

COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2023

TUESDAY, APRIL 26, 2022

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:00 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Jeanne Shaheen, (Chair) presiding.

Present: Senators Shaheen, Leahy, Schatz, Manchin, Van Hollen, Moran, Murkowski, Collins, Graham, Capito, Kennedy, Hagerty, and Braun.

DEPARTMENT OF JUSTICE

OPENING STATEMENT OF HON. JEANNE SHAHEEN

Senator SHAHEEN. I am delighted to call to order the Subcommittee on Commerce, Justice, Science, and Related Agencies, and welcome the Attorney General, Merrick Garland, who is today's witness for the hearing to Review the President's fiscal year 2023 funding request. It's very good to see you again and I'm sure, as you know, we will have lots of senators coming in and out, as the first real hearing day back after a 2-week break. There's a lot going on. So, I hope you will be patient.

This year, the President's fiscal year 2023 budget request for the Department of Justice is \$39 billion. That's an 11 percent increase compared to the fiscal year 2022 enacted level for the Department.

This budget provides a new focus in critically important areas, like protecting civil rights, including a request for increased resources for the Civil Rights Division and Community Relations Service, to provide for more attorneys and mediators, as well as supporting grant programs that address hate crime prevention.

Funding increases are also requested for agencies and programs that strengthen national security, including additional resources to investigate domestic terrorism, combat foreign threats, and prevent gun violence.

It was also good to see the Department's request for increased funding for many grant programs, including nearly double the resources for the Office on Violence Against Women programs.

Funding requested for newer programs, including those in the Office of Juvenile Justice and Delinquency Prevention, seem to be much needed in order to help youth and families, especially after this pandemic. I hope to receive an allocation that allows us to

fund longstanding, as well as newer, programs, at as high a level as possible.

Increased grant funding also means increased support for our police departments. This budget request does include that, particularly for Community Oriented Policing Services, or COPS, grants. But I would like to note that this Subcommittee has included strong funding for law enforcement grants over the past several years, and I think that is a commitment of this Committee.

One area that Senator Moran and I have worked closely on is to ensure that Byrne JAG funding receives steady increases annually. For my State of New Hampshire, the majority of Byrne JAG funding supports our State's drug task force, which works to keep illegal narcotics, including fentanyl, out of our communities. And as we know, that epidemic of opioid misuse has dramatically increased during the pandemic.

We've also worked together, on a bipartisan basis, to increase funding for programs and improve relations and strengthen trust between police and the communities they serve. Last year, we provided a total of \$201 million for these programs. This also includes overhauling the COPS development program to have dedicated funding for mobile crisis teams, police department accreditation, and officer training.

I'm pleased to see that the Department seems to also like the way we restructured this COPS program and repackaged it as the Just Policing program in your budget request this year.

Now, before I close, I want to thank the 120,000 career employees of the Department of Justice, including law enforcement personnel and attorneys, for their work to keep Americans safe. I know it's been a challenging year with our country facing unprecedented threats from those that are newer and rapidly changing, like cybercrime, and those that are sadly familiar, like terrorism. Your employees are meeting these challenges while continuing to work through a global pandemic, and we all very much appreciate their work.

I also want to thank all of those at the Department who investigated and prosecuted the ISIS terrorists known as The Beatles, including El Shafee Elsheikh, who murdered four Americans, James Foley, Kayla Mueller, Steven Sotloff, and Peter Kassig. The hard work of the U.S. Attorney's Office for the Eastern District of Virginia recently resulted in a guilty verdict for Elsheikh, and I think that not only sends a message to terrorists around the world that those who commit heinous crimes against Americans are going to be prosecuted, but it provides some level of closure and justice for the families of those murdered.

So, Mr. Attorney General, I look forward to our discussion today. And with that, I'd like to recognize our Subcommittee Vice Chair, my colleague, Senator Moran.

OPENING STATEMENT OF SENATOR JERRY MORAN

Senator MORAN. Senator Shaheen, thank you for convening this hearing. Before turning to the subject matter of the hearing, I want to express my sincere appreciation for your stewardship of our fiscal year 2022 appropriations process and thank my colleagues who are Members of this Subcommittee. This Subcommittee held seven

hearings, including a broadband hearing in January that, I believe, was one of the best we've had in our tenure.

Senator SHAHEEN. Absolutely.

Senator MORAN. We produced a strong, bipartisan bill in the Senate, even with complicated dynamics that were outside of our control. And in conference, despite a very tough allocation, Senator Leahy, a very tough allocation, we secured a final bill that makes critical investments in scientific research, law enforcement, space exploration, economic development, and U.S. competitiveness. It is a bill this subcommittee can be proud of.

Senator Shaheen, thank you for your leadership. I am excited to continue to work with you and my colleagues as we kick off the 2023 appropriation process.

General Garland, welcome to this hearing. This budget that is being presented supports DOJ grant programs under the newly re-authorized Violence Against Women Act, which I was a proud—which I was proud to co-sponsor, and for programs that support local police and sheriff's departments. I want to highlight these programs as a critical tool to address the shocking increase in violent crime, including a 30 percent surge in U.S. murder rate, the largest single year increase in 50.

Unfortunately, violent crime continues to lack the attention it requires. It is absolutely critical the Department of Justice support State and local law enforcement, both through grant programs and through joint law enforcement operations. The budget includes an increase for fiscal year 2022 enacted—to fiscal year 2022 enacted levels for DOJ. However, rhetoric and behavior from the administration too often send a different signal. If law enforcement officers are not respected, or shown respect, from our leaders, they will not be respected within the community.

We've also seen an appalling increase in attack on police officers. It is no surprise that the police departments and sheriff's offices are short-staffed and having issues recruiting new police officers.

The budget request would undermine the Board of Prison—excuse me, the Bureau of Prisons' ability to maintain suitable, modern facilities that are capable of delivering educational, vocational, and fellowship programming.

In addition, request proposes new, unauthorized grant programs intended to inhibit America's exercise of their Second Amendment rights.

A budget request is, ultimately, a proposed allocation of scarce resources, and it's disappointing that these messaging programs were prioritized over the budget's critical missions in fully addressing the surge in violent crime.

The budget request is a first step in the appropriations process, and I look forward to working with you, Attorney General, and with Senator Shaheen, as we craft the fiscal year 2023 Appropriations Bill. Thank you.

Senator SHAHEEN. Thank you, Senator Moran. And I realize that the Chair of the Appropriations Committee, Senator Leahy, is here. And I forgot to ask if he would like to offer some opening remarks.

Senator LEAHY. No, I just appreciate you and Senator Moran holding this. I'm delighted that the Attorney General is here. I'm

delighted the country has the Attorney General. And I'll leave it to everybody else.

Senator SHAHEEN. Thank you, Senator Leahy. I will now turn it over to you, Attorney General Garland.

STATEMENT OF HON. MERRICK GARLAND, ATTORNEY GENERAL, DEPARTMENT OF JUSTICE

Attorney General GARLAND. I'm on? Is this working? Yes. Good morning.

Senator SHAHEEN. Maybe you can pull it closer.

Attorney General GARLAND. Yes. Better.

Senator SHAHEEN. Much.

Attorney General GARLAND. Okay. Good morning, Chairwoman Shaheen, Ranking Member Moran, and distinguished Members of the Subcommittee. Thank you for the opportunity to appear before you today.

Over the past 411 days that I have been Attorney General, three co-equal priorities have guided the work of the Justice Department—keeping our country safe, protecting civil rights, and upholding the rule of law. These priorities reflect the Justice Department's mission, and our mission is reflected in the President's fiscal year 2023 budget.

Our first funding priority is keeping our country safe from all threats, foreign and domestic, whether from hostile nation States, terrorists, or common criminals. As our country's chief law enforcement officer, I am committed to supporting members of law enforcement at all levels of government as they work to protect our country, while also safeguarding civil liberties and ensuring our own accountability to the American people.

To these ends, the President's fiscal year 2023 budget requests more than \$20.2 billion to support the work of the Justice Department's law enforcement components and U.S. Attorney's offices nationwide as they carry out their complex mission sets. These resources will strengthen the Justice Department's efforts to reduce violent crime and gun violence, to counter the multitude of serious and evolving threats to our country from terrorists, cyber criminals, and hostile nation States, to combat the violent drug trafficking networks that are fueling our Nation's overdose epidemic, and to protect our Nation's democratic institutions, including the one we sit in today, from violent attack.

In addition, the President has proposed a total of more than \$30 billion in new investments over the next decade, to support law enforcement by funding the police, preventing crime, and accelerating criminal justice reform. In fiscal year 2023 alone, the President's budget requests more than \$8 billion in grants for States and localities nationwide to fund the police, including by putting more police officers on the beat, and to implement community-based strategies to prevent crime and gun violence.

The President's fiscal year 2023 budget also prioritizes the protection of civil rights. We are seeking a 32 percent increase in funding for the Civil Rights Division, as well as additional resources for our U.S. Attorneys, the FBI, the Community Relations Service, and our Office for Access to Justice. Our Civil Rights work remains

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

Another area of departmental focus is safeguarding economic security, fairness, and opportunity. This is reflected in our request for resources to protect the American people from intellectual property crimes, to reinvigorate antitrust enforcement and consumer protection, to combat corporate crime, and to bring to justice those who seek to profit unlawfully from the COVID-19 pandemic. In particular, the Department requests a total of \$273 million, an increase of 41.6 percent, for the Antitrust Division to carry out its critical mission of promoting competition in the American economy and protecting workers, consumers, and businesses alike.

Finally, we are requesting \$11.7 billion to ensure the just administration of our Nation's immigration courts and Federal correctional systems. This includes \$1.35 billion for the Executive Office for Immigration Review, which I'll be referring to as EOIR, to reduce the immigration court backlog by hiring more than 1,200 new staff, including approximately 200 immigration judge teams over the fiscal year 2022 enacted level.

Our request for \$8.18 billion for the Bureau of Prisons will help ensure the health, safety, and well-being of more than 150,000 individuals in Federal custody, as well as the officers who protect them. This request will allow BOP to hire 1,300 new correctional officers and First Step Act staff and would be used to support rehabilitative programming and improve conditions of confinement.

I respectfully ask for your support for our budget, as the Justice Department works to uphold the rule of law, to keep our country safe, and to protect civil rights for all. Thank you for the opportunity to speak with you today.

[The statement follows:]

PREPARED STATEMENT OF MERRICK B. GARLAND ATTORNEY GENERAL OF THE UNITED STATES

Good morning, Chairwoman Shaheen, Ranking Member Moran, and distinguished Members of this subcommittee. I appreciate the opportunity to appear before you today on behalf of the United States Department of Justice to discuss the President's funding request for fiscal year 2023.

In the face of a range of evolving and complex challenges, the Justice Department remains committed to its mission of upholding the rule of law, keeping our country safe, and protecting civil rights. I am pleased with the progress the Department has made on each of these fronts since I appeared before you last June.

The Justice Department's success depends upon the trust of the people we serve. That trust must be earned every day. Over the past year, we have worked every day to uphold the norms and principles that are essential to the rule of law and upon which that trust depends. We have worked to counter the foreign-based threats from nation states, terrorist groups, radicalized individuals, and cyber criminals that seek to undermine our democratic and economic institutions and to sow fear among our people. And we have worked to counter persistent domestic-based threats. Those include domestic violent extremist acts aimed at undermining our democratic institutions, violent crime and gun violence that undermines our communities' trust in the rule of law, and corporate crime that threatens our economic institutions. We have worked to protect civil rights, stepping up efforts to deter, prevent, and prosecute hate crimes, and to foster trust between law enforcement and the communities we serve.

To continue and expand this important work in fiscal year 2023, the Justice Department requests a total of \$37.65 billion in discretionary resources. Our top funding priorities are:

I. Keeping our Country Safe. Every person living in this country expects and deserves that their government protect them from a wide range of threats—from inter-

national and domestic terrorism to cybercrime and violent crime. As our country's chief law enforcement officer, I am committed to supporting members of law enforcement at all levels as they work to protect our country from these threats, while also safeguarding civil liberties and ensuring our own accountability to the American people. In total, the President's fiscal year 2023 Budget requests more than \$20.2 billion to expand the capacities of our law enforcement components and U.S. Attorneys' Offices to keep our country safe. This includes:

- A total of \$10.80 billion for the Federal Bureau of Investigation (FBI) to carry out its complex mission sets, including keeping our country safe from a multitude of serious and evolving threats, ranging from foreign terrorism to espionage and cyber threats and from violent crime to the proliferation and potential use of weapons of mass destruction.
- A total of \$2.77 billion for the United States Attorneys' offices, including resources to prioritize the prosecution of violent crime.
- A total of \$3.10 billion for the Drug Enforcement Administration (DEA) to prevent the flow of deadly drugs into our communities.
- A total of \$1.81 billion for the U.S. Marshals Service (USMS) to assist local law enforcement in apprehending violent fugitives from our neighborhoods and to protect our nation's judges and courts.
- A total of \$1.73 billion for the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to enhance the National Integrated Ballistic Information Network (NIBIN), modernize the National Tracing Center, and expand multijurisdictional gun trafficking strike forces with additional personnel.

In addition, to keep our country safe, the President's fiscal year 2023 Budget requests a total of \$133.5 million for the National Security Division, an increase of 10.6 percent above the fiscal year 2022 enacted level.

II. Protecting Civil Rights. The President's fiscal year 2023 Budget requests robust support for the Justice Department's core civil rights components. This includes:

- A total of \$215.2 million for the Civil Rights Division—an increase of \$52.7 million or 32.4 percent above the fiscal year 2022 enacted level—to expand its efforts to deter and prosecute hate crimes, safeguard fair elections, and combat discrimination.
- A total of \$81.4 million to bolster the civil rights work of the FBI and a total of \$42.4 million to bolster the civil rights work of the United States Attorneys' offices.
- A total of \$25 million for the Community Relations Service—an increase of 19.2 percent above the fiscal year 2022 enacted level—to provide mediation and conciliation services to communities impacted by conflict.
- A total of \$10 million for the Office for Access to Justice to expand equal access to justice for all.
- A total of \$106.3 million in new funding to strengthen trust and accountability in law enforcement by expanding, formalizing, and managing Body Worn Camera programs for the FBI, DEA, USMS, and ATF, and \$7.9 million in new funding for the Environment and Natural Resources Division's efforts to advance environmental justice and combat the climate crisis.

The Justice Department's fiscal year 2023 request also prioritizes significant investments in grants for state, local, Tribal and territorial law enforcement partners nationwide. The President has proposed a total of more than \$30 billion in new investments over the next decade to support law enforcement by funding the police, preventing crime, and accelerating justice system reform. In fiscal year 2023, the President's Budget includes the following resources for our law enforcement and community partners nationwide:

- A total of \$6.24 billion in discretionary and mandatory resources for the Office of Justice Programs (OJP) to support critical longstanding Justice Department grant programs, including Byrne Justice Assistance Grants and Project Safe Neighborhoods, as well as new programming that will provide state, local, Tribal, and territorial governments with additional resources to prevent crime, reduce gun violence, and accelerate criminal justice system reform.
- A total of \$2.83 billion in discretionary and mandatory resources for the Community Oriented Policing Service (COPS) to support the hiring of police and sworn law enforcement personnel nationwide and the implementation of community-based strategies to combat violent crime. Specifically, the Department is seeking a total of \$537 million in discretionary resources for the COPS Hiring Program—an increase of 118 percent above the fiscal year 2022 enacted level.

—A total of \$1 billion—an increase of \$425 million or 74 percent above the fiscal year 2022 enacted level—for the Office on Violence Against Women (OVW) to support longstanding Violence Against Women Act (VAWA) programs, including programs that provide critical resources to local, state, Tribal, and territorial partners across the country to fund police, prosecutors, courts, and victim services as well as resources to provide legal assistance for victims, transitional housing, and homicide and domestic violence reduction initiatives.

III. Safeguarding Economic Security, Fairness, and Opportunity. A fair economy is foundational to the American dream. To safeguard economic security, fairness, and opportunity for all, the President's fiscal year 2023 Budget requests a total of \$273 million, an increase of 41.6 percent, for the Antitrust Division to carry out its critical mission of promoting competition in the American economy and protecting workers, consumers, and businesses alike. In addition, the Department is committed to using every available Federal tool—including criminal, civil, and administrative actions—to combat and prevent fraud. The President's fiscal year 2023 Budget request renews the Department's request for critical funds for our United States Attorneys, the Criminal Division, and the Civil Division to protect consumers and combat and prevent fraud, including by bringing to justice those who seek to profit unlawfully from the COVID-19 pandemic.

IV. Administering Just Immigration Court and Correctional Systems. The Department's fiscal year 2023 budget requests critical resources that will allow us to carry out our responsibilities for administering our nation's immigration court system and the Federal detention and correctional systems. The requested funds for the Executive Office of Immigration Review (EOIR) will increase the number of immigration judges and broaden the availability of legal representation in immigration court. And the requested resources for the Federal Bureau of Prisons (BOP) will help improve staffing levels in BOP's 122 facilities nationwide while also maintaining an investment of \$409.5 million for First Step Act implementation.

Greater detail on each of these priorities is provided below.

I. KEEPING OUR COUNTRY SAFE

The Justice Department is committed to doing everything in its power to protect the American people from all threats, foreign and domestic, while also protecting our civil liberties. Our country continues to face a multitude of serious and evolving threats, ranging from foreign terrorism to domestic extremism and from cybercrime to violent crime. These threats are as complex as at any time in our history. And the consequences of not responding to them have never been greater.

In the recently enacted fiscal year 2022 Omnibus, Congress provided critical resources for the Department to strengthen its national security and law enforcement capacities, to focus our efforts on disrupting threats to our country, and to build deeper and even more effective partnerships, both here at home and around the world. Moving forward, enhancements are needed in order to keep apace of current and emerging case demands and public safety priorities in the 94 U.S. Attorneys' offices. The Department's fiscal year 2023 request reiterates the need for these resource enhancements.

Today I would like to highlight five significant areas of focus to keep our country safe: (A) reducing violent crime and gun violence; (B) protecting national security, including by countering terrorism and fighting cybercrime; (C) combating drug trafficking and preventing overdose deaths; (D) protecting vulnerable communities; and (E) protecting our democratic institutions.

A. Reducing Violent Crime and Gun Violence

Last May, the Justice Department launched a comprehensive strategy aimed at mobilizing our Federal prosecutors, agents, investigators, and criminal justice experts to disrupt and prosecute violent crime. To these ends, we directed all 94 United States Attorneys' offices across the country to work with our state and local partners to address the violent crime problems specific to their districts. We strengthened Project Safe Neighborhoods, our cornerstone initiative to reduce violent crime at the community level. We launched five cross-jurisdictional strike forces to disrupt illegal firearms trafficking in key corridors across the country. We finalized a new rule to curb the proliferation of unserialized ghost guns. We published model gun safety legislation for states. We established a new policy to hold rogue gun dealers accountable for willful violations of the law. And the Department's law enforcement components—including ATF, DEA, FBI, and the U.S. Marshals Service—continue to operate force-multiplying task forces with state and local law enforcement agencies.

The Department's fiscal year 2023 funding request includes more resources for our law enforcement components to embed agents in homicide units in departments across the country, trace crime guns, recover illegal firearms, pursue violent fugitives, and disrupt violent drug trafficking. The Department's request also includes critical resources for our U.S. Attorneys' offices to prosecute those who commit violent crimes. In addition, the Department's request includes a variety of increases to address the problem of violent crime and murdered and missing indigenous persons in Indian Country. These enhancements include additional resources for the Department's law enforcement components and U.S. Attorneys' offices in light of the Supreme Court's decision in *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020).

In addition to expanding the capacity of Federal law enforcement to make our communities safer, the President has proposed a total of \$30 billion in new mandatory investments to support law enforcement and crime prevention over the next decade. In fiscal year 2023, the President's Budget includes significant investments in grants for state and local law enforcement partners nationwide. A total of \$6.24 billion is requested in discretionary and mandatory resources for OJP to support critical longstanding Justice Department grant programs, including Byrne Justice Assistance Grants and Project Safe Neighborhoods, as well as new programs that will provide state, local, Tribal, and territorial governments with additional resources to prevent crime, reduce gun violence, and accelerate justice system reform. In addition, a total of \$2.83 billion in discretionary and mandatory resources is requested for the COPS Office to support the hiring of police and sworn law enforcement personnel nationwide and the implementation of community-based strategies to combat violent crime. Specifically, the Department is seeking a total of \$537 million in discretionary resources for the COPS Hiring Program—an increase of 118 percent above the fiscal year 2022 enacted level.

B. Protecting National Security

Countering Foreign and Domestic Terrorism. The Justice Department remains committed to countering terrorism and keeping pace with emerging terrorist threats while protecting civil rights and civil liberties. Our whole-of-Department commitment to countering terrorism is reflected in our request for more resources for our 94 U.S. Attorneys' offices; our law enforcement components, including the FBI; our grant-making offices; and our litigating divisions, including the National Security Division, the Civil Rights Division, and the Criminal Division. This request also includes resources to sustain and strengthen the FBI's counterterrorism efforts, including its Joint Terrorism Task Forces (JTTFs), the essential hubs for both international and domestic counterterrorism cooperation across all levels of government nationwide.

Enhancing Cybersecurity and Fighting Cybercrime. Keeping our country safe also requires countering cyber threats—whether from nation states, terrorists, or common criminals. One year ago, the Justice Department launched a comprehensive strategic cyber review aimed at improving our ability to investigate and prosecute state-sponsored cyber threats, transnational criminal groups, infrastructure and ransomware attacks, and the use of cryptocurrency and money laundering to finance and profit from cyber-based crimes. Over the past 12 months, the Justice Department has developed and implemented improvements on several fronts, including with respect to ransomware attacks and the criminal misuse of cryptocurrency. The President's fiscal year 2023 Budget requests nearly \$150 million in critical enhancements to support the Department's cyber efforts, including investments that support efforts to build cyber investigative capabilities at FBI field divisions and U.S. Attorneys' offices nationwide. These investments also further enhance the cybersecurity posture of the FBI, DEA, and Department more broadly. The Justice Department requires these significant investments to protect its own data and cyber infrastructure and to build on its efforts to combat the latest cyber threats.

Countering Nation-State Threats. The Justice Department is committed to taking a comprehensive approach that draws on the full extent of our tools and authorities to address the alarming rise in illegal and nefarious activities from hostile nations. The Department places a high priority on countering threats to our country posed by the governments of the People's Republic of China (PRC), Russia, Iran, and North Korea. Nefarious activities from hostile nation-states are increasingly brazen and threaten to undermine core American values and institutions—from unlawful and malicious cyber campaigns to the theft of technology and intellectual property to the use of espionage tools and tactics against American companies and workers alike.

To address these threats, the Justice Department is taking a variety of actions, including aggressively prosecuting state agents for espionage; preventing hacking campaigns; preventing the repression of dissidents; addressing efforts to manipulate

public discourse in the United States; and fully enforcing violations of economic sanctions and export restrictions. The Department appreciates the \$59.4 million in supplemental funding for our efforts to respond to Russia's military invasion of Ukraine, which, among other things, is supporting the work of the Department's KleptoCapture Task Force. And we ask for your support for the President's fiscal year 2023 funding request, which seeks critical resources for Justice Department attorneys, agents, and intelligence analysts to continue the vital work of countering threats from hostile nation- states.

C. Combating Drug Trafficking and Preventing Overdose Deaths

The Justice Department is committed to keeping our country safe from violent drug trafficking gangs and cartels. These criminal networks are fueling the overdose epidemic in our country. In the twelve months between September 2020 and September 2021, more than 104,000 Americans died due to drug overdose. The overwhelming majority of these deaths involved opioids.

In 2021, DEA seized more than 15,000 pounds of fentanyl and more than 20.4 million counterfeit pills, many of which contained lethal amounts of fentanyl, marketed by criminal drug networks. The Department remains vigilant in addressing the evolving nature of the illicit drug threat and continues its work to dismantle illicit online drug marketplaces and to detect, limit, and deter illegal prescriptions, distribution, and diversion offenses that result in patient harm. We are committed to using all available resources to combat drug trafficking and prevent overdose deaths in the United States.

The President's fiscal year 2023 budget requests critical resources to combat dangerous drug trafficking gangs and cartels and to prevent the flow of deadly drugs into our communities. This includes our request for a total of \$3.10 billion for DEA's investigations, counterdrug efforts across 241 domestic offices and 92 foreign offices in 69 countries around the world, and diversion control. The Department's funding request also includes more than a half a billion dollars in opioid-related grants, including increased funding for drug courts and locally driven responses to opioids and substance use.

D. Protecting Vulnerable Populations

The Department is committed to protecting and supporting all communities, including the most vulnerable among us. That includes our special obligation to protect children from crime and exploitation. Likewise, elder abuse, fraud, and neglect remain urgent problems in our country, particularly as the COVID-19 pandemic ushered in a new wave of exploitative practices targeted at seniors. The Department also has a unique legal relationship with, and responsibility to, federally recognized Tribes. Gender-based violence, including domestic violence, dating violence, sexual assault, and stalking, cuts across socioeconomic, racial, and geographic lines. In addition, low-income communities, LGBTQ communities, communities of color, people with disabilities, non-citizens, and victims of human trafficking face disproportionately high rates of victimization. The Justice Department is dedicated to protecting these communities.

The President's fiscal year 2023 requests seeks to make investments in all of these areas. For example, the Department seeks an additional \$21 million for OJP's Missing and Exploited Children Program and requests additional funds for the Criminal Division's Child Exploitation and Obscenity Section. The Department seeks to invest a total of \$1 billion in the Office on Violence Against Women, an increase of \$425 million or 74 percent above the fiscal year 2022 enacted level. This funding request supports longstanding Violence Against Women Act programs, including programs that provide critical resources to all states and territories to fund police, prosecutors, and courts, as well as resources to provide legal assistance for victims, transitional housing, and homicide and domestic violence reduction initiatives.

E. Protecting Our Democratic Institutions

Finally, keeping our country safe requires protecting its democratic institutions, including the one we sit in today, from violent attack. The Department will continue to work closely with state, local, Tribal, and territorial law enforcement to protect public servants—from local election officials to Members of Congress—from violence and threats of violence. Among other things, the President's fiscal year 2023 Budget seeks critical resources for the U.S. Attorneys as well as the U.S. Marshals Service to safeguard the security of Federal judges nationwide, including an increase of more than \$32 million to support judicial and Federal courthouse security.

II. PROTECTING CIVIL RIGHTS

Protecting civil rights was a founding purpose of the Justice Department in 1870. We began our work during Reconstruction to enforce the rights promised by the Thirteenth, Fourteenth, and Fifteenth Amendments. This required confronting the racist conduct of the Ku Klux Klan and others who used terror and violence to keep Black Americans from exercising their civil rights. Today, nearly 152 years after the Department's founding, far too many still face discrimination in voting, housing, and the criminal justice system; and disproportionately bear the brunt of the harm caused by pandemic, pollution, and climate change. Among a variety of investments, the Department's top civil rights funding priorities include:

A. Reinvigorating Civil Rights Enforcement

The Civil Rights Act of 1957 created the Justice Department's Civil Rights Division with the mission of upholding the civil and constitutional rights of all Americans. Today, the Division's work remains vital, including bringing cases to safeguard voting rights, prosecute hate crimes, and end unlawful discrimination. The Department's request seeks a total of \$215.2 million for the Civil Rights Division, an increase of \$52.7 million, or 32.4 percent, over the fiscal year 2022 enacted level.

The Department's dedication to civil rights enforcement is not limited to the Civil Rights Division, and the fiscal year 2023 request reflects this broader commitment. The Department seeks a total of \$81.4 million—an increase of 28 percent—for the FBI's investigations into alleged violations of the Federal civil rights laws, and a total of \$42.4 million—an increase of 24 percent—for the civil rights work of the U.S. Attorneys' offices.

B. Fostering Trust and Accountability in Law Enforcement

The Justice Department's budget request seeks \$106.3 million in new funding to strengthen trust and accountability in law enforcement by expanding, formalizing, and managing Body Worn Camera programs for the FBI, DEA, USMS, and ATF. These cameras would be used not only by our state and local law enforcement and task force partners, but also by Federal agents.

The Department's budget request also includes a total of \$25 million for the Community Relations Service to provide mediation and conciliation services to communities impacted by conflict. The Department's requested grant funding also supports these efforts and includes \$23 million for the COPS Just Policing Program, which will expand upon current, effective approaches within law enforcement agencies that can reform organizational culture, practices, and recruitment.

C. Expanding Access to Justice and Reforming Criminal and Juvenile Justice Systems

The Department's fiscal year 2023 request includes \$10 million to fund the newly re-established Office for Access to Justice to broaden the scope of its programs and activities, including through improving language access coordination and improving pro bono services.

The Department's request also seeks to leverage the capacity of the Federal justice system to advance innovative criminal justice reform initiatives and serve as a model for reform that is not only comprehensive in scope, but evidence-informed and high-impact. For example, the Department's fiscal year 2023 request seeks a total of \$760 million for juvenile justice grants. The Department also requests a total of \$409.5 million for First Step Act implementation, including \$100 million for a collaboration between the Justice Department and the Department of Labor for a national initiative to provide comprehensive workforce development services to people in the Federal prison system, both during their time in BOP facilities and after they are transferred to community placement.

D. Advancing Environmental Justice and Tackling the Climate Crisis

The Justice Department is committed to implementing Executive Order 14008, Tackling the Climate Crisis at Home and Abroad (January 27, 2021), which establishes a whole-of-government approach to addressing the climate crisis and formalizes the Federal government's commitment to environmental justice. To these ends, the Department's request includes a total of \$142 million—an increase of \$22 million or 18.2 percent above the fiscal year 2022 enacted level—for the Environment and Natural Resources Division. Among other things, this funding would support the Division's efforts to combat the climate crisis, launch an Office for Environmental Justice, and execute a comprehensive environmental enforcement strategy.

III. SAFEGUARDING ECONOMIC SECURITY, FAIRNESS, AND OPPORTUNITY

A fair economy is foundational to the American dream. Fraud, theft, corruption, bribery, and anticompetitive agreements threaten the free and fair markets upon which our economy is based. They decimate the assets of individuals, organizations, and governments alike, and they increase costs for every American. Corporate crime also weakens our economic institutions by undermining public trust in the fairness of those institutions. In its pursuit of fair markets, the Justice Department will ensure that everyone in our economy competes by the same rules; that tax dollars flow to their intended recipients; and that corporate crime is deterred, detected, and prosecuted.

A. Preventing the Theft of Technology and Intellectual Property

Protecting the American people from intellectual property crimes is a priority for the Department of Justice. These crimes threaten our national security and economic security as well as public health and safety. The Justice Department is committed to deploying a whole-of-Department approach to enforcing intellectual property rights and the President's fiscal year 2023 Budget seeks critical resources for the Criminal and the National Security Divisions, as well as the FBI and our United States Attorneys, to pursue complex intellectual property crime investigations around the world.

B. Reinforcing Antitrust Enforcement and Consumer Protection

Antitrust and consumer protection laws are the charter of our economic liberty. The Justice Department is committed to the vigorous enforcement of these laws. Anticompetitive practices hurt the American people—producers, consumers, and workers alike. And they hurt the American economy. Too many industries have become too consolidated over time. Too many companies have pursued corporate conduct and more aggressive mergers that have made all of us vulnerable. Against this background, our antitrust enforcement efforts cannot and will not slow down. No matter the industry and no matter the company, the Justice Department will vigorously enforce our antitrust laws. We will aggressively protect consumers, safeguard competition, and work to ensure economic fairness and opportunity for all.

The Department's Antitrust Division has been underfunded for too long and has nearly 400 fewer staff today than it had in 1979. That is why we are seeking critical resources to reinvigorate our enforcement efforts and ensure a competitive economy for all Americans. In particular, the President's fiscal year 2023 Budget seeks a total of \$273 million, an increase of \$80.2 million or 41.6 percent over the fiscal year 2022 enacted level, for the Antitrust Division. These additional funds will allow the Antitrust Division to meet the challenges of its growing civil and criminal enforcement programs, including by hiring additional attorneys and support staff, and by modernizing the Antitrust Division's information technology infrastructure to support litigation against sophisticated defendants.

In addition, the Justice Department is committed to using criminal, civil, and administrative actions to protect consumers. The Department will work to ensure the safety of food, medicines, and consumer products, and will safeguard consumer information from unlawful acquisition and use. Using our full array of civil and criminal enforcement tools, we will hold accountable those who make fraudulent or misleading representations in the marketing of goods, especially where such conduct risks consumer harm.

C. Combating Corruption and Financial Crime

Another critical focus of the Department's budget request is investing in combating corruption and financial crime that weakens our economic institutions. The Department's request seeks significant investments in the Consumer Protection Branch, our U.S. Attorneys' offices, the FBI, and the Criminal Division to promote economic competition and prevent the theft of intellectual property, deter and prosecute corporate crime, protect the government against fraud, and combat corruption. The Department is specifically focused on prioritizing the prosecution of COVID-19 related fraud through its COVID-19 Fraud Enforcement Task Force.

D. Promoting the Integrity and Efficiency of the Bankruptcy System

Congress established the United States Trustee Program in 1977 to serve as the "watchdog" of our nation's bankruptcy system. In that role, United States Trustees oversee nearly one million ongoing bankruptcy cases annually, undertake tens of thousands of civil enforcement actions, and refer thousands of criminal matters to U.S. Attorneys' offices for investigation and prosecution each year. The President's fiscal year 2023 Budget requests a total of \$260 million for this important program to protect the interests of all stakeholders in the bankruptcy process by advocating

for strict, equitable compliance with the law and addressing violations by debtors, creditors, and professionals alike.

E. Revitalizing Tax Enforcement

The integrity of our tax system is vital to maintaining public confidence. Honest taxpayers must be able to trust that they will not bear an undue share of the Federal tax burden. The President's fiscal year 2023 Budget requests \$121.3 million, an increase of 4.4 percent above the fiscal year 2022 level, for the Department's Tax Division to support its vital mission of enforcing our tax laws fully, fairly, and consistently.

IV. ADMINISTERING JUST IMMIGRATION COURT AND CORRECTIONAL SYSTEMS

The President's fiscal year 2023 Budget requests a total of \$11.7 billion for the Department to carry out its responsibilities for administering both our nation's immigration court system and our Federal correctional system.

A. Administering an Equitable and Efficient Immigration Court System

The Justice Department is responsible for equitably and efficiently administering our nation's immigration court system. The Department's fiscal year 2023 request would strengthen our ability to apply the immigration laws justly, consistently, and in a timely fashion, while ensuring due process under the law. The Executive Office for Immigration Review (EOIR) needs more resources to address the case backlog, which has been growing for over a decade. For fiscal year 2023, the Department requests a total of \$1.35 billion for EOIR to reduce the backlog of immigration cases. This request will allow EOIR to hire more than 1,200 new staff, including approximately 200 new immigration judges above the fiscal year 2022 enacted level. The President's fiscal year 2023 Budget also expands EOIR's virtual court initiative and invests new resources in legal access programming.

B. Maintaining a Safe and Humane Correctional System

Administering the Federal detention and prison systems are also critical parts of the Justice Department's responsibilities. The fiscal year 2023 funding request seeks a total of \$2.13 billion for the U.S. Marshals Service for Federal prisoner detention. In addition, the Federal Bureau of Prisons (BOP) is currently responsible for the custody and care of more than 150,000 Federal inmates. It is critical that prisons, detention centers, and community-based facilities are safe, humane, cost-efficient, and secure.

Adequate staffing is a prerequisite to safe and secure facilities, and we must ensure that even facilities in hard-to-recruit areas are fully staffed. To this end, the Department requests a total of \$8.18 billion for BOP to ensure the health, safety, and wellbeing of incarcerated individuals and correctional staff, and to ensure transparency, accountability, and effective oversight of all Federal prisons and detention centers. This request would allow BOP to hire more than 700 new correctional officers and nearly 600 new First Step Act staff. These funds would also be used to support rehabilitative programming and improve conditions of confinement.

I respectfully ask for your support for the President's fiscal year 2023 funding request as the Justice Department works to uphold the rule of law, keep our country safe, and protect civil rights for all.

Thank you.

Senator SHAHEEN. Thank you very much. For those who came in a little later, let me just point out, we will have a 5-minute questioning period and senators will be called on in order of arrival rather than seniority, because we are no longer doing any virtual hearings in this Committee. So, I will begin.

Last month you announced the establishment of Task Force KleptoCapture, which was described as an interagency effort dedicated to enforcing sanctions, export restrictions, and economic countermeasures against Russia. As I understand, this includes targeting the crimes committed by Russian officials, oligarchs, and others, who aid or conceal unlawful conduct. I know that the country is watching very closely what's happening in the war—the unprovoked war of Russia against Ukraine, and that one huge element in that is being able to reduce the amount of funding for that war that Russia has. So, can you talk a little bit about where you

are, in terms of the interagency effort and the kind of cooperation you're getting internationally?

Attorney General GARLAND. Yes. And I second what you said about what we're all seeing on the news, almost everyday—incredibly graphic videos of horrible atrocities that are going on in Ukraine. It's not just the war, it's the way in which the war is being prosecuted by the Russian government. Pictures of dead bodies of civilians in the streets, some bound with their hands behind their backs, intentional bombing of civilian residential apartments, of a theater in Mariupol. All of those pictures are just horrific and are the kind of things anybody growing up in the 20th century never expected to see in the 21st again—a land war in Europe.

So, every part of this government is doing its part. The Justice Department's role, right now, is to investigate and prosecute sanctions violations. So, we have, as you said, the KleptoCapture Task Force. Its purpose is to go after the assets that the Treasury Department has sanctioned, as well as to go off—to go after assets that have been laundered against the money laundering statute for criminal behavior by the Russian oligarchs.

So, in addition, we are participating in the Treasury Department's REPO task force, which is the international task force, where I have met with, unfortunately virtually, the Home Secretaries, Attorneys General, and Treasury Secretaries of the participating countries. The international cooperation has been superb, really superb, and heartwarming for law enforcement officers who often have to twist arms and beg for extraditions and other sorts of cooperation abroad. There is no resistance at all, now.

Senator SHAHEEN. Can you talk about how the Department is going to be dealing with the proceeds from any recovered assets?

Attorney General GARLAND. Yes. So, the money would go into the Asset Forfeiture Fund. First thing we have to do is freeze the assets. Second thing is we have to get a forfeiture. Third is it has to go in the Asset Forfeiture Fund. The gov—we would support legislation that would allow some of that money to go directly to Ukraine. That's not the current circumstance, with respect to the Fund. But under the current circumstances, like all forfeited assets, these assets would go into the Asset Forfeiture Fund.

Senator SHAHEEN. Well, thank you. We will take that under advisement in the committee.

Let me also just editorialize a minute and say, I hope that these efforts will allow for future follow up that will take a look at how corrupt money is being laundered in the West, and produce a real effort to shut that down, not just in Russia but anywhere it's occurring.

One of the issues that you and I discussed on the phone, in advance of this hearing, was my concern about how long it's taking to get some of the nominees approved, for U.S. Attorney, for U.S. Marshals. And I understand that there are two problems. One had been the challenge of getting the background checks done on those nominees. And I guess I would be interested in hearing whether there are more resources that need to be put toward that. We need to take a look at that process and see if there are changes that need to be made. And then, of course, the other challenge is here in the Senate, with individuals who are holding up those nominees.

So, can you speak, first, to what happens when we have U.S. Attorneys—in New Hampshire, our U.S. Attorney nominee, it's been over a year—almost, I think, over a year now that she has been forwarded to the White House and is on hold. Can you just speak to the challenge with addressing crime around the country when we have U.S. Attorneys who are taking that long to get approved?

Attorney General GARLAND. Yes. So, the United States Attorneys, as well as the United States Marshals, are the tip of spear of our effort to fight violent crime. They are the ones who convene the task forces in every one of the 94 U.S. Attorney office districts. The task forces are combinations of all of our Federal law enforcement, the four law enforcement agencies of the Justice Department, as well as the law enforcement agencies of the Department of Homeland Security and other Federal agencies, combined with State, local, territorial, and Tribal law enforcement. These cooperative task forces then, also, cooperate with the local communities.

And that is the way in which the best attack on violent crime is possible. To look at what's needed in the local area, to identify the primary drivers, that is, particularly, the repeat shooters, to get them off the streets and to get them in jail. And to organize those things, we need confirmed United States Attorneys. The work of the actings is excellent but, as everyone knows, in order to establish policies and programs in any office, it's important to have a permanent head.

So, I couldn't—I couldn't urge more strongly for the Senate to approve, as swiftly as possible, the U.S. Attorney nominees and the Marshals nominees.

Senator SHAHEEN. Well, thank you very much. Is it fair to say that the hold up in—when people are holding these individuals up for other purposes, that that has a negative impact on our ability to fight crime?

Attorney General GARLAND. Yes, I don't want to get into the inner workings of the Senate, but what I will say is that any time we're not getting confirmed law enforcement officers it does have a negative effect on our ability to fight violent crime, cybercrime, all the responsibilities that the United States Attorneys and Marshals have.

Senator SHAHEEN. Well, thank you. I won't quote you at that. I will say it myself. Senator Moran.

Senator MORAN. General Garland, thank you. You're aware, and we've talked about even yet this morning, the tremendous increase in levels of violent crime. The murder rate has surged 30 percent in 2020. It's the largest increase in over 50 years, in any single year. But overall violent crime, which includes assaults, robberies, and rapes increase by 5 percent.

Joint operations between Federal law enforcement and local and State law enforcement seem to be successful. We've had Operation Legend and Operation Triple Beam in our State. Director Wrasby joined me in Kansas earlier this year. We met with our local State law enforcement officials. During that conversation, the Chief Karl Oakman, of the Kansas City, Kansas Police Department, expressed his desire—first of all, how valuable those joint operations were and his desire to see more of them. And of course, that's not unique to the Kansas City region of our State.

To what extent are joint law enforcement operations a part of the DOJ's plan to combat violent crimes?

Attorney General GARLAND. Well, they are the center of our strategy. In May of 2021, after I'd been in office just a couple of months, I saw the same statistics that you're referring to now about the rise in violent crime—the startling rise in 2020, which continued into 2021. And so, I launched our first violent crime strategy for the Department. That really includes three pillars, all of which are the ones you're talking about, which is joint task forces among Federal law enforcement, joint task forces between Federal and the State and local law enforcement, and involvement of the community because it is essential that the community let us know where the bad guys are and who the bad guys are. So, it is the core of what we do.

So, the money that we're asking for comes in, I would say, two buckets here. We're asking for more than \$20 billion—that's an increase of 8.2 percent—for our Federal law enforcement in the Justice Department, all of whom participate in these task forces. So, that includes the U.S. Attorney's offices, the FBI, the ATF, the DEA, the U.S. Marshals Service.

Then, we're asking for \$8.2 billion, which is an increase in \$5.48 billion, for grants for State and local law enforcement, for the sheriffs you're talking about, for the police you mentioned in your opening, as well. This includes money for COPS hiring, for the Byrne JAG grant that the Chair spoke of, which are used for these task forces, for OVW grants, some of which are also used for investigative task forces. That's the way we are able to create these joint task forces. And so, that's—I completely agree with your assessment.

Senator MORAN. General, thank you. I—you mentioned the U.S. Marshals. I, too, would mention the U.S. Marshals Service's Regional Fugitive Task Force as another valuable combination of local and Federal law services.

Let me turn to—in 2021, the DOJ Office of the Inspector General released a report that revealed multiple agents at the FBI had mishandled the investigation into former U.S.A. gymnastics physician, Larry Nasser, and subsequently, lied about their misconduct. I want to take this moment, in your presence, to again raise my strong concerns with the fact that it seems these agents have not been held fully accountable for, what you described as, an institutional failure.

I understand that DOJ is reviewing its earlier decision. This is an issue that Senator Blumenthal and I pursued in the Commerce Committee. But you are reviewing the decision not to criminally charge these agents. Could you provide me a status update as to where this issue lies?

Attorney General GARLAND. Yes. So, you are right. This is a horrible institutional failure. I—it's almost unspeakable—it is unspeakable, what happened to those gymnasts, and also unspeakable, the way in which the investigation failed to proceed. We have created institutional changes, in that regard, to make sure it doesn't happen again. The FBI has revised its procedures and the Deputy Attorney General has issued memoranda to the field so that, whenever a U.S. Attorney's office or Federal law enforcement

decides not to follow up, that they immediately advise State and local law enforcement, so that they can continue.

Your description of—so, the question of the investigation—so, the FBI's internal disciplinary work is still in progress. The question of reopening the earlier declination is in the hands of the Assistant Attorney General for the Criminal Division, Kenneth Polite, who is continuing to review the matter.

Senator MORAN. Does that mean that the FBI made a report to the—to that official who is now reviewing that report?

Attorney General GARLAND. I think—it is the—the referral came from the Inspector General's report. So, it's the report that you are aware of that was given to the Criminal Division to review the earlier decision to decline.

Senator MORAN. Thank you.

Senator SHAHEEN. Thank you, Senator Moran. Senator Leahy.

Senator LEAHY. Thank you, Chair. Attorney General, as I mentioned earlier, I'm glad you're here this morning. Time is short, so I'll get right to the questions.

I'd like to start with the VOCA Fix Act, VOCA, signed into law last year. We passed this legislation to give a much needed, steady stream of deposits into the Crime Victims Fund. As you know, that fund helps crime victims all over the country. A major piece of the legislation requires funds collected under deferred and non-prosecution agreements to be deposited in the Crime Victims Fund.

Now, I understand that there was a sizable deposit in the first month of implementation, but the collection's been deferred, and non-prosecution agreements have actually been quite low. Across October and November, for example, the actual total deposited in the Crime Victims Fund was around \$1 million. What accounts for such starkly low deposits from what it used to be? Is the Department concerned that this may end up with a zero balance in the Crime Victims Fund?

Attorney General GARLAND. So, this is going to be a complicated answer. I'm going to do the best I can. I may have to refer to Assistant Attorney General Loftus, who knows the details of the numbers far better than I. But I'll see if I can walk you through where we are here.

The VOCA Fix, which we greatly supported and are greatly appreciative, allowed the money to include the deferred prosecution agreements, which were not available before. The Deputy Attorney General sent a memorandum to all United States Attorneys' offices and to the FBI and law enforcement, to ensure that the money that comes from deferred prosecution agreements is tagged for the Victims of Crime Fund. So, we are making those changes.

Senator LEAHY. Is it making clear that's a priority?

Attorney General GARLAND. Yes. That—the money there must be put in and it's a priority to make sure that that happens. And you are right that, in September—my figure is \$254 million was deposited, which was the largest monthly deposit in the last 4 fiscal years. That was immediately after the VOCA Fix came into effect. In fiscal year 22 the numbers I have for the first 6 months are \$409 million in the fund.

You know, these are cyclical. They go up and down. It depends on whether there was a deferred prosecution agreement, whether

there were forfeitures and other seizures during that time. So, I don't think we have enough information, yet, to know what the numbers—

Senator LEAHY. I would ask only the Department make it clear that it is a priority that it goes there. And because of time, let me mention another thing. There's been a lot of bipartisan support in the Violence Against Women Reauthorization Act. But what we, the Appropriations Committee, determined to do was put it as part of the fiscal year 2022 Omnibus Appropriations Package because we're concerned, in the normal course of events, it might not have gotten up for a vote. But the President's fiscal year 2023 budget doesn't account for some of the new programs that were included in Violence Against Women Act.

Many of us had worked across the aisle to improve that Act, to enlarge it. I know that, when I was Chair of Judiciary, we added Native Americans, the LGBTQ community, sexual exploitation of minors. So, is the Department going to support the new programs enacted by VAWA, and will you make sure that your budget shows that?

Attorney General GARLAND. The answer is yes. I'm not sure which programs, I'd like to have our staffs talk about them, didn't make it in.

Senator LEAHY. Okay, I will, because we came together to get VAWA through the way we did. But I also want to make sure that we have the funding and that you have what you need there.

And lastly, and I'll just submit this for the record, because I see my time is up, you recently issued Freedom of Information Act guidelines. And I'm pleased with that. But I'm concerned about the enforcement of it. So, I will also submit a letter for the record on that and appreciate your answer, Attorney General.

[The information follows:]

CLERK'S Note: A question for the record on FOIA was submitted rather than an actual letter.

Attorney General GARLAND. Thank you.

Senator SHAHEEN. Thank you, Senator Leahy. Senator Collins.

Senator COLLINS. Thank you, Madam Chair. Welcome, Mr. Attorney General. The administration has taken conflicting positions on whether or not the COVID pandemic constitutes a public health emergency. Could you please explain to the subcommittee how the Department can justify arguing in court that the pandemic has subsided enough to warrant the termination of Title 42, which will worsen the problem of tens of thousands of unvaccinated migrants illegally entering the country, while at the same time arguing in a separate case that the public health consequences are dire enough to warrant compelled mask usage by Americans on public transportation?

Attorney General GARLAND. Yes. Thank you, Senator. It's just, I think, important to—for me to explain the role of the Justice Department, which is not to make judgments about the public health and, really, not to make judgments about policy in either of the two areas that you're—that you're raising, but rather to make determinations of whether the programs and requests of the agencies that are responsible for those are lawful.

So, with respect to the mask mandate on the planes, I think this is quite transparent. The CDC announced its assessment that this was a program that continued to be necessary in the confines of airplanes and public transportation. The only question for us is, is that a lawful—and they asked us to appeal. The Solicitor General concluded it was lawful and so we have appealed.

With respect to Title 42, it's the same analysis from our side, from the Justice Department's side. The only question here is the CDC's program. It's the—CDC's announcement and its assessment and we defend that program as long as it's lawful. We don't make the public health determinations that you're speaking of.

Senator COLLINS. And I understand that. I think that the CDC has put the Justice Department in an untenable position of arguing one position in one case, and a completely conflicting position in another case. But I understand that you don't make the public health determination.

Let me switch to another consequence of the uncontrolled southern border. In the year between September 2020 and September 2021, more than 104,000 Americans died from drug overdoses. In Maine, we set a horrific new record, 636 people died from drug overdoses. That was a 23 percent increase from the previous year. In 2021, the Maine Drug Enforcement Agency seized more than 10,000 grams of fentanyl. That's a 67 percent increase from the previous year. Just 3 months into this year, agents tell me that they have already seized half of last year's total.

Law enforcement officials in Maine and elsewhere, tell me that these drugs are largely entering the United States through the southern border, where resources that could be targeting drug interdiction are instead being diverted to help with the influx of migrants illegally crossing the border. Do you agree that the government's inability to secure the southern border has led to more drugs coming into our country?

Attorney General GARLAND. Look, I—the opioid epidemic, and particularly the influx of fentanyl, is just horrifying and extraordinarily sad for the large numbers of Americans who are becoming addicted and who have become addicted. We—the job of the Justice Department is to fight the large-scale drug trafficking organizations that are bringing this money—these drugs into the country.

And that's the reason we have asked for large increases for all of our anti-drug programs. The DEA has asked for a \$102 million increase, which is for a total of \$3.1 billion, to fight the very issues that you're speaking of. The U.S. Marshal's Service has asked for \$1 billion for drug trafficking fugitive capture. The U.S. Attorney's offices \$106 million, the FBI \$161 million, the Criminal Division \$446.9 million, including regional opioid task forces, and the COPS grants. The money that we're giving includes the money for the anti-heroin and anti-meth task forces.

So, we are doing—we are asking for all the money we can get, and we are not stopping here. As you no doubt know, I announced the indictment and extradition of the former President of Honduras to the United States to face justice for organizing drug trafficking coming out of the Northern Triangle. We will be persistent in that effort.

Senator COLLINS. Thank you.

Senator MORAN. Senator Manchin.

Senator MANCHIN. Thank you, Mr. Chairman. Thank you, Honorable Merrick Garland. I want to thank you for your continued support of public service. It's been wonderful and we appreciate very much your position.

Let's start on voting rights. I've always believed that healthy democracy depends on a voting system that is accessible, free, fair, and secure. While history is going to tell us that we've come a long way in ensuring all individuals, regardless of their race, sex, or political affiliation have the ability to cast their vote, we can all agree that we still have a lot of work to do.

I'm particularly concerned about the recent opinions and rulings that seem to undercut decades of established legal precedent under the Voting Rights Act. Specifically in February, a Federal district court in Arkansas ruled that only the U.S. Attorney General has standing to enforce Section 2 of the Voting Rights Act. The court found that it would be inappropriate to imply a private right of action to enforce Section 2 of the Voting Rights Act.

So, your opinion on that, sir, with that interpretation? You agree, disagree, and what impact, if any, could this ruling have on voting rights, if this was adopted across the country.

Attorney General GARLAND. Yes, very good question, Senator. On the first question, normally I don't, sort of, opine.

Senator MANCHIN. I understand.

Attorney General GARLAND. In this case, I've already opined, so I don't think it hurts any to do that. We have filed—across the country, in a number of these cases, we believe there is a private right of action to enforce the Voting Rights Act. It has always been assumed that that was the case, since the Act was passed in the mid-60s. No one has ever questioned it, I think, until this year.

To the second point, the consequences of the Justice Department being the only one who can bring voting rights cases, I'm going to be blunt. You're going to have to give us a lot more money. If the Justice Department has to bring every single case to enforce voting rights, we're going to have—

Senator MANCHIN. You know, the argument about that, sir—I'm sorry to interrupt you, but the argument about that—you hear the pros and cons on that. They're saying, well, there'd be too much litigation. That, you know—and if you had everybody being able to declare that they've been infringed upon. And we don't see that going any further than that. We're having all these discussions in our committees, but we're trying to get a clarity on that. But it seems like, to me, that the person has that right, but it hasn't been exercised if it's been frivolous. I haven't seen it go any further, so I don't know how it's been a strain on the court system.

Attorney General GARLAND. So, I—you know, I haven't done an analysis of the court system, but this has been the rule that we've had all the way since the mid-60s. I've never heard any complaints that it is taxing the court system in any—

Senator MANCHIN. Yes, we haven't either.

Attorney General GARLAND. Any way.

Senator MANCHIN. Sir, if I could switch a little bit on that, and that's very helpful. We're working on that. On the price gouging—we hear a lot about price gouging right now. And we saw that with

a—when we first had the—when we first had COVID brought to our attention, horrible epidemic, back in May of 2020—March of 2020. We saw that with N95 masks, Clorox wipes, toilet paper at the beginning of the pandemic, and now, we're going to—we're seeing it again, this time with fuel prices and food prices and things of that sort. Should there be a criminal price gouging statute?

Attorney General GARLAND. Well, this is a matter of huge debate and antitrust and economics. I'd like to hold off on that, but our staff would be happy to work with—

Senator MANCHIN. Right now, what constitutes you all, basically, taking it under your surveillance, if you will, acceptable prices for scarce products? What constitutes the acceptable prices for scarce—

Attorney General GARLAND. So—right—

Senator MANCHIN. Market demands, things of this sort, global pricing.

Attorney General GARLAND. So, for us, the questions are unlawful agreements to fix prices and exclusionary behavior by monopolists and near monopolists. So, if we're in either of those circumstances, if they exclude competition, that falls under the antitrust laws and, likewise, agreements on prices between competitors.

Senator MANCHIN. And I want to follow up, also, on Senator Collins' concerns on the opioid epidemic. Myself and Senator Capito, in the State of West Virginia, we've been number one as far as getting slammed with this. Can you speak to the status of DOJ's current efforts to curtail the opioid crisis, including the Appalachian Regional Prescription Opioid, or what we call the ARPO Strikeforce?

Attorney General GARLAND. Yes, so I think that's a—and I hope you agree, I think that's a very effective task force. That money is included in our request for funds. I think it—I'm not sure whether that's the one that comes under the Office of Justice programs or under the Criminal Division, but those task forces, both the meth and heroin ones that Senator Collins was concerned about the last time we spoke, and the opioid one that you're talking about—

Senator MANCHIN. We need your support for that, sir.

Attorney General GARLAND. We support, and we support expanding those and, if we get the money requested in the budget—

Senator MANCHIN. Very quickly, I want to follow up with, I introduced the DEA Enforcement and Authority Act that would amend the immediate suspension order standard of review from a substantial likelihood of an immediate threat standard to a probable cause standard. That's, again, order standard of a review from a substantial likelihood of an immediate threat to a probable cause standard. So, what additional authorities do you believe DOJ or FBI need in order to effectively stop the flow of prescription opiates and other illegal drugs? Because the substantial likelihood is pretty darn broad and probable cause, we know exactly what their intent are.

Attorney General GARLAND. So, I haven't been directly involved in the question of the standard here. Our Consumer Protection branch does the work on—

Senator MANCHIN. If you could look—we have that piece of legislation. I think all of us have been—our States have been ravaged by this—

Attorney General GARLAND. Yes.

Senator MANCHIN. Horrible addiction that we have, and drugs continue to flow. It might give us a better chance to fight this opioid onslaught or drug onslaught. But if you could look into the language, if you all could support, that's the DEA—it's the Enforcement and Authority Act.

Attorney General GARLAND. All right.

Senator MORAN. Senator Manchin, thank you.

Attorney General GARLAND. We'll be happy to do that, Senator.

Senator MORAN. Senator Kennedy.

Senator KENNEDY. Thank you, Mr. Chairman. Thank you, General, for being here. Could you pull that mic closer to you, please, sir.

Attorney General GARLAND. Oh, I'm sorry. Is that better? Yes.

Senator KENNEDY. Yes, sir. General, I think the Justice Department is losing. I think you're losing on crime. I think you're losing on drugs. I think you're losing on immigration. I think you're losing on Chinese espionage.

Let me start with crime. What percentage of cops in America do you think are bad cops?

Attorney General GARLAND. A very small percentage.

Senator KENNEDY. Like, how small?

Attorney General GARLAND. I don't have a number. I think most police—

Senator KENNEDY. Well, you're the country's chief—one of the country's chief law enforcement officers.

Attorney General GARLAND. Yes, but—

Senator KENNEDY. Is it less than 10 percent?

Attorney General GARLAND. Yes. Let me just be clear. We believe that most police officers follow the Constitution in their practices. Most police departments do. And all police officers, I believe, want to work in police departments that follow constitutional policing requirements.

Senator KENNEDY. Is it less than 5 percent?

Attorney General GARLAND. I don't have the numbers. I think it probably is, but again, I don't have any numbers for you.

Senator KENNEDY. Okay. Do you think most cops are racist?

Attorney General GARLAND. No, I do not.

Senator KENNEDY. What percentage of cops do you think, in your judgment—I know you can't give me an exact figure—do you think are racist?

Attorney General GARLAND. I'm sorry. I'm not resisting because I have a number that I can't give you. I just really—I don't have any way of making that valuation.

Senator KENNEDY. What's your gut tell you, less than 5 percent?

Attorney General GARLAND. One thing I've learned is to not give answers from my gut.

Senator KENNEDY. Right. Well, you think it's less than 5 percent?

Attorney General GARLAND. I don't know the answer. I'm sorry.

Senator KENNEDY. Okay. You don't know?

Attorney General GARLAND. I don't know, no.

Senator KENNEDY. Okay. Why doesn't the Justice Department support "Stop, Question, and Frisk"?

Attorney General GARLAND. I'm not sure what—you mean, "Stop and Frisk"? Is that what you mean?

Senator KENNEDY. Some call it "Stop and Frisk" (indiscernible).

Attorney General GARLAND. Yes, yes, look—yes, we—I don't know that the Justice Department has a position. This is a State and local role, normally. Look—

Senator KENNEDY. Do you think it works?

Attorney General GARLAND. I'm sorry.

Senator KENNEDY. Do you think "Stop, Question, and Frisk" works?

Attorney General GARLAND. I think, in some circumstances it can work but, of course, it can be abused.

Senator KENNEDY. Right.

Attorney General GARLAND. Yes.

Senator KENNEDY. What—but why doesn't the Justice Department aggressively encourage law enforcement officials to use that technique? It's been declared constitutional, as you know.

Attorney General GARLAND. Yes, the Supreme Court has affirmed the constitutionality of "Stop and Frisk". That's—in the Terry case. That's exactly right. But we don't do—that—Federal Government doesn't do patrolling. This is work for patrol.

Senator KENNEDY. I know you don't, but this you're one of the country's chief law enforcement officials—maybe the chief—and what you say matters. And suppose—here's what I'm asking. Let's take Chicago, where you haven't—we haven't made any end roads in stopping the killing. I mean, Chicago is now the world's largest outdoor shooting range. We know that a lot of the shootings come from gangs. Why wouldn't you want to call the police chief and the mayor in Chicago and say, "Look, you know who these gang members are. When you have reasonable suspicion, under Terry v. Ohio, an objective standard, more than just a hunch, why don't you aggressively stop, question, and frisk these gang members?" You'll get guns off the street. You'll get drugs off the street. And you'll get a lot of gang members off the street, and you'll stop people killing each other. Why won't you do that?

Attorney General GARLAND. The best way for the Federal Government to stop violent crime is to work at each local level and determine—and let the State and locals determine what the best use of their own resources is.

Senator KENNEDY. Judge, I'm sorry for interrupting you but I'm trying to get some answers.

Attorney General GARLAND. You're—I'm sorry—

Senator KENNEDY. Why won't you do that? Just tell me why you won't do that.

Attorney General GARLAND. Because—

Senator KENNEDY. Your opinion matters.

Attorney General GARLAND. Because there is no one solution fits all that the Federal Government can suggest to State and local law enforcement. We believe State and local law enforcement knows best as to what to do there. We provide—

Senator KENNEDY. Well, it's not working.

Attorney General GARLAND. We provide our technical expertise. We put lots of resources into joint task forces. We pick up—

Senator KENNEDY. Well, General, it's—I know I've got to shut this down. I've only got 15 seconds. Is that why you're asking, in the middle of a raging inflation, for 7 percent more money, \$2.36 billion to provide technical increase—or technical advice? I mean, we're going backwards here on crime, General. You're the State's—or the country's chief law enforcement officer and you won't even answer my question about how you feel about “Stop, Question, and Frisk”.

Attorney General GARLAND. I think it—

Senator KENNEDY. Why should we give you more money?

Attorney General GARLAND. I think it's a resource allocation issue for each local police department. I believe that the Justice Department does the best by putting the money that we're asking for as an increase in law enforcement that can assist the State and locals in the best way.

Senator KENNEDY. But, General, is that what we're supposed to tell the mothers of those kids getting killed in Chicago? “You don't understand. It's a resource allocation issue.”

Attorney General GARLAND. No, what you're supposed to tell the mothers in Chicago, and what I told them when I was there, was the Justice Department was there to provide all the resources that this subcommittee will give us, to stop violent crime.

Senator KENNEDY. But yet, you won't try—

Attorney General GARLAND. The more resources you can give—

Senator KENNEDY. “Stop, Question, and Frisk”.

Attorney General GARLAND. That is a question for the State and the local—I'm sorry, for the State and local law enforcement.

Senator KENNEDY. I didn't go over as much as Manchin did, Madam Chair.

Senator MORAN. That's not the standard by which we judge behavior.

Senator KENNEDY. Thank you, General.

Attorney General GARLAND. You're welcome.

Senator MORAN. Now, Senator Van Hollen.

Senator VAN HOLLEN. Thank you, Senator Moran, and welcome, Mr. Attorney General.

Attorney General GARLAND. Thank you.

Senator VAN HOLLEN. I want to start with some thanks to you and President Biden and your team at the Justice Department for implementing something that many of us have pushed for a long time, which is a final rule with respect to ghost guns. These are, of course, are weapons. You can buy them over the Internet in pieces, quickly assemble them, and they shoot and kill people just like a regular firearm. But one major difference, they do not have serial numbers, which is why they're becoming more the weapon of choice by criminals in my State of Maryland, places like Baltimore City, and around the country.

So, I want to applaud you for moving forward on that effort and, also, applaud the President for nominating a Director of ATF, Steven Dettelbach, a good candidate. I hope the Senate will confirm that nomination expeditiously. The ATF has gone headless for way too long, as you know. And we need a strong ATF to crack down on illegal gun trafficking, among other issues.

As you know, you know, Congress has brought back congressionally-directed spending, so that we can try to target resources where our communities say they're needed the most. And Senator Cardin and I worked with this Committee to channel important resources to address the really serious violent crime problem in Baltimore City. And there's no one solution, but we provided a series of resources for community-based crime violent prevention programs, community policing.

So, my question to you, Mr. Attorney General, Baltimore City's waiting on those funds. How quickly can we get them? Can you give us your commitment that you can get those out the door quickly?

Attorney General GARLAND. If you give us the money, we can get them out the door quickly. You know, an important part of our ability to fight violent crime in Baltimore and other locations, where it is a very serious problem, is having more Assistant U.S. Attorneys to prosecute these cases. The Federal Government has stronger—

Senator VAN HOLLEN. So, Mr. Attorney General, just one clarification here. So, I'm talking about, in this question, monies we've already have appropriated. These are monies that we've provided. They're in the custody of either the Department of Justice or Treasury, and we'd just—

Attorney General GARLAND. I see. I see.

Senator VAN HOLLEN. Like to get the money out the door.

Attorney General GARLAND. What we will do—as far as I know, that—our priority is to get the money out the door. It doesn't do us any good to keep it in main Justice, I assure you.

Senator VAN HOLLEN. Yes.

Attorney General GARLAND. So, if—

Senator VAN HOLLEN. Well, we'd like—we'd like to encourage your team to get it out because it is a serious situation there.

Now, to the broader issue you're raising, with respect to resources for the U.S. Attorney in Maryland, for the ATF in Maryland, for U.S. Marshal Service in Maryland, we have seen some increases over the last couple years. And I want to thank you and your Deputy Attorney General Monaco, who's had a serious of phone calls with Senator Cardin and myself. But can you—we do need more resources. I mean, we have a very serious problem in Baltimore City. And we do have good cooperation between the Federal Government, State and local jurisdictions.

But can you talk about, specifically, how resources you're requesting here can strengthen our ability to get more resources to Baltimore City?

Attorney General GARLAND. Yes, so, through no fault of this Subcommittee, we did not get the amount of money for the United States Attorneys that was in the budget request, and it was in the marks of the Subcommittee as a consequence of the omnibus. We received \$120 million less than the fiscal year 2022 request. So, for that reason, we're asking for increases for the U.S. Attorney's offices, to allow us to hire 157 more Assistant U.S. Attorneys. Obviously, the more Assistant U.S. Attorneys we have, the easier it is to allocate them around the country to the places that are in need.

Same is true with respect to ATF. We're asking for an increase of 122 agents. Again, the more that we have, the more we're able to expand the locations in which we can put people.

Senator VAN HOLLEN. Thank you, Mr.—I look forward to supporting that budget request for the reasons you've laid out. I hope the Committee will as well.

My final—I just have a statement here, Mr. Attorney General. The Congress, on a bipartisan basis, has recognized that the FBI needs a new consolidated headquarters that meets its security requirements. And before the previous administration, three sites had been located. And in the last bill passed by the Congress, Appropriations Bill, we directed the General Services Administration to select one of those three earlier identified sites for the new fully consolidated FBI Headquarters. So, as the chief law enforcement officer, we expect you to work with us to make sure that the law is followed, and I'm confident that you will do that.

Thank you. Thank you, Madam Chair.

Senator SHAHEEN. Thank you, Senator Van Hollen. Senator Hagerty.

Senator HAGERTY. Thank you, Senator Shaheen, and thank you, Ranking Member Moran, for holding this hearing. Thank you, Attorney General, for being back with us today.

I want to touch on something that's a great concern to my constituents and I think, frankly, to the confidence of many people in our system that you control, through the Department of Justice, and that's the matter of the Hunter Biden investigation. It received a great deal of press, but I want to ask you a bit about how the communications have worked, within your Department, with the White House, on this.

First, have you been briefed on the Hunter Biden investigation yourself, General Garland.

Attorney General GARLAND. So, the Hunter Biden investigation, as I said even in my own nomination confirmation hearing, is being run by and supervised by the United States Attorney for the District of Delaware. He's—

Senator HAGERTY. I'm aware of that, but he reports to you.

Attorney General GARLAND. He is supervising the investigation and I'm—you know, I'm not at liberty to talk about internal Justice Department deliberations. But he is in charge of that investigation. There will not be interference of any political or improper kind.

Senator HAGERTY. And are any senior officials in your Department being briefed or—

Attorney General GARLAND. Again, he is the supervisor of this investigation and, you know, the normal processes of the Department occur. But he is the supervisor of this investigation.

Senator HAGERTY. Well, if you won't be able to say whether there have been communications there, I'd like for you to tell me—or answer this question, if you would. Would you think it would be appropriate for the President of the United States to call you into the Oval Office and tell you that his son didn't break the law regarding this matter?

Attorney General GARLAND. Absolutely not. And the President has not done that, and the President has committed not to interfere, not only in that investigation, but any other kind of—

Senator HAGERTY. Well, I agree with you, but—

Attorney General GARLAND. Investigation.

Senator HAGERTY. But—but I do wonder this, then, why the President is resorting to TV and having his surrogates go on TV to say just that message. Earlier this month, White House Chief Of Staff Ron Klain stated on national television that, “The President is confident that his son didn’t break the law”. And the White House Communications Director said that, “President Biden maintains his position that his son did nothing that was unethical”. This was on national television.

The President’s already told his subordinates, clearly, these are people that he can fire at will, that he and his family did nothing wrong. How can the American people be confident that his administration is conducting a serious investigation?

Attorney General GARLAND. Because we put the investigation in the hands of a Trump appointee, from the previous administration, who’s the United States Attorney for the District of Delaware. And because you have me as the Attorney General, who is committed to the independence of the Justice Department, from any influence from the White House, in criminal matters.

Senator HAGERTY. Well, I think the observation here is terribly critical because there’s an obvious conflict of interest here, because of those who are investigating the Biden family and their enterprise can be fired by the head of the family who’s being investigated. That is Joe Biden can fire the attorney general in Delaware. He can have an impact on all of your staffing.

And I want to ask you this. Under what circumstances do you consider, or how do you evaluate whether you would appoint a special counsel?

Attorney General GARLAND. I think this is a fact and law question in each case, determining—depending upon how cases go forward and a question of whether the Justice Department, with its normal processes, should continue. I want to be clear, though, special counsels are also employees of the Justice Department. We don’t have an independent counsel statute anymore. Both the Democrats and the Republicans experimented with this, and I think, probably in the end, neither side liked it. And that’s why we ended with the law not being reauthorized. But in any event, the special counsel is also an employee of the Justice Department.

Senator HAGERTY. Have you had any consideration about whether to do this, or—

Attorney General GARLAND. Again, I think our internal deliberations have to stay within the Department.

Senator HAGERTY. Again, I’ll just restate that there’s an obvious conflict there that raises concerns amongst my constituents.

I’d like to turn to some public evidence, though. There are emails and photographs that show that President Biden, while he was Vice President, met several of Hunter Biden’s business associates, including a Burisma executive—that’s the energy company that paid Hunter Biden \$1 million per year to sit on its Board—and a Russian billionaire, who paid Hunter’s firm \$3.5 million, around the same time. All of this is while President Biden was running portions of the United States Foreign Policy, including Ukraine.

There's evidence that Hunter Biden paid for Joe Biden's living expenses while he was Vice President. A Hunter Biden email from 2010, entitled "JRB Bills", Joe R. Biden Bills, discusses paying for the upkeep of Joe Biden's large lakefront home.

There's another 2010 email from a Biden confidante to Hunter Biden saying, "Your dad just called me. He could use some positive news about his future earnings potential." To me, this suggests that Joe Biden's \$231,000—his taxpayer funded salary—and lifestyle as Vice President of the United States weren't enough to support his lifestyle. That same confidante of—and, also, Hunter Biden's business partner, made nine visits to the White House between 2009 and 2013, and met with Joe Biden in the West Wing, while Joe Biden was Vice President.

And we have a text message from Hunter Biden to his daughter, stating that, "Don't worry. Unlike Pop—", meaning Joe Biden, "I won't make you give me half your salary".

So, it seems President Biden was serving as Vice President and running U.S. Foreign Policy, at the same time that his son, Hunter Biden, was raking in money from shady foreign business deals. And this was money that was being diverted to benefit Vice President Biden.

So, General Garland, do you have any reason to dispute the evidence that indicates that President Biden was involved with, and using money from, Hunter Biden's business deals?

Attorney General GARLAND. Senator, following the long-standing rule of the Justice Department, we don't discuss investigations or evidence that may or may not be relevant to investigations. That's a matter for the United States Attorney's office that's investigating the case.

Senator HAGERTY. Well that's great—thank you.

Senator SHAHEEN. Thank you, Senator.

Senator SHAHEEN. Attorney General Garland has requested a break at 11:15. So, what we are going to try and do is to get Senator Schatz and Senator Capito in and then, we will break—have a 10-minute break, and then, we will take up the rest of the questions. Senator Schatz.

Senator SCHATZ. Thank you very much, Chair Shaheen, and Vice Chair Moran. Attorney General, thank you for being here.

I have—I'm going to try to get through five questions. So, if I can have quick answers, that'd be great.

What, if any—

Attorney General GARLAND. I'll try to talk fast.

Senator SCHATZ. Are the DOJ's plans to reinstate Federal prosecutorial discretion for non-interference in States, territories, and tribes where marijuana is legal?

Attorney General GARLAND. So, as I understand our role, with respect there, it's really the same as it is with respect to States. You're talking about marijuana prosecutions—

Senator SCHATZ. Yes.

Attorney General GARLAND. Right. And I think I—you know, I laid this out, actually, also, in my confirmation hearing and my view hasn't really changed since then. And that is that the Justice Department has almost never prosecuted use of marijuana and it's

not going to be—it's not—that's not an efficient use of the resources given the opioid and methamphetamine epidemic that we have.

Senator SCHATZ. That's good enough for me. Let's move on.

Attorney General GARLAND. Okay.

Senator SCHATZ. I want to talk a little bit about PREA oversight. There have been a number of recent sexual abuses case at FCI Dublin and other Federal prisons across the country. What's the Department going to do to address these PREA violations?

Attorney General GARLAND. Yes, so, this is a, you know, another really terrible set of events. We have prosecuted a number of the individuals responsible now, at Dublin, for this. We have put into place a new warden at Dublin, I think, within the last three weeks. We've—the Deputy Attorney General has set up a task force to investigate and determine what the procedural failures here were, and how these kind of failures can be prevented in the future. And the matter's been referred to the Inspector General for an internal investigation.

Senator SCHATZ. Thank you. Will the DOJ at least consider—I don't want you to commit to it now, but consider supporting the re-establishment of an interagency law enforcement equipment working group to oversee and provide recommendations for Federal programs, that include the transfers or sales of controlled equipment to law enforcement? We know this issue comes up periodically. This is a space where this can be done intelligently. I think we've seen the various—1033 and other programs, where equipment is transferred to local departments, and it can be very useful, or it can be overkill. And the point of a working group like this is to, sort of, suss out what departments need and what seems to be over arming local police forces.

Attorney General GARLAND. I appreciate your not asking for a commitment, but of course, any consideration of that issue requires interagency discussion, because some of the equipment you're talking about is Defense Department equipment. So, certainly, I would be happy to consider that.

Senator SCHATZ. This is a Hawaii-specific question. We don't have a halfway house in Hawaii, since October of 2019. So, does the Department have an interim or emergency set of measures to ensure that Hawaii's halfway house eligible individuals still have access to services?

Attorney General GARLAND. Yes, so, as you know, Senator, I think we have discussed this before. We've had—the Bureau of Prisons has had problems expanding a residential re-entry center in Hawaii, for a number of reasons, not the least of which is the providers are very scarce. BOP, I understand, has made progress on a day reporting center contract and hopes to make an award within the next few months.

Senator SCHATZ. Great. Final question, easy one. What is your position on clemency for Leonard Peltier?

Attorney General GARLAND. So, this is a matter that goes into—applications go to the Pardon Attorney. The Pardon Attorney makes recommendations through the Deputy Attorney General to the President. And so, I'm not going to comment on that, now.

Senator SCHATZ. Can you comment on where we are in the process?

Attorney General GARLAND. I don't—I assume, but don't know, that an application has been made. I actually don't even know whether—I mean, I've read about this in the press, so I don't know anything more about it than what I've read in the press.

Senator SCHATZ. And this doesn't cross your desk?

Attorney General GARLAND. Certainly not as an initial, or even secondary, matter. This goes to the Pardon Attorney and then, the Deputy Attorney General. I'm not saying I wouldn't be involved, but it certainly has not crossed my desk.

Senator SCHATZ. Thank you very much.

Senator SHAHEEN. Thank you, Senator Schatz. Senator Capito.

Senator CAPITO. Thank you, Madam Chair, Ranking Member, and thank you, Mr. Attorney General, for being with us today.

I'm not going to ask you a question on this. I just wanted to begin with expressing my deep concern about the flow of fentanyl into the country, from the southern border. Senator Manchin mentioned West Virginia's at the tip of the spear, as you know. Senator Collins brought this up as a big issue. We've had meetings over the last two weeks, being at home, and fentanyl is the killer. I mean, it is what's coming up through the southern border. So, I would impress upon you how absolutely critical it is that the situation at the southern border has got to get better. I understand the demand side is what's driving this, in a lot of ways. But if we can cut the supply, I think we can cut a lot of tragedy out of a lot of people's lives. And I know you understand that, as well.

Let me ask a question. According to—over the pandemic, we've seen a significant increase in first-time gun owners, with almost 60 percent increase in African-American gun owners, 50 percent increase in Hispanic gun owners, 43 percent in Asian-American gun owners. I guess I would ask you if you have a perception as to why this is. But the reason I'm asking the question, and I'm interested in it, of course I want to see our Second Amendment rights protected, but also, the NICS system, which runs the background checks, goes through West Virginia, as you know.

So, do you have a—any kind of perception as to why gun ownership is up among different groups and, during the pandemic? I know it's been bigger in all groups. What would you attribute that to? And what kind of strain is this having on our NICS system?

Attorney General GARLAND. So, I don't know the answer, I'm sorry, to the first question. This is the kind of analysis that I, you know, can't make up and I can't even guess at. I don't know what the causes are.

The second question I can answer. You know, the more gun sales, the more difficult it is for the NICS system, but that's the job of the NICS system. So, that's why we're asking for an increase in \$6.2 million for the NICS system, in the President's budget here, to take into account the increase in the number of sales.

Senator CAPITO. Right. And they can certainly use it. And we know we want accurate records, we want good records, and, I mean, they're working 24/7, as you know.

Recently, FBI Director Christopher Wray stated, during an interview, that there is a 59 percent increase in police officer killings. That is, officers being killed at a rate of almost one every five days. This is alarming to me. We had one of these incidences in our

hometown. It's occurring at ambushes and attacks. You're asking for more money in \$30 billion in mandatory spending for law enforcement help. What are you looking at, in this area, to protect—I know hiring is an issue, but protecting our force? And this is very concerning to me.

Attorney General GARLAND. Well, it's extraordinarily concerning to me and to all of the 120,000 members of the Justice Department, most of whom are involved in law enforcement. So, these are our brothers and sisters who are, sometimes being targeted directly, sometimes being killed in the line of duty, and sometimes, as a consequence of suicide. So, we have an overall task force involved in investigating threats, which includes, in particular, threats against law enforcement and local police.

Senator CAPITO. Are you seeing the threats go up?

Attorney General GARLAND. Yes, extraordinarily so. And you're right about—I think what—I don't know the number that Director Wray cited, but I'm—it sounds exactly right to me. The number is extremely worrying.

Senator CAPITO. Well, I'd like to see the focus of some of this new funding go into this precise issue. The suicide issue, obviously, is something that's deeply troubling, as well. I think a lot of it is the lack of respect for law enforcement in certain areas of the country, around the country. We're having trouble hiring in. We tried to do—we tried to do reform, couldn't get it across the finish line to try to help our local law enforcement recruit, train, you know, do bias training, and all kinds of things that we see are issues within our police department. But I'm very, very concerned about this.

Let me ask you another question. I noticed in your statement that you're going to create a division to combat climate crisis. The reason I'm interested in this is, I'm on the EPW Committee. I'm the Ranking Member there. There is a lot of enforcement at EPA and other places on environmental justice. You're going to create a new Office for Environmental Justice. I mean, are these directives coming from the White House? Why now, and why, with all of the other efforts that are going on, throughout all the different Cabinet positions in the government, is this something that you're putting a high priority on, right now?

Attorney General GARLAND. So, I think you rightly noted, it's not a division. It's an office within an already existing Environment Division. The reason is that there are responsibilities, both in the Environment and Natural Resources Division and in the Civil Rights Division, and so, coordination on the environmental justice issue is required.

Senator CAPITO. Is that not being handled in other areas? Like, for instance, in the EPA Enforcement, in their Environmental Justice Office.

Attorney General GARLAND. Well, to be honest, I don't know about their Environmental Justice Office. But we have a Civil Rights Division, which does prosecutions for civil rights violations. We have the Environment and Natural Resources Division, which does the affirmative cases. And we wanted to have some coordination between the two, that's the reason for having this office.

Senator CAPITO. Well, thank you. I think I've mentioned about three things I would put in front of this. And thank you so much.

Attorney General GARLAND. Thank you.

Senator SHAHEEN. Thank you, Senator Capito. We will now take a break. We will reconvene at 11:30.

Attorney General GARLAND. Thank you.

Senator SHAHEEN. Thank you.

[Recess]

Senator SHAHEEN. This hearing will come back to order, and I will call on Senator Murkowski who is next.

Senator MURKOWSKI. Thank you, Madam Chair. Mr. Attorney General, welcome. Before I begin asking my questions, I wanted to note that, when Senator Leahy was asking you about the VOCA Fix, know that that's something that we're monitoring very, very, very carefully. We worked hard to make sure that we had \$5 million for the Victim's Service Organizations in Alaska, to help. That was a real panic cry that we heard from the State. And I am concerned—Senator Leahy has emphasized making this a priority, but I want to make sure that we're not in a situation where we're looking again, realizing we're not measuring up here. There's a gap. So, if there is any kind of alternative funding line items to ensure that our victims' organizations are able to receive this, I certainly hope that the Department is looking at that.

And he also raised an issue with regard to some of the new grant programs in VAWA that, for reasons known or unknown, have not been reflected in the President's budget. And you indicated, you know, you weren't sure that those might be. Some of the ones that we have looked at are those grant programs, the new grant programs focused on expanding access to SANEs, as well as to medical forensic examinations. So, my hope is that—is that this was just a matter of timing, not a deliberate choice to overlook those very important programs, certainly in rural States like Alaska. So, I just underscore that when Senator Leahy raises these issues, I am right there with him.

So, to the issue of VAWA. And as you know, this was something that I've been working on for a long period of time and was very pleased that we were able to advance this, get it signed into law, contained within the VAWA reauthorization is the Tribal title, the Alaska Public Safety Empowerment Pilot. What we're really trying to do here, is to be able to provide a level of justice in areas in my State, where they simply have none. We want to get to these remote, rural villages, not necessarily those on the road system.

What we want to do is supplement, basically, the work that the State is doing, with regard to public safety. We're not creating Indian country. We're not taking jurisdiction away from the State. But as you know, the Attorney General, in consultation with the Secretary of Interior, is directed to establish a process to designate those Indian Tribes that can participate in the pilot. So, the question to you this morning is, what do you anticipate, in terms of the Department of Justice plan to begin this process? How do you see this moving forward?

We also direct the creation of an Alaska Tribal Public Safety Advisory Committee, not later than a year. So, I'm just asking this morning, if you can share how the President's budget will support the Alaska Public Safety Empowerment Pilot, as well as the Public Safety Advisory Committee.

Attorney General GARLAND. Yes. So, I'm very grateful for everything that you did, with respect to getting VAWA reauthorized. Of course, the Justice Department has been full on in support of this all along. So, we are a lock step on this. We support the pilot program. We think it's an important ability of authority to bring these and to prosecute these and investigate these matters. We can't just leave them undone.

So, I'm very eager to get the pilot going, to get the villages decided. Likewise with the commission. So, I don't see any reason why we won't be able to be on time on our marks for this.

Senator MURKOWSKI. Well, know that we would like to be working with you to understand what those timelines are to help with the expectations of folks back home.

Last question for you relates to the Bureau of Prisons. Currently, Alaska does not have any Federal facilities to house our Federal inmate population within the State. We have seen considerable growth over the years. The number of Federal inmates has grown from just a few hundred to over 1,000. And what happens then, is many of these individuals are sent to serve their sentences at facilities outside the State, sometimes 2 to 5,000 miles away from their homes.

I have sent you a letter—sent it back in March of this year, asking that you consider working with the Bureau of Prisons to conduct a new feasibility study. It hasn't been done for a period of time. It was, apparently, about two decades ago. A lot has changed in Alaska since then. But I would ask that you look at this. We've not heard a response back, so if you can take a look at this and, again, try to work with us on a new feasibility study. But also, working with the Bureau of Prisons to obtain additional halfway house bed space in Alaska. Currently, we have only 39 beds for the entire State of Alaska. All of them are located in Anchorage. So, if you could, perhaps, follow up with me on those two asks, it would be greatly appreciated.

Attorney General GARLAND. I would be happy to have our team speak to yours, or the two of us speak directly. I'd be very happy to.

Senator MURKOWSKI. Very good. Thank you. Thank you, Madam Chair.

Senator SHAHEEN. Thank you, Senator Murkowski. Senator Braun.

Senator BRAUN. Thank you, Madam Chair. As I was going to another Committee hearing, and I just talked to Madam Chair—we had three of them at the same time today. Seems like we could organize ourselves a little better.

I was listening to your conversation with Senator Hagerty, and I did not hear the end result. And I'm assuming he probably asked, do we need a special prosecutor to look into the Hunter Biden, you know, affair. Do you think we need to, and I would then have one follow up question to that? So, do we need a special prosecutor to look into that?

Attorney General GARLAND. So, as you know, the investigation is being run and supervised by the United States Attorney in Delaware, who is an appointee of the previous administration, and continues on as the United States Attorney. The question of whether

to have a special counsel is one that—it's an internal decision making in the Department, so I don't want to make any judgments one way or the other. But I'm quite comfortable with the United States Attorney for that district continuing in the role that he's playing.

Senator BRAUN. So, a follow up question to that would be, of course Special Prosecutor Counsel Mueller, you know, was assigned in that whole Steele dossier issue, which now has been debunked. If you had been in that capacity then, do you think a special counsel was needed there, as well?

Attorney General GARLAND. It's hard to put myself back into that circumstances. And then, of course, there would be a different—for me to be in that position, there would've been a different president. So, I'm not sure I can answer that hypothetical.

Senator BRAUN. Well, it's obvious that that would be a question that many would wonder about, in terms of what that standard is, what that consistency is. And it seems like it would be the same from one administration to the next.

Got a question that really is probably more pertinent, in the sense that what's happening on our southern border is confusing, in the sense that the administration says we don't have enough resources. It's done things, from the beginning, that has—I was down there with 17 other senators, roughly a year ago. And to give you a description of the immensity, it had gone from record low illegal crossings—and I'm one that believes we need to secure the border and roll our sleeves up and fix all the issues associated with it. We were—had risen from, I think, 40,000 to 70,000. This last month, it was 212,000. I think 60-some thousand got away. I mean, it has exploded beyond anybody's imagination. I think self-induced.

And then, there are conflicting statements that part of it's due to not having enough resources. Are we resourced at the border, properly? And that would be how we address any illegal crossings. That seems to be delegated to lower levels of authority. Isn't that confusing? And in light of the issue, in terms of where it's at, do we to do something differently? And does your office need to be outspoken about trying to fix it?

Attorney General GARLAND. So, I want to be careful about explaining what our role is, because we do need more resources. I think most of the resources you're referring to are Department of Homeland Security resources. So, I'll leave that for that Secretary to express what they need. But we have asked for \$1.35 billion for our immigration courts, \$1 billion of which is to reduce the immigration court backlog. So, the thing that's our job is to run the immigration courts after we get referrals from DHS.

So, we have already onboarded everyone we can, as immigration judges. We asked, in fiscal year 2022, for 100 more. Again, no fault of this Committee, because you gave us the right mark. But as a consequence of the Omnibus, that was not funded. So, we're asking for 200 new immigration judge teams, a total of 1,200 new staff for that purpose. That's the—we've also asked for money for a virtual court initiative, so that we can run these court proceedings more efficiently and more effectively and from whatever area. If we get the additional immigration judges, we will move them to the border. We're already going to be moving them to the border, as it is.

Senator BRAUN. And can you describe what your request is, compared to what it was in prior years? What magnitude of difference?

Attorney General GARLAND. So, yes. It's an additional 1,200 staff for—

Senator BRAUN. In addition to how much before, so we can—

Attorney General GARLAND. It will bring us to a total of 834 IJs. The staff includes all their clerks, etc. So, with 200 more we'll get to 834. So, 834 minus 200 is 634 was what we had before.

Senator BRAUN. And just with the arithmetic I put out there earlier, the problem has quadrupled—

Attorney General GARLAND. Yes.

Senator BRAUN. Or quintupled. So, it would beg the question, are we putting enough resources to it, or is it, kind of, lip service because we know it's become a big issue? I would advise, maybe, that might not be adequate, given the magnitude of the current problem, it's still predicted to go up by even 50 percent more.

Attorney General GARLAND. So, that's a fair question, Senator. Of course, we didn't get what we asked for the last time, so we're trying to be realistic about what we can ask for. But resources are not the only thing we're doing. We've also adopted a new asylum officer rule with DHS, so that asylum decisions are made by the asylum officers, not by the IJs. So, they—IJ is immigration judges. So, they won't have to do that. And then, if there are denials, there will be a streamlined process, which should reduce the amount of time from current 4 years to 6 months. We also have a dedicated dockets, in order to be able to better distribute the work among our IJs.

So, it's a combination of things. We want more resources and we're trying to streamline the whole process and put more of the work—

Senator BRAUN. I don't think in the—

Senator SHAHEEN. Thank you, Senator Braun.

Senator BRAUN. Okay, thank you.

Attorney General GARLAND. I'm sorry.

Senator SHAHEEN. I know that Senator Moran and I both have a second round of questions that we would like to do. It's not clear that anyone else is interested. I don't know, Senator Braun, if you also have another round. But mine are relatively brief, so I will go ahead.

You were discussing with Senator Capito the horrific issue of police being targeted and, also, suicides. As I'm sure you're aware, there's no comprehensive national data collection regarding police suicides. So, in fiscal year 2020, we directed the Bureau of Justice Statistics to maintain a data set and report on police suicides for Federal, State, and local law enforcement. Unfortunately, BJS has not moved forward on collecting this data. We've provided stronger directives, as well as \$3 million for that data collection effort, in the fiscal year 2021 bill, but still nothing.

So, were you aware of the delays with this project? And what can we do to try and collect this data? Because it's, as you know, it's really critical to figuring out how we respond. We need to have information so we can think about what we can do to address what is becoming more and more of a challenge nationwide.

Attorney General GARLAND. I am aware. I understand that BJS will be submitting its report within the next couple of months. I'm not sure exactly how many months is it? In about 8 weeks I'll have an update for you on this—on where they are on this.

Senator SHAHEEN. Good. Well, I look forward to getting that. And we've had—sadly, we've had some high-profile suicides in New Hampshire. And I also look forward to working with the Department on what we can do to address the challenge of suicide within our law enforcement agencies. So, thank you. I'm pleased to hear that we should expect something soon.

Unfortunately, I missed a couple of the discussions around what's happening with fentanyl, because I had to step out. But I know that on Thursday, the administration released their National Drug Control Strategy. Like so many States, New Hampshire is one that has had way too many overdose deaths because of fentanyl. And I wondered if you could give us a little insight into how resources are being shifted within the Department to respond to that strategy and how that might impact small States, like New Hampshire, which are struggling with this challenge?

Attorney General GARLAND. Yes, so of course—there—we have been involved in the development of the strategy in its most simple form. There's two sides to this. There's the enforcement against the drug trafficking organizations and there's the health challenges for those who are addicted, to try to get them off of the addiction and to take care of them.

So, on the drug trafficking side, you know, we're asking for \$9.8 billion across DOJ, to counter drug trafficking. The principal agency for us, of course, is the DEA, for \$3.1 billion, which is a \$102 million increase for countering drugs. Fentanyl's at the very top of the list of the concerns. When I was at the border, I saw the same problems that everybody else is reporting of. These are very tiny pills, and as the DEA administrator makes clear, one pill can kill. And the odds—you know, it's like playing Russian Roulette because some of these pills are overdose pills. So, that's an extraordinary part of what we're doing.

We've asked for money for Marshals and for the U.S. Attorneys and for the FBI. The FBI is particularly targeting fentanyl and opioid trafficking on the dark web. And as we announced within the last two weeks, we took down the largest dark web drug marketplace, to prevent the way in which some people are getting it, which is online, at this point.

So, there's a number of different things here. Criminal Division has money in the budget for the Regional Opioid Strike Forces. And then, there are COPS grants, under the COPS program, for anti-heroin and anti-meth task forces. So, that's on the enforcement side.

On the overdose/addiction side, we've asked for \$418 million for the Comprehensive Addiction and Recovery, the CARA Act grants. We've asked for \$190 million for the COSSAP program. That's Comprehensive Opioid Stimulant and Substance Abuse grants. And another \$75 million for mental health and substance use grants. Money for drug courts, \$95 million for veterans' treatment courts, and for our Consumer Protection Branch, which tries to stop those who are oversubscribing and improperly overdispensing opioids.

So, it's a—you know, it's a two-pillar issue here for us. I can't think of anything more important or anything more tragic than what fentanyl is doing to the American people.

Senator SHAHEEN. Well, thank you. I certainly agree with that and hope that, as the strategy is rolled out that, considerable thought will be given to rural parts of the country and small States, like New Hampshire, which may appear positively on lots of scales, with respect to income level and resources, but in fact, have been very hard hit and really need help.

Thank you very much. Senator Moran.

Senator MORAN. Chairwoman, thank you. General, thank you for your presence today.

Just a couple more questions, perhaps a follow-up to a couple of my colleagues questions. But first of all, I'd like to start with Title 42 and your conversation with Senator Braun. I think your answer to him was more prospectively might transpire and the need for additional resources in the future.

I would like to highlight or focus on this year, your budget request that's in front of us now. I know there's some uncertainty with a Federal judge in New Orleans and a decision, but it seems to me that—my view, this is a pretty reckless decision because the estimates are about 14,000 migrants could begin crossing the border per day, after Title 42 ends on May the 23rd. That has to have enormous resource consequences for the Federal Government. I think Homeland Security is already talking about additional—running out of money and needing additional dollars. ICE and Border Patrol, it's estimated, could be out of funds by July of this year.

What about the impact on DOJ components, Marshals, immigration courts, U.S. Attorney's offices? Have you prepared any estimates, has the Department prepared estimates, as to what the increasing expenditures may be this year, unaccounted for in your budget request?

Attorney General GARLAND. I don't know that we have. I don't think we have those numbers now, but we can—I think our staff can work with yours. There's no question that there will be an increase in U.S. Attorney resources needed along the southern border. We've hired, with respect to the IJs, as I was telling Senator Braun, we've hired all the way up, under the current appropriations. So, without more we won't be able to increase the numbers. We are doing everything we can to streamline the system and to move people, the IJs, to the borders to assist there. But look, we're always happy for more money and I'll be happy to have our staff speak with the subcommittee's staff about that.

Senator MORAN. Well, General, I mean, the crux of my conversation with you earlier in today's hearing, generally revolved around violent crime. And my view is that consequence of what the administration is determined to do, with Section 42, can't be compensated for by removing resources going to fight violent crime. The border and violent crime are clearly related, significantly related, but you—

I remember visiting the border and what stood out to me is that, when we were housing the juveniles on the border, 40 percent of the border patrol agents were then in the housing business, not in the border patrol business. And I think there's an analogy there of

something the Department of Justice must avoid, which is to take resources away from something that is a crisis already, to address the crisis that is going to occur with the removal of 42. Does that make sense?

Attorney General GARLAND. Yes, and I assure you we don't want to remove the money that we need to fight violent crime to put it anywhere else.

Senator MORAN. Has the Department either volunteered or been tasked with providing DOJ personnel to support DHS during this crisis?

Attorney General GARLAND. I don't know what the—

Senator MORAN. U.S. Marshals.

Attorney General GARLAND. Well, yes. But to be clear, we don't do border patrolling. None of our law enforcement is able to do—is trained for that, or anything else. The Bureau of Prisons is going to make buses available and—for the transfers that the Border Patrol needs assistance for. And the Marshal Service is going to be providing additional Deputy U.S. Marshals to assist CBP at the border. But I don't want to overstate how much that is, because our ability to make those contributions is not large.

Senator MORAN. Thank you. Senator Shaheen visited with you about drugs, in particular, rural and small States. You and I had a conversation, probably as you were being confirmed, about rural law enforcement departments. And I asked you, and you agreed, and I think you've pursued making certain that rural agencies, small agencies in particular, have a fair shot at getting the Federal resources. Anything that you can do to update, or anything that you would request of me to make that more—less ownersome and more likely?

Attorney General GARLAND. I think we have been doing that. We've made it easier to make—for small law enforcement agencies, in particular the rural ones that you're speaking of, to make the applications for the grants.

I will tell you that on my recent trip to U.S. Attorney's offices to talk to joint law enforcement task forces, in Colorado and Louisiana, in particular, I met with the rural sheriffs and, you know, I wanted to make sure that these task forces were not only focused on the cities, but were focused on helping the rural sheriffs, as well. And in both of those circumstances, at least, we got considerable affirmation that that is working well.

That—you know, this is—the rural law enforcement provides the boots on the ground who know the people in the community. And the Federal law enforcement, DEA, FBI, ATF, Marshals, are able to provide the technology and the skill sets necessary to, you know, find people who cross the border from one jurisdiction into another and to bring them back. So, this is anecdotal, but my anecdotal work suggest very good cooperation in these joint task forces.

Senator MORAN. Thank you. My time is more than expired. I just would mention one other thing and, perhaps there could be a follow up by you or your staff. I'm surprised that the DOJ is only requesting—your budget request is only an additional \$68.6 million to investigate and prosecute cybercrime, including \$52 million at the FBI and \$15 million at the U.S. Attorney's office. The magnitude

of the problem is—I can't imagine can be addressed with that—with that minimal or modest amount.

Attorney General GARLAND. My numbers are—look at little different than yours.

Senator MORAN. All right.

Attorney General GARLAND. Mine show more than \$1.2 billion to address cybersecurity and cybercrime across the country. The increases are \$15 million for 50 more U.S. Attorneys to bring these cases. Another \$88 million for additional 75 FBI personnel to bring these cases. And then, for our own cybersecurity for the Justice Department and all the law enforcement agencies, \$115 million. So, I'm not sure why the numbers are different.

Senator MORAN. No, I may have—I may have misspoken or, certainly at minimum, was confusing. Those are the increases, not the total amount—

Attorney General GARLAND. We did get—

Senator MORAN. Over enacted levels.

Attorney General GARLAND. No, we did get more money in the recent supplemental because of Ukraine. I can promise you, we expect to ask for more money and part of the money we're going to ask for is cyber defense, because we're quite worried, obviously, about that. Other money in there will be for—I'm trying to decide whether to call it KleptoCapture or just our Sanctions task force. But it's the KleptoCapture Task Force. So, we'll be asking for additional money, but you did give us more money in the supplemental on this, as well.

Senator MORAN. General, thank you. Thank you for joining us. And I did agree with Senator Shaheen to help her, or work together with her, to see that we get the U.S. Attorney process back under a fashion in which we get some confirmations concluded.

Attorney General GARLAND. That would be great. Thank you.

Senator SHAHEEN. Thank you, Senator Moran, on both counts. Senator Graham?

Senator GRAHAM. Thank you. Good morning. So, on the Russia front, we had lunch and I really—I appreciate what you and your team are doing. There's a lot on your plate. You know, you wanted money in the supplemental. Is there any additional authority you need from Congress to be more aggressive, in terms of going after the oligarchs and kleptocracy? Do you need any legal changes?

Attorney General GARLAND. Yes, so—thank you for asking about that. We have been very carefully examining that question and I expect that there will be requests for legislative changes. These could go, particularly, in the way in which we do the forfeitures, to make it easier for us to do the forfeitures. I think I mentioned earlier, also the possibility of taking money out of the Forfeiture Fund that we collect this way and sending it to Ukraine. So, the answer is yes—

Senator GRAHAM. Okay.

Attorney General GARLAND. And we are hard at work on it. And I expect, very soon, within days, probably, that the administration will be able to present some requests.

Senator GRAHAM. Well, good. Mr. Attorney General, I think there will be a receptive audience to give you more money, if that's what

it needs to go after the people who've profited from destroying the Russian economy.

Along that line, there's articles in the paper about family members that have been used by Putin to, sort of, launder money, and talk of a girlfriend in Sweden. Do you know anything about an effort to bring sanctions against her?

Attorney General GARLAND. First answer is no and the second answer, I guess is, if I did know I wouldn't be able to discuss it.

Senator GRAHAM. Okay, fair enough.

Attorney General GARLAND. This is a Treasury Department issue—

Senator GRAHAM. Yes, I just—right. I just—I would encourage you to put everything on the table.

When it comes to Afghanistan, have you been briefed, recently, about the possibility of terrorism emanating from Afghanistan, into the United States? Has that threat level gone up or down or do you know?

Attorney General GARLAND. We are—the details of that I'd have to defer to a classified briefing.

Senator GRAHAM. Okay, all right. That's fair.

Attorney General GARLAND. But I think it is fair to say that we are constantly concerned about the risk that ISIS-K will try to mount something in the United States, likewise, continuing with respect to Al-Qaeda. But the FBI is putting all its enormous amount of resources into preventing that, as are—as is the intelligence community outside the United States.

Senator GRAHAM. Okay. Well, let's stay in touch on that.

Sort of, back to the border. This idea of taking Title 42 out of the toolbox, in terms of a way to deal with illegal immigrant crossings, do you believe that if Title 42 is repealed, there would be a surge at the border?

Attorney General GARLAND. I think it's important for me to explain our role in this, and the Justice Department's only role is, when the CDC makes its assessment, as it did, and asks us to appeal, for us to determine whether that would be lawful. And the Department concluded that the CDC's—

Senator GRAHAM. But you—but you're in charge—I'm sorry, go ahead. Finish your thought.

Attorney General GARLAND. Yes, and so, that was so. I think—to answer the other part of your question, I think that all intelligence suggests that there will be a large increase in the border, yes—

Senator GRAHAM. Now, when it comes to drugs—

Attorney General GARLAND. Migrants, yes.

Senator GRAHAM. Right. When it comes to drugs coming into the United States from the southern border, in the last year, has that problem gotten better or worse?

Attorney General GARLAND. I don't know what the numbers are. I mean, it is obviously the case that the transportation of fentanyl, particularly, has increased. Fentanyl is much easier—it's much more compact, much smaller, goes a longer way. The smugglers, particularly in the trucks, have developed ways to hide it, even from our x-rays.

Senator GRAHAM. Yes.

Attorney General GARLAND. So, that problem, of fentanyl crossing the border, has definitely increased, in a way that makes all of us very worried.

Senator GRAHAM. Okay. So, when it comes to your role in all this, if Title 42's repealed and we get a surge, there's an increase in fentanyl coming across the border, and the leading cause of death for Americans from 18 to 45, they tell me, is fentanyl overdose, do you think this budget and the game plan for the Biden Administration is—will be effective against this increase?

Attorney General GARLAND. I think that the budget we've asked for for drug trafficking and drug interdiction, which is \$9.8 billion, is a huge amount and an enormous allocation of America's resources, in this respect. But again, our job is different than the Department of Homeland Security's job.

Senator GRAHAM. No, I got you.

Attorney General GARLAND. And I can't speak to their resources.

Senator GRAHAM. And I'll try to wrap up here. But drug interdictions are dramatically less than they were in fiscal year 2021. We had 913,000. That's how much drugs were interdicted. Now we're at 340,000. It seems to be that interdiction's going down. So, my basic question is, do you consider the border in a state of crisis?

Attorney General GARLAND. I think, as you rightly pointed out, there's going to be a lot—and intelligence suggests, there will be a lot of people—a lot more people migrating over the border.

Senator GRAHAM. Well, the reason I mention that, as I believe it is. I believe the amount of drugs coming across are unprecedented. The amount of people coming across the border illegally is unprecedented. Seems to be every train line is getting worse. And to be honest with you, Mr. Attorney General, I think we need to go all in, all hands-on deck, of controlling our border. And do you believe that what we have in place, through this budget and the system as a whole, that we can expect to turn this around?

Attorney General GARLAND. I think that the money—with respect to the Justice Department, which is the only thing I can speak to, I think that if you give us the increased resources that we're asking for, we can do our job.

Senator GRAHAM. Okay. So, 6 months from now we'll see. Thank you.

Senator SHAHEEN. Thank you, Senator Graham.

Senator SHAHEEN. Thank you very much, Mr. Attorney General, and to all of your staff.

Attorney General GARLAND. And thank you.

ADDITIONAL COMMITTEE QUESTIONS

Senator SHAHEEN. If there are no further questions, this afternoon, senators can submit additional questions for the official hearing record. We request the Department's responses within 30 days of receiving those. And the Subcommittee stands in recess until Tuesday, May 3rd, when we will hold a hearing on the budget requests of NASA and the National Science Foundation.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR PATRICK LEAHY

QUESTIONS SUBMITTED TO HON. MERRICK GARLAND, ATTORNEY GENERAL,
DEPARTMENT OF JUSTICE

Question 1. Victims of Crime Act (VOCA) Fix Act of 2021 Implementation: I would like to follow up on our discussion during your live testimony regarding the VOCA Fix Act. I mentioned to you that despite a sizeable deposit in the first month of implementation, the deposits into the Crime Victims Fund from deferred and non-prosecution agreements have actually been quite low. Across October and November, for example, the total deposited from those two new categories was only \$1 million.

A. What do you think accounts for such starkly low deposits resulting from deferred and non-prosecution agreements?

Answer. Signed into law on July 22, 2021, the VOCA Fix Act requires monetary penalties from Federal deferred prosecution and non-prosecution agreements to be deposited into the Crime Victims Fund. The Office for Victims of Crime reports that the Fund received \$262.3 million from deferred prosecution and non-prosecution agreements from July 22, 2021, to December 31, 2021, and \$227.2 million from deferred prosecution and non-prosecution agreements from January 1, 2022, through April 30, 2022.

Because this Act has been in effect for less than a year, the Department does not yet have sufficient information to make long-term projections on future deposits from deferred and non-prosecution agreements. The Department will continue to monitor receipts closely and educate US Attorneys' offices and Department litigating components about the importance of the Fund.

B. Is the Department concerned such low deposits may soon result in a zero dollar balance in the Crime Victims Fund?

Answer. The balance of the Fund as of April 2022 is \$2.934 billion. The Department is hopeful that the VOCA Fix Act will generate substantial increases in receipts to keep the Crime Victims Fund solvent and offset the fall-off in receipts in recent years. Receipts will continue to be monitored closely. The Department will work with Congress to ensure the Fund remains solvent.

C. What more can the Department be doing to educate its attorneys and other litigating components about the impacts of their prosecutorial decisions on the Crime Victims Fund?

Answer. The Department has issued a memorandum to U.S. Attorneys' offices, Department litigating components, and the Office of Justice Programs regarding the purpose of the Crime Victims Fund; how the Fund supports and benefits hundreds of thousands of survivors every year; and how criminal fines, and not Federal taxpayer dollars, are what sustains the Fund. In addition, the Office for Victims of Crime reports that it will brief attorneys in the Antitrust Division about the VOCA Fix Act and the Fund later this summer.

Question 2. Freedom of Information Act: I am pleased that you recently issued Freedom of Information Act (FOIA) guidelines directing all agencies to comply with the requirements of FOIA. During a FOIA hearing I chaired in March, however, I was disappointed by the Department's answers regarding its willingness to enforce these guidelines. I did not come away from the hearing with a clear sense of what the Department is ready to do if agencies ignore or violate the guidelines you issued.

A. Will you commit to utilizing the full powers of your office to enforce the Department's FOIA guidelines and ensure compliance with FOIA?

B. Will you commit to working with the Director of the Justice Department's Office of Information Policy to establish remedial or enforcement actions for the Department to take should other agencies fail to comply with the recently issued FOIA guidelines?

Answer to Questions 2A and 2B:

As the new FOIA guidelines I issued on March 15, 2022, make clear, "[t]ransparency in government operations is a priority of this Administration and this Department." The Justice Department takes very seriously our government-wide role to encourage compliance with FOIA, and we are fully committed to utilizing all of the tools available to us to ensure agencies are faithfully and effectively applying the law with a presumption of openness.

Question 3. Voting Rights: The wave of efforts across the country to suppress access to the ballot box is alarming. Legislation like the John Lewis Voting Rights Advancement Act are essential to ensuring that Americans can fulfill their constitu-

tional right to vote. I am alarmed that the John Lewis Voting Rights Advancement Act continues to be blocked from even debate in the Senate.

A. Do you agree that voter suppression poses a fundamental threat to our democracy?

Answer. Yes. As I described in speeches I delivered on May 29, 2022 and June 11, 2021 and in a Washington Post op-ed I wrote on August 5, 2021, the right of all eligible citizens to vote is the cornerstone of our democracy and the source from which all other rights ultimately flow. Since the Shelby County decision in 2013, there has been a dramatic rise in legislative efforts that make it harder for millions of citizens to cast a vote that counts.

B. While the Department waits for Congress to act, what steps are you taking to ensure that Americans' access to the ballot box is protected, everywhere in the country?

Answer. The Department is taking a wide range of steps to protect the right to vote, including:

- The Department has doubled the Civil Rights Division's Voting Section's enforcement staff.
- The Department has issued guidance on Federal voting rights laws as they relate to redistricting and methods of election for governmental bodies, methods of voting, and post-election audits.
- The Department has brought lawsuits against Georgia and Texas regarding recently enacted measures that impact the right to vote.
- The Department has undertaken a number of steps to protect the right to vote of deployed servicemembers and Americans residing overseas, including entering into an agreement with Ohio.
- The Department has brought a lawsuit and reached an agreement under the National Voter Registration Act with New Jersey.
- The Department has brought a lawsuit and reached an agreement under the National Voter Registration Act and the Help America Vote Act with Oneida County, New York.
- The Department has set up a task force to address threats against election workers and officials.
- The Department has also filed numerous amicus briefs and statements of interest regarding issues under the Federal voting rights laws.

C. What additional resources would be helpful for the Justice Department to improve and expand its efforts to protect Americans' access to the ballot box?

Answer. The Department has supported Congress' efforts to enact new legislation to protect the right to vote, including but not limited to the John R. Lewis Voting Rights Advancement Act, the For the People Act, and the Freedom to Vote Act. The Department has also sought increased funding for the Civil Rights Division's enforcement work in its fiscal year 2023 budget request, including to support its voting rights work.

Question 4. Preventing Gun Violence (Need for Permanent ATF Director): I was pleased that President Biden nominated Steve Dettelbach to be the Director of the Bureau of Alcohol, Tobacco and Firearms (ATF). The ATF remains at the forefront of protecting our communities from violent criminals and the preventing the illegal use and trafficking of firearms. Unfortunately, the ATF has had only one permanent director since 2006; this must change. Steve would make an effective and fair-minded ATF Director.

A. Why is it so important that the ATF have a permanent director? What ATF actions are inhibited in the absence of a Senate-confirmed director?

Answer. As your question notes, in March 2006, Congress passed and President Bush signed into law the USA PATRIOT Improvement and Reauthorization Act (Public Law No. 109-177, 120 Stat. 247), which requires the ATF Director to be appointed by the President with the advice and consent of the Senate. This statutory requirement reflects the importance of ATF's crucial public safety mission. That mission is all the more critical today given the unacceptable level of firearms violence in our communities.

The confirmation of an ATF Director will reinforce that the Federal government is committed to reducing firearms violence; signal to the dedicated professionals of ATF and ATF's local, state, Federal, Tribal, and territorial law enforcement partners that both Congress and the Administration support ATF's vital mission; and enhance continuity and stability at ATF. A Senate-confirmed Director is also uniquely positioned to respond to congressional inquiries and to advocate for the agency during the budget formulation and enactment process.

Question 5. Vermont Office (Importance of Confirming U.S. Marshal/Attorney Nominees): I would like to thank your hardworking Federal agents, especially those in Vermont, for their dedication to fighting criminal activity and protecting our communities. The U.S. Marshals working out of Burlington arrested 90 fugitives last year, and even more in the year prior. The Vermont U.S. Attorney's Office aided in the criminal investigations of Purdue Pharma's role in the opioid epidemic that has ravaged the New England area. Given the critical role that the Department's Federal law enforcement officials play in keeping us all safe, it deeply concerns me that a single Senator has arbitrarily held up two U.S. Marshal and six U.S. Attorney nominees.

A. When politicians hold U.S. Marshal and U.S. Attorney nominees hostage for political grandstanding, how does that impact the Department's ability to investigate crimes and prosecute criminals? What kind of impact does that have on the local communities depending upon these law enforcement officials?

Answer. It is vitally important to have Senate-confirmed U.S. Marshals and U.S. Attorneys in each Federal district. The U.S. Marshals protect the rule of law by apprehending the nation's most violent fugitives and help ensure the safety of the Federal judiciary. The U.S. Attorney serves as the chief Federal law enforcement officer in each district. Despite delays in the confirmation process, the committed public servants who work in these districts have ensured that their important work and mission continue without interruption.

Question 6. DOJ Review of FBI Nassar Investigation Declination Decision: Last year, the Senate Judiciary Committee held a hearing to examine the Justice Department Inspector General's report on the FBI's unacceptable handling of the Larry Nassar investigation. During that hearing, we heard from some of the nation's most elite gymnasts who spoke bravely about their traumatic experiences and their long search for justice and accountability.

While the Justice Department initially declined to bring charges against the disgraced FBI agents involved in this investigation, the Department announced in October that it was reviewing that declination decision based on "new information that has come to light." However, we have not heard from the Department on the status of that decision.

A. Do you have any updates with regard to that review and its timeline?

Answer. As the Deputy Attorney General testified before the Senate Judiciary Committee on October 5, 2021, the Assistant Attorney General for the Criminal Division, Kenneth Polite, undertook a review of the September 2020 decision not to bring Federal criminal charges against two former FBI special agents in connection with their involvement in the FBI's investigation of Lawrence Nassar. The Criminal Division's review was led by experienced prosecutors who carefully reviewed and analyzed the evidence gathered in the investigation. On May 26, 2022, the Criminal Division's decision to adhere to its prior decision not to bring Federal criminal charges was made public.

The Criminal Division's decision does not in any way reflect a view that the Justice Department condones the conduct of the former agents; nor does it reflect a view that the investigation of Lawrence Nassar was handled as it should have been. As I testified before this Committee on April 26, 2022, the institutional failures here are unspeakable and quite apparent.

Question 7. January 6th Investigation: Less than a year and a half ago, a violent mob of insurrections stormed the Capitol, the first time in 244 years that our country was almost prevented from carrying out a peaceful transfer of power. According to the Federal Bureau of Investigation, the violent attack was an act of domestic terrorism. Five people died during or soon after the attack, and nearly 140 law enforcement officers suffered injuries, ranging from brain damage to cracked ribs, to smashed spinal cord discs.

Although I am encouraged more than 800 people have been charged with crimes stemming from the assault on the Capitol, the Justice Department estimates between 2,000 and 5,000 people entered the Capitol on January 6. Investigators have a long way to go before everyone who participated in the attack is held accountable.

A. Why is it important these individuals are held accountable for their failed attempt to overthrow the will of the American people? What resources or tools would DOJ need to improve its efforts to hold these perpetrators accountable?

Answer. The commitment to the peaceful transfer of power must be respected by every American. Our democracy depends upon it. The preservation of American democracy also requires our willingness to tell the truth. That is why it is essential for us to ensure that the magnitude of an event like the January 6, 2021, assault

on the United States Capitol is not downplayed or understated. That attack disrupted proceedings in both chambers of Congress and interfered with the peaceful transfer of power from one administration to the next.

In response, the Department began work on what has become one of the largest, most complex, and most resource-intensive investigations in its history. The prosecution efforts, which are being led by the United States Attorney's Office for the District of Columbia, are ongoing. Accordingly, the President's fiscal year 2023 Budget requests \$34.1 million and 130 term positions (80 term attorneys) to support the Justice Department's efforts to investigate and prosecute defendants charged in connection with the events of January 6, 2021.

B. Do you have any updates about DOJ's investigation of the funders, organizers, and ringleaders who may have not been present at the Capitol on January 6, 2021, but nonetheless were responsible for the terrible events of that day?

Answer. Longstanding policy and practice of the Justice Department generally prevents us from commenting on or confirming the existence of any investigation.

Question 8. DOJ IP Enforcement Office: It is imperative that American innovation is protected, especially against bad actors in foreign countries. The Justice Department's Intellectual Property Task Force has indicted Chinese citizens and companies attempting to steal trade secrets from companies like Motorola and General Electric. I believe this work is critical in protecting our public safety and economic wellbeing. I thank you for that work on behalf of American innovators and inventors.

A. How is the IP enforcement task force equipped to investigate and prosecute trade secret violations in a complex digital world? What kind of resources or tools would the DOJ need to improve its enforcement of the Defend Trade Secrets Act?

Answer. The Department of Justice remains committed to the protection of intellectual property rights and to vigorously combating intellectual property crime, particularly when it threatens public health and safety, national security, and the U.S. economy. This includes combating economic espionage and other thefts of trade secrets that pose a significant threat to U.S. companies and competitiveness.

The Economic Espionage Act (EEA) of 1996 provides criminal penalties for economic espionage as well as other thefts of commercial trade secrets. Within the Justice Department, the National Security Division's Counterintelligence and Export Control Section (CES) is responsible for review and approval of economic espionage charges. Together with CES, the Criminal Division's Computer Crime and Intellectual Property Section (CCIPS) coordinate on economic espionage and other trade secret prosecutions involving foreign actors and provide substantial guidance and support to United States Attorneys' offices in prosecuting a range of trade secret theft cases and in meeting the investigative, evidentiary, and technological challenges these cases pose. While the threat of foreign governments and business competitors stealing U.S. trade secrets remains high, the coordination within the Department—including with the FBI's counterintelligence, criminal, and cyber agents—results in strong cases with a deterrent impact.

In addition, the 2016 enactment of the Defend Trade Secrets Act (DTSA) created a Federal civil cause of action for trade secret theft, including thefts for which the EEA provides criminal penalties. As a result, many trade secret owners have been able to pursue civil remedies for trade secret theft in Federal courts. While the Justice Department does not specifically track the number of Federal civil trade secret actions brought, the opportunity to protect trade secrets through private action in Federal courts has clearly been a powerful tool for victim companies.

Question 9. Death Penalty: Last summer you imposed a moratorium on Federal executions pending a review of the Justice Department's policies and procedures.

A. Do you have any updates about the status and timeline of that review?

Answer. On July 1, 2021, I asked the Deputy Attorney General and Office of Legal Policy to engage in a series of reviews pertaining to Federal execution protocols, the Manner of Execution regulations, and related Justice Manual provisions. These are complex issues, and the various perspectives on these matters all deserve to be heard and given due consideration. The Department has therefore engaged in comprehensive and ongoing outreach to solicit input and inform policy decisions. That engagement continues with urgency and deliberation.

QUESTIONS SUBMITTED BY SENATOR BRIAN SCHATZ

Question 1. Prosecutorial discretion for state-approved marijuana: Following up on my question at your hearing, the Obama Administration issued guidance on prosecutorial discretion for noninterference in states, territories, and tribes where marijuana is legal. These memos—known as the Cole and Wilkinson memos—provided states, territories, and tribes with clarity as they implemented approved marijuana programs. Given the increased number of approved programs in the years since the Cole and Wilkinson memos, as well as the utility of the guidance provided by the memos, does the Justice Department's plan to update and reissue the Cole and Wilkinson memos? If yes, what is your expected timeline?

Answer. As I stated in my testimony on April 26, 2022, the Justice Department's enforcement resources are not put to their best use prosecuting nonviolent, low-level marijuana offenses, even in jurisdictions where marijuana use remains illegal. With respect to those jurisdictions where marijuana use and sales are lawfully regulated, there is even greater reason to conserve prosecutorial resources so that we can focus our attention on violent crimes and other crimes that cause societal harm and endanger our communities. The Department is examining a range of issues that relate to marijuana and its production, sale, and use, and we intend to address these issues in the days ahead.

Question 2. Project HOPE Institute: The explanatory statement accompanying the Consolidated Appropriations Act, 2022 (Public Law 117–103) included language directing the OJP to establish a Project HOPE Institute to provide training, technical assistance, and best practices for jurisdictions replicating the HOPE model. What is the status of the Project HOPE Institute?

Answer. The Bureau of Justice Assistance (BJA) reports that it is administering competitive grant funds and managing training and technical assistance to state, county, and Tribal agencies to operationalize the principles behind Project HOPE—swiftness, certainty, and fairness—in their supervision strategies. BJA works closely with the Swift Certain and Fair (SCF) Resource Center, which provides content expertise and project management support to those grantees to design, implement, and adjust their strategies to local needs and contexts.

In fiscal year 2021, BJA made an award of \$500,000 to support the Hope Institute, via competitive solicitation, to the Marron Center at New York University, which operates the SCF Resource Center, to expand guidance to the field at large.

The fiscal year 2022 solicitation opened March 23, 2022 and closed on May 25, 2022. The award to support the Hope Institute remains on track for implementation in 2022.

Question 3. Correctional Education Evaluation: The explanatory statement accompanying the Consolidated Appropriations Act, 2021 (Public Law 116–260)—also included in the explanatory statement accompanying the Consolidated Appropriations Act, 2022 (Public Law 117–103)—included language directing the NIJ to establish a public-private partnership with research and correctional institutions to collect and evaluate data and continue to advance the research on the impact of correctional education on recidivism. What is the status of the public-private partnership?

Answer. The National Institute of Justice reports that it awarded a competitive grant of \$585,726 to the University of Chicago to examine whether re-orienting the prison experience towards rehabilitation—by investing in education, mental health, and physical health while individuals are incarcerated—can reduce prison recidivism, specifically reincarceration rates. The project involves a collaboration with the Illinois Department of Corrections. This project performance period is 3 years, from January 1, 2022, through December 31, 2024. Should you wish a more detailed briefing of the project design and expected outcomes, my staff would be happy to put your staff in contact with the relevant experts within the Department.

Question 4. Science Advisory Board: The explanatory statement accompanying the Consolidated Appropriations Act, 2021 (Public Law 116–260)—also included in the explanatory statement accompanying the Consolidated Appropriations Act, 2022 (Public Law 117–103)—included language directing OJP to reestablish a Science Advisory Board to provide extra-agency review of, and recommendations for, OJP's research, statistics, and grants program. The re-established Board should be comprised of scholars and practitioners in criminology, statistics, sociology, and practitioners in the criminal and juvenile justice fields and should be tasked with ensuring the programs and activities of OJP are scientifically sound and pertinent to policymakers and practitioners. What is the status of the Science Advisory Board?

Answer. The Office of Justice Programs (OJP) reports that it is assessing the re-establishment of the OJP Science Advisory Board. OJP has discussed this issue and

reengaged with multiple external scientific organizations, including the National Academy of Science's Committee on Law and Justice and the Consortium of Social Science Organizations. Dr. Nancy La Vigne, whom the President appointed Director of OJP's National Institute of Justice, began her tenure on May 9, 2022. OJP anticipates that Dr. La Vigne will play an important leadership role in advancing the consideration and re-establishment of the Science Advisory Board.

Question 5. ICACCOPS Training: The explanatory statement accompanying the Consolidated Appropriations Act, 2022 (Public Law 117–103) included language directing the Justice Department to prioritize expanded training on and use of ICACCOPS across Federal, State, local, Tribal, and military law enforcement agencies. The language also directed the Justice Department to coordinate with the Department of Defense on the implementation of section 5500 of Public Law 116–92. What is the status of the expanded training and the coordination with the Department of Defense?

Answer. In accordance with the joint explanatory statement accompanying the Consolidated Appropriations Act, 2022 (Public Law 117–103), the Department's Office of Juvenile Justice and Delinquency Prevention (OJJDP) reports that it is actively working together with Fox Valley's National Criminal Justice Training Center (NCJTC) to expand capacity, training, and coordination with entities across the Department of Defense (DoD). Those efforts build on ongoing programs and efforts that provide DoD entities with ICACCOPS training and resources. For example, NCJTC reports that its ongoing management of the ICACCOPS investigative system, the ICAC Task Force website, and the ICAC listserve, provides valuable resources to many members of DoD investigative entities. In addition, NCJTC reports that it provides core and specialized training and technical assistance to DoD investigators, including training on ICACCOPS supported tools.

Question 6. Sexual Abuse Services in Detention Hotline: The explanatory statement accompanying the Consolidated Appropriations Act, 2022 (Public Law 117–103) included language directing the Justice Department to explore opportunities for releasing existing grant funding, including through OVC's discretionary grant program, for efforts that would create a hotline to provide sexual abuse and rape crisis counseling services to incarcerated individuals across the country. What is the status of the efforts to create a national hotline to provide sexual abuse and rape crisis counseling services to incarcerated individuals?

Answer. In fiscal year 2021, the Office on Violence Against Women (OVW) partnered with the Bureau of Justice Assistance (BJA) to issue the National Service Line for Incarcerated Survivors of Sexual Abuse solicitation, supported with funds from BJA's Prison Rape Prevention and Prosecution Grants appropriation. The Urban Institute, in partnership with the National Sexual Violence Resource Center, was selected as the recipient and has begun work.

The Service Line Initiative is being administered as a two-phase project beginning with a planning phase followed by an implementation phase.

This current project is for Phase One—the planning phase. Phase One will include a national scan of practices related to efforts to comply with PREA Standards, identification of common service gaps and needs, and guidance from subject matter experts on what a national service line would require to be responsive to both the PREA Standards and the unique needs of incarcerated victims. The goal of Phase One is to develop a comprehensive plan for the design and implementation of a Service Line for incarcerated victims of sexual abuse.

Phase Two, the implementation phase, will focus on using the comprehensive plan developed in the first phase to guide the Service Line's implementation. It is anticipated that Phase Two will be directed and administered by OVW and BJA, and that it will be funded competitively. Phase Two is dependent upon the availability of sufficient PREA appropriations in future fiscal years.

QUESTIONS SUBMITTED BY SENATOR JOE MANCHIN, III

Question 1. As the Chairman of the Cybersecurity Subcommittee on the Armed Services Committee I am acutely aware of the various risks posed to the U.S. Government and our critical infrastructure operators, which is why I was pleased to see streamlined cyber intrusion reporting standards included in the previous appropriations omnibus.

The FBI's 2022 Internet Crime Report details more than 800,000 complaints of suspected Internet crime were filed and nearly \$7 billion dollars lost last year. That's nearly doubled from 2019. This makes clear to me that cyber threats are only

growing in number and sophistication. In my opinion, one of the largest issues we're facing is a continued lack of interagency cooperation in tracking and responding to these cyber threats due to perceived jurisdiction limits. While the Department of Defense and the Intelligence Community can only operate outside of the United States, DHS and DOJ are the main entities responsible for operating within the U.S.—and lack of cooperation among the agencies means cyber-attacks are more likely to slip through.

A. In order to combat this lack of cooperation and communication why are inter-agency taskforces not more prominent between interagency organizations?

Answer. The Justice Department has worked together with partners across government to establish and strengthen mechanisms that facilitate strong interagency cooperation and communication to address cyber threats:

- The Justice Department's National Cryptocurrency Enforcement Team, Computer Crime and Intellectual Property Section, and Counterintelligence and Export Control Section lead our efforts to coordinate with domestic law enforcement, regulatory, and other partner agencies across government to combat the criminal use of digital assets, criminal cyber threats, and state-sponsored cyber threats, respectively.
- Regular interagency cooperation has been essential to the Justice Department's successful cyber enforcement efforts to date. For example, our successful operation in March 2022 to disrupt malware known as "Cyclops Blink" that was controlled by the Russian Federation's Main Intelligence Directorate (GRU), began with collaboration between the Federal Bureau of Investigation (FBI), the Department of Homeland Security's (DHS) Cybersecurity and Infrastructure Security Agency (CISA), the National Security Agency, and the United Kingdom's National Cyber Security Centre. Additionally, the March 2022 unsealing of criminal charges against four Russian government employees for their role in two historical hacking campaigns targeting critical infrastructure was paired with a related FBI, CISA, and Department of Energy cybersecurity advisory, sanctions by the Department of the Treasury, and a Department of State Rewards for Justice announcement.
- The National Cyber Investigative Joint Task Force (NCIJTF) is a multi-agency cyber center with the responsibility of coordinating, integrating, and sharing information to support cyber threat investigations and synchronizing joint efforts that focus on identifying, pursuing, and defeating bad actors seeking to exploit our nation's systems. The NCIJTF is a frequent venue for collaboration and coordination among 30 partnering agencies from across the Federal government, including the Justice Department, the Intelligence Community, and the Department of Defense (DoD). Task Force representatives are co-located and work jointly to leverage collective authorities and capabilities.
- The FBI also works closely with CISA, NSA, and international partners to release advisories identifying malware and mitigation measures to assist those with compromised devices. As a recent example of this coordination, in February 2022, the FBI, CISA, and NSA published a joint Cybersecurity Advisory regarding the ongoing efforts of Russian state-sponsored cyber actors to target U.S. cleared defense contractors.
- In addition, the National Security Council convenes weekly Cyber Response Group meetings and regular Interagency Policy Committee and sub-IPC meetings to share threat updates and discuss and implement cyber policy. Further, on some occasions, the interagency has convened Cyber Unified Coordination Groups to coordinate the government's response to significant cyber incidents. These meetings include, among others, representatives from the Justice Department, the Intelligence Community, DoD, the State Department, the Department of the Treasury, and DHS.
- When significant cyber incidents occur within the United States, such as the ransomware attacks in the last year against Colonial Pipeline and Kaseya, officials from the FBI and CISA work in lockstep coordinating the response. In addition, CISA's Joint Cyber Defense Collaborative, which established in August 2021 to unify defensive actions and drive down risk in advance of cyber incidents, includes the public and private sector as well as Federal and state, local, Tribal, and territorial governments.

B. How often do you meet with the other Cabinet Secretaries to discuss cyber threats and improving our response efforts during and after attack?

Answer. Cyber threats and incident response are a frequent topic of conversation at all levels of leadership. Along with other senior Department officials, I regularly discuss these issues with principals and deputies across government in both NSC-led meetings and direct conversations with colleagues.

Question 2. Recently, a district court judge in Louisiana indicated that he would grant a temporary restraining order blocking the end of Title 42. At the time that the Administration announced its decision to end the Title 42 policy on May 23, I made clear my concern about ending Title 42 without a plan in place to deal with the anticipated influx of migrants at our southern border. Specifically, I pointed out that encounters at the southern border reached an all-time high level of 1.734 million people during fiscal year 21. And that through the first 5 months of fiscal year 22, encounters were on pace to match or exceed those numbers.

A. Is DOJ planning to appeal any TRO issued by the district judge?

Answer. On April 27, the District Court for the Western District of Louisiana issued a temporary restraining order in Louisiana, et al. v. Centers for Diseases Control & Prevention, et al. The temporary restraining order prevented the government from implementing the termination of the Title 42 order before May 23, 2022. The Department did not appeal that order. On May 20, the district court issued a preliminary injunction preventing CDC from enforcing the termination of the Title 42 order. The Department has appealed that decision. Because this matter is in active litigation, it would not be appropriate for me to comment further.

B. What is the Administration's plan for addressing the anticipated influx of immigrants at the southern border?

Answer. The Department of Homeland Security (DHS) is responsible for border processing, enforcement, and security. While the United States Marshals Service and the Federal Bureau of Prisons have provided DHS limited support upon request in appropriate circumstances, the Justice Department's Executive Office for Immigration Review (EOIR) is responsible for equitably and efficiently administering our nation's immigration court system. While EOIR will work to assign sufficient immigration judges to minimize the impact on EOIR's existing docket, EOIR needs more resources to address the case backlog, which has been growing for over a decade, and the Justice Department's fiscal year 2023 budget request would strengthen EOIR's ability to apply the immigration laws justly, consistently, and in a timely fashion, while ensuring due process under the law. The Department requests a total of \$1.35 billion for EOIR to reduce the backlog of immigration cases, which would allow EOIR to hire more than 1,200 new staff, including approximately 200 new immigration judges above the fiscal year 2022 enacted level.

Question 3. It is undeniable that the opioid epidemic has taken a serious toll on all Americans— not just in my state, but across the country. As I am sure you are aware, last year, the CDC reported that more than 100,000 Americans died from drug related overdoses, making 2021 the deadliest year on record for overdoses. It is estimated that more than two-thirds of those overdoses likely involved an opioid or a synthetic opioid, such as fentanyl. And for those men and women who are fortunate enough to escape death and get clean, they often face severely limited job opportunities after serving their time for crimes committed as a result of their drug addiction. To help fix this problem, I introduced a bill called the Clean Start Act last Congress and again this Congress, which seeks to help individuals working to recover from substance use disorder with criminal records seal those records if they complete a comprehensive addiction treatment program and show that they have turned their lives around.

A. How do you plan on helping former offenders re-join the workforce and once again become responsible taxpayers?

Answer. Eliminating barriers to successful reentry is a priority for the Justice Department. To advance this important goal, the Department plans to continue employing a broad set of policy tools and strategic partnerships with Federal, state, and grantee partners.

For example, in fiscal years 2022 and 2023, DOJ and the Department of Labor (DOL) will partner to provide intensive job training in select Bureau of Prisons' facilities followed by intensive, individualized reentry support during halfway house or home confinement. This includes \$100 million in the President's fiscal year 2023 budget for DOJ and DOL to develop a national initiative to provide comprehensive workforce development services to those in Federal prison, both during their time in Federal custody and after they are transferred to community placement. DOL and DOJ would also oversee evaluation to assess these programmatic efforts on recidivism, labor market outcomes, and other key metrics.

The Justice Department also supports reentry through the broad array of programming, policy initiatives, and grantmaking undertaken by the Office of Justice Programs (OJP). This includes OJP's work with state and local systems to better equip formerly incarcerated persons for re-entry by facilitating the attainment of state IDs prior to release; helping build successful prison/college partnerships to im-

prove educational outcomes; and implementing vocational and employment skills training programs that result in apprenticeships and meaningful employment post-release. OJP (through the BJA), also supports, and will continue to support, grantees who are implementing programs specifically designed to help populations recovering from substance use disorders be ready to reenter the workforce.

OJP's work will be further advanced through its recently announced partnership with the Council of State Governments Justice Center. Through that partnership, OJP will help launch the national Reentry 2030 campaign, a national initiative to achieve better and more equitable reentry and reintegration outcomes by engaging states to adopt public, ambitious goals that drive system change.

This is just a high-level description of some of the many varied ways the Department is engaging on this critical issue. Should you desire a more detailed briefing on the Department's efforts, my staff would be happy to put you in touch with the relevant experts within the Department.

B. What programs and initiatives, in your experience, are the most effective in preventing recidivism for first time offenders?

Answer. Across institutions, the Department offers and supports a variety of programs to address reentry needs related to education, employment, substance use, and mental health to assist individuals' successful transition back to the community. My staff would be happy to put you in touch with the relevant experts within the Department—including staff within the Office of Access to Justice and OJP—to provide your staff with a detailed briefing regarding the relative advantages of various programs, policies, and approaches.

QUESTIONS SUBMITTED BY SENATOR LISA MURKOWSKI

Question 1. Accessing DOJ Grants. In October of 2020, the Department of Justice launched JustGrants, an online grant management system to streamline the grant process for applicants and grantees and to simplify the payment process. I have heard from several Alaskans that there were some issues with the system when it was first launched a few years ago, which I understand the Department has been working to resolve.

A. How has the Department been working with stakeholders and internally to bring JustGrants up to full performance?

Answer. In October 2020, the Justice Department transitioned to a single consolidated grants management system to eliminate duplication of effort across DOJ's grantmaking components, improve our ability to manage, track, and monitor DOJ grants, and provide applicants and grantees with an improved user experience across the entire grants lifecycle. JustGrants replaced multiple legacy DOJ systems and integrated them into one unified system, which was a complex, resource intensive effort. JustGrants launched in October 2020 with basic functionality to support operations necessary to move applications through the essential stages of the grant management lifecycle, from solicitation posting, application review, and award making, through post-award management, monitoring, and closeouts of all open and active awards. JustGrants is currently supporting 40,000 users and approximately 15,000 active grants totaling \$17.6 billion. As of May 10, 2022, \$7.2 billion has been drawn down by grantees since JustGrants went live.

Over the course of the transition to JustGrants, many users experienced instances in which JustGrants did not perform as they expected. It is a priority for the Department to improve the functionality of JustGrants. Current emphasis is on ensuring a successful fiscal year 2022 award making season, which includes improvements in application submission, application review, transmitting commitments, and obligations to DOJ's Financial Management System. This fiscal year we have increased the number of development teams from six to eight, which has allowed us to release more updates into the system in less time to improve the user experience. OJP reports that a recent examination of service desk tickets in April of this year compared to the same time last year indicated a 52 percent reduction in calls. The types of calls have also shifted significantly from system issues and walking users through actions in the system to assisting grantees with password re-sets and making role assignments.

OJP reports that it provides significant outreach and support to users on how to apply for funding opportunities in the new system and manage grants once awarded. Similar to last year, the JustGrants team is hosting "Application Mechanics" webinars for applicants and continues to provide four weekly sessions for users to receive live on-the-spot technical assistance to carry out actions within the grants

management system. To respond to the peak periods of the application season, the JustGrants Service Desk is extending hours and will add staff to meet demand.

DOJ obtains internal and external user feedback through a variety of means such as weekly office hours for users and training and webinar feedback forms. DOJ uses this information to improve system functionality, usability, training resources, and support services. It is and will remain a priority of DOJ to continue to evolve and improve the system over time to bring more benefits to applicants, grant recipients, and Department personnel across the grants lifecycle.

QUESTIONS SUBMITTED BY SENATOR SUSAN M. COLLINS

Question. Rapid disbursements, generous benefits, and suspensions of traditional verification requirements during the pandemic rendered unemployment insurance (UI) programs ripe for fraud. According to the Department of Labor Office of the Inspector General, at least \$163 billion of the estimated \$872.5 billion in pandemic-related UI payments could have been paid improperly, with a significant portion attributable to fraud. While state and Federal law enforcement have recovered some funds, much more must be done.

A. DOJ's budget request recognizes combating pandemic fraud as a "Priority Goal." How will this designation help DOJ combat pandemic fraud?

Answer. The President's fiscal year 2023 Budget requests an additional \$41.2 million to combat pandemic fraud. These additional resources will allow the Department to fund analysts tasked with identifying connections between irregularities in the large volume of pandemic benefit data collected and under collection, which will result in potential criminal leads. These additional resources will also permit the staffing of strike teams to pursue the leads that analysts develop, transforming the raw data into actionable criminal investigative matters. And these additional resources will fund agents, analysts, and prosecutors in the field who will open criminal matters and use the powerful tools of legal process to investigate the networks of fraudsters who stole billions in pandemic relief funds. In sum, these resources will increase the likelihood that we identify fraud proceeds and restore them to the Treasury, in amounts far greater than the funds provided for this effort.

B. During its investigations, has DOJ or any of its partners identified any international criminal organizations responsible for this fraud?

C. Do any such organizations have ties to the Russian government?

Answer. Questions 1B and 1C: With respect to investigations and resolutions that have been made public, the Department's Director for COVID-19 Fraud Enforcement advises that several cases have involved foreign actors seeking to exploit pandemic relief packages for personal gain. For example, last month Federal prosecutors in the Western District of Washington secured a guilty plea from a Nigerian citizen who used the stolen identities of more than 20,000 Americans to file for more than \$2 million in government benefits, including from multiple state unemployment insurance benefit systems during the pandemic. See <https://www.justice.gov/usao-wdwa/pr/nigerian-citizen-pleads-guilty-covid-19-unemployment-fraud-washington-and-17-other>.

In addition, as a general matter, our law enforcement partners advise that stolen personally identifiable information (PII) is the fuel that drives much of the pandemic relief fraud, and a vast amount of PII has been stolen by international criminal cyber actors and is sold online. In the coming days, the Department will be announcing the launch of specialized pandemic fraud Strike Force Teams in key districts across the country. These Strike Force Teams will supplement the hard work underway throughout the Department, including by targeting fraud committed by overseas actors who steal the identities of American workers to further their criminal ends and who have victimized other Americans by tricking them into moving money from our shores to foreign countries.

QUESTIONS SUBMITTED BY SENATOR JOHN KENNEDY

Question 1. Federal Correctional Complex Oakdale and Federal Correctional Complex Pollock are Federal prisons facilities in Louisiana. FCC Oakdale and FCC Pollock are experiencing twin crises that many other Federal prisons across the nation face: correctional officers are overworked and understaffed. The dangers faced by these correctional officers cannot be overstated. My constituents back home in Louisiana are concerned about this issue—and so am I.

In 2017, the Department of Justice eliminated all existing vacancies within the BOP—approximately 5,000 positions nationwide—in an effort to downsize the agency. This decision lowered the total number of approved positions at facilities like FCC Oakdale and FCC Pollock. Nearly 5 years later, this has led to chronic staffing shortages. Congress attempted to correct this issue in 2021 and again in 2022 when it provided funding to the BOP in the respective Omnibus bills directing BOP to hire staff across the Federal prison system so that levels would equal those from before the position elimination.

BOP has failed to carry out Congress's instruction, and it is instead lowering the total amount of positions. For example, in January 2016, FCC Oakdale had 501 positions filled out of 550 total positions authorized (46 vacancies). As of April 2022, FCC Oakdale has only 416 positions filled out of 467 total positions authorized (46 vacancies). In 2018, FCC Pollock had 365 positions filled with 426 total positions authorized. Now there are only 313 positions filled with 368 total positions authorized. BOP pretends that it has met the January 2016 staffing levels as directed by Congress, but the reality is that there are fewer total positions authorized across both Federal prison complexes. This has led to augmentation—forcing non-correctional officers, such as teachers and counselors, to perform the duties of correctional officers—and mandatory overtime for correctional officers already facing exhaustion and fatigue.

Per the Joint Explanatory Statement to the 2021 Omnibus, the BOP was instructed “to improve hiring policies to ensure that, within the funding provided, it can promptly fill existing and future vacancies in order to staff its 122 Federal facilities at January 2016 levels, and forgo further position eliminations.” The Joint Explanatory Statement to the 2022 Omnibus stated “BOP is expected to hire additional full-time correctional officers in order to reduce the overreliance on augmentation and improve staffing beyond mission-critical levels in custodial and all other departments, including medical, counseling, and educational positions.”

Since the BOP has ignored congressional instruction, the situation has grown dire. Prison housing units at the low security facility at FCC Oakdale often only have one correctional officer to monitor inmates within that housing unit. Correctional officers at FCC Oakdale are often forced to work double shifts in order to make up for staff shortages, which leads to exhaustion and fatigue. Non-correctional officers, such as teachers and counselors, are being forced to work as correctional officers in order to make up for staff shortage. Correctional officers at FCC Pollock are frequently mandated to work 16-hour days, apparently with no breaks between 8-hour shifts. Augmentation occurs there, too. This is unacceptable. Recently a member of my staff visited the Federal prisons in Oakdale and Pollock, Louisiana. He observed staffing shortages at these facilities firsthand. During his visit to the United States Penitentiary at FCC Pollock, two inmates attacked and stabbed another inmate with hand-made metal shanks. As a result, a housing unit was placed on lockdown and an ambulance was called, with the ambulance operator ultimately requesting a medivac helicopter.

- A. Can you commit in writing that the Department of Justice will faithfully ensure that all 122 Federal prisons in this country, including those in Oakdale and Pollock, Louisiana, will receive the appropriate level of funding pursuant to the instructions from this Committee?

Answer. As I made clear in my testimony before this Committee on April 26, 2022, maintaining a safe and humane correctional system is a critical responsibility of the Justice Department. In particular, ensuring that all 122 BOP facilities are fully staffed by professionals with the necessary skills and expertise to ensure a safe and humane prison system is a priority for the Justice Department. That is why in fiscal year 2023, the President's Budget requests a total of \$8.18 billion for BOP to ensure the health, safety, and wellbeing of correctional staff and incarcerated individuals. The Justice Department's fiscal year 2023 request would allow BOP to hire more than 700 new correctional officers and nearly 600 new First Step Act staff.

- B. What steps are the Department of Justice taking to reduce augmentation of positions within BOP and mandatory overtime of correctional officers?

Answer. BOP reports that through the first half of fiscal year 2022, documented augmentation hours have decreased compared to each of the past two fiscal years. BOP further reports that it has contracted with an outside consultant, NTT Data Services, to create a new tool that will help BOP make real-time staffing calculations and predictive forecasting for staffing needs, which will help BOP better understand and address the overuse of augmentation and overtime. Currently, BOP is working closely with the vendor and the study is moving along. BOP anticipates that, as soon as this summer, it will be able to start testing a new tool for making staffing projections.

C. When will the staffing numbers at FCC Oakdale and FCC Pollock be adjusted to reflect the staffing positions of January 2016 as directed by Congress?

Answer. BOP reports that it has contracted with a consultant to assist it in determining the appropriate staffing level at all institutions. BOP further advises that any adjustments to BOP's staffing levels are contingent upon affordable FTE levels determined by receiving adequate funding from Congress. BOP's affordable FTE level in 2016 was 37,565. In fiscal year 2021, BOP's affordable FTE level was 35,161. This reflects a reduction of over 2,000 FTE.

According to BOP, any adjustments to return to the 2016 staffing levels will require additional FTEs and adjustments to ensure adequate positions at all institutions.

D. Have non-correctional officers tasked with correctional officer responsibilities been adequately trained to meet departmental standards?

Answer. BOP reports that employees working in institutions, regardless of their position, receive the same basic law enforcement training in correctional duties and are required to successfully complete this training as a condition of their employment. As a result, they all receive Law Enforcement Officers pay, are covered under the LEO retirement system, and are expected to perform correctional duties and functions as needed.

E. How much overtime has been used at FCC Oakdale and FCC Pollock between April 1, 2021, and April 1, 2022?

Answer. BOP advises that overtime costs during this time period were approximately \$3.2 million for FCC Oakdale and approximately \$6.2 million for FCC Pollock.

Question 2. Over a year ago now, I submitted Questions for the Record (QFRs) to the Federal Bureau of Prisons, which operates under the Justice Department, after Director Michael Carvajal testified before the Senate Judiciary Committee's April 2021 hearing titled "Oversight of the Federal Bureau of Prisons." Director Carvajal never responded to my questions. I sent two additional oversight letters regarding BOP funding to Director Carvajal on July 15, 2021 and December 14, 2021, respectively, without response.

A. As the country's chief law enforcement officer, will you ensure that I receive substantive responses to Questions for the Record and oversight letters?

Answer. Yes. BOP reports that its responses both to your oversight letters dated December 14, 2021 and July 15, 2021 as well as all outstanding Questions for the Record that Director Carvajal has received will be substantive and submitted to Congress in short order.

Under the previous administration, the Justice Department's China Initiative "reflect[ed] the strategic priority of countering Chinese national security threats" by prosecuting individuals who committed espionage to benefit the Chinese government. In 2022, the Justice Department ended the program.

A. Are you aware that FBI Director Christopher Wray concluded that the espionage threat posed by China is the most "unprecedented in history"? Is the FBI wrong?

Answer. Director Wray and I are fully aligned in both our assessment of the threats posed by the government of the People's Republic of China (PRC) and the Justice Department's response to those threats. The Department—including the FBI—is committed to taking a comprehensive approach that draws on the full extent of our tools and authorities to address the alarming rise in illegal and nefarious activities from the PRC government.

B. Do laboratories and businesses continue to face threats of economic espionage and intellectual property theft by the Chinese?

Answer. Yes, laboratories and businesses continue to face significant threats of economic espionage, intellectual property theft, and threats to research integrity and security by the Chinese government and its policies. The Department is committed to using all available legal tools to prevent and address that activity, including partnership with research funding agencies and appropriate criminal investigations and prosecutions.

C. What Departmental programs or tools remain in place to protect the country against Chinese counterterrorism, espionage, and intellectual property theft?

Answer. The Department continues to employ a rigorous, all-tools approach. In addition to opening criminal cases, where appropriate, the Department is actively engaging with and sharing information with the companies, universities, and international and local governments whose technology, innovations, research, and infor-

mation may be at risk. The Department also chairs the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector, which advises the Federal Communications Commission on national security and law enforcement concerns associated with applications for telecommunications licenses meeting certain thresholds of foreign ownership or control.

We are committed to protecting the country against the threats posed by the government of the PRC—in particular, espionage, cyber intrusions, and theft of intellectual property. As the Assistant Attorney General for the National Security Division said in February, the Department “will be relentless in defending our country from China,” and will “continue to prioritize and aggressively counter the actions of the PRC government that harm our people and our institutions.” There has been no change in tools or resources allocated to address threats from PRC government policies, including espionage and intellectual property theft.

QUESTIONS SUBMITTED BY SENATOR BILL HAGERTY

Question 1. Despite the fact that marijuana is illegal at the Federal level, some states do not prohibit its usage under state law. How do drug usage rates, the number of drug prosecutions, and other drug abuse and addiction metrics compare among states that allow or prohibit marijuana usage under state law?

Answer. The Department does not have the data to undertake the comparison requested in the question. For example, DEA reports that it does not track drug usage rates, the number of drug prosecutions, or other drug abuse and addiction metrics. Nor has the Department—as far as I am aware—conducted any analysis or research along the lines contemplated by the question.

Last year, President Biden issued Executive Order 14006, which directed the Attorney General not to renew U.S. Marshals Service (USMS) contracts for contractor-operated criminal detention facilities.

This executive action was poorly conceived and short-sighted. Specifically, the Administration did not consider its significant consequences for the USMS and the American people. This executive order is harming detainees by forcing their relocation to less-safe and less-humane facilities that are often hours away from their families and counsel.

This decision seems to have been driven by politics, rather than internal or external analysis or budget or logistical justifications regarding the impact of this decision on the justice system. In light of this misguided executive action, the USMS did not renew contracts with a facility in West Tennessee and a facility in Kansas and is in the process of declining to renew others.

The USMS should have the flexibility to contract with private facilities for pre-trial criminal detention when doing so best accomplishes its mission and is in detainees’ interests.

The fiscal year 2022 Omnibus Appropriations Act gave your Department the discretion to take appropriate action where necessary to account for a lack of suitable government-operated detention space. So far, though, your Department has not used this discretion.

Question 2. Have there been any internal or external reviews or analyses regarding the implementation of Executive Order 14006? If so, please describe these reviews and analyses.

Question 3. Has your Department or its Inspector General evaluated the impact of Executive Order 14006 on the justice system?

Answer. Questions 2–3: With respect to Justice Department reviews and evaluations regarding the implementation of Executive Order 14006, including the impact on the justice system, the United States Marshals Service (USMS) reports that its Prisoner Operations Division conducted an assessment of all Intergovernmental Agreements (IGAs) with state and local agencies within proximity of the private facilities under direct contract with USMS. The USMS assessment examined IGA bedspace availability within 150 miles of the affected Federal courthouses to determine whether private facility populations could be absorbed. The Federal Bureau of Prisons (BOP) reports that it conducted a simultaneous review of its facilities proximate to USMS private detention facilities to determine bedspace suitability and availability for USMS needs. BOP has provided over 1,800 beds (over and above bedspace already provided for USMS use) to assist USMS in complying with EO 14006.

In addition, USMS and the Justice Management Division report that they have developed an initial analysis of implementation costs based on rough estimates of

the average IGA population, the number of facilities required to accommodate the displaced detainees, and transportation requirements to support the distance and dispersion of detainees among many facilities. Since completion of the initial assessments, USMS reports that it has continued to review options for safe, secure housing of detainees being relocated as a result of EO 14006, including whether contract extension clauses are necessary.

With respect to any evaluation of the impact of Executive Order 14006 on the justice system conducted by the Inspector General, we would respectfully refer you to the Justice Department's Office of the Inspector General.

Question 4. Have the Bureau of Prisons and the U.S. Marshals Service been efficient and cost-effective with respect to sharing facilities and services in the past?

Answer. USMS and BOP have a history of working closely together on matters involving the detention and transportation of Federal inmates, and routinely collaborate to maximize USMS bedspace usage at Federal facilities. USMS and the BOP have an ongoing Memorandum of Understanding (MOU) under which the BOP makes more than 11,000 beds available at 26 facilities in major metropolitan areas such as Los Angeles, San Diego, Philadelphia, Chicago, and Houston. In some of these locations—Miami, Los Angeles, New York, Seattle, and San Diego—USMS maximizes nearly every bed the BOP has allocated for USMS use.

As part of the USMS–BOP coordination on EO 14006, the BOP has helped provide solutions to critical USMS detention requirements due to a facility closure in the District of Kansas (Leavenworth). In addition, BOP has made facilities available to USMS in Pennsylvania and North Carolina to assist with pre-sentencing detention housing shortages unrelated to EO 14006.

Question 5. Do you believe that a decision of this magnitude with wide-ranging impacts on the criminal justice system merited an analysis regarding its likely and potential effects prior to implementation?

Answer. As noted, the Department has conducted assessments and reviews. With respect to the impact on the criminal justice system, the executive order explains that the Federal government “has a responsibility to ensure the safe and humane treatment of those in the Federal criminal justice system,” and that “privately operated criminal detention facilities do not maintain the same levels of safety and security” for incarcerated individuals and correctional staff. We will continue working to implement the executive order in responsible fashion.

QUESTIONS SUBMITTED BY SENATOR MIKE BRAUN

Question 1. Nearly 1 month ago, on March 29, Senator Lankford and I, alongside six other colleagues, sent a letter to you regarding the Department of Justice's October 4, 2021, memorandum directing the FBI to target parents expressing concerns at school board meetings.

During a hearing before the House Judiciary Committee in October, you admitted that the National School Boards Association's September 29, 2021 letter, proven by emails obtained through FOIA requests to have been solicited by Secretary Cardona, was the foundation for your memorandum—not data.

You have not responded to our letter and provided data proving the need for such allocation of finite Department resources nor have you rescinded this offensive memo even after the National School Boards Association publicly apologized for the September 29 letter.

- A. What data do you have that this is an issue that warrants Federal intervention and why does it take a month to reply?
- B. Do parents have a right to express concerns to their local school board?
- C. Who is the primary stakeholder in children's education?

Answer. 1A, 1B, 1C: As I said in my congressional testimony last October, it is the job of parents to be involved in the education of their children, and it is “the role [of] the First Amendment to protect their ability to be involved.” That is why the October 4, 2021, memorandum makes absolutely clear in the first paragraph that “spirited debate about policy matters is protected under our Constitution.” These protections clearly and importantly cover debate concerning school board policies.

Question 2. As of the date your response, what is the number of Firearms Technology Industry Services evaluation requests still pending a final determination response from ATF to the requesting party?

Answer. ATF reports that, as of May 13, 2022, Firearms Technology Industry Services (FTISB) has 222 evaluation requests pending final determination. These 222 cases are comprised of 105 stabilizing brace and frame or receiver determinations submitted over 1 year ago; 20 receiver determinations submitted under 1 year ago; 80 import evaluations less than 60 days old; and 17 domestic evaluations of various types submitted recently. ATF further reports that frame or receiver determinations and stabilizing brace determinations have been delayed because of Department rulemaking on these subjects.

A. Of the pending evaluation requests disclosed in response to question 1, how many of them have been pending for over 1 year?

Answer. ATF reports that 105 evaluation requests are pending for longer than 1 year.

B. How many of them have been pending for over 2 years?

Answer. ATF reports that 76 evaluation requests have been pending longer than over 2 years.

C. What is ATF's current processing time for ATF Form 6 Import Permits, and Forms 4, respectively?

Answer. ATF reports that processing the ATF Form 6 Import Permit currently takes an average of 45 days. ATF reports that processing the ATF Form 4 currently takes an average of 10 months for a paper form and 90 days for an e-Form.

Question 3. Can the regulated public rely on the guidance posted on ATF's website as the current position of the agency?

Answer. Yes. ATF routinely checks its website in an effort to ensure instructional information is current, within prevailing policy, and authorized by the associated statutes and regulations.

Question 4. When ATF determines that guidance posted on their website is "wrong" or represents a misinterpretation of law, does the ATF take steps to clarify this with the public and how long does that process take? Is there currently any guidance that the agency considers incorrect or contrary to law?

Answer. ATF reports that guidance it posts is carefully reviewed prior to issuance and that posted guidance reflects the most complete analysis of the law and facts at the time the guidance is made available to the public. ATF reports that it is unaware of any current guidance that is incorrect or contrary to law.

SUBCOMMITTEE RECESS

Senator SHAHEEN. The hearing is adjourned.

[Whereupon, at 12:05 p.m., Tuesday, April 26, the subcommittee was recessed, to reconvene subject to the call of the Chair.]