This will be done in a way that the Marshals Service is able to safely and efficiently manage the transition.

Mr. ADERHOLT. Could you talk about why it is important for the Department of Justice to house those in Federal custody and, to the maximum practical, in proximity to their communities and to their families or their lawyers?

Attorney General GARLAND. I quite agree it is important, for just exactly the reasons you point out. There is a need for lawyers to be able to speak with their clients, particularly, obviously, in this pretrial circumstance so they can prepare their defense, and, likewise, to be able to communicate with their families for purposes of ultimate reintegration with the community.

Both of those are important factors. And that requires some question about what the vicinity means, but it definitely does mean relative ease of access. You are quite right about that.

Mr. ADERHOLT. One thing more I want to ask: How do you think the surge of illegal immigration impacts the Marshals Service's ability to secure adequate detention space?

Attorney General GARLAND. I don't know the answer to that question, and I will have to look into that and see if my staff can get back to you on that. I am not sure of the interrelationship between those two issues.

Mr. ADERHOLT. Okay. That would be helpful, if you could get back to us on that. Thank you.

I see my time has expired, Mr. Chairman.

Mr. CARTWRIGHT. Thank you, Mr. Aderholt.

The chair recognizes Ms. Meng for 5 minutes.

Ms. MENG. Thank you, Mr. Chairman.

I wanted to ask about the issue of ghost guns, which are one of the fastest-growing gun safety issues in our country. President Biden, as you know, spoke about this a few weeks ago and announced a number of steps to combat it.

They lack identifying marks, they leave no paper trail, and can be acquired without even a background check. It is no wonder they are favored by gun traffickers who are flooding our cities with illegal guns and armed extremists looking to undermine our democracy.

Ghost guns can be made with unregulated kits, parts, or 3D printers using computer codes. Despite President Biden's actions to stop the proliferation of ghost guns, I was discouraged to see that a court overturned a stay stopping the release of computer code used to 3D-print guns.

Can you explain your thoughts on how the DOJ could tackle this issue, including what you know about the prevalence of these weapons and how the Department could address kits, parts, and 3D-printed firearms?

Attorney General GARLAND. Yes. Well, you have identified a serious problem with respect to these so-called ghost guns. They are kits, sometimes described as buy-build-shoot kits, where virtually all the components are contained in the kit, with instructions for putting together into a gun within—sometimes within as little as 30 minutes.

The problem is, because they are not currently—it is not clear that they are defined as firearms themselves or as the frame or receiver of the firearm, they are not inscribed with a serial number, and there isn't a requirement for a background check before the purchase of the kit. This means somebody can get the gun who might be statutorily barred, say, for example, a former felon, from getting the kit and making the gun, and then, once the gun is made, because it doesn't have a serial number, it is very difficult to trace.

So the ATF has in the works right now—working up a proposal for rulemaking, called a notice of proposed rulemaking, which should be coming out pretty soon to address this question. There will be a rulemaking period and then, depending on the result, a regulation with respect to ghost guns.

Ms. MENG. Okay. Thank you.

I yield back.

Mr. CARTWRIGHT. Thank you, Ms. Meng.

Mr. Palazzo, you are recognized for 5 minutes.

Mr. PALAZZO. Thank you, Chairman Cartwright.

This is somewhat of a technical question, Attorney General Garland, so, if you don't have the exact answers, you know, maybe you can submit them to me later.

But the coronavirus pandemic has accelerated interest in the potential to use new technologies to facilitate the capture of fingerprints required to search Federal and State criminal history record systems. Law enforcement organizations as well as populations who are required to undergo FBI fingerprint-based background checks desire to have new approved methods to capture and submit fingerprint images to the FBI using contactless technology.

So a three-part question: Where is the FBI in its evaluation and approval of contactless technologies to acquire and submit fingerprint images to the FBI databases? What timeline is the FBI working from to enable new contactless acquisition methods? And please specify the time table for FBI's evaluation and approval of these new technologies.

We are aware that the Transportation Security Administration as well as many State law enforcement agencies have immediate need to use new contactless technologies and request that the FBI prioritize and expedite its evaluation of these new capabilities.

Attorney General GARLAND. Well, Congressman, you did hit the nail right on the head. This is an area that I don't know the exact answer, with respect to the contactless fingerprint technologies. But I can assure you that my team will get back to you on that. We will find out the answers to your question, including the timeline question, and get back to your staff as well.

Mr. PALAZZO. Well, I would really appreciate that.

And I know it has been mentioned several times during this hearing, lacking specifics to the President's budget request. I do know that, when I was serving on the House Armed Services Committee, a popular question that we would ask the Joint Chiefs of Staff and others is, you know, what keeps you up at night regarding the safety of the United States of America? You know, can you share with me maybe some of, you know, the things that, you know, you have grave concern about in protecting America and the Americans?

Attorney General GARLAND. Right. So my oath is to protect the Constitution and Americans from all enemies, both foreign and domestic, and so both forms of terrorism are of extraordinary concern to me.

We never want to take our eyes off of what happened on 9/11 and the risks that the country continues to face from foreign-origin terrorist attacks on the homeland. Likewise, we have a growing fear of domestic violent extremism and domestic terrorism. And both of those keep me up at night.

Every morning, virtually every morning, I get a briefing from the FBI in one or the other or both areas.

Since the last time I was in the Justice Department, when both were concerns as well, the lethality of weapons available to these

kind of terrorists, both foreign and domestic, has increased. The consequence of the internet and encryption means that they can send information and make plans much more swiftly and in greater secrecy than could have been done before.

So we have an emerging and accelerating threat, and the Department is putting its resources into defending the country with respect to both. And needless to say, this is an all-of-government problem and an all-of-government solution. The Department of Homeland Security, extraordinarily important in these areas. And with respect to the foreign threats, obviously, our intelligence services and Department of Defense.

Mr. PALAZZO. Thank you, Attorney General. I appreciate you being with us today. And I thank the men and women under your jurisdiction and their families for their service and sacrifice.

And, with that, Mr. Chair, I yield back.

Mr. CARTWRIGHT. Thank you, Mr. Palazzo.

Mr. Case, you are recognized for 5 minutes.

Mr. CASE. Thank you, Attorney General.

First of all, I do want to express support for some of the specific programs that are reflected in the President's budget from a policy perspective. And the ones that I would note from your testimony are support for the Office of Violence Against Women, especially to reduce the rape-kit backlogs; community-oriented policing; enforcing our environmental laws and environmental justice; and, finally, enforcing our antitrust laws, where we see too much centralization of power going on out there, market power. So definitely support those initiatives.

Can I please return with you to the subject of immigration? Because, in my prior questioning, I asked you whether your request for an increase in the immigration judges was enough, given the backlog of 1.3 million, I think it is, cases, and you said, yes, it is enough for the time.

And I just want to kind of get into that a little bit more with you, because it seems pretty obvious to me that the delay in adjudication, especially on the asylum side, is directly manipulated by those that are engaged in human trafficking. And so, therefore, the answer to that seems to be in two categories. One would be the speed of adjudication, which addresses some of the issues there, and the other is perhaps a broader policy question of our asylum laws to start with.

And so I guess the first question I would have is, why do you think your request is enough? And what actually will that achieve? Will it achieve a reduction in the backlog of adjudications to, you know, 1 to 2 months? My understanding, at least, is that, in some cases, it is up to 2 years. I don't know that, but that is what I am told, at least.

And then, finally, have you considered broader changes to our asylum laws, the procedure by which people can seek asylum, the standards for asylum? My understanding is that most of the asylum claims are denied when they are eventually adjudicated, so that would tell me that our asylum laws need to be updated.

So a two-part question, the same problem.

Attorney General GARLAND. Well, let me start with the human trafficking problem that you mentioned. This is part of our law en-

forcement concern and comes out of the law enforcement part of our budget. We do have a Human Trafficking Task Force, and we have some representatives in the Northern Triangle countries and in Mexico who are working on this problem. You are quite right that it is a significant problem that we have to defend against and provide law enforcement for. The money for that is also already included within our Criminal Division budget.

I can't tell you, you know, exactly how much the reduction will be or to what number it will be, with respect to the backlog. That is going to be the result of a combination of factors, one being the increase in the number of immigration judges and their associated staff, and the second being technology improvements that we are hoping will improve that, and a third will be the mechanisms that the Executive Office for Immigration Review is looking to put into place to make these run more efficiently.

So, very difficult to project what the reduction will be, but, with this kind of many-pronged attack on the problem, I think it should be quite substantial.

Mr. CASE. But if I could just interject there for a second, you made a request. I mean, the request is for 100 additional immigration judges. You have a 1.3 million backlog. There must have been some basic assumptions that you and your department made in requesting that level of increase in immigration judges and that level of increase in funding that somebody felt was going to result in a sufficient amount of resources committed to the problem.

So there must have been an assumption of the problem and of where this got us to and the solution, and I guess what I am asking is, what are those assumptions? Are you assuming that there will be, then, a significant reduction—a very significant reduction in the backlog, which would, I think, at least, result in some relieving of pressure on the exploitation of the weakness?

Attorney General GARLAND. I agree with you that reducing the backlog will reduce the exploitation of the weakness. There is a total of a 21.5-percent increase here, which will—it is focused precisely on the backlog.

We are also trying to hire up for positions that were not filled. So it is not just 100 additional. And there are limits to our ability to hire in any particular year.

So we are trying to be good stewards of the money that you provide us. This is the amount of money that we believe we can effectuate, we can hire up for our authorized level that are not yet hired, and then with the new hires, to make a significant impact.

Mr. CASE. Okay. Well, we will leave it there, and I appreciate the response.

Mr. CARTWRIGHT. Thank you, Mr. Case.

And, Mr. Cline, you are recognized for 5 minutes.

Mr. CLINE. Thank you, Mr. Chairman.

I want to stay with the issue of Second Amendment rights.

Attorney General, recently the Supreme Court agreed to hear a challenge to a New York law that effectively prevents law-abiding members of the public, including those with advanced firearms training, from carrying a handgun in public for self-defense.

Now, as you know, in the past, the Department has sided with the individual rights view of the Second Amendment and the indi-

vidual's right to keep and bear arms. Can you state today that the DOJ will support that constitutional right to bear arms for self-defense and support the challenge to this law in court?

Attorney General GARLAND. Well, there is no question that there is an individual right to bear arms for self-defense. The Supreme Court has so held now at least twice, so there is no doubt about that question.

The issue in this case is an effort, I think on both sides, to clarify exactly what the scope of that right is. And that is what the Supreme Court will do in that case. When it does, then we will know.

Right now, there is some uncertainty as to the extent of the right, whether it extends to open carry, whether it extends to concealed carry, whether it extends outside the home. At least part of that issue will be clarified by the Supreme Court.

But the question of an individual right is not up for grabs. The Supreme Court has already decided that question.

Mr. CLINE. Attorney General, your fiscal year 2022 request includes \$100 million which would go to programs creating government incentives for States to adopt gun licensing laws and buyback programs.

Are you creating a gun confiscation program?

Attorney General GARLAND. The answer to that is no.

My understanding of the buyback programs is that they are exactly that, that when—and I am not completely familiar with all the details, but my understanding is that these are circumstances where somebody has been adjudicated impermissible to have a gun anymore, for example, because he has committed a felony or any of the other statutory violations in a particular State. There has to be a method of taking the gun away without expropriating it, and I think that is the purpose of these statutes, to remove guns from people who aren't entitled to by providing—

Mr. CLINE. So it is your contention that this is not a program that will use taxpayer dollars to take lawfully owned firearms away from Americans?

Attorney General GARLAND. No. At the bottom, it is a totally voluntary program. With respect to the purchase, with respect to people who are not permitted to have a gun, that is up to each State as to how to deal with this.

To be clear, these are about State laws, not about Federal laws.

Mr. CLINE. I was a prosecutor for several years. I worked in a jurisdiction that was engaged in a 287(g) agreement with the locality to honor ICE detainees. And when law enforcement agencies don't honor ICE detainees, these individuals, who often have significant criminal histories or engaged in sex trafficking or drug trafficking, are released onto the street and present a potential and real public safety threat.

As our Nation's top law enforcement official and someone with a statutory responsibility for fostering a cooperative and complementary relationship with State and local law enforcement, not to mention DOJ's Federal partners, do you believe that State and local law enforcement entities should honor ICE detainees?

Attorney General GARLAND. Well, I believe that if ICE has lawfully levied a detainer, then, yes, they should.

Mr. CLINE. Staying with this issue related to local prosecutions, I was a domestic violence prosecutor for many years. And your budget claims to expand funding for restorative justice programs using a portion of the funding allocated for Violence Against Women Act programs.

Domestic violence perpetrators are often manipulators of their victims. And once a victim musters the courage to report or leave their abuser, the abuser will often do or say just about anything to convince the victim to return to the relationship—hence, the vicious and often deadly cycle of abusive relationships.

Doesn't restorative justice, by definition, involve victims and perpetrators reengaging with each other?

Attorney General GARLAND. You know, these are State and local programs where the people on the ground have the best idea of which circumstances they work in and which ones they don't work in.

The problem that you are pointing out is indeed a problem, and where there is a risk of manipulation the program shouldn't be used. I don't disagree with that. But those are to be determined by what works on an evidence-based set of facts.

Mr. CLINE. Are you aware of any studies that involve restorative justice in domestic violence or sexual violence cases?

Attorney General GARLAND. I don't know. No, I am not.

Mr. CLINE. Okay. Thank you.

Mr. Chairman, I yield back.

Mr. CARTWRIGHT. Thank you, Mr. Cline.

Mr. Garcia, you are recognized for 5 minutes.

Mr. GARCIA. Thank you, Mr. Chairman.

Attorney General, thank you again for your patience. I just want to revisit the first discussion that we had about illegal marijuana operations, particularly in southern California, just to close that out.

I do want to clarify, in alignment with your statements, that these are definitely not legal operations. These aren't businesses that are being sanctioned underneath California's cannabis industry regulations, nor are they taxed. There is no oversight. There is no regulatory body touching them.

And these are also not, I would say, mom-and-pop operations or single families with small illegal grows in their backyards. These are, in southern California, very large-scale nurseries being put up in the middle of our desert.

They are literally stealing water out of fire hydrants and out of California's aqueduct system. They are, in some cases, stealing land and squatting on these desert properties and, in many cases, over 90 percent of them, using free labor in the form of indentured servants from people who are here illegally and don't have an ability to go to police, like most employees would have.

So this is truly a threat. It is a national security threat. It is an international threat. It is a domestic threat. And I would really welcome you to send a delegation out here to see it firsthand. This isn't a political thing, by any stretch of the imagination.

But I would love to have your commitment to have a small delegation from DEA, ATF, and, if appropriate, FBI to come see it firsthand. We are starting to get traction with local law enforcement,

but they desperately need the funding and support from the Federal level. Would you be able to make a commitment to support at least a site visit here to southern California on this?

Attorney General GARLAND. Well, let me have a chance to speak to the DEA about this or to have one of my staff speak to the DEA and see what they know about the circumstances that you are describing. They certainly, the way you are describing them, of course—plus, you mentioned, I think, seven dead bodies being found.

The combination of large-scale illegal activity, violence, indentured servitude—none of those are things that we should be ignoring. So I will be sure that the DEA looks into this.

Mr. GARCIA. Thank you, Attorney General. I truly do appreciate that. This is something I think all hands on deck, all levels of government, is necessary to actually eradicate this. And, like I said, it is actually bad for the legal cannabis industry as well. That is a, sort of, collateral negative effect.

I do want to also go back to the conversation that we had around voter ID. I want to just tag up on my friend Representative Cline's comments and your response real quick to that.

You mentioned that the question with voter ID comes down to, does voter ID cause a disparate effect on certain demographics. I would like to just get your sense of the answer to that.

In your opinion—and I know you are not an election expert. I know you are not necessarily a social justice expert as well. But, in your opinion, do you think requiring identification for the purposes of participating in an election does cause disparate effects on certain demographics? And, if so, which demographics are those? Why does it cause a disparate effect? And what can we do to help that?

Attorney General GARLAND. Yeah. So I should have added “intentional or disparate impact,” obviously.

And the answer to that, in general, is it depends on the particular jurisdiction and circumstance. This is not—the Supreme Court has made clear, and as I pointed out, the mere fact of requiring voter ID alone is not the issue. The question is whether it deprives individuals of the right to vote and, you know, sort of, what the risk on the other side—what the evidentiary risk, on the other side, of fraud is.

So you can certainly imagine—you don't need to imagine. I would say, as a general—at sort of a high level, the question is, are there people in demographic groups, for example, African Americans, who do not have a voter ID for any number of reasons? There may be people in poor and disadvantaged neighborhoods who don't have automobiles or don't have a driver's license, who are unemployed and, therefore, don't have those kind of identifications.

So the question of having a photo ID is, you know, to many of us, is, you know, not a problem. Everybody that we know has a voter ID. But that is not the case for many people all across America. And when it comes out that that deprives people of their right to vote, we have a serious problem.

And that is something that is determined on a case-by-case basis. And, as the chairman mentioned, it is a resource-intensive inves-

tigation to make a determination of whether, in a particular circumstance, voter ID has that consequence.

Mr. GARCIA. Thank you, Attorney General.

If I may, Mr. Chairman, I just—I do know a lot of Black people, Hispanics, poors of all demographics, and they certainly haven't had a challenge getting identifications. I think it is offensive to those demographics to imply that.

But I yield back, Mr. Chairman.

Thank you, Attorney General.

Mr. CARTWRIGHT. Thank you, Mr. Garcia.

Well, Attorney General Garland, you have held up well under the withering fusillade of interrogation of this subcommittee. I thank you for joining us. And I look forward to further discussion of the full budget from the White House when we get it.

In the meantime, I want to compliment you on the bipartisan nature of the portraiture behind you. It looks like we have President Gerald Ford's Attorney General and, obviously, President Kennedy's and Johnson's Attorney General. A lot of people might not be familiar with Edward Hirsch Levi. Have I pronounced his name correctly?

Okay. He was said to be the top lawyer of his generation. And I am glad you have his portrait on the wall, not only because he was a Republican Attorney General but because he was such a pre-eminent trial lawyer at his time.

Attorney General GARLAND. I am no art expert, but I do revere both of those Attorneys General.

Mr. CARTWRIGHT. I also wanted to ask you, by the way—there was a prior predecessor of yours named Garland. It was Attorney General Augustus Garland, who was Glover Cleveland's Attorney General. I take it you are his great-grandson.

Attorney General GARLAND. No. And my understanding, he is in a famous Supreme Court case involving a pardon of a Confederate sympathizer. So I think I would like to keep distance from him.

Mr. CARTWRIGHT. You are disowning him. All right.

Well, Attorney General Garland, thank you for favoring us with your presence today. We will have you back, and we will have more questions about the direction of the Department of Justice and the funding that it requires over time.

Members of the subcommittee and Attorney General Merrick Garland, this hearing is hereby adjourned.

[Answers to submitted questions follow:]

**The Honorable Matthew Cartwright**  
**Chairman**  
**Subcommittee on Commerce, Justice, Science, and Related Agencies**  
**Fiscal Year 2022 Budget Request for the Department of Justice**  
**Questions for the Record**

**National Security/Cyber Threats**

1. DOJ was a target of the recent SolarWinds and other cyberattacks mounted by foreign adversaries, and must improve its capacity both to defend itself and to support national efforts to counter cyberattacks, espionage, terror, and intellectual property theft. In addition, recently declassified intelligence reports confirm there have been persistent efforts by foreign adversaries to use cyberweapons to influence U.S. elections<sup>1</sup>.
  - What are the principal impacts of these threats on DOJ and its capacity to perform its missions?
  - What technological, infrastructure and workforce-related actions or improvements is DOJ undertaking to respond to these threats, and how are such efforts reflected in the FY22 request? What critical DOJ systems or technologies require security upgrades or maintenance, and what priority would you assign to them?

RESPONSE:

The Justice Department would welcome the opportunity to provide the Committee answers to these important questions in a classified setting.

**Environmental Justice**

2. Environmental justice means ensuring all Americans can live in healthy communities. This requires eliminating disparities in childhood lead exposure, where we know no amount of lead in a child's body is safe or acceptable; ensuring all people have safe drinking water and clean air, including our underserved, urban and rural communities; and reducing exposure to hazardous waste, especially in vulnerable minority and low-income communities.
  - Your budget proposes increases for the Environmental and Natural Resources Division. What are your priorities for ENRD and Department? How will these additional funds be used to advance public safety and meet critical environmental justice goals?

RESPONSE:

In Executive Order 14008, "Tackling the Climate Crisis at Home and Abroad," the President formalized this administration's commitment to tackling the climate crisis and advancing environmental justice. The Justice Department has a key role to play in this

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<sup>1</sup> <https://int.nyt.com/data/documenttools/2021-intelligence-community-election-interference-assessment/abd0346ebdd93e1e/full.pdf>

effort, which is rooted in the Department's mission to enforce the law while ensuring the fair and impartial administration of justice.

Executive Order 14008 specifically directs the Justice Department's Environment and Natural Resources Division to develop a comprehensive government-wide environmental justice enforcement strategy in coordination with the environmental Protection Agency and that work is currently underway. ENRD will also prioritize providing support to other Department components and other federal agencies as they carry out the direction of Executive Order 14008 with respect to EJ, climate change, and other priority areas. This includes, among other things, defending regulations or policy documents that are challenged in court and providing counsel to agencies.

- **How will the Department support national commitments to reduce carbon emissions? Do you anticipate increased litigation as part of this effort, and does this request reflect that assumption?**

RESPONSE:

The Justice Department's Environment and Natural Resources Division ("ENRD") will continue to bring and defend cases related to federal efforts to reduce carbon emissions. ENRD's work in this area includes affirmative civil and criminal enforcement to reduce greenhouse gas emissions and address the impacts of climate change; defending lawsuits related to agency efforts in this area; and support for legislative, rulemaking, and international efforts. ENRD is currently defending or bringing a wide range of cases that have climate implications, and the Department expects this docket to grow as agencies implement Executive Order 14008. The Department's budget request reflects the expectation that litigation in this area will increase.

- **Will environmental policy changes affect Justice Department international legal operations, in addition to those of ENRD domestically? If so, what would the impact be?**

RESPONSE:

Executive Order 14008 makes clear that "[d]omestic action must go hand in hand with United States international leadership, aimed at significantly enhancing global action." The Justice Department is engaged in a wide range of international activities and closely cooperates with international partners and international bodies such as INTERPOL, the Conference of the Parties to the Convention on International Trade in Endangered Species, and the International Maritime Organization. The Department also supports the United States' interests in advancing the rule of law through its enforcement of environmental laws that protect against a wide range of harmful activities – from wildlife trafficking to pollution crimes – and also is active in capacity building initiatives and programs around the world.

The current assessment of Executive Order 14008's impact on the Justice Department's budgetary needs is reflected in the President's FY 2022 budget request. The Department will make good use of the resources that are being sought in the FY22 request.

- 3. The Federal government has a large Southwest border footprint, and litigation continues related to access and acquisition of land for purposes of enforcing customs and immigration law. However, the Administration has suspended efforts to add to the extensive and costly border walls and infrastructure that have absorbed billions of taxpayer dollars over the past quarter century. Going forward, how will DOJ handle litigation for so-called "taking" actions it has inherited, and will it review or revise how it approaches such use of Federal "taking" power?**

RESPONSE:

The Department of Justice acquires real estate by direct condemnation for congressionally authorized public uses, in support of a variety of important national interests, including for conservation purposes and for national defense installations. These cases are handled by U.S. Attorneys' Offices across the country as well as by the Department's Environment and Natural Resources Division, which has handled land acquisition work since its founding in 1909.

With respect to cases relating to the Southwest border, on January 20, 2021, the President issued Proclamation 10142, which directed a pause in all construction and land acquisitions along the Southwest border. The President also ordered a review that is currently being led by the Department of Homeland Security and the Department of Defense of all border contracts and an assessment of whether the land previously acquired is still needed by the federal government. If DHS determines the use of land is necessary, it will initiate robust landowner engagement. If DHS determines it no longer requires the use of such land, it will work to return the land to its prior owners if that is feasible. As DHS made clear in a plan released on June 9, 2021, it will prioritize projects needed to address life, safety, environmental, operational, or other remediation requirements.

While this review proceeds and border wall expansion has been halted, the Justice Department has asked courts to delay consideration of all ongoing land possession cases filed by the prior administration but continues to respond to court orders and to ensure life and safety repairs can be adequately completed at and around existing construction areas, such as along compromised levees.

- **What changes, if any, are planned, and will this have an impact on ENRD spending?**

RESPONSE:

Although the nature and volume of the land acquisition work relating to the Southwest border may change in the coming year, this is not expected to impact ENRD's anticipated spending. As noted above, ENRD handles a variety of other land acquisition matters for

the United States, which will continue. Moreover, ENRD will need to finalize all of the pending border wall condemnations, whether border infrastructure was built upon these lands or not, and ENRD advises that this process will take at least two to three years.

#### **Corrections/Criminal Justice Reform**

4. The “skinny budget” transmitted in February supports “key investments” in First Step Act implementation, and in applying savings from “prison population reduction measures” to “prioritize incarceration alternatives for low-risk offenders”. More than \$500 million was appropriated for First Step Act implementation in the past two fiscal years. We are interested in knowing how BOP is utilizing those funds – to make a real impact on efforts to improve reentry success and reduce recidivism, and reduce the economic and social costs of over-incarceration. In the second full year of First Step Act funding, what DOJ and BOP insights have been gained regarding how to improve FSA implementation?

#### **RESPONSE:**

The Justice Department remains committed to improving our efforts to fully implement the First Step Act. The Department is working to do so through a number of lines of effort, including by advancing high-quality substance use disorder treatment, reentry services, and recidivism-reducing programming to prisoners according to individual needs.

As of May 2021, the Department had invested more than \$210 million in implementing the First Step Act, and by the end of FY 2022, we hope that number will be \$1 billion. Among other things, BOP is putting the funds Congress has appropriated to use to prepare offenders in federal prisons to come home and succeed, including through funding to:

- Expand evidence-based recidivism reduction programs.
- Expand and improve the provision of Medication Assisted Treatment for opioid use disorder to inmates at BOP prisons.
- Expand capacity for halfway houses and home confinement.
- Evaluate the programs and services provided to inmates.
- Improve and expand services to inmates through inmate-focused IT improvements.
- Fund innovative approaches in reentry and corrections.

The Department also brought more than 120 new hires on board to implement the First Step Act last year, and we are working to hire another 204 this fiscal year. The First Step Act is moving us in the right direction, but there is more work to do, particularly in light of the unforeseen challenges the COVID-19 pandemic has presented for efforts to implement the First Step Act.

The Department looks forward to working with Congress to continue to make progress in reforming our criminal justice system.

- **What program elements does the FY22 prioritize – such as training, data collection, performance analysis – to ensure FSA investments have measurable benefits for prisoner and correction system outcomes?**

RESPONSE:

The FY 2022 budget request would build on the FY 2021 First Step Act program expansions and implementation, including through continued expansion of evidence-based recidivism reduction programs, expanded provision of Medication Assisted Treatment to inmates, inmate-focused Information Technology improvements, expansions of Residential Reentry Center and Home Confinement capacity as needed, innovative approaches to corrections and reentry, and evaluations of the BOP's programs and services. Among other things, the FY 2022 budget requests funding for the National Institute of Justice to perform evaluations of programs designed to ensure that BOP prioritizes those services with the greatest impact.

5. **Finding alternatives to incarceration is a popular concept, given that the pandemic has significantly reduced BOP incarceration, it is hard to imagine a return to previous population levels. Can BOP absorb a significant increase in its custody population in alternative arrangements, such as home confinement or residential reentry centers?**

RESPONSE:

Residential reentry and other alternatives to incarceration are making it easier for people to reintegrate into the community and become good citizens within the community. The BOP operates 195 separate Residential Reentry Center (RRC) and home confinement (HC) locations under 150 competitive contracts and 24 Intergovernmental Agreements to provide RRC/HC services. Since the passage of the First Step Act, BOP has increased its contractual capacity by 1,148. Additional growth in this area will occur over time as inmates become eligible to accumulate more program credits towards time in community placements.

The Bureau of Prisons advises that RRC/HC currently have additional capacity. As of May 27, 2021, there are currently 6,605 inmates in RRC/HC with 10,735 contracted beds nationwide; this availability does not account for geographic availability based upon release residences.

- **Are BOP facility staffing levels adequate not only to meet the current incarceration approaches but also to address any alternative practices as the pandemic winds down?**

RESPONSE:

BOP has made a concerted effort to use appropriated funding to hire additional correctional officers and other personnel, including under the First Step Act, to address its staffing challenges. To this end, BOP hired an outside consulting firm to look specifically at its staffing model and adjustments that could be made to improve it. Since

May 2020, BOP has hired more than 900 net new staff members, including more than 280 net new staff during the month of May 2021. As of last month, approximately 95% of BOP's authorized positions were filled.

The Justice Department looks forward to working with Congress on this issue to help ensure that BOP meets its mission of not only safely and securely housing federal inmates but also providing the programming and other resources necessary to help those people make a successful reentry into society after they serve their time.

- **Does the FY22 request reflect a shift in resources to reflect a truly different incarceration policy?**

RESPONSE:

The Justice Department is committed to fulfilling its responsibilities to not only safely and securely house incarcerated individuals but also to provide the programming and other resources necessary to they have a fair chance to fully reintegrate into their communities. The Department looks forward to working with Congress to continue to make progress on reforming our criminal justice system and prioritizing rehabilitation and redemption, consistent with the policy set forth by the President in Executive Order 14006.

### **Gun Violence Epidemic**

6. **The skinny budget proposed a \$232 million increase to address the “gun violence health crisis” plaguing the Nation. The request includes a \$162 million increase in State and local grants, including a \$100 million “Community Violence Intervention” initiative. How would the proposed initiative differ from existing community anti-violence programs? Would it be accepted by a broad cross-section of our communities?**

RESPONSE:

As a general matter, community-based intervention efforts are central to the Justice Department's recently announced Comprehensive Strategy for Reducing Violent Crime. And more specifically, the Community Violence Intervention (“CVI”) initiative proposed in the President's FY 2022 budget request would assist local communities in developing community-based violence prevention and reduction programs, including efforts to address gang and gun violence, that would complement and support partnerships between community residents, law enforcement, local government agencies, and other community stakeholders.

To improve upon the approach that community-based violence prevention programs have historically taken, the new CVI initiative represents an important step in the effort to provide robust investment for comprehensive reforms of public safety strategies that incorporate and empower communities. Of the amount requested, \$10.0 million would be directed to focus on youth-based programs.

The proposed CVI initiative would deploy evidence-based strategies that target those most at risk of committing violence. These strategies are successful because they leverage trusted messengers who work directly with individuals most likely to commit gun violence, intervene in conflicts, and connect people to social and economic services to reduce the likelihood of gun violence as an answer to conflict. In addition, these trusted messengers communicate to individuals involved in violence that violence will not be tolerated and that support services are available to assist individuals who want help. CVI strategies include – but are not limited to – efforts such as hospital-based intervention, group violence intervention, and violence interruption. This flexibility would be appealing to a broad cross-section of communities by allowing them to implement self-identified strategies targeted to areas with high rates of juvenile crime and violence.

7. **The “skinny budget” included a \$70 million increase for the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to “oversee the safe sale, storage, and ownership of firearms” and support ATF’s “other work to fight violent crime.” Assuming this initiative will require increased agent and Industry Operations Investigators, will the Federal Law Enforcement Training Center be able to support the additional training demand, and if not, what plans does ATF have to ensure those new positions can come on board as soon as possible?**

RESPONSE:

The President’s FY 2022 budget request includes a total of nearly \$1.6 billion in base funding for the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), an increase of \$70 million or nearly 5% over FY 2021, to support the Agency’s work to fight violent crime and oversee the safe sale, storage, and ownership of firearms. Among other things, this increase would both expand ATF’s Crime Gun Intelligence through the National Integrated Ballistic Information Network and would nearly double ATF’s capacity to investigate theft from Federal Firearms Licensees (FFLs). The FY 2022 budget proposes an increase of \$12,736,000 and 84 new positions, including 79 Industry Operations Investigators whom ATF plans to train in the new fiscal year. While the Department is hopeful that the Federal Law Enforcement Training Center will be able to support the additional training that will be required, in the event that there are space constraints, ATF is prepared to run IOI classes at the National Center for Explosives Training and Research, as it did in FY 2021 due to COVID-19 restrictions.

- **Do you expect the ATF initiative will receive broad support from the public health and law enforcement communities, as well as from the general public?**

RESPONSE:

Protecting our communities from violent crime and the illegal use and trafficking of firearms are central to ATF’s mission.

ATF has worked hard to develop strong ties with public health communities, law enforcement communities, and the general public and to build broad-based support for its initiatives, including its FY 2022 initiatives.

For example, as the only federal agency that can trace firearms used in crimes, ATF works closely with law enforcement partners to increase compliance with federal law, including through National Integrated Ballistic Information Network and ATF's National Tracing Center (NTC), which traces firearms used or suspected to have been used in crimes in order to provide investigative for more than 8,500 federal, state, local, and international law enforcement agencies. In FY 2019, the NTC processed 452,047 firearms trace requests. In FY 2020, the NTC increased the number of trace requests by 8.6% to a total of 490,844 trace requests.

The FY 2022 budget also proposes that ATF prioritize the recruitment, training, and deployment of additional IOI resources that will enhance capabilities associated with regulatory inspections, industry compliance, and federal firearms licensee (FFL) outreach.

**The Honorable Robert Aderholt**  
**Subcommittee on Commerce, Justice, Science, and Related Agencies**  
**Questions for the Record**  
**Fiscal Year 2022 Budget Request for the Department of Justice**

**Immigration Courts**

- 1. Does the Executive Office for Immigration Reform currently have appropriate policies and training in place with regard to the granting of continuances?**

RESPONSE:

The Department of Justice issued a notice of proposed rulemaking on November 27, 2020 proposing to define good cause, in the context of continuances, adjournments, and postponements, in the immigration regulations. As part of the Spring 2021 Unified Agenda, the Department announced that it is reopening the comment period for this proposed rule. The Justice Department expects to solicit additional public comments on this proposed rule in the fall through a Supplemental Notice of Proposed Rulemaking and, after carrying out all regulatory steps and requirements in the notice and comment rulemaking process, the Department will finalize a rule that provides guidance on the topic.

- 2. The pending immigration caseload is roughly 1.3 million cases and growing. What effect is this caseload having on due process?**

RESPONSE:

The backlog of cases in the immigration courts is a serious problem and the Department is committed to addressing it. The backlog has many causes, and the Justice Department is pursuing multipronged strategy to address it.

A critical component of that strategy is the budget. Put simply, the Executive Office of Immigration Review ("EOIR") needs more resources in order to move more cases. That is why the President's FY 2022 budget request includes a total of \$891 million for EOIR, which represents an increase of 21 percent. Among other things, these resources would allow the Department to hire an additional 100 immigration judges, increasing the total number of IJs by more than 16%. This brings the total number of IJs to 734.

While the large pending caseload presents significant challenges to both EOIR and the U.S. immigration system as a whole, EOIR adjudicators are trained to ensure that every individual in proceedings is accorded appropriate due process under the law. Additionally, on May 28, 2021, DOJ and DHS launched the Dedicated Docket program. The purpose of this program is to resolve cases more efficiently without sacrificing fairness. To achieve that goal, families who are placed into this program will have access to legal orientation and support services, and the administration will work closely with pro bono legal services providers to maximize legal representation.

The President's FY 2022 budget also requests \$15 million for a new pilot project to provide access to legal representation for immigrant children and families as well as \$22.5 million to continue support for EOIR's Legal Orientation Programs, which have worked to provide access to information and legal aid in immigration courts over the past two decades.

**3. What specific measures have you implemented, or do you plan to implement, to enforce the nation's immigration laws and protect the rule of law?**

RESPONSE:

The Justice Department is committed to protecting the rule of law, including by promoting a fair, humane, and orderly immigration court system.

The Department enforces federal criminal and civil immigration laws through its law enforcement components, including through United States Attorneys' Offices nationwide and Justice Department attorneys and law enforcement professionals who represent the Department in more than 50 countries worldwide.

In addition, the Executive Office for Immigration Review ("EOIR") represents the Department's frontline presence in applying our immigration laws through administrative court proceedings in 70 immigration courts and adjudication centers nationwide. EOIR works to ensure a fair, humane, efficient and just immigration court system and it remains critically important that EOIR have sufficient adjudicative resources to keep pace with DHS' enforcement efforts.

The FY 2022 budget request seeks to strengthen the Justice Department's ability to enforce immigration laws justly, consistently, and in a timely fashion, while also ensuring due process under the law is upheld. The FY 2022 budget request includes \$177.5 million in immigration-related program enhancements. These investments will enhance the Department's ability to conduct immigration hearings by expanding adjudicatory capacity, improving efficiency, and removing impediments to the timely administration of justice.

**4. In 25 hearing locations, an individual will wait over 3 years for an adjudication, and in 3 locations, the wait is 4 years or longer. The previous Administration implemented case-based performance metrics as a basis for evaluating immigration court judicial resources. Are those performance metrics still being utilized under your Administration?**

RESPONSE:

Because EOIR is a party to pending litigation involving the case-based performance measures that were implemented under the previous Administration, it would not be appropriate for me to comment at this time beyond what is already in the public domain. However, it is my understanding that performance metrics are currently under review to

determine how they should be treated given the extraordinary circumstances of the past year, as well as the appropriate path going forward.

**Transnational Organized Crime & the Southwest Border**

5. **The Justice Department's budget summary did not mention any increases for addressing transnational organized crime – such as MS-13. Yet, we know this is growing threat. For example, we know that border policies that incentivize illegal entry – whether they incentivize it intentionally or not – help fuel the illicit activities of these organizations and cartels in Mexico and the Northern Triangle countries through the exorbitant fees they extract from individuals taking the dangerous journey north. What key law enforcement measures – not diplomatic measures – can our country take to help shut down these enterprises that are endangering the lives of children being smuggled across Mexico and into the U.S.?**
6. **What are some of the consequences of empowering these enterprises?**
7. **Do you commit to continuing the previous Administration's comprehensive, state-by-state takedown of MS-13?**

RESPONSE:

Keeping our country safe is my top funding priority for the Justice Department, and that includes fighting violent transnational gangs and cartels like MS-13. MS-13 and other transnational criminal organizations, including human trafficking and smuggling networks, pose serious criminal threats to many innocent people.

To combat the threats posed by human trafficking and smuggling networks where they originate and operate, on June 7, 2021, I announced the establishment of Joint Task Force Alpha, a joint law enforcement effort that will marshal the investigative and prosecutorial resources of the Department of Justice, in partnership with Department of Homeland Security, to disrupt and dismantle human smuggling and trafficking networks that pose national security threats, have links to transnational organized crime, or exploit and endanger migrants. The Joint Task Force brings Justice Department prosecutors from the Criminal Division, U.S. Attorneys' Offices along the southwest border, and the Civil Rights Division together with agents from the FBI, DEA, and DHS to investigate and prosecute those who are criminally smuggling and trafficking individuals into the United States from Mexico and the Northern Triangle countries of Guatemala, El Salvador, and Honduras. Together with DHS partners, the Task Force will engage and utilize each of the Department's law enforcement components, including from the FBI and DEA.

In addition to the work of the Joint Task Force, I also directed the Office of Prosecutorial Development, Assistance, and Training (OPDAT) and the International Criminal Investigative Training Assistance Program (ICITAP), in coordination with the State Department, to enhance the assistance provided to counterparts in the Northern Triangle countries and Mexico to support their efforts to prosecute trafficking and smuggling networks in their own courts.

Taken together, the Department's FY 2022 budget requests a total of \$9.4 billion – an 8.9% increase above the FY 2021 enacted level – to combat violent crime, including violent transnational criminal organizations.

### **Consent Decrees**

8. **Justice Department consent decrees have been criticized for depriving duly elected leaders in the target jurisdiction of control of their government. They are also notorious for taking many years – sometimes more than ten – to achieve reforms that are often marginal, at best, while simultaneously impeding local officials from pursuing their own reform agendas, which could be implemented much quicker. In the past, these consent agreements have been viewed by many as an end-run around the legal and statutory process, essentially strong-arming communities into following an Administration's social reform policies. Yet, you moved quickly to reverse the previous Administration's consent decree policy and associated guardrails. This is a cause for concern. Will you commit to not using consent decrees to achieve other social goals or to extract concessions from defendant jurisdictions that DOJ could not achieve through litigation or through your existing enforcement authority?**

### **RESPONSE:**

In certain contexts, Congress has authorized the Department of Justice to file lawsuits against state and local governmental entities to obtain legal and equitable relief to remedy violations of federal law. The Department has used such authorities to secure equal opportunity in education, protect the environment, ensure constitutional policing practices, defend the free exercise of religion, eliminate discriminatory housing practices, redress sexual harassment and other forms of discrimination in the workplace, make water safe to drink, increase access for people with disabilities, guard voting rights, and vindicate the rights of servicemembers.

When the Department identifies a violation of federal law by a state or local governmental entity, the Department generally seeks to reach a resolution that avoids litigation. A resolution can take the form of a "consent decree," which means a negotiated resolution that is entered as a court order and is enforceable through a motion for contempt. A consent decree ensures independent judicial review and approval of the resolution and, if necessary, allows for prompt and effective enforcement if its terms are breached. In some cases, monitors are used to provided.

On April 16, 2021 I issued a memorandum setting forth general principles and internal Department guidance governing the use of consent decrees by Justice Department attorneys. Under the guidance, the Department has returned to the traditional process that allows for the heads of litigating components to approve most consent decrees in cases involving state and local governmental entities. If Department attorneys believe that an investigation of a state or local governmental entity may result in a civil settlement agreement or consent decree, they must, at an appropriate time, notify the subject jurisdiction of the material allegations against it and afford the jurisdiction an opportunity to respond. Before presenting a consent decree with a state or local governmental entity

to a court for approval, Department attorneys must ensure that the remedies outlined in the decree are designed to “protect [] federal interests.” *Frew v. Hawkins*, 540 U.S. 431, 437 (2004). Moreover, “a federal consent decree must spring from, and serve to resolve, a dispute within the court’s subject-matter jurisdiction; must come within the general scope of the case made by the pleadings and must further the objectives of the law upon which the complaint was based.” *Id.* (citing *Firefighters v. Cleveland*, 478 U.S. 501, 525 (1986)).

In addition, the guidance I set forth in April makes clear that in cases in which entering into either a settlement agreement or a consent decree with a state or local governmental entity would be lawful, reasonable, and serve the public interest, certain factors may help Department attorneys assess which type of resolution to pursue, including the nature of the underlying violation( s); the nature and scope of the proposed remedies; the Government’s interest in the form of the resolution; and the nature of the public interest in the violation(s) and remedies.

**9. What are the performance metrics the Department will employ to objectively measure the impact of a consent decree relative to the specific, alleged civil rights violation it is employed to remedy?**

RESPONSE:

As noted above, the Department of Justice enters consent decrees to remedy violations of federal law with durable reforms implemented through a transparent, court-administered process. The Department measures the impact of its consent decrees against the relevant substantive law and the terms of the individual decrees. By looking at a number of different outcomes over time – including the amount and types of force used, the number and type of civilian complaints received, and the amount of training that officers are receiving – the Department can assess whether the consent decree is achieving anticipated results and durable reform.

**10. Do DOJ’s consent decree prosecutors have an obligation to focus narrowly on questions of individual criminal liability or a mandate to undertake a structural and comprehensive review of a department’s practices?**

RESPONSE:

The Department of Justice addresses individual criminal liability through criminal investigations and prosecutions, which do not involve consent decrees. The consent decree process addresses patterns or practices of law enforcement misconduct, pursuant to authority established by Congress when it passed the Violent Crime Control and Law Enforcement Act of 1994. This law prohibits state or local governmental authorities from engaging in a pattern or practice of conduct by law enforcement officers that deprives individuals of their constitutional or federal statutory rights. 34 U.S.C. § 12601(a). When the Attorney General has reasonable cause to believe that such a pattern or practice

exists, Congress authorized the Department of Justice to seek injunctive or declaratory relief to “eliminate the pattern or practice.” 34 U.S.C. § 12601(b).

### **Human Trafficking**

- 11. The FY21 Commerce-Justice-Science agreement directs DOJ to increase staffing and resources for human trafficking prosecutions. It also directed DOJ to report on hiring within the Civil Rights Division’s Human Trafficking Prosecution Unit (HTPU). Since that report has not yet been submitted to this Subcommittee, please outline your plan to increase hiring within the HTPU?**
- 12. How many staff are you attempting to hire at this time?**

RESPONSE:

The Civil Rights Division (“CRT”) is currently in the process of hiring additional trial attorneys to expand the staffing of the HTPU while also finalizing the requested report for submission to the Subcommittee. Through a series of hiring actions initiated in FY 2020 and continuing into FY 2021, the Division has completed the recruitment and onboarding of additional staff members and is prioritizing increased staffing for human trafficking investigations and prosecutions in the HTPU and to support the HTPU-led interagency Anti-Trafficking Coordination Team Initiative. Ongoing hiring actions in FY 2021 are expected to further increase HTPU’s staffing levels by the end of the fiscal year and new staff members will be fully trained and able to expand the Human Trafficking Prosecution Unit (HTPU) in the weeks ahead.

In order to expand organizational infrastructure and to support additional hiring actions, the CRT’s Criminal Section and its HTPU increased its supervisory capacity in FY 2021, allowing for oversight of expanded teams of trial attorneys. Ultimately, the number of staff hired to the HTPU depends upon a number of factors including, CRT’s ability to recruit, hire and retain qualified candidates. The Division anticipates hiring these additional trial attorneys by the end of FY 2021 to continue building the momentum of the anti-trafficking program and to support the HTPU-led interagency Anti-Trafficking Coordination Team Initiative and other interagency anti-trafficking mandates that align with the National Action Plan to Combat Human Trafficking. The Criminal Section is also increasing the supervisory capacity to enable the Division to manage the added staff.

- 13. How will the increased resources for the Civil Rights Division in FY21 be used to increase human trafficking prosecutions this year?**

RESPONSE:

The Department continues to prioritize human trafficking prosecutions by allocating additional positions to the Civil Rights Division’s Criminal Section as well as the HTPU. This additional staffing will expand HTPU’s capacity to support the development of more cases in more Districts and enable the Department to begin to address the backlogs resulting from pandemic-related court closures and other public health

restrictions. Some pandemic-related disruptions are expected to cause continuing docket delays through the end of FY 2021, which will defer a number of anticipated indictments, convictions, and sentencing proceedings into FY 2022. The Civil Rights Division projects that the recent HTPU staffing increases will translate to increased human trafficking investigations and resulting prosecutions primarily beginning in FY 2022. The additional staff CRT expects to hire in FY 2021 will increase the Department's capacity to pursue more human trafficking prosecution in FY 2022 and beyond.

**14. The Civil Rights Division's Human Trafficking Prosecution Unit led the U.S.-Mexico Bilateral Human Trafficking Enforcement Initiative to combat transnational organized human trafficking networks operating across the U.S.-Mexico border. What is the status of the Bilateral Human Trafficking Enforcement Initiative?**

RESPONSE:

Since 2009, HTPU has led the U.S.-Mexico Bilateral Human Trafficking Enforcement Initiative, in partnership with DHS, to facilitate exchanges of leads, evidence, intelligence, and expertise with Mexican law enforcement counterparts in order to develop high-impact investigations and prosecutions of transnational human trafficking networks operating across the U.S.-Mexico border. DOJ and DHS have continued to advance multiple investigations and prosecutions while enhancing Mexican law enforcement capacity to prosecute associated traffickers in Mexico.

By leveraging existing capacity-building programs as platforms to engage in case-mentoring exchanges, this Initiative facilitates the development of Mexican state and federal prosecutions. It also reduces the number of defendants the U.S. needs to extradite and prosecute in order to dismantle the transnational trafficking enterprise.

DOJ and DHS are actively collaborating to increase the momentum of the Initiative through enhanced intelligence-driven targeting and expanded partnerships with anti-money laundering experts in accordance with the National Action Plan to Combat Human Trafficking.

**15. How is the Human Trafficking Prosecution Unit managing the uptick in cases coinciding with the increase in human smuggling along the U.S.-Mexico border this year?**

RESPONSE:

The Human Trafficking Prosecution Unit ("HTPU") is working with Departmental and interagency enforcement partners to detect indicators of potential human trafficking crimes with a nexus to human smuggling and irregular migration, and to initiate human trafficking investigations and prosecutions as appropriate. HTPU is also continuing to coordinate with intra- and inter-agency counterparts who lead human smuggling enforcement efforts.

To address the threats posed by human smuggling and trafficking networks that operate along the U.S.-Mexico border, on June 7, 2021, I announced the establishment of Joint Task Force Alpha, a joint law enforcement effort that will marshal the investigative and prosecutorial resources of the Department of Justice, in partnership with Department of Homeland Security, to disrupt and dismantle human smuggling and trafficking networks that pose national security threats, have links to transnational organized crime, or exploit and endanger migrants. The Joint Task Force brings Justice Department prosecutors, including from the Civil Rights Division, the Criminal Division, and U.S. Attorneys' Offices along the Southwest border, together with agents from the FBI, DEA, and DHS to investigate and prosecute those who are criminally smuggling and trafficking individuals into the United States from Mexico and the Northern Triangle countries of Guatemala, El Salvador, and Honduras. Together with DHS partners, the Task Force will engage and utilize each of the Department's law enforcement components, including from the FBI and DEA.

- 16. While I am aware that the Department of Health and Human Services (HHS) Office of Refugee Resettlement has primary jurisdiction over unaccompanied children in federal custody, it seems that DOJ is well-positioned to be a partner-agency in these cases. Are unaccompanied alien children released into the U.S. by federal authorities at an increased risk for human trafficking, abuse and exploitation?**

RESPONSE:

Unaccompanied children are at risk of exploitation, abuse, or trafficking following their release into the United States, and DOJ is committed to working with enforcement partners to investigate any actionable indicators of potential trafficking or other crimes against unaccompanied children that are referred to law enforcement by HHS or other sources.

- 17. What is DOJ doing to support or monitor children placed with unrelated or non-parent guardians in the U.S.? In your opinion, is there a role for the Office of Juvenile Justice and Delinquency Prevention in this regard? If not, is there anything you can do administratively to leverage OJJDP to help protect these vulnerable children?**

RESPONSE:

There is a role for the DOJ to support children placed with unrelated or non-parent guardians in the United States, and I would welcome the opportunity to work with you and your colleagues on ways to leverage all of the Department's resources, including the resources and authorities of the Office of Juvenile Justice and Delinquency Prevention (OJJDP), to help protect vulnerable children.

To date, much of the Department's focus has been on ensuring legal support and representation for children and families who seek asylum and who must navigate a complex legal system. The President's FY 2022 Budget requests \$15.0 million for a new Legal Representation for Immigrant Children and Families Pilot. This program will support the enhancement of legal representation of children and families who seek asylum and other forms of legal protection in

the United States after entering at the borders, with a focus on areas where there is current or increasing needs. This will include engagement with the field to identify key partners, need, and best practices; the development of a competitive grant pilot program to support legal representation in the areas of greatest need; and national training and technical assistance for the grantees and those providing immigrant legal services. Additionally, EOIR trains its adjudicators to identify indicia of human trafficking or child abuse in all proceedings before the agency, including in cases involving children placed with unrelated or non-parent guardians.

**18. Are any DOJ staff currently approved to volunteer to assist Administration efforts to alleviate the crisis at the Border? And if so, will their positions be backfilled or left vacant until they return, and what is this costing DOJ in terms of productivity?**

RESPONSE:

As of May 24, 2021, 150 Justice Department employees were approved to assist as volunteers with U.S. government efforts to support unaccompanied children along the Southwest border and a total of 58 Justice Department employees were deployed to do so at that time. Due to the short-term nature of the detail assignments and the small number of employees at issue, none of these positions were backfilled and I am unaware of any material impact on Departmental productivity. No new deployments have been approved since May 24, 2021 and no additional employees are expected to deploy in a volunteer capacity.

**“Restorative Justice” & Violence Against Women**

**19. While increasing investments in community responses to crime and violence is a worthy goal, a victim’s journey toward healing should not have to involve responding to an offender’s guilt, nor should it require “reconciliation” – unless that is explicitly what the victim or survivor desires. How do you respond to critics who contend that well-meaning advocates of “restorative justice” risk further traumatizing victims by attempting to impose on them ideas like “reconciliation,” “forgiveness” or “peacemaking” – concepts they may find repugnant under the circumstances?**

The President’s budget request includes an historic investment to support the work of the Justice Department’s Office of Violence Against Women (OVW). The COVID-19 pandemic has exacerbated gender-based violence and sexual assault for many women and girls who have been largely confined to their homes with their abusers. The FY 2022 request proposes an investment of \$1 billion to support Violence Against Women Act (VAWA) programs at DOJ, nearly twice the \$486.5 million enacted level for FY 2021.

The budget request includes substantial increases for longstanding VAWA formula programs that have shown success, including programs aimed at enhancing States’ and territories’ ability to finance coordinated community responses to domestic violence and sexual assault and enable rape crisis centers and other supporting nonprofit and nongovernmental organizations to serve tens of thousands additional victims each year. The FY 2022 request would also fund several innovative new programs, including \$25 million to enable OVW to study the efficacy of restorative justice programs in addressing underreporting of sexual

assault, domestic violence, and dating violence by offering victims an option for accountability while responding to their concerns about how they will be treated by the criminal justice systems.

The Department agrees that it is essential to build the evidence base and ensure that restorative practices can be safely and effectively implemented in cases of domestic and sexual violence. The availability of restorative justice options should never preclude a victim from pursuing redress through the traditional operations of the criminal justice system. Restorative justice practices are victim-centered, and, central to any program implementing restorative practices, is voluntary participation by victims. OVW is aware that some victim advocacy groups, particularly those that represent victims from communities of color and underserved communities, advocate restorative justice as an alternative for survivors wary of traditional criminal legal intervention or for whom there may be insufficient evidence to prosecute a crime.

#### **Operation Legend / Violent Crime in Large Cities**

- 20. The previous administration launched Operation Legend in June of 2020. It was subsequently expanded to Chicago, Albuquerque, Cleveland, Detroit, Milwaukee, St. Louis, Memphis, and Indianapolis – cities which were experiencing stubbornly high rates of violent crime. By December, over 6,000 arrests were made as a result – including approximately 467 for homicide. In addition, more than 2,600 firearms and massive quantities of drugs, including fentanyl, were removed from the streets. What is the status of Operation Legend at this time?**
- 21. What will be your approach to reducing the persistent crime that plagues many of America's largest and most violent cities?**

RESPONSE:

The Department Justice announced the results of Operation Legend when it concluded in December 2020. While Operation Legend provided a short-term surge in resources, the Department's recently announced Comprehensive Strategy for Reducing Violent Crime takes a longer-term approach through a comprehensive strategy that will deploy federal resources in the most effective way, disrupting the most dangerous threats and supporting the ground-level efforts of local law enforcement.

In implementing this strategy, the Justice Department will engage our communities as critical partners. The Department has directed each United States Attorneys' Office to work with its State, local, Tribal, and community partners to establish an immediate plan to address increases in violent crime. In addition, the FBI will make available cutting-edge analytical resources to support state and local law enforcement efforts to identify the most violent and dangerous threats and deploy agents to assist with enforcement operations targeting these entities. The ATF will embed with local homicide units and expand the availability of its National Integrated Ballistic Information Network (NIBN) Correlation Center. Finally, the United States Marshals Service, in coordination with State and local authorities, will conduct fugitive sweeps throughout the country focused on individuals subject to state or local warrants for violent crimes.

The President's FY 2022 budget requests a total of \$9.4 billion for the Justice Department to address violent crime across the country, including grants totaling more than \$ 1 billion to support State and local partners. Through our grantmaking, the Justice Department will support programming at all stages – from the earliest violence interruption strategies to post-conviction reentry services.

Since May 2021, the Justice Department has taken additional steps to address gun violence and violent crime more broadly—from issuing notices of proposed rulemaking on public safety issues to cracking down on rogue firearms dealers to launching strike forces focused on disrupting illegal firearms trafficking networks across the country. We will continue to take commonsense steps to help keep our communities safe from violence.

**22. Should resources be surged to Portland, Oregon, where militant social justice warriors and vandals have brought the community to its knees?**

RESPONSE:

The Justice Department is committed to advancing the rule of law and ensuring civil rights and liberties. The Department's Justice Management Division advises that thousands of Justice Department personnel from the FBI, USMS, BOP, ATF, and DEA across more than three dozen jurisdictions nationwide have been involved in efforts to investigate and prosecute violence during the summer and fall of 2020 that was aimed at government institutions. In addition, prosecutors in U.S. Attorneys' Offices across the country and attorneys from the Criminal Division and the National Security Division have been involved in these efforts. The U.S. Attorney's Office and federal law enforcement agencies in Oregon and across the country will continue to work with their state, local, and tribal partners on the shared objective of protecting legitimate First Amendment activity and keeping our communities safe from violent activity.

**Executive Order on Private Prisons**

**23. The United States Marshals Service (USMS) maintains custody of approximately 60,000 prisoners. Since the Marshals Service neither owns nor operates its own facilities, it must do a combination of the following to ensure its inmates are housed safely and humanely: partner with state and local governments using intergovernmental agreements, enter into agreements with contractor-operated detention facilities, and utilize space within Bureau of Prisons facilities. According to the Marshals Service, in several areas of the United States, Bureau of Prisons (BOP) facilities and state and local facilities either do not exist or have limited space available for them to use. In those areas, the Marshals Service houses inmates in contractor-operated facilities. Nevertheless, this past January the President signed an Executive Order eliminating the use of contractor-operated detention facilities. Is it concerning to you that in the middle of the pandemic the White House, through their Executive Order, began prohibiting the USMS from using contractors?**

RESPONSE:

Prior to the issuance of Executive Order 14006, the USMS was housing nearly 10,000 prisoners in the 15 contractor-operated detention facilities. The Executive Order does not require the immediate termination of these contractor-operated detention facilities. Instead, the USMS can continue its use of the facilities through the end of the current contract, or current contract option period. As a result, only three facilities were immediately impacted by the Executive Order, and the USMS has been able to secure appropriate detention space to replace these contracts. The USMS has four additional private detention contracts affected by the Executive Order this calendar year and is committed to working diligently to find housing solutions that impose the least disruption to the prisoners and the judiciary.

**24. Do you believe that this decision put at risk the health and lives of those prisoners in their charge during one of the worst public health crises in our nation's history?**

RESPONSE:

The USMS is committed to protecting the health and safety of all of its detainees, and throughout the pandemic has been taking appropriate and prudent measures to protect prisoners, staff and the community while executing the lawful orders set by the Federal judiciary. The USMS has adjusted its prisoner operations policies as CDC guidance on COVID-19 operations has evolved and will continue to do so until the pandemic subsides.

**25. In February, the DOJ Office of Inspector General (OIG) released a report reviewing USMS' response to the COVID-19 pandemic, which found that contractor-operated facilities were safer, more accountable, and more responsive in mitigating risk from COVID-19 than government-run facilities. The report found that the 14 contractor-operated facilities developed and submitted plans to the USMS Prisoner Operations Division to ensure they were following applicable Centers for Disease Control and Prevention (CDC) guidelines within about two weeks of those guidelines being issued. While these plans have all been reviewed and approved, the report also came to the conclusion that the OIG was not able to confirm whether any of the 873 government-run facilities it worked with had implemented their own COVID-19 response plans. Can you comment on this report and explain why the OIG wasn't able to confirm CDC compliance within the 873 government-run facilities?**

RESPONSE:

As part of its review, the DOJ OIG determined that that the USMS' oversight of state and local detention facilities was less stringent than its oversight of the contractor-operated detention facilities. As the OIG recognized, the less stringent oversight is the "result of differences in the USMS' authority over the Intergovernmental Agreement (IGA) facilities" governing state/local detention facilities as compared to contractor-operated facilities under direct contract with the USMS. The OIG report recognized that IGA agreements with state and local facilities do not grant the USMS authority to manage the operations of the facility. A USMS survey that began in April 2020 found that 91% of the 712 responding detention facilities (accounting for more than 90 percent of the USMS

detention population) were complying with CDC Guidelines. the USMS is working with the remaining facilities to ensure compliance. In addition, consistent with OIG's recommendation, the USMS is reassessing each facility as part of its FY21 Detention Facility Review cycle to confirm compliance with all government-run facilities.

**26. Are you aware of any internal or external review or analysis of the terms of Executive Order 14006 that support its implementation with respect to the Marshals Service?**

RESPONSE:

In accordance with the requirements of Executive Order 14006, the Department has worked to assess the EO's applicability to each of the USMS contracted privately run detention facilities and designed a plan that takes into account the needs of the judiciary, the inmates and their families.

**27. USMS has itself expressed the importance of being able to continue working with contractors in order to have the necessary flexibility to manage fluctuating populations in an efficient and effective way. If the USMS is no longer able to contract with contract facility operators, it will not be able to house prisoners proximate to the federal courthouses and associated resources in the area where they are being prosecuted. This scenario requires more transportation. In addition, the USMS would be faced with trying to find significant capacity, when capacity is very scarce in facilities that are both accessible and safe. Has your office evaluated the impact this decision will have on the Marshals Service's budget?**

RESPONSE:

Given the unique circumstances of each location and the availability of replacement detention capacity, the USMS has not been able to fully assess the additional housing costs that will be incurred due to the elimination of contractor-operated detention facilities under Executive Order 14006.

**28. Has your office evaluated the impact of this decision on the judicial system?**

RESPONSE:

The Department designed a plan for each of the private detention facilities implicated by Executive Order 14006 that would take into account the least disruption to the judicial system, pretrial detainees and their families.

**29. Please assess the relationship between the BOP and USMS in sharing facilities and services been in the past. Has it been efficient and cost effective?**

RESPONSE:

The BOP and USMS have an extensive history of working together on a range of important initiatives, including on sharing space in facilities. The BOP allocates the

USMS approximately 13,000 beds for pretrial detention. These beds are critical to the mission of the USMS, as they typically represent the core detention capacity available to the USMS in several major metropolitan areas where the facilities are located. The cost of contractor-operated and state and local facilities used by the USMS to supplement the BOP allocated detention beds in the major metropolitan areas is substantially more expensive than detention space located in other areas.

**30. Will eliminating the use of contractor-operated facilities increase or decrease the Department's challenges in maintaining the necessary safety and oversight of the Marshals Service prisoner population?**

RESPONSE:

The USMS strives to ensure that its prisoners are housed in safe, secure, and humane conditions. All facilities housing USMS prisoners are reviewed annually to ensure that they are operating consistent with the Federal Performance-Based Detention Standards and other relevant policies, as applicable.

**31. How is the surge in illegal immigration impacting the Marshals Service's average daily population and ability to secure adequate detention space?**

RESPONSE:

The Department of Homeland Security (DHS) is the Executive Branch Department responsible for border security and immigration and customs enforcement. Given some of the recent policy changes for prosecution of those undocumented non-citizens entering the United States, the arrival of illegal immigration along the Southwest Border (SWB) has not resulted in the USMS needing additional detention space.

**32. Why is it important for DOJ to house those in federal custody – to the maximum extent practicable – in proximity to their communities, families, and even lawyers?**

RESPONSE:

The Federal Bail Reform Act of 1984 restricts pretrial detention to those prisoners for whom no condition of pretrial release will mitigate the risk that the defendant will fail to appear for scheduled court appearances or continue to pose a risk to the community or potential witnesses. Housing prisoners in detention facilities located distant from the district court where they are being prosecuted reduces the defendant's physical access to defense counsel, family, and other personal support networks as well as the judiciary. Accordingly, housing prisoners closer to the district court facilitates the prisoners' participation in their defense preparation and ensures that their ties to the community and family are not strained. In addition, the First Step Act generally requires the BOP to "place [a] prisoner in a facility as close as practicable to the prisoner's primary residence, and to the extent practicable, in a facility within 500 driving miles of

that residence.” Those placements can similarly help facilitate access to family and other personal support networks.

- 33. The President stated that in order to “decrease incarceration levels, we must reduce profit-based incentives to incarcerate by phasing out the Federal Government’s reliance on privately operated criminal detention facilities.” As a longtime federal judge, do you believe that privately operated detention facilities incentivize judges to hand down prison sentences?**

RESPONSE:

The Justice Department is committed to fulfilling its responsibilities to not only safely and securely house incarcerated individuals but also to provide the programming and other resources necessary to they have a fair chance to fully reintegrate into their communities. The Department looks forward to working with Congress to continue to make progress on reforming our criminal justice system and prioritizing rehabilitation and redemption, consistent with the policy set forth by the President in Executive Order 14006.

### **Background Checks**

- 34. Earlier this year, the House passed legislation that would require mandatory checks on all firearm transfers, including transfers between private individuals, with limited exceptions. How would this type of legislation, if enacted, be implemented and enforced? In addition, how much funding would it require and would you need additional authority to do so?**

RESPONSE:

The Department is committed to strengthening the background check system. Additional resources, including examiners and support staff, would be needed to process an increased number of transactions run through the National Instant Criminal Background Check System—particularly given the current statutory provision allowing a federally firearms licensee to transfer a firearm if a final eligibility determination has not been received within three business days. A study would need to be conducted to determine the increase in resources—from hardware and software to staff and facilities—that would be needed given the specifics of any particular legislation.

### **Elder Fraud & Phone Scams**

- 35. The FTC reported that in a recent 6-month period it had documented over 128,000 phone-based fraud schemes. I'm increasingly concerned about the elderly being taken advantage of by scammers and con men, especially given the rise of technology and social media. What is DOJ doing to address phone-based fraud schemes?**

RESPONSE:

The Justice Department has taken several steps to combat phone-based fraud schemes. These measures include: (1) coordinating strategies and initiatives with law enforcement partners; (2) conducting criminal and civil investigations against call centers and Voice Over Internet Protocol (VoIP) providers that engage in, or knowingly facilitate, fraudulent robocalls; (3) dismantling U.S.-based money mule networks that transfer victim proceeds derived from fraudulent robocalls; and (4) educating the public, including seniors, about phone scams so they can exercise caution and protect themselves.

### **Technology & Cyber**

- 36. As criminal and terrorist threats become more diverse and dangerous, the role of technology becomes increasingly important. With the rapidly changing cyber landscape challenging your ability to identify and disrupt cyber threat actors, how will additional resources enhance your capability for fighting cyber threats?**

RESPONSE:

The FBI has identified three specific key areas necessitating additional investment: 1) increased investigative and intelligence capacity to address known cyber actors, identify new

capabilities to identify new threat actors, increase the ability to disseminate intelligence, and strengthen the Cyber workforce; 2) in-house cyber protection to obtain the required technology to conduct risk assessments, enhance the skillsets of the FBI's own cybersecurity workforce, and secure FBI systems; and 3) improve data analytics and bandwidth levels through investing in enterprise solutions to effectively and efficiently access, manage, transport, protect, and evaluate data.

### **Bipartisan Cooperation**

**37. During the previous Administration, the President worked with both sides of the political spectrum to forge an historic agreement on bipartisan criminal justice reform. How do you plan to build upon that bipartisan agreement in order to help defuse the anger and violence that our country has witnessed over the last year?**

RESPONSE:

As Edward Levi, the first post-Watergate Attorney General said when he was sworn in, "Nothing can more weaken the quality of life or imperil the realization of the goals we all hold dear than our failure to make clear by words and deed that our law is not an instrument of partisan purpose." As I said during my confirmation hearing, the Attorney General is the lawyer, not for the President, not for any individual, but for the people of the United States. If I do my job and lead the Department of Justice guided by these touchstones, I believe that will help show Americans that we can work together, even if we disagree on some issues.

### **Gun Control**

**38. The Justice Department has been asked by the President to regulate stabilizing braces as National Firearms Act products, which means that a purchaser would have to pay a \$200 tax and be subject to a lengthy application and vetting process that can take months. Stabilizing braces are favored by disabled, or "adaptive" participants in the shooting sports. Are you concerned about the discriminatory effect of a regulation with such an obvious disparate impact on adaptive shooters?**

RESPONSE:

Last month, the Justice Department published a proposed rule, which is currently undergoing a public comment, that would make clear that the statutory restrictions on short-barreled rifles apply to pistols that are equipped with certain stabilizing braces and intended to be fired from the shoulder. *See* 86 Fed. Reg. 30826 (June 10, 2021).

By way of background, the National Firearms Act imposes heightened regulations on short-barreled rifles because they are easily concealable, can cause great damage, and are more likely to be used to commit crimes. However, companies now sell accessories that make it easy for people to convert pistols into these more dangerous weapons without going through the statute's background check and registration requirements. These

requirements are important public safety measures because they regulate the transfer of these dangerous weapons and help ensure they do not end up in the wrong hands.

The Department's proposed rule would clarify the circumstances under which attached accessories convert pistols into weapons subject to these heightened regulations. In doing so, the proposed rule makes clear that "some accessories marketed as 'stabilizing braces' may make it easier for a person to fire a weapon with one hand and would not result in a determination that the firearm with the attached brace is a 'rifle.'" *Id.* at 30827 (emphasis added).

This proposed rule will be subject to the well-established procedural safeguards of notice and comment rulemaking before it is finalized.

### **Gun "Buy-Back" Programs**

- 39. So-called "gun buyback" programs by governmental entities usually have less-than-impressive results. They have been mostly effective at removing what some police call "garbage guns," rusty old revolvers and even derringers that aren't used in a lot of crime or favored by many criminals. Are there any peer-reviewed studies that have determined that voluntary "gun buyback" programs, on their own, appreciably reduce violent crime, suicides, or even accidents involving firearms?**

RESPONSE:

The Justice Department is committed to using the tools at its disposal to reduce violent crime, including the gun violence that is often at the core of the problem. The Department's FY 2022 budget request seeks funding for a pilot program aimed at providing financial assistance to state and local governments to get guns out of the hands of people prohibited by law from having them. Funding would also be used to evaluate these kinds of programs and their effectiveness to help inform future efforts in this area.

- 40. Given the known inefficacy of voluntary "gun buyback" programs, is it this Administration's intent to use taxpayer funds to incentivize states to implement legislation *mandating* that Americans with disfavored firearms trade them in?**

RESPONSE:

The Justice Department is committed to using the tools at its disposal to reduce violent crime, including the gun violence that is often at the core of the problem. The Department's FY2022 budget includes funding for a pilot program aimed at providing financial assistance to state and local governments to get guns out of the hands of people prohibited by law from having them. Funding will also be used to evaluate these kinds of programs and their effectiveness to help inform future efforts in this area.

### Congressional Baseball Shooting

41. Last week I asked the FBI if they had reclassified the 2017 Congressional baseball shooting as a domestic terrorist attack, rather than a case of “suicide by cop.” Unfortunately, I received a wholly unsatisfactory answer. Are you able to right this obvious wrong? After all, it is well-documented that the shooter was not aware that the Capitol Police would be there, and he clearly undertook defensive maneuvers to shield himself from bullets.

RESPONSE:

The FBI considers the Simpson Field shooting an act of domestic terrorism, under the umbrella of domestic violent extremism. This assessment of the attack is also explicitly included as an FBI-designated significant domestic terrorism incident in the joint FBI, Department of Homeland Security, and National Counterterrorism Center report, titled “Strategic Intelligence Assessment and Data on Domestic Terrorism,” which was submitted to Congress on May 14, 2021.

### Easing the Burden of Law Enforcement Data Reporting

42. Starting this year, all law enforcement agencies are required to have made the transition from Uniform Crime Reporting to the National Incident-Based Reporting System (NIBRS), an important yet costly and burdensome shift in data systems and reporting. NIBRS requires agencies to submit much more detail about criminal incidents than they had under the UCR system. And, since 2019, law enforcement agencies also report into FBI’s National Use of Force Data Collection intended to provide national statistics on law enforcement use of force. Added to this is the updated Deaths in Custody Reporting Act that requires states to report to BJA every death of a person in the process of arrest, en route to be incarcerated, or incarcerated at local or State correctional facility on a quarterly basis. Finally, policing reform initiatives seek to further increase reporting requirements.

Unfortunately, the data fields for the three reports differ, making it frustrating and cumbersome for local law enforcement officers to complete these reports every month. Robust data is certainly needed, but will you commit to reviewing these requirements and doing everything in DOJ’s power to harmonize the data fields and streamline reporting so as to reduce the administrative burden on officers and on state and local law enforcement budgets?

RESPONSE:

- In addition to meeting all relevant statutory obligations, the Justice Department is committed to working together with our law enforcement partners and with Congress to
- ensure robust data collection while also identifying and implementing best practices that
- eliminate unnecessary administrative and budgetary burdens on our State, local, Tribal and Territorial law enforcement partners.

**Policing Reform & New Administrative Grant Conditions**

- 43. Your FY22 request proposes “administrative action” to apply new preferences and grant conditions to ensure resources are used to further policing reform efforts. What is the nature of this “administrative action,” and does DOJ intend to implement any “administrative actions” with respect to the FY21 grant funding it will be administering?**

RESPONSE:

The FY 2022 request proposes to implement administrative reforms that seek to align the COPS Hiring Program with evidence-based strategies to reduce violent crime in partnership with communities. This includes, for example, new priorities for jurisdictions that support Community Violence Intervention programs or that seek to hire officers to engage directly with CVI teams and other community stakeholders to ensure those groups are involved in strategic operations and planning. It also includes new priorities for jurisdictions seeking to implement hiring practices to help agencies mirror the racial diversity of the communities that they serve.

These reforms will allow the COPS Hiring Program to expand its focus to a broader array of innovative enforcement strategies, and support efforts to develop programs that enable communities to actively participate in violent crime prevention. Together with other investments requested in the President’s FY 2022 budget, the proposed funding level offers a pathway to comprehensively support law enforcement and communities in their combined efforts to promote public safety.

- 44. Congress often seeks to withhold Byrne JAG awards to enforce penalties for non-compliance with certain reforms. Three penalties, totaling 25 percent of a state’s award, are in current law, but this is of limited effectiveness. For example, the Sex Offender Registration and Notification Act, which was enacted in 2006, imposed a 10 percent penalty on Byrne JAG awards for non-compliance, but almost 15 years later only 18 states are in compliance. Additionally, I sometimes hear that Byrne JAG funding is already too low and diminished with set-asides for award penalties to be an effective incentive, especially when the cost of compliance is high. With that in mind, is Byrne JAG a program DOJ seeks to use to incentivize reforms?**

RESPONSE:

As required by the PREA statute, Byrne/JAG funds to states were first impacted in FY 2014, when the nation’s governors were legally required to submit to the DOJ either a certification of full compliance with the PREA standards, or an assurance that their states would use five percent of Byrne/JAG funds to come into compliance with the standards in the future.

Governors selecting not to make a PREA submission to the DOJ in a given fiscal year have their Byrne/JAG funding reduced by five percent. In FY 2014, two governors submitted certifications and in FY 2021, 21 governors submitted certifications. Each year, however, dozens of governors continue to submit assurances to the DOJ, which reveals that this option

incentivizes positive, ongoing efforts in states to achieve and maintain compliance with the 300 plus requirements in the PREA standards.

Unfortunately, the 2016 Amendment to the PREA statute eliminates the assurance option for governors beginning in December 2022. As such, the DOJ strongly recommends that Congress maintain the assurance option beyond December 2022, in order to continue to support and incentivize PREA compliance efforts in states across the nation.

**45. As we've seen in the past, often the proposed policing reform conditions or penalties are targeted at an agency or level of government that has no authority to make the change that is sought. This was a valid criticism of conditions the Majority included in the House bill last year – conditions which were later removed because they were overly controversial. That being said, what are some better ways DOJ can help states, counties and cities improve the administration of justice?**

RESPONSE:

The Justice Department is committed to leveraging the full range of authorities and resources available to speak with one voice to promote police community trust and prevent crime; promote integrity in policing; and promote alternative community interventions that reduce burdens on law enforcement.

The Department's diverse set of tools include providing federal leadership, guidance, grantmaking, data and research, training and technical assistance, and convening power. The Justice Department assists states, counties, and cities improve the administration of justice through funding. The President's FY 2022 budget requests a total of nearly \$1.3 billion, with program increases of \$379.8 million, to support reforms designed to further strengthen relationships between law enforcement and the communities they serve. This investment is important both for keeping our communities safe and for protecting civil rights and civil liberties. It is also critical for the development of new strategies and best practices and disseminating research and other critical information to the field through various media, such as [CrimeSolutions.gov](https://www.crimesolutions.gov).

Research to advance community-oriented policing strategies, promote bias-free policing, address unlawful uses of force, increase community engagement with law enforcement officials, improve law enforcement training, establish accountability systems that stimulate trust, and promote officer wellness and safety.

Targeted training and technical assistance is another valuable tool that DOJ deploys to assist State and local partners in improving the administration of justice. For example, the National Public Safety Partnership has helped agencies learn from one another and placed subject matter experts with agencies for three years to support capacity building reform such as increased homicide clearance rates, improved ballistics and crime gun policies and procedures and improvements to their crime analysis product. Similarly, the Justice and Mental Health Collaborative Program offers peer to peer learning site visits where teams from police agencies and behavioral health experts can be hosted by learning sites- towns/cities/tribes that have been recognized for their quality justice and

mental health approach. Facilitating this learning is an important responsibility of the DOJ and often the growth that results from these peer-to-peer facilitated training or other technical assistance will last far beyond a grant awarded to a jurisdiction.

**Nonprosecution for Illegal Exports of Software Products to Iran**

46. On April 29<sup>th</sup>, DOJ announced that German global software company, SAP SE, agreed to pay over \$8 million in penalties for violating U.S. export regulations and sanctions intended to end Iran's malign behavior by supplying Iran with millions of dollars' worth of illegally exported software and services. Did SAP first approach DOJ about these violations or did DOJ first approach SAP about these violations?
47. If you had ample evidence that SAP violated U.S. sanctions, why did you choose to pursue a Non-Prosecution agreement rather than more punitive actions?

**RESPONSE:**

In 2019, the Department's National Security Division announced revisions to a policy that encourages businesses to disclose export control and sanctions violations *before* they are under investigation by the government, in exchange for leniency. The "Export Control and Sanctions Enforcement Policy for Business Organizations," referred to colloquially as the "Voluntary Self-Disclosure" (VSD) policy,<sup>2</sup> provides that if a company voluntarily self-reports the violations, timely and appropriately remediates, disgorges any ill-gotten gains, and fully cooperates with DOJ and law enforcement, then the Department will not, in the absence of aggravating factors, prosecute the company.

In September 2017, SAP reported various Iranian sanctions violations to the Department under the VSD policy. According to the Department's National Security Division ("NSD"), SAP satisfied the VSD by voluntarily and promptly disclosing violations of which the government was (and might have remained) entirely unaware. It fully cooperated with the Department, by conducting a thorough internal investigation, making the results of that investigation available to law enforcement, and enabling us to conduct our own investigative activity that would have been challenging in the absence of the company's cooperation (such as interviewing foreign employees). SAP also timely remediated and implemented significant changes to its export compliance and sanctions program to better prevent and detect violations of U.S. sanctions, spending more than \$27 million on such changes. The changes included (1) implementing Geo IP blocking; (2) deactivating thousands of individual users of SAP cloud based services based in Iran; (3) transitioning to automated sanctioned party screening for its cloud businesses; (4) auditing and suspending SAP Partners that sold to Iran-affiliated customers; (5) terminating employees who were aware of the sale of SAP software to users in Iran; and (6) hiring approximately 15 additional professionals devoted exclusively to export control and sanctions compliance.

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<sup>2</sup> The policy, which superseded a prior version from October 2016, can be found here: [https://www.justice.gov/nsd/ces\\_vsd\\_policy\\_2019/download](https://www.justice.gov/nsd/ces_vsd_policy_2019/download).

Finally, SAP paid the Department of Justice \$5,140,000, the amount of money the Company made from the illicit transactions, in addition to millions of dollars in penalties paid to the Departments of the Treasury and Commerce.

Prosecuting Iran sanctions cases remains a priority of the Department's Counterintelligence and Export Control Section, which has a strong and consistent record of aggressively enforcing the International Emergency Economic Powers Act. The Department's National Security Division believes that resolution of this matter was appropriate in light of the Department's VSD policy and SAP's voluntary disclosure, and timely and complete cooperation and remediation. Furthermore, the Department hopes this resolution will encourage other companies to disclose such violations directly to the Department when they become aware of them, instead of waiting to be caught.

### **Voting Rights**

- 48. Under the National Voter Registration Act, a law designed to expand registration opportunities for all citizens and ensure proper maintenance of voter registration lists, states are required to keep voter registration lists accurate and current. What role does the proper maintenance of voter registration lists play in the national voting integrity effort?**

RESPONSE:

The National Voter Registration Act of 1993 (NVRA) provides for states to maintain voter registration rolls for federal office in a manner that provides for voter registrations from eligible applicants to be timely added to voter rolls, and for general programs to be conducted that make a reasonable effort to remove registrants from the voter rolls due to death or change in residence outside the registrar's jurisdiction. The Department's enforcement of the NVRA across a variety of its provisions is aimed at assisting states in having accurate and current voter rolls, by providing that applicants who are eligible have the opportunity to register and be timely added to voter rolls in their current jurisdiction, by providing that registrants are timely moved to the rolls in their new jurisdiction when they move, and that registrants are timely removed from the rolls when they are no longer eligible to vote in that jurisdiction due to death or change in residence.

### **Child Exploitation Investigations**

- 49. Investigating child exploitation and human trafficking forums on the Darknet requires robust information sharing and technical tools. According to a December 2020 DOJ OIG audit of the FBI's efforts to disrupt illegal Darknet activities, the FBI does not have a formalized bureau-wide Darknet strategy. When it comes to child exploitation, I would like to take things even further. I would like to see a *multi-agency* Darknet strategy to combat child exploitation and human trafficking. Do you believe there are opportunities for the FBI and other non-DOJ agencies to better coordinate investigations of child exploitation, sex trafficking and cybercrime by coordinating or partnering, and by leveraging existing tools in order to more rapidly exploit digital evidence and intelligence on the Darknet?**

## RESPONSE:

The FBI's approach to disrupting illegal Darknet activities is now being formalized into a Bureau-wide Darknet strategy. The FBI currently coordinates and deconflicts its investigations of crimes against children with international and federal law enforcement partners that have the authority, expertise and technology to combat child exploitation on the Darknet. The FBI consistently seeks collaborative partnerships and technical knowledge sharing opportunities with other Federal agencies, both internal and external to the Department of Justice.

The Department anticipates releasing its National Strategy for Child Exploitation Prevention and Interdiction later this year, which will include proposed measures to address child exploitation committed on the Darknet. With respect to human trafficking, in a recently released report, the GAO found that most human trafficking is committed on the surface web, not on the Darknet.<sup>3</sup>

The United States Marshals Service continually works with the other federal law enforcement components to protect the most vulnerable members of our society by leveraging our areas of expertise and developing comprehensive best practices and new technology to accomplish this mission.

**49. The OIG has highlighted the fact that FBI units operating on the Darknet are frequently at risk of unknowingly crossing into the investigation of another government agency or even another FBI unit. Therefore, timely deconfliction of investigative data among law enforcement agencies is essential to preserve the integrity of investigations and share information. How can increasing coordination between disparate agencies also reduce unintentional conflicts across investigations?**

## RESPONSE:

The Department of Justice has long recognized the importance of data and investigative de-confliction in ensuring the integrity and efficiency of complex investigations.

For example, in 1994, the DEA-led Special Operations Division (SOD) was established in Chantilly, Virginia, to deconflict telephone numbers for the purposes of initiating wiretaps in accordance with Title III in federal narcotics investigations. In addition to SOD's deconfliction platform where law enforcement agencies throughout the nation can deconflict their lawfully obtained telecommunications investigative data (e.g., phone numbers, email addresses, IP addresses, license plates, etc.), SOD serves an important investigative coordination role with representatives from 35 organizations, to include Federal law enforcement agencies, DOD entities, "Five Eyes" partners, and the New York Police Department.

In addition, the Organized Crime Drug Enforcement Task Forces Fusion Center (OFC) holds nearly 800 million criminal-case relevant records and ingests them into its data warehouse in near-real-time. This currently represents the largest and most diverse repository of law enforcement investigative information in the federal government.

<sup>3</sup> See, Sex Trafficking: Online Platforms and Federal Prosecutions, page 9, published June 2021, available at <https://www.gao.gov/assets/gao-21-385.pdf>.

These holdings are accessible by OFC analysts and the 21 federal and foreign agencies that contribute data. As a result, the OFC supports investigations into almost 400 different types of federal crimes, including cyber-crimes, fraud, human trafficking, money laundering, firearms smuggling, illegal exports, and child exploitation. OFC support to the field includes a 24/7 automated Deconfliction Query that simultaneously runs up to three hundred selectors and produces results within 30 minutes; analyst-created intelligence reporting in response to requests made by field agents through OFC's online request portal; and proactive analytical reporting tackling Department need(s), such as recent support for investigative efforts against COVID-19 fraud where the OFC completed over 4,000 analytical intelligence products on over 19,000 potential COVID-19 fraud targets since March 2020. More broadly, in FY 2020, the OFC produced deconfliction products on over 61,000 targets, an increase of over 140% over the previous fiscal year.

The FBI strives to deconflict its operational efforts and strategy with partner agencies that are also conducting child exploitation investigations. The FBI utilizes deconfliction databases to document investigative and undercover activity, to share information, and to protect the integrity of its operations. The FBI welcomes increased coordination with its fellow agencies to reduce unintentional conflicts and is actively engaging with partners in the Darknet space to accomplish this goal.

**The Honorable Rosa L. DeLauro**  
**Subcommittee on Commerce, Justice, Science, and Related Agencies**  
**Questions for the Record**  
**Fiscal Year 2022 Budget Request for the Department of Justice**

1. **Domestic terrorism is a very real threat in America, and this budget takes bold steps to confront the issue. The President's skinny budget outlined \$101M toward addressing domestic terrorism but with only a limited outline of how those funds will be allocated.**

**Can you expand on how that funding will be allocated to better address the domestic terrorism threat? What steps will the Department take regarding civil liberties in this regard?**

RESPONSE:

The Department of Justice takes seriously its commitment to upholding the rule of law and fighting all forms of domestic terrorism. The Department's efforts to ensure that those responsible for the January 6 riots at the U.S. Capitol are criminally charged and held accountable for their unlawful conduct in accordance with the Principles of Federal Prosecution are an example of the significant time and resource commitments currently underway.

The Department has made combatting domestic terrorism one of its top priorities. The Department will continue to use all statutes, investigative tools, and other available resources to safeguard our country from this grave domestic threat.

As part of the Department's FY 2022 budget, the U.S. Attorneys request \$40.0 million for 100 positions (60 attorneys) as well as the necessary technological solutions and case management systems for the United States Attorneys' offices (USAOs) to combat Domestic Terrorism. This funding is needed to provide the USAOs with additional prosecutors and support personnel to respond to the increase in Domestic Terrorism-related Federal prosecutions, litigation, and other court proceedings arising from cases associated with mass shootings, terrorism, threats, and potential violence or related violence. In addition, funding will assist USAOs that need contractual support to assist with advanced technological data solutions. This modernization effort will include a mechanism to improve the tracking and public reporting of Domestic Terrorism cases.

The FY 2022 budget also includes \$10.0 million for the National Institute of Justice (NIJ) Research on Domestic Radicalization program, a \$4.0 million increase for funding that supports critical research on the root causes of radicalization.

The USMS supports countering Domestic Terrorism within multiple agency program areas. The USMS Judicial Security mission conducts threat investigations and protected responses for protected persons, to include the Federal judiciary, and Federal courthouse facilities against domestic terrorist threats. Within the fugitive apprehension mission, the

Technical Operations Group performs open source intelligence and cyber investigations in support of investigations related to domestic terrorism, and provides electronic and video surveillance and aerial support during domestic terror trials if needed. The Special Operations Group, a specially trained and equipped unit, deploys in high-risk/sensitive law enforcement situations and assists in high-risk fugitive operations and civil disorders to combat Domestic Terrorism. Finally, the USMS houses domestic terrorist prisoners while they move through the judicial process.

The FBI has done what it can internally to address the increased volume of DT threats by creating the Domestic Terrorism-Hate Crimes Fusion cell and surging personnel from other areas. This year alone, the surge accounts for a 260% increase in DT personnel. In addition, the cost of performing DT investigations has increased significantly as the FBI has had to employ more advanced investigative techniques than in years past. The FBI also will need to invest in additional Special Agents, Intelligence Analysts, and technical positions to address the rising number of investigations, compose targeting packages, conduct threat analysis, and organize source reporting. Finally, the FBI also requires non-personnel resources for case funds and technical tools.

2. **The President's skinny budget prioritizes advancing racial equity and criminal justice at a particularly critical time for our country as we continue to grapple with the systems of racism and injustice that continue to take so many innocent American lives to this day. As you know, members of communities that are targets of hate crimes, including Black and Latino individuals, LGBTQI people, Muslims, Sikhs, and adherents of other minority religions, and people with disabilities, have had negative and frightening interactions with law enforcement, and frequently prefer not to seek assistance from police when attacked or harassed. For people affected by hate who mistrust law enforcement entities, the availability and capacity of community-based organizations to provide support is crucial.**

**How will the Department, working through its grant programs, help to meet the strong desire of communities targeted by hate for assistance outside the criminal justice system?**

RESPONSE:

Combating hate crimes is one the highest priorities for the Department. In FY 2021, the Department's Office of Justice Programs (OJP) released three funding opportunities—totaling \$7.0 million—dedicated to enhancing community outreach, education, investigation, and prosecution of hate crimes. These three funding opportunities are: (1) a site-based program under the Matthew Shepard and James Byrd Jr. Act which strongly encourages partnerships with non-profits and schools to support outreach, education, investigations and prosecutions of hate crimes; (2) a site based program that promotes a collaborative approach towards preventing and addressing precipitous increases in hate crime through demonstration projects, funded under the precipitous increase in crime carve out of the JAG program; and (3) a Shepard Byrd Act funded national training and technical assistance project to support these grantees and the field.

OJP released the FY 2021 Services to Support Victims of Hate Crime and Strengthen Communities competitive program solicitation in May 2021. OJP plans to issue one award of up to \$2.0 million to an entity that will provide project management and oversight and make a minimum of 12 subgrants (ranging from \$50,000 to \$125,000) to organizations throughout the country to implement field-generated projects to serve and support victims of hate crime in the communities that they serve; thereby promoting awareness, healing, reconciliation, service access and/or resource development. The recipient will also provide technical assistance and capacity building to the selected subrecipients (for example, crime victims' rights, compensation for crime victims, federal award management, etc.). Subrecipient entities may include, but are not limited to, faith-based organizations, community-based agencies, service providers, advocacy groups, and other groups or organizations operated by and/or for individuals who have been harmed by hate crime.

OJP also anticipates supporting additional peripheral activities through ongoing work, for example, by encouraging state Victims of Crime Act (VOCA) programs (and VOCA technical assistance providers) to support efforts to address hate crime at the state and community level; and by facilitating access for the tribal victim-services set-aside formula grantees to information about identifying and serving victims of hate crime in AI/AN communities.

For FY 2022, OJP requested a \$4.0 million increase, for the Shepard Byrd Act program. OJP would provide additional site-based awards to support outreach, education, investigations of hate crimes, and training and technical assistance to grantees and the field. The FY 2022 President's Budget also proposes appropriations language to expand the program eligibility to include non-profits and colleges and universities to build programs that support outreach and education efforts to reduce distrust, increase reporting of crimes by victims and create programs to address the needs of students.

In addition, OJP's Emmett Till Cold Case Investigations Program provides support to state, local, and tribal law enforcement and prosecutors in their investigation and prosecution of cold case murders associated with civil rights violations. The program supports creative partnerships with civil rights partners, historians and other non-profit partners with expertise in investigating these cases and engaging and supporting family members of the victims and other stakeholders impacted by these cases. In many cases, these events have had long term impacts on communities; OJP is working with the Community Relations Service and other partners to coordinate this work, which includes reconciliation efforts that can build stronger trust with law enforcement and prosecutors. The FY 2022 President's Budget requests \$3.0 million, a \$1.0 million increase, for this program.

Furthermore, community policing plays a central role in local law enforcement's ability to identify and address domestic extremism/terrorism through developing partnerships with communities and other law enforcement agencies, and training officers to identify the signs of domestic extremism. The COPS Hiring Program (CHP) currently includes a focus area on combatting hate crimes and domestic extremism to advance community-

based strategies that combat bias motivated acts of violence that divide our communities, intimidate our most vulnerable citizens, and erode trust in the rule of law.

The COPS Office Community Policing Development Microgrant program recognizes that hate crimes have a broader effect than most other kinds of crime, especially because hate crime victims include not only the crime's immediate target but also others like them. Likewise, the impact of domestic terrorism is felt broadly because the intent is often to intimidate, coerce, or influence national policy by violence against the population or the national infrastructure. The COPS Office will provide funding to develop or enhance programs that engage with the community to aid in the prevention of and response to hate crimes and domestic terrorism.

Finally, for FY 2022, \$2.0 million is requested the Department's Office in Violence against Women (OVW) to launch a new program to support greater outreach to, and services for, transgender victims of domestic/dating violence, sexual assault, and stalking. Transgender individuals suffer high levels of violent victimization and are at a much greater risk of dying by suicide than are cisgender individuals. Lesbian, Gay, Bisexual, and Transgender (LGBT) individuals, and in particular, lesbian, gay, and bisexual persons of color and transgender persons of all races, may be reluctant to report victimization and seek services for fear of discrimination, and because biases and lack of knowledge compromise the quality and utility of the system's response. Service providers may be unprepared to offer sensitive and appropriate services to LGBT victims of violence; in fact, only an estimated one in five LGBT victims of intimate partner violence or sexual assault seek help from a victim services organization. The funding requested for services for transgender survivors will broaden the OVW's reach to this population that is disproportionately affected by violence and faces greater barriers to safety and justice.

**The Honorable Grace Meng**  
**Subcommittee on Commerce, Justice, Science, and Related Agencies**  
**Questions for the Record**  
**Fiscal Year 2022 Budget Request for the Department of Justice**

1. As you know, members of communities that are targets of hate crimes, including Black, Asian, and Latino individuals, LGBTQI people, Muslims, Sikhs, and adherents of other minority religions, and people with disabilities, have had negative and frightening interactions with law enforcement, and frequently prefer not to seek assistance from police when attacked or harassed. For people affected by hate who mistrust law enforcement entities, the availability and capacity of community-based organizations to provide support is crucial. How will DOJ, working through its grant programs, help to meet the strong desire of communities targeted by hate for assistance outside the criminal justice system?

RESPONSE:

Please see response to Chair DeLauro's second question above.

2. The failure to confront and hold accountable white nationalist violence is not a question of not having appropriate tools to employ, but a failure to use those on hand. DOJ, including the FBI, has over 50 terrorism-related statutes it can use to investigate and prosecute criminal conduct, including white supremacist violence, as well as dozens of other federal statutes relating to hate crimes, organized crime, conspiracy and violent crimes. DOJ has used existing statutes to charge at least 400 people in the January 6 insurrection so far. How do you intend to direct resources to ensure that these tools are in fact used to target white nationalists now?

RESPONSE:

The Department of Justice takes seriously its commitment to upholding the rule of law and fighting all forms of domestic terrorism, regardless of ideology. The Department has made combatting domestic terrorism one of its top priorities. The Department will continue to use all statutes, investigative tools, and other available resources to safeguard our country from this grave domestic threat.

Preventing terrorist attacks, from any place, by any actor, remains the FBI's top priority. As discussed above, combatting the domestic terrorism (DT) threat also remains one of the FBI's key resource needs.

The FBI assesses that the greatest terrorism threat to our homeland is posed by lone actors or small cells who typically radicalize online and look to attack soft targets with easily accessible weapons. We see these threats manifested within both domestic violent extremists (DVEs) and homegrown violent extremists (HVEs), two distinct threats, both of which are located primarily in the U.S. and typically radicalize and mobilize to violence on their own. Individuals who commit violent criminal acts in furtherance of social or political goals stemming from domestic influences, some of which include racial

or ethnic bias, or anti-government or anti-authority sentiments, are described as DVEs, whereas HVEs are individuals who are inspired primarily by global jihad but are not receiving individualized direction from Foreign Terrorist Organizations.

The FBI assesses that the top threat we face from DVEs continues to be from those categorized as Racially or Ethnically Motivated Violent Extremists, largely those who advocate for the superiority of the white race, who were the primary source of lethal attacks perpetrated by DVEs in 2018 and 2019. We have also recently seen an increase in fatal DVE attacks perpetrated by anti-government or anti-authority violent extremists, specifically militia violent extremists and anarchist violent extremists. Anti-government or anti-authority violent extremists were responsible for three of the four lethal DVE attacks in 2020. Also, in 2020, we saw the first lethal attack committed by an anarchist violent extremist in over 20 years.

As an organization, DOJ adapts and relies on the strength of our federal, state, local, tribal, territorial, and international partnerships to combat all terrorist threats to the United States and our interests. To that end, we use all available lawful investigative techniques and methods to combat these threats while continuing to collect, analyze, and share intelligence concerning the threat posed by violent extremists, in all their forms, who desire to harm Americans and U.S. interests. We will continue to share information and encourage the sharing of information among our numerous partners via our Joint Terrorism Task Forces across the country.

The Justice Department's efforts to ensure that those responsible for the January 6 riots at the U.S. Capitol are criminally charged and held accountable for their unlawful conduct in accordance with the Principles of Federal Prosecution are an example of the significant time and resource commitments currently underway.

**The previous administration instituted a requirement at Justice Department for immigration judges to clear at least 700 cases a year with fewer than 15 percent of their decisions overturned on appeal to receive a "satisfactory" rating on their performance evaluation.**

**This policy is still in place and I believe it does not provide immigration judges a fair opportunity to review cases and ensure all have due process.**

**To reduce the backlog, the President's FY22 budget request calls for additional funding to hire 100 immigration judges to address the nearly 1.3 million outstanding cases before the immigration courts. Conversely, the U.S. Citizenship Act would direct DOJ to hire up to 220 immigration judges over four years. Clearly there is interest in solving the immigration backlog issue, but it is not clear to me how many judges we may need.**

### **3. Will you consider removing the caseload quota for immigration judges?**

RESPONSE:

Pursuant to the recent Executive Order, EOIR is reviewing a number of policies and regulations, including appropriate performance measures and metrics for immigration judges.

**4. If Congress provides the funding as requested by the President, can you discuss how DOJ under your leadership is going to address this issue?**

**RESPONSE:**

EOIR's primary strategic focus in the FY 2022 budget process is increasing adjudicatory and case processing capacity in a fair, expeditious, and uniform manner. Although EOIR is examining all potential avenues to increase efficiency and adjudicative capacity through existing means, additional resources are necessary. EOIR's FY 2022 budget request includes \$891 million to support 100 new immigration judges (IJs), the necessary support staff and resources to support backlog reduction efficiencies. This request is essential in enabling EOIR to advance initiatives that fulfill presidential and Attorney General priority areas while also fulfilling EOIR's mission and continuing to improve court business processes and record keeping infrastructure and processes. The additional IJs and funding for efficiencies provided through these program increases will help EOIR better address these challenges and ensure the efficient administration of immigration law.

EOIR is undertaking several efforts to increase adjudicative capacity and help reduce the pending caseload. In addition to EOIR's continued focus on hiring all authorized positions to fill existing vacancies, EOIR is making ongoing efforts to maximize existing resources and eliminate agency inefficiencies. These ongoing efforts include making docket adjustments to reflect enforcement priorities, developing and implementing a workforce staffing model, opening new courts, leveraging existing IT systems, emphasizing policy coordination and analysis, and making the IJ hiring process more efficient.

*Filling Existing Vacancies.* EOIR's continued focus on filling existing vacancies has helped increase adjudicative capacity over the last several years. Despite this increase in adjudicative capacity and EOIR's continued efforts to hire new IJs, the pending caseload continues to grow. To successfully decrease the pending caseload to a manageable level, EOIR requires additional authorized IJs and support staff.

*Docket Adjustments.* EOIR continues to make docket adjustments and prioritize certain case types to reflect the shifts in enforcement priorities. EOIR will continue engaging with Federal partners to gauge the impact of enforcement activities, migratory patterns, and other factors that affect the immigration courts and adjust dockets and resource allocations accordingly.

*New and Expanded Court Locations.* Over the last several years EOIR has added space in some existing locations, and expanded its number of locations, going from a total of 337 courtrooms at the close of FY 2016 to 523 projected at the end of FY 2021. New court locations have opened in each of the last five fiscal years, including most recently courts in Van Nuys, CA, Sacramento, CA, and Houston, TX. By adding available court space as the IJ corps expands, EOIR will be able to hear a greater volume of cases, reducing the backlog more quickly.

In addition to expanding the number of courts, to better utilize courtroom space EOIR Policy 19-11 “No Dark Courtrooms” memorialized policies to reduce and minimize the impact of unused courtrooms and docket time. EOIR will continue to implement this policy which assigns cases to dockets and IJs in a manner to maximize courtroom usage.

*Leveraging Existing IT Systems.* To maximize the capacity of immigration courts nationwide, EOIR reports that it continues to make efficient use of video teleconferencing (VTC) systems, which enable IJs to adjudicate cases in other parts of the country. This has multiple benefits. IJs in locations with a lower caseload can administer cases in higher-volume locations remotely. IJs are able to adjudicate certain detained and Institutional Hearing Program (IHP) cases remotely, diminishing the challenges associated with reaching DHS and Federal facilities that are not co-located with immigration courts. All courtrooms and many conference rooms are now equipped with VTC capability.

Additionally, EOIR reports that it has successfully upgraded the Digital Audio Recording systems in all courtrooms. The touch panel and modernized audio-processing components have provided courtroom users with enhanced phone controls, video teleconference capabilities, and simultaneous interpretation controls. Looking forward, EOIR is using analytics to explore how VTC and other video technology use could minimize the number of underutilized courtrooms or expand access beyond a traditional courtroom.

In addition, EOIR continues to strive to modernize and digitize its critical information systems. The benefits of an electronic filing and case management system are undisputed. A fully electronic system will improve case scheduling and adjudication efficiency, reduce time spent on administrative tasks related to paper files, and free additional space to be used for additional staff or court expansion. In 2018 EOIR piloted its new electronic filing system, ECAS, at five immigration courts and the BIA. All EOIR courtrooms and the BIA will have ECAS deployed by the end of the calendar year. By the end of FY 2021, EOIR expects to have ECAS deployed to 485 courtrooms, which includes all but two immigration court locations. Within this timeframe, over 16,500 attorneys have registered to use ECAS, over 640,000 documents have been uploaded, over 100,000 electronic records of proceeding (eROP) have been created, and over 1,200 EOIR users have been trained.

*Policy Coordination and Analysis.* In addition to process improvement, technology, and communication strategies, EOIR strategies work to ensure that short- and long-term human capital needs are met, particularly as they relate to the IJ hiring process and immigration court staffing and resourcing requirements. OCIJ, BIA, and agency leadership continually examine activities critical to case completion and the amount of time required for staff to complete these activities thoroughly. EOIR works with DHS, DOJ Office of Legal Policy and others on immigration related policies and regulations to increase the adjudicatory capacity, as well as implemented many new internal policies which serve to enhance EOIR decision making by furthering consistency as well as enhancing fraud prevention and detection activities.

5. **I want to get an update from you within 60 days of this hearing on how many additional immigration judges DOJ would need to address the backlog issue. (EOIR)**

RESPONSE:

The President's Budget requested 100 additional immigration judges and support staff in FY 2022. Although EOIR may request additional immigration judges in future years, it is appropriate to increase by 100 at this time. Challenges involved in the on-boarding process, including the time needed to hire as well as the time needed to lease and build out court space, lead us to the conclusion that 100 IJs is the appropriate level of growth to authorize in one year.

6. **A November 2020 press release from the DOJ about its "China Initiative" program showed that 25% of the 61 cases under the initiative were for economic espionage, leaving the other 75% classified under ancillary matters or minor crimes. This initiative is ineffective against combatting security threats, but racially biased prosecutions and profiling of Asian American researchers have been greatly effective in creating alarm and fear among Asian American and Asian immigrant communities. Has the DOJ reevaluated the efficacy of the "China Initiative" program?**

RESPONSE:

The Justice Department is committed to continuously evaluating the strength of our proof and the effectiveness of our efforts to ensure that our actions always reflect the interest of justice and equality before the law.

The fear and alarm among Asian American and Asian immigrant communities that you note is of deep concern, particularly in light of the substantial rise in hate crimes and bias against the Asian-American and Pacific Islander community across our country.

There is no place for racial bias or racial profiling in law enforcement. Like acts of hate, racial and ethnic biases and profiling undermine the principles upon which our democracy stands.

As we work to keep our country safe from all threats, including the threats posed by the government of the People's Republic of China, the Justice Department will also work each and every day to protect the civil rights of everyone in our country, including Asian American and Asian immigrant communities.

**As you know, ATF is the only federal agency with oversight of the gun industry; ensuring industry members comply with the law to prevent the flow of guns into the illegal market. According to ATF's own reporting, the vast majority of guns traced to crime come from a small percentage of gun dealers, and of all trafficking channels, corrupt gun dealers account for the highest volume of guns diverted into the illegal market.**

**This is incredibly important, especially for states like mine. New York has some of the strongest gun laws in the country, which is why the overwhelming majority of guns traced back to crime in New York, a full 84%, come in from other states. This is devastating, especially for communities of color where these guns are most often trafficked. Guns don't grow on trees, but in some neighborhoods it's easier to get a gun than fresh milk or produce.**

At the forefront of ATF's regulatory efforts are their Industry Operations Investigators, or IOIs, the people who inspect gun dealers to make sure that all federal firearms licensees, or FFLs, are not negligently or criminally providing firearms to the illegal market. ATF has an internal goal of deploying these IOIs to inspect every FFL at least once every 5 years, but falls far short of that, on average only inspecting 8% of FFLs a year.

Two years ago, when former-director Thomas Brandon sat before this committee explaining the agency's budgetary shortfalls, he said that in order for ATF to meet its own inspection goals they would need at least 200 hundred more IOIs. Despite increases in funding provided by this committee, it does not appear that the previous administration took that deficit seriously, and instead the number of IOIs has actually decreased almost 10% since 2018.

7. **Will the Department of Justice under this administration commit to take seriously the role of ATF to provide oversight to the gun industry to prevent guns from entering the illegal market?**

RESPONSE:

Yes, the Department is committed to addressing the illegal trafficking of firearms and focusing on keeping guns out of the wrong hands.

On June 23, 2021, for example, we announced that (1) ATF would seek to revoke the licenses of the relatively small number of rogue firearms dealers who willfully violate the law in specific ways that threaten public safety; (2) we are seeking funding to increase ATF's dealer inspection capacity and improve its effectiveness, so it can identify and focus on those dealers the pose the greatest risk to public safety; (3) we are improving information sharing with state, local, tribal, and territorial partners to help bring more intelligence and law enforcement resources to bear, as well as with the public to increase our own accountability; and (4) we would be launching a concerted effort to crack down on gun traffickers.

On July 22, 2021, the Department launched five cross-jurisdictional strike forces aimed at disrupting entire illegal firearms trafficking networks that channel guns into places where they are used to commit violent crimes.

These concrete efforts build on other work to address gun violence, including the Department's issuing a proposed rule to help curb the proliferation of so-called ghost guns that are increasingly recovered in crime. ATF's FY2022 budget also includes new resources to enhance crime gun intelligence, investigate FFL robberies (including funding for new IOIs), and improve forensic ballistics analysis.

8. **How will the Department of Justice take on the issue of gun trafficking, which hurts so many, but especially disproportionately impacted communities of color?**

RESPONSE:

In April 2021, I directed ATF to begin work on an updated study of criminal gun trafficking that I expect will help agents, prosecutors, and policymakers tackle modern criminal gun trafficking enterprises. In addition, on July 22, 2022, the Department launched five cross-jurisdictional strike forces aimed at disrupting entire illegal firearms trafficking networks that channel guns into places where they are used to commit violent crimes. ATF's FY2022 budget also includes new resources to enhance crime gun intelligence, investigate FFL robberies (including funding for new IOIs), and improve forensic ballistics analysis.

**9. Would ATF be more effective in its regulatory role if given funding to employ more Industry Operations Investigators? (ATF)**

RESPONSE:

We look forward to working with Congress on increasing funding for ATF to hire additional personnel necessary to increase the number of inspections and enforcement actions taken against dealers who violate federal law and endanger public safety. The President's FY 2022 budget request includes \$12.7 million and 84 positions (79 Industry Operations Investigators) to enhance the ATF's ability to investigate Federal Firearms Licensee theft and burglaries, specifically to improve response, analysis, and outreach.

**10. Can you state how you intend to support ATF in its mission to hold accountable corrupt gun dealers? (ATF)**

RESPONSE:

The Department is committed to addressing the illegal trafficking of firearms and focusing on keeping guns out of the wrong hands.

On June 23, 2021, for example, we announced that (1) ATF would seek to revoke the licenses of the relatively small number of rogue firearms dealers who willfully violate the law in specific ways that threaten public safety; (2) we are seeking funding to increase ATF's dealer inspection capacity and improve its effectiveness, so it can identify and focus on those dealers the pose the greatest risk to public safety; (3) we are improving information sharing with state, local, tribal, and territorial partners to help bring more intelligence and law enforcement resources to bear, as well as with the public to increase our own accountability; and (4) we would be launching a concerted effort to crack down on gun traffickers.

On July 22, 2021, the Department launched five cross-jurisdictional strike forces aimed at disrupting entire illegal firearms trafficking networks that channel guns into places where they are used to commit violent crimes. These concrete efforts build on other work to address gun violence, including the Department's issuing a proposed rule to help curb the proliferation of so-called ghost guns. ATF's FY2022 budget also includes new resources to enhance crime gun intelligence, investigate FFL robberies (including funding for new IOIs), and improve forensic ballistics analysis.

11. Community violence accounts for a significant portion of gun homicides perpetrated in this nation. Typically, a very small subset of a city's population—less than one percent—is responsible for the majority of community violence. We know that there are effective ways to disrupt this form of violence by employing trauma-informed strategies designed to identify individuals at high-risk of perpetrating or being victimized by violence and intervening through proven methods like relationship-based street outreach and hospital-based violence intervention programs. These coordinated violence reduction programs and evidence-informed community-based strategies deliver comprehensive services to individuals and have been shown to save lives and improve public safety in a relatively short period of time. We know increasing funding for these types of community violence intervention programs is a priority for President Biden; he's asked for \$100M to fund this type of programming within the Department of Justice. The Department's Office of Justice Programs administers the Community-Based Violence Prevention Program, Byrne Memorial Justice Assistance Grant Program, Project Safe Neighborhood, and Strategies to Support Children Exposed to Violence. These grant programs could serve as avenues to ensure community-based, nonprofit organizations operating in cities experiencing the highest rates of gun violence can receive grants to run these life-saving programs.

**What will you do as Attorney General to ensure community violence intervention initiatives are prioritized by the respective grant programs?**

**RESPONSE:**

The Department of Justice supports proven community violence intervention (CVI) strategies for reducing violence through tools other than incarceration.

To date, the CVI programs have been badly underfunded. The President's FY 2022 budget requests \$100.0 million for a new CVI initiative, which will be complemented by a \$100.0 million CVI program administered by the Department of Health and Human Services.

In addition, the DOJ will leverage existing grant programs in FY 2021 to direct vital support to CVI programs as quickly as possible. For example, the Department's Office of Justice Programs (OJP) will support community violence interventions through the FY 2021 Comprehensive Youth Violence Prevention and Reduction Program, an \$11.0 million competitive grant that funds youth violence prevention and reduction efforts, and the Strategies to Support Children Exposed to Violence program, a \$7.0 million program that provides funding, training, and technical assistance to communities to address children's exposure to violence and prevent gun violence.

For both FY 2021 solicitations, OJP will give priority to applicants proposing to implement CVI strategies. The DOJ will also continue to highlight CVI programs via webinars and trainings through the National Gang Center, which will expand outreach efforts to interested communities about evidence-based models, such as the Comprehensive Gang Model that includes street outreach and violence interrupters. In addition, OJP will issue guidance to clarify that states can use their allocations from annual Victims of Crime Act (VOCA) funding—including over \$1.0 billion in FY

2021—for CVI efforts and will provide training and technical assistance on CVI to grantees. Through the Office of Community Oriented Policing Services (COPS Office), the Department has also included CVI as a topic area in its FY21 Community Policing Development (CPD) Micro-Grants, a \$3 million program that supports innovative community policing strategies. Under the CVI topic area, CPD Micro-Grants will support initiatives to develop and enhance programs that engage the community in violence reduction efforts, including street outreach, violence interrupters, hospital-based intervention, and other programs that provide wraparound services to communities. Additionally, CVI was added as a priority focus area in its FY21 Cops Hiring Program, a \$156 million competitive grant program that provides funding to hire entry-level law enforcement officers. As a result, law enforcement agencies that partner with community organizations to implement community-based gun violence intervention strategies will receive preference points in the scoring of their applications.

**The Honorable Charlie Crist**  
**Subcommittee on Commerce, Justice, Science, and Related Agencies**  
**Questions for the Record**  
**Fiscal Year 2022 Budget Request for the Department of Justice**

**Cannabis** – National support for cannabis legalization continues to grow, and a majority of states, including my home State of Florida, have established legal access to cannabis through state-operated medical and adult use programs. In response, Congress has considered measures to bring federal policy out of conflict with state cannabis laws, including through legislation, amendments, and the appropriations process. I have been supportive of prohibiting the Department of Justice from preventing any state or territory from implementing their own cannabis laws or from prosecuting any financial institution that serves cannabis businesses. This would respect the will of voters in the 49 states and the District of Columbia that have some form of legal cannabis like Florida.

1. What is the Department of Justice's current policy towards state and local legal cannabis programs?
2. Does the Department continue to take the position, as stated by you and by your predecessor that it does “not intend to use the limited federal resources at [its] disposal to enforce federal marijuana laws in those states or in the District of Columbia that have legalized marijuana”?

**RESPONSE:**

Marijuana enforcement in states where it is legal under state law is not a good use of government resources or a Justice Department priority. Accordingly, the DEA's marijuana investigative efforts target major drug trafficking organizations, whose large-scale illicit drug manufacturing, transportation, and distribution perpetuate violence and crime in American communities.

The Justice Department has not historically devoted resources to prosecuting individuals for simple possession of marijuana. As I suggested at my hearing, I do not think it the best use of the Department's limited resources to pursue prosecutions of those who are complying with the laws in states that have legalized and are effectively regulating marijuana. I do think we need to be sure, for example, that there are no end runs around the state laws by criminal enterprises, and that access is prohibited to minors.

The Justice Department continues to prioritize efforts to expand access to marijuana for research purposes. To this end, on May 14, 2021, DEA announced that it expects it will soon register additional manufacturers to cultivate marijuana for research purposes. The Justice Department stands ready to work with you and other Members of Congress to increase opportunities for medical and scientific research.

3. Generally, what is the Department of Justice's current policy toward financial institutions that serve legal cannabis businesses?

RESPONSE:

The Justice Department focuses its limited resources on targeting major drug trafficking organizations (DTOs) that launder millions of dollars through financial institutions. When DTOs try to exploit the U.S. financial system by concealing or attempting to conceal the proceeds of illicit drug trafficking as that of ostensibly legitimate marijuana sales, such conduct can merit federal investigation and the use of our limited prosecutorial resources.

- 4. Does the Department of Justice's stated position that it does "not intend to use the limited federal resources at [its] disposal to enforce federal marijuana laws in those states or in the District of Columbia that have legalized marijuana" extend to financial intuitions that serve those legal cannabis businesses?**

RESPONSE:

As stated above, the DOJ uses its limited resources to disrupt and dismantle major drug trafficking organizations (DTOs) that are responsible for large-scale manufacturing, transportation and distribution of illicit drugs. That is the focus of the Department's efforts. DTOs try to exploit the U.S. financial system by comingling licit and illicit funds, which is why reporting requirements established by the U.S. Department of Treasury for financial institutions providing services to marijuana-related businesses are so important.

**Guardianship – Over the past few years there has been a rise in disturbing reports of fraud perpetrated senior citizens who are wrongly brought under guardianship and have their assets mismanaged or stolen. House Report 116-453 that accompanied H.R.7617, (affirmed by the explanatory statement that accompanies public law 116-260) directs the FBI to increase its efforts in the enforcement of the Elder Abuse and Prevention and Prosecution Act of 2017 and establish a guardianship fraud hotline.**

- 5. What efforts has DOJ taken to increase enforcement under the Elder Abuse and Prevention and Prosecution Act of 2017?**

RESPONSE:

The Justice Department is committed to preventing and combatting elder abuse in all of its forms with all its available tools – from enforcement actions to public awareness campaigns, and from training and technical assistance to victims' services and legal aid.

With respect to enforcement efforts under the Elder Abuse and Prevention and Prosecution Act of 2017, since the Act's passage, the Department has charged approximately 1,000 defendants in enforcement matters involving over \$2.2 billion in fraud directed at seniors.

The Department's enforcement efforts have been strengthened by the leadership of Elder Justice Coordinators who have been appointed in each of our 94 United States Attorneys' Offices in accordance with that Act.

In addition to the Department's enforcement work across the U.S. Attorneys' Offices, Elder Justice Coordinators work closely with the Department's litigating and law enforcement components, grantmaking components, and will soon alongside the Department's recently-revived Office for Access to Justice. The Department provides training materials and other guidance for various stakeholders in the fight against elder abuse and exploitation, including federal and state prosecutors and other law enforcement personnel, as well as state and local ombudsman and others. And DOJ also maintains a public web site that provides valuable resources and contact information for victims of abuse and financial exploitation, their families and caregivers.

**6. When will the guardianship fraud hotline become operational?**

RESPONSE:

The Department launched an Elder Fraud Hotline in March 2020 to help combat fraud against older Americans and to help connect victims of fraud to services. Since June 2020, the hotline staff has addressed over 1,830 calls.

**7. Federal oversight of state guardianship programs is also important to fighting fraud. What more can DOJ do to protect seniors from guardianship fraud, preserve their assets, and prioritize allowing them to stay in their homes?**

RESPONSE:

One important way the Department can help to protect older adults from guardianship fraud is to raise the public's general awareness of the circumstances under which guardianships may be sought or imposed and the availability of potential less restrictive resources or options to support decision-making.

To that end, the Department worked with the National Center for State Courts to develop a free interactive online training module entitled that provides a broad overview of decision-making supports, including power of attorney, advance directives, guardianships. The training also identifies how any of those options could present risks of abuse.

In addition, the Justice Department is actively working to raise awareness about state Working Interdisciplinary Networks of Guardianship Stakeholders (WINGS). WINGS are court-community partnerships that use multi-disciplinary approaches to shape the ways courts and guardians' practice and improve judicial processes, protect individuals' rights and needs, and to ensure greater guardian accountability and fiduciary standards.

The Department is also working on a number of projects to educate the public and judges on alternatives to guardianship and how to make more informed decisions on whether guardianships, or another less restrictive form of supported decision-making, are appropriate or necessary for a particular older adult.

**Congressman David Trone**  
**Subcommittee on Commerce, Justice, Science, and Related Agencies**  
**Questions for the Record**  
**Fiscal Year 2022 Budget Request for the Department of Justice**

1. Too often when we talk about reforming our criminal justice system, we overlook the needs of justice involved youth. Every year, around 76,000 children are prosecuted, sentenced, and incarcerated as adults. On average, it costs around \$400 per day to incarcerate a young person. This spending has not led to improved outcomes for children in our justice system, on average 55% of young people will be incarcerated again within a year after release.

**Evidence-based alternatives to incarceration for court-involved youth have shown to reduce recidivism by an average of 22% when compared to incarceration. It seems to me that the smartest use of resources is to invest in things that prevent delinquency and reduce youth recidivism.**

**Federal investments play a critical role in state juvenile justice efforts. What resources are needed to ensure vulnerable youth have access to services designed to keep them from offending and prevent further involvement in the juvenile criminal justice systems?**

**RESPONSE:**

The Administration believes it is important to invest in juvenile justice programs and system reforms that emphasize prevention, promote cost-effective and community-based alternatives to confinement, and support programs that provide job training and substance use disorder and mental health treatment help to ensure that vulnerable youth do not become involved in the juvenile justice system. The FY 2022 President's Budget requests \$796.0 million for Juvenile Justice programs—an increase of \$450.0 million—to include funding to improve and increase implementation of evidence-based prevention and intervention programs for juvenile justice system involved youth supported under a state formula grant program; expand Youth Mentoring and Delinquency Prevention programs; support and enhance the response to missing and exploited children by continuing to fund Missing and Exploited Children programs; and provide effective alternatives to incarceration to improve outcomes for juveniles by funding a new program, Community-Based Alternatives to Youth Incarceration.

The FY 2022 President's Budget includes a request for \$120.0 million for the Youth Mentoring program, which represents an increase of \$20.0 million over the FY 2021 enacted level. The Youth Mentoring program assists national, state, local, and tribal mentoring organizations in reducing juvenile delinquency, gang involvement, academic failure, victimization, and school dropout rates through one-on-one, group, and peer mentoring. The DOJ has a long history of investing in youth mentoring which has proven successful as a prevention and early intervention approach to deter youth from delinquency acts and to prevent further involvement in the juvenile justice system. The request will increase funding for mentoring organizations and programs to support the most vulnerable youth across the nation and provide additional training and technical

assistance to support the effective program implementation, promote the use of evidence-based practices, and encourage long-term sustainability of projects.

2. **Congress has mandated that the Justice Department provide grants and training to local law enforcement agencies and juvenile courts in exchange for state data on ethnic and racial disparities among youth who come into contact with the juvenile justice system. The Office of Juvenile Justice and Delinquency Prevention (OJJDP) had dramatically scaled back its requirements on the types of data states need to collect to receive funding. Can you speak to the importance of compiling information on racial patterns in juvenile arrests and incarceration by local agencies?**

RESPONSE:

The Department's Office of Juvenile Justice and Delinquency Prevention (OJJDP) recognizes both the problem of racial and ethnic disparities in our juvenile justice system and the importance of compiling information on racial patterns in juvenile arrests and incarceration by local agencies.

A core requirement of The Juvenile Justice and Delinquency Prevention Act (JJDP) is identifying and reducing racial and ethnic disparities ("RED") among youth who come into contact with the juvenile justice system. Pursuant to the JJDP, 34 U.S.C. § 11133(a)(15), states and territories must "implement policy, practice, and system improvement strategies ... to identify and reduce racial and ethnic disparities among youth who come into contact with the juvenile justice system, without establishing or requiring numerical standards or quotas" including by identifying and analyzing data on race and ethnicity at five key "decision points" – namely, Arrest, Diversion, Pre-trial Detention, Disposition Commitments, Adult Transfers – in order "to determine which such points create racial and ethnic disparities among youth who come into contact with the juvenile justice system."

To be eligible to receive federal funding, states are required to implement plans to reduce racial and ethnic disparities and each state must report on its progress in its comprehensive JJDP 3-year plan and subsequent plan updates. OJJDP reviews the plan updates annually. Any State that fails to identify and reduce racial and ethnic disparities among youth who come into contact with the juvenile justice system stands to lose 20 percent of its Formula Grants allocation for the year.

By focusing states' reduction efforts on these five pivotal points of contact, and by enhancing technical assistance to states aimed at reducing disproportionate contact of minority youth with the juvenile justice system, we hope to see significant reductions in racial and ethnic disparities.

3. **Through its Office of Community Oriented Policing Services (COPS), millions of dollars in federal funding has gone to increasing the presence of police in schools, which has led to a situation in which 14 million students are in schools with police but no counselor, nurse, psychologist, or social worker — nearly one third of our student population. What DOJ**

**resources are available to help support evidence-based and trauma-informed approaches to school safety?**

**RESPONSE:**

The STOP School Violence Act of 2018 (STOP Act) seeks to improve school security by providing students and teachers with the tools they need to recognize, respond quickly to, and prevent acts of violence. Both the Department's Office of Community Oriented Policing Services (COPS Office) and the Bureau of Justice Assistance (BJA) offer grants to improve security within our Nation's schools and on school grounds through evidence-based programs.

The COPS Office School Violence Prevention Program (SVPP) provides funding directly to states, units of local government, Indian tribes, and their public agencies to improve security at schools and on school grounds in the recipient's jurisdiction through evidence-based school safety programs. Applicants under SVPP are reminded of the potential for some security measures to cause or exacerbate trauma for some students, and to use a trauma-informed approach when implementing security measures to help mitigate this concern. When undertaking comprehensive school safety and security approaches, applicants are also encouraged to prioritize implementing school safety measures that help to promote a positive school climate that does not detract from the mission of the school to educate students or negatively impact the health and wellbeing of students.

In addition, BJA's Students, Teachers, and Officers Preventing (STOP) Training and Response to Mental Health Crisis Program provides funding to states, units of local government, and Indian tribes to address, prevent, and reduce school violence. Under the STOP Act, BJA's STOP Program supports training school personnel and educating students to prevent student violence against others and themselves. It also provides specialized training for school officials in responding to mental health crises, and it funds the development and operation of anonymous reporting systems for threats of school violence, including mobile telephone applications, hotlines, and websites.

Through DOJ's FY21 Children Exposed to Violence programming managed by our Office of Juvenile Justice and Delinquency Prevention (OJJDP), DOJ will also award up to \$1,430,000 to build the capacity of families and communities to help children exposed to violence using trauma-informed approaches. This includes funding to support the development and enhancement of trauma-informed services to support children exposed to violence in their homes, schools and communities. This funding will also support the development, enhancement and implementation of community violence interventions such as street outreach, violence interrupter models and hospital-based violence intervention programs. In addition, this funding will support the training and technical assistance communities awarded this funding will need in order to effectively implement these services and interventions.

DOJ, through OJJDP's FY19 Comprehensive School-Based Approach to Youth Violence and Victimization program, has also awarded nearly \$1.7 million to support the implementation of evidence-based prevention, intervention, and accountability efforts in school-based settings, in order to address youth violence and victimization as part of a comprehensive approach. This

funding includes support for the provision of evidence-based mental health services for youth who experience trauma and exposure to violence in a school setting, as well as training and technical assistance for the communities awarded this funding to implement these strategies with fidelity. Overall, the goals of the program are to reduce the incidence of school violence by holding the individuals involved in violence accountable, while also working to improve school safety and climate in order to prevent violence, delinquency, and victimization in schools.

4. **A primary goal of the First Step Act is to prepare individuals to reenter society successfully and reduce recidivism. The FSA has the capability to change lives for the better, improve our justice system, and save millions in taxpayer dollars, but only if fully and properly implemented.**

**Part of First Step implementation required the Independent Review Commission, also known as the IRC, to publish a report. The IRC's December report found that, quote "... even a full return to pre-COVID BOP programming levels will not be sufficient to make available 'evidence-based recidivism reduction programs and productive activities for all eligible prisoners' in Bureau custody by January 2022, as FSA requires." The report goes on to say quote "the Bureau will require significant additional appropriations in order to muster the personnel and programming access necessary to achieve that goal."**  
**What steps and resources are required to ensure the full implementation of these programs on the timetable required by the First Step Act?**

RESPONSE:

The Department is committed to fully implementing the First Step Act. The COVID-19 pandemic has complicated these efforts, given the necessary restrictions on activities that resulted. BOP has been working closely with its medical experts and the CDC to develop plans for safely increasing available programming options, particularly as vaccination rates increase and community transmission decreases. BOP is also looking closely at other steps to improve First Step Act implementation, from achieving appropriate levels of staffing to evaluating the needs-assessment process to establishing a timeline for assessing existing and potential new evidence-based recidivism-reduction programs and productive activities. We look forward to working with Congress on implementing this critical legislation.

5. **The U.S. immigration courts are facing a backlog of roughly 1.3 million cases. Beyond the allocation of additional resources, how is the Administration prioritizing immigration cases to reduce the backlog?**

RESPONSE:

Beyond the allocation of additional resources, including the hiring of additional immigration judges, EOIR would point to three measures that have been undertaken to address the backlog.

EOIR recently implemented a revised case flow process to manage its cases, detailed in EOIR Policy Memorandum 21-18 (see <https://www.justice.gov/eoir/book/file/1382736/download>). The new process conserves judicial resources by handling more routine and administrative case matters through paper and electronic filings, preserving limited courtroom time for trials and adjudications on the merits. By doing so, EOIR is able to utilize existing resources more effectively, to the benefit of overall case adjudication times and progress against the backlog.

Additionally, EOIR continues to develop priority dockets for adjudication in response to DHS immigration enforcement initiatives. This allows for efficient adjudication of these priority cases, and helps to address the case backlog in the most effective way. For example, EOIR is adjudicating cases in a “Dedicated Docket” to meet the Administration’s priority of adjudicating the cases of families who recently crossed the border between ports of entry and were placed on Alternatives to Detention.

Finally, EOIR continues to leverage technological advances to increase access to the courts and its own efficiency with existing resources. EOIR continues to move towards the final deployment of its electronic case management system, which will allow parties to file all documents with the court electronically. The process efficiencies introduced by the system will allow EOIR to free up additional administrative resources to address the case backlog. Additionally, EOIR has increased its use of remote video-teleconferencing technology, such as WebEx, to maximize its use of courtroom space and allow hearings to proceed in a socially-distanced manner during the current pandemic.

**6. The President’s “skinny budget” outlined \$1.5 billion dollars, an increase of \$554 million dollars, for grants that support efforts to reform State and local criminal justice systems, including funding to support diversions and alternative court programs. Can you expand on how that funding could be allocated to safely reduce rates of pretrial detention?**

**RESPONSE:**

The President’s FY 2022 Budget makes significant investments to support criminal and juvenile justice system reforms, including:

- \$350.0 million for existing Juvenile Justice Program Grants, including a \$37.5 million increase for the Improving Indigent Defense Program;
- \$100.0 million to create a new Alternatives to Youth Incarceration Program, which is designed to provide effective alternatives to incarceration that will improve outcomes for youth involved in the justice system;
- \$25.0 million to create a new Public Defender Improvement Program, which will protect civil rights by helping ensure fair access to justice and legal representation, including right to counsel at first appearance to identify and raise concerns about overuse of pretrial detention and to propose dismissal of charges without probable cause;
- \$5.0 million to increase funding to \$190.0 million for the Comprehensive Opioid, Stimulant and other Substance Abuse Program (COSSAP), which supports first responder to overdose and referral to treatment, law enforcement diversion, prosecution diversion, enhancement of

treatment and recovery support services in criminal justice programs in pretrial, courts, community corrections, jails and prisons and reentry, including community courts; and

- \$12.0 million to increase funding for the Adult Drug Court program, which offers court-based alternatives to incarceration for those in the criminal justice system, who are high risk for recidivism and have a high level of needs for services.

The funding increases to traditional Juvenile Justice Programs could support programs and training and technical assistance at the State and local level to safely reduce rates of pre-adjudication detention for youth involved in the juvenile justice system. State and local initiatives could focus on the implementation of sustainable, evidence-based alternatives to detention, such as diversion and community-based supervision programs. The goal would be to expand pre-adjudication options for judges by offering a continuum of community-based programs that can match services to the needs of youth. Alternatives include supervised release programs such as home detention, day and evening reporting centers, local substance use disorder and mental health treatment programs, and residential / group homes. These initiatives could also involve reforming State and/or local detention policies and practices around the development and use of pre-adjudication risk assessment instruments to guide decisions regarding the necessity of confinement pending trial. Many of the increases under the existing/traditional Juvenile Justice Programs can also be used to safely reduce rates of pretrial detention by offering expanded pre-adjudication options as described above, including the Title II Formula Grants programs, and the Delinquency Prevention Program.

The funding for the Indigent Defense program can support programs to ensure right to defense counsel at first appearance and in the pretrial phase, to support review of cases to ensure judicious use of pretrial detention, consistent with state laws. It can also explore innovations that have arisen during the pandemic to find alternatives to pre-trial detention and what was effective in ensuring community safety and reductions in failures to appear.

The COSSAP supports jurisdictions to build strategies to divert low-risk persons with substance use disorders to treatment, and to create law enforcement diversion programs, which keep these persons out of pretrial detention. In addition, the FY 2022 President's Budget requests \$120.0 million for Adult Drug Courts and Veteran Treatment Courts. Drug courts offer opportunities to address emerging needs, more effectively coordinate case processing and address underlying risks to reduce recidivism. For example, BJA supported an innovation in Erie County, New York with a drug court enhancement award several years ago. This Opiate Intervention Court, a voluntary pretrial program for persons who overdose was created to reduce overdoses and enhance outcomes for the criminal justice innovation program. This intervention has been found to leverage the power of the court to access treatment immediately and has reduced overdoses.

BJA's Justice Reinvestment Initiative (JRI) can also be employed by states to address their pretrial populations. For instance, Alaska's JRI legislation created and invested funds in a Pretrial Enforcement Division within the Department of Corrections. As part of this initiative, Alaska adopted a validated pretrial risk assessment tool to support pretrial decision making based on risk, required new pretrial staff to create individual pretrial

reports, and required courts to send court date reminders to released defendants to increase appearance rates.

**The Honorable Steven M. Palazzo**  
**Subcommittee on Commerce, Justice, Science, and Related Agencies**  
**Questions for the Record**  
**Fiscal Year 2022 Budget Request for the Department of Justice**

**Background:** The novel coronavirus pandemic has accelerated interest in the potential to use new technologies to facilitate the capture of fingerprints required to search federal and state criminal history record systems. Law enforcement organizations as well as populations who are required to undergo FBI fingerprint-based background checks desire to have new approved methods to capture and submit fingerprint images to the FBI using contactless technologies.

**Questions:**

1. Where is the FBI in its evaluation and approval of contactless technologies to acquire and submit fingerprint images to FBI databases?
2. What timeline is the FBI working from to enable new contactless acquisition methods?
3. Please specify the timetable for FBI's evaluation and approval of these new technologies.

**We are aware that the Transportation Security Administration as well as many state law enforcement agencies have immediate need to use new contactless technologies and request that the FBI prioritize and expedite its evaluation of these new capabilities.**

**RESPONSE:**

The FBI does not accept contactless fingerprints for two primary reasons. First, the National Crime Prevention and Privacy Compact Act of 1998 does not accept contactless fingerprints as a form of identification. Second, the technology has not reached a sufficient level of accuracy to be deemed sufficient for identification purposes.

The National Institute of Standards and Technology (NIST) is currently conducting studies in contactless fingerprinting.

The FBI's timetable for evaluation and approval will be based upon the NIST studies in contactless fingerprinting.



THURSDAY, MAY 6, 2021.

**FISCAL YEAR 2022 BUDGET REQUEST FOR THE  
DEPARTMENT OF COMMERCE**

**WITNESS**

**HON. GINA M. RAIMONDO, SECRETARY, U.S. DEPARTMENT OF COMMERCE**

Mr. CARTWRIGHT. Let us gavel in and begin.

As this hearing is fully virtual, we must address a few house-keeping matters. For today's meeting, the chair or staff designated by the chair may mute participants' microphones when they are not under recognition for the purposes of eliminating inadvertent background noise. Members are responsible for muting and unmuting themselves. If I notice that you have not unmuted yourself, I may ask you if you would like the staff to unmute you. If you indicate approval by nodding, staff will then go ahead and unmute your microphones.

I remind all members and witnesses that the 5-minute clock still applies. If there is a technology issue, we will move to the next member until the issue is resolved, and you will retain the balance of your time.

You will notice a clock on your screen that will show how much time is remaining. At 1 minute remaining, the clock will turn to yellow. At 30 seconds remaining, I will gently tap the gavel to remind members that their time has almost expired. When your time has expired, the clock will turn red, and I will begin to recognize the next member.

In terms of the speaking order, we will begin with the chair and ranking member, and members present at the time the hearing is called to order will be recognized in order of seniority. And then, finally, members not present at the time the hearing is called to order will be recognized.

Finally, the House rules require me to remind you that we have set up an email address to which members can send anything they wish to submit in writing at any of our hearings or markups. That email address has been provided in advance to your staff.

The subcommittee shall come to order. Good afternoon.

Today we welcome the Secretary of Commerce, Ms. Gina Raimondo, in her first appearance before this subcommittee to testify on the Department of Commerce's fiscal year 2022 budget request. Thank you for being with us today, Madam Secretary.

The President's fiscal year 2022 budget request proposes a bold \$2.5 billion increase to the Department of Commerce's budget to further its vital role in our Nation's economic recovery following the pandemic. The request focuses on American jobs, businesses, and manufacturing, as well as ensuring a safe supply chain, the

continuation of keeping America competitive in a global trade market; and, finally, restoring America's position as a global leader in semiconductor production.

Additionally, the request invests in our future by increasing broadband deployment, so everyone has the opportunity to participate in our modern economy and education system.

The request also includes initiatives in weather, climate and oceans research, and services that will improve our resiliency to climate change and create jobs and prosperity.

Our global competitors and adversaries will often seek to undermine or circumvent our trade laws, steal our intellectual property, and impose retaliatory tariffs or other barriers to trade. Bureaus, such as the International Trade Administration, play an important role in protecting American businesses and industries from unfair trade practices that directly impact American workers. That is why I am glad to see a continued commitment to ensuring staffing and resources for the Department's bureaus focused on both trade enforcement and export controls in the top line budget.

While our hearing today will focus on the budget request, we will also want to discuss other areas of general oversight concerning the Department of Commerce. I look forward to hearing more about requirements for the U.S. Census Bureau as it continues to roll out the 2020 decennial Census results. It goes without saying that the Census Bureau had an enormous unprecedented task in conducting its operations in the midst of a global pandemic, but concerns persist around a potential undercount, especially of those in hard to count and minority communities.

I would also like to highlight a couple of other issues. First, when the pandemic struck, the Office of Management and Budget sent Congress a formal letter requesting supplemental funds to deal with internal impacts of that upheaval. For whatever reason, the Commerce Department was one of the only Federal agencies that the previous administration chose not to include in that request. This oversight has squeezed your budgets and hampered several initiatives. I hope this administration will not let that sort of thing happen again.

Second, I want to make sure you are aware of ongoing issues with hiring, most notably, at NOAA. Your proposal includes an increase of \$1.4 billion for NOAA, which would certainly necessitate considerable hiring. The current delays in onboarding new staff is incompatible with the President's climate goals. So, my advice to you is that you begin to address that problem right away.

We need NOAA to play a very big role in addressing climate change, so they need to be firing on all cylinders. Any organization is only as good as its people, so please make streamlining the hiring process a priority.

While we look forward to receiving the full budget request from the administration in the near future, what we know, based on the initial top-line requests, illustrates a serious commitment to reinvesting in the improvement of the overall quality of life for the American people, and restoring America's competitiveness and position as a leader in the global economy. And we know this proposed investment will only be augmented by funding from the administration's American Jobs Plan. I am looking forward to hearing

more from you on how the American Jobs Plan will work in concert with the budget proposal.

And now, I would like to yield the floor for the opening statement from our distinguished ranking member, Mr. Aderholt.

Mr. ADERHOLT. Thank you, Mr. Chairman. It is good to be with you today. Thank you for yielding. And I appreciate you holding this hearing today, and I am pleased to be joining the subcommittee today to hopefully learn more about the Department of Commerce's fiscal year 2022 discretionary budget, as you rightly mentioned.

First, I would like to also welcome Secretary Raimondo for her inaugural hearing before the Commerce, Justice, and Science Subcommittee. It is great to have you here today. Congratulations on your new role as Secretary.

Ms. Raimondo, your stewardship of the Department is important to our Nation, all of our communities, and we sincerely do wish you the best. I wholeheartedly support the Department's efforts to promote job creation and economic competitiveness, and protect our Nation's innovators and manufacturers from unfair trade practices.

In the last few years, the Commerce Department has stood up more for manufacturing jobs in Alabama and across the United States than I believe any time in recent history. I hope, and did expect that you will continue to make America industry a top priority.

As you well know, beyond fostering jobs and opportunities for the people of north Alabama, and across our State and across our Nation, the Commerce Department also oversees many other important programs. This includes critical activities at NOAA, including the provision of daily weather forecasts, severe storm warnings, and climate monitoring, along with efforts to support fisheries and foster marine commerce. The important work being done by the Alabama Water Center and the Vortex Southeast Program remains critical to people of my State, and also my district.

In addition, the Department of the National Institute of Standards and Technology works to advance measurement of science, standards, and technology in the ways that enhance economic security, and improve our quality of life. NIST's mission is truly at the forefront of many of the most exciting and life-altering technological advancements in the world today.

These are just a few of the many important missions at the Commerce Department, and I hold them in high regard.

And while the scarce budget details have been provided fall short, I have taken note of the administration's summary for the Department of Commerce, and the program increases you have highlighted. Unfortunately, it is impossible to assess, or if there is going to be tradeoffs that are being made. Nevertheless, I believe there will be opportunities to find agreement on measures that help advance manufacturing, and also innovation to improve weather forecasting, spur much-needed economic development as well.

But going forward, I strongly encourage you to put forth a budget submission with a serious focus on developing and implementing a strong export control strategy that matches the enormity of the threat that is posed by China.

And I further urge a greater focus on addressing unfair foreign trade practices and barriers that harm U.S. workers and businesses.

I look forward to discussing these and many other important matters with you here today during our hearing, and I will have questions about trade enforcement, particularly when it comes to aluminum; the importance of securing our microelectronic supply chain; and the office of space commerce, just to name a few.

We want to work with you to ensure that the programs you administer are as effective and that they are as safe as possible, and I look forward to working with our chairman, Chairman Cartwright, and our full committee chairman, to make sure that we do everything to support the many missions that is under the Department of Commerce and this year's appropriation process, and as it does move forward.

We sincerely appreciate you being here with us, and making yourself available this afternoon. We look forward to receiving the Department's complete budget submission in time to thoroughly review it before the chair commences the markup efforts.

So, again, thank you, Mr. Chairman, for yielding this afternoon, and I look forward to the hearing.

Mr. CARTWRIGHT. Thank you, Mr. Aderholt.

At this time, it is my pleasure now to turn to the chair of the full committee, Representative DeLauro, for any statements she would like to make at this time.

The CHAIR. Thank you so much, Mr. Chairman, and thank you, Ranking Member Aderholt, for holding this hearing. And I want to welcome Secretary Raimondo for your first appearance before this subcommittee. I also might add it was such a great pleasure to welcome you to Connecticut earlier this week, as we talked more in depth about the profound ways in which registered apprenticeships and job training programs can help furnish our workers with the resources and the skills that they need to build successful careers, and a path to a brighter and a more prosperous future. So thank you so much for being in Connecticut.

I deeply appreciate the work that you are doing to build back better, revitalize our workforce and the American economy, following the devastation of the COVID-19 pandemic. And I am so grateful for the work you have been doing especially as it relates to women, and in the strengthening of the care economy.

While I know this is not something specifically within the jurisdiction of the Department of Commerce, I do want to stress the importance of addressing the issues we have seen in the childcare economy that have been further exacerbated by this pandemic, so that women and mothers can go back to work. As you know, the recent release of the 2020 Census results showed a somewhat surprising drop in the birth rate. This is despite surveys that show that women want to have as many babies as ever, so I think there is no doubt that is due, in large part, to the so-called shecession, and the lack of childcare and daycare and educational resources for American families across the income spectrum.

So, again, I think this is a particularly important part of what you are doing, Madam Secretary, in your work to bring back our economy and to create jobs.

But let me turn more specifically to the Biden administration's funding request for the Department of Commerce. As you know, the 2022 discretionary request for the Department is \$11.4 billion, a 28 percent increase. It includes significant increases for the National Institute of Standards and Technology, NIST; the Manufacturing Extension Partnership program; Minority Business Development Agency; and the National Oceanic and Atmospheric Administration.

As someone from a coastal district, I know very well how important it is for NOAA to continue investing in climate resilience and supporting coastal communities.

This funding request also includes \$500 million over 2021 for the next generation of NOAA satellites, incorporating a diverse array of new technologies, which would improve data for weather and climate forecasts and provide critical information to the public.

Finally, in addition to these specific funding proposals, the administration is also sending a strong signal that support for trade enforcement and addressing unfair trade practices will continue. I fully believe that these important initiatives, coupled with further investments in American jobs, will spur economic growth, create jobs, and it will play a crucial role in revitalizing our economy. And I look forward to learning more about the administration's plans for the future.

So let me say thank you again to you, Secretary Raimondo, and for all of your tireless work, for joining us to discuss these critical issues. And let me say a thank you to Chairman Cartwright and Ranking Member Aderholt.

And I yield back.

Mr. CARTWRIGHT. Thank you, Chair DeLauro.

At this time, Secretary Raimondo, I am going to recognize you for 5 minutes of your testimony. The clock is visible to you, I believe, and we ask that you abide by that and don't worry about leaving out points, because we will be including your entire written testimony in the permanent record.

At this time, Secretary Raimondo, you are recognized for 5 minutes.

Secretary RAIMONDO. Thank you.

It is a great pleasure for me to be here with you, and to those of you who I haven't met in person, I look forward to doing that soon.

Chairman Cartwright and Chair DeLauro, Ranking Member Aderholt, members of the subcommittee, thank you for this opportunity to discuss President Biden's fiscal year 2022 discretionary request for the Department of Commerce.

As has been said already, the President's request includes an \$11.4 billion for the Department of Commerce, which is a 27 percent increase above the 2021 enacted level, so a reasonably significant increase. With these funds, we will be able to maintain existing programs, but also make critical investments necessary to boost the Nation's ability to address the crises we face today.

And I will say, we all have the task of working through the appropriations process in light of incredible crises. We are facing four simultaneous crises of unprecedented scope. First, a once-in-a-century pandemic that has already claimed the lives of a half a million

Americans; second, an economic crisis that has been punishing, and still, we have nearly 10 million people out of work; third, a national reckoning on race inequality; and, fourth, the growing threat of climate change to the American people and economy.

The Department of Commerce will play an integral role in addressing each of these crises. As some of you had mentioned, NIST has already been critical. NIST research has developed a way to increase the sensitivity and accuracy of the common swab test for COVID-19. The EDA has already awarded more than \$1 billion in grants to help communities and businesses across the country recover from the economic crisis.

The MBDA enabled technical assistance programs to help minority business enterprises execute on about \$8 billion in transactions in 2020. And NOAA continues to save lives and property by providing early warning systems and decision support tools to avoid the most devastating impacts of extreme weather events, many of which, I don't have to tell you, are increasing in frequency and intensity, of course, due to climate change.

I am very proud of the work that the Department has done and is doing to confront these crises, but I am very aware of the challenges that remain, and the President's discretionary request puts forward significant investments to help us do the work necessary to build back better after these crises.

I look forward to talking with you over the next however many minutes, but permit me for a second just to highlight a few of the key initiatives included in the increased discretionary request.

First, there is significant investment, additional investment in manufacturing, including in the Manufacturing Innovation Institutes Program and the Manufacturing Extension Partnership. There is additional money for EDA, including in the assistance to coal communities, substantial investments in NOAA to ensure that we have top-notch climate science, observation, forecasting and research, improvements in weather and climate, and also additional investments in NIST to spur research and technological innovation by expanding scientific and technical research.

As many of you said, we have to lean in to improve our Nation's competitiveness. We have to make our decisions based upon science. We have to make our decisions with an eye towards equity, and I look forward to working with all of you to create jobs, spur growth, and do it in a way that supports American businesses and workers now and into the future.

I am very happy to take your questions.

[The information follows:]

**Statement of  
Gina M. Raimondo  
Secretary  
U.S. Department of Commerce**

**Before the  
House Committee on Appropriations  
Subcommittee on Commerce, Justice, Science and Related Agencies  
“Department of Commerce Fiscal Year 2022 Discretionary Request”**

**May 6, 2021**

Chairman Cartwright, Ranking Member Aderholt, and members of the Subcommittee, thank you for this opportunity to discuss President Biden’s Fiscal Year 2022 Discretionary Request for the U.S. Department of Commerce. These priorities build upon the important investments you enacted in 2021 and I am grateful for your steadfast support of the Department.

As you know, the Department of Commerce is responsible for promoting job creation, supporting and overseeing international trade, and providing economic, environmental, and scientific information needed by businesses, citizens, and governments. President Biden’s Discretionary Request includes \$11.4 billion for the Department of Commerce, a 27% increase above the 2021 enacted level. With these funds we will maintain existing programs and activities and make critical investments necessary to boost the nation’s ability to address the crises we face today.

This year’s appropriations process arrives during one of the most difficult periods in the nation’s history. America faces four simultaneous crises of unprecedented scope: a once-in-a-century pandemic that has already claimed more than half a million American lives; a punishing economic crisis that has left nearly 10 million out of work; a national reckoning on racial inequity; and the increasing threat of climate change to the American people and economy. The Department of Commerce has been providing critical assistance to confront and address each of these crises. For example:

- The National Institute of Standards and Technology, or NIST, researchers developed a way to increase the sensitivity and accuracy of the common swab test for COVID-19, improving our understanding of the pandemic;
- The Economic Development Administration, or EDA, has already awarded more than \$1 billion in grants to help communities and businesses across the country recover from the economic crisis and has another \$3 billion in the pipeline;
- The Minority Business Development Agency, or MBDA, enabled technical assistance programs that helped minority business enterprises execute more than \$7.9 billion in transactions in 2020 and has additional programs in the works this year; and
- The National Oceanic and Atmospheric Administration, or NOAA, continues to save lives and property by providing early warning systems and decision-support tools to

avoid the most devastating impacts of extreme weather events, many of which are increasing in frequency and intensity due to climate change.

I am very proud of the work the dedicated career employees at the Department do every day to address these crises. At the same time, I am also cognizant of the immense challenges that remain. To fully address these challenges, we must boost strategic investments to support American manufacturing, spur research and technological innovation, advance economic recovery in underserved communities, invest in climate science and research, improve weather and climate forecasting, and strengthen American competitiveness and security.

President Biden's Discretionary Request puts forward investments that do just that. I am confident that the request will address today's crises and help American businesses create well-paying jobs for American workers, allow American businesses of all sizes to compete on an equal playing field, and empower a more equitable economy.

I recognize that none of these investments or goals are possible without the support of the Congress and especially the members of this Committee. I look forward to working with you all in the coming year to fund all of Commerce's programs, and increase investments in the following key initiatives:

#### *Support American Manufacturing*

Manufacturing has long been the backbone of our country and we must strengthen our manufacturing to move America forward. To ensure robust resurgence of American manufacturing and increase the security and resilience of our supply chain, the Discretionary Request more than doubles funding for the Department's most effective manufacturing programs: the Manufacturing Innovation Institutes Program (MII) and the Manufacturing Extension Partnership (MEP).

A Manufacturing Innovation Institute is a public-private partnership of companies, academia, state and local governments, and federal agencies that co-invest in developing world-leading technologies and capabilities. The Discretionary Request calls for an additional \$150 million for two new MIIs, one of which will help restore the United States as the global leader in the design and manufacture of semiconductors. It also calls for an additional \$125 million for MEP. The MEP National Network consists of 51 MEP Centers located in all 50 states and Puerto Rico. The additional funds will enable them to strengthen domestic supply chains and help small and medium manufacturers improve their competitiveness.

#### *Spur Research and Technological Innovation*

Public investments in research and development lay the foundation for future breakthroughs that generate new businesses, jobs, and exportable goods. The Discretionary Request calls for \$916 million, an increase of \$128 million over the 2021 enacted level, to expand scientific and technological research at NIST. With this investment, NIST will spur research advances in climate-resilient building codes, computing, cybersecurity, artificial intelligence, quantum information science, biotechnology, and advanced manufacturing.

U.S. leadership in advanced communications requires commercial operators to have access to a full array of spectrum bands to share with federal agencies. This Discretionary Request includes \$39 million for advanced communications research at the National Telecommunications and Information Administration, or NTIA, to support the development and deployment of broadband and 5G technologies, by identifying innovative approaches to spectrum sharing, including research using the Federal Advanced Communications Test Site (FACTS) at NTIA's Table Mountain field site in Boulder, Colorado.

*Advance Economic Recovery in Underserved Communities*

Every American should have an equal chance to pursue their potential. Yet, for far too many Americans, this has never been within reach. The President's 2022 Discretionary Request calls for \$70 million for MBDA to expand opportunities for minority-owned businesses and help eliminate barriers for minority-owned firms. The request also will elevate MBDA's position within the Department of Commerce and establish an Assistant Secretary for MBDA.

The Discretionary Request also will prioritize creating good jobs by revitalizing former energy communities. To spur economic revitalization and support energy workers, the request includes \$84 million, an increase of \$50 million over the 2021 enacted level, for EDA's Assistance to Coal Communities Program. These funds will help ensure that communities most impacted by the transition to clean energy are not left behind. EDA's efforts are part of the POWER+ Initiative and complement other targeted investments across the Federal Government.

The Discretionary Request also includes \$300 million for EDA to support locally driven economic development projects in communities across the nation. These investments will enable local communities to establish a foundation for sustainable job growth, and build durable regional economies by funding projects that advance equity, support workforce education and skills training, enable business expansion and technology updates, support growth in exports and foreign direct investment, and address the climate crisis.

*Invest in Climate Science and Research*

Climate change is one of the greatest challenges of our time. Yet it is also an opportunity for economic growth and innovation. In the Discretionary Request, the Administration proposes a whole of government approach to address this challenge and harness this opportunity. NOAA climate science provides the data, tools, and information that are the foundation for both efforts. The Discretionary Request therefore includes \$800 million for NOAA to expand climate observation, forecasting, and research so that NOAA can provide better data, information and tools to federal agencies, states, Tribes, communities, and businesses across America to enable smart policy and decision-making. This investment will also improve community and coastal resilience by investing in modern infrastructure and funding competitive grants to help protect communities from the costly economic and environmental impacts of severe weather events and climate change. The increased resources will also support an expanded and improved drought early warning system.

*Improve Weather and Climate Forecasting*

Families, businesses, and state and local governments rely on NOAA's weather satellites and forecasts every day. When severe weather strikes, these forecasts can literally mean the difference between life and death in impacted communities. The Discretionary Request invests \$2 billion, approximately \$500 million more than the 2021 enacted level, in the next generation of satellites. With these additional resources, NOAA will be able to enhance its world-leading satellite observing systems by incorporating a diverse array of new technologies to improve data for weather and climate forecasts and provide critical information to the public. This data will allow for more informed decision-making that protects life and property, safeguards the economy, and supports the fight against climate change.

*Strengthen American Competitiveness and Security*

American businesses and workers can compete if we all play by the same rules. The 2022 Discretionary Request ensures Commerce's International Trade Administration has staff and resources it needs to defend U.S. workers by addressing unfair foreign trade practices and barriers, strengthening enforcement of U.S. trade laws, and enhancing oversight of foreign government compliance with trade agreements. It also provides additional staff and resources for the Bureau of Industry and Security to analyze export control and Entity List proposals, enforce related actions, and implement export controls.

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I look forward to working with you to create an economy that works for all by creating jobs and growth that support American communities, businesses, and workers – now and in the future. I am happy to take your questions.

Mr. CARTWRIGHT. Thank you, Secretary Raimondo.

And before we get into the question period, I would like to extend an invitation to you to visit my own district in northeastern Pennsylvania to meet with our local businesses, see the potential for growth in our area, and understand our economic development needs. I do hope we can find a convenient time for that, perhaps this summer or fall when most of the COVID restrictions have been lifted.

Can I count on you to visit northeastern Pennsylvania?

Secretary RAIMONDO. Absolutely. I would say—I actually love being out in the community. I was with Chair DeLauro, as she said, earlier this week in Connecticut. Last week I was in New Hampshire. And it is important to hear from the people that we serve, so thank you.

Mr. CARTWRIGHT. I believe that. When you are in Rhode Island, if you take one wrong turn, you are in Connecticut.

Secretary RAIMONDO. Hey, hey, hey.

Mr. CARTWRIGHT. I am going to recognize——

The CHAIR. That would be a right turn there. That would be a right turn coming to Connecticut, Cartwright.

Mr. CARTWRIGHT. I stand corrected, Madam Chair.

I am going to recognize myself for 5 minutes of questions.

Secretary Raimondo, in his American Jobs Plan, President Biden has proposed \$50 billion for a new office in the Department of Commerce, quote, “dedicated to monitoring domestic industrial capacity and funding investments that support production of critical goods,” unquote.

No additional details have been provided so far on this proposal. So, the first question is, can you provide more information on the specific activities this planned new Commerce Department office is to support? Is the \$50 billion in proposed funding for the office for a single year of operation? And will additional funding be sought for subsequent years? If so, how much funding do you imagine this requiring annually?

Secretary RAIMONDO. Thank you.

So, obviously, more details will be forthcoming about this new office, but I will say a few things: The office is intended to help us deal with the challenges that we are seeing in our supply chains. I think we all realized during COVID how vulnerable some of our supply chains are. Too many things are being built offshore; and, so, we envision the office will have three primary functions. The first is monitoring, and commerce is well positioned to do that, so monitoring across critical supply chains to find where there are vulnerabilities for critical products.

As a side note, I will say that a year ago, I was the Governor of Rhode Island, and struggling with the problems of our supply chain because we couldn’t get our—as was Tom Wolf. We couldn’t get our hands on enough ventilators and enough PPE. So monitoring is one of the key components.

A second component will be grants, so we envision making grants out of this office to create new production capacity, particularly for small- and medium-size manufacturers so they can make products in America.

And then, finally, an investment arm, which will allow commerce to partner with the private sector to address vulnerabilities and, frankly, get ahead of supply chain resiliency issues.

And it is envisioned that this money would be spent over several years.

Mr. CARTWRIGHT. Thank you for that.

The next question is about smaller and midsize communities, like the ones in my district. They don't have the resources to invest into professional grant writers, and they don't have the ability to monitor grant opportunities. Certainly, my staff work around the clock to help our constituents and the local municipal officials and chambers of commerce, but we can't be everywhere.

What will you do to make sure communities like mine are understanding what opportunities are available and getting full consideration as this additional money is spent?

Secretary RAIMONDO. Thank you for that question.

And, again, I hear you because, as you pointed out, Rhode Island is a small State, and a lot of small communities, and they don't have the person power to do—you know, to do that work.

In both MBDA and EDA, a significant portion of the funds will be dedicated to doing exactly what you are talking about, which is to say, providing local communities technical support and assistance, so that they can, in fact, access the monies, do the grant writing, hire consultants and such, to augment their own staff so that they are able to be eligible successfully for the EDA funding, the MBDA funding, and some of the Department's other funding.

Mr. CARTWRIGHT. Thank you for that.

We will go into a second round of questioning, but I want to yield the floor to Ranking Member Aderholt for 5 minutes of questions.

Secretary RAIMONDO. Thank you.

Mr. ADERHOLT. Thank you, Mr. Chairman.

Madam Secretary, section 232, tariff program ops could be utilized in a much better way to stem the tide of well-documented subsidies that drive overcapacity in China. For the aluminum industry in particular, the execution of the program and its exclusion process has actually been hurting domestic aluminum producers rather than actually helping them.

In December, the Commerce Department published a round of changes to the exclusion process, but acknowledged technical and policy issues remain. And I believe some of the changes that were made, like the new general approve exclusion, deserves a reexamination.

Will you and your team there at the Department of Commerce take a fresh look at the exclusion process and assess the impact of the domestic industry to address these various countless problems that we are seeing in the U.S. industry that has highlighted in [inaudible].

Secretary RAIMONDO. Yes. So, first of all, I would like to thank you for your question. The 232 tariffs were imposed to protect our workers in the steel industry, in the aluminum industry from primarily China dumping its highly subsidized cheap steel and aluminum into our markets. Having said that, the exclusions process, which was intended, as you say, to help consuming industries

has—you know, has had challenges, and for a while there were backlogs.

I am very pleased to say the Department has improved, and currently, it has substantially reduced the amount of time that it takes to receive an exclusion. We are down to about 50 days to grant an exclusion from the time it is asked for until the time it is granted.

Having said that, the answer to your question is yes, I think there is continued room for improvement, and I would welcome an opportunity to visit with you and hear your feedback on how you think we could continue to improve.

Mr. ADERHOLT. That would be great.

And since the chairman took the liberty to ask about coming to Pennsylvania, hopefully we can schedule something to come down to Alabama at some point.

Secretary RAIMONDO. Yes. Also, I need to let you know that my father, believe it or not, went to the University of Alabama, which is a story I can share with you when I visit with you. But he was an Italian kid from the tenements of Providence. He served in the 2nd World War, and got the GI Bill, and went to the University of Alabama, so we are big Roll Tide people in my family.

Mr. ADERHOLT. Well, I represent Tuscaloosa, so that would be perfect. Maybe we can get you over to Tuscaloosa.

Secretary RAIMONDO. Great.

Mr. ADERHOLT. Let me switch about dealing with weather. Back in March, The Washington Post reported that the National Weather Service internet systems were crumbling as key platforms are being taxed and they are failing. Most of the agency's online systems went down during a recent tornado outbreak here in the South, and a vital resource for relaying information crashed. The agency's office is in Birmingham, and it had to switch to a third-party instant messaging service just to keep people informed.

These revelations are serious and cause concern, and there is a strong, bipartisan support for addressing this issue, and it is my hope that fixing these systems will be one of your top priorities as you take the helm there at the Department of Commerce.

Can you explain what is going on with the dissemination of weather information to the public, and what your fiscal year 2022 budget proposes to try and do about this?

Secretary RAIMONDO. Yes. Thank you.

And I share your concern. The systems and the IT are older, and the reality is that given the severity and frequency of severe weather events, the demand from the private sector, States, other public entities, the demand for our weather services has been, frankly, outstripping our ability to supply that information.

And so, yes, I will commit to you to prioritizing this. The President's discretionary budget calls for over \$1 billion of additional funding into NOAA, and a good portion of that ought to be to improve the science, technology, and technological systems exactly as you say. And I will commit to working with you and prioritizing that.

If anything, it is more important than ever, and I think it is \$1.4 billion that the President calls for into NOAA, and a good part of that will be in improving our technology.

Mr. ADERHOLT. Yes. Well, thank you for your commitment on that.

So, you are saying with confidence that the fiscal year 2022 budget includes enough funding to fix the problem as quickly as possible?

Secretary RAIMONDO. I am saying that when the details come out, I will go through them carefully and make sure that that is the case; but yes, I believe the answer is yes.

Mr. ADERHOLT. Thank you.

Thank you, Mr. Chairman.

Mr. CARTWRIGHT. Thank you, Mr. Aderholt.

At this time the chair recognizes overall Appropriations Chair DeLauro for 5 minutes of her questions.

The CHAIR. Thank you so much, Mr. Chairman.

Secretary Raimondo, you know—by the way, I know you were in Joe Courtney's district, so that means there has got to be another trip to Connecticut for my district. And I will just say this, I don't want to take away from your time or my time, but Rhode Island and Connecticut go back and forth as to who has the most Italian Americans, you know. And I fight with Cicilline all the time, it has got to be Connecticut, Madam Secretary, so I know we will continue to fight as well.

As you know, trade enforcement is a critical mission for the Commerce Department; and to assure that American businesses workers thrive in that global market, the Department has to ensure that we are enforcing the trade laws, to make sure that foreign governments play by the rules, and are in compliance with our international agreements.

Can you just talk about, what are the trade enforcement priorities you have as Secretary of Commerce moving forward? What is the administration's trade enforcement agenda going to look like to protect American workers and businesses?

Secretary RAIMONDO. Yes. Thank you.

So, first of all, I couldn't agree more that American workers deserve a level playing field, and everybody needs to play by the same rules. That is what this is all about. So we need to disseminate the rules, and then enforce the rules and, quite frankly, ensure that our allies enforce the rules. And one of my areas of focus will be to work more closely than, say, the last administration with our allies to align around not only policies, but enforcement. So that is enforcement of the Entities List. That is enforcement of countervailing antidumping and countervailing duties. That is an area that I plan to focus significantly to make sure that we do the enforcement. IP protection, you know, we have a China team within the Department of Commerce. You know, it is vital that we have strong patents, but also that they are enforced.

And, so, I had a meeting just this morning talking with ITA to talk about this very issue, which is the rules are only as good as the enforcement, and, so, we intend to execute on that.

The CHAIR. Thank you.

I was really pleased to see within the last 24 hours that the administration lifted the waiver for India and South Africa to be able to deal with manufacturing, you know, the vaccines that are needed in those countries, and India, particularly, being devastated. So,

you know, thank you for that. And I know we want to protect intellectual property, but you know when you are looking at intellectual property versus saving lives, I am so pleased that the administration moved from the direction that you did.

Let me also ask if—

Secretary RAIMONDO. I would just say on that, Congresswoman, you were clear about that with me when I saw you Monday, and I was clear about expressing your strong support.

The CHAIR. Yes. Thank you. Thank you very, very much. It really is—I can't tell you how excited and pleased we all are, and what that means for those countries.

There is a Section 6001 in the American Rescue Plan. There is \$3 billion there for the Economic Adjustment Assistance Fund to help communities impacted by loss of travel and tourism. Can you talk about that a little bit, and how that might be implemented?

Secretary RAIMONDO. Yes. So it is a floor of \$750 million out of the \$3 billion that will go specifically to travel and tourism. I don't need to tell anyone in this meeting how devastated the travel and tourism industry has been. I saw it in Rhode Island, you see it in Connecticut, small hotels, restaurants, et cetera. We will be very soon working very hard to get that money out later this spring, \$750 million, to—every State should benefit, and we will send it out in grants to communities, so that they can use it right away to help get their industry back on track.

The CHAIR. Thank you. Thank you very, very much for that.

And I am going to—you know, we can talk at some point about, you know, again, a little bit outside the scope. But, you know, your helping to support and bolster the infrastructure of the care economy, which I think is such a critical issue as we move down the road.

Delighted that you are there and look forward to working with you very closely. Thank you so much.

And I thank my colleagues and chair and the ranking member and yield back my time.

Secretary RAIMONDO. Thank you.

The CHAIR. Thank you.

Mr. CARTWRIGHT. Thank you, Chair DeLauro.

At this time, the chair recognizes Mr. Cline for 5 minutes of questions.

Mr. CLINE. Thank you, Mr. Chairman. I appreciate you and Ranking Member Aderholt holding today's hearing.

I want to welcome the Secretary. I wish we were in person. I saw your testimony before the Senate Appropriations Committee a few weeks back, and it was nice to watch a committee working, and you in front of them answering questions; but this will have to do today.

As our Nation moves forward and continues to recover from the devastating effects brought on by COVID-19, it is vital we are ensuring that businesses can remain open so that our economy is thriving once again.

I want to go specifically to an issue that affects my district, lumber prices. Lumber prices have been quite volatile in the wake of the pandemic over the last year. Lumber prices have been skyrocketing with oriented strand board jumping over 250 percent

since March of 2020. A sheet of OSB was around \$8 in March of 2020, while today it is well over \$60 a sheet and climbing. The National Association of Homebuilders say overall lumber prices have tripled and the increase translates to a nearly \$36,000 increase in the price of the average single-family home. And as you know, this has ripple effects across our economy. We are seeing a buying panic as a result around the country as home prices jump.

Can you discuss what resources may be available, or have been dedicated by the Department to look into the causes of skyrocketing lumber prices and what impact this is having on the economy? And can you commit to working with industry stakeholders and with Congress to identify the challenges and potential solutions to the crisis we are experiencing?

Secretary RAIMONDO. Thank you for your question.

So, first, let me say I agree with you that the homebuilding industry and the housing sector is a vital portion of our economy, and they are struggling, as you say. A lot of supply chains have been disrupted during the pandemic. It isn't just lumber. We see it across the board. I see it across the board in the work that we are doing, so many supply chains have been disrupted.

So recently, ITA has been doing a good deal of convening of stakeholders to try to learn exactly why this is happening. And what I can commit to you is to follow up with you, to work collaboratively with you. I actually would love your guidance on what you think could be done.

So right now, we are trying to get under the covers of what is going on, what are the root causes, and then what can we do at ITA to try to solve the problem, because I understand the problem, and it affects the whole industry.

Mr. CLINE. Great. Thank you very much.

Moving over to another industry, Congress established a clear division of responsibility for spectrum management. As you know, the FCC is responsible for commercial spectrum and NTIA is responsible for Federal Government spectrum. But in recent years, it seems that other Federal agencies do think that they are responsible for their own spectrum management rather than NTIA. How can we ensure that NTIA fulfills its statutory responsibility to manage Federal spectrum?

Secretary RAIMONDO. I will assure you that that will happen. So, as you said, that is NTIA's job, and the truth of it is, we have to make more spectrum available if we are going to move forward with 5G and all of the innovation that surrounds 5G, and all of the job creation that will come in America if we lead in 5G.

And, so, sometimes that means NTIA may have challenging conversations with, say, the DOD; but that is what needs to happen. And, so, we are going to have, led by NTIA, a whole-of-government spectrum strategy. I have actually already talked to Secretary Austin about this, and he is eager to be collaborative.

Mr. CLINE. And that is led by NTIA?

Secretary RAIMONDO. That is led by NTIA, absolutely. NTIA needs to drive the bus on coming up with that whole-of-government strategy.

Mr. CLINE. Okay. Good.

One more question before my time runs out. Sometimes the FCC's role as the manager of commercial spectrum and NTIA's role as the manager of Federal spectrum come into conflict. How can we ensure that the FCC and NTIA work in partnership, rather than cross purposes to address spectrum management issues that impact Federal and commercial entities?

Secretary RAIMONDO. Yes. So what I will tell you quickly is this is a priority of mine. I have already reached out to the acting chair of the FCC. It is relationships, it is collaboration, it is better mapping, better data, and, as I said, NTIA leading in concert a whole-of-government strategy.

Mr. CLINE. Thank you.

Mr. Chairman, I yield back.

Mr. CARTWRIGHT. Thank you, Mr. Cline.

At this time, the chair recognizes Congresswoman Grace Meng of New York. And, Ms. Meng, we are not buying that phony background, by the way.

Ms. MENG. I knew you were too smart for that.

Mr. CARTWRIGHT. You are recognized for 5 minutes.

Ms. MENG. I am in my Queens, New York City yard.

Thank you so much, Madam Secretary, and congratulations. Thank you, Chairman and Ranking Member Aderholt, for convening us today.

Madam Secretary, I wanted to ask, you serve as a co-chair of the White House Initiative on Asian Americans and Pacific Islanders, which is critical to ensuring the full participation of AAPIs in this country. Last year Congress included a provision in the annual spending bill directing Commerce to submit a report to the subcommittee on how it intends to ensure the initiative is a good fit at MBDA versus previous administrations under Departments of Education and HHS.

So can you discuss what your vision is for the initiative at MBDA? And how can it coordinate with local Asian-American community groups and other Federal agencies?

Secretary RAIMONDO. Thank you for the question. And it was nice to see you yesterday at the AAPI event.

So, first of all, I would say that MBDA has a great deal of expertise in convening stakeholders, working with local chambers. They have already and will continue to do a lot of convening and consultation with Asian-American chambers. This is what they are good at. And then we will use that information to provide support in two areas particularly. One is technical assistance, especially helping Asian American owned businesses, especially small businesses, get Federal contracts, improve exports, you know, technical help for them; and then, secondly, grants.

So—in fact, I have it here—MBDA assisted AAPI owned businesses secure more than \$235 million in contracts, and \$120 million in capital in fiscal year 2020. And that is a floor, right? And the President's budget, this budget that we are talking about now in 2022, calls for significant more investment in MBDA, and we ought to work together to make sure that the Asian-American business community is—you know, gets their fair share, frankly.

Ms. MENG. Thank you so much.

Madam Secretary, if we can be of any help, either nationally, or even in and around the region of New York, please don't hesitate.

I wanted to ask a question about the Census. You know, just keep trying to think about how we approached this as a country over the past 2 years or so in conducting this last Census and, you know, thinking that a majority of Americans have smartphones now, giving them the ability to search information while on the go.

According to a Pew Research survey, nearly 80 percent of Americans were cited as having a smartphone. So, I just wonder if there is any thought or ability to consider Federal agencies like Commerce using a smartphone app, or something that can be done on the go and more easily than just paper, for example, to help people fill out the Census.

Secretary RAIMONDO. Yes. Such a good question. And the answer is, we need to get there. As a mother of two teenagers, I don't think my kids are going to be able to do anything without their smartphones. So, yes, we have to get there if we want to engage everyone.

The Census Bureau now uses what they call responsive website design, which is, you know, mobile friendly; but with more resources, the Census Bureau could definitely explore other options to support what you are talking about, mobile app development. And I would have to get back to you to give you a number on exactly how much that would cost; but I think, you know, designing that kind of mobile app would be an excellent thing to do.

Ms. MENG. Thank you. I look forward to it.

I yield back, Mr. Chairman.

Mr. CARTWRIGHT. Thank you, Representative Meng.

And at this time, the chair recognizes Mr. Garcia for 5 minutes of questions.

Mr. GARCIA. Thank you, Chairman Cartwright.

And, Madam Secretary, it is a pleasure to meet you. Hopefully we can see each other in person one of these days, hopefully soon. Congratulations on the appointment, and I wish you the best of luck on this very challenging mission that we collectively have here.

I want to go back to a discussion that you were having earlier about the Entity List, specifically, the China team. I know, you know, DOD and State Department share a responsibility to ensure ITAR-controlled items are going to the right folks. And given the environment that we are seeing right now with China effectively pirating and stealing a lot of our IP and technologies real-time, something that seems like innocuous technology, or early generation technology, they are actually able to evolve further and use against us.

Can you speak a little bit deeper about what the China team is doing and how Commerce is looking at enforcing the regulations, the licensing, the controls inherent and embedded in some of these licenses underneath the Entity List?

Secretary RAIMONDO. Yes. Thank you for the question.

I guess I would say—first I would say, you know, President Biden has been crystal clear with us, his team, that the competition with China is among our top priorities. It is real. It is significant. China has proven over and over again that it is willing to be

anticompetitive, coercive, violate human rights, steal our technology, use it against us. And so, the first thing you need to know is that we are taking it incredibly seriously, and we are going to be as tough as we need to be, so as a matter of policy or, I guess, strategy.

The second thing is with respect to technology, you are exactly right—I mean, which is why we have the Entity List. Since I have been Commerce Secretary, we have already issued five or six—don't quote me on the exact number—subpoenas to Chinese companies, because we want to—we are not joking around. I mean, we are going to enforce the requirement, and we are going to do that to the fullest extent possible.

And, then, as I think I said to one of your colleagues, where we want to move is identify what is the key technology, like the absolutely core technology, chokepoints, and then work with our allies to make sure that they also aren't letting, you know, China get their hands on this technology and then work with them for rigorous enforcement.

Mr. GARCIA. Great. I appreciate that sentiment. I think, you know, obviously, that is a bipartisan national security concern. It is a real threat. So I really appreciate that.

You know, I think a by-product of that, you know, you kind of alluded to it, is finding not only those chokepoints but also those dependencies. We are seeing in a lot of industries right now a dependency on microchips, semiconductor mimic technology coming out of China, and whether it was, you know, inadvertent on the heels of the pandemic or not, you know, is debatable, but it is had a real impact on industry and production here, and car manufacturers closing down lines, et cetera. So that is encouraging to hear that that will be in the spotlight.

If I may pivot real quick, completely different subject. There is about a \$500 million plug for NOAA next-generation satellites. I represent a district in California that is susceptible and vulnerable, frankly, to wildfires on an annual basis, almost year-round now. I supported an initiative to help NOAA stand up an artificial intelligence center with one of the missions being to help predictive and modeling analysis for wildfires.

Can you touch on NOAA's responsibility and how they are progressing in helping us not only fight fires, but detect wildfires and plan assets around that briefly?

Secretary RAIMONDO. Yes. So, first, I would say, with your permission, I would love to go deeper on that and come back to you, give you a proper answer exactly what they have done.

Mr. GARCIA. Okay.

Secretary RAIMONDO. But what I can tell you is—well, really, what you just said, which is the \$500 million is for next-generation satellites. We are making a big push generally in NOAA to improve the weather service, the weather technology, super computers. Much of this money is to invest in, basically next-generation's science so that we can have the data necessary, and then also, continuing to do an even better job disseminating that information to cities, towns, Tribes, localities, the private sector.

My opinion is that the value of this data is going to go up a lot in the coming years due to the extreme weather events, and that

will be a focus of mine. But I owe you a proper, deeper answer on exactly what has been done with the wildfire weather service, and I will get back to you.

Mr. GARCIA. Thank you, Madam Secretary. My time is up.

I yield back, Mr. Chairman.

Mr. CARTWRIGHT. Thank you, Mr. Garcia.

Mr. Case, you are recognized for 5 minutes.

Mr. CASE. Aloha, Madam Secretary. I represent Hawaii. And with due respect to Connecticut, Pennsylvania, Alabama, we also invite you here. The directions are not that complex. Just get on a plane and head west for 10 hours, looking for the sun. You should be able to find us. So we hope to see you sometime, perhaps after your summer visit to Mr. Cartwright's district.

And, by the way, I completely endorse my colleagues' questions and your answers on NOAA. As you have seen, I think three colleagues before me have talked about the critical importance of NOAA, from the perspective of climate change, of course, being our number one challenge from a NOAA perspective, but also the cutting edge oceanographic research that NOAA does, fisheries management—our fisheries are endangered around the world. And, finally, just basic atmospheric observation at places like Mauna Loa here in Hawaii who have really led in climate change.

So please take us at our word in our support, full support for NOAA. The last 4 years have been defensive, and we want to go on the offense again with NOAA.

Let me follow up on travel and tourism because, you know, you recognized the importance in your comments. But I want to drive that point home with you and ask you some very specific questions. I don't think that most people realize the impact of travel and tourism to our national economy.

Before COVID-19, U.S. travel and tourism accounted for about \$2 trillion in economic output. It accounted for somewhere in the range of 16 million jobs. It was our second largest industry export after transportation. That surprises people sometimes, our second largest export industry in our entire country. People like to live here—visit here, and that is an export industry. It was our seventh largest private employer. It has been devastated. Everybody always says that, but I don't think people realize the devastation of U.S. travel and tourism, a loss of somewhere around half of that economic output, reduction in jobs by 30 to 40 percent, a reduction in Federal, State, and county revenues as a result.

And I want to say to you that the response across the board by our Federal Government in terms of emergency assistance has been very, very uneven for travel and tourism. We have seen aspects of travel and tourism, such as the airline industry which saw \$75 billion of assistance, and the restaurant industry, which is seeing right now about \$25 billion of assistance. So \$750 million that you are administering with the EDA right now, which I am grateful for, doesn't really match up in terms of the overall impact to travel and tourism.

The U.S. travel—and so, in all honesty, we feel as part of the industry that we are getting lost in the shuffle. And part of that, I believe, has to do with the position given travel and tourism within the Department of Commerce, where it is, frankly, a subagency. I

mean, it is an agency. But, you know, many, many countries around the world treat travel and tourism as a major area from the perspective of government organization and focus at the subcabinet, even sometimes, cabinet level.

The U.S. Travel and Tourism Advisory Board, which is the formal advisor to the Department of Commerce, to you, on travel and tourism, sent you a letter on March 4 providing specific recommendations on what the Federal Government can do. And one of their primary recommendations to you was elevate travel and tourism within the Department of Commerce up to the subcabinet level, create an assistant secretary for travel and tourism, create a national—I am sorry, a U.S. travel and tourism agency headed by an assistant secretary.

Do you have thoughts yet on whether you can support that recommendation to give far more emphasis and focus to national travel and tourism policy coming out of COVID-19?

Secretary RAIMONDO. Yes, so, first of all, let me say I did receive that letter. And, shortly thereafter, on March 31, I convened, and I attended for over an hour, I chaired a meeting of that U.S. Travel and Tourism Advisory Board, and we had a great discussion hearing from them, their issues, including assistant secretary idea. And I am planning on chairing a meeting with the Tourism Policy Council shortly to discuss further.

I agree with you that the 750 isn't enough. It is important, and I am working hard to get it out the door quickly. I do think there is merit to the assistant secretary position. I am not in a position to obviously commit to that on behalf of the administration, but I will tell you from my position as Secretary of Commerce, I am hearing it over and over, and I think there is merit to it, and I would look forward to, you know, discussing it further with you and with the industry when I am doing all of this convening.

Mr. CASE. Thank you very much.

Mr. CARTWRIGHT. Thank you, Mr. Case. At this time, the chair recognizes Congresswoman Brenda Lawrence of Michigan for 5 minutes of questions.

Mrs. LAWRENCE. Thank you so much. It is always a pleasure to meet with you, Madam Secretary. I have a few questions. When you met with the Women's Caucus, I just wanted to reiterate how important it is if we build back better, that we continue the commitment to ensure that women are included in the training and the job opportunities and the investment in small businesses.

As you know, women, during this pandemic, have been hit harder. The majority of the job loss and all of that has fallen in the area of women and women-owned businesses.

So I want to ask a question. From day one, the Biden administration has been working to fulfill its promise to build back better. And that these actions represent a strong commitment. And, however, I want to stress the importance of building back better that represents all of America. Can you provide—I would like to ask a question: Through the agencies like the EDA, the MBDA, as they continue to assist businesses across the country, how can we ensure that women, minority-owned business, and traditionally underserved businesses are included in these efforts? How are we going to monitor it?

Secretary RAIMONDO. First of all, thank you for the question. Second, this is a—as a former female business owner myself, this is a top priority of mine, and, of course, the President is very clear to build back better means build back more equitably.

Mrs. LAWRENCE. Yes.

Secretary RAIMONDO. So in—sorry, can you hear me?

Mrs. LAWRENCE. Yes, I can hear you.

Secretary RAIMONDO. Okay. In the 2022 budget, the President calls for an increase of more than \$20 million for MBDA, and to elevate the office to have an assistant secretary and authorize the MBDA office—which I think is absolutely vital to your point of accountability that is critical. So, what I can tell you is in that office, we are committed to making sure that the money gets to minority-owned businesses and women-owned businesses as necessary. Similarly, in EDA. I mean, I will commit to you that everything we do in Commerce, we will have an equity lens and make sure that the money we put out into the community is done with stakeholder engagement, and also, you know, with transparency, so that you will have accountability. So Congress—you ought to have me back here in a year and 2 years and say, you know, so much money has been spent, and that it will be done in an equitable way.

Mrs. LAWRENCE. Well, thank you for that commitment, and we will keep repeating it, because we know that we don't want anyone to get distracted. I, too, as all of these amazing invitations have come to you, you know that southeastern Michigan, which I represent, has about 200,000 high-paying, direct manufacturing jobs. And the field is among the most technologically-advanced and innovative. And production is forecasted to continue increasing over the next three decades.

What we have found in Michigan is that we have the infrastructure, and we are growing it, and, you know, innovating to ensure that we stay competitive.

I want to speak for the Midwest. We are locked ready and ready to roll to ensure that manufacturing continues, as we have seen it lose its place. As we are going to build back better, that means re-investing in our manufacturing and stop sending it overseas. And, so, I would love to invite you to Detroit, and to have you sit down with some of our innovators in our manufacturing industry to discuss how we can partner and build back better in the manufacturing area. And we can expand it to the Midwest and have a Midwestern conference on building back the manufacturing industry. And thank you. With that, I will yield back.

Secretary RAIMONDO. Thank you. My in-laws all live in Mount Pleasant, Michigan.

Mrs. LAWRENCE. That is where, Central Michigan, I went to college.

Secretary RAIMONDO. That is where they were professors at. They were Chippewas at CMU.

Mrs. LAWRENCE. Okay. Great.

Secretary RAIMONDO. Good to see you.

Mrs. LAWRENCE. Good to see you too.

Mr. CARTWRIGHT. Thank you, Mrs. Lawrence. And now, the chair will recognize Mr. Trone of Maryland for 5 minutes. And during your questioning, Mr. Trone, the chair expects that you will be

obeying all speed limits and traffic signals. Uh-oh, I scared him away.

Mrs. LAWRENCE. Do we have a problem we need to discuss?

Mr. CARTWRIGHT. I think we have a connection problem.

Mr. Trone, you are recognized for 5 minutes if you could do it.

Mr. TRONE. Do you hear me now?

Mr. CARTWRIGHT. Yes. No, I can't hear you. You are muted. It looks like you are muted, Mr. Trone.

Mr. TRONE. How am I looking now?

Mr. CARTWRIGHT. Okay. Now, I can hear you.

Mr. TRONE. Oh, man. It is great to see you again. I really enjoyed our visit to Gaithersburg, Maryland to the NIST facility for the vaccines. That was a good trip, and we really appreciate it.

I think you and I were both blown away by what is happening at NIST from developing tools, to advanced biomanufacturing, bio-therapeutics, developing strategies related to new carbon sequestration to help address climate change, the one-of-a-kind fire research lab, and search and rescue robots. I mean so much is happening at NIST, it is just fantastic.

And while NIST is on the cutting edge of innovation in its facilities, they are from the 1960s. So, currently, NIST has over \$800 million in deferred maintenance backlog, and it is only growing each year. And we all know that deferring maintenance only leads to more costly repairs once we have to make them.

Right before the pandemic, we had piped infrastructure that flooded the labs of over \$5 million, repeated HVAC shutdowns, causing everybody to relocate the entire campus. The current facilities condition assessment found 58 percent of the buildings are poor or in critical condition.

So, the question is, how can we expect NIST to help us deal with these leaky pipes, infrastructure, so we continue the cutting-edge technology? So if you can speak to your priorities around expanding NIST and supporting NIST?

Secretary RAIMONDO. Yes, so thank you for the question. And I also enjoyed meeting you, and I appreciate you coming with me to that visit. I was, like you, both blown away with the quality of the science. And, also, we saw it with our own eyes. The buildings have seen better days. And we have cataloged the needs. As you say, there is a huge backlog. The President's fiscal 2022 budget includes almost a \$500 million addition for NIST. And while the details of that haven't yet been released, I can just assure you, and we will stay in touch, that this is very much on our radar and a top priority. It is not—everybody that works there deserves to be able to go to work in a place that is safe. And, secondly, we are making massive investments in artificial intelligence, research and development, et cetera. And we need to also improve the capital facilities there.

And so, as the budget details become available we can continue this dialogue, but rest assured, that, you know, there will be significant funding there, and it is definitely a priority of mine having been, you know, visited and seen it with my own eyes.

Mr. TRONE. Well, that is great. Thank you very much. Let's jump to cyber attacks. You know, increasing threats not just against the government but also the business world that you come from and I

come from. And I will see Homeland Security and other defense intelligence agencies play a leading role. But NIST has an important role here, too.

I would like you to actually tell us as much as you can, publicly, about the extent of the impacts to the Department of the SolarWinds Act, and how much have we recovered from the damage that was done?

Secretary RAIMONDO. Yeah. Thank you for the question. You know, it was significant. And as a result, we are taking it very, very seriously. I can assure you that cyber will continue to be the main area of focus for NIST. Actually, in Rockville, Maryland, NIST has the Cybersecurity Center of Excellence, and cyber will continue to be a great focus for us. As I said, there will be a lot more money coming into NIST. Commerce is also at the center of the ICTS work that the President signed his executive order on that. And in that work, we are going to be not only securing, you know, Federal Government networks, but also, looking to help small- and medium-sized companies who are increasingly hit with these attacks and, frankly, don't necessarily know how to handle it. And, so, that will be a continued focus for us.

Mr. TRONE. Well, you anticipated my next question, and I was helping those small businesses who can't respond like government can. So, thank you very, very much for that.

With that, Madam Secretary, it is great seeing you. And I yield back, Mr. Chairman.

Secretary RAIMONDO. Nice to see you. Thank you.

Mr. CARTWRIGHT. Thank you, Mr. Trone. We have now finished our first round of questioning. And, Madam Secretary, I will offer you a 10-minute recess, if you would like one, but it looks like we have about another 20 minutes of questioning. What is your pleasure?

Secretary RAIMONDO. I am happy to keep going, if you guys are, if that is okay?

Mr. CARTWRIGHT. Very good. In that case, I will recognize myself for a second round of questions. I want to talk about innovation and manufacturing. There are numerous proposals currently working their way through Congress about how to improve American innovation. And I certainly support any of these initiatives, but I worry that we may be missing a bigger issue. America is already pretty good at innovation. The problem is, taking that intellectual property, holding onto it, and converting it into American manufacturing facilities so that the middle class sees the direct effect on jobs. And I know, this is a part of your personal story, seeing American manufacturing depart our shores, and you are welcome to comment on that.

But here is the thing, we invented solar panels and semiconductors, but neither are being manufactured much here at all, because other countries have stolen the intellectual property, or are so heavily subsidized in manufacturing that we struggle to compete.

So the question is, what are we doing to address these problems and increase American competitiveness? How do we convert American innovation into family-sustaining, blue-collar jobs?

Secretary RAIMONDO. Thank you for the question. And you are right, this is a passion of mine. For those of you who don't know

me, I come from Rhode Island. Rhode Island was once the jewelry manufacturing capital of the world. We had tons of jewelry manufacturing jobs here. My dad worked at the Bulova Watch Company. There were over 1,000 people working there in its hay day. When he was 56 after 28 years, the factory closed. All the jobs went to China. And it was really stuff tough for my family and our whole community. So, I have religion on this topic, and I will believe strongly that is our moment to reshore a lot of manufacturing and create millions of decent paying, family-supporting manufacturing jobs. And it will be a primary focus of what I do.

I think there is—I will be very brief. There is things we can do on offense, and things we can do on defense. On offense, we need to invest. You know, we need to make capital available to small and medium-sized manufacturers. The President's budget for Commerce calls for big increases in the manufacturing extension partnership. I worked that as Governor. We always had much more demand than supply. This absolutely will create manufacturing jobs, advanced manufacturing, and innovation. The President's budget calls for a manufacturing innovation center around semiconductors, making more semiconductors in America. We don't make enough semiconductors in America.

So I think big investments in research and development, job training, extra capital for manufacturers playing offense so we can reshore up manufacturing. Playing defense, also. You know, tariffs if necessary. Like, I talked about with the ranking member, countervailing duties and antidumping enforcement, export control so China can get their hands on our technology so we they flourish.

I really do believe the next 10-plus years we can see a resurgence of manufacturing jobs in America. That is the President's, you know, focus and belief, and I am going to use the full set of tools in the Commerce toolbox to do everything I can against that goal.

Mr. CARTWRIGHT. I am glad to hear that. And now, Madam Secretary, you also did talk a little bit about intellectual property theft, and I want to give you a chance to expand on that. How do we deal with IP theft issues, especially with countries like China?

Secretary RAIMONDO. Yes, well, first of all, I think it starts with having strong patent protection at home. And, you know, my job, of course, will be to administer an effective, efficient, strong patent system through the USPTO. And then, secondly, we have to enforce the laws to the greatest extent possible, and get our allies to do the same.

This is a challenging issue, and I would welcome any advice from any of you at any time. China doesn't respect our IP. They break the rules. And, so, we—it comes back to what I talked about with your colleague, it is about enforcement. And I can just say that under my watch at Commerce, we are going to spend as much time on enforcement across everything that we do, as we are on promulgating policies.

Mr. CARTWRIGHT. Why thank you for that, Secretary Raimondo. And I want to yield the floor at this time to our Ranking Member, Mr. Aderholt, for 5 more minutes of questions.

Mr. ADERHOLT. Thank you, Mr. Chairman. I want to follow up on the same line of questioning from the chairman, and also from Mr. Garcia, regarding technology. The Bureau of Industry and Se-

curity administers the U.S. export control regime to ensure that technology that is sensitive to our national security does not make it into the hands of our adversaries. And, yet, as one of my colleagues, Representative McCaul from Texas, who is also the ranking member on the Foreign Affairs Committee, appropriately and noted just this week that one of the biggest challenges in our competition with the Chinese Communist Party, is over the access to critical technology in its supply chain. Yet, our efforts to identify and control these emerging and foundational technologies are woefully insufficient and risk turning into a hollow exercise.

My question is, why has the Bureau of Industry and Security not fully implemented the key provisions of the Export Control Reform Act, such as the emerging and foundational technology list? Could you speak to that?

Secretary RAIMONDO. Yes, yes. Thank you. We are in the process of doing that. And as I have said, it is a priority of ours. I think I may have mentioned, you know, I have been here for 7 weeks, and we have already issued 7 subpoenas against Chinese companies to enforce our export controls, and we will continue to do that. The President's budget calls for increased funding for BIS and ITA, and some of that will be used for more aggressive or comprehensive efforts in BIS around export controls. I think you are on mute.

Mr. ADERHOLT. Okay. Is that good? All right. Thank you. You may or may not have seen The Wall Street Journal article that was dated April the 28 of this year. And it includes concerns about whether the FAA is responding forcefully enough, regarding violations which pertains to commercial launch activities. Meanwhile, the FCC is managing the use of space for competing satellite systems.

My question, it would be to you, is if the Commerce Department's Office of Space Commerce takes on a greater role in the regulation of space operations, what can you do, or what would you do to make sure that the office maintains equal treatment to competitors, and stands firm on regulations and consequences as opposed to becoming a pass-through agency through—for almost any commercial launch idea?

Secretary RAIMONDO. So thank you for the question. So, first, let me say, I think this is an exciting area of Commerce, Office of Space Commerce, where I predict over the next 5 to 10 years, we will see a lot more activity. And as a result we have to—I think we need a real whole-of-government approach to come up with our strategy around regulations in Space Commerce. I think there will be a lot more commercial opportunity in Space Commerce, and it will be important for us to encourage that innovation, but also regulate. And, by the way, everybody has to play by the same rules. I am not sure exactly what that article was, but you know I had seen articles about certain entrepreneurs who think they don't have to follow the rules, and I think we have to be very clear that they do.

So this—my incoming deputy, Don Graves, plans to really lead around Space Commerce. I have a background as an innovation investor, and I would be happy to visit with you on this, because I think working with the FCC Defense Transportation Commerce has an important role to play, and it is regulation, but it is also,

you know, innovation because I think there will be a lot more commerce down here.

Mr. ADERHOLT. Okay. Thank you. And I would also like to associate myself with the comments that made by Mr. Cline with regard to timber and lumber. I am hearing that constantly in the—as I am down in the State of Alabama in the district. I understand that there is plenty of lumber that is being delivered, but the prices are continuing to go up. And I think there is an issue with production. So, if you could make this a priority to find out what we can do to try to—because it is really putting a lot of folks in a very difficult position for home building and various construction projects. And so if you could ask someone in your office to make that a priority, I think that is very important.

Secretary RAIMONDO. I promise you I will.

Mr. ADERHOLT. Thank you. I yield back.

Mr. CARTWRIGHT. Thank you, Mr. Aderholt. Mr. Cline, you are recognized for an additional 5 minutes.

Mr. CLINE. Thank you, Mr. Chairman. Thank you, Madam Secretary, for going through a second round of questions. I want to get back to China and review something you said a month ago in a White House press briefing. I am quoting you, “China’s actions are uncompetitive, coercive, underhanded. If proven, they will do whatever it takes. And so I plan to use all the tools in my toolbox,” and you said that again today, “as aggressively as possible to protect American workers and businesses from unfair Chinese practices.”

So using that line of thinking, wouldn’t it be using all the tools in your toolbox as aggressively as possible to force, bite, dance to sell TikTok? And wouldn’t it also be aggressive to place Huawei on the Department’s Entity List?

Secretary RAIMONDO. Well, it is at the Department’s Entity List, and there is no reason to think that they will.

Mr. CLINE. To keep them, yeah.

Secretary RAIMONDO. Exactly. I was going to say, there is no reason to think that they will be removed from that Entity List. And we are going through a review to figure out, you know, constantly what other companies may also find themselves on the Entity List. So, anyway, I know that came up in my confirmation, and I wanted to clarify that. And then—

Mr. CLINE. And I appreciate that. And I just want to get a status report on that review of China policy. It was over a month ago. You said that you were—reviews were ongoing, and I just want to figure out when those are going to conclude, and, hopefully, we can see that aggressive stance toward China renewed here in the immediate future.

Secretary RAIMONDO. Yeah. Yeah, yeah. So this is something being led by the White House in the interagency process, and I think it is ongoing. I, you know, later on this spring, early summer, I think, we will be continuing to flesh it out. In the meantime, we aren’t stopping. You know, we are—in my Department, I can tell you we are being aggressive, appropriately so, with enforcement. I mentioned the subpoenas a couple of times, and with keeping these companies on the Entity List and deciding where new companies have to come on.

Mr. CLINE. I am glad that you are supportive of keeping Huawei on the Entity List. You mentioned also a strong patent system, and I share that position. But last year, an OIG report highlighted deficiencies in the PTO's Patent Capture and Application Processing System. The report found that PTO has no assurance that it can restore critical applications in the event of system failure, or a cyber attack. And that the USPTO's continued delay in updating legacy systems rendered a \$4 million per-year alternate processing site adequate and impractical.

I want to ask, given PTO's mission to foster innovation, competitiveness, and economic growth, it is no surprise that PTO and its applicants wish to secure their property rights, and that those rights rely heavily on a dependable IT infrastructure to achieve this mission. The OIG report made several recommendations. And I understand the PTO's working to address them. Do you have an update on that? Can you provide us an update on that and whether they have implemented these recommendations?

Secretary RAIMONDO. So, thank you for bringing this up. I understand the significance of the issue, and I am going to have to get back to you with details. I will do that, and I will submit the answer, you know, for the record.

Mr. CLINE. Thank you. I appreciate that. Mr. Chairman, I yield back.

Mr. CARTWRIGHT. Thank you, Mr. Cline. Mr. Garcia, you are recognized for 5 minutes.

Mr. GARCIA. Thank you Mr. Chairman. Madam Secretary, again, thanks for the patience on this, and weathering the storm. I was encouraged by your words, your desire to be more competitive as a Nation on the open market in terms of supporting businesses and encouraging business growth throughout our country, and especially relative to China becoming more competitive.

In 2017, we had the Tax Cut in Jobs Act, which was really the catalyst for a booming economy over the last 5 years. We saw massive job growth, record low employment numbers. We saw companies hiring at record pace. We saw those same companies investing in internal research and development as a result of the corporate tax breaks. We saw them, in parallel, lowering their prices of goods and products to Americans, while also increasing wages to the average employees on their books. That, to me, was the essence of being competitive.

I wasn't a fan of the State and local tax deduction cap. Being a Californian, I think that could have been removed. But I do believe that the 2017 Tax Cut in Jobs Act was the answer for being competitive on the open market space.

As we pivot to this administration and, specifically, this year under President Biden's tax plan, what we are seeing is, effectively, a doubling of the tax rate on material long-term capital gains from 20 percent to 40 percent; eliminating the qualified income deduction for partnerships and S-corps; increasing the corporate tax rate from 21 to 28 percent; adding a new 12.4 percent high-earner payroll tax on all income earners above \$400,000; raising the top individual tax rate back up to 39.6 percent from 37 percent.

These are the folks who are creating jobs. They are creating incomes which, ultimately, drive revenue growth at the national and

State levels for us. Yet, this tax plan seems to be almost punishing those companies that are doing well. And those small business owners who, frankly, right now, are just starting to recover on the heels of the pandemic.

And I come from a State that is overly taxed, and it is crushing our businesses here at the State level. But this administration seems to be adopting the same mindset that Sacramento has adopted in terms of tax and not being business-friendly, overlaying bureaucracy and regulation on small businesses at a time where they desperately need the help.

I have read your bio, I have seen your background, and I know, as someone who has been involved with the Treasurer and economics, I would love to just get your personal opinion as to whether you think increasing taxes on corporations and small business owners and those who are creating jobs is actually making us, as a Nation, more competitive on the world market on businesses and those seeking to invest in those businesses?

Secretary RAIMONDO. Thank you. So like we could probably go out for dinner and talk about this for 2 hours, but I will give you my thoughts in a minute and 50 seconds. I agree that the tax sector has to be competitive and fair. I think that this country's economy could be much, much stronger if we make the big investments that the President is calling for in infrastructure. And in the past month and a half, I have talked to probably 70 CEOs of big companies, and dozens and dozens of small companies, and that everyone agrees, we need broadband investments, airports, trains, infrastructure, transit, et cetera, housing. And I think it is responsible to pay for that. And, so, the President has set forth a plan, which I think is very strong and will make us competitive, and he has promised he is not going to increase taxes on anyone who makes less than \$400,000 a year. And the fact is, he proposes significant tax cuts for middle-income, working class, lower-income Americans, who, I think, deserve a break.

So, you know, last year, as you said, many businesses were extremely successful. We had many big large multibillion dollar profitable companies in America that paid zero in taxes. And that, to me, just says that corporate Tax Code is broken if there is so many——

Mr. GARCIA. If I may——

Secretary RAIMONDO [continuing]. Loopholes.

Mr. GARCIA [continuing]. If I may reclaim time, Madam Secretary. If I may reclaim. The net zero in overall tax payments is a result of government rebates. But in actuality, they are paying taxes, they are creating jobs that ultimately are contributions to the tax rolls at the national and state level. And I will submit that just because your taxes aren't going up if you are less than 400K, you may actually be losing your job. And so, yes, there may come a tax cut in the form of being unemployed because your employer is no longer in business.

But I would love to sit down and have that conversation over dinner. You are right. Five minutes doesn't do it justice. But I would really appreciate having someone advocating for small businesses and taxpayers in this administration. Thank you, Mr. Chairman. I yield back.

Mr. CARTWRIGHT. Thank you, Mr. Garcia. And I want to congratulate you, Mr. Garcia. Just about everybody on this subcommittee invited the witness to their district, I think except you, but you scored a dinner invitation from the witness. You are, I believe, one of those smooth-talking Californians.

Mr. GARCIA. Well, we have good food out here. And it will cost a little bit more, Madam Secretary, but I would love to have you out here. Thank you, Mr. Chairman.

Mr. CARTWRIGHT. And, Madam Secretary, thank you for your presence today at this hearing. You have acquitted yourself very well in your maiden voyage before this subcommittee, and I congratulate you. We all look forward to working with you in support of small businesses and middle-class Americans. And with that, I declare this hearing is adjourned.

[Answers to submitted questions follow.]

**The Honorable Matt Cartwright**  
**Subcommittee on Commerce, Justice, Science, and Related Agencies**  
**Questions for the Record**  
**Fiscal Year 2022 Budget Request for The Department of Commerce**

**New Office at the Department of Commerce Proposed by the American Jobs Plan**

In his American Jobs Plan, President Biden has proposed \$50 billion for a new office in the Department of Commerce “dedicated to monitoring domestic industrial capacity and funding investments to support production of critical goods.” No additional details have been provided on this proposal.

1. Can you provide more information on the specific activities this planned new Commerce Department office is to support? Is the \$50 billion in proposed funding for the office for a single year of operation, and will additional funding be sought for subsequent years? If so, how much funding do you imagine this requiring annually?

**Answer 1.** The Critical Supply Chain Resilience Program (CSCR) proposal recognizes that critical supply chain gaps today reflect years of chronic under-investment, aging assets, and stagnating industrial output and productivity in the manufacturing base. Underlying these trends are barriers to low-cost growth capital for small- and mid-sized firms and other factors that create an uneven playing field for domestic manufacturers. The proposal recognizes that these trends are continuing today, creating new vulnerabilities and worsening old ones, and that new critical gaps may emerge in the future.

The CSCR proposal seeks to combine low-cost financing with strategic monitoring to identify and address vulnerabilities before they result in the loss of domestic capacity and negative impacts to economic and national security.

2. Do you have any high-level details about HOW you might support these private activities? Are we talking about direct subsidies? Tax incentives? Financing? Preferential treatment for Federal contracting? Or would there be programs tailored to each industry sector?

**Answer 2.** The program will be set up so that the monitoring function provides strategic guidance for which sectors face vulnerability and therefore should have priority financing. As envisioned, the financing program would likely be split between grants, loans, and guarantees. The allocation between these mechanisms cannot be prescribed upfront because it will depend on industry factors such as sector, market growth, and market position.

**Aluminum Import Monitoring Program**

3. The White House freeze on certain regulations delayed the implementation of the Aluminum Import Monitoring (AIM) program from January to March – and then the Department delayed the launch of the program’s start to June 28. While I understand the need for a review by the new Administration, I hope you and your team are working to ensure an expeditious roll-out of this program – which has had bipartisan support from

Congress – and preparing to act on the newly available information when necessary. Will you commit to supporting a successful launch of the AIM program and coordinating its implementation with the full value chain of the aluminum industry in the United States?

**Answer 3.** The Aluminum Import Monitoring (AIM) system's licensing requirement went into effect on June 28, 2021, and the International Trade Administration's Enforcement and Compliance (E&C) office is currently accumulating aluminum import licensing and country of origin information from the system. In September, that information was integrated into the AIM monitor, allowing the public a near real-time view of aluminum import trends. Importers will have a one-year grace period for the license requirement to report the country in which imported aluminum products were originally smelted. The grace period will give importers the opportunity to adapt their records to accurately report the required smelting information on their import licenses.

#### **Section 232 Tariff Exclusion Process**

4. Is the Department of Commerce aware that the Section 232 tinplate tariffs and quotas have created a supply chain crisis with food can manufactures that may impact canned food reaching store shelves?

**Answer 4.** The Department of Commerce is aware of industry concerns regarding the availability of blackplate and tinplate steel used for food can manufacturing in the United States. The Department believes that there are numerous factors underlying the supply chain shortages seen in many sectors, such as supply-and-demand mismatches stemming from the outbreak of COVID-19. However, the Department granted exclusions allowing tariff-free imports of up to 3,215,000 Metric Tons of tinplate steel to the United States since October 2020.

Additionally, the Department, through the Bureau of Industry and Security, is preparing a Notice of Inquiry seeking public comments identifying products potentially eligible for categorical General Approved Exclusions from the 232 Tariffs. The Notice of Inquiry will solicit such information for products in a number of significant Harmonized Tariff Scheduled of the United States (HTSUS) Classifications, including the classification for tinplate steel. Furthermore, the Department, in coordination with the Office of the U.S. Trade Representative (USTR), recently announced an agreement with the European Union (EU) to modify 232 steel and aluminum measures to allow the resumption of duty-free imports of European steel and aluminum into the United States in line with historical trade flows. Working with our European counterparts, we secured a deal that will protect American jobs; avoid retaliatory tariffs on iconic American brands; reduce inflationary pressures on products like cars, trucks, appliances, and canned goods; and alleviate a major supply chain crunch by supporting increased steel and aluminum capacity in the United States.

In addition, consistent with President Biden's Executive Order (EO) 14017, "America's Supply Chains," the Department of Commerce is a co-lead agency, along with the Departments of Transportation and Agriculture, of the Supply Chain Disruptions Task

Force, which ensures a whole-of-government response to address near-term supply chain challenges to the economic recovery. The Task Force is focusing on areas where a mismatch between supply and demand has been evident: homebuilding and construction, semiconductors, transportation, and agriculture and food. The Department is currently implementing efforts to bring together data from across the Federal Government to improve the Federal Government's ability to track supply and demand disruptions and facilitate information sharing between federal agencies and the private sector to more effectively identify near term risks and vulnerabilities.

5. How does the Commerce Department determine the veracity of the facts alleged in the tariff exclusion applications as well as the objector's comments?

**Answer 5.** The Department grants exclusions from 232 tariffs based on a case-by-case review to determine if the product is not available domestically in a sufficient and reasonably available amount or of a satisfactory quality, or for specific national security reasons. When an exclusion request receives an objection from a member of the domestic industry, the Department reviews that case to determine whether there is evidence of U.S. capacity to produce the requested product in a sufficient quality and quantity. After a final review of the information submitted in the public record in the context of a given request, a final decision is communicated to the requester.

Alongside the Department's review of submitted information on a case-by-case basis, the Department published Section 232 Steel and Aluminum Tariff Exclusions Process (85 FR 81060) on December 14, 2020. This interim final rule made regulatory changes to the 232 exclusions process, requiring a certification from exclusion requesters for volume requested and, when applicable, a certification for volume requested but unfulfilled due to legitimate circumstances when submitting exclusion requests in the 232 Exclusions Portal. This change ensures that the volume request in exclusion requests is consistent with the past use, and the legitimate business needs of steel or aluminum by an exclusion requester. The person signing the certification must attest that the exclusion requester intends to manufacture, process, or otherwise transform the imported product for which they have filed an exclusion request, or has a purchase order or orders for such products. If contacted by the Department, their organization must provide documentation that justifies the assertions in the certification regarding past imports of steel or aluminum articles and projections for the current year, as it relates to past and current calendar year exclusion requests. The interim final rule also made changes to clarify when an objector would be required to be able to provide the steel or aluminum in the quantity and quality to which they were objecting on the basis that they could provide that steel or aluminum "immediately."

### **2020 Decennial Census**

6. On April 26<sup>th</sup>, the Census Bureau released apportionment data resulting from the 2020 Decennial Census, after operational delays due to the COVID-19 pandemic created unprecedented delays in both the count and data analysis. The 2020 Decennial Census was not without controversy even prior to the beginning of the pandemic, which

coincided with the start of data collection. The question of whether the Census form would include a question on citizenship hung in the balance until 2019 and the attempts of the prior Administration to get this information through administrative records from other government agencies such as the State Department and the Department of Homeland Security created confusion and concern among minority populations. Further, I am concerned that due to the pandemic some populations were not necessarily counted where they should have been – for example, students who had to leave colleges and universities mid-semester. Will the Department be assessing how these external factors may have influenced respondents in certain populations?

**Answer 6.** The Census Bureau shares the goal of the Subcommittee for a full and accurate count of the population through the 2020 Census. To ensure a quality result, we first designed the census based on research and numerous operational tests done throughout the decade. We conducted our operations and outreach to get responses from everyone—including delivering up to seven invitations and reminders (including up to two paper questionnaires) to households and making the questionnaires available in 13 languages to allow for more than 99 percent of households to respond in their preferred language. We gave the public three options to self-respond—online, by phone, or by mail. We conducted the most extensive communications campaign for any census, including advertisements in 46 languages, and extended and innovated the campaign because of COVID-19.

With the introduction of electronic data collection using the internet and handheld devices, we were able to provide checks on individual responses (e.g., using online questionnaire prompts to ensure age and date of birth were consistently reported), oversee the enumerators' work (e.g., time to conduct interview matched expectations based on number of people rostered in household), and trends in responses for indications that we might need to add additional efforts. We compared the preliminary census counts to estimates from other population benchmarks, such as Demographic Analysis and population estimates for April 1, 2020, to identify anything for further review. We will continue to evaluate the 2020 Census results with the 2022 release of estimates of coverage from the 2020 Post-Enumeration Survey and the release of various assessments and evaluations of 2020 Census operations over the coming years. We do this every census because we and our stakeholders want to understand what worked, what lessons were learned, and what needs more attention for the next census. These will provide a wealth of information about the quality of the data collection operations and the resulting 2020 Census counts, though they generally can't provide precise estimate or isolate the effects of any single impact on the final results. These and other efforts with our advisory committees, other stakeholders like Congress, the Government Accountability Office, the Office of Inspector General, etc., also will be used to identify other factors that might have impacted the census, and in what ways. Again, even if precise estimates of impact can't be produced, it is vital to document these things happened and some sense of the impact on our program, including additional resources and efforts we deployed to mitigate potential effects.

Also, we have engaged respected members of the scientific and statistical community to conduct independent assessments of the 2020 Census, including the National Academies of Sciences, Engineering, and Medicine's Committee on National Statistics, the American Statistical Association Quality Indicators Task Force, and JASON. These independent reports show our commitment to transparency and help build public confidence in the quality and reliability of the 2020 Census data. The groups' recommendations are also helping us to prepare and improve future censuses.

### **COVID-19 Related Impacts**

7. The Department of Commerce may have been one of the best equipped to quickly transition from an in-person to work-from-home environment. For example, the majority of U.S. Patent and Trademark Office personnel were already working from home prior to the pandemic. Will the Department be assessing it's work from home options, both as a recruitment tool and possible cost savings?

**Answer 7.** Thank you for recognizing our preparedness and quick action to transition our personnel to a work-from-home environment. We continually assess our work-from-home options, both as a recruitment tool and as an opportunity to explore and realize possible cost savings. We will continue to do so in the future.

8. What analysis is the Department conducting on the long-term impacts of COVID on our travel and tourism industries? And are more resources needed to properly evaluate how this industry can recover quickly?

**Answer 8.** The International Trade Administration's National Travel and Tourism Office (NTTO) compiles weekly travel indicators and economic data in conjunction with COVID-19 data from the Centers for Disease Control and Prevention to analyze the on-going effects of the pandemic on the travel industry and monitor long-term economic trends. NTTO also uses travel balance of trade data, business surveys, consumer sentiment estimates, and hotel and travel demand data to track industry recovery. The Travel and Tourism Satellite Account, compiled by the Bureau of Economic Analysis, measures how much tourists spend and the prices they pay for lodging, airfare, souvenirs, and other travel-related items. These statistics also provide a snapshot of employment in the travel and tourism industries. These annual statistics lag by approximately one year.

### **Job Training Programs**

I understand that as Governor of Rhode Island, you launched a new initiative for job training called Real Jobs Rhode Island. And that program focused on understanding what the needs were of local employers to then focus on providing the appropriate training.

9. The American Jobs Plan focuses considerable attention on the economic diversification of communities like mine in Northeastern Pennsylvania that have a legacy in the energy industry. What are the lessons you learned from this program in Rhode Island, and are you exploring opportunities to bring these lessons to similar programs at the Department that can have benefits across the country?

**Answer 9.** As you note, the idea behind Real Jobs Rhode Island was to start with employers' real immediate needs, and then prepare people to be successful in those real jobs. It required close partnership among employers and robust support for training participants, including childcare and transportation. I am absolutely bringing those same principles to the work I'm doing as Commerce Secretary, and especially to new EDA programs funded by the American Rescue Plan (ARP). Specifically, EDA's ARP Good Jobs Challenge, which is currently accepting applications, encourages employers to partner with non-profits and governments to train workers for the good jobs they need filled. In addition, as part of the \$3 billion EDA received through ARP, we have made a \$300M coal communities' commitment, which supports energy communities in transformation.

10. EDA also is likely to play a big role in economic transitions. One of the ideas in the Jobs Plan that I particularly like is the proposal for "Main Street Revitalization." What ideas do you have about how we can reinvigorate mid-size cities like Scranton and Wilkes-Barre?

**Answer 10.** EDA's mission is to lead the federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. That's exactly what we need right now. The \$3 billion in ARP funding that EDA launched this summer is specifically designed to assist communities – like Scranton and Wilkes-Barre – in building back better. EDA launched six different ARP programs, so that communities can find the opportunity that's right for them. With an emphasis on equity, EDA investments made under the American Rescue Plan will directly benefit previously underserved communities impacted by COVID. EDA is also making a coal communities commitment, allocating \$300 million of its \$3 billion to support coal communities as they recover from the pandemic and create new jobs and opportunities.

### **Broadband**

I was glad to see that the American Jobs Plan called for \$100 billion for broadband. I'm hoping you might be able to provide some details about how those funds would be executed.

11. Can you please provide details about the role of Commerce's NTIA in the broadband initiative? And do you have a sense of the breakdown in the proposed allocation of these funds between relevant agencies, such as NTIA, the FCC, and USDA?

**Answer 11.** While the details have not been finalized, NTIA is proud to support the Administration's goal to connect 100 percent of Americans, including those living in rural and tribal areas, to high-speed, affordable, and reliable Internet to ensure equity of opportunities for learning and earning. NTIA's expertise in broadband over the years will be an important asset to implement the American Jobs Plan (AJP).

Through its BroadbandUSA work, NTIA has served local, state, and tribal governments, industry, and non-profits seeking to expand broadband connectivity and promote digital inclusion by providing solution-neutral technical assistance and convening regional workshops that bring local stakeholders together. NTIA also has a robust connection to

states through its State Broadband Leaders Network (SBLN), a cohort of government officials representing the 50 states and three territories that focus on state level broadband and digital inclusion efforts.

NTIA will also leverage the National Broadband Availability Map (NBAM), which is improving our understanding of the broadband landscape across the country and is a tool for state and federal policymakers in determining how best to target investments. Recognizing the ability of the NBAM to support their own broadband programs, 36 states and several federal agencies such as the United States Department of Agriculture (USDA), the Department of Commerce's Economic Development Agency, the Appalachian Regional Commission, and the Bureau of Indian Affairs have partnered with NTIA on this initiative. Coordination among federal agencies will be critical to successful implementation of the AJP. The recently passed ACCESS BROADBAND Act (Act) established new obligations on NTIA to promote coordination. The Act requires NTIA to track in a central database the construction, use of and access to any broadband infrastructure built using any federal support, as well as coordinate with other federal agencies to ensure funds are being distributed in an efficient, technology-neutral, and financially sustainable manner and not duplicate other federal broadband programs or Universal Service Funds (USF).

The Consolidated Appropriations Act, 2021, also included the Broadband Interagency Coordination Act of 2020, which required NTIA, Federal Communications Commission and USDA to enter into an agreement requiring coordination for the distribution of funds for broadband deployment under the FCC High-Cost Programs, USDA's Rural Utility Service Programs, and broadband programs administered or coordinated through NTIA.

#### **Manufacturing Extension Partnership**

The American Jobs Plan calls for the "quadrupling" of the Manufacturing Extension Partnership, or MEP, program, and the skinny budget recommends a 50% increase to its budget for fiscal year 2022.

12. I'm a big fan of MEP and so many of the programs that support American manufacturing, but I'm curious how you came up with goal of quadrupling? How will the program be able to effectively implement this increased funding quickly and make sure we build upon MEP's past great work, not dilute it?

**Answer 12.** MEP's long-range strategy includes expanding the capabilities and services of its national network to a level and scope that is consistent with the Administration's expectations.

A significant portion of MEP's funding increase will be directed towards increasing funding for MEP Centers so that they can in turn grow their rosters of outreach and service delivery professionals. Centers will then be able to deliver more engagements with an expanded number of manufacturers as well as deeper and more thorough technical assistance with manufacturers in key supply chains and critical industries. Additionally, MEP has previously demonstrated an ability to disseminate large amounts of funding efficiently through a competitive process. MEP was recently praised for its implementation of the CARES Act whereby MEP awarded nearly \$50 million in

supplemental funding to its network of Centers within a very aggressive 90-day timeframe. MEP has continued to effectively monitor the performance of Centers throughout the duration of these awards.

**The Honorable Robert Aderholt**  
**Subcommittee on Commerce, Justice, Science, and Related Agencies**  
**Questions for the Record**  
**Fiscal Year 2022 Budget Request for The Department of Commerce**

**Aluminum Import Monitoring Program**

1. This Subcommittee has been very supportive of the Aluminum Import Monitoring program, which will track imported aluminum products through an online licensing platform. I also recognize that International Trade Administration's Enforcement and Compliance office conducts analysis of Section 232 duty exclusion requests opposed by domestic steel and aluminum industries.

Will data collected on import license requests – which I understand are more closely correlated with actual imports – be used in evaluating whether certain exclusion requesters may have requested more volume than needed for their own business purposes, as was highlighted in the December 2020 Interim Final Rule by the Bureau of Industry and Security requiring additional certification for volumes requested?

**Answer 1.** The International Trade Administration (ITA) is grateful to the Subcommittee for its support of the Aluminum Import Monitoring (AIM) system. The AIM system was not built to analyze requests for exclusion from Section 232 duties on imported aluminum products and the information gathered by AIM is not suited to analyzing the highly specific products found in individual exclusion requests.

2. Can you confirm that the program will cover more than just primary aluminum and also focus on interests such as flat-rolled aluminum, which, as the announcement on common alloy aluminum sheets earlier this year indicates, have been harmed by foreign noncompetitive practices?

**Answer 2.** Yes, the AIM system will cover imports of both primary and secondary aluminum products, including imports of flat-rolled aluminum products. A comprehensive list of all products that will require an import license under the AIM system can be found at aluminum products HTS codes ([trade.gov/aluminum](https://trade.gov/aluminum))

**NOAA – Weather Forecast Dissemination**

3. In March, the Washington Post reported that National Weather Service Internet systems are crumbling as key platforms are taxed and failing. Most of the agency's online systems went down during a recent tornado outbreak in the South, and a vital resource for relaying information crashed. The agency's office in Birmingham, Alabama, had to switch to a third-party instant messaging service just to keep people informed. These revelations are serious cause for concern, and there is strong, bipartisan support for addressing this issue. It is my hope that fixing these systems will be one of your top

priorities. Please explain what is going on with the dissemination of weather information to the public, and what your fiscal year '22 budget proposes to do about it.

**Answer 3.** Addressing the issues surrounding NWS dissemination services is a top priority of the Department of Commerce. These issues stem from legacy infrastructure and applications that require updating to run on the more modern and robust dissemination systems, especially as user demand for higher resolution model output and other NWS products outpaces current capacity. NWS continues to make steady improvements with its IT infrastructure and dissemination system, in line with a comprehensive IDP plan that was provided to Congress. The IDP plan incorporates cloud technology, with a combination of the secure and reliable NOAA-owned private cloud, and a fully mirrored backup system, along with public cloud services. Executing this plan will provide a robust, more stable and flexible dissemination infrastructure with the capability needed to meet increasing demands for weather, water and climate information. Consistent with the IDP plan, the FY22 President's Budget includes a \$17M increase to 1) implement and operationally support and sustain a long-term solution for NWS's core partner collaboration tool (NWSSchat), 2) update and reengineer applications to improve performance, and 3) support a robust and fully redundant network for NWS enterprise web and application services hosted on IDP.

Bandwidth constraints have become a greater concern as user demand for higher resolution, larger weather models has increased. The Consolidated Appropriations Act, 2021, provided NWS with \$1.5M to improve the bandwidth at the data centers. The NWS has procured the necessary hardware to improve the bandwidth, and will install and enable the increased bandwidth of 100 gigabits per second by the end of Q2 FY22.

4. Can you say with confidence that your fiscal year '22 budget includes enough funding to fix this problem as expeditiously as possible?

**Answer 4.** Yes. The proposed FY22 investment will allow NWS to continue to implement the Integrated Dissemination Program (IDP) plan as envisioned.

#### **NOAA – VORTEX Southeast**

5. Tornadoes kill more people in the southeast United States than anywhere else, in part because the topography makes advanced warnings nearly impossible with current technology. That's why NOAA's VORTEX Southeast program is so critically important to my district. Congress appropriated \$7 million dollars for the program in fiscal year '21, along with \$500,000 dollars to start a new nationwide program to be known as VORTEX-USA. Can you give us an update on the VORTEX programs in fiscal year '21, and tell us whether we can expect to see increases for these programs in your fiscal year '22 budget as part of the Department's requested \$1.4 billion increase for weather and climate related activities?

**Answer 5.** VORTEX programs in FY21 have focused on three broad areas:

1. *Planning and preparatory work for the Propagation, Evolution and Rotation in Linear Storms (PERiLS) field campaign that will be conducted in the Southeast in collaboration with the National Science Foundation (~\$4.4 million in FY21 to date).* To date in FY21, NOAA has funded a combination of grants to research universities including the University of Alabama-Huntsville, University of Louisiana-Monroe, University of Oklahoma, and Texas Tech University, to participate in the PERiLS field campaign. PERiLS will put mobile Doppler radars, wind and temperature profilers, and other remote sensing systems into the Southeast United States to study how organized systems of thunderstorms produce the rapidly forming tornadoes, which are common to the region.

2. *Supporting social and behavioral science research and developing processes to return research results to communities in the Southeast to improve response and outcomes (~\$1.3 million in FY21 to date).* To date, VORTEX-Southeast has produced significant research results in the social sciences which has revealed unique socioeconomic factors in the region that enhance societal vulnerability to damage and casualties from tornadoes. NOAA's National Severe Storms Laboratory (NSSL) has partnered with Mississippi-Alabama Sea Grant Consortium to develop a pilot project to synthesize these research results and mitigate the vulnerabilities through specific actions in communities in the region through partnerships with entities such as the National Weather Service, emergency managers, and local organizations to improve societal outcomes.

3. *Integrating VORTEX-Southeast into broader severe weather research-to-operations (R2O) efforts and expanding into the VORTEX-USA effort authorized by Congress (~\$1.3 million for VORTEX-Southeast and \$0.5 million for VORTEX-USA in FY21 to date).* NSSL and the Weather Program Office (WPO) have worked to identify specific research needs to meet the goals outlined in the Tornado Warning Improvement and Extension Program (TWIEP) authorized in the Weather Act and are working to continue VORTEX-Southeast research efforts in these areas (\$1.6 million) as well as preparing to expand them into this broader effort through the establishment of VORTEX-USA (\$0.5 million). In addition to funding specific R2O projects in the Southeast that were identified as needs, preparation is also underway to release a notice of funding opportunity to the community for VORTEX-USA related proposals to begin leveraging community input and expertise into this broader effort in FY22.

The FY22 President's Budget supports continued funding for VORTEX or TWIEP activities at the FY21 enacted levels. Funding levels in the House Mark for FY22 would also sustain funding for intramural and extramural tornado research, including the Warn-on-Forecast program, activities in the Hazardous Weather Testbed, social and behavioral science research, development of new observational capabilities, and continuing efforts to prototype forecaster tools that are necessary building steps for improved and effective tornado forecasting, guidance, and warning systems and services.

#### **New Broadband Programs**

6. In December, Congress established two new broadband grant programs within the National Telecommunications and Information Administration: a \$1 billion program to

support broadband connectivity on Tribal lands and a \$300 million program to support broadband infrastructure deployment to areas lacking broadband, especially rural areas. What steps will you take to ensure that the new programs will not be used to overbuild networks?

**Answer 6.** The National Telecommunications and Information Administration (NTIA) is committed to maximizing the benefit of federal investment in broadband and avoiding duplicative investments. On June 25, 2021, NTIA, the Federal Communications Commission (FCC) and the U.S. Department of Agriculture (USDA) signed a Broadband Interagency Coordination Agreement (BICA), pledging to share data about existing and planned projects to promote coordination. We are meeting weekly to implement the terms of the BICA, and we will ensure that we are leveraging the most recent information about awarded areas from these federal partners and others, to prevent duplication. NTIA has partnered with multiple federal agencies to share data and leverage the National Broadband Availability Map (NBAM) to promote coordination. Federal partners include USDA, the Treasury Department, the Economic Development Administration, the Bureau of Indian Affairs, and the Appalachian Regional Commission. Each of those has visibility into the investments made by USDA and the FCC. The Department also collaborated with the Treasury Department to inform the design of the Capital Projects Fund, and we signed a Memorandum of Understanding (MOU) to support their outreach to Tribal nations given our expertise and administration of the Tribal Broadband Connectivity Program. We will ensure continued close collaboration on an interagency level. NTIA also partners with state governments through the State Broadband Leaders Network to coordinate on the establishment and oversight of grant programs and to improve and expand the multiple data and mapping platforms we are implementing.

NTIA intends to prioritize the investment of funds to deploy networks in high-need areas where the private sector is not already providing robust, high-quality, low-latency, affordable Internet services to residents. NTIA is also developing policies and procedures during the application review process to prevent unnecessary overbuild. For the Broadband Infrastructure Program, NTIA will review any state or federal funding already committed to a proposed project. NTIA will compare the applicant's proposed service area against those service areas that have been funded by other federal or state programs and assess whether the applicant's proposed service area is unserved, or if the area is already covered by qualifying broadband services. In addition, for the Broadband Infrastructure Program, NTIA will post an announcement identifying each application from a covered partnership that is currently undergoing NTIA review for funding, along with a description of the eligible service area it proposes to serve through its project, including a list of the census blocks, at [broadbandusa.ntia.doc.gov](https://broadbandusa.ntia.doc.gov). The posting of this announcement will provide existing broadband service providers with a 15-day window to voluntarily submit to NTIA information about the broadband services they offer in any of the proposed service areas a covered partnership designates for funding. NTIA will consider the comments of existing broadband service providers as a factor in its evaluation of a covered partnership's project proposal provided that they include all requested information to substantiate their position that the proposed service area is already served with qualifying broadband. If, during the application review process,

NTIA identifies service areas with pre-existing qualifying broadband service, applicants may be requested to remove those areas in order to ensure eligibility as outlined in the Notice of Funding Opportunity (NOFO).

NTIA will also ensure coordination between its grant programs. The Tribal Broadband Connectivity Program (TBCP) is only open to eligible entities, which are defined in Section 905(a)(8) of the Act as: a Tribal Government; a Tribal College or University; the Department of Hawaiian Home Lands; a Tribal organization; or an Alaska Native Corporation. Assuming a provider is eligible to apply to both programs, each application must describe in detail the area and routes on which the applicant proposes to deploy broadband infrastructure and should also note that funding for the same area or overlapping portions of the area is being requested pursuant to the other NTIA broadband program. Applications for each program will be evaluated based on the criteria applicable to each grant program. Under no circumstances will NTIA make awards under the Broadband Infrastructure Program and TBCP that duplicate the same costs.

7. How will you coordinate with USDA, the Bureau of Indian Affairs, FCC and others as you make funding decisions for the new programs?

**Answer 7.** As noted above, NTIA is committed to a thorough application review process that includes interagency coordination to ensure federal funding is not duplicated for similar programmatic purposes. NTIA, FCC and USDA are signatories to the Broadband Interagency Coordination Agreement, which requires the agencies to share geolocation data about existing and planned projects. This data will be integrated into the National Broadband Availability Map (NBAM), and as part of the review process, NTIA will compare applicants' planned service areas against the service areas for FCC and USDA awards. NTIA also meets regularly with the Bureau of Indian Affairs (BIA) to ensure coordination given the role BIA plays in permitting processes and its role in the Executive branch as an intermediary with Tribal nations. The Treasury Department has signed an MOU with NTIA to gain access to the NBAM, and we will coordinate with them to ensure data they receive from recipients of the Capital Projects Fund is integrated in the platform to inform future funding decisions.

8. Can you give us a status update on these programs?

**Answer 8.** NTIA released the funding guidelines—the Notice of Funding Opportunity (NOFO)—for all three grant programs created and funded through the Consolidated Appropriations Act, 2021. As of October 15, 2021, NTIA held 30 webinars for stakeholders and potential applicants to help them become aware of the programs and related objectives, application and evaluation processes, as well as key program requirements, including eligible costs and activities. NTIA also has been working closely with its grants administration partners—the National Institute of Standards and Technology (NIST) and the National Oceanic and Atmospheric Administration (NOAA)—to stand up these programs and is working internally to prepare for incoming applications, including the execution of a three-stage application review process.

- **Broadband Infrastructure Grant Program.** On May 19, 2021, NTIA announced the availability of \$288 million in grant funding for the deployment of broadband infrastructure through the release of the program's NOFO. Grants will be awarded to partnerships between a state, or political subdivisions of a state and providers of fixed broadband service to support broadband infrastructure deployment to areas lacking broadband, especially rural areas. More than 230 applications were accepted, representing more than \$2.5 billion in funding requests. NTIA is currently reviewing applications received. On October 4, 2021, NTIA posted a data set of application proposed funded service areas on its BroadbandUSA website for service providers to review and provide NTIA input if there is already a qualifying broadband service available in any of the proposed funded service area census blocks. NTIA will consider this service provider input as it reviews the eligibility of the applicants' proposed service areas as a part of its in-depth programmatic review of applications.
  - **Tribal Broadband Connectivity Grant Program (TBCP).** On June 3, 2021, NTIA published the TBCP NOFO announcing the availability of \$980 million in grants to expand broadband access and adoption on Tribal lands. The TBCP is directed to tribal governments for broadband deployment on tribal lands, as well as for telehealth, distance learning, broadband affordability, and digital inclusion. More than 280 applications were received through September 1, 2021, requesting more than \$5 billion in funding. NTIA is currently reviewing applications received.
  - **Connecting Minority Communities (CMC) Pilot Program:** On August 3, 2021, NTIA published the CMC Pilot Program NOFO, which will direct \$268 million for expanding broadband access and connectivity to eligible Historically Black Colleges or Universities (HBCUs), Tribal Colleges or Universities (TCUs), minority-serving institutions (MSIs), and consortia led by an HBCU, TCU, or MSI that also include a minority business enterprise or tax-exempt 501(c)(3) organization. Eligible uses for this funding include the purchase of broadband Internet access service, or any eligible equipment, or to hire and train information technology personnel. Applications are being accepted through December 1, 2021.
9. Congress provided the FCC with \$98 million to produce accurate broadband maps.
10. In light of that, what role will the NTIA map, currently being funded at \$7.5 million annually, play going forward?

**Answer 10.** The Consolidated Appropriations Act of 2018 directed NTIA to coordinate with, but not duplicate, the FCC and to leverage existing relationships with the states to update the map. While the FCC is developing updated, granular maps, those maps are not yet available. To address this gap, the National Broadband Availability Map (NBAM), a secure GIS platform that allows for the visualization and analysis of federal, state, and commercially available data sets to understand the local broadband landscape (e.g., served vs. underserved or unserved), has grown to 380 data services and layers across 51 sources totaling more than 2.8 terabytes of data. Equally important, the NBAM brings this information together in an actionable way. For example, state and federal

partners can bring their proposed funded service areas application data into the platform to inform evaluations and make awards. Sources of data for the NBAM include: FCC/USAC (477 Deployment, RDOF Grant eligibility, CAFIL, HUBB portal), USDA (ReConnect program data), Census (American Community Survey data), Treasury (Opportunity Zones); Crowdsourced/Commercial (MLAB and Ookla speed test data, Microsoft usage data, BroadbandNow pricing data, White Star Parcel data); and many of the state governments. Currently, NTIA has agreements with 36 state partners, four federal partners, and will support NTIA's three new grant programs with this enhanced data and mapping capability to target investments. Discussions are ongoing with the remaining states and territories, as well as additional federal partners.

The NBAM is designed to bring FCC data, and other federal, state, and commercially available data sets together for comparison and analysis to support cooperative policymaking and help achieve the mission to expand broadband access and adoption in America. Once the FCC implements changes to their data collection model, NTIA will adapt the NBAM to accommodate the modified format and then leverage that new information against other data layers in the NBAM. This will allow users of the NBAM to promote interagency and state coordination of funding. For example, state and federal partners can bring their proposed funded service areas and grant application data, as well as funded or awarded service areas, into the platform to inform evaluations and make awards. In the implementation of its grant programs, NTIA will leverage the NBAM to reduce duplicative funding. NTIA is developing processes to compare the applicant's proposed service area against those service areas that have been funded by other federal or state programs and assess whether the applicant's proposed service area is unserved, or if the area is already covered by qualifying broadband services.

NTIA is committed to ensuring that all Americans have access to high-quality, reliable broadband internet services to support local economic development and personal opportunity. NTIA intends to invest federal dollars as effectively as possible, avoiding areas where the private sector has already made investments to provide robust, high-quality, low-latency affordable Internet services or where state or federal funds have already invested public funds to support the deployment of those services.

11. Do you think it makes sense to fund both broadband maps?

**Answer 11.** Yes, it makes sense to fund both maps, as they serve different purposes. The FCC is a regulator, and their map is designed to showcase self-reported broadband deployment data collected directly from Internet Service Providers (ISPs). As an Executive branch agency, NTIA brings stakeholders together to support cooperative policymaking. Rather than simply being a map, the National Broadband Availability Map (NBAM) is a dynamic Geographic Information System (GIS) platform that brings multiple datasets together for visualization and analysis through maps, reports, and business intelligence dashboards. The NBAM complements the FCC's broadband deployment data, ensuring that state and federal broadband policymakers are working from a central repository of multiple broadband related data sets to highlight gaps in broadband availability and digital inclusion challenges, support reviews to mitigate

overbuild and duplication of funding concerns, and evaluate grant applications against Planned Funding Service Areas (PFSA) to support better informed award decisions.

12. Sometimes, the FCC's role as the manager of commercial spectrum and NTIA's role as the manager of federal spectrum come into conflict. How can we ensure that the FCC and NTIA work in partnership to address spectrum management issues that impact federal and commercial entities?

**Answer 12.** The Government Accountability Office (GAO) recently released a report titled "Spectrum Management: Agencies Should Strengthen Collaborative Mechanisms and Processes to Address Potential Interference." As part of this report, GAO made 11 recommendations including that the FCC and NTIA collaborate to update and clarify various documents and processes related to spectrum management coordination. Specifically, GAO recommended that both the FCC and NTIA update the FCC-NTIA Memorandum of Understanding (MOU) to address identified gaps (such as the lack of clearly defined goals and agreed-upon processes for making decisions) and develop a means to continually monitor and update the MOU. NTIA generally works well with the FCC through the process outlined in the current MOU. NTIA will work with the FCC to update the current MOU and set up a process for its periodic further review.

#### **CHIPS for America Act / Semiconductor Supply Chain Security**

13. As you know, there is broad support across Capitol Hill for restoring U.S. leadership in semiconductor manufacturing and mitigating the national security risks related to dependence on an insecure microelectronics supply chain. In December, President Trump signed the CHIPS for America Act, which authorized the Commerce Department to administer a program of incentives to increase domestic semiconductor manufacturing capacity. How will you ensure any possible funding appropriated in support of the CHIPS Act is not used to support Chinese companies?

**Answer 13.** The Department of Commerce has an integrated planning team and is working to address both the operational and program design requirements of the CHIPS Act. We are considering options that include companies of different sizes, in all sectors of the semiconductor value chain. As part of the planning process, the Department will work to ensure that appropriated funds do not go to companies whose actions do not support a vibrant domestic semiconductor supply chain or entities of concern to the U.S. Government.

14. How will you ensure that CHIPS funding is not used on companies that are either expanding their production facilities in China or increasing cooperation with an entity of concern?

**Answer 14.** We are working with the interagency community including representatives from the Department of Defense (DOD) and the intelligence community to ensure that the grant criteria support the national security interests of the United States. In addition, the FY 2021 National Defense Authorization Act (NDAA) prohibits the distribution of any funding to foreign entities of concern and provides the opportunity to claw back

funding if a recipient knowingly collaborates on research and development (R&D) or licenses technology to a foreign entity of concern.

15. How will you ensure that companies that receive CHIPS funding are not also taking subsidies, tax credits, or other benefits from the China to develop their supply chains?

**Answer 15.** We are working with the interagency community including representatives from DOD and the intelligence community to ensure that the grant criteria support the national security interests of the United States.

16. To the extent that the Department is developing criteria for evaluating funding applications, do you agree that allowing for consortia consisting of as few as two private entities to apply for funding under the CHIPS Act will give the private sector the flexibility it needs to collaborate to address the vulnerabilities that exist in the domestic supply chain of semiconductors?

**Answer 16.** The Department is carefully considering a wide array of options oriented at ensuring that the United States is able to restore semiconductor technology and R&D leadership while providing for diversified and resilient domestic supply chains. In doing so, we are developing criteria based on the guidance outlined in the FY 2021 NDAA that will encourage coalitions of chip designers, customers, and manufacturers to apply a robust ecosystem for advanced design and production and robust workforce development activities.

#### **Telecommunications Supply Chain Security**

17. In May 2019, President Trump signed his Executive Order on “Securing the Information and Communications Technology and Services Supply Chain.” The Department of Commerce is responsible for implementing the Order and put out an Interim Final Rule in March. How are you implementing that order within your department?

**Answer 17.** The Department shares your concerns about the security of the Information and Communications Technology and Services (ICTS) supply chain, and the threats to that supply chain posed by our adversaries. As part of its effort to address these concerns, the Department has been implementing Executive Order (EO) 13873, Securing the Information and Communications Technology and Services Supply Chain.

On January 19, 2021, the Department published an interim final rule (IFR) to implement EO 13873. The IFR establishes procedures for the Department to undertake in reviewing any ICTS transaction where the ICTS “has been designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries,” including China, and that may pose an “undue or unacceptable risk to national security.” The IFR lists factors the Secretary of Commerce (Secretary) should consider, in consultation with the appropriate agency heads, to determine whether an ICTS transaction may pose a threat to U.S. national security. It further allows the Secretary to propose ways to mitigate a transaction that might pose a threat, or to prohibit

those ICTS transactions that do pose an unreasonable or undue risk to U.S. national security.

In addition, as the Secretary announced on March 17 and April 13, 2021, the Department has issued subpoenas supporting the review of transactions under EO 13873. Finally, President Biden signed EO 14034 on Protecting Americans' Sensitive Data from Foreign Adversaries on June 9, 2021. Because this EO establishes new criteria for the evaluation of transactions involving connected software applications, the Department plans to solicit additional input on these criteria as it seeks to finalize the rule implementing EO 13873.

18. Who is responsible for that implementation?

**Answer 18.** The Department has stood up an Information and Communications Technology Task Force under the Office of the Secretary that is led by the Deputy Assistant Secretary for Intelligence and Security, and includes key stakeholders from various bureaus and offices, such as the Bureau of Industry and Security, International Trade Administration, National Telecommunications and Information Administration, and the Office of the General Counsel. The task force is supporting both operations and policy under EO 13873 and related orders.

19. The U.S. Chamber and many other business groups have expressed significant concerns with this rule. Some parties commented that “the workload for enforcement ... is unprecedented,” “small firms may find it difficult to remain viable [due to the rule],” and “even those who did not engage in a transaction affected by the Rule, may face higher production costs.” these comments come from your own Department’s Regulatory Impact Analysis & Final Regulatory Flexibility Analysis.

Indeed, your department estimates that over 4.5 million U.S. businesses will be impacted by this rule to the tune of over \$20 billion each year. Importantly, your department cannot quantify the benefits of imposing such a massive burden on the U.S. business community nor outline how U.S. businesses can stay in compliance with this rule. What would you tell the business community in response to concerns that the Department is keeping this rule in place despite the Department’s own observations of the enormous harm it could impose?

**Answer 19.** The Department takes seriously its dual role of encouraging United States commerce to thrive, while also addressing the national security threat posed by the exploitation by foreign adversaries of the ICTS supply chain. The Department’s implementation of the rule will give due consideration to both of these critical interests.

The Department has received comments on the ICTS interim final rule (IFR) and on an advance notice of proposed rulemaking (ANPRM) for a pre-clearance/licensing program for ICTS Transactions. These comments include those from industry and will help guide the final rule on ICTS.

Additionally, as previously noted, President Biden signed Executive Order (EO) 14034 on Protecting Americans' Sensitive Data from Foreign Adversaries on June 9, 2021. Because this EO establishes new criteria for the evaluation of transactions involving connected software applications, the Department plans to seek public comment on these criteria and how to incorporate them as it seeks to finalize the rule implementing EO 13873. This will allow for additional input from the business community and collaboration with the Department prior to the publication of a final rule.

This rule will help protect the ICTS supply chain from threats that can cause harm to the United States economy and undue and unacceptable risks to national security. In reviewing the ICTS transactions, the Department will strive to balance encouraging commerce to thrive while protecting the U.S. economy, businesses, and citizens from these threats to the ICTS supply chain.

20. How do you respond to concerns that the Department is choosing to ignore previous recommendations to pause this rule pending the completion of the ICT review required under the America's Supply Chains E.O.? And why have you not provided better guidance on how the business community can stay in compliance?

**Answer 20.** The Department takes seriously its dual role of encouraging United States commerce to thrive, while also addressing the national security threat posed by the exploitation by foreign adversaries of the ICTS supply chain. The Department's implementation of the rule will give due consideration to both of these critical interests. As described in more detail above, the Department is undertaking further engagement with industry through the rulemaking process and is committed to providing guidance to industry as it implements the rule.

21. Do you intend to publish a final rule?

**Answer 21.** Yes

#### **Artificial Intelligence**

22. The National Security Commission on Artificial Intelligence recently submitted its report to Congress with this sobering message: America is not prepared to defend or compete in the era of Artificial Intelligence. The report included several recommendations for agencies within the Department of Commerce, including significant budget increases. In my opinion, implementing the report recommendations should be among our highest priorities. How much of the Department's proposed 27 percent budget increase is dedicated to artificial intelligence?

**Answer 22.** The FY 2022 President's Budget proposes a total of \$45.420 million for Artificial Intelligence R&D for the National Institute of Standards and Technology (NIST), an increase of \$15 million over FY 2021 levels. Within the \$15 million increase requested, \$10 million will be used to establish a new public private partnership with academia, industry, and government to accelerate technically sound standards and solutions for trustworthy AI and \$5 million will be used to expand NIST research

capacities to build the confidence and trust in AI systems necessary for U.S. businesses to take full advantage of transformational technologies.

### **Combatting Unfair Trade Practices**

23. The International Trade Administration's Enforcement and Compliance (E&C) office has had a growing number of antidumping and countervailing duty cases over the past several years. In fact, they are managing an historic workload. At the same time, E&C has also seen a significant increase in the number of cases remanded to Commerce for review. Given the historically high number of investigations, administrative reviews, circumvention and scope reviews, and court remands, do you anticipate that the trend of increasing volume will continue?

**Answer 23.** Yes. Because of the substantial increase in the number of antidumping and countervailing duty orders, annual administrative reviews of these orders represent a large portion of the International Trade Administration's Enforcement and Compliance (E&C) office's workload, and that portion continues to grow as the number of new investigations that result in issuing antidumping and countervailing duty orders continues at a historically high pace. Thus, E&C's antidumping and countervailing duty staff cover more cases and examine many more respondent companies than in past years. That increased workload has therefore generated more domestic litigation challenging E&C's determinations.

24. As was noted in the House Committee Report language in Fiscal Year 2021, E&C previously had nine enforcement offices even when the workload was lower. Has Commerce analyzed whether opening a ninth enforcement office would help address this historic workload challenge?

**Answer 24.** The Administration is analyzing the number and types of antidumping and countervailing duty proceedings conducted by the Enforcement and Compliance (E&C) office.

### **Export Security**

25. The Bureau of Industry and Security administers the U.S.'s export control regime to ensure technology sensitive to our national security does not make it into the hands of our adversaries. And yet, as my colleague Rep. McCaul – the Ranking Member of the Foreign Affairs Committee – appropriately noted this week: “One of the biggest challenges in our competition with the Chinese Communist Party is over access to critical technology and its supply chains. Yet our efforts to identify and control these emerging and foundational technologies are woefully insufficient and risk turning into a hollow exercise.” Why has the Bureau of Industry and Security not fully implemented key provisions of the Export Control Reform Act, such as the emerging and foundational technology list?

**Answer 25.** The Department agrees that it is crucial to identify technologies essential to the national security of the United States to protect these technologies from being exported to countries of concern for unauthorized end uses, including such uses related to

the People's Republic of China (PRC) government's Military-Civil Fusion (MCF) strategy and other activities that may destabilize regional security. Addressing this complex challenge requires extensive work with our interagency partners to continuously analyze existing controls and a recognition that innovation is not static and technology-related national security concerns will evolve over time. Therefore, although the Department has undertaken a number of actions to identify emerging and foundational technologies, this will be an ongoing effort.

The Department's Bureau of Industry and Security (BIS) has taken substantial actions to implement Section 1758 the Export Control Reform Act of 2018 (ECRA), which mandates that the Department lead an ongoing interagency effort to identify such technologies that are essential to U.S. national security. The interagency process must take into account: (i) the development of emerging and foundational technologies in foreign countries, (ii) the effect export controls imposed pursuant to Section 1758 of ECRA may have on the development of such technologies in the United States; and (iii) the effectiveness of export controls imposed pursuant to this section on limiting the proliferation of emerging and foundational technologies to foreign countries.

BIS's work with its interagency colleagues has resulted in the identification of 38 emerging technologies, all of which were added to the Commerce Control List (CCL) as a result of final rules published in the Federal Register on May 23, 2019; January 6, 2020; June 17, 2020; October 5, 2020, and October 5, 2021. These new controls addressed a number of the 14 representative technology categories identified in the November 2018 request for public comment as well as technologies in additional categories. Thirty-seven of these technologies were implemented under the relevant multilateral export control regimes, which further protects such technologies from being acquired by countries of concern from other supplier countries and further enhances U.S. national security. BIS is in the process of drafting new proposals for public comment on additional emerging and foundational technologies. Furthermore, BIS and its interagency partners have proposals pending for consideration by the relevant multilateral export control regimes.

Implementation by the multilateral regimes – Wassenaar Arrangement for Conventional Arms and Dual-Use Goods and Technologies, Missile Technology Control Regime, Australia Group (chemical/biological weapons controls), and Nuclear Suppliers Group – is important to address the statutory criteria of taking into account the development of such technologies in foreign countries and the potential impact to U.S. technological development if new controls are implemented. The proposals before the multilateral regimes have been delayed due to meeting cancellations with international partners as a result of the COVID-19 pandemic. We are hopeful that the U.S. proposals will be adopted later this year. Once adopted multilaterally, BIS will move expeditiously to publish rules implementing those controls.

BIS continues its work to determine whether new export controls are warranted on other emerging technologies and whether existing controls must be adjusted on mature technologies to address new national security or foreign policy concerns. BIS's work in this area preceded the passage of ECRA and has been closely coordinated with the

Departments of Defense, State, and Energy, along with a strong emphasis on working with the four multilateral export control regimes to ensure multilateral controls for these technologies. For example, four months before the passage of ECRA, after identifying specified target assemblies and components for the production of tritium as emerging technologies, BIS reclassified the items as controlled on the CCL, and imposed temporary unilateral controls while working with the NSG to impose multilateral controls. Additionally, a couple months after the passage of ECRA, BIS implemented new controls, previously agreed to by the Wassenaar Arrangement, on certain mask substrate blanks related to extreme ultraviolet lithography, as well as polycrystalline substrates and polycrystalline ceramic substrates. All of these technologies are now on the CCL and are controlled for export to destinations including the PRC. These technologies are also included in the “critical technologies” that are part of the foreign investment and acquisition screening conducted by the Committee on Foreign Investment in the United States (CFIUS).

As part of its ongoing efforts to identify emerging technologies, in addition to its work with its interagency partners and the November 2018 request for public comment, BIS includes organizations directly involved in conducting or funding research as part of its review. In May of last year, BIS convened the Emerging Technology Technical Advisory Committee (ETTAC), after reconstituting its membership and goals to focus on emerging and foundational technologies. Members of the ETTAC include individuals working in academia, industry, federal laboratories, and pertinent U.S. Government agencies; ETTAC membership are engaged in the development and production of cutting-edge technologies and so are uniquely qualified to assist BIS’s efforts. The ETTAC meets on a quarterly basis, in both open and closed sessions. Also, BIS worked with the National Security Council to organize interagency working groups for each of the representative categories identified in the November 2018 request for public comment. These working groups, which include representatives from the Departments of Commerce, Defense, Energy and State, meet on a regular basis to review developments in the categories.

With respect to foundational technologies, BIS published a notice soliciting public input on August 27, 2020, and has reviewed approximately 80 comments in response. On the basis of the comments received as well as other information, including interagency efforts, BIS is drafting proposals for the first set of foundational technologies for public comment while also working with its interagency colleagues to submit proposals for certain foundational technologies to the relevant multilateral export control regimes. As with emerging technology proposals, BIS will work expeditiously to publish rules implementing controls on the foundational technology proposals adopted by the regimes.

In parallel with its work on emerging and foundational technologies, BIS has taken significant steps to address concerns with the PRC’s MCF strategy, which in turn will likely impact technologies later determined to be foundational. BIS has implemented controls imposing license requirements for certain transactions involving military end uses or military end users (i.e., any person or entity whose actions or functions are intended to support military end uses). In parallel with these new controls, BIS published

an illustrative list of military end-users to inform the public of entities that the U.S. government has determined to be military end users in the PRC and other specific countries of concern; this list is updated on a rolling basis with the addition of new entities. BIS also expanded existing controls on military-intelligence end uses and military-intelligence end users in the PRC, and eliminated a license exception that authorized the export of national security-controlled items to civil end users. These changes were described in rules published in the *Federal Register* on April 28, 2020, December 23, 2020, and January 15, 2021, respectively. Finally, since January 1, 2019, BIS has added 28 entities to the Entity List specifically on the basis of their involvement in the PRC's MCF strategy or military modernization efforts. All of these efforts address concerns related to the PRC and impact the licensing requirements of items subject to BIS's jurisdiction, including items identified as emerging or foundational technologies. The Department will continue using export controls to combat activities that threaten U.S. national security or foreign policy interests and to maintain and strengthen our technological leadership.

26. Please outline your plans for implementing the kind of strong and effective export control strategy that will be an essential component of U.S. efforts to counter China.

**Answer 26.** The mission of the Department's Bureau of Industry and Security (BIS) is to protect the security of the United States, which includes its national security, economic security, cyber security and homeland security. BIS promotes a strong and vibrant defense industrial base that can develop technologies that will enable the United States to maintain its technological edge. Export controls are crafted in a manner that do not impose unreasonable restrictions on legitimate international commercial activities that are necessary for the competitiveness of U.S. industries. All these elements are incorporated into a strong and effective export control strategy.

BIS, with its interagency partners, is constantly evaluating technologies, end uses, and end users to determine the appropriate level of control for specific destinations. As part of this work, BIS has implemented export controls imposing license requirements for certain transactions involving military end uses or military end users in China. Also, BIS has implemented Entity List actions restricting exports to entities in China supporting military modernization efforts and/or weapons of mass destruction (WMD) programs, as well as implicated in human rights violations and abuses in the implementation of China's campaign of repression, mass arbitrary detention, and high-technology surveillance against Uyghurs, Kazakhs, and other members of Muslim minority groups in the Xinjiang Uyghur Autonomous Region.

In addition, BIS is continually working with allies to align our export control policies. BIS believes that the most effective controls are those that are multilateral. To that end, BIS is working through the multilateral regimes to propose and implement new controls on certain items. Additionally, when the multilateral regimes cannot achieve our objectives, BIS is working on a plurilateral basis with like-minded countries. BIS is also working to coordinate on those items that are already controlled. For example, the United States and European Union have established the U.S.-EU Trade and Technology Council,

which includes a working group on export controls. BIS is also continuing bilateral discussions with allied countries, especially those supplier countries of certain technologies of concern, to coordinate on common controls and policies. BIS has a robust enforcement office, Export Enforcement (EE), that promotes compliance with and ensures effective enforcement of export controls implemented pursuant to ECRA. These controls effectively restrict access to U.S. commodities, software, and technology by those engaged or implicated in certain activities of concern, including WMD proliferation, destabilizing military modernization activities, support to terrorism, or human rights violations. EE protects U.S. national security, foreign policy, and economic security by reviewing parties to license applications, conducting end-use monitoring, prosecuting export control violators, interdicting unauthorized exports, and educating parties to export transactions on how to improve export compliance practices.

With respect to China specifically, EE leverages its enhanced ECRA enforcement authorities to ensure compliance with recent regulatory changes to address China's MCF strategy, such as the elimination of a license exception for national security-controlled items, as well as enhanced military end-use and end-user controls, including the Military End-User (MEU) List, the implementation of which EE's enforcement outcomes directly informed. EE also supports efforts to implement and enforce ECRA's enhanced controls to prevent U.S. persons from supporting certain foreign WMD end uses and military-intelligence end uses and end users, to include China's Intelligence Bureau of the Joint Staff Department.

In addition, EE aggressively pursues criminal violations related to unauthorized exports to China, with BIS investigations involving China resulting in 250 months of prison time and \$1,878,000 in criminal fines in FY 2021. Case highlights include a conspiracy to export combat rubber raiding craft and multi-fuel engines currently subject to MEU controls for mass production for the People's Liberation Army Navy, as well as the theft of intellectual property and conspiracy to export semiconductors with military applications to China. EE also leverages its unique administrative penalties to address export control violations, resulting in 55 administrative cases, including 33 denial orders, 20 enforcement cases, and \$9,727,903 in administrative penalties.

These enforcement actions highlight EE's commitment to targeting all illicit procurement pathways China may use to circumvent BIS's export controls, including setting-up shell companies to obfuscate true end uses and end users and acquiring U.S. technology to enable the production of sensitive items for military modernization and other activities contrary to U.S. national security and foreign policy interests. EE addresses these challenges by partnering with industry, academia, and other members of the exporting community to support compliance efforts, promote voluntary self-disclosures of potential violations, and apprise them of illicit acquisition threats. EE is enhancing this partnership by expanding its number of locations across the country to work more closely with exporters in local communities to prevent unlawful diversion attempts. EE also conducts outreach, through its Export Control Officer Program, with locations at seven U.S. embassies and consulates around the world, to foreign business communities concerning controls on reexports and in-country transfers of items subject to BIS's controls.

EE reviews licensed and unlicensed transactions, acts on industry tips, conducts compliance monitoring activities, and analyzes all sources of information to detect illicit procurement networks. The criminal and administrative penalties highlighted above also deter others from attempting to circumvent BIS's export controls and ensure a level playing field for compliant companies. Finally, BIS works with other federal law enforcement agencies, as well as U.S. and foreign government partners as a force multiplier to ensure effective export control implementation.

### Spectrum Mapping

27. Last year, Congress passed the Spectrum IT Modernization Act which required NTIA to develop a plan on how to upgrade their spectrum IT infrastructure. What is the status of that plan, and what resources are necessary for NTIA to fully upgrade their systems?

**Answer 27.** The Spectrum IT Modernization Act, implemented as Sec. 9203 of the FY 2021 National Defense Authorization Act, requires NTIA to develop a plan to modernize and automate their spectrum Information Technology (IT) infrastructure. The report, *Plan to Modernize and Automate the Infrastructure of NTIA Related to Managing Federal Spectrum Use (Sept. 2021)*, was submitted to Congress on September 24, 2021. The resources required for NTIA to modernize the spectrum IT infrastructure are described in the report which is available at [https://www.ntia.gov/files/ntia/publications/ntia\\_spectrum\\_it\\_mod\\_report\\_to\\_congress\\_final.pdf](https://www.ntia.gov/files/ntia/publications/ntia_spectrum_it_mod_report_to_congress_final.pdf)

28. Sometimes, the Federal Communications Commission's role as the manager of commercial spectrum and NTIA's role as the manager of federal spectrum come into conflict. How can we ensure that the FCC and NTIA work in partnership to address spectrum management issues that impact federal and commercial entities?

**Answer 28.** The Government Accountability Office (GAO) recently released a report titled "Spectrum Management: Agencies Should Strengthen Collaborative Mechanisms and Processes to Address Potential Interference." As part of this report, GAO made 11 recommendations including that the FCC and NTIA collaborate to update and clarify various documents and processes related to spectrum management coordination. Specifically, GAO recommended that both the FCC and NTIA update the FCC-NTIA Memorandum of Understanding (MOU) to address identified gaps (such as the lack of clearly defined goals and agreed-upon processes for making decisions) and develop a means to continually monitor and update the MOU. NTIA generally works well with the FCC through the process outlined in the current MOU. NTIA will work with the FCC to update the current MOU and set up a process for its periodic further review.

### Hurricane Hunters

29. Last summer was the worst hurricane season on record, and it was particularly rough for the Gulf Coast with several major hurricanes making landfall in our region. It's my understanding that over the last 3 years, the budget for hurricane hunter flights has been exceeded and subsequently, NOAA has had to scramble to reallocate funds to make sure these critical aircraft keep fulfilling their mission. I also understand that fiscal year

2021's allotment has already been completely exhausted by the flights last fall, and we haven't even started the 2021 hurricane season yet. Clearly, the current budgeting system for hurricane hunters is broken. Given that the hurricane mission is one of the most important mission of anything done by any of the civilian Federal agencies, there should never be a question of a lack of funding. Can you commit to keep funding these flights?

**Answer 29.** Providing hurricane forecasts is one of NOAA's most critical missions; NOAA is committed to continuing support for these flights. The 2020 Atlantic Hurricane season was record-breaking. NOAA's Hurricane Hunters flew over 400 flight hours for hurricane taskings last year. This was in addition to an extremely busy hurricane season in 2019 and 2018. The final FY21 appropriation allowed NOAA to increase funding for another busy hurricane season

In recent years, the total amount of hurricane tasking from the National Hurricane Center has increased significantly due to storm activity, storms threatening the United States, and rapidly intensifying storms. While this tasking is shared by the NOAA P-3 aircraft and U.S. Air Force C130 aircraft, NOAA has carried a significant amount of this tasking with only two aircraft and crews. As data points, NOAA's P-3 hurricane flight hours have increased 100% from 2015 to 2021, and the P-3 reconnaissance hours have almost tripled from 2016 to 2021. NOAA requested an increase in funds in the FY22 President's Budget to account for the increase in tasking and to include a third P-3 crew required to meet this level of demand. NOAA is closely tracking the need for increased hours, staffing, and new aircraft with the required instrumentation and capabilities, and using this data to make the corresponding budget requests to ensure we meet the nation's critical hurricane forecasting mission.

30. What are we doing to fix the problem for FY22? Should there be a reserve fund that is set aside for the worst years? Do you have other suggestions that the Committee should be considering for appropriately allocating the money?

**Answer 30.** Climate change will continue to increase demand for NOAA's aircraft. In addition to hurricane forecasting, NOAA's aircraft are essential to flood and drought prediction, coastal mapping (including aerial imagery before and after hurricanes), marine mammal population assessments, and much more. Currently, staffing, funding, and aircraft capacity together constrain NOAA's ability to meet these competing priorities. As the NOAA planes are the only planes equipped with a tail doppler radar (TDR), a critical data collection tool, the tasking for these planes has been exceeding the NOAA's current staffing and operational models.

The FY22 President's Budget request tackles this challenge on multiple fronts. Under the FY22 President's Budget, NOAA will increase both the number of NOAA Corps pilots and civilian aircraft operations personnel. The addition of a third P-3 crew will allow us to fully utilize the current aircraft and provide even more data to inform extreme weather forecasts and increase the amount of actionable data provided to the American People. The President's Budget also invests in maintenance for our P-3 Hurricane Hunters to ensure they remain airworthy until replacements are available. Additionally, the budget

requests a G-550 high altitude surveillance platform to provide back-up according to the requirements of the Weather Act and to expand capacity for its primary mission of weather and air. Bolstered by increased staffing and investments in our aircraft, NOAA would increase flight hours serving all of NOAA's airborne missions.

Rather than pursuing the idea of a reserve fund, NOAA is exploring other ways to address the issues. For example, in planning for FY22, NOAA continued the FY21 allocation of 350 P3 flight hours to support the hurricane mission. Essentially, each year the Office of Marine and Aviation Operations will set aside 350 P-3 flight hours during the aircraft allocation process. This will ensure NOAA's Fleet Council prioritizes hurricane operations.

**The Honorable Grace Meng**  
**Subcommittee on Commerce, Justice, Science, and Related Agencies**  
**Questions for the Record**  
**Fiscal Year 2022 Budget Request for The Department of Commerce**

The President's budget request calls for an additional \$22 million for the Minority Business Development Agency and creation of a dedicated Assistant Secretary. This is sorely needed as evidenced by the number of minority-owned businesses that closed over the last year due to COVID-19.

According to a Federal Reserve study "Asian-owned firms were most likely to report an expected sales decline in 2020 due to the pandemic (93%). Sales declines were also reported by 86% and 85% of Black- and Hispanic-owned firms, respectively, while 79% of white-owned firms reported a decrease in sales."

For Asian American and Pacific Islander-owned businesses, they have been disproportionately harmed by the combined impacts of the COVID-19 pandemic and the increase in anti-Asian hate incidents and discrimination. These businesses faced unique pandemic relief and recovery challenges, such as language barriers, misinformation or lack of information on federal relief aid eligibility, discrimination, and vandalism.

- 1. I represent Queens, New York, which was one of the hardest hit areas in the country. There are many AAPI-owned small businesses in my district who have faced unprecedented challenges yet have struggled to access relief. If Congress provides the requested amount for MBDA, what are your plans to reach them and other hard-hit communities in cities like New York?**

**Answer 1.** The new FY21 MBDA Business Center program has grown the network from 27 locations to 36, and as you know there are two Centers in the state of New York (South Bronx and Manhattan). Through the CARES Act, MBDA was able to direct about \$250,000 in additional funding to the Manhattan Center location and again in FY21

an additional \$775,369 to assist New York minority business in responding and recovering from COVID-19.

If Congress provides the requested amount for MBDA, additional programs, specialty centers, and pilot projects can be deployed across the country including in states like New York and other hard-hit communities.

- 2. The 2020 MBDA annual performance summary noted that AAPI-owned enterprises received contracts of less than a quarter of a billion. Given the outsize impact of COVID-19 on AAPI-owned businesses, how will MBDA work to support these hard-hit businesses, including in culturally appropriate and linguistic methods?**

**Answer 2.** MBDA recognizes that minority communities and businesses have been particularly hurt and continue to face enormous challenges due to COVID-19. Asian American-owned businesses are facing increased challenges with the combined impacts of the pandemic and anti-Asian hate incidents. In both FY20 and FY21, supplemental funding was awarded to the business center network to provide focused support to minority businesses recovering from the business impacts of COVID. In addition, when possible, our MBDA Business Centers deliver technical assistance in multiple languages. For example, MBDA Manhattan staff speak native Mandarin, and through the COVID-19 programs, Korean and Spanish speakers were hired. Through their Business Outreach Network, several native speakers are available, including, but not limited to: Russian, French, Haitian Creole, Arabic, and more. When a client needs translation services, they are referred to in-house staff or through an MBDA Client that has professional translation services if needed.

We know that now, however, more than ever, minority businesses need access to the available federal government resources. This year MBDA has expanded its network of business centers from 27 to 36 locations.

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Secretary Raimondo, women have suffered the most over the past year during COVID-19 and it is estimated that there are 3.7 million fewer women working today than there were in February 2020. During COVID-19, many juggled a career with at home responsibilities like caring for a child or elderly parents. Many women simply left their professions or worse, were forced out. This is devastating, especially for moms and women of color. President Biden has recognized this gross disparity that women face and committed to supporting them through the American Jobs Plan. We can't build back better unless women, women of color, and moms are part of the solution.

- 1. What efforts are you looking to pursue to ensure that the jobs created by these upcoming investments in infrastructure are open to and filled by women, especially women of color, in greater numbers?**

**Answer 1.** Women of color entrepreneurs account for 89% of new women-owned businesses. They also employ over 2 million people and generate over \$400 billion in revenue annually. In 2018, the Minority Business Development Agency launched the

Enterprising Women of Color (EWOC) Initiative. The vision for the EWOC Initiative is to create pathways to economic empowerment for women of color to grow their business networks, expand their client base, and connect to entrepreneurial ecosystems. Building on the success of the EWOC Initiative, in 2020 MBDA invested \$2.5 million in grant funding to establish five (5) Enterprising Women of Color Business Centers to serve as on-the-ground resources providing technical assistance and opportunity connections for women entrepreneurs.

We also need to support and increase the number of women inventors and patent holders. A study by the United States Patent and Trademark Office (USPTO) entitled “Progress and Potential” found that the growth of women in patenting continues to rise but the total percentage of patents with at least one female inventor went from 20.7% in 2016 to 21.9% by the end of 2019. There is much more work to be done.

The Biden administration has made it a priority to expand economic opportunities for women, minorities, and other underserved communities. The USPTO’s Council for Inclusive Innovation (formerly known as National Council for Expanding American Innovation – NCEAI) exemplifies that commitment. As Chair, I will work with the Council to develop a national strategy to increase women and other underrepresented groups participation in our innovation ecosystem.

Lastly, at the Department of Commerce, we are very much aware that the care economy is essential for competitiveness, quality of care, and supporting the development of our next generation of talent. We must support the workers who are underpaid and working tirelessly to care for our loved ones and help Americans, especially the million plus women, that had to leave the workforce or go part time to take care of their families full time because of the lack of availability of care created a barrier to accessing care.

Unavailable and unaffordable care is an economic crisis that drives current workforce and economic challenges across the country. Currently, we are assessing programs, tools, and reaching out to stakeholders to better address Care Economy needs at the Department. We are also supportive of the President’s commitment to ensuring access to affordable and high-quality long-term care and childcare, raising wages and for the care workforce, and creating more jobs with an emphasis on improving standards and quality of life.

## **2. How are you planning to support women and minority-owned businesses?**

**Answer 2.** I am personally committed to supporting the Administration’s efforts to advance equity and support underserved communities and have the backing of the Department’s bureaus in that endeavor. As that relates to supporting women and minority-owned businesses, allow me to highlight activities within two Department of Commerce bureaus – the Minority Business Development Agency (MBDA) and the International Trade Administration (ITA).

Through the Enterprising Women of Color (EWOC) Centers, MBDA's EWOC Initiative, and the broader MBDA Business Center network – the Department will ensure that women and minority business enterprises have access to the resources and able to pursue the opportunities in the upcoming infrastructure investments.

ITA has organized the Global Diversity Export Initiative to direct and focus existing trade promotion and inward investment resources to minority and women-owned businesses and established the Rural Export Center to serve rural U.S. companies that face steeper challenges to grow their business through customized market research and analysis to determine the top potential markets. Working collaboratively across the Department (e.g., MBDA, NIST), and the United States Government's Trade Promotion Coordinating Committee (TPCC), these national initiatives leverage the 106 U.S. Export Assistance Centers in 48 states to broaden and deepen outreach, ensuring access to ITA's international business counseling and services.

Through its "Women Empowered Leave Legacies Through Trade & Investment" (WELLTI) initiative, ITA brings American and foreign businesswomen together through an ongoing series of events to exchange data, contacts, and knowledge—all aimed at broadening and diversifying the base of American exporters, facilitating business-to-business connections, and increasing exports for American businesses owned by women. ITA also launched a Startup Global Women event series in 2021 to provide insights and advice from women-led small businesses, technology providers, and trade experts to help women establish and grow their businesses on the global scale.

ITA also leverages strategic partnerships with organizations that serve women-owned businesses to promote export assistance tools and services to a diverse community of women-owned and women-led businesses. ITA is contemplating additional strategic partnerships to enhance outreach to minority- and Native American-owned businesses. Finally, the Trade Promotion Coordinating Committee, which the Secretary chairs, is currently developing the National Export Strategy, with the overarching goal of expanding the number and diversity of U.S. businesses that access global markets to accelerate firm-level growth, employment, and local economic development. Efforts to engage small businesses and businesses in underserved communities will be a cross-cutting element of the National Export Strategy.

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Secretary Raimondo, I want to ask you about the very pressing issue of 3D printed firearms, sometimes called "downloadable guns" -- an issue that may fall directly onto your plate in the coming weeks. The previous administration made the extremely dangerous choice in 2018 to loosen regulations from the State Department that have blocked the publication online of those 3D printing gun files. A lawsuit from 23 states has kept those rules from being finalized for the past 15 months or so, but a Ninth Circuit panel lifted that injunction last week -- creating the possibility that those Trump regulations will take effect in the

coming weeks. I'm hoping the State Department will act fast and make sure that doesn't happen, effectively returning us to the former status quo. But, if State fails to act quickly, those 3D printing gun files will become your responsibility, falling under the authority of your agency's Export Administration Regulations.

The problem is that the previous administration also issued Commerce Department regulations to deal with new firearm export responsibilities, and as written they are simply too narrow to protect Americans from the publication of these files. Fortunately, you are empowered to fix those rules without time-consuming process -- and head off disaster.

1. **If this responsibility does end up falling to you, can you discuss how Commerce will ensure that those 3D printing gun files will work to protect us? Will you brief this Subcommittee within 60 days of this hearing on what changes will be put in place?**

**Answer 1.** The responsibility for appropriately regulating these files is now with the Department's Bureau of Industry and Security (BIS), pursuant to a Ninth Circuit decision issued on April 27, 2021. The mandate of the Ninth Circuit was issued on May 26, 2021, and the district court's injunction was vacated. Appropriate controls are in place under the Export Administration Regulations (15 CFR parts 730-774) (EAR) to ensure the technology and software are controlled in an equivalent way as when the technology and software were subject to the Department of State's International Traffic in Arms Regulations (ITAR). The Department has taken steps to ensure the public understands these EAR controls through our outreach efforts and to clarify misunderstandings about the strength of Commerce controls.

As a result of the vacatur of the injunction, any request for licenses of "technology" and "software" that fall under the U.S. Department of Commerce regulations, 15 CFR §§ 732.2(b) and 734.7(c), should be directed to the Department of Commerce because this "technology" and "software" are subject to the Export Administration Regulations (EAR).

Following the vacatur, BIS updated FAQs posted on the BIS website to add twelve FAQs (Q.32-44) to assist public understanding of section 734.7(c), including addressing application questions. In addition, BIS published a notification to the public (86 Fed. Reg. 29189 (June 1, 2021)) concerning the transfer of jurisdiction of certain "software" and "technology" as a result of action by the Ninth Circuit.

| Excerpts from FAQs[1] for application of section 734.7(c) |                                                                                                                                                                                |
|-----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| License required prior to posting                         | A BIS license is required under the EAR prior to posting on the Internet of "technology" or "software" that meets the criteria under section 734.7(c). (see FAQ Q.33 and Q.34) |
| Types of files                                            | A BIS license is required prior to posting on the Internet of "any file, including any CAD file, that can be processed by a software program into                              |

|                       |                                                                                                                                                                                                                                                                           |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                       | an electronic format, such as a CAM file, with no or minimal additional information or manipulation from the operator(s), and that ... once converted will be in an executable code for the production of a firearm frame or receiver or complete firearm. (see FAQ Q.35) |
| No license exceptions | No EAR license exceptions are available for “technology” or “software” that meets the criteria in section 734.7(c). (see FAQ Q.39)                                                                                                                                        |
| Policy of denial      | License applications for “technology” or “software” that meets the criteria in section 734.7(c) are subject to a policy of denial -- the most restrictive license review policy under the EAR. (see FAQ Q.41)                                                             |

This transfer process began under the Obama Administration with the dual goals of allowing the State Department to focus its resources on the export of defense articles that provide a critical military or intelligence advantage and to provide regulatory relief for certain low-level items that do not warrant State Department control. Those firearms with a critical military or intelligence advantage or, in the case of weapons, have an inherently military function remain under State Department licensing jurisdiction. The second goal of this process was to provide regulatory relief to industry and ease the ability to service existing defense products that were previously exported. Please note that in this transfer, no firearms were decontrolled and all Commerce license applications are reviewed by both the Department of State and the Department of Defense. Additionally, there is now more extensive enforcement for exports of such items – all agencies that previously had enforcement authority for such firearms before being transferred to the Department of Commerce continue to have such authority, but now the Department’s dedicated export enforcement agents and analysts also have enforcement authority and are aggressively investigating such violations as well. The Department carefully considers the national security, regional security, and foreign policy, including human rights, implications of all proposed exports subject to the EAR.

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[1] These FAQs are found under the 3D Printing of Firearms FAQs on the BIS website under Q.32-Q.44. <https://www.bis.doc.gov/index.php/documents/policy-guidance/2572-faqs-for-the-commerce-category-i-iii-firearms-rule-posted-on-bis-website-7-7-20/file>.

**2. Can you commit to notifying Congress of sales that are \$1,000,000 and greater?**

**Answer 2.** The Department is committed to working with Congress to ensure appropriate oversight, including appropriately providing information permitted for disclosure to Congress consistent with the Export Control Reform Act of 2018 (ECRA).

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A variety of industries, including the automotive, telecommunications, information technology, and medical device sectors are currently facing a shortage of key semiconductor components, highlighting the fragility of the global supply chain. Last year, Congress passed key provisions of the CHIPS for America Act in the National Defense Authorization Act which would provide

semiconductor research and manufacturing investments to build greater semiconductor supply chain resiliency. President Biden has recently called for \$50 billion to fund these programs.

1. **If these programs are funded, would you commit to working with Congress as you administer these programs and ensure they help build the domestic semiconductor ecosystem across all end markets?**

**Answer 1.** The Department is committed to working with Congress to ensure appropriate oversight, including appropriately providing information permitted for disclosure to Congress consistent with the Export Control Reform Act of 2018 (ECRA).

**The Honorable Brenda L. Lawrence**  
**Subcommittee on Commerce, Justice, Science, and Related Agencies**  
**Questions for the Record**  
**Fiscal Year 2022 Budget Request for The Department of Commerce**

I also want to focus on the importance of utilizing the great technologies and innovations being developed across the country. Last fall, I had the opportunity to speak with med-health innovators in Detroit about their role in helping to respond to the COVID-19 pandemic. I was pleased to see EDA funded Wayne State University's TechTown Detroit Response Lab project earlier this year.

The Biden Administration's budget recognizes the need to invest in our research and development, as well as manufacturing.

**Question #1:** How will the Department of Commerce use initiatives like the Manufacturing Extension Partnership and Build to Scale to promote innovation across the country?

**Answer 1.** I will commit to working with Congress as we implement and administer these programs to help build the domestic semiconductor ecosystem across all end markets. In planning for the implementation of the United States Innovation and Competition Act (USICA), we are considering options that include companies of all sizes, and in all sectors of the semiconductor value chain. The Department is designing a program to incentivize the construction and expansion of facilities that will strengthen the U.S. position in the industry. Specifically, we intend to restore U.S. leadership in semiconductor manufacturing and innovation and support U.S. capacity in critical sectors with strong demand.

**The Honorable Ed Case**  
**Subcommittee on Commerce, Justice, Science, and Related Agencies**  
**Questions for the Record**  
**Fiscal Year 2022 Budget Request for The Department of Commerce**

1. What specific steps has the Department of Commerce taken or is it considering taking to lead a comprehensive strategy development process to support U.S. travel and tourism recovery, as recommended by the National Travel and Tourism Board in its letter of March 4, 2021?

**Answer 1.** The Secretary of Commerce recently convened the Tourism Policy Council (TPC) to begin development of a new National Travel and Tourism Strategy (Strategy), which she will recommend include a five-year goal for international visitation and spending by international travelers to the United States. Created by Congress, the Tourism Policy Council (TPC) is the interagency, federal committee chaired by the Secretary of Commerce. TPC member agencies work cooperatively to ensure that the national interest in travel and tourism is fully considered in federal decision-making. To that end, Secretary Raimondo met with the Travel and Tourism Advisory Board (TTAB), a federal advisory committee that advises the Secretary of Commerce on government policies and programs that affect the U.S. travel and tourism industry, on September 15 and tasked them to provide recommended goals for international visitation and spending. The Secretary will also suggest that the Strategy provide a framework to identify policies and programs to promote U.S. economic growth and job creation in the travel and tourism sector and to reestablish the competitiveness of the United States as a travel destination.

2. What actions has the Department of Commerce taken to support and accelerate the integration of available technologies that can help make domestic and international travel and tourism safer during this COVID-19 pandemic and after?

**Answer 2.** On April 23, 2021, the United States Travel and Tourism Advisory Board (TTAB) submitted a letter to the Secretary providing recommendations on how technology can support recovery from the COVID-19 crisis. The TTAB's two short-term recommendations were that the U.S. Government(1) take a leadership role in recommending secure technology standards where users, rather than centralized organizations, store and control data used for vaccine, previous infection and testing verification for COVID-19 and future disease outbreaks., and (2) invest in the development and distribution of COVID-19 therapeutics in a manner similar to Operation Warp Speed.

The International Trade Administration's National Travel and Tourism Office at Commerce (NTTO) shared the first recommendation with the Department of Homeland Security (DHS), which is working on technology initiatives through its Office of Innovation and Collaboration. NTTO will follow-up with DHS on this recommendation,

likely as part of the TPC’s work in developing a strategy to support the U.S. travel and tourism industry.

NTTO shared the second recommendation with the Centers for Disease Control and Prevention (CDC) and the Department of Health and Human Services (HHS). The Administration is investing more than \$3 billion to accelerate the discovery, development, and manufacturing of antiviral medicines as part a whole-of-government strategy to develop the next generation of COVID-19 treatments. The effort aims to develop safe and effective antivirals to combat SARS-CoV-2, the virus that causes COVID-19, as well as to build sustainable platforms for targeted drug discovery and development of a robust pipeline of antivirals against viruses with pandemic potential.

3. What steps has the Department of Commerce taken to centralize the latest available information and communications, including guidance from relevant federal and state agencies, to provide verified and updated information, including on COVID-19 vaccinations, that informs both leisure and business travelers as they and their transport carriers make decisions for travel going forward?

**Answer 3.** NTTO posts links to relevant websites on its webpage (<https://www.trade.gov/national-travel-and-tourism-office>) that can inform leisure and business travelers of travel requirements. This includes linking to <https://www.flyhealthy.gov>, the Department of Transportation’s comprehensive website that provides information about travel requirements, and to the CDC. NTTO works with Brand USA, a public private partnership formed under the Travel Promotion Act of 2009 charged with promoting the United States as a destination to global travelers, to ensure that international travelers can also access information at <https://www.visittheusa.com/us-covid-19-travel-guidelines>.

In addition, NTTO developed the COVID-19 Travel Industry Monitor (Monitor), a user-friendly web platform that brings key health, economic and travel data together in an interactive visualization. The Monitor tracks indicators that reflect the performance of the travel and tourism sector in the United States in the wake of the COVID-19 pandemic. These include the number of COVID-19 cases, international visitation, spending by international travelers, drive travel, Transportation Security Administration throughput, and business and consumer sentiment. NTTO built the Monitor to help businesses, policy makers and communities stay informed on the state of the travel industry and to plan recovery efforts.

4. Every sector of the U.S. travel and hospitality industry has been devastated by COVID-19, but financial support for the industry in the various federal relief bills has been uneven, with high-profile parts of the industry like airlines and restaurants receiving large amounts of “set-aside” funding from Congress – \$75 billion and \$29 billion respectively – while less visible sectors of the industry like travel agencies, wedding operators and event planners left behind even though they have experienced revenue losses as great if not greater than other parts of the industry. What steps are being taken or can be taken by

Congress or the Administration to ensure that targeted emergency relief reaches every corner of the industry, especially those that have thus far been overlooked?

**Answer 4.** Economic indicators reflect that the domestic leisure market has recovered, although business travel is lagging and will take additional time, as will the international travel market. Congress provided \$3 billion in the American Rescue Plan Act (ARP) to the Economic Development Administration (EDA), including \$750 million expressly for communities that have suffered economic injury because of job losses in the travel, tourism, or outdoor recreation sectors. The EDA has allotted that funding as follows: \$510 million for non-competitive State Tourism Grants, and \$240 million for competitive grants.

Additionally, the Shuttered Venue Operators Grant program was established by the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, and amended by the American Rescue Plan Act. The program includes over \$16 billion in grants to shuttered venues, to be administered by the Small Business Administration's Office of Disaster Assistance. Vaccination rates will likely have the most significant and sustainable impact on recovery of all aspects of the sector, allowing all forms of travel to resume. The Administration is working hard to encourage vaccination across the country.

5. In 2016, Congress passed, and the President signed the Native American Tourism and Improving Visitor Experience Act, or NATIVE Act, which requires Commerce, Interior and related agencies to update management plans and tourism initiatives to include Native American organizations, including Native Hawaiians, for the purpose of improving travel and tourism in native communities. How has the COVID-19 pandemic affected the Department of Commerce's efforts at implementing the NATIVE Act to support tourism in native communities? What steps has the Department of Commerce taken to assist native communities in restoring local travel and tourism economies, and what more can Congress and the Administration do to support such efforts?

**Answer 5.** Funding for the NATIVE Act was provided to the Department of the Interior. Under the Act, the Department of Commerce is required to consult with the Department of the Interior and support the effort with technical assistance. The NTTO has developed information on travelers from international markets specifically relevant to the American Indian Community. This information has been shared with both the Department of the Interior and to the Native American community through presentations at meetings and conferences. NTTO developed this profile based on the Survey of International Air Travelers.

In addition, the Minority Business Development Agency (MBDA) has a long tradition of serving American Indian, Alaska Native and Native Hawaiian (AIANNH) business enterprises. In 2019, MBDA redesigned the service delivery model and introduced pilot and demonstration projects that allowed for innovative proposals to address unique business challenges in the AIANNH business community. These pilot and demonstration projects offer flexibility to Native American businesses, including those focused on and

supportive of the travel and tourism industry in Native lands, to incorporate mechanisms to adapt these economies to the COVID pandemic. Currently, 13 AIANNH projects provide a range of support in Indian Country, including access to capital, business training, federal procurement training, broadband through public-private partnership, and entrepreneurial education through Tribal colleges. Grants to the AIANNH projects have served nearly 3,600 minority business enterprises, including training that specifically addressed business impacts from the pandemic. In addition to finalizing the new FY 2021 program cycle for the AIANNH projects, MBDA is preparing for a \$3.9 million investment to assist all Native American businesses, including those in the travel and tourism industry.

Through the Coronavirus Aid, Relief, and Economic Security (CARES) Act and American Rescue Plan Act of 2021 (ARP), EDA was able to make unprecedented levels of resources available to Tribes. This includes awards of up to \$150,000 of CARES Act funds to each of EDA's existing Tribal partners to prepare economic recovery strategies to respond to the impacts of the coronavirus pandemic as well as the costs of economic recovery coordination and technical assistance activities. Under the ARP Act, EDA announced a \$100 million grant competition exclusively for indigenous communities, and Tribes are eligible for funding under EDA's five other ARP competitions, including the \$750 million competition focused on the recovery of the travel, tourism and outdoor recreation sectors.

WEDNESDAY, MAY 19, 2021.

**FISCAL YEAR 2022 BUDGET REQUEST FOR NASA**

**WITNESS**

**HON. BILL NELSON, ADMINISTRATOR, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

Mr. CARTWRIGHT. Good afternoon, everybody. Let us gavel in and begin.

As this hearing is fully virtual, we have to address a few house-keeping matters.

For today's meeting, the chair or staff designated by the chair may mute participants' microphones when they are not under recognition, for the purposes of eliminating inadvertent background noise.

Members are responsible for muting and unmuting themselves. If I notice that you have not unmuted yourself, I will ask if you would like the staff to unmute you. If you indicate approval by nodding, staff will then go ahead and unmute your microphone.

I remind all members and witnesses that the 5-minute clock still applies. If there is a technology issue, we will move to the next member until the issue is resolved, and you will retain the balance of your time.

You will notice a clock on your screen that will show how much time is remaining. At 1 minute, the clock will turn yellow. At 30 seconds, I will gently tap the gavel to remind that their time has almost expired. And when your time has expired, the clock will turn red and I will begin to recognize the next member.

In terms of the speaking order, we will begin with the chair and ranking member. Then, members present at the time the hearing is called to order will be recognized in order of seniority, and, finally, members not present at the time the hearing is called to order.

Finally, House rules require me to remind you that we have set up an email address to which members can send anything they wish to submit in writing at any of our hearings or markups. That email address has been provided in advance to your staff.

And, at this time, I will recognize myself for an opening statement.

It is my pleasure to welcome everyone to today's hearing on the NASA budget request for fiscal year 2022.

Our witness today is a man who needs no introduction to the space community, but I am going to introduce him anyway. Administrator Bill Nelson has had a remarkable career of service to our Nation. He has been a soldier, an astronaut, a Member of the House, a Senator from the State of Florida, and now the 14th Senate-confirmed Administrator of NASA.

Administrator, we are glad to have you with us today, and thank you for your very kind call with me last week. I enjoyed our talk, and I hope it is the first of many that we have together.

This is a very exciting time for space exploration. The landing of Perseverance on Mars is a major achievement, and the flights of Ingenuity have been nothing short of extraordinary and unprecedented. The men and women of NASA are to be congratulated for inspiring all of us with their work that is happening literally a world away.

Because this is my first NASA hearing as chairman of this subcommittee, I want to start with a quick observation. A generation ago, it was said that, quote, "politics stop at the water's edge," unquote. And whether that adage is still true or not today may be up for debate, but it is true that today our politics must stop at the atmosphere's edge. The importance and unifying nature of space is too great for us to get bogged down in petty party partisanship.

In the coming years, America can create jobs and grow a truly innovative industry by fostering the commercial space economy. By some estimates, the commercial space economy could be a \$1 trillion market by 2040, but only if we continue to invest in our workforce and the industrial base that will build the equipment for it and the infrastructure on which it stands.

We have the potential to unlock so much knowledge about our own planet and the rest of the universe, but only if we invest in science and the scientists who will interpret the data that the new satellites will collect.

And we have to foster our international space partnerships, because growing our industry and maximizing the science only happen if the community of space-faring nations has a set of rules to play by. The Artemis Accords are an important beginning, but we have to bring more nations into the system, and we have to expand our science and exploration partnerships with those space-faring allies.

These opportunities and challenges compel us to work together to ensure that NASA has a strong financial foundation successfully to complete its many, many missions. And, to that end, I believe the President's so-called skinny budget sets a good tone, proposing \$24.7 billion for fiscal year 2022, an increase of more than 6 percent over the current level.

Included in that request are several critically important priorities that deserve more attention and more resources. And, most notably, I applaud the proposed increase in Earth science research and the continued joint investment with the private sector that is critical to the future of America's economy and our space endeavors.

The growing relationships between NASA and the private sector include companies that will deliver crew and materials to the International Space Station, those that are building and launching small satellites, and smaller partnerships through SBIR and STTR contracts.

I would like to see NASA continue to make greater use of SBIR and STTR, as well as the options for maturing contractors, such as the Mentor-Protege Program and Tipping Point partnerships, to

create even more opportunities for small businesses to show what they can do for our Nation's space program.

We are going to need robust competition across the entire spectrum if we are both going to maximize economic gains and also ensure that the taxpayers are getting the best bang for their buck.

Administrator Nelson, thank you for NASA's continued efforts to ensure that small manufacturers and other small businesses are able to contribute to the space economy. I know you share my commitment to ensuring that our American manufacturing base is strong and diverse enough to support the next generation of space exploration.

I am extremely grateful for NASA's upcoming discussion with the many small manufacturers in northeastern Pennsylvania. And let's get you up there to meet with them in person someday soon, and we can grab a Hank's Hoagies—President Biden's favorite sandwich shop in Scranton—lunch while we are up there.

NASA's mission is also about inspiring the next generation of scientists and entrepreneurs. As we explore new worlds, NASA excites the imagination of our kids and gets them interested in all facets of space science. And that work is especially important at a time when other countries are competing so vigorously with us in the STEM fields, and they are not playing for second place.

I know all the members of this subcommittee understand NASA's role in our economic and our scientific future, but this is also a time of risk for NASA. The agency currently has 34 major missions, with an expected budget of \$250 million or more, in formulation or already in implementation. And my understanding is that 34 major missions at once is the most in NASA's history.

So, Administrator Nelson, it is going take some aggressive leadership to manage risk across the NASA enterprise and keep these many worthy initiatives on schedule and to ensure NASA's crewed spaceflight missions are as safe as possible. Now, that is a big job, but I know that you and the men and women of NASA are up to it. And I want to work with you to make sure that we give you the tools in the fiscal year 2022 CJS appropriations bill to keep NASA moving forward.

I know that testifying remotely and without a full budget before us is not the easiest thing, so we do appreciate the Administrator being here with us today, especially as it is your first hearing as a confirmed Administrator. So welcome to the subcommittee, and congratulations again on your confirmation in the Senate.

And, with that, I would like to recognize our distinguish ranking member, Mr. Aderholt, for his opening statement.

Mr. Aderholt.

Mr. ADERHOLT. Thank you, Mr. Chairman, for yielding. And I greatly appreciate you holding this important hearing today on the fiscal year 2022 budget request for NASA.

Senator Nelson, welcome to this, your first hearing before the CJS Subcommittee. And, of course, as I told you last week, congratulations on your confirmation in the Senate, as you serve as, I believe it is, the 14th Administrator of NASA. And I am pleased that the Senate acted swiftly, which I felt they would. And thank you for joining us this afternoon and all the work that you do.

The service that you have made over the years includes experience in the House, in the Senate, and, of course, even in space. And I understand that NASA runs in your blood. And with the experience that you have, your Florida background, your family ties to the Kennedy Space Center, I have no doubt that you will continue to advance the Nation's space exploration goals very well and have no question about that.

Like you, my home State of Alabama has a long tradition of supporting our Nation's space program, going back to the days of Wernher von Braun. And I am proud to represent the hardworking people of northern Alabama in Congress and especially grateful to serve on this committee, which oversees the Federal funding for NASA.

NASA may only represent a very small part of the national budget in the big scheme of things, but it continues to stir the dreams and ambitions that the chairman mentioned of the entire Nation, and including and especially young people.

Marshall Space Flight Center in Huntsville, with 6,000 employees, has been making human exploration possible since the Apollo moon mission. Marshall leads NASA's rocket propulsion work, and it works on the habitat technologies, science missions such as the successful Hubble Telescope. And over 100 Marshall engineers contributed to the success of the first American commercial crew flight to the International Space Station. Marshall also plays a vital role in NASA's Artemis Program to return American astronauts, including the first woman, to the Moon by 2024 and, of course, eventually onto Mars.

I always hope for peaceful relations with all the countries around the world, but China's internal policies, as well as aggressive stance in the Pacific, mean that now, more than ever, NASA's programs are not only science-related and a stimulus to entrepreneurship but also critical to national security. And I will get into that a little bit later.

Meanwhile, my name wouldn't be Robert Aderholt if I didn't mention SLS, the Space Launch System. Efficiencies of 40 percent or more have been achieved just from the first rocket core to the second. This rocket, especially the Block 1B version, will carry several times even the capacity of our planned commercial rockets, and it is crucial to the safe transportation of the Orion spacecraft.

But I believe that our space goals also require the planning of cargo-only SLS flights to carry critical systems and supplies to the Moon and, of course, eventually onto Mars.

China's program and our Human Landing System, as well as other Artemis elements, such as SLS and Orion, eventually merge as a package of concerns. China's dramatic progress with Moon and Mars robotic elements, plus their space station elements, means that we cannot lose focus or momentum on developing our own programs.

The SLS program was hampered its first 3 years by the administration's budget request, which were hundreds of millions of dollars below the recommended figures in the NASA authorization bill back in 2010. Currently, the Human Landing System is a big challenge, as you and I have discussed on the phone just as recently as last week.

Before your arrival, the decision was made not to use a FAR contract, which would have allowed audits as well as U.S. Government ownership of systems and data. Given the fact that a Broad Agency Announcement contract is being used, we have to find a way to balance the national security needs and the business stimulus aspects of such a contract.

With China's progress and the lack of U.S. Government ownership of the lander, it is unacceptable for the fate of the U.S. access to cislunar space to be in the hands of only one company.

I will have to admit that I have concerns about the process and how it was used to make a single award. It is my understanding that the team of hundreds of NASA engineers, who had the task of interacting with three lander teams from May 2020 to April 2021, were not a part of the evaluation process that was carried out by the source selection board. Normally, that would be a substantial component of evaluation. So no question, and I think you agree, this is troubling.

So I hear about the need for funding, but the other side of the coin is that Congress needs to be presented with a process that ensures U.S. Government access to data and which creates confidence in the American people. I will ask more about that later as we get into questions, and I am sure a lot of my colleagues will have questions about HLS.

Senator Nelson, I was pleased to hear that NASA is conducting an internal review of the Artemis Program to fully understand the budget needs of each program element, and their request includes an increase of \$325 million for Artemis.

I hope that increase includes support for all of the Artemis Program elements, and that would include the SLS Exploration Upper Stage. EUS has reached critical design review. And, with respect to national security, there is no time to be distracted with ideas about alternatives. We need to finish it and finish it promptly.

I am also interested in discussing how the \$325 million increase for space technology supports the nuclear thermal propulsion technologies and the design in the in-space demonstration. We have been at the research level for a long time; NASA needs to commit to a demonstration. I look forward to hearing about how the fiscal year 2022 request supports science missions and advances aeronautics.

I want to work with you, as I know every member of this subcommittee does, to ensure that we are truly supporting competition instead of drifting to the point of issuing a disproportionate number of sole-source contracts. And we can talk about that more when we get into questions.

But I hope we can meet in person soon. I appreciate you joining us here to discuss the goals for NASA and how the fiscal year 2022 request supports your agency's goals.

So, again, thank you, Mr. Chairman, for holding the hearing today. I think it is very important, and I look forward to the testimony from Senator Nelson.

Mr. CARTWRIGHT. Well, thank you, Mr. Aderholt. And you won't have to look forward very long, because you are going to get it right now.

Administrator Nelson, I happily and gladly turn the floor over to you for 5 minutes. Please don't worry that you are going to leave anything out, because we will enter your entire written remarks in the permanent record.

And try not to be nervous, too. I know you have never testified before CJS before. It is intimidating, but try to keep it together, Administrator.

You are recognized for 5 minutes.

Mr. NELSON. Thank you, Mr. Chairman, Mr. Ranking Member, members of the committee.

I want you to know, I spent 12 years in the House, and that was back in the old days. As a matter of fact, Richard Shelby and I came in the same class, 1978. And, of our class, he is the last still to be serving in the Congress, in the Senate, representing Robert Aderholt's State.

Those 12 years were an era in which the Members got together socially; it didn't make any difference if you were an "R" or a "D." We often traveled together. We went to each other's districts. We went to each other's Little League baseball games for our children. It is some of the most pleasant times that my wife, Grace, and I have had.

It is an honor for me to come back and join you all these years later.

Let me say, as I testify to you, that I think I understand your position. You have an extremely important role, as a separate branch of government, to hold the executive branch of government to account. I served in that role and on the committees involving this particular subject for 30 years in the Federal Government, in the U.S. Congress. I will try to be sensitive to answer in detail in the way that you would want to have a member of the executive branch to respond.

Let me just say that this is an exciting time for NASA. We are having a lot of things happen just in this next year. Not only will we launch the largest, most powerful rocket ever, the SLS, in its first maiden flight, which will be unmanned, and then to be followed in a couple of years with a manned mission, and then to be followed by the first human landing back on the surface of the Moon, the first woman and the next man to return.

If that were not exciting enough, later in the year we are going to launch the James Webb Space Telescope, which is going to follow the accomplishments of the incredible Hubble Space Telescope that Congressman Aderholt mentioned and that I think you did also, Mr. Chairman. It has opened vistas of understanding about the cosmos to us that we never knew. Well, just think: At a position a million miles from the Earth, at a neutrally buoyant place gravitationally, where it will peer out into space, capturing the light from far, distant galaxies, I think we are going to be able to discover additional solar systems and possibly planets that will add to what we have already discovered with Hubble that may well replicate the conditions that we find here in our solar system with our own planet. That is going to be exciting.

In the meantime, the President's budget that will be presented to you—and I have only seen the top lines—you see there is a big increase in Science Mission Directorate, there is an increase in

STEM Engagement—two subjects that are particularly interesting to our young people.

You remember what happened after the Apollo mission—first the Mercury, then the Gemini, then Apollo. That inspired a whole generation of students, and they went into engineering and mathematics and technology and science. For a couple of generations, that had ripple effects.

One of those ripple effects—and you will continue to see the spin-offs, not only what are being developed on the International Space Station, utilizing the conditions of zero-G to manufacture and develop and research things, but, for example, in every one of your pockets, there is a cell phone, and in that cell phone it has a computer chip that is a camera, and that camera on a chip was developed by NASA for Earth observations, from satellites taking photography. Right there, you see the kind of spin-offs that are occurring. That is going to be an exciting future.

Then you are going to see all kinds of research and development. Then let's not forget, especially geared to you, Mr. Chairman, the first "A" in "NASA" is "Aeronautics." And, this year, an all-electric airplane, a research project of NASA, will fly. If such were ever perfected and at scale, not only would it be zero emittance of pollution, but it would be much more efficient and cost-effective as well.

Those are just some of the exciting things, and I have only scratched the surface. I respect the time of staying within the 5 minutes, Mr. Chairman. I am happy to try to answer, after 10 days on the job, as much detail as I possibly can muster to your questions.

Thank you.

[The information follows:]

HOLD FOR RELEASE  
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BY WITNESS  
May 19, 2021

**Statement of**  
  
**Bill Nelson**  
**Administrator**  
**National Aeronautics and Space Administration**  
  
**before the**  
**Subcommittee on Commerce, Justice, Science, and Related Agencies**  
**Committee on Appropriations**  
**U.S. House of Representatives**

Chairman Cartwright and Members of the Subcommittee, I am pleased to have this opportunity to discuss NASA's FY 2022 discretionary request of \$24.7 billion. This request represents an increase of \$1.5 billion, or 6.5 percent, above the FY 2021 enacted level.

But first, I would like to thank you for the robust FY 2021 appropriation for NASA. This funding aligns closely with Administration priorities, including continued investment in human spaceflight through the International Space Station (ISS) and Artemis Programs that enhance global engagement and diplomacy; expanded climate change research; investments in cutting-edge research and development that fuel innovation, create high-paying jobs, grow the economy, and improve life on Earth; advancement of the U.S. aviation industrial base to build a green aviation system; and strengthening of a diverse Science, Technology, Engineering, and Math (STEM) workforce that inspires future generations.

NASA is more than the world's premier space exploration organization. NASA is a uniquely powerful source of national inspiration and international leadership. Over the past year, the NASA team has demonstrated remarkable resilience, overcoming COVID-19 challenges to press forward with a series of outstanding successes, including the historic first flight on another planet. NASA's landing of Perseverance on Mars is emblematic of an Agency, and a Nation, that can overcome challenges, to achieve whatever goals we set. To quote the President on a phone call to NASA Jet Propulsion Laboratory (JPL):

"We can land a rover on Mars. We can beat a pandemic. And with science, hope, and vision, there's not a damn thing we can't do as a country."

With the resources entrusted to us by Congress and the American people, and the dedicated efforts of our commercial partners, we have returned human spaceflight to American soil on American rockets. Adapting what we have learned from these efforts, we are moving rapidly to return Americans to the surface of the Moon as quickly as we can safely do so. We are committed to landing the first woman and the first person of color on the Moon. We will use all of this Nation's capacity for innovation to develop the experience and capability around the Moon that will send Americans on to Mars. We are building the Space Launch System (SLS) – the most powerful rocket in history – and the Orion crew vehicle, to make deep space exploration possible, and we will soon launch the first, uncrewed mission in the Artemis lunar exploration program.

On April 16, 2021, NASA announced it had selected SpaceX to continue development of the first commercial human lander that will safely carry the next two American astronauts to the lunar surface. The firm-fixed price, milestone-based contract total award value is \$2.89 billion. This Human Landing System contract award, with the goal of a human demonstration to the lunar surface by 2024, is under protest as of this time. In parallel with executing the Appendix H award for the first crewed landing, NASA is preparing to have a robust competition for the procurement for sustainable commercial crewed lunar surface transportation services. These services will provide human access to the lunar surface using the Gateway on a regularly recurring basis beyond the initial crewed demonstration mission. By taking a collaborative approach in working with industry and international partners while leveraging NASA's proven technical expertise and capabilities, we will return American astronauts to the Moon's surface once again, this time to explore new areas for longer periods of time.

We are also on Mars now and studying the planet more intensively than ever before. We are developing the mission that will return samples from Mars to Earth, and operating two rovers, a lander, and a helicopter on the surface, supported by an array of orbiting spacecraft. At the same time, we continue to operate a constellation of spacecraft exploring the solar system while developing new missions to the Moon and Europa, and a mission dedicated to detecting potentially hazardous Near-Earth Objects (NEOs). Later this year, we will launch the Lucy mission to explore the Trojan asteroids in the vicinity of Jupiter, to be followed in 2022 by the Psyche mission to a metallic asteroid. These asteroids are thought to be remnants of the primordial material that formed the outer planets.

NASA is a critical piece of the Administration's efforts to understand and address global climate change. In May 2021, we launched a mission concept for NASA's Earth System Observatory, a new architecture for deploying and integrating next generation spaceborne Earth observation systems. The Observatory will provide the world an unprecedented understanding of the critical interactions between Earth's atmosphere, land, ocean, and ice processes. These processes define how the changing climate will play out at regional and local levels, and on near- to long-term time scales. The Earth System Observatory builds on NASA's Earth Science Division's current observations of Earth on a global scale, a fleet of 16 major Earth observatories plus six Earth observation instruments on the ISS, SmallSats, CubeSats, and missions flown by piloted and unpiloted aircraft.

Later this year, NASA will launch the James Webb Space Telescope (Webb), the largest and most complex space science observatory ever built. Webb is an infrared telescope designed to observe the farthest objects, broadening and transforming our understanding of the early universe. It will see the light from the first galaxies that formed in the early universe after the big bang, and observe the birth of stellar systems, as well as explore distant worlds and study the atmospheres of planets orbiting other stars – known as exoplanets – searching for chemical fingerprints of habitability.

NASA's aeronautics research will make significant contributions to the national effort to address global climate change, through vehicle technology development and advanced airspace operations, as well as serving as a vital source of innovation for the country's leading export industry, commercial aviation. This year, we will fly the first test flight of the X-57 Maxwell, NASA's first all-electric X-plane – a major step forward in efforts to develop a more sustainable aeronautics industry.

Supporting all of these efforts, NASA is developing new technologies ranging from robotic servicing technology to extend the life of orbiting spacecraft to laser communications for space. Launching this year, the Laser Communications Relay Demonstration (LCRD) will showcase the unique capabilities of optical communications to radically increase the volume of information a signal can carry.

President Biden's FY 2022 discretionary funding request, transmitted in April, is \$24.7 billion for NASA, an increase of more than six percent over the FY 2021 enacted level. This funding supports the programs

summarized here and supports significant NASA contributions to Administration priorities. The Agency is uniquely positioned to help restore America's global standing, demonstrating the power of a diverse, unified democracy to overcome challenges and achieve great goals. As a source of innovation, and by directly promoting the growth of space and aeronautics industries, NASA plays an important supporting role in creating skilled, high-paying jobs. We are playing an important role in the Administration's efforts to expand climate research and investment in innovative sustainable technologies. In addition, NASA is accelerating efforts to further diversity, equity, and inclusion. NASA has long understood that diversity, equity, and inclusion is not simply a matter of justice or fairness, but rather a source of strength and innovation and critical thinking.

### **Conclusion**

The FY 2022 discretionary request demonstrates the President's commitment to NASA and the people across the Agency and its partners who have worked so hard this past year under the most difficult circumstances and achieved unprecedented success. We know this increase comes at a time of constrained resources, and we owe it to the President and the American people to be good and responsible stewards of every tax dollar invested in NASA. The NASA workforce and the American people should be encouraged by what they see in this budget request. It is an investment in our future, and it shows confidence in the broad array of benefits this Agency delivers for the Nation.

Mr. Chairman, I would be pleased to respond to your questions and those of other Members of the Subcommittee.

Mr. CARTWRIGHT. Thank you, Mr. Administrator.

And, at this time, I will recognize myself for 5 minutes of questions.

The first question is about manufacturing that I mentioned in my opening statement, Administrator Nelson. By some estimates, the space economy could surpass \$1 trillion in value by the year 2040. That is roughly triple what it is today. And I want to see this sector of the American economy grow, and I want companies that are investing in the future to do well.

Now, I am pleased that, in large part, because of the sensitive nature of the work, space manufacturing for NASA and for American companies is almost exclusively done here in the United States. And I want to ensure that American workers and small businesses nationwide are sharing in that success.

So the question is for you, Administrator Nelson, how does NASA ensure that contractors are meeting their small-business commitments? How does NASA cultivate new businesses for SBIR and STTR opportunities and especially those that are disadvantaged or veteran-, woman-, or minority-owned?

And how does NASA ensure that it is utilizing the talent and capacity that is found in many parts of the country that have not been traditionally as involved in the space industry, such as those communities that don't have the benefit of being located close to a NASA facility?

Take it away, Administrator.

Mr. NELSON. Well, the short answer to your question, Mr. Chairman, is because the NASA leadership is going to be on top of it, getting it to the small business. And I can speak for the future Deputy Administrator that—we expect that, in her hearing tomorrow, she will be widely accepted in the Senate committee. That certainly is going to be true of the Associate Administrator whom I have just brought in, former astronaut commander, former Stennis Space Center director and Kennedy Space Center director, Bob Cabana. We are all going to be very sensitive to that.

You have been kind enough to me, Mr. Chairman, to invite me next week to join you in a virtual event to discuss how small business in your district can partner with Artemis suppliers. I will be ready and have detail for you on that.

NASA has a strategic goal to provide small businesses the maximum opportunity to participate on our missions. We actually have an Office of Small Business Programs that develops outreach and training opportunities for the small-business community.

You may be interested to know that NASA spends annually \$3 billion to small business. On top of that, the fiscal year 2020 NASA awarded an additional—it awarded an additional \$3 billion to small business as subcontractors in fiscal year 2020.

I am looking forward to sharing with you next week.

Mr. CARTWRIGHT. Terrific.

Now, to follow that up, NASA's Space Technology Directorate has an initiative to enhance the readiness of technologies needed to build out the infrastructure for future missions on the Moon and beyond. And these are called Tipping Point solicitations, and I am sure you have heard that term. They were worth \$370 million last year. And, while some went, predictably, to the largest space com-

panies, these kinds of contracts seem to have potential to help mature some of NASA's small-business partners as well as deepen relationships with more established contractors.

Does NASA plan to issue a new round of these so-called Tipping Point solicitations in fiscal year 2022? And what funding or direction is needed from Congress to ensure the success of that program?

Mr. NELSON. Tipping Point is an investment in a demonstration that is going to significantly mature the technology and increase the likelihood of infusion into a commercial space application.

The short answer to your question is, yes, Mr. Chairman, depending on how much you all appropriate for it. The technology development part of NASA is planning to release this solicitation later this year.

Mr. CARTWRIGHT. Very good.

Well, I thank you for that, Administrator Nelson.

And, with that, I would like to yield to the ranking member, Robert Aderholt, for 5 minutes of questions.

Mr. ADERHOLT. Mr. Chairman, I have not voted on this vote yet. I will go ahead and defer to my next in line on the Republican side, and then you can come back to me. So I am going to slip out for a minute and go vote.

Mr. CARTWRIGHT. That would be Mr. Palazzo.

And, Mr. Palazzo, if you are on, you are recognized for 5 minutes of questions.

I am not seeing Mr. Palazzo.

Mr. Cline, you are recognized for Mr. Palazzo's 5 minutes, which was going to be Mr. Aderholt's 5 minutes.

Mr. CLINE. Thank you, Mr. Chairman. I will take what I can get there.

Mr. Administrator, welcome. It is great to have you here. I am jealous of you for your position. You have an amazing job, and it is must be thrilling every day to work in this field.

Outer space is our final frontier, and the U.S. is leading the charge deep into space to explore, learn, and discover more about our vast universe than ever before.

It is vital that we are ensuring the good management of taxpayer resources so America maintains its edge as we continue to pioneer and innovate to meet our goals of establishing a presence on the Moon again, on Mars, and beyond.

Let me ask you, nuclear thermal propulsion is a critical technology required for future human exploration. And, recently, the National Academies of Sciences, Engineering, and Medicine released a report entitled "Space Nuclear Propulsion for Human Mars Exploration." The report concluded that an aggressive program could develop an NTP system capable of executing a human mission to Mars in 2039.

As you may know, Congress has been funding nuclear thermal propulsion since 2017. However, NASA has only spent a fraction of those funds on the development of an NTP system.

Would you commit today to the continued development of nuclear thermal propulsion and direct appropriated NTP funding be used for a demonstration of the technologies, which is required under the fiscal year 2021 NASA appropriations act?

Mr. NELSON. Not only yes, but I am going to ask you all to be a partner in all of this. And I want to be so bold as to suggest that a good opportunity to do this is in the jobs bill that is coming along.

Because the nuclear thermal propulsion that you are talking about is the Moon to Mars Program, and to Mars in the decade of the 2030s. We have to develop this propulsion technology, as well as nuclear fission technology once we are on the surface of Mars to generate the power that we need there.

There is a suggestion that has already been given to the Congress, since we have been solicited about what we should do in the jobs bill, for \$585 million that would not only have extraordinary R&D benefits but ultimately producing, because of the development of new technology, new things that produce new jobs.

Mr. CLINE. Great.

As you know, Langley Research Center in Virginia is the home of some of NASA's most important aeronautics R&D programs that have been developing and testing innovative new aircraft structures, advanced composites, and propulsion technologies.

Last year, Congress included direction in both the House and Senate NASA authorization bills, as well as in the fiscal year 2021 omnibus, to move forward on a new national subsonic X-plane flight demonstrator to demonstrate technologies developed by Langley and industry partners in flight.

Can you share the latest on this subsonic X-plane program and Langley's role in this and associated subsonic technology projects?

We lost your sound there.

Mr. NELSON. We are talking about subsonic, not supersonic.

Mr. CLINE. Correct.

Mr. NELSON. Specifically, are you talking about the X-57, which is the electric airplane?

Mr. CLINE. No. It is the subsonic X-plane flight demonstrator to demonstrate the technologies developed by Langley and by industry partners.

Mr. NELSON. Okay. I think what you are getting at is the supersonic, which is the X-59. That is going to first go in 2022. As a matter of fact, I just asked if there was any way that I could get in it and fly along with the pilot.

What it is going to do eventually—now, this will be a smaller-scale model, but what this is going to do—we could go to Hong Kong, we could go to Sydney, Australia, all these long trips, in less than half the time.

The idea is to develop a—you remember the French and the European Concorde. Well, the problem with that was that it emitted such a sonic boom that it disrupted people's lives, not only when it went from subsonic to supersonic, but then when it was coming from supersonic down to subsonic, and that big bang that often you associated with the space shuttle coming home.

Well, what NASA is doing is developing this X-59, where it will be a very small sonic boom, so that you would not have to fly it subsonic over land and people and population, but you could get right on up to cruise in a supersonic method. And that is the research that is going on on the X-59.

Ms. CLINE. Thank you, Mr. Chairman. I yield back. And I know that if there is a chance for the Administrator to be on a test flight, he is going to be on it.

Mr. NELSON. Hey, since you are down there in the Norfolk-Newport News area, one of the Members of Congress when I was in the House, one of the dear friends, is former Congressman and former Senator Paul Trible.

Ms. CLINE. Uh-huh.

Mr. NELSON. He is now president of Christopher Newport. And I have been there and talked to the students, and that university is something else.

Mr. CLINE. It sure is, and appreciate you noticing. We are very proud of former Senator Trible's work down there. He has done a great job with the college.

I yield back.

Mrs. LAWRENCE [presiding]. Thank you.

The chair now recognizes Congresswoman Grace Meng for 5 minutes.

Ms. MENG. Thank you, Madam Chairwoman.

Administrator Nelson, congratulations on your unanimous confirmation. Thank you again for your decades of public service to this Nation. We are grateful to have you serve once again.

In your Senate confirmation written remarks, you spoke about the power to inspire the next generation of women and people of color when NASA returns to the Moon.

Last year, NASA released a report that identified low percentages of women and people of color in the NASA workforce compared to the national civilian labor force. This fact is also true across the entire aerospace industry.

If we are going to inspire women and people of color to dream big, they also need to see themselves in these positions as scientists, engineers, administrators, and astronauts.

I wanted to ask, what steps will NASA take under your leadership to ensure that its workforce is more representative of the broader labor force and to address discrepancies in the composition of the workforce?

Mr. NELSON. Well, thank you, Congresswoman.

It starts with me. I requested of the President, when the White House called me, back—well, it wasn't the White House then; it was the transition had called. They said, the President-elect wants you to take NASA. I said, well, I had recommended three women to be the Administrator of NASA, and I will do it if you will consider nominating a person like one of the three.

The President did exactly that. He nominated Pam Melroy, an astronaut commander, an Air Force test pilot. After NASA, she went to the FAA and to DARPA. So, I mean, she is the real deal. That is the first example.

The second example is that Pam and I together then recommended to the White House that the third Senate-confirmed position in NASA—and there are only three—the Chief Financial Officer, be a woman who had been at Department of Energy and then to Department of Defense. Her parents had fled the Communists in Vietnam, fled in a fishing boat, and that is how they got to free-

dom. Margaret Vo Schaus, if the Senate confirms, she will be our third-ranking person in NASA.

Then, as you go through the ranks, I think you will see, most of our positions are, of course, career positions because they are scientists and so forth, but NASA has been making a good-faith effort to bring in women and minorities. And that is clearly the direction from the President. I think you will see—in the process, that you will see the diversity of women and minorities.

If you want to look close to home, look at my Senate office when I was last in the Senate. We had 63 percent of our Senate staff were women, and we had 43 percent of our Senate staff were diversity.

I hope that will give you an indication. I can give you more details if you want, but that should give you an indication of where we are going.

Ms. MENG. Appreciate it.

And, Mr. Administrator, I know I am out of time, but I just wanted to put a plug in for NASA's Office of STEM Engagement. It was really refreshing to see President Biden's skinny budget including a \$20 million increase for this office that is really critical to engaging the next generation of scientists and engineers.

And please let us know if there are any resources from Congress that we can provide to ensure that the pipeline of STEM students remains strong and growing.

I yield back, Mr. Chairman.

Mr. NELSON. Mr. Chairman, may I add a comment on STEM for the Congresswoman?

Mr. Chairman.

Mr. CARTWRIGHT [presiding]. Yes, you may, Administrator. Go right ahead.

Mr. NELSON. Thank you.

First of all, I want to thank you all, because it would not have been possible to have the STEM Engagement that we have, because, in the previous administration, in the President's budget, they had zeroed STEM in the NASA budget. You all in the House and the Senate restored it, and I thank you for that.

In almost everybody's district, you have a STEM grant to one of your colleges or universities. It is extensive; it is important. It is the future generations. I want to see those young minds ignite with imagination about Science, Technology, Engineering, and Mathematics, and often you can do that through the success of the space program.

That is what we are going to try to do. Thank you again for your part.

Mr. CARTWRIGHT. Very good.

At this time, the chair recognizes Mr. Garcia for 5 minutes of questions.

Mr. GARCIA. Thank you, Mr. Chairman.

And, Administrator Nelson, this is a special treat for me, as a former Naval aviator and now legislator. I envy you of your position. And thank you for your service, not only in the Army and the Congress, but where you are now and, obviously, with the prior space experience.

I appreciate the sentiment of unity in pursuit of progress and security that you alluded to at the beginning. I think that is important. And looking forward to serving with you on this journey, especially during this transitional phase.

I come from California's 25th Congressional District, which is home to Plant 42 in Palmdale/Lancaster/Antelope Valley. We have Edwards Air Force Base right in our backyard. So X-57, X-59 are actually being built in my district. We have JPL just outside of our district, to the south; Boeing, Raytheon, SpaceX, pretty much every major defense and aerospace and space provider within a 50-mile radius. So a lot of employees, a lot of revenue, and lot of interest and equity, frankly, in our NASA program. So I really appreciate this opportunity.

I want to just touch on, I think, what Mr. Aderholt was alluding to at the beginning. And this is true in all transitional phases, especially with major programs that start with "B," in terms of billions of dollars.

As we pivot to new leadership at the national level, can you just talk to how you personally and how NASA is ensuring that we are looking long for lineup, that we are looking for consistency and maintaining visions and missions that are consistent with what industry and NASA has been planning to over the last, we will call it, 4 to 6 years?

And how are we imparting, sort of, the consistency in acquisition strategies to make sure we are not disincentivized or dissuading some of these key prime partners from participating in competitions?

And we are all fully aware of the protests going on. I don't want to necessarily talk about that directly here. But it does raise some concerns about changes in the acquisition strategies and making sure that it is a transparent and clear playing field and not one that is, you know, either changing the way we buy things or the way we value things in competitions.

But, more importantly, I think the macro question is, how are we maintaining that long-term vision and mission, the mission to the Moon, the mission to Mars, and maintaining a consistency on programs that, in some cases, have 20-year trajectories?

Mr. NELSON. Well, it started 11 years ago, when Kay Bailey Hutchison and I wrote the bill that set NASA on a dual track. One was the commercial track, and the other was to get NASA out of low-Earth orbit and go explore the cosmos.

Now, you have very accurately pointed to the need for competition. You have my commitment on competition. This is where you all become extremely important partners in this whole competition, because, if we are going to the surface of the Moon with humans, it is going to cost some money.

One of the things that NASA was facing before my time and that decision was made was that they had asked for that Human Landing System in this current fiscal year for \$3.4 billion and only had \$850 million appropriated, and they just simply didn't have enough to keep going forward more than one lander.

There is going to be plenty of opportunity. Now—assuming that the bid protest is not successful. If the bid protest is successful—and, of course, we are in the blackout period until about August

the 1st—then what you have is, if it is successful, then everything starts over and you do the competition.

If it is not successful, then, according to law, NASA's policies and procedures, and the Federal acquisitions regulations of the United States Government, what has been done is done, so your competition goes forward. That "forward" is all the additional landings. Because this first competition was only as a demonstrator to show that you can land and bring humans safely back home. There are many additional landings that are planned for on the Moon.

May I suggest to you that you, the approps, as a partner, you have an opportunity to put over about \$5 billion in the jobs bill. We have already communicated this to your committee staff. Specifically, we named about \$5.4 billion on the Human Landing System. That would be, at the end of the day, producing jobs because of what you and the others have already outlined.

In addition, \$200 million could go in the jobs bill for the Artemis suits that we have to continue to develop—that is the EVA suits, the extravehicular activity suits—and then, as I mentioned to your colleague in a former conversation today, about \$585 million on the Moon to Mars propulsion, the nuclear thermal propulsion. There is a good opportunity right in the jobs bill.

Now, while I am on the jobs bill, may I also say, part of the jobs bill is infrastructure. Well, look at the NASA facilities in your State, Congressman Garcia.

Mr. GARCIA. Absolutely.

Mr. NELSON. There is aging infrastructure that is dilapidated at Ames and at Armstrong and, for that matter, at JPL. JPL, of course, is the Cinderella center right now because of these fantastic accomplishments at Mars.

Look in Congressman Aderholt's area. They have an administration building that they are going to have to tear down. Look in the Congressman from Mississippi's district, Stennis Space Center. Look right down at Michoud in New Orleans, which is tied up with the Marshall Space Flight Center. They have holes in the roof where they are putting together the core of the SLS.

We estimate that to be about another \$5.4 billion just in infrastructure that you could put in the jobs bill. You all can really, really help us.

When Congressman Aderholt, if he is not back—I want to say again to him what I just said to you about Marshall and the one down in New Orleans, Michoud, because this would really, really help. That is a place where you can do it and it can be done and appropriated this year, even though it would be appropriations over the next 5 years.

Mr. GARCIA. Sure.

Well, thank you, Mr. Nelson. I am out of time, but I am looking forward to partnering with you on these very topics and programs. I yield back, sir.

Mr. CARTWRIGHT. Thank you, Mr. Garcia. Wow, are you ever out of time. But we are not docking you. We know it was the witness. You know—

Mr. NELSON. You have to dock me, Mr. Chairman. I am responsible for that.

Mr. CARTWRIGHT. I heard that the voluble nature of our witness only happened because he went to the Senate. He didn't talk quite at much when he was a Member of our people's House.

But thank you—

Mr. NELSON. That is true. It is true that Senators don't know how to shut up. I agree.

Mr. CARTWRIGHT. At this point, the chair recognizes Mr. Case for 5 minutes of questioning.

Mr. CASE. Thank you, Mr. Chair.

Administrator, good to see you. Aloha. I think you were infected by the Speaker's minute, by the way, over in the House. I don't think it was the Senate.

So the first thing I want to do is just a comment. I know that my colleague Ms. Meng was inquiring of you as to STEM education and particularly NASA's efforts to facilitate minority representation within your ranks, which I very, very much endorse.

I also want to thank you because we have the benefit of some of NASA's STEM education and particularly your Minority University Research and Education Program, MUREP, which is an avenue for many of our underserved and underrepresented communities to go into the sciences generally and to go into NASA particularly. And I can give you some examples of that in my own backyard where that has been very successful.

So I would simply comment to you that I hope that, as you refine your budget, that you give great attention to your STEM and MUREP programs, which are invaluable, I think, not only to your workforce but to your public image, which is always something you want to maintain the broad community support. So I give you that.

I accept your invitation to Mr. Garcia to delve into NASA's activity in my own district, which, of course, is Hawaii. And, in Hawaii, your activities are world-class telescopes on world-class locations, in Mauna Kea, Mauna Loa, Haleakala, that host the world's leading telescopes from all around the world, including—I think you have somewhere in the range of, I want to say, five telescopes that are NASA-connected one way or the other; either you have an ownership interest or you have cooperative agreements. These primarily focus in the planetary science and astrophysics area, where I don't think that you have actually refined your budget in those areas.

So I think the first thing I would ask you is straight-out. I mean, is there any cause for concern there, where somehow you are contemplating a reduction in those budgets? I certainly hope you recognize the value of those telescopes to NASA's mission overall and would continue your support.

Mr. NELSON. No, sir, you don't have any concern. As a matter of fact, in the skinny budget that has been released without the details, they did release the details from the White House that the science budget is going way up. If on the top of my head I remember, it is going up by \$300 million.

By the way, Congressman, I have been to the island of Hawaii, and I have been up to the top of both of those mountains. One of them, you have got the environmental experimentation. The other one, which is a little higher, we had to use oxygen to get to the

top of it—you have all those space telescopes. I have seen those, the three to which you refer. I think they have a brilliant future.

I think the significant increase recommended by the President in his budget is indicative of the support for the science budget.

Mr. CASE. Okay. Well, I really appreciate that. Those are world-class. The atmospheric one you are referring to is the NOAA Mauna Loa Observatory, which this subcommittee also has jurisdiction over. So I appreciate that you are aware of that world-class observatory. And that interacts particularly with NASA's efforts on climate change, because the world-leading research on climate change, actually, is occurring at Mauna Loa.

Let me go back to Mauna Kea for a second. That is the higher one, where you needed to use the oxygen to get up to the top of. Mauna Kea is State land that is operated at the summit on a lease to the University of Hawaii. And there has been some discussion of altering that governing function in Hawaii to something other than the University of Hawaii. Some of the other Federal agencies that operate within the observatory precinct, the science precinct, as we say, on the summit of Mauna Kea, expressed some concerns about altering that governance. I know the National Science Foundation has those concerns.

Are you aware of that issue? I don't expect you to be aware of it down to that level of detail, but if you are, great. If you are not, I would love to ask for your thoughts after the hearing on whether NASA has any particular thoughts on governance. Because we definitely want to get this right. That lease is invaluable to our astronomic efforts, really, across the world.

Mr. NELSON. Well, I am aware, simply because we have great staff that have made me aware of it, anticipating that you might ask about that. We do not expect a change in Mauna Kea management organization to have a material impact on NASA's role in the Keck observatories.

Mr. CASE. Okay.

Mr. NELSON. NASA provides the funding directly to the Keck management organization, which is at the University of Hawaii.

Mr. CASE. Okay. Okay. Well, that is a great staff, Administrator. I appreciate the response and the prep. I would love to work with you on Mauna Kea and Mauna Loa and Haleakala further and on NASA overall.

Thank you very much.

Mr. NELSON. By the way, I went up there to those two mountains with Brian Schatz, and they had all kinds of experimentation going on up on the NOAA experiments.

And, by the way, you may not know: I think it is two-thirds of NOAA's budget is paid back to NASA because NASA builds and designs the very specific instruments that measure all of the climate that NOAA then operates.

Mr. CASE. I did not know that, but it sounds like the right relationship.

Mr. NELSON. Yes, sir.

Mr. CASE. Thank you again.

Mr. CARTWRIGHT. Terrific. Thank you, Mr. Case.

At this time, the chair recognizes our ranking member, Mr. Aderholt, for 5 minutes of questions.

Mr. ADERHOLT. Thank you.

As I mentioned, Senator, in my opening comments—and I know you realize that maintaining American leadership in space is extremely important to not only our economic security but also to our national defense. And that is why the Artemis Program, with the goal of accelerating America's return to the surface of the Moon, is one of my top priorities.

Despite Congress having provided nearly \$1.5 billion for the HLS program, including NASA's distribution of \$967 million amongst the three lander teams, NASA selected only one contractor, as I referred to earlier, to continue with the development of the first commercial lunar lander.

The commercial crew and cargo programs began with two contractors to ensure redundancy, also to reduce risk and promote long-term sustainability. Full funding was to be worked out over time, and it was.

My question to you is, can you just talk to us a little bit about why NASA didn't follow the pattern for the HLS award?

Mr. NELSON. Thank you, Congressman. I have already invoked your name in a similar question earlier, that I know that this was of grave concern to you and that I wanted to repeat my answer that I did while you were gone to vote on the floor.

As a matter of fact, this is where you all can help so much, in helping us have the resources in order to carry on a vigorous competition. You have my commitment that, within the bounds of law, I will encourage and insist on that competition.

Now, if the bid protest—of which we are in the blackout period until about August 1—if that protest is successful, then everything goes back to ground zero, and we start over in a competition. That is where you are going to need the money.

If the bid protest is not successful, we still have the competition. What has been done thus far by NASA in making a selection was for one demonstration landing with humans and safely returning them to Earth. Then there are so many needs for so many other landings that NASA would execute contracts, and that should be a vigorous competition.

I suggested—and I won't repeat, but just for purposes for you—that you all could use the jobs bill as a place—and we have recommended this to your staff—not only for the infrastructure needs—and, by the way, while you were gone, I also pointed out what is needed at Marshall. You have a headquarters there that has to be torn down. There is so much other—Michoud as well, but every NASA center. We have recommended an amount for that in the infrastructure part of the jobs bill.

For other jobs, we have recommended things to help us do this competition in the Human Landing System; also the development of the new spacesuits that would be there for Artemis; and also, then, for the follow-on Moon to Mars Program for the nuclear thermal propulsion that, if we are going to Mars, we are going to have to develop that.

All of those figures are within the bosom of your committee staff and the Senate committee staff as well.

Mr. ADERHOLT. Yeah.

And I understand, you know, when you talk about the other—later on down the road will be. My concern is that the other lander teams can't afford to be in business and will not be there when it is time to do those other bids. And, you know, as we talked about the other day, that is my concern.

But let me go ahead. I am told that, under the current BAA, that all three lander teams are eligible to receive funding through the end of August. Is that correct?

Mr. NELSON. The short answer is no. We are in the middle of a blackout period. NASA is currently defending the protest filed by both unsuccessful offerers in that procurement, NASA is legally prohibited from engaging with any of the HLS contractors on additional development work that would have been accomplished under the initial competition.

Mr. ADERHOLT. Well, what amount of fiscal year 2021 HLS funds have been obligated, as opposed to simply committed? And what amount of the fiscal year 2021 funds are you willing to spend to support the teams?

Mr. NELSON. NASA has been obligated \$410 million to date in fiscal year 2021. And that includes funding for the base-period milestones and the NASA Human Landing System program office. No funds have been made on the actual Option A selection.

Mr. ADERHOLT. Okay. Thank you. My time is up, so—

Mr. NELSON. May I add something, Mr. Chairman, for the Congressman, indeed, for the whole committee?

Mr. Chairman, may I take the provision and the affirmation of the chair to additionally go over the 5 minutes by adding some information for not only Congressman Aderholt but the whole committee?

Mr. ADERHOLT. I think he must have stepped away for votes. So, so long as he is not here, you have probably got the floor.

Mr. NELSON. All right. Mr. Acting Chairman, should I say, I want you to see this photograph. I hope that is coming through on the computer here. This is the Chinese rover that has now landed on Mars and has sent back this picture last night.

Now, they are only—they, the Chinese Space Agency—the Chinese Government is the only second nation to successfully land on Mars. They are getting ready and have already publicly announced that they want to send three big landers to the south pole of the Moon. And that is where the water is. And we are still a year or two away from a much smaller lander going there.

What I am now getting to is, what about landing humans on Mars, and why this is important to the subject matter that we just discussed about Artemis.

This is what has been in public reports, that the Chinese Government and the space program officials from China are studying the possibility of conducting a fly-by and a lunar lander in the decade of the 2020s. I think that is now adding a new element as to whether or not we want to get serious and get a lot of activity going in landing humans back on the surface of the Moon.

Thank you for letting me add that.

Mr. ADERHOLT. Thank you.

Mr. NELSON. I see Congressman Crist.

Mr. CRIST. Senator Nelson, how are you?

Mr. NELSON. I think the chairman must have gone to vote on the floor.

Mr. CRIST. I think you are right. Maybe Ranking Member Aderholt can direct us.

I think I am next in the queue, Robert, but I am not—

Mr. ADERHOLT [presiding]. I think you are, so just go ahead.

Mr. CRIST. Okay. Great. Well, first of all, thank you, Ranking Member. I appreciate that.

I am extraordinarily honored to have the opportunity to see my friend Senator Bill Nelson, particularly in this role that is so appropriate to you, sir. And congratulations on your confirmation as NASA Administrator. No surprise to any of us at all and certainly something that is so well-deserved of a man of your stature and your career.

I understand that you are maybe limited in how much you can say about the current status of the Human Landing System, but I firmly believe that the competition is critical to the success of NASA's missions.

And, Senator, you may have already touched on this while I was away doing some voting. Forgive me if that is the case. Can you discuss how you envision maintaining competition for the human lunar lander? And do you anticipate NASA's out-year budgets will support that strategy?

Mr. NELSON. Congressman, you have my commitment on competition. We are in the blackout period on the bid protest. Once that is decided, whichever way it goes, we are going to have the competition going.

But we can't do it and my commitment doesn't mean anything without you all as partners because of the funding request that I have laid out and suggested that you could do quickly when you all consider the jobs bill.

Not only that, but also under the infrastructure provision of that bill, the dilapidated and deteriorating infrastructure that we find in all of our centers and NASA facilities can be addressed in this bill.

I have laid out those details to the committee staff earlier. I have laid it out in detail to other members of the committee who have asked that prior. But that certainly includes what you see in your State of Florida at the Kennedy Space Center, the aging infrastructure that is there as well.

Mr. CRIST. Yes, sir. Thank you, Senator, very much.

Can you share from where the Human Landing System will be launched? Any idea if it would be from Kennedy Space Center in Florida?

Mr. NELSON. Absolutely. It is going to launch to—the Artemis Program has—first of all, the first Artemis that is going to launch at the end of the year, unmanned, will go from Pad 39B at the Kennedy Space Center.

Artemis II, which will be the first human launch on the SLS and in the spacecraft, the capsule, Orion, will be from the same pad.

Artemis III, which is going to be the first demonstration landing under the scenario that was awarded to SpaceX—and, remember, that is in a blackout period now. The SLS, with the crew, will launch from Pad 39B. It will rendezvous in lunar orbit, what they

call cislunar orbit, and the crew will transfer into a lander, and that will go down to the surface, bring the crew back up, hitch up with Orion for the ride on the way home.

The answer is, yes, going from Kennedy.

Depending on the successful bidder on this or future use contracts of delivering crew to the surface of the Moon, there may be different architectures of how you transfer the crew in cislunar orbit, but, in fact, they will ride on Orion on top of the largest, most powerful rocket ever, the SLS, the Space Launch System, which will launch from Kennedy.

Mr. CRIST. Wonderful. Thank you very much.

As you know, the Space Launch System arrived at the Kennedy Space Center last month, restoring the Cape to its historic role as the only place in the world to be capable of launching astronauts into deep space.

With the Space Launch System and Orion soon beginning regular launch operations from the Cape, as you just suggested, what additional upgrades are being done at Kennedy to support these missions, or need to be done?

Mr. NELSON. Well, very fortunately, because we have had a Kennedy Space Center director, Bob Cabana, who has been very visionary, he has basically remade Kennedy as a spaceport and coordinated with the Air Force, now the Space Force, at Cape Canaveral, into a multi-use spaceport. A lot of those upgrades are being made as we speak.

I will give you an example: leased land. Blue Origin is manufacturing rockets right there at the Kennedy Space Center in a separate part. They have just doubled the amount of their leased land to expand their rocket.

Congressman Aderholt's district has a similar kind of facility out there where they make the rockets.

You are having that kind of activity that has really caused a rebirth of the economic activity at the Kennedy Space Center, which you have asked about.

Mr. CRIST. Great.

Well, Senator, again, thank you very much. I really appreciate the thoroughness of your answers, and the level of knowledge you have on this topic is unsurpassed, truly. We are blessed to have you, sir. Please give my best to your lovely Grace, if you would.

And I think it is—Ranking Member, it might be Representative Palazzo's opportunity for questioning, I think, for 5 minutes.

Mr. PALAZZO. Hey, thanks, Charlie. I guess we are just passing the baton around.

Administrator, welcome. It is great to see you again. I know, when I was a young freshman, we shared a stage at NASA headquarters to—I think it was one of their internet videos, just giving them an update on what the House was doing with the space bill and what the Senate was doing. You probably don't remember that. But I enjoyed your remarks then, and I have enjoyed your remarks today.

Mr. NELSON. Well, Congressman, you still look young. You are just not a—you are now a veteran.

Mr. PALAZZO. I know. Well, appearances can be fooling.

Well, listen, I remember when I first came to Congress, you know, NASA really didn't have a roadmap on where they were going. They were just changing objectives continuously. So really hard to resource, you know, precious dollars to precious programs. And now that we have a roadmap, I think we are in a much better place.

And also what I remember—you know, I tell people I was the chairman of the Space Subcommittee, and they say, hey, you know, what is it like, you know, going to the Moon? And I had to tell them we can't get back to the Moon. And they were shocked about that. And then they were even more shocked when I would tell them in a townhall meeting or somewhere that we were paying \$60 million to \$70 million per astronaut to fly American astronauts on a Russian Soyuz rocket.

And so, you know, to actually be back to the point to where we are launching American astronauts on American rockets from American soil is just a great feeling. It is a feeling of pride that I have deep within, and I think the American people do as well.

And so, as you mentioned, the landing of the Chinese on Mars got a lot of people's attention last week. With SLS and Orion ready to go, I think we are hoping that there are not a lot more delays in getting humans back into deep space by using unnecessarily risky architectures.

With the recent successful test of the SLS core stage, all components of SLS and Orion have now been thoroughly tested, engines are now ready to be flight-proven, and NASA is hopeful to launch Artemis I by the end of the year. Additionally, the second SLS and Orion are well on their way to being completed.

Now that the backbone of the architecture to finally return humans to deep space is ready, can you discuss how you plan to keep and possibly accelerate the momentum of returning humans to deep space and how we can ensure that we are not overtaken by our foreign adversaries?

Mr. NELSON. Absolutely.

Congressman, there was a palpable sense of energy among the employees of the Stennis Space Center when all four of those engines in the core stage ignited and ran for 8-1/2 minutes, for the duration that would take them from the launchpad into orbital velocity.

Bob Cabana tells me that, when that core stage barge arrived at the Kennedy Space Center, having been shipped from Stennis in Mississippi, that the employees just raced out there to see it, cheering. It is, as we speak, being stacked vertically in the Vehicle Assembly Building.

We are at the point that we are beginning to recognize that it could well be, at the end of this year, those four engines on Pad 39B are going to ignite, fire up to lift that rocket, along with its solid rocket boosters, and we are going to see the dawn of the new era of deep space exploration, which will take us back to the Moon with the first woman on the first flight and the next man. Then we will see a plethora of astronauts and we will see the program of the Moon to Mars. That is starting. We have described all that.

Now, I have described in detail several times—if you want me to get into the specifics about the competitions—

Mr. PALAZZO. No, sir. No, sir. But, if I may, I know my time is about to expire, and I am going to sneak in one more question—

Mr. NELSON. Of course.

Mr. PALAZZO [continuing]. In case we don't have a second round.

You know, as you know, with the successful completion of the SLS core stage green run in March, which was the largest rocket stage in history ever tested for a full-duration test on actual flight hardware, the SLS core stage is now fully certified for launch operations and ongoing production, which we have talked about.

The next major developmental milestone for Stennis and the SLS program will be the green run of the Exploration Upper Stage, which will boost SLS performance to the Moon by nearly 50 percent.

Can you briefly discuss the importance of the Exploration Upper Stage to NASA? And what is the current schedule for the modification of the B-2 test stand at Stennis to prepare for the test?

Mr. NELSON. Okay.

Mr. CARTWRIGHT [presiding]. If I can interject, Administrator Nelson, we are going to have a second round, so you don't have to give him the full answer right now. Go ahead.

Mr. NELSON. Well, I am happy to stay within whatever time constraints you prefer, Mr. Chairman.

Mr. CARTWRIGHT. Yeah. Give him 60 seconds now, and he can follow up later.

Mr. NELSON. Okay.

Well, the first three missions will not have the Exploration Upper Stage. That's for when we have the much heavier loads that we have to have that. That is part of this budget that you will be receiving, and another opportunity in the jobs bill to put some money in there to get that—what you described, the EUS, Exploration Upper Stage, get it up and running.

And so I will stop the answer there and go into more detail later.

Mr. PALAZZO. Well, thank you, sir.

I yield back.

Mr. CARTWRIGHT. Thank you, Mr. Palazzo.

At this time, the chair recognizes Mr. Trone. I see Mr. Trone. If he is ready.

There you go. Five minutes to you, Mr. Trone.

Mr. TRONE. Yes, sir. Your timing is perfect. Thank you.

Mr. Nelson, thank you so much for joining us today. Congratulations on your confirmation. Maryland, proud home of the Goddard Space Flight Center as well as a significant aerospace workforce. NASA supports 35,000 jobs and billions in economic output in our State. So delighted to have you here today.

As you know, with COVID, NASA has had an unprecedented challenges in supply-chain disruptions—the availability, materials, instruments. The recent inspector general report on the impact of COVID estimated a \$47 million cost to the supply chain, fiscal year 2020 and 2021.

So what impacts to local contractors have you seen for these project schedule delays? And how is NASA working to build supply-chain resiliency?

Mr. NELSON. You are right, Maryland has considerable critical space centers and infrastructure, Goddard and the Applied Physics

Laboratory. Kudos to all of your employees and what they produce for our Nation's space program.

Specifically, your question on the supply-chain threat. It was only 4 days after the President was inaugurated, and he issued an executive order which establishes a policy for the U.S. needing resilient, diverse, and secure supply chains to ensure our national security and our economic health.

It also called for a 100-day supply-chain review of risk. NASA is following this review very closely, given that the Agency has experienced some supply-chain challenges. That was particularly true of the challenges, the shortages on supply chains during the COVID crisis.

Mr. TRONE. So, just to follow up on that, availability of raw materials—titanium chips, rare-earth elements like lithium for batteries—you know, are we on track to have what we need for you?

Mr. NELSON. It is always a challenge, Congressman. I know this from my background on the Armed Services Committee and also the Intel Committee. It is always a challenge on those rare-earth metals.

Mr. TRONE. Okay. But, overall, you feel like you are getting to the finish line where we have to?

Mr. NELSON. Yes, sir.

Mr. TRONE. Okay.

OSAM technology is critical to developing sustainable, you know, space architectures to bring us closer to a space economy in reality. So OSAM-1 is preparing for a calendar year 2025 launch. Administrator, can you share how NASA will prioritize funding to keep this program, you know, on track?

Mr. NELSON. For those who may not understand the acronym, what this is is a spacecraft that would go up and service a satellite on orbit. It could be a refueling, it could be a repair, it could also extend the lifespan of a satellite. It would be robotic technology at its best. That is what OSAM-1 (Restore/Spider) is.

Well, the first one that we are doing, it will refuel a satellite, followed by the assembly and the manufacturing demonstration. It is included in the 2022 budget. It is making excellent technical progress. They are going through something called the mission-critical design review, and that is scheduled for later this year. Then they are hoping for a flight demonstration in 2025.

The most significant challenge has been the impact of COVID, because it has restricted the access to the planned hardware building and testing. The access to the laboratories is now improving.

Mr. TRONE. Excellent. Thank you. Time is perfect.

Mr. Chairman, I will yield back.

Mr. CARTWRIGHT. Thank you, Mr. Trone.

At this time, the chair recognizes the vice chair of the entire House Committee on Appropriations, Representative Brenda Lawrence, for 5 minutes.

Mrs. LAWRENCE. Thank you, Mr. Chair. Thank you for having this hearing today.

I want to commend the Biden administration for recognizing the significance of funding for NASA's STEM education initiatives. To develop a more diverse workforce, we must create opportunities for everyone.

Administrator Nelson, NASA continues to demonstrate its commitment to diversity by landing the first woman and the first person of color on the Moon as a part of Artemis. How will NASA use STEM initiatives and the Space Grant Program to develop a future generation of leaders at NASA that reflects the diversity of this country?

And I want to congratulate you on your confirmation as the next NASA Administrator.

Mr. NELSON. Number one, Congresswoman, the diversity is not only a goal of Joe Biden but it is a goal of ours. And I won't repeat, but I gave a litany of the things that we have done already—

Mrs. LAWRENCE. Yes.

Mr. NELSON [continuing]. To bring about diversity here. I think you will see that reflected in our appointments, for example, that are not career employees. We have that diversity there as well.

I think the greater answer to your question about the future of STEM—and you being from Michigan, that is important. You get NASA STEM grants to your university—

Mrs. LAWRENCE. Yes. Yes.

Mr. NELSON [continuing]. In your State.

The greatest way to answer your question is, look at history. Look what happened to young people getting turned on because of the space program back in Mercury, Gemini, and Apollo for a couple of generations. Look at the engineers and the mathematicians and the technologists and the scientists that came out of that.

Then, as we unlock these mysteries of the universe with the telescopes—what the Hubble Space Telescope has already done and what James Webb that is going to launch at the end of this year is going to do is unlock more of these mysteries of looking back in time at the source of when light almost began.

All of this is exciting young people. And, as you probably know, you walk into a room with kids, and if they are kind of bored, you start talking about space—

Mrs. LAWRENCE. Yes.

Mr. NELSON [continuing]. Their little eyes light up, and you suddenly get them engaged.

Interestingly, that history that I just recounted, 60 percent of people alive today were not alive to see Apollo land on the Moon. Imagine, going forward, how we can inspire with the first woman and the first person of color when we land back on the Moon.

Mrs. LAWRENCE. I am the co-chair of the Democratic Women's Caucus and second vice chair of the Congressional Black Caucus. I saw the first all-female team. They invited me to go and watch it live at the—I forget the name of the place here in D.C. That was so fascinating.

I want you to know that, when we put women on the Moon, we will bring back some real perspectives, when we see the Moon out of the eyes of a woman.

I want you to know that we have a high school academy just on NASA, and it is predominantly all African-American children. We do use the grant. It is making a difference. I want you as Administrator to please stay focused on that.

Because, you know, it is kind of sad that, after all these years, we are finally getting a woman, you know, in the place of being

able—and a person of color to be able to walk on the Moon, and I just want to say thank you for that. And I want to be at that launch, so we will talk about that.

Mr. NELSON. Excellent. Excellent. Thank you.

Mrs. LAWRENCE. I yield back.

Mr. CARTWRIGHT. Thank you, Vice Chair Lawrence.

Administrator Nelson, we are going to begin a second round of questioning. I do not anticipate it will be as long as the first round, but I am offering you a comfort break, if you want to break for 5 minutes before we go forward.

Mr. NELSON. I am ready to go, Mr. Chairman.

Mr. CARTWRIGHT. All right. In that case, I will recognize myself for a further round of 5 minutes.

You touched a little bit on the research going into electrically propelled aeronautics, and I appreciate that. But I want to talk about alternative fuels.

We have heard estimates that by 2050 there will be 10 billion passengers flying every year in airplanes, with a distance of 12.4 trillion miles. And, according to NASA estimates, that would require over 570 megatons of fuel and would generate more than 1,800 megatons of carbon dioxide going into the atmosphere.

Can you talk a bit more about NASA's role in testing of alternative fuels and how you will work with the many other agencies who play a role in alternative fuel development? The FAA, Department of Energy, Department of Defense, the Agriculture Department all have a role. And that makes this very important to have a whole-of-government approach so that we really make the best use of our taxpayers' dollars.

Go ahead, Mr. Administrator.

Mr. NELSON. Yes, sir. Not only is NASA doing the all-electric airplane, which would be revolutionary because there would be no emissions, but NASA is working on these alternative fuels as well.

I might point out, take for example one of the spin-offs of NASA in our aeronautical research that is in use today. When you are on a commercial airliner, look out at the wing, and you will see that the end of the wing tips up. That was a NASA design and development, and what it does, it makes that airplane more fuel-efficient. It can get to altitude higher, quicker, and therefore safer, by getting out of the clogged airspace, and it is more fuel-efficient.

There is a spin-off that directly answers your question.

Mr. CARTWRIGHT. All right.

And I would like you to discuss a little bit, if you will, how these efforts can contribute to meeting our climate goals and what the repercussions might be if we cannot achieve meaningful reductions in carbon emissions from our aviation system.

Mr. NELSON. Well, aviation is just one part of it. Smokestacks are another part of it. Car exhaust. The energy efficiency of buildings is another biggie. You go through all of those, and they all contribute to the putting up of carbon dioxide and methane up in the upper atmosphere, which creates the greenhouse effect, which traps the heat that otherwise would be radiated out into space and keeps it trapped and, therefore, continues to heat up the Earth.

One manifestation of that in a State like Florida is the sea-level rise. Of course, water sloshing over the curbs, that caused Miami

Beach to have to put in millions of dollars of big pumps. There is only so much you can pump as you look down the road years into the future.

We have to try all of the above, Mr. Chairman.

Mr. CARTWRIGHT. Understood.

I am going to switch gears now. My friend, former NASA Administrator Jim Bridenstine, in my opinion, deserves some credit here for building the Artemis Accords as the starting point for a rules-based international system of space governance. While he did get the ball rolling, there are only nine countries so far that have signed on.

Administrator Nelson, while I understand that expanding the accords is going to be the job of the State Department and the Commerce Department, as well as NASA, can you talk a little bit about your vision for the future of these international accords?

Mr. NELSON. Absolutely. First of all, I agree with you about Jim Bridenstine. He did a good job.

Now we need to push those Artemis Accords ahead. It is another component of many, many components of the U.S. Government in addressing the question of the heating up of the Earth. I think we have other countries that are getting ready to sign some of these accords.

It establishes norms in space. I hope other nations are going to be joining us in abiding by these norms. Don't we have about a handful of nation-states that have signed on to the accords? We have a long way to go, and I am going to try to do that.

Mr. CARTWRIGHT. Well, I appreciate that, and I look forward to working with you on it.

I don't see our ranking member. I was just about to yield to him. In lieu of him, I am going to yield to Mr. Garcia for 5 minutes of questions.

Mr. GARCIA. Thank you, Mr. Chairman.

Administrator Nelson, again, thank you. And as much grief as the chairman gave you for being a little verbose on the previous answer, I will give you credit, because you shaved about 3 minutes off of my second round of questions. And I support the infrastructure programs you outlined as well, so thank you for that.

I think there are a couple of other programs that I would like to just get your perspective on. We, obviously, at Edwards Air Force Base and the surrounding areas, different facilities under NASA, we are operating these white-tail pointy-nose aircraft, the F-15 legacy platform and the F-18 legacy platforms, three of each; a couple U-2s flying out of the high desert as well.

I am concerned about the obsolescence challenge that these airframes have from a sensor perspective, but also, frankly, a fatigue life and flight-time safety perspective as well. I think we have heard from some of our constituents in our district that they actually are afraid of the safety component of some of these legacy Eagles and Hornets that they are flying.

I am hopeful that we can figure out a path forward to recapitalize or at least modernize, either with life-extension modifications or, better yet, replacing those with the production line aircraft coming out of St. Louis, the F-15EX, F-18E/F, or whatever solution NASA deems feasible.

But can you just discuss from an airframe perspective the recapitalization? That is question one.

And then we also are the home of SOFIA, which is the 747 Stratospheric Observatory for Infrared Astronomy Program. This is sort of an annual contender for funding. I think it is instrumental in the pursuit of characterizing and observing not only atmospherics but within our solar system and beyond, the birth of stars, formation of new solar systems.

But just wanted to kind of hear your perspective on those two major issues there.

Mr. NELSON. With regard to airframe life, I would ask you to refer to the Department of Defense specifically on that. We, NASA, Aeronautics, confers with all branches of government on where our NASA research is applicable, and if there is a specific application on airframe life, then I will find that out and pass it on to you that NASA is sharing with DOD and other agencies of government.

Mr. GARCIA. Got it.

Mr. NELSON. With regard to the flying stratospheric observatory, you mentioned that that is—I think you said infrared. It is a complement to so many of the other instruments we had. We were talking with the Congressperson from Hawaii. What is it in the budget? I simply don't know yet, because the budget has not come out yet. But we will convey that to you—

Mr. GARCIA. Okay.

Mr. NELSON [continuing]. With regard to the stratospheric observatory.

When we were talking about Hawaii, there is an infrared telescope that is one of our telescopes looking out into deep space. It is on top of one of the two mountains on the big island of Hawaii.

Mr. GARCIA. Uh-huh.

Mr. NELSON. I was just talking about that with Congressman Case. So we will get back to you on any detail once the budget comes out.

Mr. GARCIA. Okay. Thank you. I appreciate that, sir. Yeah, it is effectively a similar mission and scope, but SOFIA, on the 747, is doing it from 40,000 feet instead of, you know, 15,000 feet. But it is also an international partnership, with Germany paying for about half of the total operating costs and upgrades to the aircraft.

So I just want to make sure that is on your radar, so to speak. And very important to, I think, the country but especially our district, with everything going on around it.

But thank you again, Mr. Administrator. It has been a pleasure. And it is going to be a great honor to serve alongside of you. And if you find two empty seats in the X-57 or 59, give me a call. I will go flying with you as well.

So I yield back, Mr. Chair.

Mr. CARTWRIGHT. Thank you, Mr. Garcia. Don't forget to plug it in, too, before you go.

Mr. GARCIA. That is right.

Mr. CARTWRIGHT. At this point, the chair recognizes our ranking member, Mr. Aderholt, for 5 more minutes of questions. Mr. Aderholt.

Mr. ADERHOLT. Okay. Can you hear me? Okay. All right. Sorry about that. I went to cast my vote then. So I am back. But, anyway, good to be back.

In fiscal year 2021, Congress provided \$400 million for the Space Launch System's Block 1B development, including work on the Exploration Upper Stage and associated capabilities to support the mission available to launch in 2025. As you know, Block 1B will have the largest fairing in the world, with unrivaled power to deliver crew and payloads to the Moon and eventually on Mars.

Can you discuss with us the importance of the Block 1B to our Nation's space program and how NASA plans to meet the launch goals outlined by Congress and how many cargo-only SLS launch missions are on your official manifest between now and 2030?

Mr. NELSON. Consistent with the 2021 appropriations direction that you mentioned, NASA has continued development of the Exploration Upper Stage for the SLS and completed the critical design review. It is planning for the first flight on Artemis IV. That would be the one after the demonstration landing of humans, which is Artemis III.

Obviously I don't have the budget request, because the President hasn't put it out, but a little birdie told me that he thinks you will be happy with the budget request.

Mr. ADERHOLT. Okay.

Is it possible to get the committee a list of the proposed SLS cargo-only missions over the next few weeks?

Mr. NELSON. Yes, sir. Once the budget is out, we will scramble up and get those to you.

Mr. ADERHOLT. Okay.

Let's see. I have about 2½ minutes left. Let me just jump over.

I recently suggested to General Raymond of the U.S. Space Force that NASA and the Air Force could benefit from more closely tracking the development funds each agency invests in commercial launches. In fact, when one agency ignores the funds invested in a company by the other agency, I think the criteria for making awards for the competition gets really skewed.

Do you have any thoughts on this? Can you speak to this with General Raymond to establish a way to track investments and to make sure that the information is publicly available?

Mr. NELSON. I can't speak to the issue of publicly available right now. I just simply don't know. But the genesis of the idea that you suggest is an excellent one.

You know, instead of each agency being in its own stovepipe and having its own R&D, you ought to be sharing this across agencies so you get the additional energy that would come from that cross-pollination, as well as you eliminate some of the duplication.

This was one of the original ideas of developing DARPA, so that you could get a forward-looking agency on R&D that would be inputting to all the agencies that would benefit from that. We ought to be doing that. We are going to certainly try to continue to do that.

I think it will be of value that Pam Melroy will eventually be confirmed and be our Deputy Administrator at NASA. She was a member—a leader of the DARPA team after she left the Astronaut Office. I think you see where I am going.

Mr. ADERHOLT. Yeah. Well, if you could, you know, have a chance—like I said, I have already approached General Raymond about this, and I know he would like to speak with you. And so, if you could speak with him personally on this, I think it would be a great thing to make everything more efficient.

So I see my time has expired, so I will yield back, Mr. Chairman.

Mr. CARTWRIGHT. Thank you, Mr. Aderholt.

At this time, the chair recognizes Representative Steven Palazzo for 5 minutes.

Mr. PALAZZO. Thank you, Mr. Chairman.

Administrator, it is good to be back. Again, I appreciate your vast knowledge of all things NASA and how important NASA is in space dominance and American-led leadership in space.

I remember, back when we used to have Administrator Bolden come testify in front of our Committee on Science, Space, and Technology, I want to say at the time there was something in the paper about an incident where a researcher—it may have been at Ames. I don't want to throw any names out there, but it was a research facility going on where a guy got on a plane and was heading back to mainland China with a laptop with a lot of proprietary data.

And I know the Administrator then committed to the committee to foster a serious attitude about security breaches and protecting, you know, America's assets, which is our research and technology.

And now I am just reading, like, on June 18, NASA released an audit report that revealed multiple data breaches that occurred over the past 10 years at JPL. And, you know, the hackers were able to not only access the IT—well, actually, they stole information about our mission to Mars. The hackers also accessed the IT network of NASA's deep-space network, which communicates between satellite dishes and active spacecraft. The hackers went undetected for almost a year.

I know that is cyber; it is a little different than physically walking out of a building. But, you know, we know our foreign adversaries have been stealing data from us forever. That is how they were able to catch up and close that technological gap.

Can you just tell me, Administrator Nelson, like, are you going to take security and the protection of America's secrets a little more seriously, maybe, than some other Administrators?

Mr. NELSON. You have exactly put your finger on theft. Intelligence security is a concern that theft can occur with a hacksaw and a crowbar or a missing laptop. Theft today increasingly is cyber theft.

You are looking at the former ranking member of the Cyber Subcommittee of the Senate Armed Services Committee. What I found in my years on the Intel Committee and the Armed Services Committee, that it was hard to get the private sector involved and serious about cybersecurity. Well, I suppose the pipeline problem that we just have suffered through is going to be another reminder.

When it comes to government, there is no excuse for slack cybersecurity. We had a big meeting on this just yesterday here, in my early tenure. It is of paramount importance to NASA, and especially with the high technology that we are dealing with that so many of our competitors would love to have. That also means our contractors have got to have that same kind of security.

The fiscal year 2022 request provides for the modernization and expansion of cybersecurity, including continuous monitoring infrastructure and threat detection tools, integrated enterprise logging, and assessment services for visibility, improving patch management, and a fully implemented controlled unclassified information program.

These are vital to the protection of NASA's people, the public, and the mission success by ensuring the cybersecurity that safeguards all of us against the malicious and unintentional breaches.

I will just conclude by saying, how many times has your cell phone rung and it is somebody calling and saying, "Oh, you just lost such and such," and it is nothing but a fake call trying to get your private information?

Mr. PALAZZO. That is true. Well, Administrator, thank you. And I know you are going to take security breaches seriously. You know, the culture across government-wide, I think we are starting to recognize we have lost hundreds of billions of dollars in intellectual property. It has all been outright theft by foreign adversaries.

And, listen, thanks again for your testimony here today. I look forward to serving with you. Hopefully we can get together soon.

And, Mr. Chairman, I am sorry I went over my time, but I will yield back.

Mr. CARTWRIGHT. Thank you, Mr. Palazzo.

At this time, the chair recognizes Mr. Cline for an additional 5 minutes of questions.

Mr. CLINE. Thanks, Mr. Chairman.

Administrator, coming from Florida, you have a good understanding and appreciation for the ground infrastructure that makes our whole space program possible. You talked about that a little bit earlier.

As you are probably aware, Virginia owns and operates the Mid-Atlantic Regional Spaceport at NASA's Wallops Flight Facility on the eastern shore. And it supports NASA's commercial cargo program, science missions to the Moon, and countless suborbital tests of sounding rockets.

Industry partners Northrop Grumman, with their Antares rocket and now Cygnus Spacecraft, and now Rocket Lab, with their Electron rocket, are helping to drive a strong and growing space industrial base in Virginia.

I hope you will take the opportunity to see firsthand how this unique State spaceport works with NASA and industry to deliver on NASA mission priorities. And it is not too far from our Nation's capital. So, as you settle into your new role, I hope we can count on to you make plans to attend a launch in person at the Mid-Atlantic Regional Spaceport.

Mr. NELSON. I am looking forward to it, and I hope you will come with me.

Mr. CLINE. I certainly will. I appreciate that.

The Artemis Program to return American astronauts to the surface of the Moon is very exciting, as you discussed. And with China becoming increasingly ambitious in its own efforts in space, it is more important than at any time since the Cold War that America demonstrate to the world our preeminence in space exploration.

Can you elaborate a little bit on why you believe NASA's Human Landing System award to SpaceX and your follow-on efforts for commercial delivery services to the Moon present the best architecture to fulfill this important endeavor and stay ahead of China?

Mr. NELSON. If you can see that, that is the lander on Mars. That photograph was sent last night by China.

Mr. CLINE. Beautiful.

Mr. NELSON. They are the second nation. Now, we have been there since the mid-1970s. However, they have demonstrated the sophisticated technology to go millions and millions of miles and successfully land and transmit back to Earth.

They are getting ready to have much larger spacecraft, a series of three, land on the south pole of the Moon. Why? That is where resources are, but that is also where water is. If you can find water and there is water there, you can make fuel.

We have a much smaller lander that is going to the lunar south pole in a couple of years. What I am saying is, we are suddenly realizing that we don't own all of this. It is a very aggressive competitor.

I read to the committee earlier—this needs to be taken note of by the committee. This is in public reports, that the Chinese Government and the Chinese space program officials are studying the possibility of conducting a fly-by and lunar landing in the decade of the 2020s.

Now, that is published reports. In other words, they are going to be landing humans on the Moon. That should tell us something about our need to get off our duff and get our Human Landing System program going vigorously.

NASA can't do it alone. You all are our partners. And I have suggested earlier in conversation with the committee that a good place to start that is not only the 2022 budget but, also, you have the jobs bill coming along. And, in the bosom of your committee, we have made specific recommendations as to what is tied to jobs and infrastructure with regard to the Human Landing System.

Mr. CLINE. And you believe that the award to SpaceX is the best way to fulfill this endeavor and stay ahead of China?

Mr. NELSON. Well, that is done, only to be in a blackout period, because there is a protest of the bid. Around the first of August, we will find out what the GAO decides about the bid.

If the bid is overturned, if the protest is honored, then there will be a whole new competition and you go back to the start. If the bid is not overturned, then what has been awarded is just a one-time demonstration landing of humans and return them safely.

There are so many other landings that need to be competed. We want a vigorous competition, but we have to have the money in order to be able to do that. We have suggested ways in this jobs bill that you can do that.

Mr. CLINE. Well, I appreciate that, and I appreciate your commitment to staying ahead of China. It is critical that we do that, and we need to treat them as the adversary that they are. So I appreciate that.

I yield back, Mr. Chairman.

Mr. CARTWRIGHT. Thank you, Mr. Cline.

And, Mr. Administrator, we have many more landings to do, and, if I have anything to say about it, we will have many more hearings with you as our guest. We have really appreciated your candor, the wealth of your knowledge and experience, and we all look forward very much to working with you as our new NASA Administrator. Congratulations, and thank you for your testimony today.

With that, this hearing is hereby adjourned.

[Answers to submitted questions for the record follow:]

**The Honorable Matt Cartwright**  
**Subcommittee on Commerce, Justice, Science, and Related Agencies**  
**Questions for the Record**  
**FY 2022 Budget Request for NASA**

Artemis Program

1. Please describe how NASA has used Fiscal Year 2021 appropriated dollars for the Human Landing System program. How much has been obligated? Spent?

**Answer:** As of July 19, 2021, HLS has obligated \$424M and costed \$410M for the base period contract awards and program management. The remainder is planned to be obligated on milestone payments and program execution for Appendix H Option A and Appendix N.

2. If provided in full, how does NASA intend to use Fiscal Year 2022 funds for HLS? In particular, how much money will NASA put toward the HLS demonstration project (assuming the bid protest is not sustained) and how much money will NASA put to other purposes? How will these activities promote competition among companies that pursued the HLS demonstration award?

**Answer:** HLS estimates allocating 1.195B in FY 2022 as follows:

- \$819M for Option A HLS demonstration mission
- Up to \$150M for the BAA Appendix N Awards
- \$226M for NASA Execution and Provider Benefiting efforts, which includes the NASA team engineering, safety, human performance, and program personnel.

NASA selected one provider for Option A. It is important to continue progress with industry while the Option A demonstration mission effort also continues. The BAA Appendix N awards will enable companies to engage in lunar risk reduction efforts, mature lander designs, and development to enable viable competition for the future lunar exploration transportation services (LETS). The Appendix N work bridges progress gaps and ensures the U.S matures more than one concept ahead of LETS.

Aeronautics

3. Is the X-57 still on track for first test flight in FY 2022, and if so, what additional resources might be required to keep X-57 on track and what additional progress does NASA anticipate in electric flight research this year?

**Answer:** X-57 is continuing to make progress and is on track for first flight in FY 2022. This is a high priority milestone within NASA Aeronautics Research Mission Directorate (ARMD); as such, adequate budget has been allocated for this important work to bring the all-electric X-57 to flight. In addition to the X-57 effort, work is continuing to support formulation of the Electrified Powertrain Flight Demonstration (EPFD) project. Contract award(s) to industry partners will take place in fall 2021 and the associated preliminary design effort(s) will be conducted during FY 2022. Also, in FY 2022, the EPFD project will

conduct an Altitude Integration Test with an industry partner(s) at the NASA Electric Aircraft Testbed (NEAT) facility to further mature electric components on the path to flight.

#### International Space Station

4. I support the commercial crew program to help begin to build private capacity, and I think that is an important part of our space future. But it seems to be there's a big difference between being able to deliver crew and cargo compared to being the owner of a space station, and furthermore there may be other reasons why we want to have a NASA-owned space station in low-Earth orbit. Do you think that is the right framework with Russia potentially leaving the ISS partnership after 2024, and China beginning to put its own space station in orbit?

**Answer:** NASA is currently seeking industry input for future commercial destinations in low-Earth orbit (LEO) as the Agency continues to refine and update its broader strategy to enable a robust economy in LEO. Transition from the International Space Station (ISS) is planned to occur once commercial habitable destination(s) are available and have been proven to meet NASA's needs in LEO. An overlap with ISS and commercial destination(s) provides risk mitigation and orderly transition of services, avoiding a gap in U.S. capabilities in LEO. To maximize the full utilization of the ISS and ensure that transition in LEO, the ISS partners are assessing the technical capability to extend the ISS, with positive indications to date. Each of the ISS partners will need to discuss that potential extension with their respective stakeholders.

All of the ISS International Partners, including Russia, have indicated a desire to continue operating ISS through 2030. NASA is confident in the ability of U.S. industry to deploy Commercial LEO Destinations to facilitate a smooth transition from ISS onto a private space station to ensure a continuous U.S. presence in LEO and continued cooperation by our international partners with us in LEO.

#### Agency Management

5. Can you talk about your approach to risk management and how you're going to continue to manage the risk that is inherent in so many of these major missions? In addition, how do you intend to address some of the concerns that have previously been highlighted by the NASA Inspector General about NASA's management of major projects, such as underestimating technical complexity, and poor project management?

**Answer:** NASA has risk management procedural requirements in place (NPR 8000.4B) that include two complementary processes: Risk-Informed Decision Making and Continuous Risk Management. The purpose of integrating these two processes is to foster a proactive risk management discipline that informs better decision-making through use of risk information, as well as the development of mitigation planning. The implementation of NASA's risk management requirements is coherent across the Agency and ensures that both internal and external risks are considered. In addition, these activities are coordinated both horizontally and vertically, across and within programs, projects, and institutions, to ensure timely identification of cross-cutting risks, as well as balanced management of risks.

NASA is committed to continue to improve NASA's acquisition management discipline to ensure that our major missions are capably managed within their cost and schedule commitments. NASA is a good steward of the tax dollars entrusted to it, and we will work with our colleagues at GAO as we make the changes needed to ensure we have more accurate cost and schedule estimates for the important missions of tomorrow. GAO has recognized that NASA has made significant progress in their latest 2021 iteration of their High-Risk Report. This improvement was largely driven by NASA's Corrective Action Plan that was established in 2018, and then updated in 2020. NASA is in the process of implementing that plan, which will continue to drive improvements across the Agency. Specifically, GAO reported that NASA has improved in 2 of the 5 criteria areas (leadership commitment and monitoring) they consider as they determine NASA's future standing on their High-Risk Report. Further, GAO acknowledged that NASA has either "met," or "partially met," the standards for their remaining 3 criteria (action plan, capacity, and demonstrated progress). It is important to recognize that improvements implemented as part of these corrective actions will take several years for their impacts to manifest themselves in the quantitative performance data.

6. The average age of the NASA workforce is 48.2 years old, and 23% of NASA's employees are retirement eligible. There is something very special about NASA's mission, but as NASA sees increased competition for human capital from the private aerospace and satellite companies, what are your thoughts about how to continue to attract the best and brightest to the agency, and how will that be reflected in the forthcoming budget?

**Answer:** NASA has received the award for the best large agency to work in the federal government for the last eight years. Success is based on the people, and that is the primary business of the Office of the Chief Human Capital Officer (OCHCO). To continue taking care of NASA's people, OCHCO has embarked in a digital transformation journey focusing on enhancing employee experiences, creating an integrated, connected, and seamless talent management system all designed from employees, managers and leaders perspectives. The path toward modernization is reflected in the budget and is represented in the OCHCO HCIT Strategic Roadmap, a five-year timeline that supports strategic goals for delivering human capital services, data, and experiences.

OCHCO began modernizing the recruiting process by gaining stakeholder buy-in to coordinate among centers to strengthen the effectiveness of recruiting activities while improving the efficiency of these efforts. This included formally capturing center leaderships' requirements and benchmarking industry best practices. The result of this effort was a coordinated strategy using a standardized approach and leveraging more modern techniques and technologies for capturing the attention of prospective recruiting candidates. NASA created a data-driven employer value proposition to showcase what differentiates NASA from its competitors and drive consistent Agency messaging across all talent acquisition material. NASA was able to streamline and better target messaging to key candidate groups—including engineers, scientists, IT professionals and business professionals—to ensure a better candidate experience. This process included creating a new careers website and a robust LinkedIn presence to serve as the central hub to direct candidates for more information about a career at NASA.

Identifying candidates with promise and potential is a recruitment strategy NASA uses to ensure candidates have the skills that are needed to keep the Agency at the forefront of research and development in aeronautics and space. NASA does this through behavioral and targeted interviewing as well as through pre-employment assessments and cognitive aptitude tests. NASA's hiring processes also factor in what are typically referred to as "soft skills" such as critical thinking, project management, collaboration, and communication. Combining these skills with the requisite technical skills ensures the top talent is continually being hired.

OCHCO also began gathering enterprise-wide data to help DEI initiatives and to aid in hiring of hard-to-fill positions. The measures of success include monitoring NASA's employer brand awareness and measuring the reach of information about NASA's employment opportunities by tracking traditional web and social metrics (such as followers, comments, engagement, etc.). OCHCO also tracks candidate engagement and candidate behaviors and actions within the digital ecosystem such as how visitors spend their time on NASA's career page and how they eventually land on USA Jobs to apply for a live role. NASA gains insight into candidates using analytic tools available in LinkedIn to learn more about candidate demographics and competitor analysis, and is also able to measure return on investment and capture outcomes from targeted outreach campaigns. To date, by digitizing NASA's process and utilizing LinkedIn throughout its recruiting process NASA has seen an increase in candidate engagement from FY 2019 to FY 2021. There has been a 265 percent increase in job applicants, 4,121 LinkedIn InMails sent to potential candidates, and NASA has achieved over 5.3 million followers on LinkedIn.

The new digitized approach has been extensively utilized during the COVID pandemic.

NASA's workforce has clearly demonstrated its ability to deliver in the most tenuous circumstances. Leveraging technology is key to providing the tools and support that will attract and retain the best and brightest.

7. On the subject of recruiting and retaining the best and brightest, how will you enhance NASA's efforts to ensure that the agency's workforce more fully reflects the diversity of the American people?

**Answer:** Diversity is a business imperative and NASA is striving to reach new communities and highlight NASA's commitment and culture of diversity and inclusion. NASA is committed to making the Agency more accessible through messaging, especially to underrepresented applicants and ensure use of inclusive language and representative photos across recruitment material. NASA is also utilizing digital strategies, such as LinkedIn hiring campaigns, to target quality talent with a focus on candidates of diverse backgrounds. This tool has been used to target candidates from minority serving institutions and diversity organizations for the fall 2020 and spring 2021 Pathways recruitment cycle. Virtual career events have allowed candidates to interact with NASA employees from diverse backgrounds. Technical subject matter experts of diverse backgrounds have participated in all our virtual Pathways career events. NASA has also expanded its digital presence to reach new communities. NASA continues to partner with diversity organizations, such as the National Society of Black Engineers and the Society of

Women Engineers by participating in virtual conferences and reaching out to their members through our digital platforms.

As part of NASA's overall strategy to retain diverse talent, in addition to required or federally mandated training, NASA provides on-going development opportunities to its supervisory population. These include topical areas such as coaching skills, psychological safety, diversity, equity, and inclusionary workplace practices. OCHCO has developed an online supervisory toolkit that provides a listing of books, videos, and online courses in developing others, recognizing, and rewarding performance, supporting healthy teams, and building and maintaining relationships. OCHCO implemented a series of agencywide forums for supervisors during the pandemic, which is ongoing. The forum provides opportunities for growth, for peer discussion, and aims to ensure front-line supervisors are equipped with skills to navigate the challenges of helping employees achieve work-life balance, of having difficult conversations, and addressing issues and concerns that may lead to loss of critical talent.

**The Honorable Robert Aderholt**  
**Subcommittee on Commerce, Justice, Science, and Related Agencies**  
**Questions for the Record**  
**FY 2022 Budget Request for NASA**

**Human Landing System (HLS) Program**

1. Despite Congress having provided nearly \$1.5 billion for the HLS program, including NASA's distribution of \$967 million amongst the three Lander teams, NASA selected only one contractor to continue with development of the first commercial lunar lander. The Commercial Crew and Cargo programs began with two contractors to ensure redundancy, reduce risk, and promote long-term sustainability. Full funding was to be worked out over time, and it was. Why did NASA not follow that pattern for the HLS award?

**Answer:** The NASA HLS Option A source evaluation was conducted in strict accordance with the selection criteria defined in the HLS solicitation and the selection was determined to provide the best value for the government. The GAO's review confirmed this to be the case. In addition, the FY 2021 enacted appropriation for HLS was approximately \$2.5B (75 percent) below NASA's FY 2021 request, the year in which NASA made the selection decision for the Option A contractor(s).

2. Even with competition among contractors, ISS transportation costs have gone up, but will hopefully level out. What would be the motivation for only one provider to keep Human Landing Systems and lander services affordable?

**Answer:** Future lunar exploration transportation services are anticipated to be acquired through competitive selection. Thus, competition among bidders for the LETS acquisition is key. Having multiple serious bidders helps to put downward pressure on prices and incentivizes innovation. Once selections have been made, this acquisition approach has in the past and can in the future have a substantial impact on motivating contractors and controlling costs. Potential tools for LETS include the use of fixed-price contracts, milestone-based performance incentives (payment is withheld unless milestones are met), and price caps. It is important to remember that the Option A award only includes one crewed landing, whereas the LETS acquisition vehicle will include the second and many future landings. Preserving competition throughout the duration of the Artemis campaign is a top priority for NASA and can be achieved by executing the agency's current strategy.

3. Both FAR contracted projects and commercial projects have suffered long delays in the development process. How will NASA hold the contractor to a schedule that meets the goals of the Artemis program?

**Answer:** The HLS Option A contract will be executed based on payment milestones. As such, the contractor will be paid based on its progress towards completion of the demonstration. NASA makes payments for approved data delivered via milestones and withholds payment when milestones were/are not met keeping the contractor on schedule.

4. Was NASA's source selection process consistent across the three offerors?

**Answer:** Yes

5. Does the lowest-cost HLS proposal result in increased cost to other non-HLS components in the Artemis mission architecture, and if so, by how much?

**Answer:** No, the lowest-cost HLS proposal meets NASA's requirements as documented in the solicitation.

6. Is NASA going to use the advice conveyed at the NASA Aerospace Safety and Advisory Panel earlier this month to ensure the safety of the lander?

**Answer:** Yes, HLS plans to continue competition with the release and award of Appendix N risk reduction activities in advance of the Services acquisition. HLS plan to make Appendix N awards to more than one company in anticipation of having more than one option for this critical and challenging aspect of lunar exploration.

7. How do you square your safety goals with comments by the one, selected provider that "a bunch of people will probably die in the beginning," with reference to travel to Mars?

**Answer:** NASA works closely with independent safety and technical authorities, and the astronaut corps for the safety of the crew and success of the mission. HLS has specific NASA technical authority team members who focus on safety, crew health and performance and technical standards, and the HLS contract provides for NASA certification of the HLS, ensuring designs meet NASA's requirements for a system to have a human rating certification.

8. I am told that, under the current BAA, all three Lander teams are eligible to receive funding through the end of August. To ensure competition, control prices, and protect domestic supply chains, I believe NASA should fund all three Lander teams through the fall to allow additional time for Lander development and maturation. What amount of FY 2021 HLS funds have been obligated, as opposed to simply committed, and what amount of FY 2021 funds are you willing to spend to support the three teams?

**Answer:** NASA has released a Sustainable HLS Study and Risk Reduction solicitation (NextSTEP-2 Appendix N) and plans to award multiple contracts using both FY 2021 and FY 2022 funds. Up to \$30M has been allocated in FY 2021 and NASA anticipates making awards in the Fall of 2021. The initial value of each contract may be up to \$45M.

9. As NASA looks to establish a long-term human presence at the Moon, what role will NASA-owned deep space exploration systems, like the Space Launch System, play in this framework, in addition to using the SLS to transport Orion?

**Answer:** The SLS and Orion are cornerstones to a comprehensive framework involving key partnerships and industry participation, with multiple providers, domestic and international,

at the gateway and the lunar surface, and building on the continuing human spaceflight knowledge and partnerships formed our international space station.

10. Did anyone from the Executive Office of the President direct NASA to delay making the HLS award selection until after your arrival as the confirmed NASA Administrator?

**Answer:** No.

### **SLS Block 1B Development**

11. In FY 2021, Congress provided \$400 million for Space Launch System Block 1B development – including work on the Exploration Upper Stage (EUS) and associated capabilities – to support a mission available to launch in 2025. As you well know, the Block 1B will have the largest fairing in the world with unrivaled power to deliver crew and payloads to the Moon and eventually Mars.

**Answer:** Yes, the FY 2021 appropriation provided not less than \$400M for SLS Block 1B development including the Exploration Upper Stage.

12. Does the FY 2022 request include funding for Block 1B development and relevant ground infrastructure which are equal to Budget Program Estimates needed for a launch in the fourth quarter of 2025?

**Answer:** Yes, the FY 2022 request includes \$479M in support of block 1B development consistent with NASA's planned manifest, which includes a SLS Block 1B launch in the fourth quarter of 2025.

13. NASA has allowed commercial launch companies considerable flexibility as they participate in contracts for NASA, but I am concerned that we are not allowing the same flexibilities for SLS contractors. I understand that a review of SLS is part of the Artemis review. Will the Artemis review include input from SLS contractors regarding how NASA requirements contribute to increased labor hours for specific tasks, to help evaluate how curtailing certain requirements could significantly reduce labor costs, thereby reducing the cost of the rocket?

**Answer:** Yes, NASA is actively engaging our contractor partners for SLS, Orion, and EGS to identify and implement a more efficient government to contractor interface, as part our transition from development to production, and to directly address opportunities to reduce costs, and provide greater accountability for the providers.

14. Can you discuss the importance of the Block 1B to our Nation's space program, how NASA plans to meet the launch goals outlined by Congress, and how many cargo-only SLS launch missions are on your official manifest between now and 2030?

**Answer:** The SLS is a national asset. The crewed deep space missions are the primary objective of these capabilities and are the cornerstone to our human deep space activities. The Artemis program will be using all available SLS launches to support the nation's return to the Moon for at least the next several years. NASA will also continue to evaluate opportuneness to use this asset, on a cost reimbursable basis, as a service to other

government and non-government entities where use of this assets is consistent with national policy and needs.

15. Please provide a list of proposed SLS cargo-only missions as soon as possible.

**Answer:** NASA will provide information on cargo missions as appropriate needs are identified.

16. Now that the Exploration Upper Stage successfully moved past the Critical Design Review, has NASA provided funding for contractors to work on the fourth SLS core stage? If not, why? Will this impact a launch readiness date?

**Answer:** See response to Question 17 below

17. Can you provide an update on the current status of SLS contract negotiations and actions that have taken place since NASA issued the letter contract in October 2019? What is covered under the long-term production contract and how soon could funds be spent to begin cores number 5 and 6?

**Answer:** NASA is definitizing the core stages production contract for the next set of hardware (production and long lead) consistent with the bona fide need dates for Artemis IV and subsequent builds. The current negotiation covers Artemis III and IV and long lead for V and VI.

18. For any human activity in Earth orbit or beyond, access to space is one requirement that is not negotiable. Furthermore, human space exploration often requires a great deal of infrastructure for humans to be able to survive and work in the harsh environment found in space and on other worlds such as the Moon or Mars. This infrastructure can be heavy, and needs launch vehicles with very robust heavy-lift launch capability. There are some people in government who think NASA's heavy-lift access to space should solely be purchased from for-profit industry as if it were a commodity – but, there is no commercial market for a heavy-lift launch capability comparable to that required by NASA for human space exploration. Plans which assume that large payloads can always be designed as small pieces and then assembled in space add a high measure of risk, even uncertainty, as well as likely costs and delays. Relying too much on industry for assured access to space could also cause capabilities within the government to atrophy. For-profit companies can exit a market for reasons of their choosing, or for reasons beyond their control. We would never, for example, procure aircraft carriers via the methodology described above, with the hope that one day there would be a market for aircraft carriers. As you have so ably made the case, the U.S. space program is competing with China, a nation that is demonstrably strengthening its government space program. Can you provide your perspective as NASA Administrator on the appropriate role of U.S. government *ownership* in assuring the availability of the heavy-lift launch capability needed for a robust U.S. human space exploration program?

**Answer:** The cycle of investment, development, exploration, and achievement in the American space program over the past 60 years has led to the burgeoning space industry we see today in both the public and the private sectors.

Government investment in building the infrastructure to get to the Moon, and to live and work at the Moon, can enable new business opportunities and remove obstacles for companies in the future.

As a national investment, America's space program can tackle the challenging missions that are too risky for the private sector or do not currently offer a strong business case for profit. This investment paves the way for future business opportunities by advancing technology and fostering the potential for a market farther into space.

U.S. investment in flexible infrastructure that can incorporate new technologies as they come online is essential to maximize options for a sustained American presence at the Moon and ensure U.S. leadership that will persist for decades.

The foundation for our return to the Moon is NASA's deep space transportation system and the SLS and Orion are critical elements to achieve that goal. Human exploration under the Artemis program will begin with the crewed flight test of SLS and Orion on Artemis II in 2023. Artemis missions will leverage the massive capacity on the SLS rocket to carry CubeSats to deep space and deploy them to conduct science and technology research. These "hitchhiker" payloads are provided by NASA, U.S. companies, academic institutions, and international partners. Five of them will return important data about the lunar environment to inform future Artemis missions.

SLS will deliver crew onboard Orion and co-manifested payloads to build up the Gateway on which they will be able to conduct research and transit to the lunar surface. The incremental build-up of capabilities on and around the Moon is made possible by the power of the SLS rocket and is essential to keeping the United States in the forefront of space exploration. NASA plans to continue this buildup as quickly and affordably as possible.

#### **Marshall Headquarters Building / NASA Infrastructure**

19. NASA recently discovered serious exterior structural issues and safety risks with Marshall Space Flight Center's headquarters building. Because of these concerns, building 4200 needs to be decommissioned nearly a decade earlier than NASA and the Center anticipated. Why has NASA decided to replace rather than simply repair the building, given its historical significance, and has NASA outlined a budget for all the work that needs to be done at Marshall to replace the headquarters building?

**Answer:** MSFC HQ Building 4200 demolition was accelerated from ~FY 2029 to FY 2021. Deterioration of exterior structure was rapid, significant, and unsafe for personnel. The cost to repair the exterior structure and the numerous safety deficiencies within the building were cost prohibitive, resulting in MSFC leadership recommending the demolition of Building 4200. A direct replacement facility for Building 4200 is not required. MSFC plans to offset the loss of administrative space through the utilization of other facilities and blended telework. Building 4221 will house the Center's leadership and serve as MSFC's Headquarters facility. Some building support service spaces, such as an auditorium and training space, are being planned for incorporation into the planned Exploration and Mission Operations Building (EMOB).

MSFC Building 4200 is eligible for the National Register of Historic Places. MSFC has previously prepared historic recordation documentation, which resides in the Library of Congress. The National Historic Preservation Act Section 106 package, which details MSFC's considerations for the effects of the facility, has been submitted to the Alabama State Historic Preservation Office for review and concurrence. The Section 106 package concludes that, even though NASA planned actions are an adverse impact, demolition is the most rational plan.

20. How much will the demolition cost Marshall?

**Answer:** Demolition is executed under the Construction and Environmental Compliance and Restoration (CECR) appropriation. The Agency allocated \$9.0 million of FY 2021 CECR funding to MSFC to complete demolition of Building 4200.

21. Dispersing employees in small groups amongst other buildings does not maintain capabilities well, so how will FY 2021 Construction of Facilities funding be used to ensure that there is not a gap in productivity, as well as funding in the FY 2022 request?

**Answer:** Currently, most NASA employees, including those that were assigned to Building 4200, are in a mandatory telework status due to the COVID pandemic. MSFC is currently preparing other facilities for employees who are in a mission-essential work status. Post-pandemic plans include a combination of moving employees to different buildings, hoteling spaces, and telework. MSFC intends to keep functional teams intact to ensure that all required capabilities are maintained. MSFC is currently renovating space within other buildings to smartly accommodate employees from B4200 when they return to work on-site.

The deactivation of MSFC Building 4200 did not result in a change to the current CECR Construction of Facilities budgets. The FY 2021 Demolition plan was changed to accommodate the demolition of Building 4200, with other planned demolition projects deferred from FY 2021 to other years. As stated in response to Question 19, a direct replacement facility for MSFC Building 4200 is not required. The planned EMOD will be included in future CECR requests when ready, and balanced against other MSFC priorities as well as the overall Agency priorities. The FY 2022 CECR request was not adversely impacted by Building 4200 deactivation.

22. Can you work with my staff to provide a five-year budget outlook for how NASA intends to address not only Marshall's maintenance backlog, but also backlogs across the Agency?

**Answer:** NASA's Safety, Security and Mission Services (SSMS) funding directly supports the technical capabilities, workforce, and facilities that enable NASA to meet its mission requirements, along with the independent technical authority required to reduce risk to life and program objectives for all NASA missions. While SSMS is used by the Agency to sustain its infrastructure, Construction and Environmental Compliance and Restoration (CECR) funding provides for the design and construction of facilities projects, facility demolition projects, and environmental compliance and restoration activities.

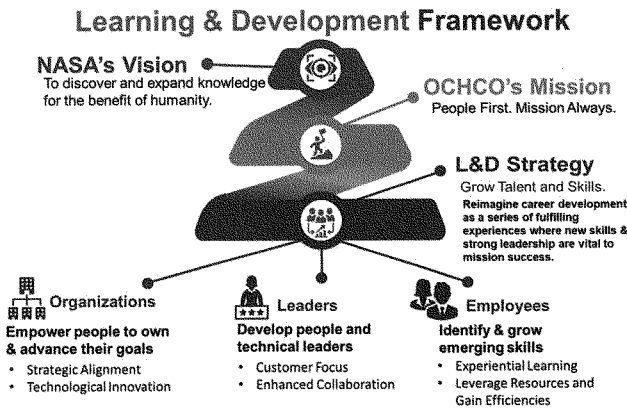
NASA must have the enabling technical and professional expertise and facilities necessary to efficiently and effectively support its programs. NASA infrastructure funding is critical to

address the significant risk to mission posed by aging facilities and an increasing maintenance backlog, by enabling infrastructure renewal and divestment of unneeded, costly facilities. The Agency administers an inventory of over 5,000 buildings and structures, with an asset value over \$39 billion. The majority of NASA's physical assets date back to the Apollo era, with approximately 83 percent of facilities beyond their design life. Over time, this has led to a total of over \$2.6 billion in NASA deferred maintenance.

23. I'm interested in NASA's strategy for keeping the technical skills of its workforce sharp. It's important that our NASA field centers not lose the in-house technical capability that ensures that NASA can implement effective government oversight on space programs whose execution is critical to our national interests, or that we don't abdicate U.S. leadership to our international partners (or our international competitors) in key technical disciplines that are foundational for our future national and economic security. How do you plan to ensure that the technical skills at NASA's field centers in general, *and at the Marshall Space Flight Center in particular*, remain sharp and at the cutting-edge of critical technologies that are needed to effectively execute future agency assignments when called upon? Is NASA sufficiently investing in maintaining the technical excellence of its workforce at the Centers? If NASA were provided with more funding for maintaining its core technical capabilities, how could NASA better maintain and even strengthen the technical skills of its workforce at the Field Centers?

**Answer:**

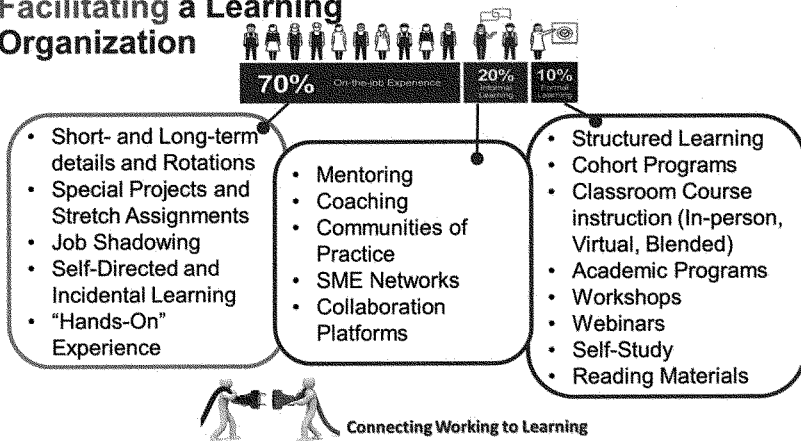
NASA's Learning and Development Strategy is aligned to the Agency's mission and talent strategy: **plan** workforce to mission, **acquire** top talent quickly, **enhance** how people work, and **grow** employees and leaders.



NASA's Office of Chief Human Capital Officer (OCHCO) operates as an enterprise function, which provides structure for learning and development activities, including enabling technical training in partnership with agency and center leadership. Part of the transformation to an enterprise function included centralizing a portion of the training budget to best leverage available resources, e.g., Agency programs with emphasis on leadership and supervisory development and increased collaboration with all training communities across NASA.

Central to learning and development strategy is connecting working to learning; NASA will be more intentional about enabling developmental experiences outside the traditional classroom. Technical expertise is often best sustained and enhanced through hands-on detail assignments. Such opportunities help address the concern raised that NASA must maintain world-class technical expertise. NASA's implementation of a new Talent Marketplace tool has made announcing opportunities easy and consistent across all field Centers, as well as provides all employees insight and accessibility into opportunities that align with mission, developmental, and career needs.

### Facilitating a Learning Organization



All NASA Centers operate within this Agency framework, but also maintain local efforts and are afforded a budget for targeting Center-based development, including core technical competency development. Centers have training needs assessment processes locally that allow for strategic training planning and execution of center-specific priorities. During this fiscal year, we are transitioning to an Agencywide needs assessment to supplement local processes in identifying training that best meets development needs, both technical and non-technical. This aggregate data will be used to forecast common courses and development needs that could potentially be procured in bulk, allowing for reduced transaction cost and group discounts.

At the Marshall Space Flight Center (MSFC) specifically, the Center Director, along with a cadre of leaders, are responsible and accountable for establishing and maintaining capabilities required to support programs and projects critical to accomplishing NASA's

mission critical objectives. MSFC has consistently invested in programs and practices that ensure we are global competitors in the space race. From establishing certification programs and personnel management and advisory councils, to engaging technical authorities and fostering academic studies, MSFC proactively seeks to prepare for future agency assignments. MSFC's local training team works in partnership with technical organizations to ensure training dollars are used to support priority developmental activities, while also leveraging agency resources for the benefit of the center.

The MSFC team works collaboratively with commercial partners to remain sharp and at the cutting-edge of critical technologies. In addition, workforce readiness assessments ensure continuity for critical positions, with emphasis on developing a deep bench strength of both technical and leadership competencies. This data is shared with senior managers, along with tips and tools to enhance career conversations and better enable intentional employee development.

As a matter of practice, sustainability comes through funding innovation and supporting risk leadership to ensure that NASA is on the forefront of discoveries that also advances the economy. Efforts to develop technical excellence are broad, e.g., sponsoring promotions like IdeaCentral, a campaign that awards technology and innovation transfer, investing in learning and development through conventional and virtual scenarios, challenging assumptions, building a cove of talent that takes advantage of learning assignments that challenge their own capabilities. These opportunities are within the NASA framework.

MSFC's commitment to strategic workforce management includes both short- and long-term planning, and employee development is a key component of action planning. A significant percentage of MSFC's workforce is eligible for retirement. Programs to ensure critical knowledge is passed on and shared are a must, e.g., the Emeritus Program uses retired MSFC employees to enhance mentoring and to maintain competencies and skills that may otherwise be diminished. MSFC has a very robust workforce review process to ensure adequate technical resources are applied to satisfy technical program requirements and objectives, as well as to address risks, which enforces a "checks and balances process" to always maintain the critical competencies and skills necessary to execute mission requirements.

To provide continuous engagement, MSFC sponsors mentoring events focused on providing networking and professional and career development opportunities for center employees. The half-day events, which feature MSFC leaders and mentoring program advocates, are designed to build, sustain, and evolve a culture of workforce readiness and development by facilitating meaningful discussions on cutting edge topics critical to NASA's mission success.

### **Nuclear Thermal Propulsion (NTP)**

24. Nuclear Thermal Propulsion will be critical as we push the bounds of human exploration beyond the Moon to Mars and other distant planets. A 2021 National Academies of Sciences report reiterated this, noting that, "NTP systems show great potential to facilitate human exploration of Mars." Does the \$325 million increase for Space Technology included in the FY 2022 request support further development and testing of Nuclear Thermal Propulsion systems, and if so how?

**Answer:** While the NASA FY 2022 budget request prioritizes near-term key capabilities for lunar surface mission needs over Mars long-term technology investment such as nuclear propulsion, the budget request includes cryogenic fluid management technologies, which are critical for enabling nuclear propulsion, as well as effective and efficient storage, transfer, and utilization of cryogenic propellants and reactants in-space in support of other stakeholders (e.g., Department of Defense, U.S. Space Force, Defense Advanced Research Projects Agency, and commercial entities). The FY 2022 budget request also supports funding for Fission Surface Power, which shares requirements with Nuclear Propulsion, including commonalities in the reactor design, materials, and power conversion subsystems. Additionally, NASA continues to develop inter-agency roadmaps for nuclear power and propulsion (electric and thermal) to identify potential synergies and future collaborations and will invest in those overlapping technologies where appropriate. Using FY 2021 funding, NASA is investing in industry designs for advanced high temperature fission reactors for nuclear thermal propulsion through the selection of three 12-month reactor design efforts that will extend through FY 2022. NASA will also continue with reactor technology investments that focus on extreme temperature fuels, fuel manufacturing processes, and neutron moderator materials that are needed to enable a low enriched uranium reactor. These targeted investments are aligned with the needs identified by the Academy study.

25. The report on Space Nuclear Propulsion also states: “An aggressive program could develop an NTP system capable of executing the baseline mission in 2039.” While National Labs contribute to this work, I think the majority of funds should be provided to industry to challenge them to carry out a flight demonstration within ten years. What are your thoughts?

**Answer:** NASA strongly supports the need for, and value of, industry engagement to support nuclear technology development. NASA recognizes that industry’s expertise in these investment areas offer advantages in terms of innovative solutions and approaches for fission power and propulsion systems design and operation. As such NASA has selected 3 companies from the industry to conduct 12-month reactor design efforts. NASA plans to maintain high levels of industry participation as technology risk reduction efforts mature, and expects industry investments will increase to support the technology and design evolutions needed to realize a mission meaningful flight demonstration.

#### **NASA’s Mission Support Future Architecture (“MAP”) Program**

26. Senator Nelson, NASA’s Mission Support Future Architecture Program was intended to transform the Agency’s mission support services to an enterprise operating model to centralize cross-agency services to avoid duplicative efforts and costs. What savings has NASA accrued since implementing the MAP program? How has Headquarters used those savings?

**Answer:** In an effort to continuously improve operations and serve our Missions most effectively, NASA has instituted several transformation efforts. MAP began in 2017 as a follow-on to the Business Services Assessment. By organizing common mission support functions at the Agency level instead of at each individual Center, NASA has been able to reduce duplication, eliminate inconsistent policy and processes, consolidate contracts, and improve technology and access to data and information. For example, instead of continuing

to support the numerous systems for human capital, financial management, or infrastructure management, NASA has an opportunity to retire legacy systems and move to singular enterprise systems and platforms, which drives down costs, and increases ubiquitous access to data and information. The Mission Support organizations are also serving the enterprise by utilizing NASA employees across all NASA locations, which provides expanded opportunities for employees and enables NASA to reach top talent in new ways. NASA's Mission Support Directorate has also instituted a risk management program to review, assess and manage risk at the Portfolio level and make determinations about where investments are most needed.

Early success associated with enterprise management include:

- Consolidated Contracts: Reducing the number of contracts for similar/like services reduced cost to award and administer contracts, from 163 contracts for Engineering to 120 contracts, and from 7 Acquisition Support Services contracts to 1. During these efforts, NASA has maintained an A grade on the SBA scorecard and most recent data indicate an increase in dollars obligated to small business in FY 2020.
- Enterprise Contract Strategy and Savings: NASA's Office of Procurement has developed 126 Product Service Lines (PSLs) and has implemented a multi-year strategy that will provide enterprise solutions in each PSL rather than Center unique contracts. As an example, NASA has implemented a new Agency-wide Acquisition Support Services contract utilizing a performance-based acquisition strategy that netted five-year savings of \$7.9M in comparison to the predecessor contract.
- NASA developed its first ever Agency Master Plan for Infrastructure that will prioritize maintenance, revitalization, and new construction projects according to Agency and Mission needs and priorities.
- Successfully centralized staffing and classification services at the NSSC. By shifting these transactional services to a central service provider, economies of scale have been realized by reducing the number of staff involved in this activity, implementation of standard procedures/practices, and improved tracking of time-to-hire metrics.
- Launched an Enterprise Automation Service deploying more than 75 automations replacing manual, repetitive data entry, or low value processes. NASA has already saved ~ \$5M over 3 years through redirected labor hours.
- Elimination of Inconsistent Policy and Standardizing Policy in the Enterprise Organizations. Two examples: standardized procurement policy to reduce stand-alone procurement process templates in use at Centers from 48 to 4, increasing efficiency and promoting consistent procurement experience. The Office of Protective Services is eliminating, revising, or consolidating over 127 Directives that were in use across the ten NASA Centers.

27. My understanding is that this was not a simple process like buying paper clips for everyone through one Center rather than each Center buying paper clips. Rather, the MAP program impacted how Centers develop and formulate budget proposals for the future. How much did the transition to the MAP program cost each of the NASA Centers and what impact has it had on their operating budgets?

**Answer:** NASA's transformation to enterprise services takes time and money to reduce or eliminate duplicative systems, contracts, inconsistent policy, and processes across all 13 functional areas.

The implementation of the NASA Mission Support Transformation (MAP) program has realigned budget, people, and responsibility for delivery of Mission Support services to NASA's 13 support organizations. The Mission Support organizations serve the Centers, the Mission Directorates, and the Agency with an improved operating model to eliminate unnecessary duplication, inconsistency, and costs in systems, processes, policy, contracts, and services. Over time, we expect to see more cost avoidance and savings by further reducing and eliminating duplicative capabilities and moving more transactional services to the NASA Shared Services Center. This will allow NASA to increase investments in our workforce, modern and secure IT, and our facilities.

Planned savings were offset by the impact of the \$73M reduction from the FY 2021 SSMS request, and Center operating budgets were directly impacted. Mission Support organizations were required to make reductions across the Centers and Centers had direct funding reductions with associated cuts to activities. Without MAP transformation, the Centers would have likely had deeper service reductions.

28. Does the FY22 request include *increased* funding for Safety, Security, and Mission Services and how does that compare to known operating costs at NASA Centers?

**Answer:** Yes, NASA's FY 2022 SSMS budget request includes a \$113M increase above the FY 2021 Enacted level across all NASA Centers. This increase will cover the Centers' labor costs, including the 2.7% proposed pay raise, as well as increases to high priority IT needs to address cybersecurity concerns, orbital debris activities, diversity, equity, and inclusion (DEI), and zero emission vehicles. The Centers will also benefit from the aforementioned directed/high priority content and budget.

#### **Artemis Internal Review**

29. It is my understanding that the Administration has initiated an internal review of the Artemis program to evaluate the current program budget and timeline, and develop high level plans that include content, schedule, and budgets for the program. When does NASA plan to finish the internal review? Does the Agency intend to share its findings with Congress, specifically this Committee?

**Answer:** NASA is currently reviewing the overall Artemis timeline based on appropriations and expected budget, and potential implications of the HLS protest. We hope to provide the Committee with an updated Artemis timeline later this year, with the resolution of the protest.

30. Is NASA soliciting input from both NASA staff and key program contractors?

**Answer:** Yes, NASA is considering input from Human Exploration and Operations Mission Directorate, which includes data provided by contractors. Due to the GAO protest, NASA was unable during the review to have discussions with the HLS provider.

31. SLS and Orion include hundreds of companies from all over the nation. How does NASA's Human Landing System decision support small contractors and minority-owned businesses?

**Answer:** The Appendix H BAA Option A contract includes aggressive small business goals, including minority owned businesses, that the provider will have to achieve. NASA expects that the LETS contract for future landing services will include similar goals.

32. Will the findings impact the FY22 request levels for NASA's deep space exploration systems, including the SLS and EUS?

**Answer:** While we do not anticipate changes to the FY 2022 request levels at this time, any deltas from the FY 2022 President's Budget Request and/or final FY 2022 Appropriations, will be detailed in the Initial Operating Plan and/or the FY 2023 President's Budget Request.

33. SLS has been used several times as an account from which to borrow funds temporarily. Given the fact that the budget request for many years has not supported what are widely believed to be necessary costs, it is impossible for this not to have a negative impact on schedule. Can I have your assurance that NASA will stop using SLS as a bank?

**Answer:** The Agency continues to judiciously support SLS program requirements consistent with appropriations language. Since 2018, transfers out of the SLS program have been in support of SLS program objectives in support of SLS facility construction and VAB High Bay 3 platforms construction at KSC. Those platforms are required to support processing of the Block 1B Core Stage support of Artemis IV and follow on missions.

#### **Crisis at the Border – NASA Employees**

34. News reports last month indicated that NASA was seeking staff to volunteer at the southern border to assist with the ongoing crisis. For up to four months, staff would be assisting HHS with processing the thousands of alien children who have entered the U.S. without a parent. According to the OIG, the "COVID-19 pandemic has resulted in disruptions to staff availability, materials and supply chain, and program and project timetables that have delayed launch readiness dates and other operational activities." I recognize the Administration is dealing with a major humanitarian, security, and public health crisis at our southern border, but how can NASA justify this costly staffing decision when critical NASA missions, like the Artemis Program, are still reeling from the setbacks due COVID-19 Center and facility closures?

**Answer:** Upon receipt of the March 2021 request for assistance from HHS, NASA senior leadership discussed the request and its potential impact to NASA. Determining there would be minimal negative impact to NASA's mission, and that the details would be fully reimbursed, senior leadership requested several NASA offices to work together to develop a plan that would allow for NASA employees to volunteer for the program for a period of up to 120 days. All NASA volunteers were required to have supervisory approval in order to

participate in the program. Supervisors were required to ensure that NASA's mission needs would not be impacted by employees who volunteered. 78 NASA employees from across the Agency had indicated their willingness to volunteer for the HHS program—73 of those eventually received supervisor approval. Of those 73, 10 employees had started their details, with an additional 12 employees selected for detail. However, on May 24, HHS notified NASA that it was pausing future detail assignment, which meant that the 12 pending detailees would not be needed. The 10 on deployment had their details curtailed and returned home.

35. How many staff have been approved to leave their posts? Are supervisors weighing whether the scientific or technical expertise some of these staff provide can be sacrificed during their volunteer period?

**Answer:** At peak deployment, NASA had 10 employees on detail supporting HHS. In May, HHS notified NASA that it was pausing future detail assignments. NASA currently has one detailee that remains deployed in support of HHS, scheduled to return on September 29, 2021.

NASA volunteers were required to have supervisory approval in order to participate in the program. In reviewing volunteer requests, supervisors were required to ensure that NASA's mission needs would not be impacted by employees who volunteered.

36. Will NASA be reimbursed for this staff time given the OIG estimates that COVID-19 has cost NASA nearly \$3 billion in delays and challenges across NASA?

**Answer:** Yes, HHS will bear all costs of the detail effort, to include paying for the NASA salaries of detailees and their expenses to include travel, lodging and per diem costs. To date, all costs incurred in support of this effort have been charged directly to the reimbursable account established in the Interagency Agreement with HHS.

37. Given CDC guidance and plummeting virus transmission rates in much of the country, I am dismayed that Federal work sites, including Marshall Space Flight Center, remain at level 2, or roughly 25% occupancy. The private sector, and the Chinese government space program, are working at capacity. Can you discuss this with others in the Administration so that we can get everyone back to work on all of the NASA programs?

**Answer:** The 25% occupancy is for those employees whose work requires them to be onsite. Those who are full time telework are those whose work can be fully completed offsite. NASA, along with other Federal agencies has submitted a proposed plan to OMB to reduce COVID-induced on-site capacity restrictions at NASA facilities in a safe and methodical manner. We are nearing completion of our coordination with OMB and engaging with our labor representatives. Concurrence from labor is required before implementing reduced capacity restrictions. NASA is proceeding with all due haste to reduce the restrictions for onsite work, while maintaining our focus on the health and safety of the workforce and the mission in light of increasing case counts in many locations.

## Competition and Tracking of Costs

38. Accurate tracking of costs impacts everything from the HLS recent award to competition across the Agency for new projects. I think we need much better tracking. I have a July 2015 NASA handout to staff which notes that Commercial Crew will be developed for less than \$5 billion dollars and that flights to the ISS will be \$58 million a seat. I believe we are a bit above \$8 billion in development costs, and close to \$70 million a seat? The original proposal by the provider was \$20 million a seat. That is just one example of the difficulty of cost control in the commercial sector. The HLS decision was heavily based on the assumption that half or more of the cost would be covered by the contractor, thus creating the low bid for government funds. How do you plan to track that, to confirm that non-government money is being provided by the contractor, and is your plan to terminate the contract if government costs exceed \$2.9 billion?

**Answer:** The Appendix H Option A award is a firm fixed price contract with performance and pricing incentive payments. Control of the contractor performance is done by authorizing milestone payments when required milestones are met and withholding payments when they are not met.

39. As you are aware, NASA recently agreed to pay \$331.8 million for the Falcon Heavy (\$90 million is the price for the Falcon Heavy, on the SpaceX web site, as of the date of this hearing) to launch elements of the Gateway. The U.S. Air Force is also paying over \$318 million for the same rocket to fly a mission in the “Phase 2” contract. We are now 10 years into the experiment of commercial space, and the government has paid over half the costs of development, including approximately 90% of Commercial Crew development. So my question is when can the government stop paying three times the web site price of commercial rockets?

**Answer:** The prices NASA pays for commercial launch services through its Launch Services Program (LSP) contracts are inclusive of not only the price paid to the launch provider but also costs for communications and telemetry, engineering services, and payload processing, all in support of the specific mission. Further, the fixed price of the launch service is always a product of the specific mission requirements that are levied on the provider. For instance, a Falcon Heavy recently awarded for the Psyche mission was priced at a full mission budget of approximately \$117M, indicating the wide array of prices that the commercial market can elicit based on requirements and competitive forces. The price paid for the HALO/PPE launch service is indicative of a more costly set of requirements to meet that mission’s specific needs.

Regarding the prices NASA pays for commercial launch services through the Commercial Crew Program (CCP) contracts, NASA is not aware of any web site prices for commercial human space transportation services.

40. NASA and the Air Force could benefit from more closely tracking the development funds each agency invests in commercial launches. In fact, when one agency ignores the funds invested in a company by the other agency, I think the criteria for making awards through competition gets skewed. Do you have any thoughts on this, and can you speak with General

Raymond to establish a way to track investments and make that information publicly available?

**Answer:** NASA Launch Services Program (LSP)/National Reconnaissance Office (NRO) Office of Space Launch (OSL)/U.S. Space Force (USSF) Space and Missile Systems Center (SMC) have several collaborative forums in which all three agencies share information (to include acquisition strategy) on a regular basis. The Current Launch Service Review Board (CLSRB), Government Launch Executive Board (GLEB), Launch Collaboration Steering Group (LCSG), Chief Engineers Forum and Government Small Provider Team meeting are examples of establish meetings for the three agencies to share information at various personnel levels (from Senior Executives down to working level). Additionally, NASA LSP has participated in the Phase 2 Contract award and other pre-Acquisition planning for USSF/OSL; and likewise, NASA LSP has invited USSF/OSL personnel to participate in several NASA Launch Service Task Order awards.

NASA LSP does not make development investments in Commercial Launch Service Providers; instead, any new development that a commercial provider must make to meet the spacecraft requirements is included in their firm fixed price for the commercial service. Through these previously mentioned forums, NASA and USSF/NRO do discuss their upcoming mission requirements that could drive new development to ensure that the Government is not paying twice for common development efforts across the launch enterprise.

41. How many major launch mission awards has NASA made since the first week of February 2020, how many of those went to one company, and how many awards were sole-source awards? In the case of GLS, this is supposedly not a sole-source award, but as far as I know only company has an actual contract.

**Answer:** 2020 and 2021 launch awards, none of which is sole source, are as follows:

- GOES-T (ULA)
- Capstone (Rocket Lab)
- PSYCHE (SpaceX)
- SPHEREX (SpaceX)
- TROPICS (Astra)
- IMAP (SpaceX)
- VCLS Demo 2 (Astra, Relativity, Firefly Black)
- HALO+PPE (SpaceX)
- GLS (SpaceX) – multiple award IDIQ with further on-ramp possibilities as Gateway resupply requirements mature
- Europa Clipper (SpaceX)
- GOES-U (still in competitive blackout; award anticipated in 2021)

42. If the Agency drifts towards awarding one company a large majority of awards, I don't see how we are nurturing competition. I am especially interested in why flights to the ISS have not gone down in price in the era of reusability. That was the sales pitch to the government when the government was making investments in commercial space ten years ago. What can you do to accelerate the use of diverse capabilities such as the Dream Chaser, and to otherwise work internally to produce more variety in the awarding of launch missions?

**Answer:** NASA's investment in commercial space transportation has resulted in a return of commercial launch capability to the United States, from 0 percent of the global market in 2011 to more than 50 percent today. While there was not a large reduction in cost from the Commercial Resupply Services-1 contract to the CRS-2 procurement, we are seeing some reduction in new mission prices, and there was a large increase in the capability of the CRS-2 vehicles, resulting in an increased value to NASA's mission on the ISS. NASA continues to work with the Sierra Nevada Corporation to fly Dream Chaser, with its important pressurized and unpressurized upmass capability and fast land-landing science return capabilities, to the ISS.

**The Honorable Grace Meng**  
**Subcommittee on Commerce, Justice, Science, and Related Agencies**  
**Questions for the Record**  
**FY 2022 Budget Request for NASA**

The last administration tried to close NASA's Office of STEM Engagement, which Congress denied.

It is refreshing to see that President Biden's skinny budget includes a \$20 million increase for this office that is critical to engaging the next generation of scientists and engineers.

Last year, NASA's STEM Engagement Council developed a strategy for STEM engagement within NASA's strategic plan.

1. Can you describe what steps NASA plans on taking over the next few years to strengthen the opportunities for diverse students to engage in STEM education and the work of NASA?

**Answer:** Last year, NASA added the Core Value of Inclusion, signaling the importance of diversity, equity, and inclusion across all aspects of the Agency. The STEM Engagement Council is keenly interested in broadening student participation and, with the update of the Strategy for STEM Engagement in 2020, ensured that diversity was incorporated into each of the three Strategic Goals. In support of the Strategy, the STEM Engagement Council (SEC) established a Broadening Student Participation (BSP) Working Group and created a BSP Plan for internal use which identifies an integrated set of efforts to increase diversity, equity, and inclusion in STEM throughout NASA STEM Engagement opportunities and activities. The actions outlined in the plan fall under four goals: (1) Enhance communications and stakeholder engagement, and build networks and relationships dedicated to broadening student participation; (2) strengthen practices and systems toward broadening student participation; (3) build a solid foundation for a focus on metrics and evaluation to effectively measure progress in broadening student participation; and, (4) drive a collective focus across NASA's STEM Engagement community on broadening student participation and foster a commitment to achieving more diversity, equity and inclusion in student opportunities and programs. As examples, the plan includes actions with external stakeholders including strengthening outreach to targeted institutions and groups, and developing activities and opportunities that reduce access barriers to students in under-resourced communities. The plan also establishes actions internal to the Agency including training for employees on working with culturally diverse student audiences and communities, and completion of evaluations that will inform future broadening participation efforts.

2. Are there particular resources you need from Congress to ensure that the pipeline of STEM students remains strong?

**Answer:** The President's FY 2022 budget request recognizes the importance of STEM Engagement and outlines a robust increase for OSTEM's work across multiple audiences.

The additional resources outlined in the budget would enable us to implement strategies to broaden student participation, continue to build productive strategic partnerships and networks, and expand NASA's contributions in engaging K-12 students. These additional resources will help build the pipeline of STEM students and the future NASA workforce.

3. If congress provides the additional \$20 million for the Office of STEM Engagement, how would that achieve the goals outlined in the STEM Engagement Council's strategy?

**Answer:** NASA's strategy for STEM Engagement, endorsed by the STEM Engagement Council, serves as a roadmap to frame and guide the Agency's work to attract, engage, and educate students, and to support educators, educational institutions, and professional and student organizations. The Office of STEM Engagement (OSTEM) leads NASA's STEM engagement function, providing strategic guidance and direction in partnership with the Mission Directorates. OSTEM also manages the \$127M appropriated in FY 2021 for the STEM Engagement Program, comprised of four projects: Space Grant College and Fellowship (Space Grant), Minority University Research and Education Project (MUREP), Established Program to Stimulate Competitive Research (EPSCoR) and Next Gen STEM.

Additional funds would enable an increase to the Space Grant base awards targeted for expansion of a diverse set of student participants in consortia and NASA activities. Funds would also support competitive opportunities to directly strengthen Mission Directorate collaborations. MUREP would create focused opportunities that strengthen the capabilities of Historically Black Colleges and Universities (HBCUs) and Predominantly Black Institutions (PBIs). Additional funds would provide opportunities for institutions primarily serving indigenous populations through Tribal Colleges and Universities (TCU) and Alaska Native and Native Hawaiian-serving (ANNH) institutions. An increase to the Next Gen STEM Project would substantially increase the ability of NASA to reach diverse groups of students with additional funds for informal education institutions, and support the creation of learning opportunities with lower barriers to entry enabling greater numbers of K-12 students from underserved, underrepresented and under resourced communities to participate in a NASA activity. Additionally, Next Gen STEM would build a K-12 educator community of practice linking formal and informal educators to NASA experts and one another.

OSTEM works toward developing and providing opportunities that contribute to achieving all three of the Strategy for STEM Engagement Strategic Goals. Higher education student opportunities through Space Grant and MUREP link a diverse set of students to NASA's work in exploration and discovery and help build the future workforce. Informal and K-12 activities in Next Gen STEM provide authentic learning experiences and attract students to STEM disciplines.

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There's an emerging space race that is getting caught up in international politics – specifically U.S. – China competition and U.S. – Russia competition.

Recently, China and Russia announced a joint moon project that is open to participation from other countries. And last Friday, China landed a spacecraft on Mars.

1. These are major milestones and I wanted to know what you plan to do to ensure American leadership in space while also engaging countries like China and Russia?

**Answer:** NASA is focused on its plans to remain on the cutting edge of space science, technology, and exploration, including plans to return humans to the Moon, explore Mars and the solar system, and launch the next great observatories. Our ambitious plans involve engagement with global partners. NASA has always worked to use space and science as a unifying force.

With numerous countries and private sector players conducting missions and operations between the Earth and the Moon (cislunar space), it is critical to have a common set of principles to guide the exploration and use of resources beyond Earth orbit. In this regard, NASA is leading the way. We encourage all spacefaring nations to abide by the principles set forth by the United States and its partner nations in the Artemis Accords, regardless of whether they are a signatory. These principles are grounded in the Outer Space Treaty of 1967 and are intended to create a safe and transparent environment which facilitates exploration, open sharing of scientific data, and commercial activities in space for all of humanity to enjoy.

2. What challenges does NASA face when it comes to cooperation with these countries?

**Answer:** With regard to China, NASA has ongoing restrictions in its annual appropriations that preclude NASA funding from being used for any bilateral policy, program, or contract with China or Chinese-owned companies without first certifying the activity to Congress. Activities with China are targeted, narrow, and focused in accordance with those appropriations restrictions and with relevant U.S. Government policy. The FY 2022 Budget requested that Congress not include this language in FY 2022 appropriations bills to better position NASA to collaborate with China in mutually beneficial areas such as addressing the climate crisis. NASA is taking appropriate steps, in coordination with other government agencies, to regularly review and update its practices and procedures with respect to addressing foreign influence.

NASA and Russia's State Corporation Roscosmos have successfully worked together to maintain a joint crew on board the International Space Station (ISS) for the last 21 years. NASA is in the process of installing new solar arrays to the ISS to improve its power supply, and Russia launched and docked a new science module to ISS in July 2021. NASA is currently in discussions with Roscosmos, and the other ISS partners, to build on these improvements in order to maximize utilization of the ISS.