AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

S. HRG. 117–770

CONFIRMATION HEARING ON FEDERAL APPOINTMENTS

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

APRIL 14, 2021

Serial No. J–117–8

Printed for the use of the Committee on the Judiciary

www.judiciary.senate.gov
www.govinfo.gov

CONFIRMATION HEARING ON FEDERAL APPOINTMENTS

S. HRG. 117–770

CONFIRMATION HEARING ON FEDERAL APPOINTMENTS

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY UNITED STATES SENATE

ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

APRIL 14, 2021

Serial No. J–117–8

Printed for the use of the Committee on the Judiciary



www.judiciary.senate.gov
www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE
54–095 WASHINGTON : 2026

COMMITTEE ON THE JUDICIARY

RICHARD J. DURBIN, Illinois, *Chair*

PATRICK J. LEAHY, Vermont
DIANNE FEINSTEIN, California
SHELDON WHITEHOUSE, Rhode Island
AMY KLOBUCHAR, Minnesota
CHRISTOPHER A. COONS, Delaware
RICHARD BLUMENTHAL, Connecticut
MAZIE K. HIRONO, Hawaii
CORY A. BOOKER, New Jersey
ALEX PADILLA, California
JON OSSOFF, Georgia

CHARLES E. GRASSLEY, Iowa, *Ranking Member*
LINDSEY O. GRAHAM, South Carolina
JOHN CORNYN, Texas
MICHAEL S. LEE, Utah
TED CRUZ, Texas
BEN SASSE, Nebraska
JOSH HAWLEY, Missouri
TOM COTTON, Arkansas
JOHN KENNEDY, Louisiana
THOM TILLIS, North Carolina
MARSHA BLACKBURN, Tennessee

JOSEPH ZOGBY, *Chief Counsel and Staff Director*
KOLAN L. DAVIS, *Republican Chief Counsel and Staff Director*

CONTENTS

OPENING STATEMENTS

	Page
Durbin, Hon. Richard J.	1
Grassley, Hon. Charles E.	4
Booker, Hon. Cory A.	7

VISITING INTRODUCERS

Gillibrand, Hon. Kristen E., U.S. Senator from New York	5

NOMINEES

Clarke, Hon. Kristen	9
Questionnaire	536
Responses to written questions	89
Additional materials	155
Kim, Hon. Todd Sunhwae	10
Prepared statement	42
Questionnaire	578
Responses to written questions	44
Additional materials	62

CONFIRMATION HEARING ON FEDERAL APPOITMENTS

WEDNESDAY, APRIL 14, 2021

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

The Committee met, pursuant to notice, at 10 a.m., in Room G50, Dirksen Senate Office Building, Hon. Richard J. Durbin, Chair of the Committee, presiding.

Present: Senators Durbin [presiding], Leahy, Whitehouse, Klobuchar, Coons, Blumenthal, Hirono, Booker, Padilla, Ossoff, Grassley, Cornyn, Lee, Cruz, Hawley, Cotton, and Blackburn.

Also present: Senator Gillibrand.

OPENING STATEMENT OF HON. RICHARD J. DURBIN, A U.S. SENATOR FROM THE STATE OF ILLINOIS

Chair DURBIN. Good morning. This hearing will come to order. Today the Senate Judiciary Committee will hold a hearing on the nominations of Kristen Clarke to be Assistant Attorney General for the Civil Rights Division and Todd Kim to be the Assistant Attorney General for the Environment and Natural Resources Division, commonly referred to as ENRD. These are key positions in the Department of Justice and once confirmed, these nominees will play a critical role working with Attorney General Garland and other senior Department leaders to restore the Department's independence and integrity, take partisan politics out of the Department's work, and faithfully execute the law.

Ms. Clarke, Mr. Kim, you are so far away, but I wanted to welcome you and your families especially. We are happy to have you here today.

With passage of the Civil Rights Act of 1957, the Civil Rights Division was founded with the task of defending the civil rights of all Americans. The Division's attorneys work is wide ranging and includes protecting the right to vote, defending the free exercise of religion, combating human trafficking, ensuring those with disabilities have equal opportunities and access to public accommodations, and upholding fair housing laws, rooting out employment discrimination, protecting students against educational integrity. It is a pretty vast agenda.

Importantly, the Division's lawyers also investigate and prosecute hate crimes which occur far too frequently in our communities. They are perpetrated against individuals on the basis of race, religion, gender, gender identity, sexual orientation, and disability. The Civil Rights Division plays a critical role in the Justice

Department. Building on the mission that led the Justice Department's creation in the late 19th century upholding equal justice under the law, but the Civil Rights Division today also is regrettably a shell of its former self.

The Trump administration did more than just diminish the Division's standing. It went so far as to use the Division to roll back hard won civil rights. Under President Trump, the Civil Rights Division reversed long-standing positions in key voting rights cases. It gave its blessing to harmful voter ID laws that were unnecessary and voter purges. The Division pushed for and then defended the addition of citizenship questions in the 2020 census. It abandoned the use of consent decrees with local police departments, a vital tool that helped promote police accountability and protect both officers and the communities they served.

After 4 years of a Civil Rights Division hollowed out by the Justice Department's own leaders, we find ourselves in desperate need of restored leadership of a bold vision for returning the Division to its founding ideals of renewed commitment to enforcing the Nation's civil rights laws. Fortunately, in Kristen Clarke, we have exactly the kind of leader who can accomplish this ambitious mission.

Ms. Clarke is currently the president and executive director of the Lawyers' Committee for Civil Rights Under the Law, an organization, founded at the urging of President John Kennedy, championed by his brother, Attorney General Robert Kennedy. In her role leading the Lawyers' Committee, and indeed throughout her career, Ms. Clarke has been a strong defender of civil rights, from prosecuting hate crimes and human trafficking in the Criminal Section of the Civil Rights Division to protecting voting rights at the NAACP Legal Defense and Education Fund to tackling employment discrimination as the Chief of Civil Rights Bureau in the New York Attorney General's Office. Ms. Clarke has steadfastly pursued an objective that sadly remains elusive even to this day—equal justice for all. In that pursuit, she has exhibited the qualities that we need in the individual charged with running the Civil Rights Division—humility, fidelity to the rule of law, and a demonstrated commitment to building broad coalitions in support of civil rights.

Sadly, some are so threatened by the prospect of revitalized Civil Rights Division, that they have already engaged in baseless attacks on this extremely well-qualified nominee. This morning's Washington Post tells of many of those attacks which you have disclosed to the public in an effort to let them know exactly what you have faced.

Despite Clarke's deep base of law enforcement support, groups like the Major Cities Chief's Association, the International Association of Chiefs of Police, to individual sheriffs, prosecutors, and State attorneys general, some are actually trying to pain her as anti-police based on false accusations that she represented or worked to free a man convicted of murdering a Philadelphia officer.

Despite years of confronting online anti-Semitic hate and work defending religious rights, including the right of workers to receive accommodations to observe the Saturday as Sabbath, Clarke is facing accusations of anti-Semitism, which are so absurd that the Jewish Council for Public Affairs felt the need to write to this Committee and say that the organization, "considers attempts to focus

on purported anti-Semitism during Clarke's nomination process to be inappropriate."

Attorney General Garland told us during this own hearing that he does not believe that Clarke is an anti-Semite or believe she is discriminatory in any sense. Clarke is the person the Attorney General wants us to send him to lead to the Justice Department's Civil Rights Division. She is the person who can restore the Civil Rights Division to serve all the American people.

For the past several weeks, stories about the trial in Minnesota and incidents there and another State have led the news. It is our job in the Senate Judiciary Committee to remind America that there is a rule of law and a legal process to protect the civil rights of all Americans. Speech and nonviolent demonstration are protected, constitutional actions in America. I hope we can show by our actions in this Committee that we can lead the proper legal response to the civil right issues of our day.

We will also hear today from Todd Kim, who likewise brings with him an amazing wealth of experience and commitment to the law, irrespective of personal belief and partisan politics. In a conversation I had with Mr. Kim, I talked about the fact that so many trial lawyers these days really cannot point to any appearances before judges. You have an extraordinary record, particularly on the appellate level when it comes to that.

The Environment and Natural Resources Division, originally created as the Public Lands Division, has been in existence for over 100 years. Every day attorneys in this Division work tirelessly to enforce our Nation's environmental laws, including the Clean Air Act, the Clean Water Act, and hazardous waste laws. Every American benefits from ENRD's work to reduce pollution and protection our Nation's most precious natural resources. Sadly, ENRD was gutted under the Trump Administration. Over the past 4 years, the number of enforcement actions against polluters dropped dramatically and civil penalties fell to an all time low. The prior Assistant Attorney General, Jeffrey Bossert Clark, focused on politics and a deeply partisan agenda, not the law. He prioritized allowing polluters to act with impunity, not protecting the environment.

Then as acting head of the Civil Division, Clark, it was reported, conspired with Donald Trump's efforts to overturn the results of the 2020 Presidential election. Disgraceful conduct which this Committee is actively investigating.

What ENRD needs now is someone who will bring back integrity, stability, and a renewed commitment to enforcing our Nation's environmental and natural resource laws. Todd Kim is that person. Mr. Kim is currently the Deputy General Counsel for Litigation, Regulation, and Enforcement at the Department of Energy. He is an experienced, award winning, appellate litigator. He has significant expertise in environmental and natural resources law from eight years at ENRD, and he served for 11 years as the District of Columbia's first Solicitor General.

Whether representing the U.S. Government under Clinton and Bush administrations, the D.C. government, or clients in private practice, Mr. Kim is focused on the law, not politics. Throughout his career, Mr. Kim has been recognized for his integrity, his humility, his deep knowledge base, and his understanding of what it

means to serve as an officer of the court and representing the people of the United States. He has all the qualities this Nation needs to lead the Environment and Natural Resources Division.

I would like to turn to the Ranking Member, Senator Grassley, of Iowa.

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

Senator GRASSLEY. Thank you, Mr. Chairman. I am glad to be here to ask these nominees some questions. Top positions in the Department of Justice, Kristen Clarke to be Assistant Attorney General, Civil Rights Division. Todd Kim to be Assistant Attorney General for Environment and Natural Resources. I thank each of them because they both spent considerable time on the phone with me, one recently as Monday, and the other one, a couple of—3 weeks ago, I guess.

As I have said before, I hope that Judge Garland meant it when he said he wants to keep politics out of the Justice Department. I would like to see a real commitment to do that from the nominees today. I do not want to see a return to the Holder days, but I worry about that being down the road. I will just give you a recent example.

The Justice Department has a Deputy Assistant Attorney General in its prestigious Office of Legal Counsel. He was recently tweeting criticism of the Supreme Court's opinions, giving his views on Republican political prospects, and voter integrity legislation. That is senior management in the Department. It happens to be what is supposed to be the most apolitical Division. This person was moonlighting as a political pundit. I see that and it makes me wonder about the judgment and the impartiality of the Justice Department's political leadership. I hope that Judge Garland will get his house in order. We will see if today's nominees agree with that assessment.

Turning to the nominees, and I think that, you know, none of us mince words around the U.S. Senate. I know that Ms. Clarke knows that she is very controversial. That said, I do appreciate the conversation she and I had, and I want to commend her for being forthcoming with the Committee. I do not doubt that Ms. Clarke is a capable attorney who is sincerely committed to progressive causes. What I am going to want to see is whether she can put that partisan commitment aside and do the work of an apolitical civil rights enforcer.

For example, just last summer she wrote a piece called, "I Prosecuted Police Killings. Defund the Police—But Be Strategic." I am sure that we will hear the usual refrain today that nominees do not really mean it when they say defund the police, but the fact is, it was said. Is Ms. Clarke going to use her perch in the Civil Rights Division to strategically defund the police by other means?

Ms. Clarke has taken positions on religious liberty that are, I believe, limited and potentially unfair to believers. Will she put these views aside and enforce the rights of believers to the extent mandated by the courts? Ms. Clarke is a strong believer in voting rights. So am I. I am also a strong believer in secure elections. I think it is a legitimate question whether she continued to view ef-

forts to secure our elections as voter suppression when she is in charge of enforcing our voter laws, particularly voter suppression talked about now when we had such a historical turnout for both the loser of the election as well as the winner of the election.

Like Ms. Gupta before her, Ms. Clarke has launched many personal attacks on Federal judges, especially Kavanaugh. Chairman Durbin has in the past compared this practice to Senator Ashcroft and Sessions opposing judicial nominees. I happen to think it is a little bit different. Evaluating judicial nominees is part of our constitutional duty. I think it is different for litigators and aspiring government lawyers to go around attacking Federal judges and doing it publicly. Questioning the integrity of judges, and then eagerly appearing before them means that you either are not looking out for your client's best interest or that you did not really mean your attack to begin with.

I think Mr. Kim is a lot less controversial, nominated to run the Environment and Natural Resources Division. While it is still called that, he has a distinguished career as a courtroom advocate, I do not think I agree with him on much politically, but elections have consequences and based on his record, I think he will enforce the rule of law in the Justice Department. I will say that some of the activities of the Justice Department implicating his Division do concern me at policy level. President Biden wants to shift its focus from enforcing laws as passed by this Congress to protecting so called "environmental justice." I do not think this is consistent with the depoliticized Justice Department that Judge Garland promised us. I hope Mr. Kim will push back on any instructions to go forward beyond what the law requires.

The Biden Justice Department is also in a non-precedented practice of acceding to nationwide injunctions against environmental rules in lower courts. I think this is an attack on the rule of law and the Administrative Procedures Act. President Biden is entitled to change environmental rules consistent with statue, but he should do it through the rulemaking process and not through litigation tricks. I hope that Mr. Kim will push back on this as well. Regulation by California judge can become regulation by Texas judge before you know it.

With that, I would welcome the opportunity to ask questions. Thank you.

Chair DURBIN. Thank you, Senator Grassley. At this point, we are going to have the formal introductions of our two colleague—pardon me—the two nominees. First colleague, Senator Kirsten Gillibrand, is going to join us remotely to introduce Ms. Clarke.

Senator Gillibrand, are you with us?

OPENING STATEMENT OF HON. KIRSTEN GILLIBRAND, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator GILLIBRAND. Yes, I am. Thank you, Mr. Chairman. Thank you, Ranking Member Grassley and Members of the Judiciary Committee. It is my honor to join you today to introduce Kristen Clarke, nominee for Assistant Attorney General for Civil Rights.

At this moment in time when we are seeing an unprecedented assault on voting rights, a horrifying rise in bigotry and racism and

anti-Semitism, and a growing national conversation on criminal justice, it could not be more important for the Civil Rights Division to have a leader with the experience and qualifications to begin addressing these challenges from day one. Ms. Clarke is that leader. She is the right person for this job at this moment.

Ms. Clarke first became interested in civil rights law on a high school field trip to watch the arguments in *Sheff v. O'Neill*, a Connecticut school desegregation case. She has spent her entire professional life in public service working in virtually every area of civil rights. Her career began in the DOJ Honors Program as a trial attorney in the Civil Rights Division during the Bush administration where she served for nearly 6 years. If confirmed, Ms. Clarke will return to the Division as the first woman and only the fourth Black leader confirmed in its 64 year history. Throughout her career, she has litigated voting rights cases at NAACP Legal Defense Fund, led the New York Attorney General's Civil Rights Bureau, served as the president and executive director of the Lawyers Committee for Civil Rights, one of the Nation's oldest civil rights legal organizations.

Ms. Clarke has experienced standing up to hate. She has led a team that won the $700,000 verdict against the neo-Nazi website, Daily Stormer, over its harassment campaign targeting the first Black female student body president of American University, and she has worked closely with the families of Emmett Till, Matthew Shepard, James Byrd, Heather Heyer, and more.

She has experienced protecting religious minorities. As the chief of the New York State Civil Rights Bureau, she led the unit that fought religious discrimination and defended Jewish employees' right to observe their faith. She has had experience protecting voting rights. She has become one of the Nation's leading voting rights lawyers representing voters in the *Shelby County*, *Alabama v. Holder* case before it reached the Supreme Court and working on the 2006 bipartisan reauthorization of the Voting Rights Act.

Ms. Clarke has also worked to ensure the families in vulnerable communities have access to fair housing opportunities, to protect the rights of people with disabilities, and to obtain justice for women in the workplace, winning a $3.8 million settlement for close to 300 women in gender discrimination sexual harassment case against Con Edison. She has worked to build bridges between the legal and the law enforcement community. She has worked directly with hundreds of the Nation's leading law firms, thousands of lawyers, the FBI, ATF, and law enforcement agencies on hate crimes, human trafficking, and domestic violence cases.

She partnered with New York sheriffs to institute best practices for working with communities with limited English proficiency. She conducted a training with the National Sheriff's Association on community policing and rebuilding trust. She worked with the International Association of Police Chiefs to develop strategies to enhance officers' response to hate crimes and incidents which have since been adopted by police forces across the globe.

Results of her collaborative work are reflected in the support for her nomination from law enforcement, including the Major Cities Chief Association, NOBLE, and IACP executive director Vincent Talucci. Her unparalleled legal credentials are complimented by

her lived experience. She grew up in Brooklyn's Starrett City housing development, the daughter of Jamaican immigrants who instilled in her an unmatched work ethic. Her determination and hard work in public school opened the doors to Choate Rosemary Hall, Harvard, and Columbia Law School. Seeing the stark access to opportunity in her Brooklyn neighborhood and in those private schools gave her the valuable perspective on inequity that comes to guide her work to this day.

If confirmed, Ms. Clarke will bring the knowledge, experience, and leadership the Civil Rights Division needs to meet the challenges that lie ahead and, as she has said, to make the promise of justice for all a reality. Thank you, Mr. Chairman.

Chair DURBIN. Thanks, Senator Gillibrand. We appreciate your appearance before the Committee and introduction of Ms. Clarke.

The formal introduction of Mr. Kim will be led by our colleague, Cory Booker. I might add that we, with unanimous consent, will also enter a letter from Delegate Eleanor Holmes Norton in support of Mr. Kim as well. Senator Booker.

OPENING STATEMENT OF HON. CORY BOOKER, A U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator BOOKER. Mr. Chairman, thank you very much. I am sorry I do not have the privilege of introducing both of these extraordinary candidates. Kristen Clarke is not only a friend, but someone that I have long worked with and admired. I have the pleasure and the honor to introduce Todd Kim, and it is a thrill to do so.

Before I say anything about Mr. Kim's incredible legal career and record of public service, I should start with perhaps one of the most important distinguishing features about him. He is from New Jersey and born in Edison. Like me, he grew up in the great Garden State. I am proud to be introducing him. He is a child of immigrants who first came to the country, his parents, as graduate students. Mr. Kim's father went on as a research chemist while his mother directed choirs for several local Korean-American churches.

He, unfortunately, did not go to Stanford or Yale, but he went to an okay college for undergraduate, Harvard. Again, did not go to Yale Law School, but went to Harvard Law. We will forgive him for that, but there he excelled. He was the executive editor of the Harvard Law Review, and then, so Mr. Kim became a really skilled environmental litigator.

He spent 8 years at the Justice Department's Environment and Natural Resources Division serving as nonpartisan career attorney in both the Clinton and the Bush administrations. Now, Mr. Kim has been nominated to return to that same Division and this time, to lead it. The Environment and Natural Resources Division is a key, if not critical, part of the Justice Department. You cannot have justice without environmental justice. But also, he is intending, I believe, the critical effort to revitalize our environmental policy. The Division he will lead enforces our foundational environmental laws to ensure that we breathe clean air, that we drink clean water, and that we are protected from hazardous wastes.

I have visited around this country and seen the urgencies of environmental justice and the work still to do. He will help ensure

not only do people have environmental justice, but that our public lands are properly managed, that our wildlife is protected, and that our Tribal land rights are respected.

So many of our communities face environmental threat that are also public health crises. These are often communities of color, indigenous communities, and low income communities. People who often wonder who is standing up to fight for them. The single biggest factor today in America that determines whether someone lives near a toxic waste site is the color of their skin. When the Environment and Natural Resources Division pursues a case and enforces our environmental laws, it is playing a vital role in protecting the well-beings of communities across this country. If Mr. Kim is confirmed, he will be ready to lead the Division on day one with experience and conviction to affirm the ideals of our Nation.

In addition to his environmental expertise though, Mr. Kim also served for more than a decade as D.C.'s Solicitor General. He oversaw and argued key constitutional and regulatory appeals for the District, including three before the U.S. Supreme Court. All in all, Mr. Kim has been the lead counsel on hundreds of appeals. He has argued before the Supreme Court, all 13 Federal courts of appeals, D.C.'s highest court and State appellate courts. Since the beginning of this year, Mr. Kim has served as Deputy General Counsel at the Energy Department. If he is confirmed to lead the Environment and Natural Resources Division, I believe Mr. Kim will bring a breadth of experience in the environmental and legal issues that the Division's lawyers confront every single day, but crucially, he will also bring an unassailable, established record of advocating on behalf of the American people and not any particular political interest or personal interest. He has a life record of pursuing justice.

I am confident that Mr. Kim along with President Biden's other nominees, including Kristen Clarke, will play a pivotal role in restoring the independence and integrity of the Justice Department. And for many people who have lost hope, who suffered illness and disease and poisoning, I believe he will be a champion for those people so that they too can appreciate what should be an American birthright, access to clean air, clean water, and a healthy environment. Thank you.

Chair DURBIN. Thanks, Senator Booker. I would like to ask the two nominees to stand and be sworn.

Please raise your right hand. Do you affirm or swear that the testimony you are about to give before the Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. CLARKE. I do.

Mr. KIM. I do.

[Witnesses are sworn in.]

Chair DURBIN. Let the record show that both nominees answered in the affirmative and now it is time for your opening statements. We will start with Ms. Clarke.

STATEMENT OF KRISTEN CLARKE, NOMINEE TO SERVE AS ASSISTANT ATTORNEY GENERAL, CIVIL RIGHTS DIVISION, DEPARTMENT OF JUSTICE, WASHINGTON, DC

Ms. CLARKE. Thank you, Senator Gillibrand, for your warm words of introduction. Before I begin, Chairman Durbin and Ranking Member Grassley, I would like to take a brief moment to recognize my son, Miles, my mother, and my partner, who are with me today. I am grateful for their love and support.

My journey to this hearing room today may not be an obvious one. It started my junior year of high school when a teacher loaded my classmates and me into a van and drove us to a courthouse in Hartford, Connecticut, to hear arguments in what turned out to be a landmark school desegregation case, *Sheff v. O'Neill*.

As the daughter of Jamaican immigrants growing up humbly in Starrett City, the Nation's largest public housing complex in Brooklyn, New York, I had never been inside a courtroom before. That moment was a powerful display of the role that civil rights lawyers play in our society. I was mesmerized and deeply moved as I watched attorneys argue for more just and equitable educational opportunities. From that moment on, I knew I wanted to be a civil rights attorney.

I worked hard in public school. My efforts yielded some lucky breaks that included a seat in a program called Prep for Prep that led me to attend a prep school called Choate Rosemary Hall, and that trajectory-changing program is why I ended up in that van that day headed to that courthouse. Then it led to Harvard and Columbia Law School. I turned down high-paying corporate law firms to take my dream job in the Justice Department's Attorney General's Honors Program, where I served for 6 years, primarily during the George W. Bush administration.

As a DOJ attorney, I began my legal career traveling across the country to communities like Tensas Parish, Louisiana and Clarksdale, Mississippi. I learned to be a lawyer's lawyer, to focus on the rule of law and let the facts lead where they may. When I left DOJ, I carried the words of the late Supreme Court Justice Thurgood Marshall as my guide. "Where you see wrong or inequality or injustice, speak out, because this is your country. This is your democracy. Make it. Protect it. Pass it on." I have tried to do just that at every step of my career, from the voting rights project at the NAACP Legal Defense Fund, to the Civil Rights Bureau in the New York State Attorney General's Office, where I was the State's top civil rights enforcement officer.

Since 2015, I have led the Lawyers' Committee for Civil Rights Under Law, one of the Nation's leading civil rights legal organizations. Formed at the request of John F. Kennedy in 1963, the Lawyers' Committee activated the private bar to help ensure the rule of law during the turbulence of the Civil Rights Movement. I have worked with thousands of lawyers at major corporate law firms across the country who bring to bear the resources of their firms to advance people's rights.

Our Nation is a healthier place when we respect the rights of all communities. In every role I have held, I have worked with and for people of all backgrounds, regardless of race, national origin, religion, or disability status. I have listened deeply to all sides of de-

bates regardless of political affiliation. There is no substitute to listening and learning in this work, and I pledge to you that I will bring that to the role if confirmed.

I would also bring to my stewardship of the Civil Rights Division the lessons I have learned over my 20 years as a civil rights attorney, lessons from the people impacted by my work, lessons from the wise attorneys who have mentored me, and lessons from being a single mother juggling the demands of this work. But perhaps most important would be the fulfillment of the promise I made to myself as a 16-year old girl in that Connecticut courthouse. As I look at my own son, now the same age I was when I entered that Connecticut courtroom, I remain committed to the promise of working every day to build a world of equal opportunity for all, a world where no 16-year old is the target of hateful language, a world where no young man is racially profiled. I dream of a world that values his mind, his heart, and his exceptional soccer skills, and does not push him aside because of the color of his skin. I dream of that for every child in America.

As the head of the Civil Rights Division, I will bring the same clear-eyed pursuit of justice that has guided me my entire life. I would be honored for you to grant me this humbling opportunity to serve. Thank you.

Chair DURBIN. Thank you, Ms. Clarke. As a mother, I think the reference to your son's soccer skills was probably the most important part of your opening statement. Thank you very much. Mr. Kim.

STATEMENT OF TODD SUNHWAE KIM, NOMINEE TO SERVE AS ASSISTANT ATTORNEY GENERAL, ENVIRONMENT AND NATURAL RESOURCES DIVISION, DEPARTMENT OF JUSTICE, WASHINGTON, DC

Mr. KIM. Good morning, Chairman Durbin, Ranking Member Grassley, Members of the Committee. I am honored to appear before you today for this hearing to consider my nomination to be the Assistant Attorney General for the Environment and Natural Resources Division at the Department of Justice. Thank you, Senator Booker, for your generous introduction. I thank President Biden and Attorney General Garland for this opportunity to return to the Department where I began my legal career.

Most of all, let me thank my family. My wife, Carolyn, and my sons, Palden and Jigme, are here with me today. Watching from afar are my sister, Sonna, and my parents, Chang Jung Kim and Sookhi Yu. I am incredibly grateful and incredibly lucky to have all of them in my life.

In the 1960s, my parents were Korean immigrants who came to the United States to pursue graduate degrees. They both chose Big 10 schools: my mom, the University of Minnesota; my dad, Purdue. They met here, settled here, had my big sister in Indiana and then me in New Jersey, and eventually became proud U.S. citizens. Their hard work and fundamental decency have been at the root of any success I have ever had and will always be a model for what I would like to show my own children.

In 1984, my parents took the family on a classic RV trip to the American West. I was 11-years old and the trip made a big impact

on me. The grandeur and beauty of Yellowstone, Grand Teton, Arches, Mesa Verde. Every park visit testified to the need to preserve our Nation's treasures for future generations.

As I grew older, I learned more about the rule of law and about the role of government in promoting the public good. I learned more about how the pollution laws are supposed to protect the health and welfare of all of us, including every community in America. I grew to realize that my calling was public service to protect our shared interest in the environment and our natural resources. The best way for me to contribute to that effort was as a lawyer, making sure the country's environmental laws are followed and enforced.

After graduating from law school and clerking for the Honorable Judith Rogers of the D.C. Circuit, I applied to join the Department of Justice through its Honors Program and asked to be assigned to the Environment and Natural Resources Division. I grew up as a lawyer at ENRD, working on cases involving the Clean Water Act, the Clean Air Act, superfund site cleanup, Native American land rights, the establishment of National monuments, and more. I worked on cases around the country, in the Supreme Court and every Federal circuit, civil and criminal enforcement matters against corporations and individuals, as well as defenses of agency actions against challenges of all sorts. In my 7½ years there, I also learned firsthand the skill, dedication, professionalism, and integrity of the career staff that work day in and day out enforcing environmental laws for the good of the American people.

I loved my job, and frankly, I thought I would never leave the Division, but I was unexpectedly offered another opportunity to do public service. This time it was the chance to serve as the first Solicitor General for my adopted home, the District of Columbia. As Solicitor General, I would be the chief appellate lawyer representing the people of the District. I could not turn it down. I am, at heart, a government lawyer, and it was an honor and a privilege to serve my community for more than 11 years. I always hoped that someday I would have the chance to return to the Department and to ENRD.

I am so thankful to have that opportunity today. I know that this is a crucial moment for the Division and the Nation with the pressing imperatives of enforcing the Nation's environmental laws with integrity, defending Federal agencies, honoring United States' important relationship with Native American Indian Tribes, promoting the effective stewardship of public lands and natural resources, and addressing climate change and environmental justice.

The cliche for me is real. I want to leave the world and the country a better place for my kids. I am deeply honored to have a chance to do that and I look forward to your questions. Thank you.

[The prepared statement of Mr. Kim appears as a submission for the record.]

Chair DURBIN. Thank you, Mr. Kim. Before turning to my questions, I will lay out a few of the mechanics we will follow in this hearing.

Senators will have 5 minutes to question nominees. We will work right through questioning without any breaks. Let me make one more note before we get started. When we last held a nominations

hearing, I asked my colleagues to be respectful in questioning their nominees, and they certainly obliged. I greatly appreciate that. If nothing else, that approach led to a more productive hearing, one in which the Committee came away with a sense of the nominee's qualifications and vision for their roles. And so, I will again make that request to my colleagues, and I am sure that they will follow it.

Let me turn to questions, and I will start with Ms. Clarke. Yesterday was a classic illustration of where we are in America on a very important issue. Yesterday, like many days before, we are following on a day to day basis a trial in Minnesota, and the outcome of that trial is, of course, a topic of great concern for all Americans, Black, white, and brown. The question is whether there was police misconduct involved in the death of George Floyd. On top of that, came the killing of Daunte Wright in Brooklyn Center, Minneapolis. I do not want to pick on Senator Klobuchar's State because sadly there are cases like that in many States including my own. And a real question as to the training and fitness of some people in law enforcement.

At the same time yesterday, we had a memorial service for one of our Capitol Hill policemen who was killed in the line of duty on Good Friday. He was standing out at an entrance which many of us use every single day when a man came up and hit him with a car and killed him. Yesterday he was honored. His body lie in repose in the rotunda. The President of the United States came to give his honor and respect to Officer Billy Evans.

What a contrast, the trial in Minneapolis and the memorial service at our Nation's Capitol. Ms. Clarke, that really calls into question what you are really asking to embark on here, trying to find the right balance with civil rights in this country, representing or respecting our Constitutional rights and civil rights, but understanding as well that an organized society needs law enforcement.

You know that this Newsweek article is going to be presented to you to explain and I am going to give you that chance too. I know you have been a prosecutor. You have represented the people of the United States of America in lawsuits. You have been actively engaged in that effort for years. Questions were raised in this article about so-called "defunding the police", and I want to give you a chance to explain what you were saying in that article. I certainly agree with some of your suggestions. We do need more social workers. They are a necessary part of law enforcement as far as I am concerned, can avoid a lot of deadly confrontations. Yes, we need more social support in schools, that goes without saying. I think that is the right thing to do. More money in mental health aid as well. I question, as others do, sending all this military equipment to police departments. I want to give you a chance to explain that article and your position in your own words.

Ms. CLARKE. Thank you for the question, Senator. First, I want to acknowledge the grief that I know that families and communities are experiencing today. The family of the grieving Capitol officer who lost his life, the family of George Floyd, and so many others. I think we are at an inflection point.

Senator, throughout my career, I have worked with law enforcement. I started off my career in the Justice Department and spent

several years in the Criminal Section working with the FBI. Throughout my career, I have endeavored to form partnerships with law enforcement. Most recently, I worked with the International Association of Chiefs of Police to develop more effective strategies for tackling hate crimes. I am proud to sit here today with the endorsement of a number of law enforcement organizations, the National Association of Police Organizations, the Major Cities Chiefs, the head of the International Association of Chiefs of Police, the National Organization of Black Law Enforcement Officers, and more. I can assure this Committee that if confirmed I will bring the long experience that I have of working to find common ground with law enforcement to this role.

The article that you referenced, Senator, I wrote to make clear that I do not support defunding the police. I do support finding strategies to ensure that law enforcement can carry out their jobs more safely and effectively and channeling resources to emotional health treatment and other severely under resourced areas, I think is one path forward. I know that this Committee engages in robust bipartisan dialogue around criminal justice reform frequently, and I look forward to being a partner in those ongoing efforts and discussions.

Chair DURBIN. Do you think our police need to invest more money in training and in screening recruits to make certain that those who are not ready for the job, not prepared for it, or bring some prejudice to it are excluded?

Ms. CLARKE. I support Senator President Biden's commitment of $300 million to COPS to help ensure that police have more resources to do their jobs. I understand the jobs that they have are incredibly difficult, and with more resources, we can work to ensure that they can carry out their roles more effectively.

Chair DURBIN. Thank you. Senator Grassley.

Senator GRASSLEY. My first question was going to be about defunding police, but you have addressed that already. I think I would disagree with you whether or not you have advocated defunding police, so I will go on to my second question.

You might think it is unfair to bring up something that you organized in law school, but yesterday there was a Congresswoman who said things along the same line, at a conference that featured a number of speakers that called violent radicals, including numerous cop killers, political prisoners, and POWs. I got the name of three cop killers, two in prison, one fleeing to Cuba, Assata Shakur, Tom Manning, Mumia Abu-Jamal. My question to you is do you consider them political prisoners?

Ms. CLARKE. No. I am not familiar with their cases. I have never worked on those matters. The conference that you are referring to, Senator, was organized by the late Dr. Manning Marable, who was the director of the Institute for Research in African-American Studies. I was not the organizer of that conference, but I provided logistical support as a student at that time.

Senator GRASSLEY. You have said, "It is time to restore both race and gender diversity to our Federal courts." Yet Democrats in the Senate consistently voted against President Trump's female and minority nominees, especially at the circuit court level. You also did not support many of these nominees. My question, pretty sim-

ple, when Democrats oppose minority or female nominees who are rated qualified by the ABA, were they being racist and sexist?

Ms. CLARKE. Thank you, Senator. Over the 4 years of President Trump's tenure, my organization only took positions on about five judicial nominees, three of them Supreme Court Justices. I believe that race and gender diversity on our Nation's court is an important priority and goal that we should work toward.

Senator GRASSLEY. Is it possible in the same vein then for Republicans to oppose President Biden's nominees on ideological grounds without being racist or sexist?

Ms. CLARKE. I believe that this body has an incredibly important advise and consent role under the Constitution to vet nominees. We want nominees who are qualified, but we also want to work to ensure that the bench reflects the growing diversity of our country. People with disabilities, women, people of color are all people who we should see reflected on our Nation's Federal courts.

Senator GRASSLEY. Can I ask you to be specific though? If Democrats can oppose it and not be racist or sexist, should not you have the same standard for Republicans?

Ms. CLARKE. I do not view this work through a partisan lens, Senator. In looking at judicial nominees, I look at qualifications. I have spoken about the need for diversity, but I do not view these issues at all through a partisan lens, Senator.

Senator GRASSLEY. In 2017, you tweeted an article by Judge William Pryor, who at that time was opposing a proposed court extension plan. You said, "the Senate should heed his call," end quote, and not expand the courts. Do you still oppose expanding the number of judges? If not, why not?

Ms. CLARKE. I understand that President Biden has convened a commission to look closely at these questions. I think that these are important questions that we should examine and look forward to seeing the results of that commission's work.

Senator GRASSLEY. I believe though that the conversations you had indirectly with Pryor did not deal with the number of Supreme Court Judges or packing the Court, but with lower court judges. At that time you seemed to say that we should not be expanding the number of lower court judges. Do you still hold that position?

Ms. CLARKE. Senator, I would welcome more context. I am not recalling the context in which that statement was made, but I do understand that President Biden has convened a commission to look very broadly at the status of the Federal judiciary and I look forward to seeing the results of that commission's work.

Senator GRASSLEY. I have got 9 seconds for my last question. During Bill Barr's confirmation hearing, you tweeted that Barr "must acknowledge that his work to promote mass incarceration destroyed communities and harmed people of color," end of quote. So, you know, Joe Biden promoted the Crime bill, so the person who nominated you to this position, did he destroy communities and harm people of color by authorizing and authoring and pushing the Crime bill?

Ms. CLARKE. The war on drugs, I think universally everyone agrees led to the mass incarceration of people of color. And I think that broadly we have seen many people abandon those policies of the past. And I know that this body, the Senate, has engaged in

robust thinking around more progressive criminal justice reform, including you, Senator Grassley. So, I just want to acknowledge that some of the thinking of the past, I think, has been abandoned and is putting us on a more progressive path when it comes to race and incarceration in our country.

Senator GRASSLEY. Thank you very much.

Chair DURBIN. That was one of your more important legislative achievements, Senator Grassley.

Senator GRASSLEY. You and I, together.

Chair DURBIN. Senator Leahy.

Senator GRASSLEY. And Senator Lee.

Senator LEAHY. Thank you, Mr. Chairman. I am delighted to see both of you here. Let me use my time to ask Ms. Clarke some questions. I have heard some of these, I think, pretty tired old arguments that you are an anti-law enforcement crusader, but you have dedicated much of your life in law enforcement. You served as a prosecutor at the Federal and State level for more than half of your 20 year legal career. You have prosecuted hate crimes, human traffickers, sex offenders. And having been a prosecutor myself as several of us have up here, I know the dedication it takes to do those kind of prosecutions. That is probably why you have the support of major law enforcement organizations across the country, including Republicans and Democrats, 70 of them, former State attorneys general.

Why are you so proud to have the vocal support of organizations of individuals who, like you, devoted their career to law enforcement?

Ms. CLARKE. Thank you, Senator Leahy. I do not believe that an effective head of the Civil Rights Division can carry out this role without having the ability and the capacity to work with law enforcement. I believe that there is common ground to be found and identified with law enforcement. I have rolled up my sleeves and I have done that work.

One of the proudest achievements during my tenure at the Lawyers' Committee for Civil Rights Under Law was a partnership that we forged with the International Association of Chiefs of Police, where we brought together hate crime victims and survivors, law enforcement rank and file and leaders, and worked to map out effective strategies for improving the way that law enforcement handles the investigation and handling of hate crime incidents in their communities.

That kind of partnership, the civil rights community and law enforcement coming together to tackle these problems is not something that we see every day. You have my commitment, Senator, that what I have done throughout my career, whether it is relying on law enforcement to investigate and prosecute hate crimes and human trafficking cases, whether it is working with law enforcement to find common ground, that it is—these are the principles and values that I will bring to the role if confirmed to lead the Civil Rights Division.

Senator LEAHY. Thank you. I think I know the answer to this, but as the Senator Sponsor of the bipartisan John Lewis Voting Rights Advancement Act, it mystified me when people argued that restoring the Justice Department's powers under the 1965 Voting

Rights Act was a partisan power grab. The voting restrictions being contemplated by many States, which DOJ is currently powerless to stop, would make voting harder for both Democratic and Republican voters. A recently proposed bill in Arizona enforcing an earlier deadline for mail-in ballots would have nullified more Republican ballots than Democratic ballots during the 2020 election.

Can you explain why restoring the DOJ's powers to oversee and stop harmful changes to voting procedures is in the interest of the American people of all parties?

Ms. CLARKE. I had the privilege and honor of sitting above the Senate floor in 2006 for the 98-to-0 vote to reauthorize the Voting Rights Act. I know that there's six Members of this Committee who were there for that vote, including yourself, Chairman Durbin, Ranking Member Grassley, and Senator Cornyn. I believe that bipartisan support for voting rights is something that we should continue to aspire to. We know that ongoing voting discrimination remains a real problem in our country and the Voting Rights Act has proven to be one of our most powerful tools passed by this body, by the Senate, to help in the effort to ensure that eligible Americans have full access to the ballot.

Senator LEAHY. You know, I am very proud of my own State of Vermont and Jim Condos, who is our secretary of state. He has done everything possible to make sure everybody can vote and we have great turnout. We—example, it was last election, overwhelmingly elected a Republican Governor and then overwhelmingly elected a Democratic Lieutenant Governor. I think that is why major actors in society like the Fortune 500, who normally many of them would be strongly in favor of Republicans, have said this goes beyond party. We have got to make it easier for people to vote than otherwise. Mr. Chairman, thank you. I think we have an excellent nominee here.

Chair DURBIN. Thank you very much, Senator Leahy. Senator Cornyn.

Senator CORNYN. Thank you, Mr. Chairman. Ms. Clarke, Martin Luther King famously said that he had a dream of a day when his children would be known by the content of their character and not the color of their skin. Do you agree with that?

Ms. CLARKE. Absolutely, Senator.

Senator CORNYN. Maybe there is a misprint, but I am sure you can clear it up for me. Dating back to your days in school when you seem to argue that African Americans were genetically superior to Caucasians. Is that correct?

Ms. CLARKE. No, Senator. I believe you are referring to an op-ed that I wrote at the age of 19 about "The Bell Curve" theory, a racist book that equated DNA with genetics and race. As a Black student at Harvard at that time, we took grave offense to this book. It was coauthored by a Harvard professor. We did a number of events to speak out against the book and this op-ed opened with a satirical reference to the statement that you just noted. Contemporaneous reporting by the campus paper made very clear that this was not a view that I espoused. What I was seeking to do was to hold up a mirror and put one racist theory alongside another to challenge people as to why we were unwilling to wholly reject the racist theory that defined "The Bell Curve" book.

Senator CORNYN. This was satire?

Ms. CLARKE. Absolutely, Senator.

Senator CORNYN. Where was that published?

Ms. CLARKE. In the student paper, the Harvard Crimson. There is contemporaneous reporting from that time, from that day, that makes clear that these were not views that I espoused, Senator.

Senator CORNYN. Do you agree with the proposition that we ought to make it easy for people who are entitled to vote and hard—to make it hard for people who are not legally qualified to vote, to vote?

Ms. CLARKE. I believe, Senator, that we want to ensure that eligible, eligible Americans, are able to have a voice in democracy.

Senator CORNYN. You mean you do not have to register? If you are not registered, but eligible, you should still be able to vote?

Ms. CLARKE. No. Absolutely, Senator. We want to make it easy for people to register.

Senator CORNYN. Right.

Ms. CLARKE. Easy for people to vote and we want to ensure that only eligible people are able to vote.

Senator CORNYN. Do you believe there's such a thing as voter fraud?

Ms. CLARKE. I do. I do not see that—I, as somebody who has worked on these issues very closely, do not encounter voter fraud very often, but it does exist, and I know that the Criminal Division of the Justice Department exists to handle those matters if and when they were to arise.

Senator CORNYN. Do you believe that for every illegal vote cast in an election it dilutes and undermines the vote of legitimate voters?

Ms. CLARKE. I believe that vote fraud is exceedingly rare, but yes.

Senator CORNYN. How do you know that?

Ms. CLARKE. We very rarely hear about vote fraud in our country. I run a nonpartisan hotline, the Election Protection Hotline at the Lawyers' Committee. We get thousands of calls from people who are having challenges registering, challenges voting, and very rarely, if ever, get complaints regarding fraud.

Senator CORNYN. The last time I was on the ballot in Texas before 2020, there were 4.8 million people to vote. That is 2014. This last year, we had about 11 million people vote, more than double. Do you believe that the votes of people of color were suppressed?

Ms. CLARKE. In the State of Texas, I know that there was some litigation to address some of the barriers people faced during the pandemic. I think those numbers reflect an encouraging picture at the end of the day that reflect the results of advocacy, litigation, and other efforts to make it easier for people to vote amid the deadly pandemic.

Senator CORNYN. In Texas, we had mail-in ballots for people 65 and older, those who are disabled, those who were unable to show up in person on election day. We had a full 3 weeks of early voting in person and people were then able to vote on election day. Does that indicate to you that there was any systematic effort to deny minorities a opportunity to vote?

Ms. CLARKE. Senator, I can recall very vividly reports of long lines that stretched until 2-3 a.m. during the early part of the pandemic in the primary season. I know that there were some long lines during the early voting period. I think there is still work to do, but I certainly think that those numbers are encouraging and reflect progress in the State of Texas when it comes to accessing the ballot amid the pandemic.

Senator CORNYN. Finally, do you still advocate defunding the police?

Ms. CLARKE. I do not advocate defunding the police, Senator.

Senator CORNYN. Do you advocate diverting some of the current funding for police for other purposes?

Ms. CLARKE. You may be referencing an op-ed that Chairman Grassley referenced. I do not have the power of the purse, did not have the power of the purse behind me, so I talked about a way to allocate a limited budget of resources in a way that can ensure that police are able to do their jobs more effectively and ensure community safety. I am pleased and excited that President Biden has committed $300 million new dollars to COPS and that we are now in a world in which we are working with more resources to tackle these problems.

Senator CORNYN. Thank you.

Chair DURBIN. Thank you, Senator Cornyn. Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Chairman. Welcome to both of our nominees.

Ms. Clarke, I have been on the phone recently, or actually this being the COVID season, I have been on the Zoom recently with a lot of the Rhode Island police chiefs. One of their most significant concerns right now is the extent to which their engagements with the public are often founded in a behavioral health or mental health issue that is going on. There is a lot of concern from the Chiefs and from line officers that they are being put into situations that they are not as well trained for as true mental health, behavioral health professionals, and that there is not the same kind of support for mental health or behavioral health crises as there should be; crisis centers, reactions teams, and things like that, that can know with professional expertise in behavioral health and mental health issues what is going on and deescalate and handle what is truly a health issue, not a criminal conduct issue for what it is.

What I would like to do is to enhance funding for those behavioral health efforts. If we do a really good job of that, we might actually be able to reduce some of the expenditure on the criminal law enforcement side by bringing on people who are more behavioral health experts. We are doing this already in Rhode Island in the addiction space. We have added peer recovery counselors in some police departments who can engage and follow-up and try to get to the root cause of what is going on, which is often founded in addiction. Would you view it as defunding the police to invest more in the behavioral health, mental health, and addiction issues the police so often encounter?

Ms. CLARKE. Thank you for the question, Senator. Again, I am excited that the reality is that President Biden has committed more money, more resources, $300 million for COPS, so that we

can help commit greater resources to all of these issues. I know from talking to and working with law enforcement that they want this help. They want to see more resources committed to meeting the mental and emotional health needs of communities. I have talked to sheriffs who have talked about how their jails have essentially been transformed into mental health detention centers. I have talked to sheriffs who have talked about people who work to find their way inside the jail so that they can get access to medication that they cannot get elsewhere. I think this is a crisis issue and I am glad to see that the Senate is giving attention to this issue. I am glad that President Biden is committing more resources to meeting the needs of law enforcement generally and look forward to hopefully finding ways if confirmed to working with law enforcement just as I have done throughout my career to address these issues.

Senator WHITEHOUSE. Thank you. Let me close out by saying that I cannot help but notice coincidences sometimes. It seems like a remarkable coincidence. I have seen it reported that every single Republican controlled legislative body at the State level in the country is moving forward with efforts to what some would say, suppress voters, to limit the franchise. Georgia was a particular example, but President Trump's own election security advisor said that this was a legit, honest, very well protected, honest election. The Georgia Republican officials who ran that election stood up and fought President Trump's accusations defending their work, that that was an honest election. Nevertheless, we have this enormous surge as if every single ship wheeled as if on command, to go after voters.

We have Fox communications going really quite over the top over this. I will offer an editorial of the New York Times today as an exhibit of a good rebuttal to what some of the Fox talking heads have been up to. We have seen this character, Leonard Leo, who has been the architect of what I call "the court packing scheme" that was run under President Trump by big special interests move from that scheme to voter suppression to run something called the Honest Elections Project. I find it an interesting coincidence at the same time that all those things are happening very bitter attacks are being launched against you, and against Ms. Gupta, when you are the two people who will be responsible for enforcing voting rights. I just want to make a record of that as I close out my time.

Chair DURBIN. Without objection, the article you referenced will be placed in the record.

[The information appears as a submission for the record.]

Chair DURBIN. Senator Lee.

Senator LEE. Thank you, Mr. Chairman. Ms. Clarke, in the fall of 2008, two members of the New Black Panther Party, which is of course a violent hate group that focuses on racial violence, stood outside of a polling place in Philadelphia dressed in military attire and brandishing a billy club. In January 2009, just a couple of months later, the Department of Justice charged those same individuals and the New Black Panther Party itself with criminal voter intimidation. Just a month after that, the then new acting head of the Department of Justice's Civil Rights Division dismissed nearly all the charges. Do you think the U.S. Department of Justice was

wrong to prosecute those individuals who showed up at a polling place wielding a billy club?

Ms. CLARKE. I believe that the leadership of the Justice Department had the prerogative to bring the cases that it deemed appropriate to bring.

Senator LEE. Did you want the Department of Justice to drop a case?

Ms. CLARKE. I may have espoused that opinion publicly, but so did many people. I think there were many people who deemed that a weak case.

Senator LEE. Did you communicate with anyone at the Department of Justice about that, advocating for them dropping it?

Ms. CLARKE. I did not engage in any advocacy around that case, if that is what you are asking, Senator.

Senator LEE. Right.

Ms. CLARKE. I did communicate with people regarding public information, publicly available information about the case.

Senator LEE. There are a couple of Department of Justice officials who have testified under oath that while you were at the NAACP you specifically asked Laura Coates, an attorney within the Department of Justice Civil Rights Division, when the case would be dismissed. Is that accurate?

Ms. CLARKE. Senator, I have testified under oath and I will repeat here, I did not engage in any advocacy one way or another around how the Justice Department should handle that case.

Senator LEE. Okay, but you did talk to her about it? You asked her when it would be dismissed?

Ms. CLARKE. I do not recall that conversation, Senator.

Senator LEE. Do you think the Department of Justice should? We will just step out one level of abstraction. Should the Department of Justice prosecute cases when members of a racially motivated hate group stand outside of a polling place wielding billy clubs?

Ms. CLARKE. I think that voter intimidation is a real issue that should be addressed, and there are tools in the Voting Rights Act to help address voter intimidation.

Senator LEE. Okay. Let us talk about another case. In 2006, the U.S. Department of Justice prosecuted a Democratic Committee official, an individual named Ike Brown, who was in Mississippi. He was prosecuted for relentless racial discrimination. And the court held that Brown, quote, "had engaged in racially motivated manipulation of the electoral process to the detriment of white voters," closed quote. Now prosecutors produced evidence indicating that Brown had paid off notaries to illegally mark absentee ballots and published a list of voters based on race with a warning that the voters whom he disfavored on the basis of race would be challenged at the polls. Did you disagree with the Department of Justice's position to prosecute Ike Brown for voter suppression?

Ms. CLARKE. Senator, in 2006 when that case was filed, I was still at the Department. I was in the Criminal Section serving as a Federal prosecutor.

Senator LEE. Okay. There is an official at the U.S. Department of Justice who testified under oath that you, "spent a considerable amount of time attacking the Civil Rights Division's decision to file and prosecute," this particular voter suppression case while you

were at the NAACP. Did you discuss the *Ike Brown* case with officials within the Department of Justice's Civil Rights Division?

Ms. CLARKE. No, Senator. To be clear, when that case was filed, I was at the Justice Department serving as a dedicated Federal prosecutor in the Criminal Section. After I left the Justice Department, I espoused the view that the voter intimidation claim in that case was weak and the court agreed. That claim was ultimately dismissed by the Federal judge who handled that case.

Senator LEE. Ms. Clark, I want to read a non-exhaustive list of elements of the American society, elements that you have at one point or another described in the past as racist: police departments, Federal agencies, Airbnb, election laws designed to combat fraud, the workplace, America's DNA, the Virginia Military Institute, the healthcare industry, Federal courts, and the Department of Justice. You have worked for the Department of Justice and with the Federal courts. Were those institutions racist when you worked there?

Ms. CLARKE. Senator, I do not have the context for the list that you just ran through.

Senator LEE. Have you described them as racist in the past?

Ms. CLARKE. I generally use the term discrimination. I am a lawyer. I follow the facts. I believe that there are instances where you may find that one particular employer or one particular landlord——

Senator LEE. Were they racist when you worked there?

Ms. CLARKE [continuing]. Engaged in discriminatory conduct, but I do not deem institutions or structures to be blanketly racist.

Senator LEE. Were they racist when you worked there?

Ms. CLARKE. I did not follow the question, sir.

Senator LEE. Was the U.S. Department of Justice a racist institution while you worked there?

Ms. CLARKE. No, Senator. The Justice Department is anchored by dedicated career employees who work hard every day to follow the facts and to adhere to the law.

Senator LEE. Okay. Mr. Chairman, I see my time has expired. I would like to ask consent to submit for the record a report from the Civil Rights Commission.

Chair DURBIN. Without objection.

[The information appears as a submission for the record.]

Senator LEE. Thank you.

Chair DURBIN. Thank you, Senator Lee. Senator Coons.

Senator COONS. Thank you, Chairman Durbin. Thank you, Ms. Clarke, Mr. Kim, for appearing before us today and for continuing your dedication to public service. We as a Nation are facing generational crises in the areas of civil rights and the environment, yet in both areas we also now face urgent needs to revitalize critical work in these areas. Both of you are accomplished public servants with impeccable qualifications and a demonstrated commitment to the rule of law. You are, in other words, exactly what we need in this moment, so I am proud to support both of your nominations.

Ms. Clarke, I am a little bewildered by efforts we have seen here so far today to paint you as somehow anti-law enforcement, so I want to ask you a series of questions if I could. You were, yourself,

for years an actual member of law enforcement as a Federal prosecutor. Is that correct?

Ms. CLARKE. That is correct, Senator.

Senator COONS. In that role, you prosecuted cases involving domestic violence, sex offenses, assaults, human trafficking, hate crimes, official misconduct, is that right?

Ms. CLARKE. That is correct, Senator.

Senator COONS. You worked on many of those investigations side by side with agents from ICE, from FBI, from law enforcement, from police departments, Federal, State, and local, is that correct?

Ms. CLARKE. Yes, yes, Senator.

Senator COONS. You have earned the support of numerous law enforcement groups and by individual chiefs and officers, is that correct?

Ms. CLARKE. I am proud to sit here with the endorsement of many law enforcement organizations, police chiefs, and more.

Senator COONS. In fact, our own former Senator, Sergeant at Arms, Terrance Gainer, joined a letter signed by over 40 police chiefs, sheriffs, other senior officers, that described your uncanny ability to work with law enforcement and your impeccable credentials, character, and credibility. The executive director of the NAPO, the National Association of Police Organizations, said that he believes that you and he—and I am quoting, "share a common goal of fair, effective, ethical, and safe law enforcement." Is that correct?

Ms. CLARKE. Yes, Senator.

Senator COONS. Thank you, Ms. Clarke. When I was in local government, I spent 10 years at the county level and was involved in and responsible for oversight of our county police department, I got to know the IACP well, the International Association of Chiefs of Police. We relied on them for professional advice and guidance in handling some very tough policy issues. As president of the Lawyers' Committee, you worked closely with the IACP. You created a thorough and well-documented action agenda to enhance the response to hate crimes and strengthen trust between law enforcement and communities. My impression is in that work you got to know well and work closely with both rank and file and senior chiefs at both policy leaders and those who were the survivors of hate crimes themselves. The IACP executive director wrote that your professional hallmarks are, and I am quoting, "fairness, communicativeness, and championing transparency." Is that a correct characterization of your work with this organization?

Ms. CLARKE. I would deem those to be accurate, an accurate description.

Senator COONS. Let me just say as the Co-Chairman of the Law Enforcement Caucus here, I know we desperately need people who can listen to, respect, and work with law enforcement, who can work with the communities that they serve and break down some of the barriers that have imperiled reform, and I think that that is exactly who you are. There have been a number of questions about whether or not you support defunding the police. You have said clearly and forcefully no. Let me just ask a last question if I could in this area. If you have a choice and you are not the person who controls the purse strings, we are in the Senate, in the Con-

gress. If you had a choice between additional Federal resources to help provide the ability for State and local law enforcement to also have partners, resources, to respond to mental health crises, for example. If you had that choice or you had the choice of reducing the total funding available for law enforcement, which of those two would you choose?

Ms. CLARKE. I do not have the power of the purse string, but if I could put my thumb on the scale, I would put it on the side of more resources. That is what we need to tackle the grave issues that we face today. The rise in hate and extremism is just one example of that.

Senator COONS. That is something I look forward to fighting for as an appropriator on the Subcommittee that funds the Federal Department of Justice. I have talked to senior leaders in the administration. I have talked to President Biden. I think we can, if we choose to work together, find a way to significantly increase as the resources available for law enforcement and for appropriate mental health responses to crises.

Mr. Chairman, with your indulgence, I would like to ask Mr. Kim one question.

Chair DURBIN. Certainly.

Senator COONS. Mr. Kim, if I might, we have gotten a lot of attention to your colleague here, but I wanted to ask you one question if I might. I am a new Co-Chairman of the International Conservation Caucus, and I am working with Senator Portman on reauthorizing the Presidential Task Force on Wildlife Trafficking. Would you agree that wildlife trafficking is not just a conservation issue? It is one that threatens the security of our international partners because the networks that often conduct wildlife trafficking are also involved in other natural resources crimes, human trafficking, drug trafficking, moving weapons, drugs, and money? Do you see it as an important crime to investigate and prosecute?

Mr. KIM. Thank you, Senator. Absolutely, I agree with that. Wildlife trafficking is important not only because of its effect directly on wildlife, but also because of its documented connections with international criminal organizations. It is currently a priority of the Division and if confirmed, I would hope to keep it a priority as well.

Senator COONS. Thank you. I am grateful that both of you are willing to continue your careers in public service and look forward to supporting your confirmation by the Senate and your service as part of the administration. Thank you.

Chair DURBIN. Thanks, Senator Coons. I would like to acknowledge that Congresswoman Joyce Beatty, the Chairman of the Congressional Black Caucus is present. You certainly are welcome and thank you for joining us today.

I would like to recognize Senator Cruz.

Senator CRUZ. Thank you, Mr. Chairman. Welcome to both of the nominees.

Ms. Clarke, as I look to your record, I see the record of someone who has spent a career as a partisan advocate. Last year you wrote an op-ed in Newsweek entitled, "I Prosecuted Police Killings. Defund the Police—But Be Strategic." Do you still believe it is a good idea to defund the police?

Ms. CLARKE. Thank you, Senator, for that question. I do not support defunding the police. The impetus for writing that op-ed was to make clear that I did not support defunding the police. I spent considerable time talking about the need to channel resources to places such as mental health treatment to alleviate some of the burdens that we place on the doorstep of law enforcement, some of the issues we ask them to wrestle with that are outside their core competency, but if I——

Senator CRUZ. Ms. Clarke, let me—and we have limited time, so let me—you say you do not support defunding the police. You just said it twice. The title of your article was defund the police. Let us not just look to the title. Your article begins by saying that the national protests we saw last year, "opened up space for transformative policy discussions." You then continue to write, "into that space," and this is a quote, "into that space has surged a unifying call from the Black Lives Matter movement, defund the police." Do you really believe defund the police is a unifying call?

Ms. CLARKE. I do not support defund the police.

Senator CRUZ. I am reading from your article. Do you disagree with your article?

Ms. CLARKE. Amiss the demonstrations and protests, I wanted to provide a different perspective. I do not support taking away resources from police and putting communities in harms way. There is a rise in hate crimes and extremism.

Senator CRUZ. Okay. Ms. Clarke, you know you are testifying under oath here.

Ms. CLARKE. Absolutely.

Senator CRUZ. You just said a moment ago——

Chair DURBIN. Senator Cruz, please allow her to complete her answers.

Senator CRUZ. I am not going to allow her to filibuster, so I am going to ask a question. If she wants to answer the question that I asked, she can do so, but I am not going to——

Chair DURBIN. She should be allowed. I hope you will show respect to the witness and allow her to——

Senator CRUZ. I will show respect to every witness.

Chair DURBIN. Thank you.

Senator CRUZ. We also have limited time, as you are aware. You have been on this Committee long enough to know that witnesses in avoiding questions will try to filibuster on different topics. I am going to ask questions and I am going to expect answers to the questions I ask. I understand the Chairman wants to jump in and defend the witnesses, but that is your prerogative to try to do so, but——

Chair DURBIN. I will defend witnesses on either side and Members on either side. We will be respectful in this Committee. I hope that all Members will abide by that.

Senator CRUZ. I hope and expect the same standard will be applied to Senators on both sides. Let us return to what you just said, you do not support cutting funds from police. I find that astonishing and, Ms. Clarke, frankly, not credible because I am holding the article you wrote. I actually pulled out a highlighter and highlighted the beginning of each paragraph going through. About midway through you have a paragraph that says, "We must invest less

in police and more in social workers." The next paragraph is, "We must invest less in police and more in social support to our schools." The next paragraph begins, "We must invest less in police and more in mental health aid." Three paragraphs in your article you begin with the words, "We must invest less in police." You just told this Committee under oath you do not support investing less in police. How do you square those?

Ms. CLARKE. If I may, Senator, I support the fact that President Biden is committing $300 million new dollars for the COPS program, $300 million new dollars for resources to the police. I wrote that op-ed without having the power of the purse string behind me and talked about how we can allocate a limited pool of resources in a more effective way.

Senator CRUZ. So, you believe you were wrong last year when you called for defunding the police and investing less in the police?

Ms. CLARKE. It is a poor title chosen by the editor, but I do not——

Senator CRUZ. It is not just the title. It is your text. We must invest less in police. Three paragraphs you begin with those words. You wrote those words.

Ms. CLARKE. Without the——

Senator CRUZ. Do you agree with those words today?

Ms. CLARKE. Without the power of the purse string, I wrote those words, but President Biden is committing more resources to police, and I think that is a great thing, Senator.

Senator CRUZ. Alright. Let us shift to another topic. Your advocacy and frankly extreme position on defunding the police is paired with a history of not only excusing, but celebrating murderers who have murdered police officers. It has been reported that during law school you helped organize a conference with speakers who referred to convicted cop killers as political prisoners. This included Mumia Abu-Jamal, who murdered a Philadelphia police officer, and Assata Shakur, who was convicted of murdering a New Jersey State trooper, escaped from prison, and is on the FBI's Most Wanted list. Did you organize the conference and do you support celebrating those who murder police officers as heroes and political prisoners?

Ms. CLARKE. That conference you are referring to was organized by the late Dr. Manning Marable, a noted historian who led the Institute for Research in African-American Studies. I was a student providing support for the institute working on a range of projects. As to the second question, Senator, no, I do not celebrate the loss of life in any instance.

Senator CRUZ. If you say you did not organize the conference, why did multiple speakers at the conference thank you by name for inviting them to speak at the conference?

Ms. CLARKE. Because I was a hardworking student that made sure people were fed, mailed out invitations, provided the agenda. I was a student providing logistical support to a notable historian who was the one who organized that conference.

Senator CRUZ. If there is a police officer in Philadelphia or New Jersey today watching this hearing, how are they supposed to react to your nomination to one of the senior positions at the Department of Justice knowing that as a student you participated in a conference celebrating and lionizing cop killers who murdered a Phila-

delphia police officer and New Jersey State trooper? How should a cop today watching this react to that news?

Ms. CLARKE. I have never and would not ever celebrate the loss of life or the killing of a police officer, Senator, not ever.

Senator CRUZ. Do you believe they are political prisoners?

Chair DURBIN. Thank you, Senator Cruz. Thank you, Senator Cruz. Senator Padilla.

Senator PADILLA. Thank you, Mr. Chairman. A couple of topics I want to try to cover relatively quickly, but let me begin by a question for Ms. Clarke. This op-ed from Newsweek has been referenced repeatedly throughout this hearing with reference to the title, so let me be specific. Did you write the title? Did you pick the title? Was this title your choice?

Ms. CLARKE. It was not, Senator. I often defer to the editors I work with on choosing titles. They often have good judgment about a title that will help ensure that your thoughts and ideas get read. It is not a title that aligns well with the piece. I do not support defunding the police.

Senator PADILLA. Thank you for that clarification. Let me share with you at least a perspective and line of thought that is mine, not yours. I am not going to put words in your mouth, but you tell me if you agree or disagree with it. I speak not just as a current Senator and former secretary of state, but former State Senator prior to that, and for 7½ years having served on the Los Angeles City Council, during which time the city of Los Angeles negotiated and entered into a consent decree to bring about reforms in the Los Angeles Police Department. Both as a resident, someone who grew up in Los Angeles in the 80s and 90s. The role of a police department or a public safety agency is not just to arrest and arrest for arrest's sake. It should be part of a comprehensive plan to improve public safety. What better way to improve public safety in addition to holding to account those who commit crimes than to prevent crimes to begin with?

When we talk about how it is used and abused, the term defund the police, it is not just a level of budgeting for a particular department. If you can invest, as others have suggested, more in mental health, more in education, more in economic opportunities for people, history shows, data shows crime goes down. Is not that the ultimate objective to prevent, if you can, crime from beginning in the first place? Your thoughts?

Ms. CLARKE. Absolutely, Senator. This is about providing more resources to ensure public safety and to ensure that law enforcement can do their jobs well. This is about finding ways to work with law enforcement. Sometimes it is by way of consent decrees. Sometimes it is by way of providing technical assistance as we see the Justice Department doing, grant making, training, and collaboration.

Senator PADILLA. Thank you. Different topic. Questions for Mr. Kim. I appreciate an opportunity to connect by phone yesterday. As you know, I mentioned not just specifically the Exide plant in Vernon, California, which has gotten a fair amount of attention, but specifically a letter addressed to now Attorney General Garland. A concern about this case in particular, but more broadly, the use of nonprosecution agreements as a tool in achieving environ-

mental settlement. In this particular case, there was initially an agreement for the owners of Exide to not just leave the facility, no longer continue the activity that was polluting a largely working class community, but to clean up the land and the mess that they left behind.

Through a bankruptcy court, they were allowed to simply leave the facility and leave the taxpayers of California on the hook for cleanup. Any comment about the Exide battery plant in Vernon specifically or more broadly, should you be confirmed, how you would approach what policies and considerations you would take in entertaining nonprosecution agreements?

Mr. KIM. Thank you very much, Senator, for the question. Not being at the Department currently, only being a nominee, not having access to internal Department of Justice information, I do not think I am in a position to comment specifically on that matter, but I can say more broadly that I would approach questions like that one including questions about nonprosecution agreements in this particular manner. I would consult with career lawyers and subject matter experts, client agencies as appropriate to ensure that every enforcement decision, whether criminal or civil, would be based on the facts and on the law.

Senator PADILLA. My time is up. Thank you, Mr. Chairman.

Chair DURBIN. Thank you very much, Senator Padilla. Senator Hawley.

Senator HAWLEY. Thank you, Mr. Chairman. Thank you to the nominees for being here. Ms. Clarke, I would like to start with you if I could and talk a little bit about the First Amendment. As you have written that in the midst of this pandemic religion has been used as a pretext. That is your word. To challenge public health restrictions. You have been particularly critical of the U.S. Supreme Court in a case called *Roman Catholic Diocese of Brooklyn v. Cuomo*. That was a case involving Orthodox Jewish communities and some Christian communities in which the Court, a majority of the Court found, that the State of New York had unevenly and indeed in a discriminatory fashion applied COVID restrictions to the Jewish community and to some of the Christian communities.

In particular, the per curiam decision of the Court says that the Governor—that is the *Cuomo*—specifically targeted the Orthodox Jewish community and gerrymandered the boundaries of red and orange zones—those are the restrictive zones—to ensure that heavily Orthodox areas were included. They go on to say that the challenge rules can be viewed as targeting the Ultra-Orthodox Jewish communities.

You said of this opinion that this is a newly configured Supreme Court, one with Justices who place religious freedom above all, all caps, even in the context of a deadly pandemic. Are we to take from that that you think it is okay for executive officials to target religious communities, religious minorities in particular, in this case, Orthodox Jews?

Ms. CLARKE. No, Senator. I think religious liberty is important. I think fighting religious discrimination is important. This is something I have done throughout my career.

Senator HAWLEY. How do you explain then your criticism of this decision? You think that the Court should have permitted the Gov-

ernor to continue to target the Orthodox Jewish community and to engage in disparate treatment of that religious minority?

Ms. CLARKE. Religious discrimination is always wrong. It is something I have fought throughout my career. I do think there is some novel issues that have arisen amid the deadly pandemic, and I have expressed views about the steps that I think public health officials needed to take to help bring down the death rate and to help save lives. That would be the extent of my commentary there, but religious liberty is important and standing up against religious discrimination is something I have done throughout my career, Senator.

Senator HAWLEY. Do you think that religious association, synagogues, churches, mosques, should be treated less favorably than secular institutions?

Ms. CLARKE. The Civil Rights Division has in its arsenal a number of tools—the Church Arson Prevention Act, the Religions Land Use and Institutionalized Persons Act—to ensure actually that churches and houses of worship are not subject to discrimination. This is work I have done throughout my career and that I would look forward to doing if confirmed to this role.

Senator HAWLEY. You are absolutely right about DOJ's authorities there and that is why your views concern me. In this same opinion that you so sharply criticized, the Court found that in one of the zones designated by *Cuomo* a synagogue or church may not admit more than 10 persons. However, other businesses like acupuncture facilities, campgrounds, garages, things like plants manufacturing chemicals, microelectronics, and all transportation facilities could admit as many people as they wanted. In another zone, attendance to houses of worship was limited to 25 people and yet the businesses in that zone could decide for themselves how many people to admit. The district court found that a large store in Brooklyn could literally have hundreds of people shopping there on any given day and yet a synagogue or a church could have no more than 25 people.

The Court concluded from this that not only was this not equal. This was actually disparate treatment on the basis of religion, but you criticized this as elevating religious liberty, as putting it above public health, when in fact these synagogues and churches were being treated in a discriminatory fashion. How do you square that?

Ms. CLARKE. My focus on the case was on the very surface issue about how do we protect lives amid a deadly pandemic. I ran a religious rights unit at the New York Attorney General's Office. I know about religious discrimination and have fought it throughout my career. I have stood up to neo-Nazis. I have spoken out when we have seen attacks on our houses of worship. Senator, you have my commitment that if confirmed to the role, I will continue to just that, stand up for religious liberty and fight religious discrimination at every turn.

Senator HAWLEY. Did you speak out when the Governor or New York was targeting Orthodox Jewish communities for disparate treatment so severe and significant that the Supreme Court of the United States rebuked him and said it was a constitutional violation?

Ms. CLARKE. I did not work on this case or have an opportunity.

Senator HAWLEY. You commented on this case at quite some length and took the opposite opinion.

Ms. CLARKE. Not at length, but I was very concerned——

Senator HAWLEY. I have the tweets here.

Ms. CLARKE [continuing]. About the pandemic.

Senator HAWLEY. We can have them entered into the record.

Ms. CLARKE. I was very concerned about the pandemic and very concerned about figuring out what are the steps officials need to take to save lives. Throughout my career, I have stood up for religious liberty and fought religious discrimination and will continue to do that if confirmed to the role, Senator.

Senator HAWLEY. My time is expired. I would just say in closing, Ms. Clarke, I would hope that you would be concerned about the Constitution of the United States which does not disappear during a pandemic or when some elective executive wants it to disappear, particularly if you are a religious minority. Thank you, Mr. Chairman.

Chair DURBIN. Thank you, Senator Hawley. Senator Klobuchar.

Senator KLOBUCHAR. Thank you very much, Mr. Chairman. Thank you to both of you for appearing today. I will start with you, Ms. Clarke, because I have worked with you extensively on voting rights and other issues, and I know you appeared before our Rules Committee with Senator Blunt and I, and just did an excellent job. I want to thank you for that. Got respect from both sides of the aisle in terms of your testimony and how you answered questions.

We know that we have had hundreds of voter suppression bills be introduced across the country since the last election. Could you briefly talk about your top priorities for voting rights when you get what I hope very much you will get this job?

Ms. CLARKE. Thank you so much, Senator. President Biden, Attorney General Garland have talked about the importance of the right to vote. I will follow their lead in ensuring that the Civil Rights Division, if I am confirmed, is using the tools in its arsenal, the Voting Rights Act, the National Voter Registration Act, the Uniformed and Overseas Absentee Citizens Voting Act, to ensure that eligible Americans have access to the ballot in our country.

Senator KLOBUCHAR. Thank you. I thank you for mentioning the families of both Daunte Wright as well as George Floyd. Obviously these are tragedies in my own State and my constituents have been through a lot with the murder of George Floyd, with the shooting of Daunte Clark with the understanding that—Daunte Wright, with the understanding that they have worried in the news that there are going to be charges in that case as well today. You also mentioned Officer Evans' family, which I appreciated. I was someone who was at that memorial service yesterday, stood with the police officers as his body was taken out for the last time out of the Capitol right over the site where he was killed, was at the funeral of George Floyd. I think you understand that you can both advocate for police reform and the rights of citizens and still respect deeply police. Could you comment about that and some of the things that you think we should be doing with police reform which I strongly support? I see Senator Booker is here, who has been such a leader on this. We appreciate that. Just how you can do both things at once.

Ms. CLARKE. Thank you so much for that question, Senator. I have not shied away. As a civil rights lawyer, I have not shied away from working with law enforcement. I needed to and relied on law enforcement to handle my cases as a Federal prosecutor at the Justice Department, hate crimes, human trafficking cases, domestic violence matters that we could not move forward without the expertise and good guidance of law enforcement. At the New York State Attorney General's Office, I worked closely with sheriffs, with the State police to investigate cases. At the Lawyers' Committee where I am presently, we rolled up our sleeves and worked with the International Association of Chiefs of Police.

I think that there is a lot of common ground to be forged when it comes to issues of police reform and accountability and criminal justice reform generally. I appreciate that this role leading the Civil Rights Division is not a policymaking role. It is a law enforcement role. I look forward to supporting the work of this body as it continues to wrestle with these issues and find pathways to progressive and healthy reforms.

Senator KLOBUCHAR. Very good. Thank you. Then I turn to you, Mr. Kim. I had a chance encounter with your sons, Palden and Jigme, in the hallway and I see they are very well behaved behind you right now. I would fill my other fellow Senators in on how they spontaneously were able to recount several incidences from the Presidential primary debates, which was quite impressive. Anyone who is looking for an advisor in the future, they are sitting behind Mr. Kim right now.

We know that there were many issues of a lack of enforcement in the Justice Department during the last administration. Seventy percent fewer Clean Water Act prosecutions, 50 percent fewer Clean Air cases during the first 2 years of the administration. You have had some vast experience in this. Could you just take a second to talk about how you actually have worked for both the Bush administration and Democratic administrations and you have served as civil servant at the Justice Department under Republican, Democratic administrations. Can you talk about your history of believing in the Justice Department and its role beyond politics and also how that will help you to do well in this job?

Mr. KIM. Thank you, Senator. Thank you for the kind words.

Senator KLOBUCHAR. Can you explain how your sons know all that stuff?

Mr. KIM. I cannot explain that actually, but I can say that if confirmed what I really hope is to reaffirm the core values that the Department has long stood for, fairness, independence, integrity, devotion to the rule of law. These values really matter to me, and it excites me tremendously to have the chance to return to the Department and try to live up to those ideals. I have seen the statistics as well about drops in enforcement. I am not at the Department right now, so I cannot speak to what has happened at least directly as to any particular enforcement decision. As Ms. Clarke, I think quite rightly said, this is not a policy role. This is an enforcement role. I want to make sure the rule of law is properly respected and that every enforcement decision is based on the facts and based on the law. That is what I hope to do if confirmed.

Senator KLOBUCHAR. Very good. I appreciate both of you very much and I also appreciate the choice of your mom's school at the University of Minnesota, so very good. Thanks.

Chair DURBIN. Thanks, Senator Klobuchar. Senator Cotton.

Senator COTTON. Ms. Clarke, was Officer Darren Wilson justified when he shot and killed Michael Brown in Ferguson, Missouri in 2014?

Ms. CLARKE. There is a trial under way right now, Senator. I, like millions of people, am sitting back and watching the trial as it plays out, and I am prepared to accept the verdict of the jury.

Senator COTTON. November 2020, just a few months ago, that was not exactly what you said. You said that, "On this day a grand jury chose not to indict Darren Wilson for the killing of Michael Brown. It is a powerful reminder of why we need to make clear that Black lives matter. We must demand that the Department of Justice resume pattern practice investigations and expand prosecutions involving police shootings." I would also point out that Eric Holder's Department of Justice, in March 2015, conducted an extensive review of Officer Darren Wilson's conduct and concluded that it not support the filing of criminal charges. They issued an 87-page report that was done under the watch of your fellow nominee, Vanita Gupta, I might add. In fact, there have been three separate investigations that have cleared Officer Wilson of wrongdoing.

Just last year, just last year in June you sent a letter to Congress in which you described the Michael Brown case as "prosecutorial decisions not to indict police because of impenetrable qualified immunity for police and acquittals based on racism." Why do you continue, despite all this evidence to contrary from many of your fellow Democrats, to refuse to take an answer or take a position on whether Officer Darren Wilson was justified or not in the shooting of Michael Brown?

Ms. CLARKE. Senator, if I can, I want to correct my answer. I indicated that there was a trial still going on, which is not the case, so I just want to offer up that correction. I think that in general there is a need for greater police accountability. There is a bipartisan agreement on this issue. I know that this body did a lot of work last year.

Senator COTTON. Ms. Clarke, those are all policy questions and we can have that policy debate, but I am asking you a simple factual question. Was Officer Darren Wilson justified or not in the shooting of Michael Brown in Ferguson, Missouri in 2014? Vanita Gupta has said he was. Eric Holder has said he was. Three different investigations have said he was. I am asking you, was he or was he not justified in that shooting?

Ms. CLARKE. As a private citizen based on the facts that I know, I am not privy to the details that the Federal Government may have been privy to in the course of its investigation. As a private citizen, there is something that feels unfair and I——

Senator COTTON. The Department of Justice issued an 87-page report. That is not a private—it is not grand jury sensitive information. It is not secret. It is an 87-page report released by Vanita Gupta when she ran the office that you aspire to lead. It concluded that the shooting was justified.

Ms. CLARKE. Alright. My view——

Senator COTTON. You obviously do not want to take the position that the shooting was justified despite what Eric Holder and Vanita Gupta have said, given the fact that you will not answer the simple question, yes or no. Let us turn to another case which is *Jacob Blake*.

Chair DURBIN. Senator, Senator, could you please just allow her an opportunity to respond? I will give you a——

Senator COTTON. Could you please stop the pattern of interrupting me repeatedly? This happened the last time we had a hearing and you called a vote in violation of this Committee's rules.

Chair DURBIN. I am sorry. I will give you additional time, but I would like to give her a chance to complete her answer.

Senator COTTON. I have asked her a simple yes or no question multiple times and she refuses to answer it. Thank you though for your input. Let us turn to another case, *Jacob Blake*. Was Jacob Blake armed when he was shot during an encounter with police last year in Kenosha, Wisconsin?

Ms. CLARKE. I believe the reports indicated that he may have had a weapon on him. I am not certain of that, Senator.

Senator COTTON. He was armed with a knife. That is not in dispute. Witnesses have said that he was armed with a knife, but yet again, you jumped to conclusions in the aftermath of that shooting. You repeatedly said on social media that he was unarmed. Today would you like to take a position on whether Jacob Blake was armed or unarmed in his encounter with the police in Kenosha last summer?

Ms. CLARKE. If the subsequent reports reveal to the public that he indeed had a knife, I agree with that factual statement.

Senator COTTON. Ms. Clarke, here is my concern. It is one thing to run a left wing advocacy organization and always jump to conclusions about police officers who have to use force to protect themselves or to protect innocent law abiding Americans. Those are the last people, by the way, who want to have to use force and certainly force that results in a killing that you always jump to those conclusions. It is one thing to do that to a private citizen as an advocate, but you are going to have the power of the Federal Government behind you. Based on your pattern of comments and jumping to conclusions without evidence, every cop in America should be terrified that the Department of Justice is going to jump to a conclusion when they have to make a split second decision to defend themselves or defend innocent, law abiding citizens.

Ms. CLARKE. If I can, Senator, I have done this job before. I have served as a Federal prosecutor during the Bush Administration. I did that work with the benefit of working alongside, and with, expert FBI agents who helped to investigate and review the matters before us. As a private citizen running a nonpartisan organization, I appreciate that it is a different role. You have my commitment, Senator, that if I am confirmed to this position, I will do what I did as a dedicated career attorney inside the Justice Department, which is follow the facts and the law and be guided by the work of FBI agents and other Federal law enforcement agents if and when these matters arise.

Senator COTTON. Police officers all around America can see today that you will not even agree with Vanita Gupta and Eric Holder that Darren Wilson was justified in the shooting of Michael Brown in 2014.

Ms. CLARKE. I have not seen that report or read it thoroughly, and I would welcome the opportunity to do so, Senator.

Chair DURBIN. Thank you, Senator Cotton. Senator Hirono, remote.

Senator HIRONO. Thank you, Mr. Chairman. Ms. Clarke and Mr. Kim, I ask the following two foundational questions of every nominee who comes before any of the Committees on which I sit. Two questions. Ms. Clarke, you can answer first and then Mr. Kim. Since you became a legal adult, have you ever made unwanted requests for sexual favors or committed any verbal or physical harassment or assault of a sexual nature?

Ms. CLARKE. No, Senator.

Senator HIRONO. Mr. Kim.

Mr. KIM. No, Senator.

Senator HIRONO. Have you ever faced discipline or entered into a settlement related to this kind of conduct?

Ms. CLARKE. No, Senator.

Mr. KIM. No, Senator.

Senator HIRONO. Ms. Clarke, you were a line prosecutor in the Civil Rights Division and you have extensive experience dealing with hate crimes. Addressing hate crimes has also been a major focus of your work at the Lawyers' Committee. During the pandemic, acts of hate against Asian Americans and Pacific Islanders have been on the rise, in fact, significantly. Close to 4,000 have been reported in the year, in the past year coming into this year. We have heard and seen the attacks. For example, a 65-year old Filipino immigrant was walking down a street near Times Square in New York when a man in broad daylight suddenly kicked her in the stomach. As she fell to the ground, he continued to kick her and shouted, "you do not belong here." Several men, including a security guard at the apartment building, simply watched as all this took place.

I just want to note that later today the Senate will be voting on a bill called the COVID–19 Hate Crimes Act which I hope will receive bipartisan support. It is one step toward addressing the hate crimes against AAPIs.

I would like to ask you, Ms. Clarke, based on your experience, what do you think should be done to address the continuing incidents of hate crimes against the AAPI community?

Ms. CLARKE. Thank you, Senator. I am deeply concerned about the rise in hate that we are seeing, particularly targeting the Asian American Pacific Islander community in our country. The Justice Department has at its disposal the Matthew Shepherd and James Byrd Hate Crimes Prevention Act, the Fair Housing Act, and other tools in its arsenal to help stand up and confront this hate. We need better data tracking. New York City is one of the few places that is tracking data impacting the AAPI community. We know that in March and April 2020, there were as many anti-Asian hate crimes in that 2 month period as there were in the previous 4 years combined. We benefit from stronger data collection to understand

where these issues are most stark so that we can really focus law enforcement resources on ensuring the safety of the AAPI community. I agree, Senator, that this is a crisis that warrants all of our attention.

Senator HIRONO. Part of the COVID–19 Hate Crimes Bill that I mentioned is very much focused on data collection so we get in a voluntary way from the States and local law enforcement to submit this kind of data online. You would agree that these crimes are underreported, wouldn't you?

Ms. CLARKE. Yes, Senator. We need to do a better job at data collection so that we can understand where the problems lie.

Senator HIRONO. Turning to voting rights, since January 1st, 390 voter suppression bills have been introduced across 45 States, and of course, we know what happened in Georgia. This is the legacy of the Supreme Court's *Shelby County* decision in 2013, which basically gutted a major part of the Voting Rights Act and unleashed a wave of new restrictive voting laws across the country. In fact, right after that decision, some 13 States proceeded to enact voter suppression laws, new ID requirements, you name it. The Supreme Court has before it two cases from Arizona and it is expected that the Court's conservative majority will even more narrow the Voting Rights Act by narrowing the effectiveness of section 2 of the Voting Rights Act.

Basically if anyone had any questions about the motives behind all these voter suppression laws, Justice Amy Coney Barrett, a lawyer from—asked the lawyer from the Arizona Republican Party why. He said that allowing more people to vote puts Republicans, and I'm quoting, "at a competitive disadvantage." You worked in the Civil Rights Division's Voting Section and you codirected the NAACP Legal Defense and Education Funds voting rights docket. Why is it so important to have robust voting rights laws at the Federal level?

Ms. CLARKE. Thank you, Senator. The right to vote is one of the most central rights in our democracy. The Voting Rights Act exists to ensure that eligible Americans can have voice in our democracy. The U.S. Department of Justice has long played a central role here. If confirmed, Senator, you have my commitment that I will use the tools that the Division has in its arsenal to ensure that eligible Americans are able to participate in our voting process.

Senator HIRONO. As we are watching the what I would call disparate policing in our country, the importance of consent decrees by the DOJ is something that I have asked the various nominees. I hope that you will also look at consent decrees as a way to ensure that there is not this kind of disparate law enforcement by police in our country. I think I am out of time. I cannot tell. I cannot read that clock.

Chair DURBIN. Senator, your time is concluded. Thank you very much.

Senator HIRONO. Thank you very much. I thought I would put that thought out there.

Chair DURBIN. Senator Blackburn. Thank you, Senator. Senator Blackburn.

Senator BLACKBURN. Thank you, Mr. Chairman. I want to thank each of you for being here today. You know, it is an important

hearing for us to have. When I talk to Tennesseans, they are very concerned about voting rights legislation. They are very concerned about a Civil Rights Division that is going to overreach under current laws. Of course, they want everyone eligible to vote to vote. Indeed, our Nation has seen historic turnout in voting. You know, the Department of Justice has incredible resources to investigate governments, local and State governments over voting rights. Many times the State or the locality do not have the money to fight back even when they are on the right side of the law.

Ms. Clarke, let me continue along this line of questioning because a Civil Rights Division is charged with enforcing voting laws. I am concerned with your past statements that it could prevent you from doing your job effectively. You have been an outspoken critic of voter ID laws. You have said that photo ID requirements are, and I am quoting you, "burdensome." Proof of citizenship requirements are a, and I am quoting, "bag of tricks to suppress Black votes." Is that correct?

Ms. CLARKE. Thank you, Senator. I believe that we have to look at these laws on a case-by-case basis. A photo ID law in one State may be perfectly fine, but may have an impact in another State on protected groups, on older people, on people of color. I think that it is important to look at these on a case by case basis.

Senator BLACKBURN. Do you think that it is fair then for individuals to be required to show their photo ID to get a prescription at the pharmacy?

Ms. CLARKE. Yes. And——

Senator BLACKBURN. You think that is unfair.

Ms. CLARKE. I do not think it is unfair, but I do think that when it comes to——

Senator BLACKBURN. Alright. Let me move on. You have asserted that the cost of voter ID laws outweigh any benefits. Is that true that you tweeted that, and I am quoting, "vote fraud is a myth and a lie?"

Ms. CLARKE. Vote fraud is something that is exceedingly rare. We do not see it often. If it exists and if there are reports——

Senator BLACKBURN. We know that it does. We know that it does.

Ms. CLARKE. I will, if confirmed, refer those matters to the Criminal Division so that they can handle those matters.

Senator BLACKBURN. Okay. Okay. Tennessee has a voter ID law and we are really just so grateful for the work that our State and our Department of State has done to lead local and State entities as we have reformed elections. We have cleaned up voter rolls, required ID to vote, and restored accountability. Despite this progress, Democrats want to crush local governments to push through their own impractical agenda which will undermine trust in the electoral process. I am convinced you will be the lead warrior in that liberal agenda to destroy local election integrity, and I fear you will use your power at the Civil Rights Division to take away States' rights, their constitutional duty, and Federalize control of elections.

Let me ask you about the First Amendment. I have been listening in my office to your comments on the First Amendment. You called, and this is particularly pointed toward religious liberty. You

called the *Masterpiece Cake Shop* decision devastating and stated that religion is often used as a pretext to ignore regulations during the COVID–19 pandemic. After the Supreme Court blocked New York's COVID restrictions on houses of worship, you tweeted, "this is a newly configured Supreme Court with—one with Justices who place religious freedom above all else even in the context of a deadly pandemic." Is it true that you even called the religious liberty organization Alliance Defending Freedom an anti-LGBTQ hate group?

Ms. CLARKE. Senator, if I could just respond to the first point that you raise.

Senator BLACKBURN. Okay.

Ms. CLARKE. I view voting rights issues in a nonpartisan sense and I thank you for being one of the 390 people who voted to reauthorize section 5 in 2006. As to your second point, please note that I deem religious liberty incredibly important and I have fought for religious liberty throughout my career. I have fought religious discrimination. I led a religious rights unit, a newly launched religious rights unit at the New York State Attorney General's Office. If confirmed, I will give great attention to ensuring that we stand up for religious liberty and beat back religious discrimination using the laws that the Division has at its disposal.

Senator BLACKBURN. Ms. Clarke, you did not answer the question. Did you state—did you call the Alliance Defending Freedom an anti-LGBTQ hate group? Yes or no?

Ms. CLARKE. I do not recall that statement. I would like to see to confirm, Senator. That is not an organization I am very familiar with. I would love to see the context to confirm.

Senator BLACKBURN. Okay. If you would like to, I think it was in a tweet and we will be happy to supply that for you.

Ms. CLARKE. Thank you, Senator.

Senator BLACKBURN. That you can see it. See, here is the thing. Religion is important. Religious liberty and freedom and the First Amendment is vitally important. With the tweets that you have made, with the statements that you have made that are very vitriolic toward that First Amendment, it causes me to question if you could be fair and impartial and apply the law as written and defend these rights and freedoms that are so vitally important. Right now I hear from Tennesseans every day who are filled with angst because they fear that their freedoms are going to be taken away. I yield back, Mr. Chairman.

Senator BLUMENTHAL [presiding]. Thank you, Senator Blackburn. In the absence of the Chairman, I have been asked to preside, and I am going to recognize myself for 5 minutes and then if there is another Republican ready to go before Senator Ossoff, we will go with him or her.

Ms. Clarke and Mr. Kim, both of you have extraordinary records of public service, professional excellence, and distinguished integrity. I think both of you are more than qualified for your positions. I have a couple of questions for Ms. Clarke, particularly about a very sensitive but profoundly important topic that ought to concern all of us. A number of our colleagues have raised questions about potential anti-Semitism. Senator Lee in questioning Merrick Garland in his confirmation made direct reference to you when asked

about anti-Semitism and Senator Hawley in passing just now may have done so as well. I want to address this issue head on so that you have an opportunity to answer it since it may be used in the course of the debate about your confirmation, Ms. Clarke.

I just want to say right at the outset, as Merrick Garland said, and I am quoting him, "I am a pretty good judge of what an anti-Semite is." I feel pretty much the same way. I think I know an anti-Semitic person when I see and hear one and I have scrutinized your record and I am absolutely fully satisfied that there is not an anti-Semitic bone in your body, but I would like to give you an opportunity to respond to that kind of question. Rather than maybe answer a question just give you a chance to speak to the Jewish community, as it were, that may be raising this question as a result of these illusions by a number of my colleagues unfairly referenced. I want to thank you for your leadership in the fight against anti-Semitism at the Lawyers' Committee and the New York Attorney General's Office Civil Rights Bureau and just give you a chance to talk to this issue and to the Jewish community.

Ms. CLARKE. Thank you for the question, Senator. I could not be an effective civil rights lawyer if I did not have the ability and capacity to work with, alongside, and behalf of all people of all backgrounds regardless of race, religion, national background, and more. Anti-Semitism is real and it is something that I have fought throughout my career. At the Lawyers' Committee, we have taken on neo-Nazis like the Daily Stormer. You mentioned my time at the New York State Attorney General's Office where I helped to launch a religious rights unit where among the many things that we did was we fought for religious accommodations for Sabbath observing employees who were denied those accommodations by their employers.

I am proud and humbled to sit here today with the support of many Jewish organizations including the National Council of Jewish Women, the Anti-Defamation League, the Union for Reformed Judaism, which represents more than 2 million reformed Jews and dozens of other organizations that I will look to, work within the continued fight against anti-Semitism if I am confirmed to this role. I am gravely concerned about the rise in hate and extremism that we are seeing in this country, that Black people are experiencing, LGBTQ people, the AAPI community, and it is not lost on me that Jewish people continue to suffer from anti-Semitism. This is an ill that I hope to fight back against if confirmed to the role.

Senator BLUMENTHAL. Thank you. Later today I hope to offer as an amendment the No Hate Act which I introduced during the last session and which I plan to introduce again this session. It would spur greater reporting of hate crimes. You have just mentioned very appropriately the rise of domestic terrorism and hate violence in this country directed at different minorities. The bill now on the floor which I hope will proceed today, will stimulate, I hope, greater reporting. Can you speak to why hate crimes reporting is so critical to addressing this growing problem in so far as you will be head of the Division that prosecutes hate crimes in this country?

Ms. CLARKE. Thank you, Senator. The Federal Government has vast resources, but limited resources. It is important to understand where the fires are burning and where are the crises that need to

be tackled. We can only do that with data to understand where we are seeing a spike or a sudden rise in hate. I hope that if confirmed I will be able to work with other components of the Justice Department to ensure that law enforcement is doing a better job on the road ahead on capturing, collecting, and reporting this data which is so critical to the fight against hate.

Senator BLUMENTHAL. Thank you very much. I am going to recognize Senator Ossoff.

Senator OSSOFF. Thank you, Mr. Chairman. Thank you to both of you, two distinguished nominees. Congratulations on your nominations to these positions. Thank you for your willingness to serve. Thank you for putting yourselves through this process. Thanks also to your families who are also weathering unfortunately a storm of personal attacks directed at two highly qualified nominees for these Federal positions.

Ms. Clarke, I want to also thank you and commend you for your long history as an opponent of anti-Semitism and advocate for equal justice and an ally of the Jewish people. I would like to ask you a couple of questions regarding your responsibilities should you be confirmed to lead the Civil Rights Division.

I do not believe that the State should be in the business of killing its own citizens. That is why I am an opponent of the death penalty. When the killing of citizens is extrajudicial, in my view, that is an egregious form of violence and an act of tyranny. This week yet again the Nation is grappling with the reality that, in particular, unarmed Black men are subjected to violence at the hands of the State. Another young Black man shot to death by a law enforcement officer. How will you use the power of this office to end extrajudicial killings of American citizens by law enforcement?

Ms. CLARKE. Thank you, Senator. The Civil Rights Division has been empowered by Congress to investigate unconstitutional conduct by law enforcement and we know that this is a real and ongoing challenge that we face. The Division has the ability to open pattern and practice investigations into police departments, jails, or other institutions that may be engaged in unconstitutional conduct. There is 18 U.S.C. § 242, which is one tool that can be used to promote accountability of law enforcement officers who use force without basis and in an unconstitutional way. Attorney General Garland has talked about the other tools in the Division's arsenal and I agree that in addition we have to think about training and technical assistance and grant making as other tools to help promote improvements in this incredibly important area.

Senator OSSOFF. Thank you, Ms. Clarke. Turning our attention now to voting rights, Georgia recently passed what is now an infamous law restricting access to the ballot, slashing early voting opportunities in runoff elections, closing down access to ballot drop boxes at hours convenient for working class people. As has been discussed in this hearing, the *Shelby County v. Holder* decision, which eviscerated the Voting Rights Act, has removed the preclearance requirement that the Civil Rights Division would execute requiring local and State authorities to secure preclearance from the Department of Justice before making such changes to election procedures and election laws. Do you agree that it is vital that Congress restore what will be your authority should you be

confirmed to preclear changes to voting laws and voting procedures to ensure that there is not racial or partisan targeting and that abusive election laws do not restrict access to the ballot?

Ms. CLARKE. Thank you, Senator. History has shown that section 5 of the Voting Rights Act has been a powerful tool in combating and deterring ongoing voting discrimination. I know that this body has taken up the question through the John Lewis Voting Rights Restoration Act. I know that that process has involved looking at the current picture of ongoing voting discrimination in our country. If confirmed, I look forward to providing support and being a resource for the House and Senate as it considers modifying section 4 so that we can reinstate the section 5 preclearance provision which again historically has been such a powerful tool in beating back voting discrimination in our country.

Senator OSSOFF. Thank you, Ms. Clarke. Mr. Kim, with my brief time remaining, what act of Congress might be required or rulemaking might be required to enable the Environment and Natural Resources Division of the Department of Justice to regulate the emission of greenhouse gases as air pollution under authorities in the Clean Air Act or another relevant statute?

Mr. KIM. Thank you, Senator, for the question. Climate change is plainly a very important issue. It is a priority of the administration. It would be a priority of mine. I cannot speak to policy issues. I would be in a law enforcement role, and I would defer to the administration as to further legislation that might be necessary, but I would note there is already some regulation of greenhouse gases as, for instance, a consequence of the Supreme Court decision, *Massachusetts v. PA*.

Senator OSSOFF. Thank you, Mr. Kim. Thank you, Mr. Chairman.

Chair DURBIN. Senator Booker.

Senator BOOKER. Mr. Chairman, I am grateful that I am recognized and grateful to be last and to know that this hearing has come to an end. Mr. Kim, I have had a chance to talk about you, but I have not had a chance to really talk to and about my friend, Kristen Clarke. There is a tradition in the African-American tradition of incredible artistry in the midst of oppression. We know that it was Langston Hughes who wrote a poem entitled "Mother to Son," where he just simply said, "life for me ain't been no crystal stair." As you sit with your son behind you, I am telling you and this Nation that for you, life ain't been no crystal stair.

You have come up from being a low-income American facing childhood difficulties, benefited from the grace and the goodness that is our country, that helped to establish programs and opportunities that understand your genius would be better blossoming if we cared for one another and loved one another. And God, given an opportunity, what did you do with it? You have dedicated your life to our most sacred principles.

There is another poem that today really came to mind. I think you may be familiar with it. "You may try to write me down in history with your bitter, twisted lies. You may try to trod me down in the very dirt, but still like dust I rise." That could be the theme of the last year where I have seen the most outrageous lies being touted about you that have tried to obscure your incredible record

of service. People are trying to say you are wrong for this job, when dear God, you are what we need in the Civil Rights Division of the Justice Department. I want to tell people, people who think you are wrong. If you are wrong, then John Adams was wrong, who represented British who killed Americans at the Boston Massacre. If you are wrong for this job, then Thurgood Marshall was wrong, who stood up for the despised and the hated and the vilified and the overlooked and spent his career trying to fight for those who others ignore. If you are wrong, then Charles Hamilton Houston is wrong, who said very strongly that either you are a lawyer for the public interest or you are a leech upon society.

God, if you are wrong, then what are we saying to all Americans, but in particular to that Black girl that is somewhere in America right now who feels amidst a Nation that still has not shed the ugly cloak of bigotry and hate, that God, she could have an America where people every day are fighting for her, hear her, that see her.

Today is a proud day for our country because one of its incredible women is ascending to a position where she will get to serve. If you are wrong for this job, then the law enforcement agencies that have endorsed you from attorneys generals to police officers, they are wrong. If you are wrong for this job, then the incredible Jewish leaders from the Anti-Defamation League to other organizations, then they are wrong. There is nothing that should disqualify you from doing this. In fact, the gratitude we should feel for you putting yourself out there yet again because you want to serve this Nation that still struggles to make real on the promise of equal justice under the law, the promise of liberty and justice for all, and the hope that we can become, as John Lewis so eloquently said it, a more beloved country.

My friend, my partner, the partner of people on both sides of the aisle that have helped make this Nation more just, I am so grateful for you. I want to ask you as your last inquisitor for the record of the United States of America, for history, for those that may come on a generation from now and want to read about this hallowed and historic Committee, is there anything you would like to say in your final remarks?

Ms. CLARKE. Thank you so much, Senator. I am humbled. I think many people struggle to figure out what their calling is, and I feel blessed that I figured out what my calling is at an incredibly young age. I have proceeded through life with a kind of laser focus on using the opportunities that I have been given to give back to those less fortunate. I feel blessed to wake up to do work each and every day that allows me to do just that, to stand up for our Nation's most vulnerable communities, to close those gaps between the haves and the have nots.

I do this work with my son in mind often. I think about him, a young Black teen, and the future that lies ahead for him. My hope is that the work I do every day helps to tear down a wall here or a wall there that might make the path a little easier for him and for all kids like him. I am humbled to be sitting in this chair and I am hopeful. I am hopeful that this Senate will give me the opportunity to serve and to work alongside Attorney General Garland to

help make real the promise of equal justice under law for all. Thank you very much, Senator.

Senator BOOKER. Mr. Chairman, could I just submit something for the record because I have had my staff fact checking? It was stated that Vanita Gupta and Attorney General Holder have stated that the shooting of Darren Wilson was justified or Darren Wilson was justified in shooting Michael Brown. Excuse me. We have been able to find no such statements from Vanita Gupta and from former Attorney General Holder. This was used in the context of a larger questioning about, I think, there was an absolutist term used that the nominee has consistently questioned. That also—that absolutism is not true.

At a time in America where there is an understanding that there is often the use of force particularly—not just against African Americans, but particularly against African Americans, the unjustified use of force, I think she is more than qualified to look at the facts of the case and discern. She would not have the endorsements of—because she said police—it was stated that police officers should be afraid. She would not have the endorsements of so many groups, the Major Chiefs Association, the National Organization of Black Law Enforcement, the International Association of Chiefs of Police, if what was said in this hearing was in any way correct.

Law enforcement, as well as civil rights activists, understand that there needs to be a healing in this country where the truth and due process prevail. Her record is a clear indication that she will be that kind of leader. I wanted to correct those things for the record. Again, my staff has been trying to fact check the ascertations. If I am wrong, I apologize to the Senator and I ask to see those quotes, but to us, those things were not said.

Chair DURBIN. For the sake of clarity, I invite you to join with our staff and deliver whatever evidence you have with your position and invite the minority as well. If they have any information which backs up statements made on that subject, so the record is open for that purpose. I will go—at this point, I do not believe there are any further questions for the witnesses, so before I adjourn the hearings, I want to enter a number of letters into the record and make a few logistical notes.

Both nominees enjoy support from individuals, organizations across the spectrum, a reflection of their work experience, of their integrity, independence, and commitment to executing the law. Without objection, I will introduce into the record letters of support from law enforcement, civil rights, current and former State attorneys general, bipartisan group of former Justice Department officials, corporate leaders, and otherwise.

Questions for the record will be due to the nominees 1 week from today on Wednesday, April 21st, by 5 p.m. The record will remain open until that time for submission of letters and similar materials.

With that, if there is nothing further, this hearing stands adjourned. I thank the nominees for their patience and participation.

[Whereupon, at 12:28 p.m., the hearing was adjourned.]

[Additional material submitted for the record follows.]

Todd Kim Opening Statement
Confirmation Hearing
Senate Judiciary Committee
April 14, 2021

Good morning, Chairman Durbin, Ranking Member Grassley, members of the Committee.

I am honored to appear before you today for this hearing to consider my nomination to be the Assistant Attorney General for the Environment and Natural Resources Division at the Department of Justice.

Thank you, Senator Booker, for your generous introduction. I thank President Biden and Attorney General Garland for the opportunity to return to the Department where I began my legal career.

And most of all, let me thank my family. My wife Carolyn and my sons Palden and Jigme are here with me today. Watching from afar are my sister Sonna and my parents, Chang Jung Kim and Sookhi Yu. I am incredibly grateful and incredibly lucky to have all of them in my life.

In the 1960s, my parents were Korean immigrants who came to the United States to pursue graduate degrees. They both chose Big 10 schools: my mom the University of Minnesota, and my dad Purdue. They met here, settled here, had my big sister in Indiana and then me in New Jersey, and eventually became proud U.S. citizens. Their hard work and fundamental decency have been at the root of any success I've ever had and will always be a model for what I'd like to show my own children.

In 1984, my parents took the family on a classic RV trip to the American West. I was 11 years old, and the trip made a big impact on me. The grandeur and beauty of Yellowstone, Grand Teton, Arches, Mesa Verde--every park visit testified to the need to preserve our Nation's treasures for future generations.

As I grew older, I learned more about the rule of law and the role of the government in promoting the public good. And I learned more about how the pollution laws are supposed to protect the health and welfare of all of us, including every community in America. I grew to realize that my calling was public service to protect our shared interest in the environment and our natural resources, and the best way for me to contribute to that effort was as a lawyer, making sure the country's environmental laws are followed and enforced.

After graduating from law school and clerking for the Honorable Judith Rogers of the D.C. Circuit, I applied to join the Department of Justice through its Honors Program and asked to be assigned to the Environment and Natural Resources Division. I grew up as a lawyer at ENRD, working on cases involving the Clean Water Act, the Clean Air Act, Superfund site cleanup, Native American land rights, the establishment of national monuments, and more. I worked on cases across the country, in the Supreme Court and every federal circuit--civil and criminal enforcement matters against corporations and individuals, as well as defenses of agency actions against challenges of all sorts.

In my seven-and-a-half years there, I also learned firsthand the skill, dedication, professionalism, and integrity of the career staff that work day in and day out enforcing environmental laws for the good of the American people.

I loved my job, and frankly, I thought I would never leave the Division, but I was unexpectedly offered another opportunity to do public service. This time it was the chance to serve as the first Solicitor General for my adopted home, the District of Columbia. As Solicitor General, I would be the chief appellate lawyer representing the people of the District. I couldn't turn it down. I am, at heart, a government lawyer, and it was an honor and a privilege to serve my community for more than 11 years. But I always hoped I'd have the chance to come back someday to the Department of Justice, and to ENRD.

I am so thankful for that opportunity today. I know that this is a crucial moment for the Division and the Nation, with the pressing imperatives of enforcing the Nation's environmental laws with integrity; defending federal agencies; honoring the United States's important relationship with Native American Indian Tribes; promoting the effective stewardship of public lands and natural resources; and addressing climate change and environmental justice.

The cliche for me is real: I want to leave the world, and the country, a better place for my kids. I am deeply honored to have a chance to do that, and I look forward to your questions.

Thank you.

Senator Blackburn

**Responses to Questions from Senator Blackburn to Todd Kim,
Nominee to be Assistant Attorney General, Environment and Natural Resources Division**

1. What is your record on supporting the Second Amendment?

RESPONSE: Throughout my career in public service—as an attorney with the Environment and Natural Resources Division (ENRD), as the Solicitor General for the District of Columbia, and as a Deputy General Counsel with the Department of Energy—I have repeatedly taken an oath to support and defend the Constitution of the United States, including the Second Amendment. If confirmed, I will take the same oath before rejoining the Department of Justice.

2. Have you taken any positions in court that challenge the constitutional right to bear arms? If so, please describe.

RESPONSE: As Solicitor General for the District of Columbia, I represented the District in litigation in which I defended the District's laws related to firearms. In one such case, *District of Columbia v. Heller*, the Supreme Court held that the Second Amendment protects "an individual right to keep and bear arms." 554 U.S. 570, 595 (2008). I was subsequently involved in defending District laws in other, post-*Heller* challenges under the Second Amendment. If confirmed, I will follow Supreme Court precedent, including *Heller*. I will also take an oath, as all Department employees do, to support and defend the United States Constitution, including the Second Amendment.

3. When you served as D.C. Solicitor General, what was D.C.'s argument in support of Massachusetts in *Massachusetts v. EPA*?

RESPONSE: *Massachusetts v. EPA*, 549 U.S. 497 (2007), presented two questions to the Supreme Court: (1) whether the Environmental Protection Agency (EPA) had authority to regulate air pollutants associated with climate change under a certain provision of the Clean Air Act; and (2) whether EPA could decline to issue emissions standards for motor vehicles based on policy considerations that were not enumerated in that same provision of the Clean Air Act. The District of Columbia—along with numerous other governmental entities, as well as some non-governmental organizations—joined the Commonwealth of Massachusetts as petitioners. The briefs filed in the Supreme Court were numerous, complex, and detailed. The core of the petitioners' arguments was that EPA—in declining to regulate certain chemicals as "air pollutants" under the relevant provision of the Clean Air Act—had based its decision on erroneous legal conclusions.

4. What positions did you take in your oral argument before the Sixth Circuit on interpretations of the Clean Water Act?

RESPONSE: I was one of the attorneys representing the federal appellee in *Carabell v. U.S. Army Corps of Engineers*, 391 F.3d 704 (6th Cir. 2004). The *Carabell* case, along with a

companion case, was ultimately resolved by the Supreme Court in *Rapanos v. United States*, 547 U.S. 715 (2006). In *Carabell*, the Department of Justice defended a decision of the U.S. Army Corps of Engineers that was in turn based on the applicable law and regulations. In that case, as in any other, the Department of Justice was defending the policy judgments of the client federal agency. The role of the Department of Justice is to defend the laws as enacted by Congress and implemented by client federal agencies. The positions of the client federal agencies are reflected in the publicly available briefs.

5. While you were in private practice, what positions did you take on the statements of climate change alarmist Michael Mann?

RESPONSE: To the best of my recollection, I did not take a position on the statements of Michael Mann while in private practice.

6. What will be your recusal policy for political appointees serving in the Environment and Natural Resources Division?

RESPONSE: I believe that government ethics rules are vitally important. If confirmed, I will continue to consult the Department's career ethics officials about recusal issues and make decisions based on the facts, the law, and the applicable rules, policies, and practices. I will expect all ENRD employees to continue to do the same.

7. Will political appointees be allowed to work on Department of Justice matters in which they were previously serving as opposing counsel?

RESPONSE: If confirmed, I will expect all ENRD employees to continue to adhere to government ethics rules, including consulting the Department's career ethics officials about recusal issues. I will do the same. I believe that these rules are vitally important.

Senator Cotton

Responses to Questions from Senator Cotton to Todd Kim,
Nominee to be Assistant Attorney General, Environment and Natural Resources Division

1. Since becoming a legal adult, have you ever been arrested for or accused of committing a hate crime against any person?

RESPONSE: No.

2. Since becoming a legal adult, have you ever been arrested for or accused of committing a violent crime against any person?

RESPONSE: No.

3. On what date did you first discuss with the Biden campaign or transition team the possibility that you could be nominated to the position of Assistant Attorney General?

RESPONSE: February 2, 2021.

4. On what date did the Biden campaign or transition team inform you that President Biden would nominate you to the position of Assistant Attorney General?

RESPONSE: March 12, 2021.

5. Please describe with particularity the process by which you answered these questions and the written questions of the other members of the Committee.

RESPONSE: The Department of Justice received these questions on April 21, 2021. I worked with Department attorneys, conducted research, and answered the questions. I finalized and approved all answers to the questions and authorized their transmission to the Committee on April 26, 2021.

6. Did any other individual write or draft your answers to these questions or the written questions of the other members of the Committee? If so, please list each such individual that wrote or drafted your answers. If the individuals are government officials, please also identify the department or agency with which they are employed.

RESPONSE: Individuals at the Department of Justice helped draft answers based on my guidance and publicly available information. Working with Department attorneys, I conducted research and answered the questions. I finalized and approved all answers to the questions and authorized their transmission to the Committee on April 26, 2021.

Ranking Member Grassley

**Responses to Questions from Ranking Member Grassley to Todd Kim,
Nominee to be Assistant Attorney General, Environment and Natural Resources Division**

1. President Biden issued a document during his first week in office, announcing "agency actions that heads of the relevant agencies will review in accordance with the Executive Order: 'Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.'" This list included the "Notice of Availability of the Record of Decision for the Proposed Willow Master Development Plan Project, Alaska," 85 Fed. Reg. 69351 (November 2, 2020).

   The Willow Project was leased by the Clinton administration and pursued under the Obama administration's management plan. Thus, the Willow Project is not a new plan or commitment of infrastructure. The Department of the Interior has followed all laws and created a robust and scientifically rigorous environmental impact statement, satisfactorily meeting NEPA's requirements for the Willow Project.

   This project is incredibly important for the State of Alaska and the Alaska Native people that will benefit from infrastructure development and revenues from this project. The project is estimated to contain 450 to 800 million barrels of recoverable oil. It will provide more than 2,000 construction jobs and hundreds of long-term jobs. Revenues to the State of Alaska from the project will raise about $2.3 billion; there will be an additional $7.6 billion in federal revenues. The project is currently in litigation, impeding this season's construction and the long-term permitting and development of the project in the future.

   a. Will you commit to defending the robust environmental-impact statement and record of decision for the Willow Project during the existing litigation and future litigation?
   b. Will you commit to defending previous environmental rulemakings and records of decision that have already been developed by non-political career civil servants and have completed the entire permitting process?

RESPONSE: I understand that in late 2020, then-Interior Secretary Bernhardt signed the Willow Master Development Plan Project Record of Decision, allowing for construction and operation of certain infrastructure proposed by ConocoPhillips Alaska, Inc., to produce and transport federal oil and gas resources under leaseholds in the northeast area of the National Petroleum Reserve in Alaska. This decision has been challenged in two different lawsuits, and the Environment and Natural Resources Division (ENRD) is defending the suits. Because I am not currently at the Department of Justice and am not aware of all the relevant facts, I am not in a position to comment on this particular project or litigation. I am similarly not in a position to comment on records of decision for other projects that may be subject to litigation. As a general matter, my decisions on such matters will be based on a careful review of the relevant facts and law and consultation with the relevant lawyers at the Department and any interested client agency.

2. Do you agree with the following statement: "One would not say that it is even rational, never mind 'appropriate,' to impose billions of dollars in economic costs in return for a few dollars in health or environmental benefits"?

RESPONSE: I understand that this quotation appears in the majority Supreme Court opinion in *Michigan v. EPA*, 576 U.S. 743 (2015). If confirmed as Assistant Attorney General, it will be my duty to enforce the Constitution and other federal laws consistent with Supreme Court precedent.

3. In many western States, water conservation and, in particular, water use are important aspects of economic growth. A big part of that is the settlement of tribal claims to water rights. These settlements are preferable to litigation—and they can both create certainty as to water supply on reservations and create partnerships that allow for economic development among non-tribal water users. The Indian Resources Section of the Environment and Natural Resources Division plays a role in these settlements.

    a. As Assistant Attorney General, will you allow the Indian Resources Section to continue to pursue Indian water-rights settlements?

    b. As Assistant Attorney General, will you approve them?

RESPONSE: The Indian Resources Section of ENRD asserts federal reserved water rights held for the benefit of tribes and individual Indians in water rights adjudications throughout the western United States. The Executive Branch has a longstanding policy to resolve disputes regarding Indian water rights through negotiated settlements rather than litigation, when possible. In most instances, these settlements require Congressional approval and enactment. If confirmed, I would work with the career lawyers in the Division, as well as with the Department of the Interior, which generally takes the lead in negotiating such settlements, to seek to ensure that this important work continues and that prospective settlements undergo a full and fair review based on the facts and an objective analysis of the law.

4. Do you agree that federal environmental rules under statutes like CERCLA should minimize their preemptive effects on effective state environmental-regulation regimes?

RESPONSE: Assessing the preemptive impact of federal environmental statutes requires an analysis that can vary depending on the precise statute, state environmental regulation, and facts at issue. These issues are frequently litigated. As Assistant Attorney General, I would approach preemption issues the same as I would any other—by fully and fairly reviewing the relevant facts and objectively analyzing the pertinent law in consultation with career lawyers and Department leadership.

5. President Biden has said he wants to change the name of the Environmental and Natural Resources Division to the "Environmental Justice and Natural Resources Division."[1]

    a. Do you agree with this name change?
    b. If so, in a future Republican administration, would you agree with a future Republican attorney general changing the name of other Justice Department components to better reflect her ideological priorities—such as the Civil and Natural Rights Division or the Tax Reform Division?

RESPONSE: President Biden has issued an Executive Order directing the Attorney General to consider changing the name of the Environment and Natural Resources Division. As a nominee, I do not want to pre-judge this process, as there can be many factors that go into determining the appropriate name for an office or component. In addition, because I am not in the Department, I do not know the current status of any discussions regarding this matter. If confirmed, I will work with Attorney General Garland, other Department leaders, and the career professionals in ENRD to carefully consider the matter.

6. We discussed the issue of environmental justice on the phone prior to your hearing. During that conversation, you expressed a view that environmental justice is not a particularly new concept. I'm open to that idea, but I want to know more about what the term means.
    a. How do you define "environmental justice"?
    b. Do conceptions of environmental justice include, say, the ability of family farmers to earn a living?
    c. Does environmental justice contemplate the effects of new environmental rules on existing communities that rely on established industry?

RESPONSE: The Environmental Protection Agency has defined the term as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations, and policies." I think about environmental justice in these terms: everyone has an equal right to our most precious natural resources—clean air, safe drinking water, and uncontaminated land. All communities should also have a meaningful say in the environmental decisions that may affect them, including with respect to their livelihoods, their health, and their quality of life. This includes rural communities, including those with family farms, and communities that rely on established industry. President Biden's Executive Order 14,008, *Tackling the Climate Crisis at Home and Abroad*, recognizes that environmental and economic justice are linked, and makes it the policy of the Administration to both "secure environmental justice and spur economic opportunity for disadvantaged communities."

---

[1] Ellen M. Gilmer, *Biden Bolsters DOJ Focus on Environmental Justice, Climate*, Bloomberg Law (Jan. 27, 2021), https://news.bloomberglaw.com/environment-and-energy/biden-bolsters-doj-focus-on-environmental-justice-climate.

7. Will you commit to issuing guidance on what environmental justice means before taking any steps to implement it?

RESPONSE: The Department of Justice has an Environmental Justice Strategy and Guidance Concerning Environmental Justice. I will follow the Department's guidance on these matters, including any further guidance developed pursuant to Executive Order 14,008.

8. Supplemental Environmental Projects, or SEPs, are environmental projects that enforcement-target polluters need to undertake in lieu of civil penalties to the government. They're the environmental equivalent of third-party settlement slush funds. The GAO has repeatedly questioned SEPs' legality under the appropriation power. In 2020, the Justice Department's Environment Division also put out the Clark Memo prohibiting SEPs' use. This memo has since been withdrawn.
    a. Do you agree with the GAO position on SEPs? Please explain why or why not.
    b. Do you agree with the Clark Memo on SEPs? Please explain why or why not.
    c. If ENRD returns to the practice of using SEPs, will you commit to responding to the Clark Memo and the GAO's arguments in your own memo justifying their use? I think this would be more consistent with the rule of law than quietly reinstituting the practice.

RESPONSE: Because I am not presently at the Department, I am not aware of all the relevant facts related to the legality and use of Supplemental Environmental Projects, and therefore am not in a position to comment. My understanding is that there are several GAO documents from the 1980s and 1990s that may address this issue, and there are also other authorities that may be relevant. I have not had the opportunity to study these authorities in detail. If confirmed, I would approach this matter as I would any other, by working with subject-matter experts at the Department, including career lawyers, in seeking to ensure that the Department undertakes a full and fair review of the facts and an objective analysis of the law. As Assistant Attorney General, I would seek to ensure that the Environment and Natural Resources Division complies with applicable law.

9. In previous Democratic administrations, a lot of stealth regulation has taken place through so-called "sue and settle" arrangements. That's when special-interest groups sue the government on an issue where the groups and the government basically agree, in order to reach a settlement establishing favorable policies going forward. When we discussed this on the phone, you understandably took issue with my characterization of this process as collusive. I'm sure that it has not been formal collusion in most cases, but the fact is that this kind of behavior doesn't need formal collusion to succeed: activists know the substantive policy views of the administration and can reverse-engineer lawsuits to achieve mutually desired goals without formal collusion. And while I am not accusing you of wanting to collude with activist groups, I think the history of sue-and-settle counsels in favor of transparency. Will you, therefore, commit to putting all ENRD settlements online to the extent permitted by law?

RESPONSE: I agree that governmental settlement processes should be transparent to the extent circumstances allow. I am not familiar with all of the applicable requirements, but I know that a Department of Justice regulation restricts confidentiality provisions in settlements, and that another Department of Justice regulation makes many consent decrees subject to public notice and comment. ENRD's client agencies also have processes for making consent decrees and settlements available on their websites. I look forward to learning more about the transparency of ENRD settlements if confirmed.

10. You received a letter of support from, among others, the Alaska Wilderness League, Clean Water Action, Earthjustice, the Environmental Defense Fund, Friends of the Earth U.S., Lawyers for Good Government, the League of Conservation Voters, and the NRDC. As you well know, these left-wing dark-money organizations are very often the litigation opponents of ENRD. Indeed, they even say that in their letter. As I noted in Vanita Gupta's hearing, it's one thing for environmentalist radicals to endorse a policymaker with aligned views; it's another thing for them to endorse the person who has to face them in court while they challenge lawful federal action. This is like if BP had sent a letter endorsing Jeff Clark. I recognize, of course, that you don't necessarily pick who sends letters on your behalf, so I don't want to imply anything untoward about this on your part.

    a. Are these environmentalist activists correct to suppose that you will align ENRD litigation positions to meet their policy goals?
    b. What assurances can you give the American people that you will defend lawful government action to the fullest extent you can, even if challenged by environmentalists who support your nomination?

RESPONSE: As I testified at my hearing, the role of Assistant Attorney General for ENRD is an enforcement role rather than a policy role. If confirmed, I will make decisions by studying the facts, the law, and any applicable Department policies and regulations, and consult with career lawyers, subject-matter experts, and client agencies as appropriate. While I am grateful to have the support of individuals from a wide variety of backgrounds and political affiliations—including past Republican and Democratic political appointees who served at ENRD—I have not pre-judged any ENRD position or decision as a nominee and if confirmed will adhere to my ethical duties in defending lawful government action against challenge by any party.

11. Many of the same environmentalists supported Vanita Gupta for Associate Attorney General, complaining that President Trump's Justice Department "actively applied a restrictive view of standing doctrine." These environmentalists seemed confident that she would not. They don't seem to mention it in your case, but I want to ask about it anyway because you'll be taking orders from Associate Attorney General Gupta.

    a. Do you support a "less restrictive" standing doctrine?

b. Do political appointees have the power to confer or deny standing under the Constitution?
c. Will you instruct the Environment Division to faithfully employ standing doctrine in litigation, including *Lujan v. Defenders of Wildlife*?

RESPONSE: If confirmed, I would apply standing doctrine as it has been defined by the Supreme Court and other federal courts. Those courts decide questions of standing; the Executive Branch cannot confer or deny standing. In litigation, the Department of Justice has an obligation to present standing concerns and other issues of justiciability as part of our broader duty to present legal issues fully, fairly, and candidly to the court.

12. We talked on the phone about litigation-position flips in new administrations. I was happy to hear you say that you favor the faithful application of the APA. But I will note that it seems to be a matter of fact that the Biden Justice Department is failing to defend controversial rules on appeal, the Public Charge Rule being the most notorious example.

    a. Are you aware that President Trump's Justice Department was defending the Obama WOTUS rule in federal court through the fall of 2018, while they waited for a new rule to be promulgated?
    b. Was it a mistake for them to do this?

RESPONSE: Because I was not at the Department in the fall of 2018, I am not in a position to comment on the handling of any litigation at that time related to "waters of the United States." In general, I understand that Department of Justice litigation decisions—including the decision whether to defend agency rulemakings—are based on a careful review of the relevant facts and law and consultation among the relevant lawyers at the Department and any interested client agency.

13. If the Biden administration continues to fail to defend rules it dislikes, in the face of adverse injunctions and in lieu of rulemaking, do you agree that this should be the standard practice in future changes of administration?

RESPONSE: In general, the Department of Justice's legal defense of regulations issued by another agency is guided by close consultation with the client agency and a careful review of the facts and the law. I believe that approach is appropriate whether or not there has been a change in Administration.

14. In every administration, there is a tension between the career lawyers and their political managers. This was particularly acute during the Trump years because most career Justice Department lawyers are politically liberal. For example, during the litigation over Obamacare, several career lawyers representing the United States chose to withdraw from the case. Agree or disagree with the government's position, the legal position was not frivolous because the district court substantially agreed with the argument, as did the Fifth Circuit. The lawyers left the case simply because they disagreed with the argument.

To the best of my knowledge, these career lawyers were not punished for their actions.

a. Do you agree with the decision these career lawyers made to withdraw over a non-frivolous position because they disagreed with it?
b. Will you support career lawyers who, like the Obamacare lawyers, decline to argue the positions mandated by political officials because they disagree with them?
c. If you think different standards should apply across administrations, why?

RESPONSE: Because I was not in the Department at the time, I am not familiar with all of the details of the incident you reference and therefore I am not in a position to comment. As a general matter, if I am confirmed, I will expect ENRD career lawyers to continue to make decisions based on applicable Department policies.

15. The Federalist Society is an organization of conservatives and libertarians dedicated to the rule of law and legal reform.
    a. Do you agree with Attorney General Garland, Lisa Monaco, and Vanita Gupta that a member of the Federalist Society should be allowed to serve on front-office staff within the Justice Department?

RESPONSE: I believe that membership on the Federalist Society would not be a disqualifying factor for an individual to serve on front-office staff within the Justice Department.

    b. If so, does that mean you would allow a member of the Federalist Society to serve on the ENRD front-office staff?

RESPONSE: Yes, where such an individual was otherwise determined to be qualified to serve on the ENRD front-office staff.

    c. Do you agree with Attorney General Garland that a member of the Federalist Society should be allowed to be promoted to chief, assistant chief, section head, or any other career supervisory position in the Justice Department?

RESPONSE: Yes, where such an individual was otherwise determined to be qualified to serve in a supervisory capacity.

16. *The Hill* reports that some former Trump appointees now hold career positions in the federal government. They reported this because various liberal activist groups are trying to purge these civil servants from the federal payroll. What is your view on removing federal employees who joined the government during the last presidential administration—whether as appointees or career employees—and now hold career positions?

RESPONSE: Decisions with regard to personnel at the Department of Justice should be made consistent with civil service laws and Departmental policies, without regard to any prohibited considerations. If confirmed, I will make personnel decisions within my purview consistent with federal law, including the civil service laws, and with Departmental policies, without regard to any prohibited considerations.

17. Former Attorney General Bill Barr designated former U.S. Attorney John Durham as a special counsel to continue his investigation into the Crossfire Hurricane scandal. While the ENRD Assistant Attorney General is not in charge of these matters, you would be a Senate-confirmed individual, and it will always be possible for you to find yourself supervising something like the Durham investigation perhaps against your personal wishes.

    a. Should the authority to do so fall to you for whatever reason, will you commit to allowing Special Counsel Durham to continue his investigation, unimpeded?
    b. Should the authority to do so fall to you for whatever reason, will you commit to publicly releasing the unredacted version of his report?

RESPONSE: Because I am not at the Department, I do not know the details of Mr. Durham's investigation. I understand that he has been allowed to continue his investigation, and I have no reason to think that was the wrong decision. As a general matter, I share the commitment to "transparency and to explaining Justice Department decision making" that Attorney General Garland conveyed at his confirmation hearing. Should I undertake any role with regard to Mr. Durham's investigation, I would seek to understand the nature of the investigation and consult with appropriate Department of Justice staff before making any decisions. Any such decisions would be based on the facts, the law, and any applicable Department policies.

18. You worked on the Justice Department's 2005 briefing in *DeWaal v. Alston*, where the National Park Service asked visitors to voluntarily refrain from approaching the Rainbow Bridge National Monument because it was sacred to certain Native Americans and because heavy traffic was eroding the Rainbow Bridge site.[2] Earl DeWaal sued, saying the Park Service had violated the Establishment Clause.[3] The Justice Department argued that Mr. DeWaal lacked standing to challenge the Park Service's request because voluntary compliance created no injury.[4] The Department also argued that there was no Establishment Clause issue because "Rainbow Bridge is not a governmental display of a religious symbol on property; it is property in its natural state."[5] The Supreme Court declined to review Mr. DeWaal's appeal.[6] If you face comparable Establishment Clause

---

[2] SJQ at 13; *see also Nat'l Arch & Bridge Soc'y v. Alston*, 98 F. App'x 711, 712 (10th Cir. 2004); *see also* Br. for Respondents, *DeWaal v. Alston*, 125 S. Ct. 1294 (2005), No. 04-367, 2005 WL 26755 at *2.
[3] *See id.* at *3.
[4] *Id.* at *6.
[5] *Id.* at *7.
[6] *DeWaal v. Alston*, 125 S. Ct. 1294 (2005).

challenges as the ENRD Assistant Attorney General, will you commit to similarly being attuned to whether the plaintiff has standing and whether an Establishment Clause issue even exists?

RESPONSE: If confirmed, I will consider all of the facts and applicable law in making decisions, including on the issues you raise.

19. After the Ten Commandments display in Colorado's state capitol was challenged on Establishment Clause grounds in 1989, you wrote a case note for the Harvard Law Review on this issue.[7] You noted that Establishment Clause jurisprudence was widely viewed "as a grab bag of vague principles capable of justifying any conclusion, whether based on constitutional values or on arbitrary individual biases."[8] You added that the Colorado Supreme Court's decision on the Ten Commandments, which was sharply divided, "fuels such criticism."[9] You proposed creating a threshold requirement for Establishment Clause cases, which would require that "state actors take affirmative steps to disclaim endorsement of any arguably religious display on state property."[10] In cases where the state offered a disclaimer, you wrote, the burden would return to the plaintiff.[11] If you face any matters with potential Establishment Clause violations in your role as the ENRD Assistant Attorney General—particularly in any pre-litigation enforcement matters—would you encourage Department attorneys to proactively seek disclaimers that might dispel concerns?

RESPONSE: In the piece you reference, which I authored as a law student, I sought to suggest a potential tool for courts to use in what I perceived to be a complex and interesting legal area. If confirmed, any decision I make, including decisions regarding Establishment Clause issues, will be guided by the facts and the law, in consultation with career lawyers and subject-matter experts at the Department.

---

[7] Todd Kim, *Establishment Clause—Religious Displays on Public Property—Colorado Supreme Court Upholds Display of Ten Commandments on Public Property*, 109 Harv. L. Rev. 530 (1995) (discussing *Colorado v. Freedom from Religion Found.*, 898 P.2d 1013 (Colo. 1995) (en banc)).
[8] *Id.* at 533.
[9] *Id.*
[10] *Id.*
[11] *Id.* at 534.

Senator Hawley

Responses to Questions from Senator Hawley to Todd Kim,
Nominee to be Assistant Attorney General, Environment and Natural Resources Division

1. What do you believe the Department of Justice's role should be in enforcing environmental regulations?

RESPONSE: The mission of the Department of Justice includes the enforcement of federal law. The enforcement of federal environmental statutes and regulations is vital to protecting the health of all Americans and our nation's environment. Enforcement is also necessary to ensure a level playing field among businesses regarding compliance with the requirements of federal law. The Environment and Natural Resources Division (ENRD) is assigned responsibility for the enforcement of the nation's civil and criminal environmental laws through actions in court. Because the federal government's resources are finite, ENRD must prioritize its work in consultation with its client agencies.

2. Do you believe the Clean Air Act gives the Department of Justice the authority to prosecute individuals, not just businesses, for carbon emissions?

RESPONSE: The Clean Air Act has provisions that allow civil and criminal enforcement actions against both corporations and individuals, but these provisions apply only to those carbon emissions that are regulated under applicable law. Those provisions also require the federal government to meet the legally applicable burden of proof, show any requisite element of intent, and satisfy other legal requirements.

3. Do you interpret the Clean Water Act's definition of a "water of the United States" to include dry river beds?

RESPONSE: The term "waters of the United States" is currently defined in the Navigable Waters Protection Rule. That rule remains the topic of pending litigation. Because I am not in ENRD, it would be inappropriate for me to comment unless and until I am confirmed by the Senate and can be fully briefed on the relevant facts and laws.

4. If you are confirmed, do you intend to use the federal government's eminent domain power to speed the deployment of renewable resources and clean energy technologies?

RESPONSE: Any exercise of eminent domain requires both statutory authorization and a Congressional appropriation. It is my understanding that Congress has allowed the use of eminent domain in certain contexts involving critical infrastructure, pipelines, and energy transmission, and that the Department applies those provisions of law faithfully based on their terms and what Congress has authorized. If confirmed, my role as the Assistant Attorney General would be to execute, defend, and enforce the laws enacted by Congress as implemented by our client agencies, to the extent that such agency action is consistent with these laws.

5. What limitations on the eminent domain power do you recognize?

RESPONSE: The Constitution permits the federal government to acquire property through eminent domain only when it does so for a public purpose, and when it ensures that the landowner is compensated fairly for those lands. I understand that before ENRD's Land Acquisition Section will initiate a condemnation case, the federal agency that is seeking to acquire land must establish that Congress has granted that agency authority to acquire the property for a public purpose and that Congress has appropriated funding for the acquisition. In addition, the government must ensure that owners receive just compensation for the property that is taken. If confirmed, I will seek to ensure the full execution of these responsibilities.

6. If you are confirmed, will you independently advise or direct that DOJ resources be devoted to support structural reform lawsuits known as "atmospheric trust litigation"?

RESPONSE: I am aware that there have been a number of public trust actions brought against state governments seeking to compel action to address climate change. Those cases have been brought in state court, on a range of state-law theories. I am not familiar with the details of that litigation and do not have a view as to whether the Department of Justice should have a role in those cases. The federal government has also been sued in some cases on a public trust theory, and is defending that litigation. If confirmed, I would continue to defend the actions of all federal agencies of the Executive Branch based on a fair review of the facts as applied to applicable law. As a nominee, I am not in a position to assess all of the facts as they relate to these or any other specific cases.

7. What is your understanding of the essential holding of the Supreme Court's *D.C. v. Heller* decision?

RESPONSE: In *District of Columbia v. Heller*, the Supreme Court held that the Second Amendment protects "an individual right to keep and bear arms." 554 U.S. 570, 595 (2008). The Court also stated that, "[l]ike most rights, the right secured by the Second Amendment is not unlimited." *Id.* at 626. If confirmed, I will take an oath, as all Department employees do, to support and defend the Constitution of the United States, including the Second Amendment.

Chairman Durbin

**Responses to Questions from Chairman Durbin to Todd Kim,
Nominee to be Assistant Attorney General, Environment and Natural Resources Division**

1. You spent almost eight years as a career trial attorney in the Environment and Natural Resources Division (ENRD), working for both a Democratic and Republican administration. You then spent more than a decade as the District of Columbia's first Solicitor General. You also spent several years in private practice.

    a. During your time in those roles, did you only advocate positions on behalf of your clients with which you personally agreed? Or did you advocate for your clients' position regardless of whether you personally agreed with it?

RESPONSE: In each job I have held as a lawyer, I have advocated for my client regardless of whether I personally agreed with the position. When I previously served at the Department of Justice, my client was the United States. When I served as the Solicitor General for the District of Columbia, my client was the District. I also represented many diverse clients while in private practice. In January, I returned to federal government service at the Department of Energy. I take seriously my duty as an attorney to represent the interests of any client with commitment and zeal. If confirmed, I will bring the same approach to the job of Assistant Attorney General.

    b. How did your work at the Justice Department, as D.C. Solicitor General, and in private practice help you prepare to serve as the Assistant Attorney General for ENRD?

RESPONSE: My decades of practice have provided me with a great deal of substantive and managerial experience to prepare me to serve as the Assistant Attorney General for ENRD. As an attorney in ENRD's Appellate Section, I handled litigation in every federal court of appeals and the Supreme Court. This litigation arose from nearly every trial section in ENRD and dealt with nearly all the major statutes that ENRD addresses. In addition to knowledge about the relevant law, I gained familiarity with how ENRD functions, and its role in the Department of Justice and the broader federal government. I also gained a deep appreciation for the skill, dedication, professionalism, and integrity of the ENRD career staff.

As Solicitor General for the District of Columbia for over a decade, I managed a staff of lawyers charged with vital litigation matters involving the District government, and coordinated with other senior government officials. My work as Solicitor General included environmental matters, and even the non-environmental matters involved issues that ENRD regularly faces, such as jurisdictional issues like standing and merits issues like proper interpretation of statutes. The same was true in my three years as a partner in private practice, during which I continued leading teams of lawyers in important litigation matters.

c. If confirmed to lead ENRD, what will guide your decision-making?

RESPONSE: If confirmed, I would make decisions by consulting with career lawyers and subject-matter experts, as well as client agencies as appropriate, to ensure that every decision I make at ENRD is based on the facts and on the law.

2. You have almost two decades of experience as a government lawyer. During that time, you worked with individuals from across the political spectrum. As a result, 20 environmental law scholars and 66 environmental law attorneys who represent a wide range of viewpoints have endorsed your nomination. In addition, a group of bipartisan former senior officials of ENRD who were appointed by Presidents of both political parties have also supported your nomination.

    a. What are some of the issues you worked on that required you to engage with environmental law experts, advocacy groups, and state officials across the political spectrum?

RESPONSE: While I was at ENRD, my work on a variety of enforcement issues under pollution control laws like the Clean Water Act and Clean Air Act required interaction with individuals across the political spectrum: senior government officials from multiple Administrations, both at the Department of Justice and in client agencies; officials from disparate states; environmental experts; and diverse *amici*. I also defended a variety of agency actions, including some promoting protection of natural resources such as the establishment of a national monument, and some promoting development such as the licensing of a deepwater liquified natural gas facility. I often found myself engaging with corporations, advocacy groups, state or tribal governments, or other interests that might appear as aligned parties or *amici*.

As Solicitor General for the District of Columbia, my responsibilities continued to include working across the political spectrum. For example, I was charged with helping forge multistate litigation coalitions, such as coalitions joining multistate *amicus* briefs in the Supreme Court. I frequently worked with state solicitors general regardless of ideology or political affiliation, on all sorts of issues—for instance, bread-and-butter civil procedure issues such as proper interpretation of 28 U.S.C. § 1367(d)'s tolling of limitations periods, which was under consideration when a coalition of 24 states supported the District of Columbia's position in the Supreme Court.

    b. How has working across the political spectrum prepared you to lead ENRD?

RESPONSE: My work across the political spectrum has reinforced for me how important it is for Department of Justice leadership—including the Assistant Attorney General for ENRD—to respect and promote the rule of law. Enforcement of the law must be carried out without fear or favor, regardless of which political party is in power.

Senator Lee

Responses to Questions from Senator Lee to Todd Kim,
Nominee to be Assistant Attorney General, Environment and Natural Resources Division

1. In 2016, President Obama created a federal monument out of 5,000 miles of land under the ocean. Justice Roberts implied that defining a "monument" as 5,000 miles of land under the ocean would not only be incorrect, but would defy ordinary English. More directly, in *Massachusetts Lobstermen's Ass'n v. Raimondo*, Justice Roberts said that the requirement that parcels of land, which are attached to monuments, should be kept small "has ceased to pose any meaningful restraint." Do you agree with Justice Roberts that monuments should be confined to the smallest area necessary to protect the monument?

RESPONSE: The Antiquities Act provides the relevant legal standard for designations: "The President may reserve parcels of land as part of the national monuments. The limits of the parcels shall be confined to the smallest area compatible with the proper care and management of the objects to be protected." 54 U.S.C. § 320301(b). I believe that every decision about the area of a monument is fact-driven and it is difficult to generalize.

2. President Obama created the Bears Ears National Monument in 2016, by designating over 1.3 million acres in Utah as a national monument under the Antiquities Act. That action immediately stripped Utahans of access to rich natural resources and grazing lands. President Trump thankfully reduced that monument's size by almost 85%. Do you agree with the reduction of the Bears Ears Monument allowing Utahans greater access to the area's resources?

RESPONSE: I understand that this issue is the subject of pending litigation. Because I am not in the Environment and Natural Resources Division (ENRD), I cannot comment on this litigation unless and until I am confirmed by the Senate and can be fully briefed on the relevant facts and law.

3. Do you believe that designating 1.3 million acres of land to protect a couple of buttes in Utah and 5,000 square miles of land beneath the ocean to protect invisible, inaccessible underwater canyons is an appropriate use of the Antiquities Act?

RESPONSE: I understand that this issue is the subject of pending litigation. Because I am not in ENRD, I cannot comment on this litigation unless and until I am confirmed by the Senate and can be fully briefed on the relevant facts and law.

4. How would you define the "Waters of the United States?"

RESPONSE: The term "waters of the United States" as used in the Clean Water Act is currently defined in the Navigable Waters Protection Rule. That rule remains the topic of pending litigation. Because I am not in ENRD, I cannot comment unless and until I am confirmed by the Senate and can be fully briefed on the relevant facts and laws.

5. For a long time, the EPA treated things like abandoned sand and gravel pits as "Waters of the United States" and tried to regulate them. The Supreme Court rejected that approach in *Solid Waste Agency v. Corps. Of Engineers*. Do you agree that the EPA cannot—and should not—regulate isolated bodies of water that are entirely within one state?

RESPONSE: In *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001), the Supreme Court held that the use of "isolated" non-navigable intrastate ponds by migratory birds was not by itself a sufficient basis for the exercise of federal regulatory authority under the Clean Water Act. If confirmed, my duty will be to enforce federal law consistent with Supreme Court precedent.

6. In *Rapanos v. United States*, Justice Scalia pushed to narrow the EPA's authority to only "relatively permanent, standing or continuously flowing bodies of water." Do you agree with Justice Scalia's proposed test?

RESPONSE: In *Rapanos v. United States*, 547 U.S. 715 (2006), the Supreme Court issued multiple opinions, none of which commanded a majority of the Court. If confirmed as Assistant Attorney General, I will enforce federal law consistent with Supreme Court precedent, including precedent as to the handling of such fractured decisions.

7. Do you agree with the Biden Administration's moratorium on new oil and gas leases on federal land and water areas?

RESPONSE: I understand that this issue is the subject of pending litigation. Because I am not in ENRD, I cannot comment on this litigation unless and until I am confirmed by the Senate and can be fully briefed on the relevant facts and law.

8. Do you agree with the Biden Administration's 60-day suspension of new oil and gas leasing and drilling permits on federal lands unless approved by leadership at the Department of the Interior?

RESPONSE: Processing and approvals of permits for leasing and drilling permits on federal land is within the responsibility of the Secretary of the Interior. If confirmed, it would be my responsibility to handle lawsuits challenging agency actions, including such approvals, within the bounds of the law.

9. Do you agree with the Biden Administration's cancellation of the Keystone XL Pipeline?

RESPONSE: I understand that this issue is the subject of pending litigation. Because I am not in ENRD, I cannot comment on this litigation unless and until I am confirmed by the Senate and can be fully briefed on the relevant facts and law.

10. Do you pledge to allow for meaningful Congressional oversight of the Division's activities and to remain available for questions from legislators?

RESPONSE: Yes.

ELEANOR HOLMES NORTON
DISTRICT OF COLUMBIA

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEES
CHAIR, HIGHWAYS AND TRANSIT
AVIATION
ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT
WATER RESOURCES AND THE ENVIRONMENT

COMMITTEE ON OVERSIGHT AND REFORM
SUBCOMMITTEES
CIVIL RIGHTS AND CIVIL LIBERTIES
GOVERNMENT OPERATIONS

Congress of the United States
House of Representatives
Washington, DC 20515-1501

Testimony of Congresswoman Eleanor Holmes Norton
Senate Committee on the Judiciary
Hearing on the Nomination of Todd Kim

April 14, 2021

Chairman Durbin, Ranking Member Grassley and Members of the Committee. I am pleased to offer my support for the nomination of Todd Kim to be Assistant Attorney General for the Environment and Natural Resources Division (ENRD) of the Department of Justice. If confirmed, Mr. Kim would be the second Asian American to lead ENRD, and the first to do so in half a century. Given his distinguished record, Mr. Kim would make an excellent Assistant Attorney General.

Todd Kim has devoted his career to public service. He began his career as a litigator at ENRD, where he served for more than seven years representing the United States in appellate cases. His service spanned both Democratic and Republican administrations. He was recognized by the George W. Bush administration for his work, receiving Outstanding Performance Awards from the Department of Justice in 2001, 2003 and 2005. He also received a Gold Medal from the Environmental Protection Agency in 2005.

Mr. Kim was appointed the first-ever Solicitor General for the District of Columbia, when he only was 33 years old. He served in this position for more than 11 years under five different D.C. Attorneys General. Mr. Kim received national and local recognition for his work in this position, twice winning a Supreme Court Best Brief Award from the nonpartisan National Association of Attorneys General.

After leaving his position as Solicitor General, Mr. Kim became a partner in the appellate group at Reed Smith LLP, where he represented government, corporate and individual clients, in addition to managing a robust *pro bono* practice.

Mr. Kim is the son of Korean immigrants. He graduated *magna cum laude* from Harvard College and *magna cum laude* from Harvard Law School. After law school, Mr. Kim was a clerk for Judge Judith W. Rogers of the U.S. Court of Appeals for the District of Columbia Circuit.

MAIN DISTRICT OFFICE
RONALD REAGAN BUILDING AND INTERNATIONAL TRADE CENTER
1300 PENNSYLVANIA AVENUE, N.W., SUITE M-1000
WASHINGTON, D.C. 20004-3002
(202) 408-9041
(202) 408-9048 (FAX)

2136 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515-5101
(202) 225-8050
(202) 225-7829 (TDD)
(202) 225-3002 (FAX)
WWW.NORTON.HOUSE.GOV
PRINTED ON RECYCLED PAPER
THIS MAILING WAS PREPARED, PUBLISHED, AND MAILED AT TAXPAYER EXPENSE.

SOUTHEAST DISTRICT OFFICE
2235 SHANNON PLACE, S.E. SUITE 2032
WASHINGTON, D.C. 20020-7026
(202) 678-8900
(202) 678-8844 (FAX)

I greatly appreciate the opportunity to offer this testimony in support of Mr. Kim's nomination. I strongly urge you to confirm this devoted public servant to this critically important position.

Thank you.

MURIEL BOWSER
MAYOR

April 8, 2021

The Honorable Dick Durbin
Chairman
Senate Committee on the Judiciary
711 Hart Senate Office Building
Washington, DC 20510

The Honorable Chuck Grassley
Ranking Member
Senate Committee on the Judiciary
135 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Durbin and Ranking Member Grassley:

As Mayor of Washington, DC, I write to express support for attorney Todd Kim's nomination to serve as Assistant Attorney General for the Environment and Natural Resources Division (ENRD) of the U.S. Department of Justice. Mr. Kim's extensive experience and proven dedication to public service make him an excellent fit for this position.

Mr. Kim graduated from Harvard College, *magna cum laude*, and Harvard Law School, *magna cum laude*, after which he served as a law clerk to Judge Judith W. Rogers of the U.S. Court of Appeals for the District of Columbia.

Having begun his career as a litigator at ENRD—where he worked for more than seven years—Mr. Kim's familiarity with the Division and his service under both Democratic and Republican administrations representing the United States in appellate proceedings, make him uniquely qualified to serve. During his prior service at ENRD, Mr. Kim distinguished himself by handling complex cases related to the Clean Water Act, the Clean Air Act, Superfund site cleanup, river contamination, Native American land rights, the establishment of national monuments, and more.

Mr. Kim was appointed at the age of 33 to be the first-ever Solicitor General of the District of Columbia. As Solicitor General for more than 11 years, Mr. Kim faithfully carried out his duty to represent the District and defend our laws in court, diligently and apolitically, under five different Attorneys General, developing experience in virtually all areas of law.

The child of Korean immigrants, a native of New Jersey, and an adopted son of Washington, DC, Todd Kim would become the second Asian American to lead ENRD—and the first in half a century—if confirmed.

Should you need additional information do not hesitate to contact me or my Senior Advisor, Beverly Perry at Beverly.Perry@dc.gov or by phone at 202-724-7173.

Sincerely,

Muriel Bowser
Mayor

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General

ATTORNEY GENERAL
KARL A. RACINE

April 8, 2021

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Senators Durbin and Grassley:

I write to urge the confirmation of Todd S. Kim as Assistant Attorney General for the Environment and Natural Resources Division (ENRD) of the U.S. Department of Justice. Mr. Kim has deep subject matter expertise on the full range of issues the Division handles, thanks to his service as a career attorney in ENRD's Appellate Section for more than seven years.

In addition to his substantive knowledge of ENRD's work, Mr. Kim is an exceptional leader. Mr. Kim served as the District's first Solicitor General for 11 years under five attorneys general, including me. In this role, he not only managed the lawyers and non-attorney professionals who handled the District's appellate work, he also advised and guided the work of our trial Divisions. Many Office of the Attorney General (OAG) lawyers looked to Mr. Kim for mentorship. In recognition of his leadership, OAG awarded Mr. Kim the Outstanding Head of Division award three times.

Mr. Kim also has a profound understanding of the role of government lawyers because he served as one both at ENRD and OAG. At OAG, for example, Mr. Kim fiercely represented the District's interests before the D.C. Court of Appeals, the D.C. Circuit Court of Appeals, and the U.S. Supreme Court. He handled these cases apolitically and with the same rigorous commitment to following the law, regardless of the political valence. His cases ranged from defending the District's restrictions on firearms and the District's legalization of marriage equality to representing Metropolitan Police Department officers before the Supreme Court. In all of these

cases, he zealously advocated for the policies enacted by the Council and in support of his clients' best interests. And at ENRD, Mr. Kim served capably as an attorney under both Republican and Democratic administrations and was widely respected by both. I have the utmost confidence that Mr. Kim's fealty is to the law.

In recognition for his tremendous work at OAG, the Council for the District of Columbia honored Mr. Kim with a ceremonial resolution that specifically acknowledged his "first-rate legal mind" and his "integrity and professionalism." These same qualities, along with true leadership skills and a profound commitment to public service and the law, make Mr. Kim an inspired choice to lead ENRD. I recommend Mr. Kim and urge the Committee to confirm him to this important position.

Sincerely,

Karl A. Racine

Karl A. Racine
Attorney General for the District of Columbia

HARVARD LAW SCHOOL
CAMBRIDGE · MASSACHUSETTS · 02138

RICHARD J. LAZARUS
Howard J. & Katherine W. Aibel Professor of Law

Areeda Hall 329
1545 Massachusetts Avenue
(617) 495-8015
lazarus@law.harvard.edu

April 8, 2021

VIA EMAIL

Reginald Babin, Chief Counsel, Senate Majority Leader Charles E. Schumer reginald_babin@schumer.senate.gov

Andrew Ferguson, Chief Counsel, Senate Minority Leader Mitch McConnell andrew_ferguson@mcconnell.senate.gov

Phillip Brest, Chief Nominations Counsel, Senate Judiciary Committee Chairman Richard J. Durbin phillip_brest@judiciary-dem.senate.gov

Michael Fragoso, Chief Nominations Counsel, Senate Judiciary Committee Ranking Member Charles E. Grassley michael_fragoso@judiciary-rep.senate.gov

Please see the enclosed letter submitted for your consideration.

Sincerely,

Richard J. Lazarus

April 8, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Letter in Support of the Nomination of Todd Kim to Serve as Assistant Attorney General for the Environment and Natural Resources Division of the U.S. Department of Justice

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

We write in support of the nomination of Todd Kim to be Assistant Attorney General for the Environment and Natural Resources Division (ENRD) in the U.S. Department of Justice. We are all longstanding practitioners of environmental law from a wide variety of settings and perspectives. We include lawyers from private law firms, public interest organizations, governmental offices, in-house counsel, and legal academics.

We do not always agree. We sometimes litigate on the same side of cases and frequently serve as opposing counsel too. For those of us engaged in legal scholarship, it is not unusual for us to sharply disagree. But what we all share in common is a deep respect for the rule of law and the essential public service performed by ENRD attorneys in enforcing and defending the nation's environmental protection and natural resource management laws. What joins us in this letter is our confidence that Todd Kim will be an outstanding Assistant Attorney General to lead ENRD.

Todd Kim combines enormous achievement, a career largely dedicated to public service, proven leadership, private sector experience, and a deep expertise in environmental law. Kim graduated

magna cum laude from both Harvard College and Harvard Law School and then clerked for the United States Court of Appeals for the District of Columbia Circuit. His first job after his clerkship was as an Honors Program Attorney in the Appellate Section of ENRD — the same Justice Department Division that President Biden has now named Kim to lead.

Kim enjoyed a stellar reputation at the Justice Department as a highly skilled appellate advocate, as underscored by EPA's decision to award Kim the Agency's Gold Medal. Working at ENRD for more than eight years under both Democratic and Republican Administrations, Kim developed a deep and wide expertise in environmental law. He briefed and presented oral argument in federal courts of appeals on a wide variety of complex environmental and natural resources law cases. He was named the District of Columbia's first Solicitor General in 2006 and ably served in that office for eleven years until he joined a private law firm in 2018.

ENRD deserves one of the nation's best lawyers at its helm to run the nation's most important environmental law firm charged with representing the American public. Todd Kim promises to be just such a leader.

We urge the Senate Judiciary Committee and the Senate to confirm Todd Kim to serve as the Assistant Attorney General for ENRD.

Sincerely,*

Richard J. Lazarus
Professor, Harvard Law School
Former ENRD Attorney (1979-1983)
Former Assistant to the Solicitor General (1986-1989)

Richard Stewart
Professor, New York University School of Law
Former Assistant Attorney General ENRD (1989-1991)

David Buente
Sidley Austin LLP
Former Chief, ENRD Environmental Enforcement Section and ENRD Attorney (1979-90)

Vickie Patton
General Counsel
Environmental Defense Fund

---

* Professional affiliations are listed for identification purposes. Signatories are signing in their individual capacity and not as representative of any current or former employer or other affiliated organization.

Sam Hirsch
Former Principal Deputy and Acting Assistant Attorney General ENRD (2014-2017)

Benjamin F. Wilson
Chairman, Beveridge Diamond

Mitch Bernard
President & Chief Counsel, Natural Resource Defense Council

Joel Gross
Arnold Porter LLP
Former Chief ENRD Environmental Enforcement Section (1995-2000)

Joseph Manko
Founding Partner, Manko Gold Katcher & Fox LLP
Former EPA Regional Counsel, Region III

Tim Bishop
Mayer Brown & Platt LLP

Michelle Diffenderfer,
President/Shareholder
Lewis, Longman & Walker

Steve Ramsey
Former GE Vice President Corporate Environmental Programs (1990-2008)
Former Chief, Environmental Enforcement Section and ENRD Attorney (1978-1985)

Steph Tai
Professor of Law, University of Wisconsin Law School
Former ENRD Appellate Attorney (2001-2005)

Sam Sankar
Senior Vice President for Programs, Earthjustice
Former ENRD Appellate Attorney (2008-2012)

Susannah Weaver
Donahue, Goldberg, Weaver & Littleton LLP

Peter R. Steenland
Sidley Austin LLP
Former Chief, ENRD Appellate Section and ENRD Attorney (1970-2002

Donald W. Stever
Stever Environmental Law and Mediation PLLC
Former Chief, ENRD Environmental Defense Section and ENRD Attorney (1978-1982)

Greer Goldman
Former ENRD Appellate and Environmental Defense Attorney (1991-2006)

Michael Gerrard
Professor and Director, Sabin Center for Climate Change Law
Columbia Law School

Edward Shawaker
Former ENRD Appellate Attorney (1972-1997)

Raymond B. Ludwiszewski
Gibson, Dunn & Crutcher LLP
Former EPA General Counsel
Former ENRD Attorney

Lily N. Chinn
Baker Botts LLP
Former ENRD Enforcement Attorney (1999 to 2007)

Stacey H. Mitchell
Akin Gump Strauss Hauer & Feld LLP
Former ENRD Chief Environmental Crimes and ENRD Attorney (2007-2013)

Sean H. Donahue
Donahue, Goldberg, Weaver & Littleton LLP
Former ENRD Appellate Attorney (1997-2001)

Gene Lucero
Latham & Watkins LLP (ret.)
Former EPA Director of Waste Programs Enforcement (1982-1988)

Janice M. Schneider
Latham & Watkins LLP

Keith Matthews
Wiley Rein LLP

Seth Jaffee
Foley Hoag LLP

Jared A. Goldstein
Associate Dean for Academic Affairs
Roger Williams University School of Law
Former ENRD Appellate Attorney (1997-2001)

Robert V. Percival
Robert F. Stanton Professor of Law
Director, Environmental Law Program
University of Maryland Francis King Carey School of Law

Tom Lorenzon
Crowell & Moring
Former Assistant Chief, ENRD Environment Defense
Section and ENRD Attorney (1997-2013)

Bradley Marten
Chairman, Marten Law LLP

David Shilton
Former Senior Litigation Counsel, ENRD Appellate Attorney (1979-2017)

John Bryson
ENRD Appellate Attorney (1983-2008)

Robert Klarquist
Former ENRD Appellate Attorney (1972-1999)

Jack Gelin
Former ENRD Appellate Attorney (1967-1997)

Matthew Littleton
Donahue, Goldberger, Weaver & Littleton LLP
Former ENRD Appellate Attorney (2011-2019)

Michael Traynor
Cobalt LLP

Marta Hoilman,
Former ENRD Appellate Attorney (1997-2000)

Peter Hsiao
King & Spaulding LLP
Former Assistant U.S. Attorney (C.D. Cal. 1990-1995)

Laurence S. Kirsch
Sidley Austin LLP

John Leshy
Emeritus Professor of Law, University of California,
Hastings College of Law

Robert Kirsch
Wilmer Cutler Pickering Hale and Dorr LLP (retired)

Don Bauer
Perkins Coie, LLP

Ronald Spritzer
Judge, U.S. Nuclear Regulatory Commission

Former ENRD Appellate Section Attorney (2007-2018

J. Carol Williams
Former Assistant Chief, ENRD Appellate Section and ENRD Attorney (1982-2000)

Katherine J. Barton
Former ENRD Appellate Attorney (1999-2017)

Patricia J. Beneke
Former ENRD Natural Resources Attorney (1981-1983)

Al Ferlo
Former ENRD Appellate Attorney (1980- 1986; 1990-1997)

Adam M. Kushner
Former Director, EPA Office of Civil Enforcement & Air Enforcement Division (2003-2011)
Former Senior Counsel ENRD Enforcement Attorney (1991-2002)

Tom Mounteer
Paul Hastings LLP

James H. Colopy
Farella Braun & Martel LLP

Jeffrey C. Dobbins
Professor, Willamette University College of Law
Former ENRD Appellate Attorney (1996-2001)

Jeffrey Gracer
Sive, Paget & Riesel LLP

Matthew J. Sanders
Clinical Supervising Attorney and Lecturer, Stanford Law School
Former ENRD Appellate Attorney (2002-2007)

Alice Thurston
Former ENRD Appellate Attorney (1987-2010

Robert H. Oakley
Former ENRD Appellate Attorney (1985-2019)

Robert Stockman
Former ENRD Appellate Attorney (200-2017)

Rachel Jacobsen
Wilmer Hale LLP
Former ENRD Environmental Enforcement Attorney (1990-2008)

Elliott P. Laws
Crowell & Moring LLP
Former EPA Assistant Administrator

Nicholas A. DiMascio
Senior Environmental Counsel, Denver Water
Former ENRD Appellate Attorney (2010-2017)

Kevin Poloncarz
Covington & Burling LLP

John Stahr
Former ENRD Appellate Attorney (1984-2008)

David Hackett
Baker McKenzie LLP
Former ENRD Environmental Enforcement Attorney (1985-1989)

Chris Locke
Farella Braun & Martel LLP

Daniel M. Krainin
Beveridge & Diamond PC

HARVARD LAW SCHOOL
CAMBRIDGE · MASSACHUSETTS · 02138

RICHARD J. LAZARUS
Howard J. & Katherine W. Aibel Professor of Law

Areeda Hall 329
1545 Massachusetts Avenue
(617) 495-8015
lazarus@law.harvard.edu

April 8, 2021

VIA EMAIL

Reginald Babin, Chief Counsel, Senate Majority Leader Charles E. Schumer reginald_babin@schumer.senate.gov

Andrew Ferguson, Chief Counsel, Senate Minority Leader Mitch McConnell andrew_ferguson@mcconnell.senate.gov

Phillip Brest, Chief Nominations Counsel, Senate Judiciary Committee Chairman Richard J. Durbin phillip_brest@judiciary-dem.senate.gov

Michael Fragoso, Chief Nominations Counsel, Senate Judiciary Committee Ranking Member Charles E. Grassley michael_fragoso@judiciary-rep.senate.gov

Please see the enclosed letter submitted for your consideration.

Sincerely,

Richard J. Lazarus

April 8, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Letter in Support of the Nomination of Todd Kim to Serve as Assistant Attorney General for the Environment and Natural Resources Division of the U.S. Department of Justice

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

We write to express our strong support of the nomination of Todd Kim to be Assistant Attorney General for the Environment and Natural Resources Division in the U.S. Department of Justice. We are all professors who teach and write about environmental and natural resources law. Like most academics, we do not always agree. Indeed, we can sometimes sharply disagree in our legal analysis. But what we all share in common is a deep respect for the rule of law and for the essential public service performed by the attorneys of the Justice Department's Environment Division in enforcing and defending the nation's environmental protection and natural resource management laws. Many of us previously worked for the Environment Division, and we are all confident that Todd Kim will be an outstanding Assistant Attorney General to lead the Division.

Todd Kim offers all the necessary ingredients, professional and personal to serve as Assistant Attorney General. Professionally, Kim wonderfully combines enormous achievement, dedication to public service, proven leadership, private sector experience, and a deep expertise in environmental law. Kim graduated *magna cum laude* from both Harvard College and Harvard Law School and then clerked for the United States Court of Appeals for the District of Columbia

Circuit. His first job after his clerkship was as an Honors Program Attorney in the Appellate Section of ENRD — the same Justice Department Division that President Biden has now named Kim to lead.

Kim enjoyed a stellar reputation at the Justice Department as a highly skilled appellate advocate, as underscored by EPA's decision to award Kim the Agency's Gold Medal. Working at the Environment Division for more than eight years under both Democratic and Republican Administrations, Kim developed a deep expertise in environmental law. He briefed and presented oral argument in federal courts of appeals on a wide variety of complex environmental and natural resources law cases. He was named the District of Columbia's first Solicitor General in 2006 and ably served in that office for eleven years until he joined a private law firm in 2018.

Personally, Kim is a wonderfully kind and thoughtful person, who listens well to others before making decisions. Notwithstanding his extraordinary achievements, Kim never displays a hint of arrogance or undue self-confidence. He highly respects the career attorneys at the Justice Department and is the kind of leader who will quickly earn their loyalty and trust.

ENRD deserves one of the nation's best environmental lawyers at its helm to run the nation's most important environmental law firm charged with representing the American public. Todd Kim promises to be just such a leader.

We urge the Senate Judiciary Committee and the Senate to confirm Todd Kim to serve as the Assistant Attorney General for the Justice Department's Environment and Natural Resources Division.

Sincerely,[1]

Todd S. Aagaard
Professor of Law
Villanova University Charles Widger School of Law

Robert H. Abrams
Professor of Law
Florida A & M University College of Law

Hope Babcock
Professor of Law and Director Environmental Law and Justice Clinic
Georgetown University Law Center

[1] Professional affiliations are listed for identification purposes. Signatories are signing in their individual capacity and not as representative of any current or former employer or other affiliated organization.

Jonathan Z. Cannon
Blaine T. Phillips Distinguished Professor of Environmental Law
Director of the Environmental and Land Use Law Program
University of Virginia School of Law

Richard M. Frank
Professor of Environmental Practice
Director, California Environmental Law & Policy Center
University of California at Davis School of Law

Shi-Ling Hsu
D'Alemberte Professor
Florida State University College of Law

Kathryn E. Kovacs
Professor of Law
Rutgers Law School

Richard Lazarus
Howard J. & Katherine W. Aibel Professor of Law
Harvard Law School

Albert Lin
Professor of Law
UC Davis School of Law

Ryke Longest
Clinical Professor
Duke School of Law
Nicholas School of the Environment

Sean Lyness
Faculty Fellow
New England Law | Boston

Edward A. Parson
Dan and Rae Emmett Professor of Environmental Law
Faculty Director, Emmett Institute on Climate Change and the Environment
UCLA School of Law

Ann Powers
Professor Emerita of Law
Global Center for Environmental Legal Studies
Elisabeth Haub School of Law at Pace University

Richard L. Revesz
AnBryce Professor of Law and Dean Emeritus
New York University School of Law

Jason Anthony Robison
Professor of Law
University of Wyoming College of Law

Michelle B. Nowlin
Clinical Professor of Law
Co-Director, Environmental Law and Policy Clinic
Duke University School of Law

Jonathan Skinner-Thompson
Associate Clinical Professor
University of Colorado Law School

William J. Snape, III
Professor and Assistant Dean
American University, Washington College of Law

Gerald Torres
Professor of Environmental Justice and Professor of Law
Yale School of the Environment
Yale Law School

David M. Uhlmann
Jeffrey F. Liss Professor from Practice
Director, Environmental Law and Policy Program
University of Michigan Law School

April 9, 2021

The Honorable Richard J. Durbin
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Charles E. Grassley
Ranking Member, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Durbin and Ranking Member Grassley:

We, the undersigned, are former senior officials of the Environment and Natural Resources Division (ENRD) of the United States Department of Justice. We write in support of President Biden's nomination of former District of Columbia Solicitor General Todd Kim to serve as the next Assistant Attorney General for ENRD, and to express our strong belief that Mr. Kim is supremely qualified for that position, with the necessary leadership experience, legal expertise and outstanding judgment to lead the Division in addressing the nation's most pressing environmental, environmental justice, natural resources, and Native American issues.

The undersigned include virtually everyone who served in senior leadership positions in ENRD, as either Assistant Attorney General or Deputy Assistant Attorney General, and overlapped with Mr. Kim. We were appointed by Presidents of both political parties and reflect diverse perspectives from within the environmental law bar. We understand the critical importance of ENRD's mission to faithfully implement and enforce not only the federal environmental and natural resources laws, but also the laws protecting the rights and resources of Native American communities. And we appreciate that ENRD could not serve the American people as well as it does without the incredible talent and dedication of its more than 400 attorneys and hundreds of other staff. An organization as special as ENRD requires a special kind of leadership. We are confident that Mr. Kim is the right person to lead ENRD, and that he will do so with an open mind, with respect for the Division and its employees, and with a firm belief in the even-handed administration of justice.

A 1997 graduate of Harvard Law School, Mr. Kim has dedicated most of his career to public service and the just and fair administration of the law. After clerking for the Honorable Judith Rogers, United States Court of Appeals for the District of Columbia Circuit, he began his career as an Honors Attorney in ENRD, where he made a notable impression on the Division that he has been nominated to lead. For seven years (1998 to 2006), he served with distinction in the Environment and Natural Resources Division's Appellate Section. Mr. Kim was an effective advocate for numerous federal agencies, handling some of the most complex and important environmental law cases during that period. He was recognized for his superlative work on a diverse array of matters, ranging from upholding the conviction under the hazardous waste laws

of a corporate manager who had sent employees into a cyanide-filled tank without safety equipment, to enforcement of wetlands protections under the Clean Water Act in a case that spawned important Supreme Court precedent, to cases defending tribal land claims.

While serving in the Division, Mr. Kim approached his cases with the utmost integrity and humility, dedicated to full and fair enforcement of the law, conscious of his responsibility as an officer of the court and a representative of the people of the United States. Importantly, Mr. Kim earned the well-deserved respect of his career colleagues in the Justice Department both for his intellect and the quality of his character. The respect he garnered during his time as an ENRD attorney will serve him well as he seeks to lead the Division into its future.

Mr. Kim's distinguished legal career and devotion to public service continued after he left ENRD to serve as Washington, D.C.'s first solicitor general for nearly a dozen years. In that position, he supervised hundreds of cases in the U.S. Court of Appeals for the D.C. Circuit and the D.C. Court of Appeals, including multiple high-profile criminal cases and other matters of national significance. He has won appeals in the U.S. Supreme Court, all 13 federal courts of appeals, and many state supreme courts.

Mr. Kim is a two-time winner of the National Association of Attorneys General's Supreme Court Best Brief Award; a three-time winner of both the D.C. Attorney General's award for Outstanding Head of a Division, and DOJ's Outstanding Performance Award; and he was awarded the U.S. Environmental Protection Agency's Gold Medal for Exceptional Service. Kim is a member of the Edward Coke Appellate Inn of Court, the Lawyers Club of Washington, D.C., the National Asian Pacific American Bar Association, and the Asian Pacific American Bar Association of Greater Washington, D.C.

For all these reasons, we enthusiastically endorse Mr. Kim's nomination, and we urge the Senate to confirm him promptly as the next Assistant Attorney General of the Environment and Natural Resources Division of the United States Department of Justice.

Sincerely,

John C. Cruden
Assistant Attorney General (2015 - 2017),
Deputy Assistant Attorney General (1995 - 2011) for the
Environment and Natural Resources Division

Lisa Jones Foose
Deputy Assistant Attorney General (2014 - 2017),
Assistant Chief of the Appellate Section (2006 - 2012) for the
Environment and Natural Resources Division

Kelly Johnson
Acting Assistant Attorney General (2005),
Principal Deputy Assistant Attorney General (2001 - 2005) for the
Environment and Natural Resources Division

Ignacia S. Moreno
Assistant Attorney General (2009 - 2013),
Special Assistant, Counsel, and Principal Counsel to the Assistant Attorney General (1994 - 2001) for the Environment and Natural Resources Division

Thomas L. Sansonetti
Assistant Attorney General (2001-2005) for the
Environment and Natural Resources Division

Lois J. Schiffer
Assistant Attorney General (1994 - 2001),
Acting Assistant Attorney General (1993 - 1994),
Deputy Assistant Attorney General (1993) for the
Environment and Natural Resources Division

Ethan G. Shenkman
Deputy Assistant Attorney General (2010 - 2014),
Counsel to the Assistant Attorney General (2000 - 2001) for the
Environment and Natural Resources Division

James F. Simon
Deputy Assistant Attorney General (1995 - 2001) for the
Environment and Natural Resources Division

Eileen Sobeck
Deputy Assistant Attorney General (1999 - 2009) for the
Environment and Natural Resources Division

AFGE Local 704 * Alaska Wilderness League
African American Ministers in Action * Alliance for Justice * Azul
California National Organization for Women * Clean Water Action
Earthjustice * Environmental Defense Fund * Friends of the Earth U.S.
Lawyers for Good Government * League of Conservation Voters
Matthew Shepard Foundation * MIT Alumni for Climate Action * NAACP
NRDC * Oceana * People For the American Way

April 12, 2021

The Honorable Dick Durbin,
Chairman
Senate Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Chuck Grassley,
Ranking Member
Senate Committee on the Judiciary
United States Senate
Washington, DC 20510

RE: Letter of Support for Todd S. Kim, nominee for Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice

Dear Chairman Durbin and Ranking Member Grassley,

The eighteen undersigned groups strongly support President Biden's nomination of Todd S. Kim to become the Assistant Attorney General (AAG) of the Environment and Natural Resources Division (ENRD) at the U.S. Department of Justice. We ask you to waste no time confirming Mr. Kim to this important role. Mr. Kim has a sterling record of achievement in public service, a deep knowledge of federal environmental law and the Division itself, and a strong reputation as a manager who inspires trust as a decisionmaker who considers all sides of an issue.

ENRD has three important responsibilities in any administration. First, it is responsible for enforcing our nation's environmental laws on behalf of the federal government and the American people. In that context, the AAG supervises decisions by the Division's lawyers regarding what cases to pursue and defend, and what relief and penalties to seek. Second, ENRD represents government agencies against actions brought by individuals, communities, regulated entities, and public interest groups like ours. In that context, the AAG supervises decisions about what arguments the government will raise in its defense. And third, ENRD coordinates and advises the government on rulemakings and legislation that affect the environment, climate change, and our rights to clean air, safe water, and the equal protection of our laws.

Because of these responsibilities, it is important for any administration to choose an excellent AAG for ENRD. But that choice is even more important now. ENRD's prior leader, Jeffrey Bossert Clark, injected a political agenda into the Division's legal work to a degree never before seen. Under Mr. Clark's direction, the number of enforcement actions against polluters plummeted, civil penalties fell to historic lows, and staff positions remained vacant. Worse still, he instructed staff to adopt extreme and politically-driven legal

positions aimed at undercutting the government's own regulatory authority. This eroded staff morale and hobbled the Division's effectiveness in court.

ENRD's new AAG will need the legal acumen and experience to evenhandedly assess the prior administration's litigation positions and administrative actions for compliance with America's laws. He will also need the institutional judgment to determine whether and how the Division must modify its approach to ongoing matters so as to carry out its own responsibility to honor those laws. And, finally, the new AAG must have the leadership and executive skills necessary to help the Division recover its morale and rededicate itself to the mission of fighting for communities suffering from the impacts of pollution, climate change, and mismanagement of natural resources—particularly the communities of color that shoulder a disproportionate burden of environmental harm in this country.

We are confident that Todd Kim has all these skills and more. Mr. Kim is, first and foremost, an uncommonly talented lawyer who is deeply respected in environmental circles. Over the course of his career, Mr. Kim has handled many challenging matters that have involved complex environmental issues such as the federal government's liability under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (e.g., *U.S. v. Shell Oil Co.*, 294 F.3d 1045 (9th Cir. 2002)) and the authority of the President to create the Grand Staircase-Escalante National Monument (*Utah Ass'n of Counties v. Bush*, 455 F.3d 1094 (10th Cir. 2006)). He has been the attorney of record in hundreds of lawsuits and has argued more than 50 appeals in courts across the country, including the U.S. Supreme Court.

Mr. Kim is also a dedicated public servant who has a deep knowledge of ENRD itself. Mr. Kim spent eight years as a career attorney in ENRD's appellate section during the Clinton and Bush administrations. During that time, he received the Department of Justice's Outstanding Performance Award three times, as well as the Environmental Protection Agency's highest honor, its Gold Medal for Exceptional Service. After leaving the Division, Mr. Kim served as the first Solicitor General of the District of Columbia, where, over the course of a decade, he gained valuable experience in managing staff, overseeing a budget, and leading a department. Throughout these periods, Mr. Kim developed a reputation for excellence, humility, and integrity—qualities that will serve him well as AAG and help him gain the respect and trust of ENRD's career staff and attorneys.

Mr. Kim also has another quality that we believe is important. He is open-minded and genuinely interested in hearing from multiple perspectives. This is particularly important to us because we fully expect to disagree with many of the things that the Biden administration does over the next four years. When difficult questions of law arise, we are confident that Mr. Kim and his staff will listen to our views—just as he will listen to the views of industry litigants, state governments, and other interested parties. We don't expect that he will always see things our way, but we do know that no matter what decision he makes, all parties will respect his fairness, integrity, and commitment to justice.

ENRD will play a critical role in the Biden administration's efforts to protect the environment, combat climate change, safeguard vulnerable communities, and defend our nation's laws. It should be led by someone who believes in science, who understands the role that government must play in regulating industry, and who recognizes the need to confront the linkages between environmental harms and racial inequity.

We believe Todd Kim is such a person, and we hope his nomination gets swift and unanimous confirmation.

Sincerely,

AFGE Local 704
Alaska Wilderness League
African American Ministers in Action
Alliance for Justice
Azul
California National Organization for Women
Clean Water Action
Earthjustice
Environmental Defense Fund
Friends of the Earth U.S.
Lawyers for Good Government
League of Conservation Voters
Matthew Shepard Foundation
MIT Alumni for Climate Action
NAACP
NRDC
Oceana
People For the American Way



April 13, 2021

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Nomination of Todd Kim to be Assistant Attorney General for the Environment and Natural Resources Division at the U.S. Department of Justice.

Dear Chairman Durbin and Ranking Member Grassley:

On behalf of the Asian Americans Advancing Justice | AAJC, Asian Pacific American Institute for Congressional Studies (APAICS), National Asian Pacific American Bar Association (NAPABA), and National Council of Asian Pacific Americans (NCAPA), we strongly support the nomination and swift confirmation of Todd Kim to be Assistant Attorney General for the Environment and Natural Resources Division (ENRD) at the U.S. Department of Justice.

Mr. Kim is a first-rate legal mind and dedicated public servant who currently serves as Deputy General Counsel at the U.S Department of Energy and oversees litigation, regulation, and enforcement for the agency. He is well qualified to serve as head of ENRD.

After clerking for the Honorable Judith Rogers on the U.S. Court of Appeals for the District of Columbia, Mr. Kim served as an attorney in the appellate section of ENRD where he argued appeals on behalf of the United States in all thirteen U.S. Circuit Courts of Appeals. He will be ready on his first day. During his prior service, Mr. Kim represented and gained intimate familiarity with the breadth of ENRD's varied portfolio, which spans 10 sections and includes prevention and cleanup of pollution, land acquisition, protection of wildlife, management of public lands, protecting the rights and resources of federally recognized Indian tribes and their members and criminal prosecution, to name a few. For his service, he received the Gold Medal from the Environmental Protection Agency and multiple Outstanding Performance Awards from the Department of Justice.

In 2006, Mr. Kim was selected to serve as the first-ever Solicitor General for the District of Columbia in which he served in that position for over 11 years. As DC Solicitor General, he personally handled significant cases in the appellate courts and received two "Best Brief" awards from the National Association of Attorneys General for outstanding Supreme Court briefs.

In private practice, Mr. Kim served as a partner in the appellate group at Reed Smith and as Office Market Chair of the Diversity and Inclusion Committee.

Mr. Kim is a strong supporter of diversity and inclusion. In addition to chairing the Diversity and Inclusion Committee at Reed Smith, Mr. Kim is also active in the Asian American community, and is a member of NAPABA and the Asian Pacific American Bar Association of the Greater Washington DC area.

Todd Kim is well qualified to serve as Assistant Attorney General for the Environment and Natural Resources Division at the U.S. Department of Justice and we strongly support his nomination.

Sincerely,



John C. Yang
President & Executive Director
Asian Americans Advancing Justice | AAJC



Madalene Xuan-Trang Mielke
President & CEO
Asian Pacific American Institute for Congressional Studies



Priya Purandare
Executive Director
National Asian Pacific American Bar Association



Gregg Orton
National Director
National Council of Asian Pacific Americans

Asian Americans Advancing Justice | AAJC

Advancing Justice | AAJC is a national non-profit, non-partisan organization that works through policy advocacy, education, and litigation to advance the civil and human rights of Asian Americans and to build and promote a fair and equitable society for all. Founded in 1991, Advancing Justice | AAJC is one of the nation's leading experts on civil rights issues of importance to the Asian American and Pacific Islander (AAPI) community including immigration and immigrants' rights, census, hate incidents, language access, technology and telecommunications, and voting rights.

Asian Pacific American Institute for Congressional Studies
The Asian Pacific American Institute for Congressional Studies (APAICS) is a national non-partisan, nonprofit 501(c)(3) organization dedicated to promoting Asian Pacific American participation and representation at all levels of the political process, from community service to elected office. APAICS programs focus on developing leadership, building public policy knowledge, and filling the political pipeline for Asian Pacific Americans to pursue public office at the local, state, and federal levels.

National Asian Pacific American Bar Association
The National Asian Pacific American Bar Association (NAPABA) represents the interests of approximately 50,000 legal professionals and nearly 90 national, state, and local Asian Pacific American bar associations. NAPABA is a leader in addressing civil rights issues confronting Asian Pacific American communities. Through its national network, NAPABA provides a strong voice for increased diversity of the federal and state judiciaries, advocates for equal opportunity in the workplace, works to eliminate hate crimes and anti-immigrant sentiment, and promotes the professional development of people of color in the legal profession.

National Council of Asian Pacific Americans
Established in 1996, NCAPA is a coalition of some of the largest national Asian American, Native Hawaiian, and Pacific Islander (AANHPI) organizations around the country. Based in Washington, D.C., NCAPA works to represent the interests of the greater AANHPI community, including the East Asian, South Asian, Southeast Asian, Native Hawaiian and Pacific Islander communities. NCAPA's members also include organizations that work in civil rights, immigration, health, education, and housing and economic justice.

Senator Marsha Blackburn
Questions for the Record
Senate Judiciary Committee
Kristen Clarke, Nominee to be Assistant Attorney General, Civil Rights Division

1. What is your position on photo identification as a requirement for voter registration?

RESPONSE: I agree with President Biden's statement in his Executive Order on Promoting Access to Voting, E.O. No. 14019 (Mar. 7, 2021), in which he explained that it is the Administration's policy "to promote and defend the right to vote for all Americans who are legally entitled to participate in elections." Whether a photo identification requirement impacts the ability to vote, or has a discriminatory purpose, depends on the facts and circumstances in a particular state or jurisdiction. If confirmed, it will be my duty to fully and fairly enforce federal laws, including those protecting the right to vote and election security.

2. When may a state require photo identification as a requirement for voter registration without running afoul of federal civil rights law?

RESPONSE: Voter identification laws vary significantly from jurisdiction to jurisdiction and must be reviewed on a case-by-case basis. Some laws may have an unconstitutional and discriminatory purpose while others may not. The role of the Justice Department is to enforce federal law based on the facts of each case, and if confirmed, I would do just that.

3. Is it a violation of any federal civil rights law to require photo identification to pick up event tickets at the will-call ticket window?

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. Whether a particular law or policy violates federal civil rights laws can only be determined on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

4. Is it a violation of any federal civil rights law to require photo identification to board a plane?

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. Whether a particular law or policy violates federal civil rights laws can only be determined on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

5. Is it a violation of any federal civil rights law to require photo identification before a passenger is allowed to cross through airport security?

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. Whether a particular law or policy violates federal civil rights laws can only be determined on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

6. Is it a violation of any federal civil rights law to require photo identification to pick up a prescription?

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. Whether a particular law or policy violates federal civil rights laws can only be determined on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

7. Is it a violation of any federal civil rights law to require photo identification to purchase a gun?

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. For example, most firearm sales require the transferor of a firearm to verify the identity of a purchaser by reviewing an identity document. *See* 8 U.S.C. § 922(t)(1)(C); 18 U.S.C. § 1028(d)(3). Whether a particular law or policy violates federal civil rights laws can only be determined on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

8. Is it a violation of any federal civil rights law to require photo identification to purchase alcohol?

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. Whether a particular law or policy violates federal civil rights laws can only be determined on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

9. Is it a violation of any federal civil rights law to require photo identification to purchase cigarettes?

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. Whether a particular law or policy violates federal civil rights laws can only be determined on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

10. Is it a violation of any federal civil rights law to require photo identification to open a bank account?

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. For example, banks that are required to have anti-money laundering compliance programs are required to have customer identification programs, which require them to develop procedures to "form a reasonable belief that it knows the true identity of each customer." 31 C.F.R. § 1020.220(a)(1, 2). Banks can rely on certain identity documents to fulfill this requirement. *See* 31 U.S.C. § 1020.220(a)(2)(ii)(A)(1). Whether a particular law or policy violates federal civil rights laws can only be determined on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

11. Is it a violation of any federal civil rights law to require photo identification to apply for food stamps?

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. Whether a particular law or policy violates federal civil rights laws can only be determined on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

12. Is it a violation of any federal civil rights law to require photo identification to apply for Medicaid?

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. For example, the Medicaid program requires applicants to demonstrate their citizenship/immigration status. *See* 42 U.S.C. § 1396b(X)(1, 3). Whether a particular law or policy violates federal civil rights laws can only be determined on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

13. Is it a violation of any federal civil rights law to require photo identification to apply for Social Security benefits?

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. Whether a particular law or policy violates federal civil rights laws can only be determined on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

14. Is it a violation of any federal civil rights law to require photo identification to apply for federal unemployment benefits?

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. Whether a particular law or policy violates federal civil rights laws can only be determined

on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

15. Is it a violation of any federal civil rights law to require photo identification to rent a house?

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. Whether a particular law or policy violates federal civil rights laws can only be determined on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

16. Is it a violation of any federal civil rights law to require photo identification to buy a house?

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. Whether a particular law or policy violates federal civil rights laws can only be determined on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

17. Is it a violation of any federal civil rights law to require photo identification to apply for a mortgage?

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. Whether a particular law or policy violates federal civil rights laws can only be determined on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

18. Is it a violation of any federal civil rights law to require photo identification to buy a car?

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. Whether a particular law or policy violates federal civil rights laws can only be determined on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

19. Is it a violation of any federal civil rights law to require photo identification to rent a car?

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. Whether a particular law or policy violates federal civil rights laws can only be determined on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

20. Is it a violation of any federal civil rights law to require photo identification to register a car?

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. Whether a particular law or policy violates federal civil rights laws can only be determined on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

21. Is it a violation of any federal civil rights law to require photo identification to receive a marriage certificate?

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. Whether a particular law or policy violates federal civil rights laws can only be determined on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

22. Is it a violation of any federal civil rights law to require photo identification to rent a hotel room?

.

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. Whether a particular law or policy violates federal civil rights laws can only be determined on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

23. Is it a violation of any federal civil rights law to require photo identification to visit a casino?

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. Whether a particular law or policy violates federal civil rights laws can only be determined on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

24. Is it a violation of any federal civil rights law to require photo identification to enlist in the military?

RESPONSE: There are many valid reasons to adopt a law or policy requiring a photo ID. Whether a particular law or policy violates federal civil rights laws can only be determined on a case-by-case basis after a review of the facts and the law, including but not limited to the reason the identification requirement was adopted, the nature of the right at stake, and whether it is consistently applied to all people.

25. Why did you tweet that "vote fraud is a myth and a LIE"? Tweet is located at https://twitter.com/KristenClarkeJD/status/1054179058601345025.

RESPONSE: In my experience running a non-partisan Election Protection hotline at the Lawyers' Committee for Civil Rights Under Law, I have found credible allegations of vote fraud to be exceedingly rare. Nevertheless, the Department of Justice should take seriously credible allegations of election crimes, including fraud. Such cases are typically prosecuted by the Criminal Division, which is under the purview of the Deputy Attorney General, and I would defer to the Deputy Attorney General in these matters.

26. Why did you tweet that *Masterpiece Cakeshop* Supreme Court decision "devastating" and "gravely unfortunate"? Tweet is located at https://twitter.com/KristenClarkeJD/status/1003642893662334976.

RESPONSE: I stated at the time that I thought the Supreme Court decision in *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, 138 S. Ct. 1719 (2018), missed an opportunity to discourage discrimination against people on the basis of their LGBT status. The Court's decision recognized the authority of states to "protect the rights and dignity of gay persons who are, or wish to be, married but who face discrimination when they seek goods or services," and also that all people have the right to the free exercise of religion. *Id.* at 1723. If confirmed, I will work with other Department leaders and with career staff to follow and enforce the law and Supreme Court precedents like *Masterpiece Cakeshop*.

27. Why did you tweet that the religious liberty organization Alliance Defending Freedom is an "anti-LGBTQ hate-group"? Tweet is located at https://twitter.com/KristenClarkeJD/status/1072168061581623301.

RESPONSE: I have used my platform as the leader of a national civil rights organization to bring attention to issues that I deem important to achieving equal justice for all people. In retrospect, I regret the tone I occasionally took. I welcome the opportunity, as President Biden and Judge Garland have emphasized, to turn down the volume and lower the temperature.

28. Did you ever write that "some parts of police budgets … should be eliminated immediately, like the federal '1033 program'"?

RESPONSE: The statement you reference was in an op-ed I wrote in *Newsweek* in June 2020. I wrote that article to make clear that I do not support defunding or abolishing the police. As a former federal prosecutor and state law enforcement official, and in my work at the Lawyers' Committee for Civil Rights Under Law, I have worked with the police throughout my career to successfully prosecute federal and state civil rights cases, and to develop policies to improve police practices. I am proud to have endorsements or the support of law enforcement organizations or representatives of the Major Cities Chiefs Association, National Association of Police Organizations, International Association of Chiefs of Police, National Organization of Black Law Enforcement Executives, National

Association of Women Law Enforcement Executives, Hispanic American Police Command Officers Association, Women in Federal Law Enforcement, and over 40 current and former police chiefs and sheriffs from across the country. I am also proud to be supported by numerous crime victim advocates and domestic violence organizations, as well as numerous former Justice Department officials and current and former State Attorneys General.
Through my work, I appreciate the challenges today's law enforcement officers face. I support finding strategies to ensure that law enforcement can carry out their jobs more safely and effectively, and channeling resources to emotional health treatment and other severely under-resourced areas. Furthermore, I support President Biden's commitment of $300 million to COPS to help ensure that police have more resources to do their jobs. With more resources, we can work to ensure that they can carry out their roles more effectively.

29. When did you write that "some parts of police budgets … should be eliminated immediately, like the federal '1033 program'"?

RESPONSE: Please see the response to Question 28.

30. Why did you write that "some parts of police budgets … should be eliminated immediately, like the federal '1033 program'"?

RESPONSE: Please see the response to Question 28.

31. Should federal, state and local law enforcement be denied access to riot gear available under the federal 1033 program?

RESPONSE: Please see the response to Question 28.

32. Why did you tweet "it's time to terminate money bail"? Tweet is located at https://twitter.com/KristenClarkeJD/status/1064970516417691648.

RESPONSE: I wrote that tweet in conjunction with a lawsuit filed by the Lawyers' Committee alleging certain for-profit bail bonds companies in the Baltimore area were operating without state licenses and collecting on illegal contracts. In the State of Maryland, companies that are unlicensed may neither enter into bail bond contracts nor engage in any bonding activities.

33. Have any individuals been murdered because a criminal was released without posting cash bail, as a result of the elimination of the money bail system?

RESPONSE: I am not aware of any cases where a person has been murdered by a person released without posting cash bail as a result of the elimination of a money bail system.

34. Do you believe money bail makes cities safer or more dangerous?

RESPONSE: The Lawyers' Committee has reviewed money bail practices of certain jurisdictions across the country, and has concluded that people of color and the poor disproportionately face the threat of incarceration as a result of pretrial practices that rely on money bail rather than individualized bail determinations. As a general matter, I do not believe that discriminatory practices promote the interests of justice or make communities safer.

35. What is the status of New York's program to end money bail?

RESPONSE: I understand that both New York City and New York State have engaged in years-long discussion around bail reform. However, I am not familiar with the scope of the current program or current reform efforts.

36. What was New York City's murder rate in 2020?

RESPONSE: The New York City Police Department reports there were 462 murders in New York City in 2020. *See* https://www1.nyc.gov/site/nypd/news/p0106a/overall-crime-new-york-city-reaches-record-low-2020.

37. Have you ever organized any events featuring any anti-Semitic speakers?

RESPONSE: I would never intentionally promote the views of an anti-Semite. Anti-Semitism is a hateful form of bigotry. I believe you are referring to when the Harvard Black Students Association, of which I served as president in 1994, accepted the offer from Wellesley College Professor Tony Martin to speak at the Harvard campus about The Bell Curve. I have publicly condemned anti-Semitism in any form, and have said I would not give someone like Professor Martin a platform again. I have worked throughout my professional career to combat religious discrimination and advance religious liberty.

38. How do you know Tamika Mallory?

RESPONSE: I have followed her advocacy work to promote the Women's March, gender equity, and to advance police reform.

39. Are you aware of any anti-Semitic statements Tamika Mallory has made?

RESPONSE: I am aware of allegations reported in the news. I denounce antisemitism.

40. What letters have you written in support of Tamika Mallory and what did those letters say?

RESPONSE: I have not written any letters of support of Mallory. I joined a petition with thousands of civil rights lawyers, faith leaders, community leaders, and activists regarding Mallory's work in connection with the Women's March and her work on women's rights,

and gender equity. The petition makes clear that all signatories were "denouncing racism, antisemitism, sexism, violence, and bigotry in any form in our nation."

41. What years did you work for New York Attorney General Eric Schneiderman?

RESPONSE: September 2011 to December 2015.

42. What were your duties as Chief of the Civil Rights Bureau in the New York State Attorney General's Office?

RESPONSE: As Chief of the Civil Rights Bureau at the New York State Attorney General's Office, I led and coordinated civil rights enforcement in the State of New York using federal, state, and local civil rights laws, such as the Voting Rights Act of 1965, the Fair Housing Act, Title VI, Title VII, the Americans with Disabilities Act, New York State Human Rights Law, and other landmark laws. I helped to direct investigations and prosecute discrimination cases on the basis of race, color, national origin, sex, marital status, sexual orientation, gender identity, religion, source of income and disability status. I worked with the New York State Police, New York State Sheriffs and other law enforcement officials in advancing the office's work. I also led a Religious Rights Unit which worked to promote religious liberty ad combat religious discrimination.

43. As Chief of the Civil Rights Bureau in the New York State Attorney General's Office, how often on a daily, weekly or monthly basis did you interact with New York Attorney General Schneiderman?

RESPONSE: I interacted with former Attorney General Schneiderman on a regular basis as my duties required. During my tenure at the Office of the State Attorney General, he was not my direct supervisor.

44. In 2018, four women came forward with accusations that New York Attorney General Schneiderman physically and emotionally abused them. Did you ever witness Mr. Schneiderman commit misconduct against his employees during your time as Chief of the Civil Rights Bureau?

RESPONSE: No.

45. In 2018, four women came forward with accusations that New York Attorney General Schneiderman physically and emotionally abused them. Did you ever witness Mr. Schneiderman commit the abuse that was alleged against these four individuals during your time as Chief of the Civil Rights Bureau?

RESPONSE: No.

46. Did you ever discourage any women from coming forward with accusations that New York Attorney General Schneiderman physically and emotionally abused them?

RESPONSE: No.

47. Did you ever discredit any women from coming forward with accusations that New York Attorney General Schneiderman physically and emotionally abused them?

RESPONSE: No.

48. Did you ever conceal any allegations that New York Attorney General Schneiderman physically or emotionally abused his employees?

RESPONSE: No.

49. Do you still stand by your tweet in support of New York Attorney General Schneiderman, stating "Thanks NY @AGSchneiderman for standing up for women and safe workplaces." Tweet is located here: https://twitter.com/KristenClarkeJD/status/922656991499169792.

RESPONSE: The New York State Attorney General Office's lawsuit against The Weinstein Company, Harvey Weinstein, and Robert Weinstein, was settled as part of an agreement that obtained $19 million for women who experienced sexual misconduct and workplace harassment. I believed at the time of that tweet and I believe now that the Office of the State Attorney General, including its prosecutors and state investigators, was right to follow the facts and law in this matter.

50. Multiple women who worked for New York Governor Andrew Cuomo have come forward with accusations of harassment and inappropriate behavior. Given such accusations, should Governor Cuomo resign?

RESPONSE: Generally speaking, I believe credible allegations of harassment and inappropriate behavior should be investigated by the appropriate authorities. I have not formed an opinion about the allegations against Governor Cuomo and understand that these allegations are currently being investigated by the Office of the State Attorney General.

Senator Dick Durbin
Chair, Senate Judiciary Committee
Written Questions for Kristen Clarke
Nominee to be Assistant Attorney General, Civil Rights Division
April 21, 2021

1. Throughout your career, you have worked with law enforcement at the federal, state, and local level in a number of different capacities, from working with agents to prosecute cases to partnering with law enforcement agencies to develop best practices to enhance their response to hate crimes.

   What have you learned through your working relationships with law enforcement over the years about the difficult challenges that we often ask the police to deal with?

RESPONSE: As a former federal prosecutor and chief civil rights enforcement officer for New York State, I have worked closely with federal and state law enforcement officials. I appreciate the challenges of their job and deem their role essential to thoroughly investigate and prosecute cases. There is tremendous common ground between the civil rights and law enforcement communities. Finding this common ground requires the willingness and ability to engage. In partnership with the International Association of Chiefs of Police, I developed protocols for strengthening law enforcement's response to hate crimes. Partnership and collaboration with law enforcement open the door for identifying solutions to some of the most difficult challenges that we face. I also appreciate that law enforcement officers are often asked to contend with societal problems that lie outside their core competencies. The decrease in resources for mental health treatment, for example, has led to an increase in the number of interactions that law enforcement has with people experiencing mental health issues. By confronting this problem directly and through an increase in resources, we can help improve public safety and help ensure that law enforcement can more effectively deploy their resources.

2. You have spent your entire career defending civil rights for all people, including defending religious liberty and combatting anti-Semitism.

   Can you elaborate on what work you have done during your legal career to get to know communities of faith and their needs and to defend religious liberty?

RESPONSE: I started off my career in the U.S. Department of Justice, spending much of that time as a federal prosecutor working to confront hate crimes and more. I know that the Church Arson Prevention Act, the Matthew Shepard and James Byrd Hate Crimes Prevention Act, the Fair Housing Act, and the Religious Land Use and Institutionalized Persons Act are just a few of the federal laws that help to address religious discrimination, including anti-Semitism. I have dedicated my career to confronting hate, bias and bigotry and deem anti-Semitism to be an ongoing threat that we face in society today.

During my time at the New York State Attorney General's Office, I led a Religious Rights Unit focused on promoting religious liberty and confronting religious discrimination. I

hosted roundtable meetings with faith leaders and other community leaders to understand their concerns and needs. I traveled across New York State for meetings that included faith leaders and community leaders to gain a deep, regional-based understanding of religious discrimination.

At the Lawyers' Committee, I have issued statements to stand in solidarity with other faith communities when their synagogues, mosques or houses of worship were attacked or desecrated, and called for investigations into these matters to ensure that these incidents were not ignored.

Given recent FBI data making clear that hate and extremism are significant problems in our country, I have explored ways to expand our work at the Lawyers' Committee to address hate, including religious bigotry. In the course of this work, we have helped to fight anti-Semitism and bigotry by holding accountable neo-Nazi groups such as the Daily Stormer and Stormfront through litigation and other legal advocacy.

I believe that engagement with communities of faith is critical to understanding where the starkest problems lie when it comes to religious discrimination, and bigotry. If confirmed, I hope to continue work to help address the needs of faith communities across our nation.

3. Currently, our country is facing several serious threats to civil rights, many of which were unaddressed or exacerbated by the Trump administration. For example, there is a troubling rise in hate crimes generally—and against the AAPI community in particular—and several states are implementing voting rights restrictions that will disproportionately disenfranchise communities of color, the elderly, service members, and others.

   These issues all fall within the jurisdiction of the Justice Department's Civil Rights Division. How has your career prepared you to effectively lead the Civil Rights Division from Day One in confronting these challenges?

RESPONSE: I have spent the majority of my career working in government, at the federal and state levels. I have also spent significant time working in the 501(c)3 non-partisan sector. These unique roles have allowed me to touch virtually every aspect of the Civil Rights Division's work. I believe that my professional record will allow me to effectively lead the Division on Day One, with the support provided by the Division's career attorneys and other professional staff.

I understand the threat that hate crimes pose to the fabric of our nation. These are crimes that target particular individuals on the basis of race, religion, national origin, LGBTQ status and more. These crimes are also unique in that they have broad reverberating effects across communities. Both President Biden and Attorney General Garland have identified the threat posed by hate crimes and I look forward to, if confirmed, working to ensure that the Civil Rights Division is working alongside other components inside the Justice Department to confront the growing threat of hate and extremism in our country.

I also have extensive experience enforcing federal voting rights laws such as the Voting Rights Act, the National Voter Registration Act, the Uniformed and Overseas Citizens Absentee Voting Act and more. I look forward to using these laws, passed by Congress with significant bi-partisan support, to help ensure that eligible Americans have access to the ballot, particularly in the wake of growing threats to ballot access in the country.

4. As the President and Executive Director of the Lawyers' Committee for Civil Rights Under Law, you have used your platform to highlight civil rights violations and call for thorough investigations of such violations.

   Can you elaborate on what role you believe civil rights organizations play in ensuring state actors perform their constitutional and statutory duties in protecting and defending civil rights? How does that role differ from the one you will take on as Assistant Attorney General for the Civil Rights Division?

RESPONSE: As the president and executive director of the Lawyers' Committee for Civil Rights Under Law, I have partnered with corporate law firms and general counsels across the country to help enforce our civil rights laws. I have also used that platform to call for action from federal, state and local law enforcement officials when there are allegations of potential violations of law. For example, I have worked with hate crime survivors and their families and leveraged the Lawyers' Committee's platform to ensure that their voices are heard and to ensure that their requests for reform are not ignored. Our efforts to call for investigations have helped to ensure that crime victims are heard, that allegations are investigated, and that difficult issues are closely examined and addressed.

As someone who has spent the majority of her career working for government, I fully appreciate that the Assistant Attorney General position is a different role. Government officials have unique tools to investigate allegations. While members of the public may call for action, the Department of Justice can and must only take enforcement action after a complete and thorough investigation that uncovers a violation, and when necessary to preserve the interests of the United States.

Questions for the Record for Senator Thom Tillis
for Kristen Clarke

1. You said religion is often used as a "pretext"; either to discriminate or to ignore COVID restrictions. Following the Supreme Court's order blocking New York's emergency COVID restrictions on houses of worship, Ms. Clarke tweeted, "This is a newly configured Supreme Court, one w/ Justice who place religious freedom above ALL else even in the context of a deadly pandemic."

    a. What did you mean that religion is a pretext to discriminate or ignore COVID restrictions.
    b. If confirmed you will have oversight of the DOJ division responsible for protecting individuals' religious liberties, how can they trust you to do this given your previous statements?

RESPONSE: As I testified, my focus commenting on that case was about how we protect lives amid a deadly pandemic. Religious discrimination is always wrong and it is something that I have fought throughout my career. I have extensive experience fighting to protect religious liberty. If I am confirmed, I will continue to stand up for religious liberty and fight religious discrimination, and I will follow relevant laws and Supreme Court precedents.

2. You wrote an opinion piece titled "I Prosecuted Police Killings. Defund the Police – But Be Strategic." You acknowledged that defund the police can mean different things to different people.
    a. What does defund the police mean to you?

RESPONSE: I do not support defunding or abolishing the police. As a former federal prosecutor and state law enforcement official, and in my work at the Lawyers' Committee for Civil Rights Under Law, I have worked with the police throughout my career to successfully prosecute federal and state civil rights cases, and to develop policies to improve police practices. I am proud to have endorsements or the support of law enforcement organizations or representatives of the Major Cities Chiefs Association, National Association of Police Organizations, International Association of Chiefs of Police, National Organization of Black Law Enforcement Executives, National Association of Women Law Enforcement Executives, Hispanic American Police Command Officers Association, Women in Federal Law Enforcement, and over 40 current and former police chiefs and sheriffs from across the country. I am also proud to be supported by numerous crime victim advocates and domestic violence organizations, as well as numerous former Justice Department officials and current and former State Attorneys General.

Through my work, I appreciate the challenges today's law enforcement officers face. I support finding strategies to ensure that law enforcement can carry out their jobs more safely and effectively, and channeling resources to emotional health treatment and other severely under-resourced areas. Furthermore, I support President Biden's commitment of

$300 million to COPS to help ensure that police have more resources to do their jobs. With more resources, we can work to ensure that they can carry out their roles more effectively.

3. One thing you suggested is that the Federal government could refuse to provide funding to some police departments with a long and ongoing history of racial disparities.

    a. Given your extensive experience, what departments do you think specifically the federal government should refuse to provide funding to right now?

    b. Do you oppose any other unions or just police unions? Why or why not?

RESPONSE: The Department of Justice's decisions concerning investigations and prosecutions, including whether a recipient of federal assistance is found to have discriminated, must be based on a careful review of the relevant facts and laws, and must be made in consultation with other Department leaders and career lawyers. Throughout my career I have worked hard to follow the facts and the law, and I will bring that commitment to the Civil Rights Division if confirmed. I will ensure enforcement matters are based solely on fair and careful application of the law to the facts.

I do not oppose police unions or unions generally. I have discussed particular aspects of some collective bargaining agreements that may inhibit reform.

4. In another opinion piece you wrote that police unions are part of the problem when it comes to police reform.

    You wrote: "For too long, powerful police unions have prioritized officers' job security above all other interests. While many rightfully support the labor movement, especially in low-income job sectors that are rife with racial and gender discrimination, more Americans need to recognize that police officers are not like other workers. They embodythe state's power to arrest, jail and even kill civilians. We must hold police to a higher standard. Instead, we have almost no consistent standards at all, thanks in large part to thepolitical power of police unions."

    a. Can you provide specific examples of police unions prioritizing job security over all other interests?
    b. Which police unions specifically have placed job security above all else?
    c. Do you feel like this is unique to police unions or do you believe all unions place their members job security above all else?

RESPONSE: As a former federal prosecutor and state law enforcement official, and in my work at the Lawyers' Committee for Civil Rights Under Law, I have worked with the police throughout my career to successfully prosecute federal and state civil rights cases, and to develop policies to improve police practices. There is tremendous common ground between the civil rights and law enforcement communities. Finding this common ground requires the willingness and ability to engage with the law enforcement community, including with police unions. Our nation has been engaged in robust dialogue around policing reform. I have discussed aspects of some collective bargaining agreements that

may inhibit reform.

5. As the economy re-opens following the pandemic, it is anticipated that the number of Title III ADA lawsuits will once again increase. While ADA lawsuits declined in 2020 as compared to 2019, there have already been a record number of ADA cases filed during January of this year. One law firm that tracks ADA litigation trends has noted that "[i]n January 2021, 1,108 cases were filed – *the most ever in a single month*…." The non-partisan Judicial Conference noted in 2018 that "ADA lawsuits have grown so dramatically in recent years that ADA cases accounted for 10,773 filings, which amounted to 4 percent of the total civil docket and 27 percent of civil rights cases."

   If confirmed, what specific steps will you take reduce the proliferation of Title III ADA litigation?

RESPONSE: In enacting Title III of the Americans with Disabilities Act, Congress sought to address persistent discrimination against individuals with disabilities in public accommodations and authorized both the Attorney General and private litigants to file enforcement actions. If confirmed, I would work with the Department's career attorneys and subject matter experts to ensure that federal resources are being used appropriately to address the most serious violations.

6. I've heard from many small business owners who complain that Title III ADA lawsuits are often so vague that defendants are unable to identify an alleged violation and therefore unable to remedy such violations.
   a. What steps will you take to address these concerns?

   b. Do you agree that specificity in Title III ADA lawsuits is beneficial to all individuals to ensure violations are corrected?

   c. Would you support an effort by the courts or Congress to require that private Title III ADA lawsuits provide greater detail, such as would be required under Rule 9(b) of the Federal Rules of Civil Procedure?

RESPONSE: All complaints filed in federal courts by the Department of Justice should be clear, are subject to the requirements of the Federal Rules of Civil Procedure, as well as the applicable Supreme Court precedent on pleading standards, and are subject to dismissal, and possibly sanctions, if these requirements are not met. If confirmed, I will work to ensure that complaints filed by the Civil Rights Division satisfy all applicable court rules, laws and precedent and meet the high standards expected of the Department of Justice. It is my understanding that the Justice Department through its Office of Legislative Affairs often provides technical assistance on proposed legislation. If confirmed, I would be happy to work through the proper Department channels to provide feedback on any legislative proposals.

7. Recently, the 11th Circuit Court of Appeals, in conflict with the 9th Circuit Court of Appeals, ruled that websites are not covered by Title III of the ADA. Could you provide

your legal analysis for whether websites are "places of public accommodation" under Title III of the ADA? This circuit split highlights the uncertainty business owners face regarding the ADA and websites.

a. Are websites places of public accommodation and therefore covered by the ADA?

b. If confirmed, what steps will you take to provide clarity and guidance to employers so they know what standards, if any, they must meet and therefore benefit individuals covered by the ADA.

RESPONSE: As you note, this is a complicated and emerging area of the law. Any determination whether a website is a public accommodation must be based on a careful examination of the facts, law, and precedent. In general, it is important for people to understand their rights and for covered entities to understand their obligations under the law. If confirmed, I would work closely with career officials in the Justice Department and community stakeholders, including small businesses and others in the business community, to consider whether any Department action is necessary in this area and, if so, to develop an appropriate response, and I would welcome the opportunity to work with your office on this issue.

Senator Cotton: Nomination of Kristen M. Clarke to be an Assistant Attorney General of the United States Questions for the Record
Submitted April 21, 2021

QUESTIONS FROM SENATOR COTTON

1. Since becoming a legal adult, have you ever been arrested for or accused of committing ahate crime against any person?

RESPONSE: No.

2. Since becoming a legal adult, have you ever been arrested for or accused of committing a violent crime against any person?

RESPONSE: No.

3. You stated during your hearing that you were "proud" to have the endorsement of the National Association of Police Organizations for your nomination. Please provide a copyof that endorsement letter or any press releases issued by the National Association of Police Organizations announcing their endorsement of your nomination.

RESPONSE: Upon reviewing my hearing transcript I observed that I incorrectly stated that the National Association of Police Organizations (NAPO) was among the law enforcement groups that have endorsed my nomination to be Assistant Attorney General for the Civil Rights Division. I have spoken with NAPO leadership and NAPO President Bill Johnson several times since my nomination, and we have committed to maintaining open lines of communication and honest and timely dialogue on the shared issues we face. I appreciate that in NAPO's January 22, 2021, newsletter, the organization stated that it looked forward to working with me, if I am confirmed, "to protect the rights of officers and ensure our state and local law enforcement have the support and resources necessary to serve and protect our communities." In addition to this organization statement, NAPO Executive Director Bill Johnson has stated that "[w]e both realize that we may not always agree with each other on every issue, but at the same time I believe we share a common goal of fair, effective, ethical and safe law enforcement." https://www.ny1.com/nyc/all-boroughs/news/2021/03/11/police-groups-endorse-kristen-clarke-civil-rights

I am pleased to reaffirm here my commitment to open lines of communication with NAPO and all other law enforcement organizations.

4. Approximately 20,000 people were murdered in the United States in 2020. That represents a 25% increase over 2019, and the highest number of overall murders since the1990s. According to the FBI, approximately two out of every five murders in the United States are never even cleared by an arrest. That means that, in 2020 alone, the families of approximately

8,000 murder victims will never get justice for their murdered loved ones. Would it be better for us to find, arrest, prosecute, and incarcerate those 8,000 murderers,or to let them go free?

RESPONSE: None of us wants murderers to go free. The Justice Department plays an important role in prosecuting crimes and protecting victims of crime, including and especially victims of violent crime. If I am confirmed as Assistant Attorney General, I will vigorously enforce the laws of the United States that are within the Civil Rights Division's jurisdiction.

5. Does the Constitution allow the federal government to treat any Americans differentlythan others based on the color of their skin?

RESPONSE: If I am confirmed as Assistant Attorney General of the Civil Rights Division, I will work to ensure the Division abides by the laws and Constitution, including those laws and constitutional provisions that concern unlawful discrimination on the basis of race. What the Constitution allows in a particular case depends on the constitutional provision, facts, and circumstances.

6. Are civil rights guaranteed to all Americans, or only specific sub-sets of Americans?

RESPONSE: Civil rights are guaranteed to all Americans.

7. Is the right to due process a civil right?

RESPONSE: The Due Process Clause of the Fourteenth Amendment states "nor shall any State deprive any person of life, liberty, or property, without due process of law." The right to due process is a constitutional right.

8. Is the right to a fair and impartial trial for those accused of committing a crime a civilright?

RESPONSE: The Sixth Amendment guarantees, among other things, that "the accused shall enjoy the right to a speedy and public trial, by an impartial jury…."

9. Is the right to peaceably assemble and protest a civil right?

RESPONSE: The First Amendment guarantees the right to assemble in peaceful demonstration and protest.

10. Is rioting a civil right?

RESPONSE: The First Amendment protects the exercise of peaceful demonstration and protest.

11. Is looting a civil right?

RESPONSE: The First Amendment protects speech and other expressive activities. It does not protect property damage.

12. Is religious liberty a civil right?

RESPONSE: The First Amendment states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof…"

13. Is the right to keep and bear arms under the Second Amendment a civil right?

RESPONSE: In *District of Columbia v. Heller*, 554 U.S. 570 (2008), the Supreme Court held that the Second Amendment protects "an individual right to keep and bear arms." *Id.* at 595.

14. Do illegal aliens have a civil right to come to the United States?

RESPONSE: Immigration laws govern whether and to what extent immigrants may enter and remain in the United States. However, criminal enforcement of immigration-related offenses and deportations will not be within my direct purview. If confirmed, it will be my mandate to follow and enforce all federal laws related to this issue.

15. Should any eligible voter in the United States ever face voting discrimination based ontheir race?

RESPONSE: No.

16. Should the Department of Justice enforce voting rights laws whenever there is racial discrimination, or only when the discrimination targets voters of a particular racial group?

RESPONSE: No eligible voter should face discrimination based on their race, regardless of the racial group(s) with which they identify. Discrimination has no place in our society. President Biden has made clear that, under his Administration, the federal government should work to affirmatively advance civil rights. I share his commitment.

17. Are you proud of your work at the "Lawyers' Committee for Civil Rights Under Law"?

RESPONSE: Yes, and I am proud and grateful for the thousands of volunteer lawyers, both Republican and Democratic, in law firms around the country who have worked hard since the Lawyers' Committee's founding in 1963 to vindicate rights guaranteed by the United States Constitution through their pro bono support.

18. In your current role at the "Lawyers' Committee for Civil Rights Under Law," do you represent that organization to the public?

RESPONSE: Since becoming President and Executive Director of the organization in

2016, I have frequently represented the Lawyers' Committee to the public. I did step back from an active role at the Lawyers' Committee after my nomination was announced by the then-President-elect.

19. Is part of your current role at the "Lawyers' Committee for Civil Rights Under Law" to make public statements on behalf of the organization?

RESPONSE: Since becoming President of the organization in 2016, I have frequently spoken to the public on behalf of the Lawyers' Committee. I did step back from an active role at the Lawyers' Committee after my nomination was announced by the then-President-elect.

20. You have had an active social media presence for years. If part of your current role at the "Lawyers' Committee for Civil Rights Under Law" is to make public statements on behalf of the organization, are posts on those social media networks sometimes part of your work?

RESPONSE: Yes, these statements are sometimes part of my work. When I speak on behalf of the organization, this can be in a variety of forms, including social media statements made via the Lawyers' Committee account and my work-related account.

21. Please identify any positions for which you have advocated on behalf of the "Lawyers' Committee for Civil Rights Under Law" with which you do not personally agree.

RESPONSE: I have approached my work at the Lawyers' Committee for Civil Rights Under Law with a commitment to ensuring the rule of law and equal justice under law. Our cases are undertaken only after careful examination of the facts and relevant law.

22. You have made some highly inflammatory posts on social media, including baseless, personal attacks against me and other senators. In March, after a news article pointed outthat you had called Senator Murkowski "disgraceful" and accused Senator Manchin of "hollow words" when he praised Martin Luther King, you set your Twitter account to "private," cutting off the public and the news media from being able to review your past public statements. I understand that you have since given select members of the Senate access to continue viewing your past public statements, but you have cut off media and public access. Why did you change your Twitter account to "private" following the publication of that article?

RESPONSE: In March 2021, following a media story that inaccurately portrayed my record, I received death threats through my public Twitter account. In addition to flagging those messages for Twitter as possible violations of the platform's terms of service, and after consultation with the Department of Justice, I decided to change my Twitter account to private for the safety of me and my family. To ensure members of the Senate Judiciary Committee still could review my social media posts in preparation for my confirmation

hearing, I offered to grant access to my account to majority and minority committee staff. I complied with these requests diligently. My understanding is staff on both sides took up that offer.

23. You have made some highly inflammatory posts on social media, including baseless, personal attacks against me and other senators. In March, after a news article pointed out that you had called Senator Murkowski "disgraceful" and accused Senator Manchin of "hollow words" when he praised Martin Luther King, you set your Twitter account to "private," cutting off the public and the news media from being able to review your past public statements. I understand that you have since given select members of the Senate access to continue viewing your past public statements, but you have cut off media and public access. Did anyone in the Biden administration or the Biden transition team advise you to set your Twitter account to "private"? Please identify any such individual, along with when they advised you to set your Twitter account to "private."

RESPONSE: Please see response to Question 22.

24. You have made some highly inflammatory posts on social media, including baseless, personal attacks against me and other senators. In March, after a news article pointed out that you had called Senator Murkowski "disgraceful" and accused Senator Manchin of "hollow words" when he praised Martin Luther King, Jr., you set your Twitter account to "private," cutting off the public and the news media from being able to review your past public statements. I understand that you have since given select members of the Senate access to continue viewing your past public statements, but you have cut off media and public access. Do you still believe that Senator Murkowski is "disgraceful"?

RESPONSE: I have used my platform as the leader of a national civil rights organization to bring attention to legal and policy issues that I deem important to achieving equal justice for all. In retrospect, I regret the tone I occasionally took. I welcome the opportunity, as President Biden and Judge Garland have emphasized, to turn down the volume and lower the temperature.

25. You have made some highly inflammatory posts on social media, including baseless, personal attacks against me and other senators. In March, after a news article pointed out that you had called Senator Murkowski "disgraceful" and accused Senator Manchin of "hollow words" when he praised Martin Luther King, you set your Twitter account to "private," cutting off the public and the news media from being able to review your past public statements. I understand that you have since given select members of the Senate access to continue viewing your past public statements, but you have cut off media and public access. Do you still believe that Senator Manchin's praise for Martin Luther King,Jr. was nothing more than "hollow words"?

RESPONSE: Please see response to Question 24.

26. On August 28, 2020, you tweeted that more than 200 judges appointed by President Trump and confirmed by the United States Senate are "primarily white male extremists."Which judges, specifically, were you accusing of being "white male extremists"?

RESPONSE: Please see response to Question 24.

27. During your hearing, you were asked about your 2020 op-ed in *Newsweek*, where you advocated for defunding the police. That op-ed was entitled, "*I Prosecuted Police Killings. Defund the Police—But Be Strategic*." When asked about it during your hearing,you responded that you did not actually mean "defund the police" when you said "defundthe police." You further claimed that the title of the op-ed was not your own, but "a poor title chosen by the editor." When you submitted the piece for consideration by *Newsweek*,what title did you suggest?

RESPONSE: I do not recall whether I spoke with the editor about a title for the piece. I have developed the practice of being deferential to editors on title selection. As I testified, I do not believe the title aligns well with what I wrote.

28. During your hearing, you were asked about your 2020 op-ed in *Newsweek*, where you advocated for defunding the police. That op-ed was entitled, "*I Prosecuted Police Killings. Defund the Police—But Be Strategic*." When asked about it during your hearing,you responded that you did not actually mean "defund the police" when you said "defundthe police." You further claimed that the title of the op-ed was not your own, but "a poor title chosen by the editor." When the editor chose that title, did you object or suggest alternatives?

RESPONSE: Please see response to Question 27.

29. During your hearing, you were asked about your 2020 op-ed in *Newsweek*, where you advocated for defunding the police. That op-ed was entitled, "*I Prosecuted Police Killings. Defund the Police—But Be Strategic*." When asked about it during your hearing,you responded that you did not actually mean "defund the police" when you said "defundthe police." You further claimed that the op-ed was written "without the power of the purse string," suggesting that your position might be different if you actually had the power to defund the police. What other positions that you have taken throughout the past five years are ones that you would no longer hold if given the power to enact those positions?

RESPONSE: I do not support defunding the police. As a former federal prosecutor and state law enforcement official, and in my work at the Lawyers' Committee for Civil Rights

Under Law, I have worked with the police throughout my career to successfully prosecute federal and state civil rights cases, and to develop policies to improve police practices. I am proud to have endorsements or the support of law enforcement organizations and representatives of the Major Cities Chiefs Association, National Association of Police Organizations, International Association of Chiefs of Police, National Organization of Black Law Enforcement Executives, National Association of Women Law Enforcement Executives, Hispanic American Police Command Officers Association, and over 40 police chiefs from across the country.

Through my work, I appreciate the challenges today's law enforcement officers face. I support finding strategies to ensure that law enforcement can carry out their jobs more safely and effectively and channeling resources to emotional health treatment and other severely under-resourced areas. Furthermore, I support President Biden's commitment to allocate $300 million to COPS to help ensure that police have more resources to do their jobs. With more resources, we can work to ensure that they can carry out their roles more effectively while also channeling new resources to areas that can help address some of the burdens that law enforcement face.

30. During your hearing, you were asked about your 2020 op-ed in *Newsweek*, where you advocated for defunding the police. That op-ed was entitled, "*I Prosecuted Police Killings. Defund the Police—But Be Strategic*." When asked about it during your hearing,you responded that you did not actually mean "defund the police" when you said "defundthe police." In the piece, you wrote the phrase, "We must invest less in police" three separate times. Do you still believe that we "must invest less in police" today? If not, when did your position change?

RESPONSE: See response to Question 29

31. During your hearing, you were asked about your 2020 op-ed in *Newsweek*, where you advocated for defunding the police. That op-ed was entitled, "*I Prosecuted Police Killings. Defund the Police—But Be Strategic*." When asked about it during your hearing,you responded that you did not actually mean "defund the police" when you said "defundthe police." Your op-ed referred to riot gear as "weapons of war." Do you believe that police officers facing down violent mobs and rioters should not be allowed to use riot gear such as helmets and shields?

RESPONSE: See response to Question 29

32. During your hearing, you were asked about your involvement in organizing a conference that celebrated cop-killers such as Mumia Abu-Jamal. You responded that you were merely providing "logistical support" for the conference and that you worked on a "range" of conferences and events. Before this event, were you aware of the positions that the speakers you were inviting would present?

RESPONSE: The conference you reference, which took place in 1999, was focused broadly on criminal justice issues and sponsored by the Institute for Research in African American Students at Columbia University, where I was employed as a work study student and research assistant. I am sure I was generally aware of the topics that would be addressed at the conference through my role as a work study student, but I cannot recall today what I may have known about the specific positions that each speaker would present at the conference.

33. During your hearing, you were asked about your involvement in organizing a conference that celebrated cop-killers such as Mumia Abu-Jamal. You responded that you were merely providing "logistical support" for the conference and that you worked on a "range" of conferences and events. Did you express any disagreement with the speakers at the conference calling convicted killers "political prisoners"?

RESPONSE: The conference you reference, which took place in 1999, was sponsored by the Institute for Research in African American Students at Columbia University, where I was employed as a work study student and research assistant. Dr. Manning Marable, in his capacity as Director of the Institute, was the conference organizer. I did not have a speaking or other substantive role at the conference.

34. During your hearing, you were asked about your involvement in organizing a conference that celebrated cop-killers such as Mumia Abu-Jamal. You responded that you were merely providing "logistical support" for the conference and that you worked on a "range" of conferences and events. The news reports about this conference also mention a"march" on behalf of Mumia Abu-Jamal that was scheduled to take place the day after the conference. Did you attend that event?

RESPONSE: No.

35. During your hearing, you were asked by Senator Cornyn about a deeply offensive piece that you wrote while at Harvard, in which you listed racist theories that African Americans are genetically superior to other races, and you wrote in the piece that you included those theories to "assist [students] in [their] search for truth regarding the genetic differences between Blacks and whites." You claimed, in response to Senator Cornyn's question, that you had always meant that piece as "satire," not as a serious post.You also claimed that "contemporaneous" reporting "from that time, from that day" make that clear. Please provide a copy of each contemporaneous article that you claim shows you meant the piece as "satire."

RESPONSE: Please see articles below:
https://www.thecrimson.com/article/1994/10/28/book-sparks-campus-debate-pmental-

physical/

https://www.thecrimson.com/article/1994/11/7/call-for-retraction-not-professional-pi/

36. During your hearing, you were asked by Senator Cornyn about a deeply offensive piece that you wrote while at Harvard, in which you listed racist theories that African Americans are genetically superior to other races, and you wrote in the piece that you included those theories to "assist [students] in [their] search for truth regarding the genetic differences between Blacks and whites." You claimed, in response to Senator Cornyn's question, that you had always meant that piece as "satire," not as a serious post.You also claimed that "contemporaneous" reporting "from that time, from that day" make that clear. Yet, just a few weeks after writing that initial piece, in response to outcryon Harvard's campus about the initial piece and calls to retract it, you published another piece on November 8, 1994. In that November 8 piece, you wrote, "I refuse to retract my statements nor bow to the paternalistic style of journalism that The Crimson endorses." Ifyour original piece was "satire," why did you "refuse to retract" it?

RESPONSE: My letter to the editor was meant to hold a mirror up to absurd views of racial superiority, no matter what race they seek to define. The letter sought to condemn The Crimson's failure to attack and denounce the racist theory underlying The Bell Curve.

37. During your hearing, you were asked by Senator Cornyn about a deeply offensive piece that you wrote while at Harvard, in which you listed racist theories that African Americans are genetically superior to other races, and you wrote in the piece that you included those theories to "assist [students] in [their] search for truth regarding the genetic differences between Blacks and whites." You claimed, in response to Senator Cornyn's question, that you had always meant that piece as "satire," not as a serious post.You also claimed that "contemporaneous" reporting "from that time, from that day" make that clear. Yet, just a few weeks after writing that initial piece, in response to outcryon Harvard's campus about the initial piece and calls to retract it, you published another piece on November 8, 1994. In that November 8 piece, you never mentioned that the piece was "satire." If your original piece was intended as "satire," why did you never characterize it as such when defending it at the time?

RESPONSE: I made clear those were not my actual views, as reported in a news article in The Crimson at the time, and commented on by a Jewish student leader, Mr. Kaunfer, in his own letter at the time: "Clarke...said those views are not offered as her own." ***See*** **https://www.thecrimson.com/article/1994/11/7/call-for-retraction-not-professional-pi/**

38. During your hearing, you were asked by Senator Cornyn about a deeply offensive piece that you wrote while at Harvard, in which you listed racist theories that African Americans are genetically superior to other races, and you wrote in the piece that you included those

theories to "assist [students] in [their] search for truth regarding the genetic differences between Blacks and whites." You claimed, in response to Senator Cornyn's question, that you had always meant that piece as "satire," not as a serious post.You also claimed that "contemporaneous" reporting "from that time, from that day" make that clear. Yet, just a few weeks after writing that initial piece, in response to outcry on Harvard's campus about the initial piece and calls to retract it, you published another piece on November 8, 1994. In that November 8 piece, not only did you fail to refer to your original piece as "satire," but you also stated only that "the information [in the original piece] is not necessarily something we believe." You did not, however, confirm or deny whether you believed the information in your original piece. Have you ever believed in or agreed with the positions you wrote in your original piece, which you now claim was "satire"?

RESPONSE: No.

39. On what date did you first discuss with the Biden campaign or transition team the possibility that you could be nominated to the position of Assistant Attorney General?

RESPONSE: I was approached in mid-December about potential service inside the U.S. Department of Justice.

40. On what date did the Biden campaign or transition team inform you that President Biden would nominate you to the position of Assistant Attorney General?

RESPONSE: I received a formal offer from President-elect Biden in early January.

41. Please describe with particularity the process by which you answered these questions and the written questions of the other members of the Committee.

RESPONSE: I received questions for the record from members of the Senate Judiciary Committee on April 21, 2021. To answer these questions, I consulted with Department attorneys, conducted my own research, conferred with colleagues to refresh my recollection of certain matters, and for certain questions conferred with counsel for the Lawyers' Committee for Civil Rights Under Law. After answering the questions, I authorized their transmission to the Senate Judiciary Committee on April 26, 2021.

42. Did any other individual write or draft your answers to these questions or the written questions of the other members of the Committee? If so, please list each such individual that wrote or drafted your answers. If the individuals are government officials, please also identify the department or agency with which they are employed.

RESPONSE: Please see my response to question 41.

Senator Grassley, Ranking Member
Questions for the Record
Kristen Clarke
Nominee to be United States Assistant Attorney General, Civil Rights Division

1. I know for this nomination process you will enter into an ethics agreement through DOJ's ethics officials.
    a. Can you give me the status of that agreement or how those discussions have gone?
    b. In your current role, your name has been on many briefs before the Supreme Court and courts of appeal. Can you at least pledge today that you will recuse yourself from cases/policies involving issues you have taken a position on in a brief?

RESPONSE: I submitted my ethics agreement to the Department of Justice on March 9, 2021. I deem adherence to government ethics rules and requirements to be critical to ensuring fairness and impartiality in the administration of justice. If confirmed to lead the Civil Rights Division, I will consult the Department of Justice's career ethics officials about recusal issues and seek their guidance and input when appropriate. I will abide by applicable rules, policies, and practices.

2. Last week you provided an update to your Questionnaire to the Committee that you were also a registered lobbyist for the NAACP during your time there.
    a. Can you explain to me why that was not initially disclosed on your Questionnaire?
    b. Can you tell me all the specific issues you have lobbied on and to whom?
    c. Will you commit to recusing yourself from issues you lobbied on while at the NAACP?

RESPONSE: At the time I submitted my Senate Judiciary Committee questionnaire I was not aware that I has been listed as a lobbyist by my employer, the NAACP Legal Defense and Educational Fund, where I worked from 2006 to 2010. When it was brought to my attention that I had been listed, I supplemented my Questionnaire. The forms indicate the topics on which NAACP LDF lobbied included voting rights, criminal justice reform, immigration reform, fair pay, and nominations. To the best of my recollection, any lobbying I may have done during that period was a de minimis part of my job. If confirmed to lead the Civil Rights Division, I will consult the Department of Justice's career ethics officials about recusal issues and seek their guidance and input when appropriate. I will abide by applicable rules, policies, and practices.

3. In your Questionnaire you said you were a member of the Leadership Conference's Voting Rights Task Force from approximately 2006 to 2011. However, as recently as January 19, 2021, your name was listed on the letterhead of advocacy letters sent out by the Leadership Conference as a member of the Board of Directors.[1]
    a. Have you been a member of the Leadership Conference's Board of Directors?
    b. If so, can you explain why you didn't list your participation as a member of the Leadership Conference's Board of Directors on your Questionnaire?
    c. If so, how long were you on the Board of Directors of the Leadership Conference?

[1] http://civilrightsdocs.info/pdf/policy/letters/2020/Sign_on_Letter_in_Support_of_HR1_1_19_21.pdf

d. Have you been a member of any other groups you didn't include in the Questionnaire? Please list any that you omitted from your Questionnaire.
e. Will you commit to recusing yourself from issues the Leadership Conference advocated for with your name on its letterhead?

RESPONSE: I have been a member of the board of the Leadership Conference since 2016. I neglected to note my membership on the Board; however, I did include all statements of the Leadership Conference where I served as a signatory in my Questionnaire. This was not a knowing or intentional omission. I am not aware of any other omissions from the Questionnaire. If confirmed to lead the Civil Rights Division, I will consult the Department of Justice's career ethics officials about recusal issues and seek their guidance and input when appropriate. I will also abide by applicable rules, policies, and practices.

4. During your hearing Senator Blackburn asked you about a characterization you made about the Alliance Defending Freedom (ADF). You said you could not recall the context of your comment. This is the tweet from December 10, 2018:



a. Now that your memory is refreshed, do you stand by your characterization of ADF as an "anti-LGBTQ hate group?"
b. Why did you describe The Liberty University School of Law as a "fundamentalist Christian school"?

c. How do you define the "Religious Right?" What would America look like if it was "remade in the Religious Right's image?"

RESPONSE: I have used my platform as the leader of a national civil rights organization to bring attention to issues that are important to achieving equal justice for all. In retrospect, I regret the tone I occasionally took. I welcome the opportunity, as President Biden and Judge Garland have emphasized, to turn down the volume and lower the temperature.

5. Does having attended a "fundamentalist Christian" law school affect someone's fitness to serve in the Justice Department?

RESPONSE: No. Like Attorney General Garland, if confirmed, I would assess any candidate's fitness for a role in the Department on an individual basis, with the goal of hiring those who are capable and committed to carrying out the Department's mission. If confirmed, I will make personnel decisions within my purview consistent with federal law, including the civil service laws, and with Departmental policies.

6. Should you be confirmed, would otherwise-qualified graduates of "Jerry Falwell's law school" be eligible for employment in the Civil Rights Division?

RESPONSE: Yes. Like Attorney General Garland, if confirmed, I would assess any candidate's fitness for a role in the Department on an individual basis, with the goal of hiring those who are capable and committed to carrying out the Department's mission. If confirmed, I will make personnel decisions within my purview consistent with federal law, including the civil service laws, and with Departmental policies.

7. What affirmative action, if any, do you intend to take to make sure that graduates of Christian schools feel welcome in the Civil Rights Division hiring process given what seems to be your previous criticism of the Justice Department hiring a Liberty University graduate?

RESPONSE: Decisions about hiring or the placement of career personnel should not be made on the basis of an ideological litmus test—but on other factors, such as relevant experience. Like Attorney General Garland, if confirmed, I would assess any candidate's fitness for a role in the Department on an individual basis, with the goal of hiring those who are capable and committed to carrying out the Department's mission. If confirmed, I will make personnel decisions within my purview consistent with federal law, including the civil service laws, and with Departmental policies.

8. In your tweet, you invite your followers to "Meet Kerri Kupec" and linked to an article by the Daily Kos. Please review that article.[2]
   a. Have you yourself ever met Kerri Kupec?

---

[2] Jessica Sutherland, *New DOJ Hire has Jerry Falwell-signed Law Degree, Defended Kavanaugh, and Worked for a Hate Group*, Daily Kos, Dec. 7. 2018, available at https://www.dailykos.com/stories/2018/12/7/1817647/-New-DOJ-hire-has-Jerry-Falwell-signed-law-degree-defended-Kavanaugh-and-worked-for-a-hate-group

b. Do you agree with the article's author that Ms. Kupec "embraces a future of hatemongering"?
c. The article, in comparing Ms. Kupec to Sarah Huckabee-Sanders, says that Ms. Kupec "may not rock a smokey eye, but Kupec surely makes the Huckster proud." Why did you think it was useful for your Twitter followers to know about Ms. Kupec's makeup routine? Do you think such comments about public-facing women are appropriate?
d. Do you agree with the article's characterization of Ms. Kupec as a "poorly educated, success-chasing hatemonger with a mediocre on-camera presence"?
e. Do you think these are fair ways for your Twitter followers to "meet" Ms. Kupec?

RESPONSE: **I have used my platform as the leader of a national civil rights organization to bring attention to issues that are important to achieving equal justice for all. In retrospect, I regret sharing this article. I welcome the opportunity, as President Biden and Judge Garland have emphasized, to turn down the volume and lower the temperature.**

9. In your hearing you defended your Newsweek op-ed multiple times.[3] One of your defenses was that you were actually not calling for defunding of the police, despite the title of the article, because you did not write the title.
    a. In the article itself, you wrote: "I advocate for defunding policing operations that have made African Americans more vulnerable to police violence and contributed to mass incarceration, while investing more in programs and policies that address critical community needs." Did you write this line?
    b. Specifically, which police operations qualify for the defunding standard you lay out above?
    c. You also wrote that "some parts of police budgets that should be eliminated immediately, like the federal '1033 program.'" This implies that there are probably other such parts. Which other parts of police budgets should be eliminated immediately?

RESPONSE: I wrote that article to make clear that I do not support defunding or abolishing the police. I have worked closely with crime victims throughout my career, including hate crime, trafficking and domestic violence victims and fully appreciate the need to have law enforcement support to respond to, investigate and help prosecute crimes.

As a former federal prosecutor and state law enforcement official, and in my work at the Lawyers' Committee for Civil Rights Under Law, I have worked with the police throughout my career to successfully prosecute federal and state civil rights cases, and to develop policies to improve police practices. I am proud to have endorsements or the support of law enforcement organizations or representatives of the Major Cities Chiefs Association, National Association of Police Organizations, International Association of Chiefs of Police, National Organization of Black Law Enforcement Executives, National Association of Women Law Enforcement Executives, Hispanic American Police Command Officers Association, Women in Federal Law Enforcement, and over 40 current and former police chiefs and sheriffs from across the country. I am also proud to be supported

[3] Kristen Clarke, *I Prosecuted Police Killings. Defund the Police—But Be Strategic*, Newsweek, June 11, 2020.

by numerous crime victim advocates and domestic violence organizations, as well as numerous former Justice Department officials and current and former State Attorneys General.

Through my work, I appreciate the challenges today's law enforcement officers face. I support finding strategies to ensure that law enforcement can carry out their jobs more safely and effectively, and channeling resources to emotional health treatment and other severely under-resourced areas. Furthermore, I support President Biden's commitment of $300 million to COPS to help ensure that police have more resources to do their jobs. With more resources, the Justice Department can work to ensure that they can carry out their roles more effectively.

10. During your hearing you said that voter ID laws should be looked at on a case-by-case basis to determine if they are discriminatory. You also said that requiring identification to vote is acceptable in some states but not others. Based on the statement you made in the hearing, in which states is it acceptable to require an ID to vote and in which states is it not?

RESPONSE: Voter identification laws vary significantly from jurisdiction to jurisdiction and must be reviewed on a case-by-case basis. As Attorney General Garland testified, some may have a discriminatory purpose, and some have no discriminatory purpose. The role of the Justice Department is to enforce federal law based on the facts of each case, and if confirmed, I would do just that.

11. Senator Booker invoked John Adams representing British soldiers accused of murder during the Boston Massacre as a reason why you are the right person for the job. Please list all the cases where you represented a client whose views you disagreed with or whose alleged crimes you found offensive.

RESPONSE: I will enforce the law without regard to politics or partisanship if the confirmed to this position, as I have throughout my career. I am not able to identify a case that I worked on where I disagreed with my client. Prior to becoming a lawyer, I provided legal support on a matter involving a cruise ship alleged to have engaged in dumping of oil and sludge. While I did not represent the client in the matter and had concerns about the impact of the alleged conduct on human life and the environment, I was able to work on the matter diligently, following the facts and the law as instructed.

12. There may have been some confusion regarding my question at your hearing about gender and racial diversity on the federal bench, so let me be clearer now.
    a. When Senate Democrats asked hostile questions of and voted against President Trump's judicial nominees that were female, racial minorities, or LGBTQ, were Senate Democrats necessarily being sexist, racist, or otherwise discriminatory? If not, please explain.

RESPONSE: No.

b. Now the shoe is on the other foot. Senate Republicans will inevitably ask questions of and vote against some of President Biden's nominees who are female, racial minorities, or LGBTQ. (They will also do so against nominees who happen to be white men.) When Senate Republicans do so, is that necessarily being sexist, racist, or otherwise discriminatory?

RESPONSE: No.

13. Judge Patrick Bumatay is a Judge on the U.S. Court of Appeals for the Ninth Circuit, appointed by President Trump. He is Filipino-American and openly gay. Was it possible for Democrats to oppose the nomination of Patrick Bumatay to the Ninth Circuit without opposing him *because* he was gay?

RESPONSE: Yes, it is possible for some Senators to oppose the nomination of Patrick Bumatay to the Ninth Circuit without opposing him *because* he was gay.

14. Was it possible for Democrats to oppose the nomination of Patrick Bumatay to the Ninth Circuit without opposing him *because* he was Filipino-American?

RESPONSE: Yes, it is possible for some Senators to oppose the nomination of Patrick Bumatay to the Ninth Circuit without opposing him *because* he was Filipino-American.

15. During Justice Kavanaugh's hearings, you tweeted, "Judge Kavanaugh must fully address what he knew about [Judge] Kozinski's abusive behavior and what actions he took in response. The Senate must fully explore Kavanaugh's view on sexual harassment and whether or not he condemns the actions of his former boss."[4] Your former boss, New York Attorney General Eric Schneiderman, has been accused by multiple women of physical and emotional abuse.[5]
    a. Based on your standard for Justice Kavanaugh, what did you know about Schneiderman's abusive behavior and what actions did you take in response?
    b. Do you condemn his behavior?
    c. During the height of the #MeToo movement, you tweeted many times in support of the movement and in victims coming forward. Yet, after your former boss was accused by multiple women, you did not tweet any condemnations of his actions or support for his victims. Why not?

RESPONSE: I worked in the New York State Office of the Attorney General from 2011 to 2015. The accusations against Mr. Schneiderman which you reference in your question were not made until 2018. I was not aware of these or any other similar allegations against Mr. Schneiderman when I worked in that office.

---

[4] https://twitter.com/KristenClarkeJD/status/1018967601660289032

[5] Jane Mayer & Ronan Farrow, *Four Women Accuse New York's Attorney General of Physical Abuse*, The New Yorker, May 7, 2018, available at https://www.newyorker.com/news/news-desk/four-women-accuse-new-yorks-attorney-general-of-physical-abuse.

16. In 2013 the New York Times reported that New York Attorney General Schneiderman had opened an investigation into allegations of flagrant antisemitism in a New York school district.[6] Subsequent analysis by the New Republic argued that the issue may have been more complex than mere antisemitism, with tensions bubbling up between the large Jewish population in Pine Bush and the large ultra-orthodox Satmar population in nearby Kiryas Joel.[7] The New Republic said of the Times story, "While there is likely a there there—and indeed, reporter Benjamin Weiser subsequently reported Justice Department and New York state investigations—there may also be something more: A sign of tensions not only between Jews and Gentiles but between different kinds of Jews." It just goes to show that claims of religious discrimination—and religious rights—can be made complicated by not only by conflict between different religions but by conflict within individual faiths.
    a. What is the role of a government actor in enforcing religious liberty or non-discrimination when it evaluates competing claims from *within* a given religious faith?

RESPONSE: Protection against discrimination on the basis of religion is an issue in its own right and can certainly apply even if the victim and perpetrator are of the same religion.

    b. Can members of the same faith discriminate against each other?

RESPONSE: Yes.

    c. Can members of one faith assert claims of religious liberty on behalf of their coreligionists?

RESPONSE: Yes.

    d. Can members of one same faith rebut claims of religious liberty made by their coreligionists?

RESPONSE: Yes.

17. During your time in the New York Attorney General's office, did you ever bring civil-rights enforcement actions in favor of Satmar, Haredi, or other "ultra-Orthodox" Jews?

RESPONSE: As Chief of the Civil Rights Bureau, I repeatedly defended Jewish employees' right to observe their faith through my leadership of the office's Religious Rights Unit. For example, during my tenure, the Bureau reached a settlement guaranteeing that employees of Milrose Consultants could celebrate the Sabbath. We also reached a settlement protecting New York City Health and Hospitals Corporation

---

[6] Benjamin Weiser, *U.S. Investigates Anti-Semitism Claims at Pine Bush School*, The New York Times, Nov. 13, 2013, available at https://www.nytimes.com/2013/11/14/nyregion/us-investigates-anti-semitism-claims-at-pine-bush-schools.html.

[7] Marc Tracy, *Did Hasidic Jews Leak Anti-Semitism Accusations to the New York Times?*, The New Republic, Dec. 11, 2013, available at https://newrepublic.com/article/115892/kiryas-joel-new-york-anti-semitism-accusations-who-leaked-times.

employees' right to observe the Sabbath. Members of the Jewish community who observe the Jewish Sabbath, including Satmar, Haredi, and others, would have benefited from actions taken to protect the rights of Sabbath observers to practice their faith.

18. A recent New York Times expose into Governor Andrew Cuomo's rise to power in New York had a troubling anecdote about Governor Cuomo's reaction to attending an event celebrating Sukkot. According to a person who witnessed the event, the Governor said, "These people and their [expletive] tree houses."[8]
    a. In your time with the New York State Attorney General's Office, did you ever hear other elected officials use such anti-Semitic language?
    b. As Civil Rights Chief for New York, would such a comment from a landlord about current or prospective Jewish tenants have triggered an investigation? If not, why not?
    c. Do you believe such language, if true, reflects animus?

RESPONSE: I never heard anti-Semitic language used by employees of the New York State Attorney General's Office when I worked there. If I had, I would have spoken out about it. It would be unacceptable, as would any bigoted language or behavior. Whether a particular comment or action should prompt a civil rights investigation can only be determined on a case-by-case basis after a review of the facts and the law.

19. In your op-ed about defunding the police, you said that there is a "need to truly reform policing in our country in ways that can produce racially just outcomes for communities." Can you explain what you mean by "racially just" outcomes?

RESPONSE: We need to address flaws in our justice system that lead to disparities on racial and/or socioeconomic lines. Eliminating these disparities and protecting against unconstitutional conduct by law enforcement or other officials, will restore faith in our criminal justice system--that faith is essential to keeping communities safe.

20. You had a number of exchanges about the Race-ing Justice Conference from when you were in law school. Many of the attendees of the conference attended a rally in Philadelphia the next day in support of Mumia Abu-Jamal. Did you attend that rally?

RESPONSE: No.

21. A former DOJ official and ACLU attorney testified under oath about the DOJ's decision to change its prosecuting decision in the New Black Panther Party case. Under oath, this official said, "Ms. King, Mr. Rosenbaum, Mr. Kappelhoff, Ms. Clarke, a large number of the people working in the Voting Section and in the Civil Rights Division and many of the liberal [interest] groups at work in the civil rights field believe incorrectly but vehemently that enforcement of the protections of the Voting Rights Act should not be extended to

[8] Matt Flegenheimer, *Andrew Cuomo's White-Knuckle Ride*, The New York Times, April 13, 2021 (updated April 19, 2021), available at https://www.nytimes.com/2021/04/13/magazine/andrew-cuomo.html.

white voters but should be extended only to protecting racial, ethnic, and language minorities."

a. Was this statement by the former Justice Department official correct?
b. If not, in what parts was it not correct?
c. How do you respond to this statement?
d. Do you think racial minorities can violate the Voting Rights Act?

RESPONSE: That statement is incorrect insofar as it suggests that I "believe … vehemently that enforcement of the protections of the Voting Rights Act should not be extended to white voters but should be extended only to protecting racial, ethnic, and language minorities." The protections of the Voting Rights Act do not apply only to "racial, ethnic, and language minorities," they apply to all people. Throughout my career, I have undertaken work that has helped secure the rights of a broad range of eligible American voters, including voters of all racial and ethnic backgrounds, language minorities, voters with disabilities, and voters who serve in our nation's military.

22. During the Civil Rights Commission's investigation into the DOJ for its handling of the New Black Panther Party case, you were subpoenaed. In your deposition, under oath, you twice answered in the negative when asked if you had "a conversation with Laura Coates of the Justice Department with regard to the litigation." However, also under oath, another DOJ official, Christopher Coates, testified that : "[I]t was reported to me that Ms. Clarke approached an African-American attorney who had been working in the Voting Section for only a short period of time in the Winter of 2009, before the dismissals in the Panther case and asked that attorney when the New Black Panther Party case was going to be dismissed. The Voting Section attorney to whom I refer was not even involved in the Panther case. This reported incident led me to believe in 2009 that the Legal Defense Fund Political Participation Director, Ms. Clarke, was lobbying for the dismissal of the New Black Panther Party case before it was dismissed."
The Civil Rights Commission concluded, "As of this date, it is not possible to reconcile the competing versions of such contacts, due to the fact that the Department has precluded its employees from testifying before the Commission (and refused to provide all relevant emails and documents), and Ms. Clarke has refused to testify regarding certain relevant questions. At a minimum, it would be highly relevant if Laura Coates and others could testify as to whether the NAACP Legal Defense Fund was seeking to have the suit dismissed or raised other concerns about the litigation."
    a. Do you still stand by your testimony that you did not have a conversation with Laura Coates concerning the litigation?
    b. If so, does that mean Christopher Coates was lying?
    c. Do you think testimony from Laura Coates and Christopher Coates to the Judiciary Committee would help to resolve this discrepancy?

RESPONSE: I stand by the testimony I provided under oath. I cannot speak to prior statements given by others or the potential testimony of others.

23. During your hearing you mentioned there was contemporaneous reporting supporting the claim that your statements about genetic differences in college was satirical. At the same

time, the Harvard Crimson editorial board criticized your letter. It said, "Rather than attack the questionable research and logic underlying *The Bell Curve*, however, Clarke resorted to bigotry, plain and simple, to reach the opposite conclusion."[9] In that same article, you are quoted as saying "the information [contained in the letter] is not necessarily something we believe, but some information that we think those persuing [sic] a true understanding of *The Bell Curve* theory should either address, ignore or refute." The Crimson editorial board responded: "Aside from the fact that we don't think Clarke actually meant people should *ignore* her views, her follow-up statement doesn't suggest any tempering of the beliefs espoused in the letter. Clarke says she doesn't 'necessarily' believe her assertions. Well does she or doesn't she? So far, she has given us every indication that she does."

a. Is this the contemporaneous reporting you referenced in your hearing?
b. Did you have different contemporaneous reporting in mind? If you did, it would be good for the Committee to see it, so please provide it.
c. Given that your words don't seem to have come off as satire to your peers when you wrote them, and that they don't appear satirical to many members of this Committee today, will you heed the advice of the Crimson editorial board from 1994 and retract your statements and apologize for them?

RESPONSE: I was referring to this news article and letter from a Jewish student leader: https://www.thecrimson.com/article/1994/10/28/book-sparks-campus-debate-pmental-physical/
https://www.thecrimson.com/article/1994/11/7/call-for-retraction-not-professional-pi/
The 1994 letter to the editor was meant to hold a mirror up to absurd views of racial superiority, no matter what race they seek to define. I did not then and nor do I now believe that views that express discrimination aimed at any community have a place in our country.

24. In 2017, you quote-tweeted a video of a flood in Charleston, South Carolina and said that Senator Tim Scott supported the decision to leave the Paris Agreement.[10]
    a. What was the purpose of mentioning Senator Scott's views on the Paris Agreement?
    b. Do you believe that, had Senator Scott supported remaining in the Paris Agreement, the flood in Charleston would not have occurred?

RESPONSE: At the Lawyers' Committee I used my platform to highlight the damages that climate change has had on our society and communities of color.

25. You have tweeted that "Many of our judges continue to be fair and impartial and they are quietly delivering significant blows to Trump's agenda."[11]
    a. Are judges only fair and impartial if they rule against the Trump administration?
    b. If a judge ruled in favor of the Trump administration, did that mean he or she was not fair and impartial?

---

[9] The Crimson Staff, *Clarke Should Retract Statements*, The Harvard Crimson, Nov, 4, 1994. Available at https://www.thecrimson.com/article/1994/11/4/clarke-should-retract-statements-pbtbwo-years/.
[10] https://twitter.com/KristenClarkeJD/status/907386987501506560
[11] https://twitter.com/KristenClarkeJD/status/1066464650966036480

RESPONSE: I have tremendous respect for the federal judiciary and the important role judges play in ensuring the rule of law and safeguarding the rights and privileges afforded by the Constitution.

26. You tweeted that Senator Manchin's decision to vote for Justice Kavanaugh was "unreal."[12] What did you mean by this statement?

RESPONSE: After a review of then Judge Kavanaugh's record, the Lawyers' Committee for Civil Rights Under Law decided not to support his nomination to the Supreme Court; while we found him qualified, we did not find that his record, at that time, reflected a strong commitment to civil rights. This tweet reflected that position.

27. You invited Professor Tony Martin to speak on Harvard's campus the year after he published a book titled *The Jewish Onslaught*. After his speech, you said, "Professor Martin is an intelligent, well-versed Black intellectual who bases his information on indisputable fact."[13]

    a. Have you read *The Jewish Onslaught*?

RESPONSE: No.

    b. Do you think Professor Martin's speech was anti-Semitic? Did you think it was anti-Semitic at the time?

RESPONSE: I do not recall the specific content of Professor Martin's speech. I regret accepting Martin's offer to speak on campus regarding The Bell Curve and giving him a platform to speak.

    c. At least one Jewish student group criticized the decision to invite Martin and the content of his speech. How did you respond to that criticism?

RESPONSE: I do recall feeling it was important to continue the dialogue with Jewish students, which I had done previously and continued to work to do. That ongoing dialogue was described by Michael Goldenpine, a Jewish student leader on campus at the time, in a letter of support he wrote to the Committee on my behalf. https://www.judiciary.senate.gov/imo/media/doc/Michael%20Pine%20Letter%20in%20Support%20of%20Clarke%20Nomination.pdf

28. Following the Supreme Court's order blocking New York's emergency COVID restrictions on houses of worship, you tweeted, "This is a newly configured Supreme Court, one w/ Justice who place religious freedom above ALL else even in the context of a deadly pandemic." Another Twitter user responded, "Let's not say the conservative majority places 'Religious Freedom' above all else. That is their framing, like 'pro-life.' Let's say

[12] https://twitter.com/KristenClarkeJD/status/1048311982175281154
[13] The Crimson Staff, *Clarke Was Wrong To Endorse Martin*, The Harvard Crimson, Dec. 7, 1994. Available at https://www.thecrimson.com/article/1994/12/7/clarke-was-wrong-to-endorse-martin/

they place religious zealotry above all else." You "liked" that response. What in particular did you like about that tweet?

RESPONSE: I have used my platform as the leader of a national civil rights organization to bring attention to issues that are important to achieving equal justice for all. In retrospect, I regret the tone I occasionally took. I welcome the opportunity, as President Biden and Judge Garland have emphasized, to turn down the volume and lower the temperature.

29. In the absence of a regulation prohibiting the use of settlements with non-affected third parties, what is the constitutional justification for their continued use?

RESPONSE: I understand that Department of Justice regulations currently govern when settlements may properly include payments to third parties. *See* 28 C.F.R. § 50.28. I understand the importance of these guardrails and will comply with these regulations.

30. Since 2018, plaintiffs' counsel have filed thousands of lawsuits and sent an untold number of settlement demand letters to business owners alleging their websites are not accessible to the blind or visually impaired, in violation of Title III of the Americans with Disabilities Act (ADA). The bulk of these claims allege that private websites qualify as places of public accommodation and that websites with access barriers—such as those without compatible screen-reading software—deny individuals the right of equal access. Will the Department provide clarity on the law by resolving the question of whether private websites fall under the ADA? And will the Department provide clear parameters and guidance on how to comply with the law?

RESPONSE: In general, it is very important for people to understand their rights (and for covered entities to understand their obligations) under the law. If confirmed, I would work closely with career officials in the Justice Department and community stakeholders (including small businesses and others in the business community) to consider whether any Department action is necessary in this area and, if so, help develop an appropriate response.

31. Do state school-choice programs make private schools state actors for the purposes of the Americans with Disabilities Act?

RESPONSE: If confirmed, I would approach this question as I would any issue, by working with subject-matter experts at the Justice Department, including career lawyers, and seeking to ensure that the Department undertakes a full and fair review of the facts and an objective analysis of the law.

32. Are state laws protecting the unborn under the purview of the Civil Rights Division? If so, how?

RESPONSE: The Civil Rights Division is responsible for enforcing "all Federal statutes affecting civil rights, including those pertaining to elections and voting, public

accommodations, public facilities, school desegregation, employment (including 42 U.S.C. 2000e-(6)), housing, abortion, sterilization, credit, and constitutional and civil rights of Indians . . . and of institutionalized persons." 28 C.F.R. § 0.50(a).

33. Does a law restrict abortion access if it requires doctors to provide medical care to children born alive following failed abortions?

RESPONSE: The Supreme Court held that states may regulate abortion prior to viability based on the state's interest in maternal health and potential life. However, those regulations may not impose and cannot have "the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus." *Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833, 877 (1992).

34. Under the Religious Freedom Restoration Act the federal government cannot "substantially burden a person's exercise of religion."
    a. Who decides whether a burden exists on the exercise of religion, the government or the religious adherent?
    b. How is a burden deemed to be "substantial[]" under current caselaw? Do you agree with this?

RESPONSE: The federal government may not "substantially burden a person's exercise of religion" unless it "demonstrates that application of the burden to the person" is "in furtherance of a compelling government interest" and is "the least restrictive means of furthering that compelling governmental interest." 42 U.S.C. § 2000bb-1. As the Supreme Court's decisions illustrate, whether a law substantially burdens a person's exercise of religion is an issue for the courts. *See, e.g.*, *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 719-26 (2014). A court cannot second-guess the plausibility or reasonableness of the religious adherent's beliefs. *Id.* at 723-26. Instead, the court's "narrow function" is to determine whether the adherent's asserted beliefs reflect an "honest conviction" and whether the challenged law "imposes a substantial burden" on the adherent's ability to act in accordance with those beliefs. *Id.* at 723-24. One example of this analysis is in *Hobby Lobby*, where the Court held that the Affordable Care Act's contraceptive-coverage requirement imposed a substantial burden on the plaintiffs' exercise of religion. The Court reasoned the requirement obliged plaintiffs to "engage in conduct that seriously violates their religious beliefs," and if they did not comply, they would have faced "substantial economic consequences" in the form of "substantial" penalty assessments. *Id.* at 720-21. If confirmed, I will enforce the Constitution and federal laws consistent with Supreme Court precedent.

35. Do you agree with the Supreme Court that the free exercise clause lies at the heart of a pluralistic society (*Bostock v. Clayton County*)? If so, does that mean that the Free Exercise Clause requires that religious organizations be free to act consistently with their beliefs in the public square?

RESPONSE: Religious liberty is vital to a pluralistic society, and the legal rights associated with it must be respected. If confirmed, I will uphold all rights guaranteed by

the Constitution and other federal laws—including religious freedoms—to the fullest extent of the law.

36. Do you agree with the Supreme Court that the principle of church autonomy goes beyond a religious organization's right to hire and fire ministers? What, in your view, are the limits on church autonomy consistent with what the Supreme Court has said?

REPONSE: The Supreme Court has recently reaffirmed that the First Amendment protects the right of religious institutions "to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 140 S. Ct. 2049, 2055 (2020). In that case, although the plaintiff schoolteachers "were not given the title of 'minister,'" the Court held that their cases fell within the so-called "ministerial exception" to employment discrimination laws. *Id.* Under that exception, "courts are bound to stay out of employment disputes involving those holding certain important decisions with churches and other religious institutions." *Id.* at 2060. The Court held that "[t]he religious education and formation of students is the very reason for the existence of most private religious schools, and therefore the selection and supervision of the teachers upon whom the schools rely to do this work lie at the core of their mission." *Id.* at 2055. The Court did not adopt a "rigid formula" for determining whether an employee falls within the exception. *Id.* at 2069 (citation omitted). If confirmed I will follow the law and judicial precedents in this area should such an issue come before me.

37. Do you agree that the Religious Freedom Restoration Act requires assessing compelling government interests "to the person" substantially burdened by a government action?
    a. If not, why not?
    b. If so, can *general* interests restrict religious liberty, or must the interests be defined more precisely?
    c. How would you implement this principle in Justice Department guidance?

RESPONSE: The Religious Freedom Restoration Act "requires the Government to demonstrate that the compelling interest test is satisfied through application of the challenged law 'to the person'—the particular claimant whose sincere exercise of religion is being substantially burdened." *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 430-431 (2006) (citation omitted). If confirmed, I will ensure that the Division adheres to Department-wide policy in this area, and seek to ensure that guidance on this subject, is consistent with any relevant constitutional or statutory provisions and with applicable precedent.

38. Do you agree with the following statements?
    a. We live in a pluralistic society with people of widely diverse faith traditions. Religious freedom for all is part of our country's bedrock, from the enactment of our Constitution to the establishment of our more recent statutes that protect against religious discrimination.

b. Title VII requires that employers not discriminate against applicants or employees because of their religious beliefs, observances, or practices and that employers accommodate religious beliefs, observances, and practices, absent undue hardship.
c. Federal civil-rights regulators should seek to learn more about the extent to which employees request time off for prayer or Sabbath observance, seek exemption from grooming or dress codes, or seek to avoid participation in hot-button practices like abortion or LGBTQ celebration.
d. It is important to improve religious discrimination awareness for employees and employers while encouraging meaningful dialogue between employees, employers, and the government.
e. The federal government should prevent and remedy unlawful religious discrimination.

RESPONSE: Religious liberty is important to me on both a personal and professional level. It is a principle that is enshrined in the Constitution's First Amendment and in other federal laws. Title VII prohibits employment discrimination on the basis of many protected classes, including religion, and generally requires employers to accommodate religion unless it would impose an undue hardship. As an employer, the Justice Department must abide by these, and, as a law enforcement agency, the Justice Department should vigorously work to prevent and seek remedies for unlawful employment discrimination on the basis of religion. If confirmed, I would work to ensure that the Civil Rights Division complies with all relevant constitutional and statutory provisions, rules and regulations, and applicable judicial precedents.

39. Following the Supreme Court's opinion in *Espinoza v. Montana Department of Revenue*, the Department of Justice issued guidance summarizing religious liberty protections applicable to organizations that participate in the Department's grant programs. According to the guidance, absent a compelling government interest, the Department shall not disqualify otherwise-eligible recipients from a public benefit solely because of their religious character. Will you keep this guidance in place?

RESPONSE: I am not presently at the Justice Department and I am not aware of all of the details surrounding the referenced guidance. If confirmed, I would welcome the opportunity to review this guidance, and would work to ensure that any guidance put out by the Civil Rights Division complies with applicable Supreme Court precedent. I am not aware that the Division administers grant programs in this area.

40. Last summer the Department of Justice held voluntary training seminars on religious liberty for Department employees. Is it important for Justice Department Attorneys to be familiar with religious-liberty principles?

RESPONSE: Because I am not presently at the Justice Department, I am not aware of the details surrounding the training seminars on religious liberty for Department employees that you reference. However, if confirmed, I would welcome the opportunity to learn more about them and identify ways to promote effective training of Department personnel.

41. Should the Justice Department have a Religious Liberty Task Force?

RESPONSE: Because I am not presently at the Justice Department, I am not aware of the details surrounding whether or not the Department should have a Religious Liberty Task Force. However, if confirmed, I would welcome the opportunity to work with career attorneys and Department leadership, and determine effective way to ensure that the Division continues enforcing religious liberty protections through laws such as the Religious Land Use and Institutionalized Persons Act, Title VII, and more.

42. You can answer the following questions yes or no:
    a. Was *Brown v. Board of Education* correctly decided?
    b. Was *Loving v. Virginia* correctly decided?
    c. Was *Griswold v. Connecticut* correctly decided?
    d. Was *Roe v. Wade* correctly decided?
    e. Was *Planned Parenthood v. Casey* correctly decided?
    f. Was *Gonzales v. Carhart* correctly decided?
    g. Was *District of Columbia* v. Heller correctly decided?
    h. Was *McDonald v. City of Chicago* correctly decided?
    i. Was *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC* correctly decided?
    j. Was *Sturgeon v. Frost* correctly decided?
    k. Was *Juliana v. United* States (9th Cir.) correctly decided?
    l. Was *Rust v. Sullivan* correctly decided?

RESPONSE: If confirmed as Assistant Attorney General of the Civil Rights Division, I will seek to ensure that the Division follows Supreme Court precedent as the law of the land.

43. Prosecutors within the Human Trafficking Prosecution Unit in DOJ's Civil Rights Division work closely with federal prosecutors and law enforcement personnel to streamline human trafficking investigations, ensure consistent enforcement of trafficking statutes, and identify multijurisdictional trafficking networks. The FBI's Crimes Against Children and Human Trafficking program also focuses on detection and investigation of human trafficking crimes.
    a. If confirmed, will you ensure that the investigation and prosecution of human trafficking offenses remains a top priority for the Department?
    b. How will you do so?

RESPONSE: Domestic and international human trafficking, the commodification of humans for forced labor, prostitution, and other illicit purposes, is a scourge on our nation. These are crimes that I prosecuted as a federal prosecutor. If I am confirmed, I commit to ensuring that the Civil Rights Division's efforts to combat these terrible offenses remain a priority. I will ensure that the Division continues to coordinate with other components inside the Justice Department on a range of anti-trafficking activities including investigations, prosecutions, victim-services, federal-state partnerships, innovative prevention efforts, and support for state, local, and tribal authorities and to non-governmental organizations.

44. Former Attorney General Barr circulated an April 27, 2020 memorandum directing the Civil Rights Division and U.S. Attorney's Offices to participate, where appropriate, in civil litigation over excessive or unequal COVID-19 restrictions, including in defense of religious liberty. Will you continue the Justice Department policy, articulated in an April 27, 2020 memorandum, of participating, where appropriate, in civil litigation to defend Americans' religious freedom against unnecessary interference during the COVID-19 pandemic? If not, why not?

RESPONSE: Religious liberty is important to me on both a personal and professional level, and the freedoms associated with it should be protected. Because I am not presently at the Justice Department, I am not aware of the details surrounding the policy you reference. However, if confirmed, I look forward to reviewing the policy and consulting with Department leaders and career staff regarding it. As I have done throughout my career, I will continue to work to protect religious liberty and combat religious discrimination.

45. When the Department of Homeland Security described the Supreme Court's DACA opinion as having "no basis in law," Judge Garufis, in the Eastern District of New York, took exception to the executive branch criticizing a Supreme Court opinion. He asked a career Justice Department lawyer, "I'm just wondering how a decision by the Supreme Court could be deemed by a federal agency to have no basis in law. Can you explain that to me[?]" The judge went on, "The attorney general should advise his client Mr. Wolf that it is not [a] benefit to anyone to have a federal agency take issue with a decision of the Supreme Court. I'm very troubled by anyone who would write such a thing on a document issued by a federal agency regarding a decision by the U.S. Supreme Court or any court, until it is overruled or reversed, any federal court."
    a. Under your leadership will the litigating components under your supervision agree not to "take issue with a decision of the Supreme Court"?
    b. Under your leadership will the litigating components under your supervision and their client agencies maintain publicly that all Supreme Court holdings have a sound basis in the law?

RESPONSE: Like Attorney General Garland, I have great respect for the nation's courts and the judges to who sit on them. However, in certain cases, it is also appropriate and necessary for the Department of Justice to seek changes in the law, either working with Congress or in arguments before the courts. There are processes in place at the Department, through which decisions are made regarding how and when to ask courts to revisit established law. If confirmed, I would follow those processes and ensure that all decisions reached were objective, independent, and free from political influence. Regardless of the decision made, however, I share Attorney General Garland's commitment in seeking to ensure that all statements made by attorneys in the Civil Rights Division are appropriately respectful of the courts and their role in our constitutional system.

46. Do Blaine Amendments violate the Constitution?

RESPONSE: The "Blaine Amendment of the 1870s" was a failed proposal to amend the U.S. Constitution to prohibit states from aiding religious schools. In *Espinoza v. Montana Dep't of Revenue*, 140 S. Ct. 2246, 2259 (2020), the Supreme Court considered a provision of the Montana Constitution that prohibited any state aid to any school controlled by a "church, sect, or denomination." *Id.* at 2251, 2259. The Court held that the Montana Supreme Court's application of that no-aid provision to strike down a program to provide tuition assistance to parents who send their children to private schools violated the First Amendment.

47. Do you believe potential voter fraud or other elections abnormalities are concerns that the Justice Department should take seriously?

RESPONSE: The Department of Justice should take seriously credible allegations of election crimes, including fraud. These are not matters ordinarily handled by the Civil Rights Division. Such cases are typically prosecuted by the Criminal Division, which is under the purview of the Deputy Attorney General, and I would defer to the Deputy Attorney General in these matters. If confirmed, I would be as transparent as possible in assuring the American people that our elections remain free, fair, and secure.

48. You tweeted "As a civil rights lawyer with matters that regularly go before the Supreme Court, I can't underscore how dangerous it will be to have [then-Judge Brett] Kavanaugh on the Court, a man who harbors such bias, rage, fury and is so easily unhinged. We should expect a spike in recusal motions for sure."
    a. Do you still believe that Justice Kavanaugh is "dangerous" and "easily unhinged"?
    b. Are you confident that Justice Kavanaugh will be fair in hearing cases from the Justice Department under your leadership?
    c. Do you think the Solicitor General should seek his recusal in civil rights cases?

RESPONSE: In my opinion, Justice Kavanaugh as a Justice of the Supreme Court has demonstrated a judicial demeanor consistent with what members of the public expect of Supreme Court Justices.

49. The Federalist Society is an organization of conservatives and libertarians dedicated to the rule of law and legal reform.

    a. Do you agree with Attorney General Garland, Lisa Monaco, and Vanita Gupta that a member of the Federalist Society should be allowed to serve on front-office staff within the Justice Department?

RESPONSE: I believe that membership on the Federalist Society would not be a disqualifying factor for an individual to serve on front-office staff within the Justice Department.

b. If so, does that mean you would allow a member of the Federalist Society to serve on the Civil Rights Division front-office staff?

RESPONSE: Yes, where such an individual was otherwise determined to be qualified to serve on the Civil Rights Division front-office staff.

c. Do you agree with Attorney General Garland, Lisa Monaco, and Vanita Gupta that a member of the Federalist Society should be allowed to be promoted to chief, assistant chief, section head, or any other career supervisory position in the Justice Department?

RESPONSE: Yes, where such an individual was otherwise determined to be qualified to serve in a supervisory capacity.

50. *The Hill* reports that some former Trump appointees now hold career positions in the federal government. They reported this because various liberal activist groups are trying to purge these civil servants from the federal payroll. What is your view on removing federal employees who joined the government during the last presidential administration—whether as appointees or career employees—and now hold career positions?

RESPONSE: As a veteran of the Department of Justice, I can tell you that the Department depends on the service of the career employees who remain at the Department. I will abide by any and all laws and Department regulations that seek to ensure a fair and impartial hiring process.

51. Former Attorney General Bill Barr designated former U.S. Attorney John Durham as a special counsel to continue his investigation into the Crossfire Hurricane scandal. While the Civil Rights Division Assistant Attorney General is not in charge of these matters, you would be a Senate-confirmed individual, and it will always be possible for you to find yourself supervising something like the Durham investigation perhaps against your personal wishes.

a. Should the authority to do so fall to you for whatever reason, will you commit to allowing Special Counsel Durham to continue his investigation, unimpeded?

b. Should the authority to do so fall to you for whatever reason, will you commit to publicly releasing the unredacted version of his report?

RESPONSE: Because I am not currently an employee of the Department of Justice, the only knowledge I have of Mr. Durham's investigation comes from what has been reported in the media. From my understanding he has been allowed to continue with his investigation, and I have no reason to doubt that decision. I share Attorney General Garland's commitment to "transparency and to explaining Justice Department decision making". I expect any decisions about this investigation would be made by Attorney General Garland, and I would follow his lead on this matter.

52. Please describe the selection process that led to your nomination from beginning to end (including the circumstances that led to your nomination and the interviews in which you participated).

RESPONSE: I was approached in mid-December about potential service inside the U.S. Department of Justice. I participated in a vetting and screening process. After a few weeks, I was informed that I was under consideration for potential nomination to serve as the Assistant Attorney General for the Civil Rights Division. I received a formal offer from President-elect Biden in early January and joined President Biden for an announcement on January 7, 2021 in Delaware.

53. During your selection process did you talk with any officials from or anyone directly associated with the organization Demand Justice? If so, what was the nature of those discussions?

RESPONSE: No.

54. During your selection process did you talk with any officials from or anyone directly associated with the American Constitution Society? If so, what was the nature of those discussions?

RESPONSE: No.

55. During your selection process, did you talk with any officials from or anyone directly associated with Arabella Advisors? If so, what was the nature of those discussions? Please include in this answer anyone associated with Arabella's known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund that is still shrouded.

RESPONSE: No.

56. During your selection process did you talk with any officials from or anyone directly associated with the Open Society Foundation. If so, what was the nature of those discussions?

RESPONSE: No.

57. When did you first meet Merrick Garland?

RESPONSE: I first met Merrick Garland briefly during Howard University School of Law's Constitution Day, in 2016. During the event, hosted by Dean Danielle Holley-Walker, remarks were offered regarding the importance of public service.

58. Please explain, with particularity, the process whereby you answered these questions.

RESPONSE: I received questions for the record from members of the Senate Judiciary Committee on April 21, 2021. To answer these questions, I consulted with Department attorneys, conducted my own research, conferred with colleagues to refresh my recollection of certain matters, and for certain questions conferred with counsel for the Lawyers' Committee for Civil Rights Under Law. According to standard procedure the White House also reviewed and cleared the document. I authorized their transmission to the Senate Judiciary Committee on April 26, 2021.

Senator Josh Hawley
Questions for the Record

Kristen Clarke
Nominee, U.S. Assistant Attorney General, Civil Rights Division

1. In *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*, 565 U.S. 171, 189 (2012), the Supreme Court stated that "the text of the First Amendment itself . . . gives special solicitude to the rights of religious organizations." Please describe, in detail, your understanding of the "special solicitude" to which religious organizations are entitled under the First Amendment.

RESPONSE: If confirmed as a Department of Justice official, I will seek to ensure that the Department follows Supreme Court precedent as the law of the land.

2. In *Tandon v. Newsom*, No. 20A151, 2021 WL 1328507 (U.S. Apr. 9, 2021), the Supreme Court stated that "government regulations are not neutral and generally applicable, and therefore trigger strict scrutiny under the Free Exercise Clause, whenever they treat *any* comparable secular activity more favorably than religious exercise. . . . It is no answer that a State treats some comparable secular businesses or other activities as poorly as or even less favorably than the religious exercise at issue." If you are confirmed as Assistant Attorney General, do you intend to faithfully enforce this precedent?

RESPONSE: If confirmed as a Department of Justice official, I will seek to ensure that the Department follows Supreme Court precedent as the law of the land.

3. If you are confirmed as Assistant Attorney General, do you intend to faithfully enforce the Religious Freedom Restoration Act as it is written today?

RESPONSE: If confirmed, I will endeavor to fully and fairly enforce all federal laws within my purview.

4. If you are confirmed as Assistant Attorney General, would you independently recommend or advise that the Department of Justice support legislative or executive actions that would alter in any way the Religious Freedom Restoration Act's protection for Americans of all faiths?

RESPONSE: Religious freedom is a founding freedom of the United States protected by the First Amendment of the Constitution and federal laws, including the Religious Freedom Restoration Act. If I were confirmed and asked to consider an amendment to a statute, including the Religious Freedom Restoration Act, I would carefully review all of the relevant legal and policy issues, and consult Justice Department leaders and career

staff, to help formulate the Department's position.

5. In publicly accessible tweets from July 16, 2019, you lauded the late Justice John Paul Stevens for "show[ing] solidarity w/ those fighting for gun control" by calling for the repeal of the Second Amendment. Do you believe the Second Amendment protects an individual right to keep and bear arms?

RESPONSE: *Heller* is established precedent that the Supreme Court has repeatedly reaffirmed. The Department of Justice's litigating positions must be guided by existing law and precedent like *Heller*. I have not worked on the Second Amendment during my career. I have not called for repealing the Second Amendment but did share on social media an op-ed written by the late Justice John Paul Stevens on the subject.

6. If you are confirmed as Assistant Attorney General, what steps do you intend to take to protect the civil rights of lawful gun owners conferred by the Second Amendment?

RESPONSE: The work of the Civil Rights Division generally does not address Second Amendment issues. The Department of Justice's litigating positions must be guided by existing law and precedent, including the Supreme Court's decision in *Heller*.

7. In a 2020 article titled in part "Defund the Police—But Be Strategic," you stated that the federal government should set "diversity and inclusion benchmarks" for police departments. What "diversity and inclusion benchmarks" were you referring to?

RESPONSE: President Biden has made clear that, under his Administration, the federal government should work to affirmatively advance civil rights, racial justice, and equal opportunity. I share his commitment. Our country is at its best when we lift up our own diversity. If confirmed as Assistant Attorney General, I look forward to working to achieve these goals generally.

8. In that article, you described "the need to truly reform policing in our country in ways that can produce racially just outcomes for communities." Do you believe that anything other than statistical parity in arrest and conviction rates is *prima facie* evidence of racial bias in the criminal justice system?

RESPONSE: Attorney General Garland testified that "there is discrimination and widespread disparate treatment of communities of color and other ethnic minorities in this country." I agree with his view and believe that the Civil Rights Division's role is to follow the facts and the law to identify if and when there are violations of our federal civil rights laws.

United States Senator Mike Lee Questions
for the Record
Kristen Clarke
Nominee, Assistant Attorney General For the Civil Rights Division

1. The Religious Freedom Restoration Act is the leading federal civil rights law that protects all Americans' religious freedom. It was championed by SenatorTed Kennedy and Senator Orrin Hatch to pass the Senate by a vote of 97-3 and to pass the House by a unanimous voice vote. President Bill Clinton proudly signed it into law in 1993. For nearly three decades, it has protected the religious freedom of all Americans of all faiths. If confirmed, will you commit to oppose any legislative or executive action that would alter in any way the Religious Freedom Restoration Act's protection for Americans of all faiths?

RESPONSE: Religious freedom is a founding freedom of the United States protected by the First Amendment of the Constitution and federal laws, including the Religious Freedom Restoration Act. If I were confirmed and asked to consider an amendment to a statute, including the Religious Freedom Restoration Act, I would carefully review all of the relevant legal and policy issues, and consult Justice Department leaders and career staff, to help formulate the Department's position.

2. Do you believe speech alone—with no attendant conduct—should ever constitute a hate crime?

RESPONSE: Freedom of speech is a fundamental value protected by the First Amendment. The Supreme Court has generally excluded from First Amendment protection only "well defined and narrowly limited classes of speech" such as "obscenity," "defamation," "fraud," "incitement," and "speech integral to criminal conduct." *United States v. Stevens*, 559 U.S. 460, 468-69 (2010) (citation omitted). If I am confirmed, my mandate will be to enforce the laws and Constitution of the United States. Enforcement decisions must be based on the facts and the law.

3. You've described voter ID laws as a form of "subtler . . . equally pernicious discrimination," akin to the heinous voter suppression tactics of the Jim Crowera. Do you believe Rhode Island's voter ID law—which requires a photo ID or strict signature matching—constitutes a pernicious form of discrimination?

RESPONSE: How the Voting Rights Act applies in any given jurisdiction is a fact-intensive inquiry. If confirmed, I will seek to ensure that the Justice Department fully and fairly enforces the law.

4. Do you believe the 2021 Georgia law's provisions requiring voters to show a photo ID – either a driver's license or a free state-issued ID—or a document containing the voter's name and address (like a utility bill or bank statement)rises to the level of historical Jim Crow voter suppression laws?

RESPONSE: How the Voting Rights Act applies in any given jurisdiction is a fact-intensive inquiry. If confirmed, I will seek to ensure that the Justice Department fully

and fairly enforces federal laws, including those protecting the right to vote and election security.

5. The Voting Rights Act provides that "No person . . . shall intimidate, threaten, or coerce . . . any person for voting or attempting to vote." 52 U.S.C. § 10307. Citing this statute, in 2009, the Department of Justice prosecuted members ofthe New Black Panther Party for Self Defense ("NBPP") who stood outside of aPhiladelphia polling place wearing military attire and brandishing a billy club.In your hearing testimony, you stated that you "espoused the opinion publicly" that the Justice Department should have dropped its prosecution of that case, and further explained that you thought the case was "weak." Can you explain which aspect of that case was "weak?"

RESPONSE: In my hearing testimony, I stated I "may" have espoused the view publicly that the claims in that case were "weak." It appears I did not make such statements with respect to this case. To answer this question, I have reviewed statements I made under oath about this matter and a letter to the editor of the Washington Times I wrote in 2009, in which I stated the lawsuit was not one that I followed closely.

6. Do you believe that evidence of voter suppression in a state in 1964—without present evidence of voter suppression in 2021—should be sufficient to justify apreclearance requirement for any election laws under Section 5 of the Voting Rights Act in 2021?

RESPONSE: I am not aware of all the relevant facts concerning this hypothetical, and therefore am not in a position to comment.

7. Do you believe *Shelby County v. Holder* was wrongly decided?

RESPONSE: I was an attorney involved in this litigation. The Supreme Court's decision did not vindicate my prior clients' interests. That said, *Shelby County* is binding Supreme Court precedent which I will follow if confirmed.

8. Was there any portion of the Department of Justice's 2009 case against theNBPP that was not "weak?"

RESPONSE: Please see my response to Question 5.

9. Based on the conduct alleged in the Department of Justice's case against theNBPP, do you believe it would have been appropriate to file a case for any reason against the individuals who stood outside the polling place brandishing a billy club?

RESPONSE: As I testified at my hearing, voter intimidation is a real issue that should be addressed, and there are tools in the Voting Rights Act to help address voter intimidation. I was not at the Department of Justice at the time that case was considered so I do not know whether the law and the facts justified any other claims.

10. In 2005, the Department of Justice prosecuted Ike Brown for vote denial, abridgment, and intimidation through various means. During your hearing testimony, you stated that "after I left the Justice Department, I expressed theview that the voter intimidation claim in [*United States v. Ike Brown*] was weak." Did you agree—after you joined the NAACP's Legal Defense Fund— with the Department of Justice's decision to continue prosecuting the voter abridgment and denial aspects of that case?

RESPONSE: As I testified at my hearing, I espoused the limited view that the voter intimidation claim in *United States v. Ike Brown* was weak, a position with which a federal court agreed. *See United States v. Brown*, 494 F. Supp. 2d 440 (S.D. Miss. 2007). I don't recall having an opinion about other claims in that case.

11. After joining the NAACP, did you believe the Department of Justice shouldhave dropped its case against Ike Brown in its entirety?

RESPONSE: Please see answer to Question 10.

12. After joining the NAACP, did you privately or publicly espouse the opinionthat the Department of Justice should have dropped its case against Ike Brown in its entirety?

RESPONSE: Please see answer to Question 10.

13. As Deputy Attorney General [sic], what will you do if the President takes a position that is contrary to the law or not in the interests of the United States?

RESPONSE: Like President Biden and Attorney General Garland, I am committed to the independence of the Department of Justice and the fair and impartial administration of justice. If confirmed as Assistant Attorney General for the Civil Rights Division, I would advise the Attorney General and, when called upon, the President, based on my best independent judgment of what the facts and the law require.

14. If confirmed, you may be asked to opine on the legality of a variety of proposed

Executive actions. In your view, is it the duty of the Department of Justice to give a favorable opinion of the legality of proposed action so long asreasonable arguments can be made in its defense? Or must the Department decide, *de novo*, whether those arguments are in fact correct?

RESPONSE: It is the Department's responsibility to advise on the legality and constitutionality of proposed executive actions with independence and with the interests of the United States in mind. It is the responsibility of Department attorneys to provide candid and well-informed advice to ensure that the priorities of the Administration are accomplished consistent with the Constitution and applicable law. If a proposed course of action does not meet that standard, the Department should counsel legally acceptable alternatives and, if there are none, must clearly state that.

15. As a nominee for a position in the Executive branch, do you think there are any limits on the President's use of prosecutorial discretion?

RESPONSE: Exercising prosecutorial discretion is a necessary and important part of enforcing the law. The Executive Branch must ensure that limited resources are used appropriately because, as the Supreme Court has observed, an agency "generally cannot act against each technical violation of the statute it is charged with enforcing." *Heckler v. Chaney*, 470 U.S. 821, 831 (1985). The Executive Branch cannot decide that it will not enforce a law at all based on a policy disagreement.

16. Is there a point where "prosecutorial discretion" simply becomes "executivefiat?"

RESPONSE: Please see my response to Question 15.

17. Do you agree that prosecutorial discretion should be the exception rather than the rule—i.e., that in the typical case covered by a law, it is the Executive's duty to enforce that law?

RESPONSE: The Department of Justice is responsible for enforcing the law. I will enforce the law without regard to politics or partisanship, just as I have done throughout my career, if confirmed to this position. From my experience as a trial attorney, criminal prosecutor, and Special Assistant United States Attorney at the Department of Justice, I understand that the appropriate exercise of prosecutorial discretion is an important part of that function. As the Supreme Court has recognized, an agency "generally cannot act against each technical violation of the statute it is charged with enforcing." *Heckler v. Chaney*, 470 U.S. 821, 831 (1985). As the Court further explained, when deciding whether to bring any enforcement action an "agency must not only assess whether a violation has occurred, but whether agency resources are best spent on this violation or another, whether the agency is likely to succeed if it acts, whether the particular enforcement action requested best fits the agency's overall policies, and, indeed, whether the agency has enough resources to undertake the action at all." *Id.*

18. A number of states have enacted so-called "red flag laws" that authorize judges to issue orders for the seizure of otherwise lawfully owned firearms when the owner is found to be a danger to self or others. Do you support theuse of red flag orders to

seize lawfully-owned firearms? If so, what due process protections should apply to the issuance of these orders? Should a judge be able to order firearm seizures in *ex parte* proceedings, before therespondent has had a chance to answer the allegations in the petition?

RESPONSE: I do not know the specifics of this issue, but I believe that if someone is determined by a judge to be a danger to themself or another human being, then it is important to minimize those risks. It is also important to consider due process and other federal rights.

19. Late last year, ATF took steps to crack down on pistol braces, an accessory that was originally created to help disabled veterans safely and effectively handle large-framed handguns. Over a span of several years, BATFE deemed these items to be unregulated accessories, then appeared to backtrack on that decision, then reiterated its original position, then suddenly declared certain braced pistols to be regulated short-barreled rifles. The agency also issued highly-controversial draft guidance on pistol braces which it quickly withdrewafter condemnation from the firearm industry and gun-owning public. Do you intend to reprise BATFE's efforts to regulate brace-equipped handguns? If so, how do you intend to accommodate the millions of law-abiding Americans who originally obtained these devises lawfully and in good faith and who have never used them for illegal purposes?

RESPONSE: Because I am not currently at the Department, I am not familiar with current ATF proposals or pending technical decisions on particular firearm features or accessories. The Bureau of Alcohol, Tobacco, Firearms and Explosives will not be under my purview as Assistant Attorney General for the Civil Rights Division if I am confirmed.

20. Do you support banning specific types of firearms?

RESPONSE: I have not studied this issue in detail and do not have an opinion on it. As I understand the work of the Civil Rights Division, it is unlikely an issue like this would come before me if confirmed.

21. Do you support banning large magazines?

RESPONSE: I have not studied this issue in detail and do not have an opinion on it. As I understand the work of the Civil Rights Division, it is unlikely an issue like this would come before me if confirmed.

22. Do you support holding firearms manufacturers liable for damage caused bypeople using their firearms to commit a crime?

RESPONSE: I have not studied this issue in detail and do not have an opinion on it. As I understand the work of the Civil Rights Division, it is unlikely an issue like this would come before me if confirmed.

23. Ms. Clarke, you stated that "Melanin endows Blacks with greater mental, physical

and spiritual abilities—something which cannot be measured basedon Eurocentric standards." Do you agree with that statement?

RESPONSE: No. That part of the 1994 letter to the editor was meant as satire, and I explained at the time to a Crimson reporter and a fellow student that those views were not mine.

24. Prior to your nomination for Assistant Attorney General for the Civil Rights Division, did you ever publicly explain that your statement that "Melanin endows Blacks with greater mental, physical and spiritual abilities" was meantto be satirical or facetious?

RESPONSE: I explained to a Crimson reporter and a fellow student at the time that those were not my views.

25. You mentioned in your hearing that there were contemporaneous writings noting that your op-ed was understood to be satirical. Please provide thosewritings for the record.

RESPONSE: I was referring to this news article and letter from a Jewish student leader:
https://www.thecrimson.com/article/1994/10/28/book-sparks-campus-debate-pmental-physical/
https://www.thecrimson.com/article/1994/11/7/call-for-retraction-not-professional-pi/

26. If someone were to take your statement "Melanin endows Blacks with greatermental, physical and spiritual abilities" at face value, would that sentiment beracist in your view?

RESPONSE: It was meant as an absurd comparison to the racist views in The Bell Curve, not to be taken at face value.

27. Is racist speech acceptable as long as it's sarcastic?

RESPONSE: No.

28. If racist speech is not acceptable—even if it's sarcastic—then why have yourefused to apologize for those statements and continued to defend them bysaying they were meant to be sarcastic?

RESPONSE: The 1994 letter to the editor was meant to hold a mirror up to absurd views of racial superiority, no matter what race they seek to define. I did not then and nor do I now believe that views that express discrimination aimed at any community have a place in our country.

29. Ms. Clarke, [as my colleagues have mentioned], you invited Professor Anthony Martin to speak at Harvard. After other students criticized his comments regarding Jews, you defended him, saying his information was "based in indisputable fact." At the event, Martin reportedly stated there wasa "continuing Jewish onslaught against the entire Black nation." Do you believe that statement was "based in indisputable fact?"

RESPONSE: I do not.

30. What did Mr. Martin say at the event in question that was "based in indisputable fact?"

RESPONSE: My recollection of what I deemed "based in indisputable fact" was his stance on the harmful and racist assertions in The Bell Curve, which was why the Black Students Association accepted his offer to visit the campus in 1994.

31. When you invited Professor Martin to speak, were you aware that, the yearbefore, he'd published a book entitled "The Jewish Onslaught" in which hediscusses an alleged—his words, not mine—"Jewish attack on Black progress?"

RESPONSE: We accepted his offer to come refute The Bell Curve. I was not aware of his book or scholarship when he reached out.

32. If you were aware of Mr. Martin's book, why did you give a platform to someone who had published such an obviously anti-Semitic work?

RESPONSE: I was not aware of the book when the Black Students Association accepted his offer to come and speak in 1994.

33. In your hearing testimony, you said you "provided logistical support" for a conference while you were at Columbia Law School entitled "Race-ing Justice." You also indicated that your involvement in the conference included"ma[king] sure people were fed, mail[ing] out invitations, [and] provid[ing] the agenda." Did you engage in any other activities related to that conference?

RESPONSE: During the conference in question, which took place in 1999, I was employed as a work study student and research assistant for the Institute for Research in African American Students at Columbia University. It was in that capacity that I provided logistical and other administrative support for the conference, working under the supervision and direction of the Institute's Director.

34. In preparation for the conference entitled "Race-ing Justice," did you ever share, via email or otherwise, an article entitled "Mumia, 'Lynch Law" & Imperialism" by

Amiri Baraka which stated that "The Klan is now the Police,with Blue uniforms replacing the sheets and hoods. The corrupt racist Judges, are petty Klan administrators . . . ?" If yes, why?

RESPONSE: I am aware that an email with my name listed as "Author" and which appears to be described in your question has recently circulated on social media. I have no independent recollection of that email and it is clear on its face the words quoted in your question were not mine.

35. Did you serve on the editorial staff of a journal with Amiri Baraka, the authorof "Mumia, 'Lynch Law" & Imperialism?"

RESPONSE: No.

36. Do you agree with the following assertion (from the article entitled "Mumia,'Lynch Law" & Imperialism" by Amiri Baraka): "The Klan is now the Police, with Blue uniforms replacing the sheets and hoods. The corrupt racist Judges, are petty Klan administrators . . . ?"

RESPONSE: No.

37. Do you agree with any assertions made in the article entitled "Mumia, 'LynchLaw" & Imperialism" by Amiri Baraka?

RESPONSE: I have no recollection of what was asserted in the article referenced in your question.

38. In 2018, you signed a letter opposing the confirmation of Ryan Bounds, a nominee for the Ninth Circuit Court of Appeals. In that letter, you accused Bounds of making "insensitive statements" in a conservative newspaper while in college. You said that "[w]hile [Bounds] recently apologized for those comments, the timing of that apology suggests it is one of convenience rather than remorse, offered in a last-ditch effort to salvage his nomination and win the support of his home-state senators." Do you believe that your own standard should be applied to you? Namely, that insensitive statements made in college are disqualifying even if you apologize for them?

RESPONSE: The letter you appear to be referencing was sent by the Leadership Conference on Civil and Human Rights and signed by its then President and CEO, not me. In any event, I do not know which college statements you are referring to in this question. I was a student leader at Harvard College and in that role I spoke publicly on many issues of interest to the university community.

39. Should your attempt to apologize for your statements made in college suggestthat it is one of convenience rather than remorse?

RESPONSE: Please see the response to Question 38.

40. Why should we confirm you despite your "insensitive statements" and actionsin college when you urged the Senate not to confirm Ryan Bounds for statements he made in college?

RESPONSE: Please see the response to Question 38.

41. Why did you sign a letter in 2019 defending Tamika Mallory, a woman whostated that "white Jews" "uphold white supremacy" and associated herself with Louis Farrakhan?

RESPONSE: I joined a petition with thousands of civil rights lawyers, faith leaders, community leaders, and activists regarding Mallory's work in connection with the Women's March and her work on women's rights, and gender equity. The petition makes clear that all signatories were "denouncing racism, antisemitism, sexism, violence, and bigotry in any form in our nation."

42. Do you think evidence of discriminatory views against minorities is relevantto a nominee's fitness to run the Justice Department's Civil Rights Division?

RESPONSE: The Justice Department should seek individuals who will enforce the law without regard to politics or partisanship, and who are committed to the rule of law and to seeking equal justice under law. My record demonstrates that I do not hold discriminatory views toward any minority group, and that I have followed these principles throughout my legal career.

43. The Biden Administration has stated its intention to pursue "equity." Is thereany difference between "equity" and "equality," and if so, what is that difference?

RESPONSE: At the start of his Administration President Biden defined "equity" as "the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment." *See* E.O. No. 13985 (Jan. 20, 2021). I agree with Attorney General Garland that the President's definition aligns with bedrock legal principles and is consistent with federal civil rights laws passed by Congress, including laws that prohibit discriminatory conduct.

44. In order to achieve "equity," is it ever necessary to discriminate against members of some groups in favor of others?

RESPONSE: Equality means treating everyone the same. Equity means fairness and understanding that there are communities that may face particular historical and present-day barriers. Equity requires accounting for the fact that not everyone starts from the same footing, and works to address more longstanding barriers.

45. If treating people equally before the law results in disparate outcomes, is it acceptable to discriminate against those with favorable outcomes before thelaw in order to correct that disparity?

RESPONSE: Please see the response to Question 44.

46. How do you define "systemic racism?"

RESPONSE: Attorney General Garland testified that "there is discrimination and widespread disparate treatment of communities of color and other ethnic minorities in this country." I agree with his view and believe that the Civil Rights Division's role is to follow the facts and the law to identify if and when there are violations of our federal civil rights laws.

47. How do you define "critical race theory?"

RESPONSE: I am not an academic and I do not have a personal definition of critical race theory.

48. Do you distinguish "critical race theory" from "systemic racism," and if so,how?

RESPONSE: Please see answer to Question 47.

49. Do you believe racism infects every aspect of our criminal justice system?

RESPONSE: Attorney General Garland testified that "there is discrimination and widespread disparate treatment of communities of color and other ethnic minorities in this country." I agree with his view and believe that the Civil Rights Division's role is to follow the facts and the law to identify if and when there are violations of our federal civil rights laws or the Constitution.

50. Do you believe theft and destruction of property are an appropriate responseto systemic racism?

RESPONSE: No. The First Amendment only protects the exercise of peaceful demonstration and protest. If confirmed as Assistant Attorney General I will work to enforce the law and protect communities from violence regardless of who engages in it.

51. Do you believe theft and destruction of property are acceptable means forvoicing dissent?

RESPONSE: See response to question 50

52. Do you believe that the Trump Administration—as a matter of policy and personnel—was racist?

RESPONSE: I do not. As I said at my hearing, I generally use the terms "discrimination" and "discriminatory" when I talk about specific policies, or actions that produce discriminatory outcomes or effects.

53. Congresswoman Ayanna Presley has said, in relation to criminal justice policy: "[w]e must now be every bit as intentional in legislating justice and equity, and that starts with embracing anti-racism as a central tenet of the policymaking process." Do you plan to institute "anti-racist" policies in thedivisions under your supervision at the Justice Department? If so, which policies do you plan to institute?

RESPONSE: If confirmed, any policies that I may adopt in the Civil Rights Division will be consistent with the overall Department-wide policies determined by Attorney General Garland, and will be consistent with the law, regulations, and applicable court precedents.

54. What current policies of the Justice Department are "racist?"

RESPONSE: As I said at my hearing, I generally use the terms "discrimination" and "discriminatory" when I talk about specific policies, institutions, structures, or actions. There are no current policies of the Justice Department that I would consider racist.

55. Do you believe that *Students for Fair Admissions v. Harvard*—in which several groups of Asian American students alleged that Harvard University's admissions system unduly discriminated against Asian American students— constituted an unprecedented assault on efforts to promote racial diversity inhigher education?

RESPONSE: Following Attorney General Garland's example, I believe it is prudent not to comment on the Department's litigation decisions (including the amicus brief submitted by the Department in the matter referenced in this question) and positions unless and until I am confirmed by the Senate. If confirmed, I can be fully briefed on the relevant facts and applicable laws.

56. Do you believe racial violence still lies within the DNA of our nation?

RESPONSE: Attorney General Garland testified that "there is discrimination and widespread disparate treatment of communities of color and other ethnic minorities in this country." I agree with his view and believe that the Civil Rights Division's role is to follow the facts and the law to identify if and when there are violations of our federal civil rights laws.

57. Do you believe that members of historically oppressed minority groups shouldbe treated more favorably than those of other races in prosecutions and sentencing decisions to correct for the effects of systemic racism?

RESPONSE: Please see the response to Question 56.

58. Do you believe police officers should decide to arrest—or not arrest—peoplebased on race or gender-based criteria?

RESPONSE: Law enforcement officials should make arrests based on the facts and the law in compliance with the Constitution and federal civil rights laws.

59. Do you believe it is ever justified for a police officer to use deadly force againstan individual? If yes, when?

RESPONSE: Yes. However, these are inquiries that must be made on a case-by-case basis, with a close examination of the facts and the law.

60. Do you believe there is value in withholding judgment regarding specific instances of police misconduct until an officer is adjudicated to be guilty?

RESPONSE: The Department has strict policies limiting public disclosure of the existence of or otherwise commenting about an ongoing investigation. *See*, *e.g.*, Justice Manual 1-7.400. As a former federal prosecutor, I fully appreciate the importance of policies like this to protect the rights of those under investigation and commit to following them assiduously if confirmed.

61. Why did you state that "Jussie Smollett was subjected to a racist and homophobic attack" well before the police investigation had concluded?

RESPONSE: The facts as I understood them at the time of that tweet suggested that Mr. Smollett had been the victim of hate crime that should be investigated by the appropriate authorities. Like many others, I fell for Mr. Smollett's hoax and in retrospect I regret having made that statement. Hoaxes distract attention away from the real incidents of hate crimes which are a growing threat in our country.

62. If confirmed, how would you direct your department to handle a mandatorygun confiscation-type program that would result from banning so-called "assault weapons" like some of my colleagues are calling for and that has thesupport of the President?

RESPONSE: If confirmed, I would direct the Division to take positions that are within its jurisdiction and supported by the Constitution and the law. As I understand it, firearms-related work would not fall within the scope of the Civil Rights Division's work.

63. Please state for the record your thoughts on the Second Amendment?

RESPONSE: I have not worked on the Second Amendment during my career. *Heller* is established precedent that the Supreme Court has repeatedly reaffirmed. The Department of Justice's litigating positions must be guided by existing law and precedent like *Heller*.

64. Under the Obama Administration, Operation Chokepoint formalized financial

discrimination in the form of an effort by the Federal Deposit Insurance Corporation (FDIC) and Department of Justice (DOJ) to stop financial institutions from offering services to some regulated industries in an attempt to choke off banking services. This included federally licensed firearm retailers and other companies in the firearm and ammunition industry – some of the most heavily regulated businesses in the country. The Justice Department under President Trump committed to ending this controversial program. Will you commit that, if confirmed, this would also be the case under your leadership?

RESPONSE: I am not familiar with the operation you reference. It does not appear from what you have described that this would be a program in the Civil Rights Division.

65. Do you believe that as the AAG for the Civil Rights Division you have a duty toact in line with your moral code? If so, would you agree that it is part of your duty to ensure that the department under your care does not violate that code?

RESPONSE: Throughout my career I have worked hard to follow the facts and the law, and I will bring that commitment to the Civil Rights Division if confirmed. I will ensure that the Division's work and enforcement matters are based solely on fair and careful application of the law to the facts, and will be guided by the recommendations of attorneys, federal law enforcement officials and other professionals in the Division in so doing.

66. Along the same line, let's assume that someone acting as an agent of the Department of Justice takes actions which contradict your moral code. Whatresponsibility do you feel you would owe for those actions?

RESPONSE: Please see my response to question 65.

67. For purposes of federal law, when does life begin?

RESPONSE: In *Roe v. Wade*, 410 U.S. 113 (1973), the Supreme Court stated that the court "need not resolve" the question of when life begins. *Id.* at 159.

68. Does the definition of when human life begins for purposes of federal lawdiffer from the scientific definition of when human life begins?

RESPONSE: In *Roe v. Wade*, 410 U.S. 113 (1973), the Supreme Court stated that the court "need not resolve" the question of when life begins. *Id.* at 159.

69. At what point in human development does the United States have acompelling interest in protecting a human life?

RESPONSE: In *Planned Parenthood v. Casey*, the Supreme Court held that states may regulate abortion prior to viability based on the state's interest in maternal health and potential life, provided those regulations did not impose and do not have "the purpose or

effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus." 505 U.S. 833, 877 (1992).

70. Do you support laws penalizing fetal homicide?

RESPONSE: If I am confirmed as Assistant Attorney General for the Civil Rights Division, my mandate will be to enforce the law, as I have done throughout my career.

71. Do you support the Unborn Victims of Violence Act of 2004, which provides that a person guilty of killing a child in utero may be punished to the same extent as if they had killed the child's mother, and that a person who intentionally kills a child in utero may be charged as a homicide (i.e., murderor manslaughter)?

RESPONSE: If confirmed as Assistant Attorney General for the Civil Rights Division, my duty will be to enforce the Constitution and other federal laws consistent with Supreme Court precedent.

72. Given that "homicide" requires the killing of an innocent human being, do youagree that in order to punish someone for violating this statute, the child in utero would have to be a human being?

RESPONSE: If confirmed as Assistant Attorney General for the Civil Rights Division, my duty will be to enforce the Constitution and other federal laws consistent with Supreme Court precedent.

73. Are there any circumstances which justify the killing of an innocent humanbeing?

RESPONSE: I am not aware of what circumstances you may be referring in your question. If confirmed as Assistant Attorney General for the Civil Rights Division, my duty will be to enforce the Constitution and other federal laws consistent with Supreme Court precedent.

74. Do you support the Born Alive Infants Protection Act?

RESPONSE: If confirmed as Assistant Attorney General for the Civil Rights Division, my duty will be to enforce the Constitution and other federal laws consistent with Supreme Court precedent.

75. Relatedly, would you support any policy that would prohibit the killing ofchildren who survive failed abortions outside the womb?

RESPONSE: Please see my response to Question 74.

76. Will you commit that the Department of Justice will not rely upon data or information compiled by the Southern Poverty Law Center considering theserious allegations raised against the organization of systemic sexual harassment, racial discrimination, and

domestic terrorism ties, as reported bythe New York Times and others?

RESPONSE: I am not familiar with the reporting you reference in your question, nor do I know whether and to what extent the Department may be relying on such data or information.

77. In 2018, you said: "Jeff Sessions is launching a Religious Liberty Task Force to make it easier for people to use religion to mask their discriminatory goals."How do you distinguish an individual's legitimate exercise of their constitutional right to religious freedom from exercises that "mask" discriminatory goals?

RESPONSE: The Justice Department is responsible for both ensuring freedom of religion and enforcing our antidiscrimination laws. These goals can be in tension but do not necessarily conflict. These are often complicated, fact-intensive questions. If confirmed, I would work to ensure the full and fair enforcement of the law, and to follow Supreme Court precedent.

78. Do you believe a pastor, priest, rabbi, or imam who refuses to officiate a same-sex wedding is using religion to "mask" discrimination?

RESPONSE: Please see answer to Question 77.

79. Do you believe that a women's shelter that denies entry to a person with a male body who claims to identify as a woman—knowing nothing else—shouldbe denied federal funding?

RESPONSE: I am not aware of all the relevant facts concerning this hypothetical, and therefore am not in a position to comment. As the President's Executive Order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation provides, every person should be treated with respect and dignity and should be able to live without fear, no matter who they are or whom they love. All persons should receive equal treatment under the law, no matter their gender identity or sexual orientation. Transgender people can be discriminated against because their gender identity does not match the sex they were assigned at birth. If confirmed, I will enforce federal law and, as Attorney General Garland has explained, advance the Administration's policy program consistent with the Department's objective assessment of the law.

80. Do you believe the federal prison system should allow any person who identifies as a female to transfer to a women's-only prison?

RESPONSE: My understanding is that this issue is the topic of pending litigation. As a Department of Justice nominee, it would be inappropriate for me to comment unless and until I am confirmed by the Senate and can be fully briefed on the relevant facts and law.

81. Do you believe schools run by mosques, synagogues, or churches should loseaccess

to federal funding if they choose not to employ individuals who disagree with the school's faith-based statement on sexuality or gender- identity?

RESPONSE: If confirmed, I would seek to ensure that federal funding programs within my purview comply fully with applicable law.

82. Should the Constitution protect the rights of religious organizations to hire or terminate employees based on their agreement or compliance with the school's religiously-based code of conduct?

RESPONSE: Please see answer to question 77.

83. Do you believe parents should be involved in the decision of whether to administer hormone blockers or other gender reassignment therapies to theirminor child?

RESPONSE: A person's gender identity is a personal matter. Each situation is unique, whether involving a minor or an adult, and any decision to receive medical treatment is similarly personal and particular to the individual. If I am confirmed, it will not be my mandate to proscribe rules for individual families and persons should address these very personal situations. I will enforce all federal laws within my purview, and work to ensure that every person is treated with respect and dignity and can live without fear, no matter who they are or who they love.

84. In 2020, you wrote an article entitled "I Prosecuted Police Killings. Defund the Police—But Be Strategic." At the hearing, you stated that the article's title was chosen by the editor, and did not reflect your views. Separately, however,you stated that you ordinarily "defer" to editors on article titles. Were you asked whether you approved of the title before the article ran? Alternatively, did you communicate in advance that you approved of any title the editor chose (i.e., "defer[red]" to the editor's decision)?

RESPONSE: I do not recall whether I spoke with the editor about a title for the piece. As I testified, I do not believe the title aligns well with what I wrote.

MORRISON | FOERSTER

425 MARKET STREET
SAN FRANCISCO
CALIFORNIA 94105-2482

TELEPHONE: 415.268.7000
FACSIMILE: 415.268.7522

WWW.MOFO.COM

MORRISON & FOERSTER LLP

BEIJING, BERLIN, BOSTON,
BRUSSELS, DENVER, HONG KONG,
LONDON, LOS ANGELES, NEW YORK,
NORTHERN VIRGINIA, PALO ALTO,
SAN DIEGO, SAN FRANCISCO, SHANGHAI
SINGAPORE, TOKYO, WASHINGTON, D.C.

January 8, 2021

Writer's Direct Contact
+1 (415) 268.7415
JLonden@mofo.com

Via E-Mail (senator@feinstein.senate.gov)

The Hon. Dianne Feinstein
One Post Street, Suite 2450
San Francisco, CA 94104

Re: *Support for the Nomination of Kristen Clarke as Assistant Attorney General for the Civil Rights Division of the U.S. Department of Justice.*

Dear Senator Feinstein:

Kristen Clarke is an extraordinarily well qualified nominee to head the Civil Rights Division of the Department of Justice.

As a former Co-Chair and Board member of the Lawyers' Committee for Civil Rights Under Law, I was co-chair of the Search Committee that hired Kristen to become the President and Executive Director of the Lawyers' Committee five years ago. I personally reviewed many of her speeches and writings and a number of her court proceedings from the time she headed the Civil Rights Bureau for the New York State Attorney General Office. I have worked with Kristen and closely followed her leadership of the Lawyers' Committee these past five years.

Having closely examined Kristen's work, I have never seen anything that was less than superb in quality. She is creative, energetic, and dedicated. Her manner is dignified, respectful of all she encounters, and compassionate to the disadvantaged. Her leadership is effective and inspiring to those who work with her.

I urge the Senate Judiciary Committee and the Senate, for the good of our country and in the interest of civil rights, to vote to confirm Kristen Clarke at the earliest opportunity.

Sincerely,

Jack W. Londen

sf-4366937

February 1, 2021

The Honorable Richard J. Durbin
Chairman Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Nomination of Kristen M. Clarke as Assistant Attorney General

Dear Chairman Durbin and Ranking Member Grassley:

We write as former career attorneys in the Civil Rights Division of the U. S. Department of Justice to support the confirmation of Kristen Clarke as Assistant Attorney General for Civil Rights. Our service extends from the 1960s through the period of Ms. Clarke's employment and up to the more recent past, in both Republican and Democratic administrations. We are convinced that Ms. Clarke possesses the legal acuity, character, and commitment to the mission of the Civil Rights Division to lead it successfully.

Since its founding, the Division has been assigned responsibility for enforcement of the nation's foundational civil rights laws, including those addressing voting, police misconduct, violence motivated by race and other forms of bigotry, education, employment, and housing. Its primary tools are civil litigation and criminal prosecutions, but it also pursues cooperative solutions and renders legal advice on civil rights matters.

Of particular note, while serving as a trial attorney in the Division, Ms. Clarke specialized in areas of crucial contemporary relevance. In the Voting Section, she enforced the Voting Rights Act to ensure that all qualified people could cast meaningful ballots and participate equally in the political process. While in the Criminal Section, she handled matters involving law enforcement officers who violated constitutional rights and individuals who committed hate motivated violence. These areas should be central priorities for the Division in the years ahead.

Ms. Clarke's career since leaving the Civil Rights Division has deepened and broadened her experience. Through her employment with the NAACP Legal Defense Fund, her service with the New York Attorney General, and her leadership of the Lawyers Committee for Civil Rights Under Law, she has been involved in nearly every area of civil rights enforcement.
Her experience with the New York Attorney General has given her insight into state authorities, who are often the objects of Civil Rights Division enforcement efforts,

and has enhanced her ability to deal sensitively and persuasively with them. Her position at the Lawyers Committee has allowed her to demonstrate her leadership ability, her litigation skills, and her effectiveness as a spokesperson for a substantial organization.

Since its founding, the Civil Rights Division has been at the heart of the federal government's commitment to remedy past and ongoing discrimination and to move the reality of America closer to its majestic ideals. It has developed a culture based on rigorous investigation, careful legal analysis, honest negotiation, clear communication, and, when necessary, skillful litigation.

In our collective view, Kristen Clarke has the qualities to continue that culture and our nation's progress toward a more just society. We, therefore, strongly endorse her confirmation as Assistant Attorney General for Civil Rights.

Respectfully,

Joseph Rich, 1968-2005
William Yeomans. 1981-2005
Brian K. Landsberg, 1964-1986; 1993-1994
Robert Kengle, 1984-2005
Brian Heffernan 1978-2011
David Becker 1998-2005
James Tucker 1999-2002
Steve Pershing 1996-2005
Albert Moskowitz 1984-2006
Gerard Hogan 1988-2017
Gilda Daniels, 1998-2006
Luz Lopez-Ortiz, 2000-2019
Bruce Adelson 2000-2006

G|K
Gallagher&Kennedy

Grant Woods
Attorney
Direct: 602-530-8275
Email: grant.woods@gknet.com

February 3rd, 2021

VIA EMAIL

Reginald Babin, Chief Counsel, Senate Majority Leader Charles E. Schumer
reginald_babin@schumer.senate.gov

Andrew Ferguson, Chief Counsel, Senate Minority Leader Mitch McConnell
andrew_ferguson@mcconnell.senate.gov

Phillip Brest, Chief Nominations Counsel, Senate Judiciary Committee Chairman Richard J. Durbin
phillip_brest@judiciary-dem.senate.gov

Michael Fragoso, Chief Nominations Counsel, Senate Judiciary Committee Ranking Member Charles E. Grassley
michael_fragoso@judiciary-rep.senate.gov

Gentlemen;

Please see the enclosed letter submitted for your consideration from myself and Former Nevada Attorney General Frankie Sue Del Papa.

Sincerely,

Grant Woods
Former Arizona Attorney General 1991-1999

GW:seb
Enclosure

February 1, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Letter in Support of the U.S. Department of Justice Nominees

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

We write in strong support of President Biden's nominees to the U.S. Department of Justice: Judge Merrick Garland for Attorney General, Lisa Monaco as Deputy Attorney General, Vanita Gupta as Associate Attorney General, and Kristen Clarke as Assistant Attorney General for the Civil Rights Division.

We are former State Attorneys General in each of our respective states, who belonged to both Republican and Democratic parties. Many of us served for multiple terms, operating as the chief statewide law enforcement officials in our states, bringing criminal and civil enforcement actions to protect our citizens and the public fisc, and defending our states in federal and state courts.

We often worked with the U.S. Department of Justice and senior officials (including the Deputy Attorney General, Associate Attorney General, and Assistant Attorney General for the Civil Rights Division) under both Republican and Democratic Administrations, and believe that the slate of Justice Department nominees announced by President Biden represent outstanding selections of individuals who have sterling reputations and leadership qualities that will meet the mission of the Justice Department.

Judge Merrick Garland is well known to many of us, not just through his reputation as a fair-minded judge, but also through his work as a senior Justice Department official during the Oklahoma City bombing investigation/prosecution, which required close coordination among

federal, state, and local authorities. Judge Garland's skillful and wise leadership over that investigation team was exemplary of how federal, state, and local authorities can work towards a common goal on behalf of public safety for the American people.

Lisa Monaco similarly is a well-known public servant, who has devoted her life to public safety and protecting our national security. She served with distinction as the Assistant Attorney General for the National Security Division, and in senior positions within the Federal Bureau of Investigation and as a homeland security advisor. She is a professional through and through -- who has worked hand in hand with law enforcement and intelligence personnel to keep our cities and states safe.

Vanita Gupta is a gifted national leader who has developed credibility with law enforcement leaders and civil rights leaders, and she too is an outstanding selection to assume the Associate Attorney General position within the Justice Department. Because of her extensive work and ability to build strong relationships with local leaders, she has demonstrated a keen understanding of building coalitions and promoting greater trust between law enforcement and the communities they serve. We welcome her leadership at the Justice Department.

Kristen Clarke is someone with immense credibility among community leaders in each of our states -- she has handled cases of hate crimes, constitutional policing, human trafficking, and voting rights, and, most recently, has done effective work on violent extremism and the threat that it poses to our citizens. Clarke further worked in a leadership position within the New York State Attorney General's office, leading the Civil Rights Bureau there -- where she led a religious rights initiative as well as other civil rights initiatives on behalf of the State. We are further proud that she is an alumnus of a State Attorney General's office.

We urge the Committee to quickly process the Justice Department nominees and urge the Senate to quickly confirm these outstanding nominees. We have been alarmed at recent efforts to undermine the rule of law and our democratic institutions, at both the state and federal level. We firmly believe that the credibility, independence, and devotion to the rule of law that these Justice Department nominees have exhibited throughout their professional and personal lives will help garner greater faith in our institutions going forward.

Thank you for your consideration.

Yours truly,

Grant Woods
Arizona Attorney General 1991-98

Frankie Sue Del Papa
Nevada Attorney General 1990-2002

Robert Abrams
NY Attorney General, 1979-93

Ron Amemiya
HI Attorney General 1974-1978

Doug Baily
AK Attorney General, 1989-91

Thurbert Baker
GA Attorney General, 1997-2010

Senator Richard Blumenthal
CT Attorney General, 1991-2011

Bruce Botelho
AK Attorney General, 1994-2002

Roland Burris
IL Attorney General, 1991-95

Bob Butterworth
FL Attorney General, 1987-2002

Bonnie J. Campbell
IA Attorney General, 1991-95

Pamela Carter
IN Attorney General, 1992-1996

Ben Chandler
KY Attorney General, 1996-2004

Steve Clark
AR Attorney General, 1979-1990

Mike Cody
TN Attorney General, 1984-1988

Walter Cohen
PA Attorney General, 1995

Jack Conway
KY Attorney General, 2008-16

Robert E. Cooper, Jr.
TN Attorney General , 2006-2014

Richard Cordray
OH Attorney General, 2009-11

Fred Cowan
KY Attorney General , 1988-1992

J. Joseph Curran, Jr.
MD Attorney General, 1987-2006

M. Jerome Diamond
VT Attorney General, 1975-81

Rufus Edmisten
NC Attorney General, 1974-84

Drew Edmondson
OK Attorney General, 1995-2011

John J. Farmer Jr.
NJ former Attorney General, 1999-2002

Lee Fisher
OH Attorney General, 1991-95

Douglas Gansler
MD Attorney General, 2007-15

Terry Goddard
AZ Attorney General, 2003-11

Chris Gorman
KY Attorney General, 1992-96

Governor Christine Gregoire
WA Attorney General, 1993-2005

Neil Hartigan
IL Attorney General, 1983-91

Peter C. Harvey
NJ Attorney General, 2003-06

Mike Hatch
MN Attorney General, 1999-2007

Senator Heidi Heitkamp
ND Attorney General, 1993-2001

Jim Hood
MS Attorney General, 2004-20

Hubert H. Humphrey III
MN Attorney General, 1982-98

Richard Ieyoub
LA Attorney General, 1992-2003

George Jepsen
CT Attorney General, 2011-19

Jim Jones
ID Attorney General, 1983-91

Peter Kilmartin
RI Attorney General, 2011-19

Senator Joseph Lieberman
CT Attorney General, 1983-89

Jahna Lindemuth
AK Attorney General 2016-18

Bill Lockyer
CA Attorney General, 1999-2007

David Louie
HI Attorney General, 2011-14

Lisa Madigan
IL Attorney General, 2003-19

Patricia Madrid
NM Attorney General, 1998-2006

Dustin McDaniel
AR Attorney General 2007-2015

Brian McKay
NV Attorney General 1983-1990

V. Frank Mendicino
WY Attorney General, 1975-78

Anne Milgram
NJ Attorney General, 2007-10

Tom Miller
IA Attorney General, 1979-91 and 1995-present

Governor Janet Mills
ME Attorney General , 2009-2011; 2013-2019

Jeff Modisett
IN Attorney General, 1997-2000

Mike Moore
MS Attorney General, 1987-2003

Governor Janet Napolitano
AZ Attorney General, 1999-2003

Irving B. Nathan
DC Attorney General, 2011-15

Charlie Oberly III
DE Attorney General, 1983-95

Clarine Nardi Riddle
CT Attorney General, 1989-91

Hector Reichard
PR Attorney General, 1981-83

Stephen Rosenthal
VA Attorney General, 1993-94

Senator Ken Salazar
CO Attorney General, 1999-2005

James Shannon
MA Attorney General, 1987-91

Mark Shurtleff
UT Attorney General, 2001-13

Governor Don Siegelman
AL Attorney General, 1987-91

Gregory Smith
NH Attorney General, 1980-84

Robert J. Spagnoletti
DC Attorney General, 2003-06

Lori Swanson
MN Attorney General, 2007-19

Mary Sue Terry
VA Attorney General, 1986-93

James Tierney
ME Attorney General, 1980-90

Duane Woodard
CO Attorney General, 1983-1991

James Zazzali
NJ Attorney General, 1981-82

MAJOR CITIES CHIEFS ASSOCIATION

February 3, 2021

Albuquerque
Arlington TX
Atlanta
Aurora
Austin
Baltimore
Baltimore Co.
Boston
Buffalo
Charlotte-Mecklenburg
Chicago
Cincinnati
Cleveland
Columbus
Dallas
DeKalb Co.
Denver
Detroit
El Paso
Fairfax Co.
Fort Worth
Fresno
Honolulu
Houston
Indianapolis
Jacksonville
Kansas City
Las Vegas
Long Beach
Los Angeles
Los Angeles Co.
Louisville
Memphis
Mesa
Miami
Miami-Dade
Milwaukee
Minneapolis
Montgomery Co.
Nashville
Nassau Co.
New Orleans
New York City
Newark
Oakland
Oklahoma City
Omaha
Orlando
Philadelphia
Phoenix
Pittsburgh
Portland
Prince George's Co.
Raleigh
Sacramento
Salt Lake City
San Antonio
San Diego
San Francisco
San Jose
Seattle
St. Louis
St. Louis Co.
Suffolk Co.
Tampa
Tucson
Tulsa
Virginia Beach
Washington DC
Wichita

Calgary, Alberta
Edmonton, Alberta
Montreal, Québec
Ottawa, Ontario
Peel Region, Ontario
Toronto, Ontario
Vancouver, B.C.
Winnipeg, Manitoba
York Region, Ontario

The Honorable Lindsey Graham
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Chairman Graham and Ranking Member Feinstein,

The Major Cities Chiefs Association, a professional organization of police executives representing the largest cities in the United States and Canada, is proud to endorse President Biden's nominations of Lisa Monaco to serve as Deputy Attorney General, Vanita Gupta to serve as Associate Attorney General, and Kristen Clarke to serve as Assistant Attorney General for Civil Rights.

The Department of Justice (DOJ) has been tasked with addressing a complex set of issues, including police reform, criminal justice reform, violent crime, and domestic extremism. The team President Biden has nominated is immensely qualified for this responsibility. The nominees have decades of experience serving in senior leadership roles within DOJ, other elements of the justice system, the private sector, civil rights and civil liberties organizations, and other key stakeholder groups. This experience will be invaluable as they work to tackle the many challenges facing DOJ.

In conversations with MCCA leadership, the nominees listened intently to our concerns and expressed a desire to collaborate closely with the MCCA. They indicated that open lines of communication and MCCA input are critical in addressing shared priorities such as advancing constitutional policing, improving officer health and wellness, and combatting the rise in violent crime currently occurring across the country.

President Biden's DOJ nominees also made it clear that they neither support defunding the police nor believe that doing so will bring about the change our communities are calling for. They pledged to work closely with the MCCA to support and amplify the efforts already underway by many local law enforcement agencies to develop and implement policies and practices that are fair, equitable, transparent, and build trust and legitimacy with all members of the community.

The MCCA believes these nominees will be effective leaders and valuable partners for local law enforcement agencies. On behalf of the MCCA membership, I respectfully

request the Committee act swiftly and support the nominations of Ms. Monaco, Ms. Gupta, and Ms. Clarke.

Sincerely,



Art Acevedo
Chief, Houston Police Department
President, Major Cities Chiefs Association

Sal Nuzzo
2801 Chancellorsville Drive/Tallahassee, Florida/32312
snuzzo@JamesMadison.org
(ph) 850.322.9941 / (tw) @SalNuzzo

February 2, 2021

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Durbin:

I write this letter to articulate my support of Kristen Clarke for confirmation as Assistant Attorney General for Civil Rights.

I write to you as a passionate constitutional conservative, with deeply held beliefs in the power of federalism, limited government, free markets, and equality of opportunity for all. I write to you as a public policy lead at The James Madison Institute – an economic research think tank that has promoted the principles of liberty since its founding in 1987. I write to you as a father of two daughters still hanging on to hope that the America they inherit is better than the one I inherited. And lastly, I write to you as a close friend of Kristen for more than 30 years, since we stepped foot on our high school campus in 1989.

Kristen and I came from entirely different backgrounds but forged a friendship that has stood the test of time and political winds. Over the years, we have had many occasions to engage one another in substantive dialogue and debate on current issues. We believe vastly different things about many of the elements of politics and policy. Nevertheless, there is one thing based on my experience that I can attest to – Kristen Clarke possesses the qualifications, character, and temperament that is sorely needed in public service at this time.

During his tenure as head of the American Enterprise Institute, Arthur Brooks (a mentor of mine), authored a book highlighting the fact that over time our atmosphere has devolved to the point that we now view our political opponents with contempt – and that we cannot hope to heal as a country until we stop this cycle. I subscribe to this belief, and it is my opinion through my experience that Kristen does as well.

In a day that seems long past, Presidents were given deference to select cabinet secretaries and make appointments aligning with their policy agenda, so long as individuals possessed the qualifications to serve. That is how this experiment in self-rule is supposed to go. Over the course of the past several administrations, it appears we only seem to remember that when "our side" is in a position of power. There are certainly policy issues Kristen and I have passionate disagreements over. Nevertheless, I encourage you to let this letter serve as the admonition of an individual committed and humble conservative – Kristen has the qualifications to serve in this critical role, and she possesses the acumen and discernment to see that our founders' ideals are maintained.

Sincerely,



Sal Nuzzo
Vice President of Policy, The James Madison Institute
Choate Rosemary Hall '93

TheChertoffGroup
Enabling A More Secure World.

February 5, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Letter in Support of Kristen Clarke, nominee for Assistant Attorney General for the Civil Rights Division of the U.S. Department of Justice

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

I am writing in support of Kristen Clarke, the President's nominee to become the Assistant Attorney General of the Civil Rights Division of the U.S. Department of Justice.

I recently came to know Ms. Clarke through our work together on the National Task Force on Election Crises, a Task Force made up of a group of experts in election law, election administration, national security, cybersecurity, voting rights, civil rights, technology, media, public health, and emergency response. Ms. Clarke herself is a passionate civil rights expert and advocate, and I was readily impressed by her devotion and resolve to protect the right to vote.

Indeed, Ms. Clarke's deep and abiding commitment to protect the integrity of the vote speaks loudly about her character and appreciation for the rule of law. These are qualities that are essential in public servants who are entrusted with representing the United States, particularly within the Department of Justice. As someone who has served in the executive branch and judicial branch, I have the highest regard for our democratic institutions, and for the professionals who serve the American people every day as public servants. I firmly believe those who serve on behalf of the United States should exhibit the highest standards and be truth seekers and truth tellers. Ms. Clarke fits that description.

I urge the Senate Judiciary Committee to swifty process Ms. Clarke's nomination, and for the Senate to quickly confirm her.

Sincerely yours,

Michael Chertoff



Anthony Chapa
Assistant Director (Ret.)
United States Secret Service
Executive Director

2019-21 Elected National Board

Teresa Ramon
Chief of Police
Judson Independent School District
National President

Stephen Noguera
Special Agent/Professor NCIS Chair
Naval Criminal Investigative Service
1st Vice President

Don Tijerina
Chief of Police
Southside Independent School District
2nd Vice President

Ivan Acosta
Special Agent in Charge
Naval Criminal Investigative Service
3rd Vice President

Steven Reyna
Lieutenant
Bexar County Sheriff's Office
4th Vice President

Manny Ovalle
Ombudsman (Ret.)
US Secret Service Uniformed Division
Sergeant at Arms

Clarence Jorif
Supervisory Special Agent (Ret.)
United States Secret Service
Treasurer

Mary Ruiz
Supervisory Special Agent (Ret.)
Internal Revenue Service-CI
Secretary

Yasmin Favela
Special Agent
Air Force Office of Special Investigations
Parliamentarian

Richard Rosa
Supervisory Federal Air Marshal (Ret.)
Department of Homeland Security
Immediate Past-President

Tina Nieto
Chief of Police
Marina Police Department
Director Emeritus

HAPCOA
FOUNDED IN 1973
501.3c TAX EXEMPT
EIN: 95-3998895

February 6, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin, and Ranking Member Grassley:

The Hispanic American Police Command Officers Association (HAPCOA) wishes to support and recommend the nomination of Ms. Kristin Clarke to the position of Head of the US Department of Justice Civil Rights Division.

HAPCOA is the oldest and largest association of Hispanic American command officers from law enforcement and criminal justice agencies at the municipal, county, state, school, university and federal levels.

HAPCOA's mission is to "empower the future of law enforcement" by assisting law enforcement, criminal justice and community organizations nationwide in their efforts to recruit, train, mentor and promote qualified Hispanic American men and women committed to a career in the criminal justice arena and to the communities in which they serve and protect.

HAPCOA acknowledges the work ethic and commitment of Ms. Clarke and believe that she will be an effective leader as the next Head of the DOJ Civil Rights Division.

Sincerely,

Anthony Chapa

Anthony Chapa
Executive Director

cc: Chief Teresa Ramon, National President
Members, HAPCOA National Board

NATIONAL ORGANIZATION OF BLACK LAW ENFORCEMENT EXECUTIVES

National President
LYNDA R. WILLIAMS
Deputy Assistant Director (Retired), U.S. Secret Service\
Professor Criminal Justice, Middle Tennessee State University

National First Vice President
FREDERICK THOMAS
Captain/Commander
East Baton Rouge Parish Sheriff's Office

National Second Vice President
BRENDA GOSS ANDREWS
Deputy Chief of Police (Retired)
Detroit Police Department

Immediate Past President
CERELYN J. DAVIS
Chief of Police
Durham Police Department

Treasurer
GINA V. HAWKINS
Chief of Police
Fayetteville City Police Department

Recording Secretary
JUDITH HARRISON
Assistant Chief of Police
New York Police Department

Financial Secretary
QUOVELLA M. SPRUILL
Public Safety Director
Franklin Township New Jersey

Sergeant-at-Arms
KEVIN GRANVILLE
Major
Broward County Sheriff's Office

Parliamentarian
DR. ROSALYNDE M. FENNER
Supervisory Special Agent (Retired)
Drug Enforcement Administration

Associate Members Representative
MICHELLE I. TEGE
Detective
New York Police Department

Region One Vice President
GERALD NELSON
Chief (Retired)
New York Police Department

Region Two Vice President
ESTELLA J. THOMAS
Supervisor (Retired)
Transportation Security Administration

Region Three Vice President
ROBERT FORD
Assistant Chief
Lumpkin Police Department

Region Four Vice President
TIFFANY TIMS
Chief of Police
Hocking College Police Department

Region Five Vice President
EDWIN DEBIEW
Assistant Special Agent in Charge
U.S. Environmental Protection Agency

Region Six Vice President
ANTHONY APRIL
Captain
Alaska State Troopers

Federal Assistant to the National President
JEFFREY FOBBS
Postal Inspector
U.S. Postal Inspection Service

Special Assistant to the National President
LOU E. DIXON
Principle Assistant Inspector (Retired)
U.S. Department of Transportation

Special Assistant to the National President
JOHN E. PEARSON
Director of Police Services
DeKalb County Police Department

Special Assistant to the President for International Affairs
MELODY JACKSON
Special Agent in Charge (Retired)
Health and Human Services-Office of Inspector General

National Chaplain
REVEREND DR. BARBARA WILLIAMS HARRIS
Inspector-Chaplain
New York Police Department

January 30, 2021

DWAYNE CRAWFORD
Executive Director

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitchell McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin, and Ranking Member Grassley:

The National Organization of Black Law Enforcement Executives (NOBLE) formally acknowledges the work and commitment to service that has been exhibited by Ms. Kristen Clarke. She is a long-time partner of NOBLE and the recipient of our 2016 Civil Rights Justice by Action Award.

Ms. Clarke has displayed the qualities of leadership, empathy, excellence, and persistence in supporting and defending the U.S. Constitution while ensuring equal protection and justice for all Americans. This has been exhibited countless times in roles such as President of the Lawyers' Committee for Civil Rights Under Law and Manager of the Civil Rights Bureau of the New York Department of Law.

It is NOBLE's belief that Ms. Clarke will help to ensure the delivery of its mission which is to ensure equity in the administration of justice in the provision of public service to all communities, and to serve as the conscience of law enforcement by being committed to Justice by Action.

In closing, this correspondence acts as a formal endorsement of Ms. Kristen Clarke as the next Head of the U.S. Department of Justice Civil Rights Division.

Sincerely,

Dwayne A. Crawford
Executive Director

HUBERT T. BELL, JR. OFFICE COMPLEX
4609 PINECREST OFFICE PARK DRIVE., SUITE F, ALEXANDRIA, VA 22312-1442 (703) 658-1529 FAX: (703) 658-9479, www.noblenational.org

Frost Brown Todd LLC
ATTORNEYS

Trey Grayson
Member
859.817.5930 (t)
859.283.5902 (f)
tgrayson@fbtlaw.com

February 7, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Letter in Support of Kristen Clarke, nominee for the United States Assistant Attorney General

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

I write in strong support of Kristen Clarke's nomination as Assistant Attorney General for the Civil Rights Division of the United States Department of Justice.

I served for two-terms as the Secretary of State of the Commonwealth of Kentucky. During my time in office, my colleagues asked me to serve as President of the National Association of Secretaries of State and Chair of the Republican Association of Secretaries of State. To this day, I continue my work to improve our nation's elections, including assisting several national groups and organizations and serving on President Obama's bipartisan Presidential Commission on Election Administration.

I further took part in the National Task Force on Election Crises, a cross-partisan group of experts in election law, election administration, national security, cybersecurity, voting rights, civil rights, technology, media, public health, and emergency response. It is through this task force that I came to know Ms. Clarke, who was also a part of this group. Working towards a common goal of ensuring free and fair elections, I was able to observe Ms. Clarke's devotion to fairness, her commitment to the rule of law, and her unrelenting pursuit of ensuring that every voter is afforded the opportunity to vote.

This commitment comes as no surprise to me. Ms. Clarke was a freshman when I was a senior in college, and while we only met in passing, via our mutual friend and former Assistant US Attorney Alvin Bragg, who was her predecessor as President of the Harvard Black Students Association. Throughout Ms. Clarke's life and career, she has advocated for fairness and justice, and I have been extremely impressed by her commitment to protecting the rights of every person in this great country.

While Ms. Clarke and I might likely disagree on many policy debates, I have no reservations about her qualifications to become the Assistant Attorney General of the Civil Rights Division. I know well several individuals who have led the Civil Rights Division in both Republican and Democratic Administrations, and I firmly believe that Ms. Clarke's sterling credentials, her integrity, and her commitment to the rule of law make her an outstanding choice to lead that Division.

Thus, I was very pleased when I learned that President Biden had nominated Ms. Clarke. I urge the Senate Judiciary Committee to swiftly process her nomination, and for the Senate to quickly confirm her. She has this Republican's full and enthusiastic support.

Thank you for your consideration.

Sincerely,



Trey Grayson

February 8, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Nomination of Kristen Clarke for Assistant Attorney General of the Civil Rights Division of the United States Department of Justice

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

We write in strong support of the nomination of Kristen Clarke for the position of Assistant Attorney General of the Civil Rights Division of the United States Department of Justice. This letter is written on behalf of the Executive Committee of the Board of the Lawyers' Committee for Civil Rights Under Law, and other members of our Board who are former Chairs of the Board.

The Lawyers' Committee is an organization whose principal mission is to secure equal justice for all through the rule of law. The Lawyers' Committee was created at the request of President John F. Kennedy in the summer of 1963 in the midst of a struggle to end racial segregation and institutionalized racial discrimination. President Kennedy presciently recognized that lawyers could use their training and influence to move the struggle for the protection of civil rights from the streets to the courts.

Though we have achieved much in the way of advancing civil rights since the 1960s, through both litigation and statutory changes, we recognize that much work remains to be done before all Americans obtain the benefits and privileges of full equality under the law. The work of Kristen Clarke, our President and Executive Director for the past five years, reminds us that in representing those who have suffered discrimination, we move our country a step closer to achieving our overarching goal of full equality for all Americans.

We know Kristen well and we know that she has fought throughout her career to achieve this goal. We know her as a daughter of immigrants, and a life-long leader in the struggle to achieve equal rights for all. We know her as a tireless advocate who became a civil rights lawyer because she saw the law as the best vehicle to address systemic racism and other barriers preventing all Americans from enjoying the opportunities available to the more privileged members of our society. We have observed her toil -- on a day to day basis under challenging circumstances -- over legal strategy,

directing and leading staff, and serving clients with zeal, compassion, and integrity. She is unapologetic in her quest for both equity and equality and is fearless in her willingness to identify those areas where our democracy is falling short.

Now, following a twenty-year career devoted exclusively to advancing the civil rights of all Americans, and after President Biden nominated Kristen to serve as the Assistant Attorney General of the Civil Rights Division at the United States Department of Justice, there are people who have leveled attacks, describing her as "hateful" and "racist." These assertions are belied not only by Kristen's distinguished career fighting against hate and injustice, but also by the daily example that she has shown to those of us who know her personally and have closely observed her professionalism, her compassion, and her integrity.

All of us are attorneys who have interacted with many attorneys and public officials throughout our professional careers. We are a diverse group of attorneys, representing all sectors of our society, and reflect the make-up of our country. All of us, without hesitation, know Kristen to be an attorney with the utmost integrity, with a deep and abiding commitment to fight against bigotry in all forms, including racism and antisemitism. Our support is based upon our close working relationship with Kristen in her professional capacity, and our personal relationship with her over the years. During those years Kristen has always been at the forefront of the fight against all forms of discrimination and hate-mongering, both explicit and implicit.

We therefore take great pride in submitting this letter on behalf of Kristen Clarke's nomination. And we can think of no better words to describe Kristen than the ones the President used to describe her and her fellow nominees: "eminently qualified, embody[ing] character and judgment that is beyond reproach, and hav[ing] devoted their careers to serving the American people with honor and integrity."

Yours truly,

Hon. Shira A. Scheindlin
United States District Judge (Ret.)[1]

Stanley J. Brown
Hogan Lovells US LLP

Nicholas Christakos
Eversheds Sutherland (US) LLP

[1] Listed affiliations for all signatories are for identification purposes only.

Marc L. Fleischaker
Arent Fox LLP

Robert E. Harrington
Robinson Bradshaw

Danielle Holley-Walker
Dean, Howard University School of Law

Gary T. Johnson
Chicago History Museum

Michael D. Jones, P.C.
Kirkland & Ellis LLP

James P. Joseph
Arnold & Porter LLP

John S. Kiernan
Debevoise & Plimpton

Adam Klein
Outten & Golden LLP

Daniel F. Kolb
Davis Polk & Wardwell LLP

Charles T. Lester, Jr.
Eversheds Sutherland (US) LLP

Marjorie Press Lindblom
Kirkland & Ellis LLP

Jack Londen
Morrison & Foerster LLP

John M. Nonna
Westchester County Attorney

Bettina B. Plevan
Proskauer Rose LLP

Bradley Phillips
Munger, Tolles & Olson LLP

Donald J. Rosenberg
Qualcomm Inc.

Paul Saunders (Ret.)
Cravath, Swaine & Moore LLP

Thomas Sager
Ballard Spahr LLP

Jane Sherburne
Sherburne PLLC

Marsha E. Simms
Weil, Gotshal & Manges LLP

John Skilton
Perkins Coie LLP

David Smith
Schnader

Eleanor Smith
Zuckerman Spaeder LLP

Edward Soto
Weil, Gotshal & Manges LLP

Michael E. Swartz
Schulte Roth & Zabel LLP

Joseph K. West
Duane Morris LLP

Teresa Wynn Roseborough
Former Co-chair, Lawyers' Committee for Civil Rights Under Law

National Council of Jewish Women
2055 L St NW Suite 650
Washington, DC 20036

T: 202. 296. 2588

National Council of Jewish Women

February 8, 2021

United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Durbin, Ranking Member Grassley, and Committee Members:

On behalf of the 180,000 members of National Council of Jewish Women (NCJW), I write to express our strong support of Kristen Clarke for Assistant Attorney General for Civil Rights at the US Department of Justice (DOJ).

The Department of Justice is the nation's top law enforcement agency. It not only serves as a backstop for our fundamental civil rights, but as an entity for advancing fair and impartial justice for everyone in this country. The department must be comprised of leaders committed to ending discrimination; addressing white supremacy and hate violence; and advancing racial, gender, disability, ethnic, religious, immigrant, and LGBTQ justice. As such, there is no better candidate to lead the Civil Rights Division than Kristen Clarke.

Clarke is a deeply qualified and passionate civil rights leader with an unparalleled depth and breadth of experience. At Lawyers Committee for Civil Rights Under Law, Clarke has worked to promote fair housing and community development, economic justice, voting rights, equal educational opportunity, criminal justice, judicial diversity, and beyond. Clarke formerly served as the head of the Civil Rights Bureau for the New York State Attorney General's Office, where she led broad civil rights enforcement, including the issues of criminal justice, education and housing discrimination, fair lending, barriers to reentry, voting rights, immigrants' rights, gender inequality, disability rights, reproductive access, and LGBTQ equality. Under her leadership, the Bureau secured landmark agreements with banks to address unlawful redlining, employers to address barriers to reentry for people with criminal backgrounds, police departments on reforms to policies and practices, major retailers on racial profiling of consumers, and one of the country's largest school districts concerning issues relating to the school-to-prison pipeline. At the NAACP Legal Defense and Educational Fund, Inc. (LDF), Clarke lead the organization's work in the areas of voting rights and election law. Prior to joining LDF, she worked at DOJ as a federal prosecutor in the Criminal Section of the Civil Rights Division, handling police misconduct, police brutality, hate crimes, and human trafficking cases. She also worked on voting rights and redistricting cases through the Division's Voting Section. Consistent throughout her distinguished career is a focus on strengthening democracy and ensuring justice.

As the nation grapples with the COVID-19 pandemic, Black, Latino, Asian and Native American communities bear the brunt of its economic and health damages, as do women broadly. The devastation of this moment compels us to reimagine what kind of America we want to become after the pandemic – one that is more just and equitable for all people. To achieve that future requires leadership at DOJ to ensure the safety of our communities and strengthen our civil rights protections. Kristen Clarke is the right person to defend and advance these critical values.

A central tenet of NCJW is *tzedek, tzedek tirdof,* or the pursuit of justice. We carry out this commitment by working to ensure that all have access to civil and constitutional rights,

particularly women, children, and families and other vulnerable communities. Given her life's work, Kristen Clarke will support our mission and restore integrity, independence, and the pursuit of justice to this critical federal agency.

NCJW urges the Senate Judiciary Committee swiftly confirm Kristen Clarke as Assistant Attorney General for Civil Rights. Please let me know if you have any questions or want to discuss our support further.

Sincerely,



Jody Rabhan
Chief Policy Officer
National Council of Jewish Women

February 9, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

As an extremely proud son of Thurgood Marshall, our nation's first Black Associate Justice of the United States Supreme Court, on behalf of our family, and in honor of my father's legacy, I write to strongly support the nomination of Kristen Clarke, President & Executive Director of the Lawyers' Committee for Civil Rights Under Law, to serve as the Assistant Attorney General for Civil Rights. Ms. Clarke is a pathbreaking lawyer like my father, who built her career on advancing civil rights and equal justice under the law, and breaking barriers through her leadership for people of color while making our nation better for everyone.

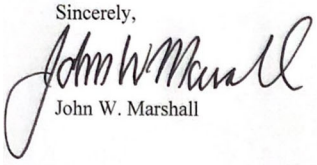
Following in the footsteps of my father, Ms. Clarke worked for the NAACP Legal Defense Fund (NAACP-LDF) after beginning her legal career in the U.S. Department of Justice's Honors Program. At NAACP-LDF, she co-led the Political Participation group, litigating across the country to protect the fundamental right to vote for Black people and other people of color. In this work, she worked to enforce the Voting Rights Act of 1965 and helped communities—particularly in the South—move closer to our shared ideal of equal participation and justice. These are the values that my father instilled in our family, and that shaped and defined every day of his legal career.

Through her work at NAACP-LDF and as the Director of the Civil Rights Bureau of the New York State Attorney General's office and as the President and Executive Director of the Lawyers' Committee for Civil Rights Under Law, Ms. Clarke has utilized the law as a vehicle for advancing equality, as my father did. For example, she successfully represented Taylor Dumpson, who was targeted for a hate crime after her election as American University's first female Black student body president. In a historic ruling from the U.S. District Court for the District of Columbia, the court agreed with Ms. Clarke and the Lawyers' Committee for Civil Rights Under Law that racist online trolling activity can interfere with equal access to a public accommodation. It is cases like this one that exemplify Ms. Clarke's career of simultaneously pursuing justice for victims of discrimination and harassment, while also strategically developing precedent that bends the arc of the law towards justice.

Finally, it is important to reflect that Ms. Clarke would be the first Black woman—and first woman—ever confirmed to lead the Civil Rights Division of the U.S. Department of Justice. Ms. Clarke is eminently qualified to be the Assistant Attorney General for Civil Rights, with a sterling and inspiring track record of success and impact. As in much of her career, she is chartering a course to break barriers that women and people of color—and especially women of color—have long confronted.

Thank you each for your service to our nation, and for your consideration of this letter, on behalf of the family of Justice Thurgood Marshall, in strong support of Ms. Clarke's nomination to lead the Civil Rights Division of the U.S. Department of Justice.

Sincerely,



John W. Marshall

6233 Lakeview Drive
Falls Church, Virginia 22041

National Alliance to
End Sexual Violence

United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

February 11, 2021

Dear Chairman Durbin, Ranking Member Grassley, and Committee Members:

The National Alliance to End Sexual Violence (NAESV) is the voice in Washington, DC for the 56 state and territorial sexual assault coalitions and over 1500 local programs working to end sexual violence and support survivors. The local programs we serve see the widespread and devastating consequences of sexual violence for survivors every day. On their behalf, I write to express our strong support of Kristen Clarke for Assistant Attorney General for Civil Rights at the US Department of Justice (DOJ).

Twenty-one percent of women and three percent of men reported completed or attempted rape ever in their lifetime; among victims of rape, 43% (11 million) of females and 51% (1.5 million) of males reported it occurred for the first time between the ages of 11-17.[i] Victims and survivors often encounter further injustices that impact access to housing, healthcare, education, employment, and safety as well as challenges with the civil and criminal legal response to their victimization. Survivors of color, and those who are immigrants, have disabilities, are LGBQ, transgender, or members of other marginalized communities face even greater inequities as they seek support and justice.

The Department of Justice, Civil Rights Division is critical to advancing fair and impartial justice and ensuring civil rights for everyone in this country. Sexual violence is at its core a violation of individual civil rights and can impact a survivor's ability to access and sustain employment, education, housing among other fundamental needs and rights. Institutions must be held responsible for preserving and protecting these rights so that sexual violence and all forms of discrimination are not tolerated and are intentionally addressed. Survivors deserve leadership in the Civil Rights Division that is committed to ending discrimination in all of its forms; addressing white supremacy and hate violence; and advancing racial, gender, disability, ethnic, religious, immigrant, and LGBTQ justice.

www.EndSexualViolence.org
(202)899-8520
1875 Connecticut Avenue N W, F L 10, Washington, DC 20009

In her previous positions, Kristen Clarke has time and again been a leader and advocate for justice and equity for all and is therefore an excellent candidate to lead the Civil Rights Division.

- At Lawyers Committee for Civil Rights Under Law, Clarke has worked to promote fair housing and community development, economic justice, voting rights, criminal justice, and judicial diversity. She has demonstrated a commitment to safety and educational opportunity for all students, including women and girls of color, particularly as it pertains to Title IX protections and the proper investigations of sexual misconduct in educational settings.
- Kristen Clarke led broad civil rights enforcement as the head of the Civil Rights Bureau for the New York State Attorney General's office, including the issues of criminal justice, education and housing discrimination, fair lending, barriers to reentry, voting rights, immigrants' rights, gender inequality, disability rights, reproductive access, and LGBTQ equality.
- At the NAACP Legal Defense and Educational Fund, Inc. (LDF), she led the organization's work in the areas of voting rights and election law.
- Prior to joining LDF, she worked at DOJ as a federal prosecutor in the Criminal Section of the Civil Rights Division, handling police misconduct, police brutality, hate crimes, and human trafficking cases.

Our nation has experienced a deep reckoning with the devastating depth and breadth of the problem of sexual violence both inside and outside of the judicial system and law enforcement. With Kristen Clarke, the DOJ has an opportunity to reach farther in meeting the needs of survivors, preventing sexual violence, and providing equity and justice for all survivors regardless of their circumstances.

Sincerely,



Monika Johnson Hostler
President

---

i https://www.cdc.gov/violenceprevention/pdf/2015data-brief508.pdf

MORRISON | FOERSTER

425 MARKET STREET
SAN FRANCISCO
CALIFORNIA 94105-2482

TELEPHONE: 415.268.7000
FACSIMILE: 415.268.7522

WWW.MOFO.COM

MORRISON & FOERSTER LLP
BEIJING, BERLIN, BOSTON,
BRUSSELS, DENVER, HONG KONG,
LONDON, LOS ANGELES, NEW YORK,
NORTHERN VIRGINIA, PALO ALTO,
SAN DIEGO, SAN FRANCISCO, SHANGHAI
SINGAPORE, TOKYO, WASHINGTON, D.C.

January 16, 2021

Via U.S. Mail and E-Mail

Writer's Direct Contact
+1 (415) 268.7415
JLonden@mofo.com

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: *Support for the Nomination of Kristen Clarke as Assistant Attorney General for the Civil Rights Division of the U.S. Department of Justice.*

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

Kristen Clarke is an extraordinarily well qualified nominee to head the Civil Rights Division of the Department of Justice.

As a former Co-Chair and current Board member of the Lawyers' Committee for Civil Rights Under Law, I was co-chair of the Search Committee when Kristen became President and Executive Director of the Lawyers' Committee five years ago. I personally reviewed many of her speeches and writings and a number of her court proceedings from the time she headed the Civil Rights Bureau for the New York State Attorney General Office. I have worked with Kristen and closely followed her leadership of the Lawyers' Committee these past five years.

Having closely examined Kristen's work, I have never seen anything that was less than superb in quality. She is creative, energetic, and dedicated. Her manner is dignified, respectful of all whom she encounters, and compassionate to the disadvantaged. Her leadership is more than effective; she is an inspiration to those who work with her.

I urge the Senate Judiciary Committee and the Senate, for the good of our country and in the interest of civil rights, to vote to confirm Kristen Clarke at the earliest opportunity.

Sincerely,



Jack W. Londen

160 Henry Street
Brooklyn, NY 11201
February 17, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Senators Schumer, McConnell, Durbin, and Grassley:

I write to express my enthusiastic support for the appointment of Kristen Clarke as Assistant Attorney General for the Civil Rights Division in the Department of Justice. I have been the Solicitor General of the State of New York since 2007, with the exception of the period during 2018 when I served as the State Attorney General. And from 1998 to 2001 I was the Principal Deputy and Acting Solicitor General of the United States, and from that experience I know something about the qualities needed for successful leadership within the Department of Justice. Today I write for myself alone, on the basis of my experience working with Ms. Clarke in the New York Attorney General's Office from 2011 to 2015.

During that time Ms. Clarke was the Chief of the Civil Rights Bureau in the Attorney General's Office and I was, as I am now, the state Solicitor General, also in

the Attorney General's Office. We worked together on many projects, and throughout that time she displayed precisely the qualities that are needed in the leadership position for which she has been nominated. She is a splendid and experienced civil rights lawyer, with the ability to identify targets of opportunity for litigation, and to determine when a problem might be better solved by methods other than litigation. And she brought to her leadership position in New York a superb and effective mix of collegiality, on the one hand, and persistence, on the other, in pursuing the goals and the cases that she viewed as important.

On several occasions, the Office was considering participating as amicus curiae in a case where an important civil rights principle was somewhat obscured by factual or procedural or other complications. Kristen frequently, and successfully, urged us to take a stand on the civil rights issue, and helped to find a way around the complications. One such case was *Arizona v. United States*, 567 U.S. 387 (2012), involving an effort by the United States to prohibit Arizona from enforcing federal immigration law more aggressively than the federal government itself. Another example was *EEOC v. Abercrombie & Fitch Stores*, 575 U.S. 768, 135 S.Ct. 2028 (2015), involving an effort to hold an employer liable under Title VII for refusing to hire an applicant because she wore a headscarf, as required by her religion. And a third example was *In the Matter of Cesar Vargas*, 131 A.D.3d 4, 10 N.Y.S.3d 579 (2d Dept 2015), involving the question whether the State of New York was forbidden by federal law to admit an undocumented immigrant to the bar of the State, and if so whether the asserted prohibition would violate the Tenth Amendment to the U.S. Constitution. In each of these cases, there were substantial arguments both for and against amicus participation, and Kristen, while showing deep respect for the arguments on both sides, strenuously and successfully urged us to participate, and helped to find a way to do so.

In these cases, and in all my many interactions with her, she was both a strong and creative leader, and a diplomatic and collaborative partner. I am confident that she would bring those strengths to the leadership of the Civil Rights Division, to the great benefit of the Division, the Department of Justice, and the people of the United States.

Sincerely,



Barbara D. Underwood

February 17, 2021

United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Durbin, Ranking Member Grassley, and Committee Members:

On behalf of the following 69 local, state, and national Jewish organizations, representing millions of members across the country, we write to express our strong support of Kristen Clarke for Assistant Attorney General for Civil Rights at the US Department of Justice (DOJ).

A central tenet of Judaism is *tzedek, tzedek tirdof,* or the pursuit of justice. Indeed, for us, part of our Jewish identity is the imperative to care about the world around us and strive to make it better. We carry out this commitment as a community by ensuring we all have access, particularly the most vulnerable among us, to our civil and constitutional rights. This, too, is the essential mission of DOJ.

The Department of Justice is the nation's top law enforcement agency. It not only serves as a backstop for our fundamental civil rights, but as an entity for advancing fair and impartial justice for everyone in this country. The Department must be comprised of leaders committed to ending discrimination; addressing white supremacy and hate violence; and advancing racial, gender, disability, ethnic, religious, immigrant, and LGBTQ justice. As such, there is no better candidate to lead the Civil Rights Division than Kristen Clarke.

Clarke has spent her entire career dedicated to the pursuit of equal justice and civil rights. She is a deeply qualified and passionate civil rights leader with an unparalleled depth and breadth of experience, and is the leader our country needs in this vital role right now. At the Lawyers Committee for Civil Rights Under Law, Clarke has worked to promote fair housing and community development, economic justice, voting rights, equal educational opportunity, criminal justice, judicial diversity, and beyond. Clarke formerly served as the head of the Civil Rights Bureau for the New York State Attorney General's Office, where she led broad civil rights enforcement, including the issues of criminal justice, education and housing discrimination, fair lending, barriers to reentry, voting rights, immigrants' rights, gender inequality, disability rights, reproductive access, and LGBTQ equality. Under her leadership, the Bureau secured landmark agreements with banks to address unlawful redlining, employers to address barriers to reentry for people with criminal backgrounds, police departments on reforms to policies and practices, major retailers on racial profiling of consumers, and one of the country's largest school districts concerning issues relating to the school-to-prison pipeline. At the NAACP Legal Defense and Educational Fund, Inc. (LDF), Clarke lead the organization's work in the areas of voting rights and election law. Prior to joining LDF, she worked in the very office she now is nominated to lead. She served as a federal prosecutor in the Criminal Section of the Civil Rights Division, handling police misconduct, police brutality, hate crimes, and human trafficking cases. She also worked on voting rights and redistricting cases through the Division's Voting Section. Consistent throughout her distinguished career is a focus on strengthening democracy and ensuring justice.

As the nation grapples with the COVID-19 pandemic, Black, Latino, Asian, and Native American communities bear the brunt of its economic and health damages. Along with it, the fires of hate and discrimination stoked over the last four years have infiltrated our discourse, social media,

communities, and even Congress. The devastation of this moment compels us to reimagine what kind of America we want to become after the pandemic — one that is more just and equitable for all people. One where the Justice Department will not tolerate bigotry, bias-motivated violence, and discrimination.

To achieve that future requires leadership at the Department to ensure the safety of our communities and strengthen our civil rights protections. Kristen Clarke is the right person to defend and advance these critical values.

Given her life's work, Kristen Clarke will restore integrity, independence, and the pursuit of justice to this critical federal agency. **We urge the Senate Judiciary Committee to quickly confirm Kristen Clarke as Assistant Attorney General for Civil Rights.**

Sincerely,

National:
Ameinu
American Jewish Congress
Avodah
Bend the Arc: Jewish Action
Jewish Democratic Council of America
Jewish Labor Committee
Jewish World Watch
Jewish Women International
Keshet
Kohenet Hebrew Priestess Institute
Mitsui Collective
National Council of Jewish Women
Playful Resilience
Reconstructing Judaism
Society for Humanistic Judaism
T'ruah: The Rabbinic Call for Human Rights
The Shalom Center
The Workers Circle

State:
Jewish Community Action (MN)
National Council of Jewish Women Arizona
National Council of Jewish Women California
National Council of Jewish Women Colorado
National Council of Jewish Women Florida
National Council of Jewish Women Georgia
National Council of Jewish Women Illinois
National Council of Jewish Women Kentucky
National Council of Jewish Women Maryland
National Council of Jewish Women Massachusetts
National Council of Jewish Women Michigan
National Council of Jewish Women Minnesota
National Council of Jewish Women Northern Virginia
National Council of Jewish Women Tennessee
National Council of Jewish Women Texas

National Council of Jewish Women Washington
New Jersey Jewish Labor Committee
New York Jewish Agenda
United Hebrew Trades – New York Jewish Labor Committee

Local:
Bend the Arc: Jewish Action Pittsburgh (PA)
Bend the Arc: Jewish Action South Jersey (NJ)
Congregation Nevei Kodesh, Colorado
IKAR, Los Angeles (CA)
Jewish Community Relations Council, Howard County (MD)
Jewish Community Relations Council, Silicon Valley (CA)
Jewish Democratic Women's Salon Atlanta (GA)
National Council of Jewish Women Atlanta (GA) Section
National Council of Jewish Women Austin (TX) Section
National Council of Jewish Women Chicago North Shore (IL) Section
National Council of Jewish Women Cleveland (OH) Section
National Council of Jewish Women Contra Costa (CA) Section
National Council of Jewish Women Greater Dallas (TX) Section
National Council of Jewish Women Houston (TX) Section
National Council of Jewish Women Kansas City (MO) Section
National Council of Jewish Women Kendall (FL) Section
National Council of Jewish Women Long Beach (CA) Section
National Council of Jewish Women Los Angeles (CA) Section
National Council of Jewish Women Greater Miami (FL) Section
National Council of Jewish Women Louisville (KY) Section
National Council of Jewish Women Milwaukee (WI) Section
National Council of Jewish Women Nashville (TN) Section
National Council of Jewish Women Greater New Orleans (LA) Section
National Council of Jewish Women Palm Beach (FL) Section
National Council of Jewish Women Peninsula (NY) Section
National Council of Jewish Women Greater Philadelphia (PA) Section
National Council of Jewish Women Pittsburgh (PA) Section
National Council of Jewish Women Saddleback (CA) Section
National Council of Jewish Women San Antonio (TX) Section
National Council of Jewish Women Sarasota-Manatee (FL) Section
National Council of Jewish Women South East Atlantic (FL) Section
National Council of Jewish Women South Shore (NY) Section

Jonathan Greenblatt
CEO and National Director

ADL
FIGHTING HATE FOR GOOD

February 19, 2021

The Honorable Dick Durbin
Chairman, Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Chuck Grassley
Ranking Member, Committee on the Judiciary
152 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Durbin and Ranking Member Grassley:

I write on behalf of ADL (the Anti-Defamation League) to share our strong support for the confirmation of Lisa Monaco, Vanita Gupta, and Kristen Clarke to key leadership positions in the US Department of Justice (DOJ). These three nominees have not only distinguished themselves as preeminent experts in their fields, but also possess significant experience within DOJ that will make them effective leaders of its efforts immediately upon their confirmation.

Throughout its history, ADL has endorsed nominees with whom we have considerable working relationships. Over the years, ADL has experienced firsthand the breadth of each of these nominees' expertise, judgment, and character. Each has exemplified a reverence for the U.S. Constitution and a determination to protect all Americans, including vulnerable communities. Critical work lies ahead for DOJ, and the agency's success depends upon the expeditious installation of professionals like these individuals, whose capacity for thoughtful consensus-building and the provision of strong and steady guidance is proven.

Even if the COVID-19 pandemic had not upended lives and livelihoods throughout the nation, DOJ would find itself at the center of some of the most important social and political developments of recent times as 2021 dawns.

As the oldest anti-hate organization in the world, ADL has monitored the unprecedented upswell of bigotry in America over the last four years. We have tracked the historic rise in the number of antisemitic incidents including the massacre at the Tree of Life synagogue in Pittsburgh in 2018; the surge of ugly xenophobia directed against Latinos and immigrants including the attack on the Walmart in El Paso in 2019; and the recent wave of anti-AAPI assaults including the murder of an elderly Thai-American man in San Francisco earlier this month. DOJ has a pivotal role to play in creating a coordinated strategy to support local communities confronting the increase in hate crimes.

We also have been gripped by rising consciousness of racial injustice. The murders of Breonna Taylor, George Floyd, and too many other Black Americans at the hands of authorities charged with protecting us have accelerated a crisis of confidence in law enforcement institutions and the criminal justice system. DOJ alone has the experience, authority and capacity to conduct an effort as visible as this one must be to hold officials accountable for culture and practices that have led to abusive treatment of Black Americans and people of color more broadly.

Despite the record turnout in the 2020 presidential election, the widespread, baseless allegations of voter fraud have created an environment that could be conducive to voter suppression as well as discriminatory election and voting policies. Such practices disproportionately disenfranchise urban voters of color and diminish our entire democratic system, underscoring the urgency of DOJ taking a leadership role to investigate and challenge these harmful efforts and ensure that no laws or other actions grounded in racial bias are allowed to stand.

Finally, the attempted insurrection of January 6 provided a stark demonstration of the potentially devastating consequences of ignoring or minimizing the dangers posed by domestic extremism and invidious hate. DOJ's efforts will be instrumental in many aspects of the government response to this attack. This includes prioritizing domestic terror-related prosecutions and civil litigation, improving the accuracy of key data collections, like the FBI's Hate Crime Statistics report, and assisting local law enforcement to deal with these threats.

In this challenging context, we need sensitive and experienced leadership. We are pleased that the Biden Administration wisely has selected nominees who are leading experts in their field, individuals of the highest integrity who also are well-respected among DOJ's stakeholder-organizations.

Chosen to serve as Deputy Attorney General - the agency's second in command – Lisa Monaco possesses crucial experience and expertise in national security defense, cybersecurity, crisis management and prosecutions for violent crime and fraud. Ms. Monaco has served with distinction as an Assistant U.S. Attorney, as Principal Associate Deputy Attorney General, and as Assistant Attorney General for National Security. I met Ms. Monaco when she served as Assistant to the President for Homeland Security and Counterterrorism under President Obama, and coordinated the Administration's management of and policies around incidents ranging from cyberattacks to natural disasters. In this capacity in particular, she was a trusted partner in ADL's anti-extremism work, exhibiting sound judgment, principled commitment, and the ability to make difficult decisions and stand behind them. I had the privilege of working alongside Ms. Monaco during her tenure in the

White House and know she will be a dedicated and tireless public servant if confirmed to the role.

Like Ms. Monaco, Vanita Gupta, the President's nominee to serve as Associate Attorney General, possesses experience and temperament that are particularly well-suited to DOJ's needs in this moment. As a groundbreaking civil rights advocate with an extraordinary track record of success, Ms. Gupta is an ideal candidate to ensure that the pursuit of racial justice and equity take precedence among DOJ's endeavors. She attained landmark results as a litigator and program director with the NAACP Legal Defense Fund (LDF) and the ACLU, including the exoneration of 38 individuals wrongly convicted of drug crimes based on the uncorroborated testimony of a Texas investigator who carried a Ku Klux Klan membership card. From 2014 to 2017, Ms. Gupta led DOJ's Civil Rights Division and its challenges to, among many other matters, discriminatory practices in lending, policing, and education; hate crimes and human trafficking; and the racially motivated adoption of strict voter ID requirements in Texas and North Carolina. This experience and her recent tenure as CEO at the Leadership Conference for Civil and Human Rights (LCCHR) have imbued her with extensive relationships with key actors, and with strong experience in forging consensus. I have worked alongside Ms. Gupta during her time as CEO of LCCHR, dealing with the wave of hate crimes across the country and developing policy strategies to ensure more equitable and fair treatment to all Americans.

Like Ms. Gupta, Kristen Clarke will bring much needed and well-rounded experience in the defense of civil rights to the position of Assistant Attorney General for Civil Rights. Ms. Clarke is a former Civil Rights Division litigator who has prosecuted hate crimes, human trafficking, police brutality, and voting rights and redistricting cases for the government, and civil rights cases on behalf of the NAACP LDF. She previously led both New York State's Civil Rights Bureau and the Lawyers Committee for Civil Rights Under Law. I have seen firsthand how she has demonstrated broad expertise in the strategic use of the law to achieve equal justice for all. Ms. Clarke understands in intimate detail the abilities and support that the litigators who will work under her will need, and her firsthand familiarity, coupled with her stellar reputation among leading civil rights advocacy organizations and leaders, will ensure that under her leadership the Civil Rights Division collaborates successfully with stakeholders and directs its efforts where they are most likely to bear fruit. As a partner in the anti-hate and voting rights work the Lawyers Committee has undertaken under Ms. Clarke's leadership, ADL is directly aware of her deep and unambiguous personal commitment to justice for all, including her steadfast support in the fight against antisemitism. I have watched her work in collaboration with advocates representing the full spectrum of racial, ethnic, and religious communities. I have no doubt about her integrity and professionalism. I feel privileged to call her an ally and friend.

In light of the urgent need for capable leaders like these women to guide DOJ's efforts to protect Americans from discrimination and to ensure a more just society, I urge you to act promptly and favorably on these nominations.

Sincerely,



Jonathan Greenblatt
CEO and National Director

ADL | 605 Third Avenue, New York, NY 10158-3560 | t: 212.885.7707 | jgreenblatt@adl.org | twitter: @jgreenblattADL | www.adl.org

February 19, 2021

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Nomination of Kristen M. Clarke as Assistant Attorney General

Dear Chairman Durbin and Ranking Member Grassley:

We write, as former Assistant Attorneys General of the Civil Rights Division who served in Republican and Democratic Administrations, to urge the Senate to confirm Kristen M. Clarke as Assistant Attorney General for the Civil Rights Division of the Department of Justice. Based on our experience leading the Division for a cumulative total of 17 years, we find Ms. Clarke to be an excellent candidate from the standpoint of experience, temperament and commitment to the rule of law to fill this most important law enforcement post.

The Civil Rights Division is responsible for enforcement of federal civil and criminal statutes prohibiting and remedying discrimination on the basis of race, color, sex, disability, religion, familial status, national origin, and other protected status. The Division's enacted FY 2020 budget of $148.2 million funded a staff of 377 attorneys and 226 support personnel. The staff is divided into 12 sections generally according to areas of law enforcement responsibility – voting, employment, housing, educational opportunities, disability rights, immigrant rights, and criminal interference with rights.

The job of Assistant Attorney General is demanding. The core capabilities required include the ability, experience and will to set priorities and organize staffing and funding to achieve them, to select and inspire leaders, to set high standards for prosecution of cases, to assist Congress in enacting needed changes in civil rights laws, and to explain the Division's mission to the public.

Kristen Clarke has the background, experience, and personal qualities to perform the job of Assistant Attorney General in charge of the Civil Rights Division. She received an excellent education at Harvard (AB 1997) and Columbia (JD 2000). She has practiced law for 20 years, six in the U.S. Department of Justice, five in the Office of Attorney General of the State of New York, and the remainder with two private civil rights organizations. She would be the second confirmed Assistant Attorney General for Civil Rights who began her career in the Division as an appointee in the Attorney General's Honors Program.

Ms. Clarke will bring to the job experience enforcing federal civil rights laws as a trial attorney in the Voting Rights Section and later the Criminal Section of the Civil Rights Division. She will draw on service in state government as Chief of the Civil Rights Bureau of the New York State Attorney General's Office. She has leadership experience with two of the nation's premier private civil rights organizations. From 2006 to 2011, she managed the

NAACP Legal Defense and Educational Fund's voting rights docket and litigated voting rights cases. Starting in 2016, Ms. Clarke has served as President and Executive Director of the Lawyers' Committee for Civil Rights Under Law. In that post, she led and reported to a Board of Directors of over 250 of the nation's leading attorneys, supervised a staff of 100 attorneys and administrative professionals, and managed a budget of over $10 million.

Kristen Clarke is the right person for this job at this moment in our country's history. She has had extensive public and private experience with federal civil rights law enforcement both in the trenches and in leadership positions. She knows the Civil Rights Division, having served as a line attorney in the Division for several years. She is a person of high ethics with a strong commitment to the rule of law.

We are pleased to recommend Kristen Clarke's confirmation as Assistant Attorney General in charge of the Civil Rights Division of the U.S. Department of Justice.

Respectfully submitted,

Thomas E. Perez
2009 – 2013
tomperez1@verizon.net

Bill Lann Lee
1997 – 2001 (recess appointment)
blee@creeclaw.org

Deval Parick
1994 – 1997
devpatrick@comcast.net

J. Stanley Pottinger
1973 – 1977
Stan@epllc.com

Stephen J. Pollak
1968-1969
sjpollak26@gmail.com

Crime Victim/Survivor Services and Allied Professionals' Support for Ms. Kristen Clarke's Appointment to Serve as Assistant Attorney General for the Civil Rights Division, U.S. Department of Justice

February 19, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Senators Schumer, Durbin, McConnell and Grassley:

We, the undersigned, include crime survivors, victim/survivor advocates, and allied criminal and juvenile justice professionals. Individually and collectively, we whole-heartedly support the appointment of Kristen Clarke to serve this Administration as its Assistant Attorney General for the Civil Rights Division, within the U.S. Department of Justice.

Ms. Clarke is well acquainted with the importance of crime survivors' rights and services, through her previous work in the Justice Department's Civil Rights Division, where she personally led critical cases involving hate crimes and human trafficking. We appreciate her understanding of the often-devastating impact of crime on victims, particularly those who are marginalized and/or under-served.

Her career-long commitment to marginalized crime survivors and communities is evidenced by her leadership of the James Byrd, Jr. Center to Stop Hate at the Lawyers' Committee for Civil Rights Under law. She has been a strong proponent for standing up for those who suffer from online harassment, online solicitation of violence, and accountability for social media platforms that do not adequately safeguard their platforms according to their terms of service.

Ms. Clarke is also a heralded and appreciated leader in promoting equity for LGBTQ+ victims and survivors, who are over-represented in crimes targeted against them due solely to their sexual orientation and who are traditionally under-represented when it comes to access to comprehensive, quality victim/survivor services. At Lawyers' Committee for Civil Rights Under Law, she has worked tirelessly to promote fair housing, economic justice, voting rights, and Title IX protections for women and girls of color.

A time-honored adage in the victim/survivor services profession is **"victims' rights *are* civil rights."**

We are confident that Kristen Clarke, if confirmed as the USDOJ Assistant Attorney General for the Civil Rights Division, understands the important needs and rights of crime survivors; and will respect and reflect the interests of crime survivors – and those who serve them – in her important leadership role.

We appreciate your consideration of our strong support for Kristen Clarke.

Respectfully,

Aileen Adams
Los Angeles, CA

Lenore Anderson
Oakland, CA

Amy Ashworth, PA
Prince William County, VA

Jennie Barr, PhD, LMFT
Austin, TX

David Beatty
Bonita Springs, FL

Aurelia Sands Belle, M.Ed.
Charleston, SC

Donte Bernard, Ph.D.
Charleston, SC

Buta Biberaj, CA
Loudon County, VA

Connie L. Best, Ph.D.
Mt. Pleasant, SC

Irene Blatnick
Denver, CO

Priscilla Bordayo
Lansing, MI

Ryan Brackley
Denver, CO

Robin Brassie
Albuquerque, NM

Pamela Ferguson-Brey
Honolulu, HI

Nyshia Brooks
Mansfield, OH

India Brown
Cleveland, OH

Lavina Bryant
Cincinnati, OH

Terry Burnside
Peoria, IL

LaDonna Butler
St. Petersburg, FL

Russell Butler
Dunkirk, MD

Juan Pablo Chavez
Tampa, FL

Connie Clery
Newtown Square, PA

Carla Kmett Danielson, Ph.D.
Mount Pleasant, South Carolina

Steve Derene
Madison, WI

Steve Descano, CA
Fairfax County, VA

Kevin Dolphin
Harrisburg, PA

Michael Dougherty
Boulder, CO

Norm Early
Atlanta, GA

Dan Eddy
Alexandria, VA

Sharon English
San Clemente, CA

Nancy Feldman, MPA
Littleton, CO

Robin Finegan
Denver, CO

Krista R. Flannigan, JD
Tallahassee, FL

Tricia Forbes
Austin, TX

Clara Forman
Peoria, IL

Mario T. Gaboury, JD
Old Saybrook, CT

Michael Grady
El Paso, TX

Vickey Cornelison Grant
Charleston, SC

Trudy Gregorie
Ashburn, VA

David Guizar
Los Angeles, CA

Christine Hahn, Ph.D.
Charleston, SC

Paul A. Hanson, Jr.
Isle of Palms, SC

Rochelle Hanson, Ph.D.
Isle of Palms, SC

Jody Henry
Harrisburg, PA

James Hingeley, PA
County of Albemarle, VA

Megan Hobson
Miami, FL

Tinisch Hollins
San Francisco, CA

Jay Howell, Esq.
Jacksonville, FL

Susan Smith Howley
Beltsville, MD

Pamela Hubbard
Cleveland, OH

Teresa Huizar
Washington, DC

Angela Moreland Johnson, Ph.D.
North Charleston, SC

Michael Johnson
Denver, CO

Karen Kalergis
Austin, TX

William Kellibrew
Washington, DC

Dean Kilpatrick, Ph.D.
Sullivan's Island, SC

Janice Harris Lord, LCSW, ACSW/LPC
Arlington, TX

Jonathan Lewis
Houston, TX

Liam Lowney
Marshfield, Massachusetts

Sandra Matheson
Bluffton, SC

Dashante McCoy
Stockton, CA

Mary McGhee
Denver, CO

Karen A. McLaughlin
Marblehead, MA

JuRon McMillan
Washington, DC

Herman Millholland
Los Angeles, CA

Joel Junior Morales, CTP
Orlando, FL

Stephanie Morales, CA
City of Portsmouth, VA

Sheila Nared
Cincinnati, OH

Greg Novak
Venice, FL

Kevin O'Brien, Ed.D
Washington, DC

David Osborne
Fairfax, VA

Sandra Pavelka, Ph.D.
Fort Myers, FL

Joseph Plantania, CA
City of Charlottesville, VA

Stanley L. Pryor
Reedville, VA

Bertha Purnell
Chicago, IL

Terricia Radcliff
Harrisburg, PA

Alyssa Rheingold, Ph.D.
Mt. Pleasant, SC

Robert Rooks
Oakland, CA

Roberta Roper
Upper Marlboro, MD

Dorothy Scott
Harrisburg, PA

Claire Ponder Selib, MSW, CA
Brooklyn, NY

Anne Seymour
Washington, DC

Deleah Sharp
Pontiac, MI

Steve Siegel
Denver, CO

Patricia Smallwood MS
LMFT LSW NCC
Fort Wayne, Indiana

Alma Dell Smith, Ph.D.
Boston, MA

Dan Smith, Ph.D.
Charleston, SC

Feletta Smith
Jacksonville, FL

John Stein, J.D.
Newburg, OR

Doris Strong
Tallahassee, FL

Bridget Stumpf
Ellicott City, MD

Elliott Saunders
Tampa, FL

Parisa Dehghani-Tafti, PA
Arlington, VA

Aswad Thomas
Atlanta, GA

Gregory D. Underwood, CA
City of Norfolk, VA

Shari Ware
Detroit, MI

Renee Williams
Upper Marlboro, MD

Qiana Wimbley
Birmingham, MI

Marlene Young, J.D.
Newburg, OR

Alaska Wilderness League * Christian Council of Delmarva * Corazón Latino * Defenders of Wildlife * Earthjustice * Endangered Habitats League * Endangered Species Coalition * Environmental Defense Fund * Environmental Law & Policy Center * Environmental Working Group * GreenLatinos * Howling For Wolves * Natural Resources Defense Council * League of Conservation Voters * Sierra Club * Southern Utah Wilderness Alliance * The Climate Reality Project * The Wilderness Society * Western Environmental Law Center * Western Nebraska Resources Council

February 21, 2021

The Honorable Dick Durbin, Chairman
Senate Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Chuck Grassley, Ranking Member
Senate Committee on the Judiciary
United States Senate
Washington, DC 20510

RE: Letter of Support for Department of Justice nominees: Judge Merrick Garland, Vanita Gupta, Kristen Clarke & Lisa Monaco

Dear Chairman Durbin and Ranking Member Grassley:

The twenty undersigned environmental groups write today on behalf of our millions of members and supporters to express our strong support for the slate of four nominees to lead the United States Justice Department ("DOJ"): Judge Merrick Garland, to be Attorney General of the United States, Vanita Gupta to be Associate Attorney General, Kristen Clarke to be Assistant Attorney General for the Civil Rights Division, and Lisa Monaco to be Deputy Attorney General. We urge the Senate Judiciary Committee to support all four nominees.

As the nation's top law enforcement agency, the Justice Department is responsible for safeguarding our civil and constitutional rights, including our right to live free from toxic air and polluted waters. The Department and the American people need and deserve leadership committed to that mission and to our country's ongoing progress toward equal justice and racial equality.

Judge Garland, Ms. Gupta, Ms. Clarke, and Ms. Monaco are the leaders we need. They are all accomplished public servants who understand that the DOJ should serve the *people* by upholding the rule of law and defending our Constitution. President Biden said it best when he declared that they "are eminently qualified, embody character and judgment that is beyond reproach, and have devoted their careers to serving the American people with honor

and integrity. They will restore the independence of the Department so it serves the interests of the people not a presidency, rebuild public trust in the rule of law, and work tirelessly to ensure a more fair and equitable justice system."

These nominees face a daunting task. Over the past four years, political appointees at DOJ focused on the interests of the former president, and sometimes worse, the interests of corporate special interests. As a result, DOJ rolled back environmental and voting rights enforcement, restricted civil and human rights, including LGBTQ rights, at every turn,[1] and implemented extreme policies on access to justice and immigration. Those policies put lives in peril and increased burdens for already vulnerable communities. Their lax enforcement also abetted the previous administration's "energy development above all" agenda that threatened our public lands, waters, and wildlife. Moreover, it undermined the career professionals who swore an oath to serve and protect the American people and ensure justice for all.

The Environment is a Civil and Human Right

Because a healthy environment is a civil and human right, we need a Justice Department that defends and enforces our laws, and that supports the right of the public to enforce environmental laws when the government fails to do so.

Over the last four years, the Justice Department worked to weaken rather than strengthen our environmental laws. We need the DOJ to advocate instead for the broad power of federal agencies to implement statutes like the Clean Air Act, Clean Water Act, Endangered Species Act and the National Environmental Policy Act, as Congress intended. We need leadership that understand science is about facts, not politics or corporate influence, and that human caused climate change is a scientific fact that desperately needs our collective attention.

The Justice Department must also reverse course to vigorously enforce our laws after four years that saw a 90% reduction in corporate penalties and enforcement actions.[2] The burden of that neglect has fallen disproportionately—as it always does in our nation—on Black, Brown, Latinx, and Asian people, Native Americans, immigrant communities and wage workers. The Justice Department must recognize this, and must also recognize that our pollution control system has perpetuated sacrifice zones in these marginalized communities, that our public lands policies have deprived indigenous communities of sacred lands, and

---

[1] https://civilrights.org/trump-rollbacks/.

[2] Public Citizen 2018 report at 13 (see https://www.citizen.org/sites/default/files/corporate-enforcement-public-citizen-report-july-2018.pdf). See also - https://www.washingtonpost.com/national/health-science/civil-penalties-for-polluters-dropped-dramatically-in-trumps-first-two-years-analysis-shows/2019/01/24/7384d168-1a82-11e9-88fe-f9f77a3bcb6c_story.html; https://www.nytimes.com/2020/10/13/climate/pollution-lawsuits-trump-environment.html

that federal policies place the greatest burdens of the climate crisis on those least able to bear them. As our nation reckons with its racist past and the need for justice, the Biden-Harris Administration's DOJ leadership must do its part to advance environmental justice.

Finally, we need a Justice Department that will recognize the public's right to seek justice in court. Without court access, the environmental laws aren't worth the paper they are written on. For the past four years, the Justice Department actively sought to restrict citizens' right to seek justice in courts, and to grossly restrict the scope of things they can do once they get there. In particular, the last Administration's appointees actively applied a restrictive view of "standing doctrine" to prevent people from suing about damage to the environment. It is critical that Judge Garland, Ms. Gupta, Ms. Clarke, and Ms. Monaco reverse that damage.

Conclusion

While there is much to do to restore the public faith in the Justice Department, we believe that Judge Garland, Ms. Gupta, Ms. Clarke, and Ms. Monaco are up to that challenge. We urge the Senate Judiciary Committee to swiftly confirm all four nominees in the weeks ahead.

Sincerely,

Alaska Wilderness League
Christian Council of Delmarva
Corazón Latino
Defenders of Wildlife
Earthjustice
Endangered Habitats League
Endangered Species Coalition
Environmental Defense Fund
Environmental Law & Policy Center
Environmental Working Group
GreenLatinos
Howling For Wolves
Natural Resources Defense Council
League of Conservation Voters
Sierra Club
Southern Utah Wilderness Alliance
The Climate Reality Project
The Wilderness Society
Western Environmental Law Center
Western Nebraska Resources Council

SPLC | ACTION

February 23, 2021

The Honorable Richard J. Durbin
Chair
Senate Judiciary Committee
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Senate Judiciary Committee
Washington, DC 20510

Dear Chair Durbin and Ranking Member Grassley:

Now in our 50th year, the Southern Poverty Law Center (SPLC) is a catalyst for racial justice in the South and beyond, working in partnership with communities to dismantle white supremacy, strengthen intersectional movements, and advance the human rights of all people.

On behalf of the SPLC Action Fund and the 53 undersigned organizations, we write in strong support of the nomination of Kristen Clarke to serve as Assistant Attorney General for Civil Rights. Ms. Clarke is exceptionally well qualified for the job, having previously served in the Justice Department's Civil Rights Division, for the NAACP Legal Defense and Educational Fund, as head of the Civil Rights Bureau for the New York State Attorney General's Office, and, since 2016, as President and Executive Director of the Lawyers Committee for Civil Rights Under Law. We are confident that this demonstrated, lifelong commitment to promoting equal justice has prepared Ms. Clarke to effectively lead enforcement of our nation's existing civil rights laws – and help address structural racism, historic inequalities, and unjust barriers to equal treatment under the law.

Under her direction, the Lawyers Committee's Election Protection initiative has played a national leadership role in working to protect free and fair elections and ballot access for voters. Ms. Clarke led the Lawyers Committee when it successfully sued white supremacists and racists, and created the Stop Hate Project, which has provided excellent resources and a number of training initiatives designed to strengthen capacity of community-based organizations and law enforcement officials to confront all forms of violent bigotry and hate crimes

Over the past four years, the Lawyers Committee has helped fill the gap caused by the Justice Department's almost total inattention to a number of traditional Civil Rights Division priorities. The Department significantly aided the Trump administration's effort to undermine the Census, and filed almost no voting rights cases – even defending some restrictive voting laws. After the 2020 election and 2021 runoffs, the Georgia State Legislature immediately began to consider ballot access restrictions based entirely on white supremacist conspiracy theories and lies about election fraud. To date, there have been at least 30 voter suppression bills introduced in the two chambers. Facing legislation that amounts to modern-day poll taxes and Jim Crow tactics, voters in Georgia and other states in the Deep South will need a vigilant and

forceful Voting Rights Section ready and willing to enforce the law and defend the right to vote. Targets of this restrictive legislation, including people of color, the elderly, people with disabilities, people experiencing poverty, rural citizens, and students deserve nothing less.

The Trump Justice Department played a lead role in working to roll back health, welfare, and workplace protections for LGBTQ people. Following President's Biden's election, we are now seeing concerted efforts to pass anti-transgender legislation in many Deep South states, including measures designed to target the medical care and school activities of children. In Alabama, Mississippi, and Georgia, we are defending against bans on medical care and sports participation by transgender youth, who already face substantial discrimination.[1] We very much look forward to a Civil Rights Division led by Ms. Clarke and committed to fight for safety, opportunity, dignity, and equity for LGBTQ communities.

The COVID pandemic has had a starkly disproportionate impact on Black, Indigenous, and Latinx communities – revealing staggering inequities in health care and housing, in the workplace, and in financial and educational systems. These dramatic racial disparities must be addressed. Recently, a deadly nitrogen leak at a poultry processing plant in Georgia left six immigrant workers dead[2] and a community in fear of retaliation and discrimination. The poultry industry's abuses are well-known and continue to go unchecked, and workers deserve a watchdog with the ability and resources to take on some of the wealthiest and largest employers in the Deep South.

At the same time, the killing of George Floyd and many other unarmed men and women of color by the police has driven thousands to sustained protests in the streets, energizing a decades-long movement calling not just for reform, but for a fundamental reimagining of policing and incarceration policies – and a deep reinvestment in community-based programs. Under both Attorney General Sessions and Attorney General Barr, the Justice Department failed to act to curb police misconduct and harshly restricted pattern and practice police reform work. We believe Ms. Clarke will be an essential voice promoting Justice Department leadership in reforming and transforming the criminal justice system.

In addition, we expect that, under Ms. Clarke's leadership, the Civil Rights Division will act to protect the health and safety of incarcerated persons. The Georgia Department of Corrections has reported that at least 88 incarcerated people and four staff members have died from the coronavirus disease. Incarcerated people report a lack of testing, filthy conditions, and no sterilization products, and staff not providing adequate medical assistance or medication to those who are ill.

In addition, we trust that she will continue and expand upon the Justice Department's existing litigation against the state of Alabama for unconstitutional conditions in its men's prisons. Sexual abuse, excessive force by corrections staff, pervasive assault, understaffing, and overcrowding are only some of the 8th and 14th Amendment claims that incarcerated people, their loved ones, and organizers have been rallying around for years. This Justice Department litigation has provided an opportunity for a measure of relief for people suffering under decades of overly-harsh sentencing laws and mass incarceration.

---

[1] Alabama's HB1, medical ban; Georgia's HB276 and HB372, sports ban and an attempt to define gender; Mississippi's SB2536, sports ban.
[2] Joshua Sharpe, https://www.ajc.com/news/crime/breaking-victims-ided-after-deadly-poultry-plant-nitrogen-leak/ITNUHYOFSNBA3GTMR4V6FHJLVI/

The Civil Rights Division of the Justice Department has a leadership role to play in enforcing our nation's civil rights laws and ensuring equal justice for all. It is not enough for the next Assistant Attorney General for Civil Rights to merely restore lost rights and freedoms. We need a person in that position who is ready, on day one, to take immediate and aggressive steps to reimagine how we can truly become a more just and equitable nation – to drive litigation, enforcement, and policy strategies that will help make an America as good as our highest ideals and aspirations for individual dignity, fairness, equal treatment, and justice.

Kristen Clarke is that deeply experienced leader – uniquely qualified to take on these important responsibilities. We urge you to support her speedy confirmation.

Sincerely,

SPLC Action Fund
AIDS Alabama
Alabama Black Women's Roundtable
Alabama Civic Engagement (ACE) Coalition
Alabama CURE
Alabama Justice Initiative
Alabama Rivers Alliance
Asian Youth for Civic Engagement
Bay Area Women Coalition, Inc.
Church Without Walls
COALITION OF LATINO LEADERS-CLILA
Common Cause GA
Faith in Action Alabama
Faith and Works
Fair Fight Action
GALEO Impact Fund, Inc.
The Georgia Coalition for Higher Education in Prison
Georgia Coalition for the People's Agenda
The Georgia Coalition of the People's Agenda - Coastal Georgia
Georgia Conservation Voters
Georgia STAND-UP
¡HICA! Hispanic Interest Coalition of Alabama
Hispanic Interest Coalition of Alabama
HousingLOUISIANA
Indivisible Georgia Coalition
Jobs to Move America
LatinoJustice PRLDEF, Southeast Office
Louisiana Fair Housing Action Center
Loyola University New Orleans
Medical Advocacy & Outreach
McIntosh SEED
Mississippi Center for Justice
Mississippi Low Income Child Care Initiative
Montgomery PRIDE United/ Bayard Rustin Community Center
MS AFL-CIO,
NAACP Florida State Conference
NAACP Louisiana State Conference
National Association of Social Workers-Mississippi Chapter

Necessary Trouble
The New Georgia Project
Open Table United Church of Christ
Our Lady of the Valley Catholic Church
Pax Christi and Our Lady of Lourdes
Power Coalition for Equity and Justice
Progressive Women of Northeast Alabama
Promise Of Justice Initiative
Project Hope to Abolish the Death Penalty
Refugee Women's Network
Represent GA Action Network
Southern Center for Human Rights
SURJ ATL
Tuscaloosa County Office of Public Defender
Unitarian Universalist Church of Pensacola
Women Watch Afrika



February 22, 2021

United States Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Durbin and Ranking Member Grassley:

Ujima, Inc. is a national Culturally Specific Services Issue Resource Center funded by the Administration of Children and Families, Family and Youth Services Bureau within the U.S. Department of Health and Human Services by and through the Family Violence Prevention and Services Act. The name Ujima was derived from one of the Kwanzaa principles which means Collective Work and Responsibility. This principle is critical to addressing violence against Black women in the United States. Ujima Inc. through its education and outreach; training and technical assistance; resource development; research; and public policy efforts mobilizes the Black community and allies to strengthen our families, recognizing that the safety and viability of our families is connected to the health and well-being of our individual neighborhoods and communities at large. We are part of a network of domestic violence programs that works collaboratively to promote practices and strategies to improve our nation's response to domestic violence, sexual assault, and community violence.

Survivors of domestic violence seek help from a multitude of systems for safety and healing, however those same systems can cause harm and are often difficult to navigate. Organizations that serve Black survivors have historically been underfunded and unable to provide the holistic services necessary to satisfy the needs of victims while identifying a practical safety plan. Black women are almost 3x as likely to be killed by an intimate partner than white women – we are particularly concerned that this statistic will increase as we grapple with the COVID-19 pandemic and the dearth of resources. We were encouraged by Kristen Clarke's nomination for Assistant Attorney General for the United States Department of Justice Civil Rights Division. Attorney Clarke astutely acknowledged racial disparities related to the pandemic early on, as she stated at the top of 2020, she was "deeply concerned that African American communities are being hardest hit by the COVID-19 pandemic, and that racial bias may be impacting the access they receive to testing and healthcare." Additionally, she has testified before Congress on barriers to voting rights; she has led civil rights enforcement of education and housing discrimination; and has prosecuted human trafficking and hate crime cases. Her commitment to equal justice under the law is exemplary. Ujima, Inc. fully supports the confirmation of Attorney Kristen Clarke as Assistant Attorney General for the United States Department of Justice Civil Rights Division.

Respectfully,

Karma Cottman
Executive Director

5 Thomas Circle, NW, Washington, DC 20005 | O: 202.299.1181 | F: 202.299.1193 | ujimacommunity.org

February 24, 2021

The Honorable Senator Richard Durbin, Chair
Committee on the Judiciary
711 Hart Senate Building
Washington, DC 20510

The Honorable Charles E. Grassley, Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chair Durbin and Ranking Member Grassley:

The AFL-CIO Union Lawyers Alliance, which represents labor lawyers across the country who fight for the rights of working people, writes to voice our strong support for the nomination of Kristen M. Clarke as the Assistant Attorney General for the United States Department of Justice Civil Rights Division. Ms. Clarke has engaged in civil rights advocacy from varying levels of authority, both inside and outside the government; her deep commitment to the purpose of the Civil Rights Division and broad experience make her an exceptional candidate for this position. We commend President Biden for making such a strong selection and encourage you to support her confirmation.

Ms. Clarke is eminently suited to lead the Civil Rights Division. She began her career with impressive academic credentials, including an undergraduate degree from Harvard University and a Juris Doctor from Columbia University. From there, she became a prosecutor for the Department of Justice Civil Rights Division, Co-Director of the NAACP Legal Defense and Education Fund's Political Participation Group, Chief of the Civil Rights Bureau at the New York Attorney General's office, and President and Executive Director of the Lawyers' Committee for Civil Rights Under Law. In these positions, she has personally handled or overseen cases on voting rights, human trafficking, hate crimes, police misconduct, housing discrimination, racial profiling, equal access for people with disabilities, and religious accommodation, among others. She has worked on the ground, in the middle, and at the top of management structures and understands the dynamics of running a large organization that must contend with countervailing pressures while standing in the public eye.

At a time when so many in this country are desperate for national leadership that shows true commitment to fighting for the rights of historically oppressed groups, Ms. Clarke's confirmation will assuage that desperation and give hope to the millions working for change. She has devoted her entire professional life to pursuing the aims that the Civil Rights Division embodies. She has demonstrated that she has the legal, administrative, and leadership skills that are required for this role. We hope that you will act quickly to confirm Ms. Clarke to the position so that she can apply her formidable talents to this vital work.

Thank you for considering the collective voice of our 2,000 attorney members.

Sincerely,

AFL-CIO Union Lawyers Alliance

NATIONAL COALITION AGAINST DOMESTIC VIOLENCE
NCADV

600 Grant Street, Suite 750
Denver, CO 80203
303-839-1852 **ofc**
303-831-9251 **fax**

1140 3rd St. NE, 2nd floor
Washington, D.C. 20002
202-714-7662 **ofc**

United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

February 25, 2021

Dear Chairman Durbin, Ranking Member Grassley, and Committee Members:

The National Coalition Against Domestic Violence (NCADV) writes to urge you to confirm Kristen Clarke (Clarke) to be the Assistant Attorney General for Civil Rights in the United States Department of Justice (DOJ). NCADV is the nation's oldest national grassroots domestic violence organization, representing domestic violence programs and survivors directly. Established in 1978, our mission is to lead, mobilize, and raise our voices to support efforts that demand a change of conditions that lead to domestic violence such as patriarchy, privilege, racism, sexism, and classism. We are dedicated to supporting survivors and holding offenders accountable and supporting advocates.

Domestic violence impacts every person in America. With one in four women and one in ten men experiencing intimate partner violence,[1] everyone is acquainted with someone who has experienced violence – whether they know it or not. Black and Native women experience the highest rates of intimate partner violence,[2] and the systems that ought to protect them are often actively hostile. White supremacy is a feature of all these systems.

In an interview with ABC news, Clarke said, "I want to ensure that the doors of justice remain open (so) all the people can feel that they are seen and heard, especially when we are talking about the most vulnerable among us. I am very hopeful that we will see the Justice Department truly be an engine of reform when it comes to enforcement of our nation's federal civil rights laws."[3] Survivors of intimate partner violence, particularly Black and Native women and immigrant women, are among the most vulnerable people in society. Clarke's professional history amply demonstrates her commitment to ensuring survivors have access to justice.

As an attorney with DOJ's Civil Rights Division, Clarke dealt with cases related to systemic racism such as police misconduct and hate crimes. The racism and misogyny built into the criminal and civil justice systems create barriers for those survivors who want to engage with the such systems. Clarke's demonstrated success in addressing issues related to systemic barriers to justice indicate that she will be the champion survivors need.

---

[1] Smith, S.G., Zhang, X., Basile, K.C., Merrick, M.T., Wang, J., Kresnow, M. & Chen, J. (2018). *The national intimate partner and sexual violence survey: 2015 data brief - updated release.* Atlanta: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention. Retrieved from https://www.cdc.gov/violenceprevention/pdf/2015data-brief508.pdf.
[2] Smith, S.G., Chen, J., Basile, K.C., Gilbert, L.K., Merrick, M.T., Patel, N., Walling, M., & Jain, A. (2017). *The national intimate partner and sexual violence survey (NISVS): 2010-2012 state report.* Atlanta: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention. Retrieved from https://www.cdc.gov/violenceprevention/pdf/NISVS-StateReportBook.pdf.
[3] Harper, H. (2021, January 26). *DOJ nominee Kristen Clarke wants to make the promise of 'justice for all' a reality: She could be the first Black woman to lead the DOJ's Civil Rights Division.* ABC News. https://abcnews.go.com/Politics/doj-nominee-kristen-clarke-make-promise-justice-reality/story?id=75476613

600 Grant Street, Suite 750
Denver, CO 80203
303-839-1852 **ofc**
303-831-9251 **fax**

NATIONAL COALITION AGAINST DOMESTIC VIOLENCE
NCADV

1140 3rd St. NE, 2nd floor
Washington, D.C. 20002
202-714-7662 **ofc**

In their interactions with institutions and systems, survivors are disbelieved, disrespected, disparaged, and dismissed. Systems that should protect them victimize them instead. They are discriminated against in housing, in employment, in the child welfare system, in education, and in many other formal and informal systems. In some cases, they experience discrimination due to their status as survivors; in other cases, the discrimination they face is unrelated to their status as a survivor but exacerbates the impacts of violence. For example, intimate partner violence is the leading cause of homelessness among women.[4] Discrimination in housing increases barriers to a survivor being able to leave an abusive relationship. The same can be said for other forms of discrimination that impact a survivor's financial status – lack of resources are a primary factor in keeping survivors trapped in abusive relationships. Whether the discrimination is based on gender, race, ethnicity, disability, religion, gender identity, sexual orientation, or other factors, it compounds the effects of domestic violence, and it keeps survivors trapped in abusive relationships and hamper their recovery.

Kristin Clarke's documented expertise in promoting civil rights and holding those who violate it accountable clearly demonstrates her qualifications for the position of Assistant Attorney General for Civil Rights at the Department of Justice. Her personal commitment to equal justice for all means she will be a champion for equal justice for all survivors.

Respectfully,

The National Coalition Against Domestic Violence

[4] National Low Income Housing Coalition (2013). America's affordable housing shortage, and how to end it. *Housing Spotlight,* 3(2).

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
28 LIBERTY STREET
NEW YORK, NY 10005

LETITIA JAMES
ATTORNEY GENERAL

(212) 416-8050

February 25, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

We, a diverse coalition of state attorneys general, charged with defending the rights of our states and their citizens and committed to protecting and upholding the rule of law, write today to strongly support the nominations of Merrick Garland, Lisa Monaco, Vanita Gupta, and Kristen Clarke to lead the United States Department of Justice (DOJ). This extraordinarily qualified slate of nominees—led by Merrick Garland—will help restore our justice systems, promote equity under the law, and defend the rights of all Americans.

As state attorneys general, each of us solemnly swore to discharge dual roles both as the chief counsel for the states we represent and the "people's lawyer" for our constituents whose most basic rights have been violated. We sought office to protect the most vulnerable among us and to bring justice to those who would seek to harm and exploit them. We believe that—by supporting these superlative nominees—we are fulfilling those duties by advocating for Department of Justice leadership that shares these values and will support that fundamental work as partners.

In both experience and temperament, Judge Garland is well suited to lead the Department through these divisive times. If confirmed, Judge Garland will be among the most qualified Attorney Generals in our nation's history. He has served in DOJ leadership positions under Presidents of both parties and distinguished himself as jurist as a United States Circuit Judge and then as the Chief Judge of the United States Court of Appeals for the District of Columbia. In those roles, Judge Garland has developed a well-earned reputation for independence, fairness,

and the ability to build consensus. His nomination has garnered support from all across the political spectrum, including two Republican former-United States Attorneys General.

Just as importantly, Judge Garland's legal philosophy is precisely what is needed in this moment. Upon his nomination, Garland said, "the essence of the rule of law is that like cases are treated alike: That there not be one rule for Democrats and another for Republicans, one rule for friends, another for foes, one rule for the powerful, and another for the powerless." This country desperately needs a Department of Justice that respects the rule of law and believes every person equal in the eyes of justice. Under Merrick Garland's leadership, that is just what we will have.

President Biden's other DOJ nominees—Lisa Monaco, Vanita Gupta, and Kristen Clarke—are equally inspired and fitting choices for this critical inflection point in our nation's history. Lisa Monaco, nominee for Deputy Attorney General, is a highly respected national security professional, having served as one of President Obama's top counterterrorism advisers, held a wide range of senior Justice Department roles under three Presidents, and helped transform the FBI following 9/11. Her experience coordinating governmental management and response to homeland security crises—from terrorist attacks to pandemics—will be essential in to our national recovery from COVID-19.

Vanita Gupta, nominated as Associate Attorney General, has decades of experience improving our criminal justice system, an essential task for the new administration. From overturning wrongful convictions as line attorney for the NAACP Legal Defense Fund to spearheading the American Civil Liberties Union's National Campaign to End Mass Incarceration to revolutionizing the use of patterns and practices investigations to transform local police departments as head of DOJ Civil Rights, Gupta has been at the forefront of justice reform for her entire career.

Kirsten Clarke is one of the legal community's fiercest defenders of marginalized communities and most committed champions of equity under the law. Clarke has significant frontline experience from her time at the NAACP Legal Defense Fund and in the DOJ Civil Rights Division and has demonstrated her leadership and coalition-building prowess as the president and executive director of the National Lawyers' Committee for Civil Rights Under Law. We are particularly excited about Clarke's background as the Chief of the Civil Rights Bureau of the New York State Attorney General's Office, where she secured landmark agreements with banks to address unlawful redlining and employers to address barriers to reentry for people with criminal backgrounds, among numerous other accomplishments.

As attorneys general, we know first-hand the qualities and qualifications necessary to defend both the sovereignty of the state and the rights of individuals. We applaud President Biden for nominating such a sterling slate of candidates to lead the Justice Department and are proud to give our unqualified endorsement to all four nominees.

Sincerely,

Letitia James

Letitia James
New York State Attorney General



William Tong
Connecticut Attorney General



Kathleen Jennings
Delaware Attorney General



Karl Racine
District of Columbia Attorney General



Clare E. Connors
Hawaii Attorney General



Kwame Raoul
Illinois Attorney General

Tom Miller
Iowa Attorney General

Aaron M. Frey
Maine Attorney General

Brian E. Frosh
Maryland Attorney General

Maura Healey
Massachusetts Attorney General

Aaron Ford
Nevada Attorney General



Hector Balderas
New Mexico Attorney General



Josh Stein
North Carolina Attorney General



Ellen F. Rosenblum
Oregon Attorney General



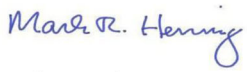
Josh Shapiro
Commonwealth of Pennsylvania Attorney General



Peter Neronha
Rhode Island Attorney General



Thomas J. Donovan, Jr.
Vermont Attorney General



Mark R. Herring
Virginia Attorney General



Bob Ferguson
Washington State Attorney General

Ariel Levinson-Waldman
6338 32nd Street NW, Washington, D.C. 20015

February 26, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate

The Honorable Mitch McConnell
Minority Leader
United States Senate

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate

Dear Leader Schumer, Leader McConnell, Chairman Durbin, and Ranking Member Grassley:

I am writing in support of the nomination of Kristen Clarke to serve as U.S. Assistant Attorney General for Civil Rights.

I have known Kristen since 2006. I first worked closely with her when I was a lawyer in private representing the Texas NAACP and she was a lawyer at the NAACP Legal Defense Fund and we were each representing clients in defense of key provisions of the Voting Rights Act of 1965. I later had the opportunity to work closely with her when she was working in the Office of the Attorney General for the State of New York, and I was serving in the Office of the Attorney General for the District of Columbia, and we collaborated on a number of multi-jurisdiction issues connected to civil rights. I have also most recently had the opportunity to talk with her in our current professional settings. Kristen has been serving and excelling as President and Executive Director of the Lawyers' Committee for Civil Rights Under Law. And since 2017, I have served as the Founding President of Tzedek DC, a nonprofit organization that arose out of a fellowship granted by the Jewish Federation of Greater Washington with the mission of safeguarding the rights and interests of DC residents of all faiths and backgrounds with lower incomes who are facing debt-related problems. In this context, I had the opportunity, among other things, to attend a small group meeting with her organized by the Jewish Community Relations Council of Greater Washington.

On the basis of those experiences over the last fifteen years, I am writing in my personal capacity to say with confidence that Kristen will be an outstanding leader of the Civil Rights Division, and will, as she has consistently done, work to vindicate the civil rights of all Americans. In particular, I want to respond to questions raised before this Committee recently: as a proud American Jew who has known Kristen for a decade and a half and worked closely with her in multiple settings, I reject any suggestions that she is an anti-Semite. I note as well that there is no evidence in her record to suggest otherwise. I join the chorus of American Jews who urge swift confirmation of this principled and talented leader to be the U.S. Assistant Attorney General for Civil Rights.

Thank you for considering my views.

Ariel Levinson-Waldman

CHOATE
ROSEMARY HALL

333 CHRISTIAN STREET
WALLINGFORD, CT 06492

WWW.CHOATE.EDU

March 2, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles F. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Senators Schumer, McConnell, Durbin, and Grassley:

It is my honor to write to you in support of the nomination of Kristen Clarke for Assistant Attorney General for the Civil Rights Division of the Department of Justice.

I am the Head of School of Choate Rosemary Hall, Kristen Clarke's high school. A graduate of the Class of 1993, Kristen has been a dedicated and involved alumna, and as a result, I have had the opportunity to spend significant time with her, to learn from her, and to witness her inspire our entire community with both her actions and words.

In 2017, I presented Kristen with the Choate Rosemary Hall Alumni Award. As background, this award, presented to alumni who have made significant contributions to their profession, is the highest award bestowed by the School to a graduate, and was first awarded in 1958 to John F. Kennedy '35. During her acceptance speech, Kristen reminisced about her Choate experience including a field trip with her American Political Institutions class to a hearing in Hartford in connection with Sheff v. O'Neill, one of the milestone cases on school desegregation, which, she says, sparked her interest in civil rights lawyering. She also spoke to her recognition that much that she has been able to do and accomplish in her career traces back to having had the opportunity to attend Choate which, in turn, has left her to imagine what our country would be like if, in her words, "all kids had access to the incredible opportunities that a place like Choate provides." An awed member of her audience that morning, I was struck when she asked this question of all of us, "How can we create a world in which there is more justice, greater equality, a more level playing field, and equal access to opportunity?"

Perhaps not surprisingly, I would suggest one answer to her question would be through education. Another would be through service. It is abundantly clear to me that Kristen epitomizes the difference one individual can make when they value and promote both

education and service; indeed, we at Choate have been direct beneficiaries of her commitment to these priorities. In the span of three very tumultuous and challenging weeks for our nation in the spring of 2020, Kristen gave up her (what can I only imagine to be very limited) personal time to be with the Choate community. First in late-May, she co-led a conversation on *Current Challenges in Social Justice* as part of our Choate ConnectsUS webinar series during which she addressed a myriad of issues including voter rights, incarceration, and the impact of COVID-19 on social justice. Then on June 5, in an effort to help our students, faculty, and staff grapple with recent events involving race, we held a *Day of Conversation and Reflection* during which Kristen spoke and beseeched each of us to be allies to one another and to be willing to have courageous conversations about topics that may very well make us uncomfortable. Finally, just a few days later, she participated on another webinar panel (alongside several other Choate alumnae including Stacey Plaskett '84) entitled *On the Road to Women's Equality* about how the collective impact of the varied human rights movements can serve to bolster support for the ultimate goal of equality for all people, and the need for feminists, leaders, and legislators to be intersectional in their approach to crafting public policy.

Every time Choate called on Kristen to address our community, she enthusiastically agreed. Every time she did, she spoke to integrity, responsibility, and the importance of being thoughtful contributors to society. Every time she did, she showed a willingness to see, hear, and consider all sides of an issue and prioritized fairness of approach. Every time she did, she inspired. Every time she did, she generated hope for the future.

Certainly, others are far more qualified to speak to Kristen's remarkable career achievements, but I hope that by sharing my experiences, I have been able to shed further light on her commitment to education and service in pursuit of justice and fairness.

Having the privilege to know Kristen Clarke and to witness her impact on hundreds of young adults from around the world, I strongly support her nomination to lead the Civil Rights Division of the U.S. Department of Justice, and I look forward to the opportunity to celebrate her confirmation – and this history-making appointment – with the Choate community…and with the nation.

With gratitude for your leadership, service, and consideration,



Alex Curtis
Head of School

UTILITY WORKERS UNION OF AMERICA

JAMES SLEVIN
PRESIDENT

PATRICK M. DILLON
EXECUTIVE VICE PRESIDENT

MICHAEL COLEMAN
SECRETARY-TREASURER

JOHN DUFFY
VICE PRESIDENT

Affiliated with A.F.L.-C.I.O.

1300 L STREET, N.W.
SUITE 1200
WASHINGTON, D.C. 20005
202-899-2851
202-899-2852 FAX
www.uwua.net

March 9, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

UTILITY WORKERS UNION OF AMERICA SUPPORT FOR THE CONFIRMATION OF KRISTEN CLARKE TO BE ASSISTANT ATTORNEY GENERAL FOR CIVIL RIGHTS

Dear Senators:

The Utility Workers Union of America, AFL-CIO (UWUA) is proud today to offer our endorsement for Kristen Clarke to be confirmed as the next Assistant Attorney General for Civil Rights within the U.S. Department of Justice. We write to express our strong support for her confirmation based on a lifelong track record of service in advancing and defending the civil and constitutional rights of all Americans to be free from discrimination.

As the leader of the Lawyers' Committee for Civil Rights Under Law, Ms. Clarke has been a champion of civil rights, just as she has throughout her career. Her lifetime of service and extensive civil rights record demonstrates why we are confident that the nation needs her skills and experience. Further, as the first woman in history to be confirmed by the Senate as Assistant Attorney General for Civil Rights at the Justice Department, Ms. Clarke would break new, and long overdue, ground for civil rights simply through the act of her confirmation.

With her guidance, the Lawyers' Committee has defended civil rights even when the Justice Department would not, fighting hate, protecting voting rights and fighting for both racial and economic justice. The breadth and scope of Ms. Clarke's civil rights record speaks for itself. Her accomplishments span both civil rights organizations and federal and state government service. Her litigation experience and leadership skills will be critical components for her ability to lead the Civil Rights Division.

President Biden's choice in nominating Kristen Clarke to be the Assistant Attorney General for Civil Rights is a historic opportunity that embodies the ideals for which the Civil Rights Division was created. As such, the UWUA urges Ms. Clarke's confirmation as quickly as possible. The nation's need, and her lifetime of service to civil rights, are perfectly aligned and we have every confidence in her ability to lead the Division with humility, dignity, and a spirit of service.

Sincerely,

James T. Slevin
National President
Utility Workers Union of America, AFL-CIO

March 10, 2021

Dear Senator,

On behalf of the Union for Reform Judaism whose 850 congregations encompass 1.8 million Reform Jews, we write to convey our strong endorsement of Kristen Clarke who has been nominated to lead the Department of Justice's Civil Rights Division. It is not our usual practice to weigh in supportively on nominations. We have done so only three times in our history, and none in over a decade. Nonetheless, we are committed to adding our voices to the chorus of others who are supporting Ms. Clarke's nomination.

As our colleague Rabbi Jonah Pesner, director of our Religious Action Center of Reform Judaism, shared with Judiciary Committee members, during Ms. Clarke's tenure as chief of the New York Attorney General's Civil Rights Bureau she oversaw many achievements, including a Religious Rights Initiative that was a critical tool in enforcing anti-discrimination statutes. That effort, along with her strong fight for religious accommodations, was of particular consequence to us as Jews. In the same spirit, while at the Lawyers' Committee for Civil Rights Under Law, Ms. Clarke led a lawsuit against white supremacists who were harassing an African- American student leader at American University and fought the proliferation of online antisemitism. Each of these examples and many others testifies to the depth of Ms. Clarke's commitment to advancing and protecting civil rights and ensuring the well-being of members of the faith community, including the Jewish community.

As the nation's largest Jewish denomination, we have heard the voices from the fringes of the Jewish community who have hurled accusations of antisemitism at Ms. Clarke – and we reject them. They do not comport with the record of the colleague we have worked with throughout her career: as the President and CEO of the Lawyers' Committee for Civil Rights Under Law, as the head of the New York State Attorney General's Civil Rights Bureau, or at the NAACP Legal Defense Fund. At every turn, Ms. Clarke has been a steadfast ally to the Jewish community and a trusted partner in the fight against white supremacy and antisemitism.

Make no mistake: we disagree vehemently with the decision Ms. Clarke made while leading Harvard's Black Students' Association to invite a speaker who espoused antisemitism. But we have also heard Ms. Clarke's affirmation that she erred in her decision. Our experience working alongside Ms. Clarke to oppose hate in all its forms makes clear that her life has been dedicated to the civil rights values that should and must be reflected within the Department of Justice.

We are deeply pained that there are some who are weaponizing antisemitism in their effort to derail Ms. Clarke's nomination. The violence at Pittsburgh's Tree of Life synagogue and at Poway's Chabad synagogue, the gathering of neo-Nazis in Charlottesville, and the growing participation in online hate forums demonstrates that the threat from anti-Semites is real. We cannot be distracted from our shared mission to defeat these hateful forces by spurious claims of antisemitism. The real ones are all too prevalent.

We urge you to swiftly confirm Kristen Clarke to lead the Department of Justice's Civil Rights Division.

Sincerely,

Rabbi Rick Jacobs

President

Jennifer Brodkey Kaufman

Chair

486 Main Street
West Townsend, MA 01474
913-579-0003
www.nawlee.org

February 21, 2021

The Honorable Charles Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Dick Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Chuck Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Leader Schumer, Leader McConnell, Chairman Durbin, and Ranking Member Grassley:

Please allow this letter to act a formal endorsement of Kristen Clarke as the next Assistant Attorney General of the Civil Rights Division from the National Association of Women Law Enforcement Executives.

The work of Ms. Clarke in areas of civil rights enforcement including matters related to criminal justice, education and housing discrimination, fair lending, barriers to reentry, voting rights, immigrants' rights, gender inequality, disability rights, reproductive access and LGBTQ+ issues has shown she is committed to ensure equal protection for all community members.

As Ms. Clarke is someone that has broken the "glass ceiling", NAWLEE believes she will do much to support the need for more women in ranking positions within law enforcement agencies from across the county.

NAWLEE looks forward to the confirmation of Ms. Clarke as Assistant Attorney General.

Respectfully,

Paula Balafas

Commander Paula Balafas
NAWLEE President
president@nawlee.org

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

March 11, 2021

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

We are a group of progressive prosecutors and we write today in support of the nomination of Kristen Clarke to serve as Assistant Attorney General for Civil Rights. The Civil Rights Division is one of the most important divisions in the Justice Department. If confirmed, she would be the first black woman to lead the office. At this crucial time for our country, there is no better person to take on this role.

Ms. Clarke has spent her career fighting for racial justice. One of her first jobs after law school was in the very division she would now lead. Clarke worked on voting rights, police brutality, and human trafficking. She then worked for NAACP-LDF and was a key litigator in fighting against attempts to undermine the right to vote for communities of color. Since 2016, she has led the Lawyers' Committee on Civil Rights, promoting racial and economic justice and pushing to reform our broken criminal justice system.

She has also spoken out on the injustices of the war on drugs, noting the inequity of a marijuana industry that is dominated by white people when the criminalization of marijuana has so devastated communities of color.[1] As the country moves forward with marijuana reform, we agree with Ms. Clarke that the federal government must ensure that there is diversity and inclusion in the cannabis industry, expungement of prior records, and investment into communities that suffered because of marijuana prohibitions.

The Civil Rights Division must take on great importance during the Biden Administration. Our government was attacked by white nationalists in early January. In May of last year, our country was shaken by the tragic killing of George Floyd in Minnesota. And after losing the election, many Republican-dominated state legislatures are moving to impose more barriers to voting. We hope that Ms. Clarke will bring her passion and experience to bear on criminal justice reform, police accountability, consent degrees, immigration, LGBTQI rights, and white nationalism.

[1] https://www.usatoday.com/story/opinion/2019/02/22/marijuana-legalization-exposes-cannabis-industry-racial-injustice-incarceration-minorities-column/2836449002/

Kristen Clarke has demonstrated in her career that she is qualified for this position. More importantly, she is ready to meet this moment. We wholeheartedly endorse her and look forward to working with her.

Sincerely,

Marilyn J. Mosby, Baltimore City State's Attorney

Larry Krasner, Philadelphia District Attorney

Kim Foxx, Cook County State's Attorney

Rachael Rollins, Suffolk County District Attorney

Diana Becton, Contra Costa County District Attorney

Chesa Boudin, San Francisco District Attorney

George Gascon, Los Angeles District Attorney

Wesley Bell, St. Louis County Prosecuting Attorney

Aisha Braveboy, Prince George's County State's Attorney

John Creuzot, Dallas County District Attorney

Satana Deberry, District Attorney for Durham, North Carolina

Kim Gardner, Circuit Attorney for the City of St. Louis, Missouri

Stephanie Morales, Commonwealth's Attorney for Portsmouth, VA

Lynneice O. Washington, Jefferson County District Attorney - Bessemer Cutoff Division

Sherry Boston, Dekalb County District Attorney

Aramais Ayala, former State's Attorney, Ninth Judicial Circuit Court of Florida

IACP
International Association of Chiefs of Police
44 Canal Center Plaza, Suite 200 | Alexandria, VA 22314, USA | 703.836.6767 or 1.800.THEIACP | www.theIACP.org

February 22, 2021

Kristen Clarke
President and Executive Director
Lawyers' Committee for Civil Rights Under Law
1500 K Street NW, Suite 900
Washington, DC 20005

Dear Ms. Clarke:

I want to congratulate you on your nomination for Assistant Attorney General for the Department of Justice's Civil Rights Division by President Biden.

While the International Association of Chiefs of Police (IACP) has peripheral engagement with the Civil Rights Division, my experience suggests that successful candidates selected to lead the Division are communicative, fair, and transparent. Given our direct working relationship in our respective roles, you have demonstrated those qualities in our collective Lawyers' Committee and IACP efforts. Our partnership personifies the impact the policing and civil rights communities can have when working together to address complex issues -- as our joint efforts have spanned from addressing challenges within a local police organization to building a national effort to enhance the response to hate crimes.

I wish you well in the confirmation process and offer my appreciation for your willingness to serve. If confirmed, I look forward to continuing our solid working relationship as you bring your professional hallmarks -- communicativeness, fairness, and championing of transparency – to your new role.

Sincerely,

Vincent Talucci
IACP Executive Director / Chief Executive Officer

President
Chief Cynthia E. Renaud (Ret.)
Santa Monica, CA, Police Department

Immediate Past President
Chief Steven R. Casstevens
Buffalo Grove, IL, Police Department

First Vice President
Chief Dwight E. Henninger
Vail, CO, Police Department

Second Vice President
Chief John Letteney
Thomasville, GA, Police Department

Third Vice President
Chief Wade Carpenter
Park City, UT, Police Department

Fourth Vice President
Chief Ken A. Walker
West University Place, TX, Police Department

Fifth Vice President
Director David B. Rausch
Tennessee Bureau of Investigation

Vice President At-Large
Chief Will Johnson
BNSF Railway Police Department

Vice President At-Large
Chief Kristen Ziman
Aurora, IL, Police Department

International Vice President
Special Agent in Charge Ray Villanueva
Homeland Security Investigations

Vice President-Treasurer
Chief Ronald A. Sellon
Mansfield, MA, Police Department

General Chair, Division of State and Provincial Police
Colonel Matthew Langer
Minnesota State Patrol

General Chair, Division of State Associations of Chiefs of Police
Chief James G. Hicks
Natick, MA, Police Department

General Chair, Midsize Agencies Division
Chief Edward Walsh
Taunton, MA, Police Department

Parliamentarian
Deputy Commissioner Max Santiago (Ret.)
California Highway Patrol

Executive Director / Chief Executive Officer
Vincent Talucci, CAE
Alexandria, VA

Deputy Executive Director / Chief Operating Officer
Terrence M. Cunningham
Alexandria, VA

EVERYTOWN
FOR GUN SAFETY

March 11, 2021

The Honorable Richard Durbin
Chairman
Senate Judiciary Committee
Washington DC 20510

The Honorable Charles Grassley
Ranking Member
Senate Judiciary Committee
Washington DC 20510

Dear Chairman Durbin and Ranking Member Grassley:

On behalf of Everytown for Gun Safety, America's largest gun violence prevention organization, I write to express our support for the nominations of Vanita Gupta to be Associate Attorney General and Kristen Clarke to be Assistant Attorney General for Civil Rights.

At the same time that our nation is dealing with the COVID-19 pandemic and the epidemic of gun violence, we are also confronting an overdue reckoning with the systemic racism and injustice that exists for too many Americans. Gun violence has a disproportionate impact on Black and Brown communities in this country, particularly in cities, which have experienced a dramatic spike in gun homicides over the past year. Confronting this reality will require innovative strategies and close cooperation between community leaders, advocates, and public officials at all levels of government and law enforcement. Everytown also believes that police violence is gun violence, and that law enforcement should be subject to reforms that address police brutality, prevent racial profiling, and hold officers accountable for unauthorized shootings. Confirming these nominees to the Department of Justice will help bring about the change that our nation desperately needs.

As a longtime civil rights leader and a former Acting Attorney General for Civil Rights during the Obama Administration, Ms. Gupta has significant experience with criminal justice and policing issues. She has worked to ensure communities of color were not disparately impacted by law enforcement policies and she secured successful reforms in police departments in Ferguson, Missouri, Chicago, Illinois and Baltimore, Maryland among others. Ms. Gupta has demonstrated a commitment to ending gun violence, especially after the mass shootings in El Paso and Dayton in 2019 when Ms. Gupta helped call attention to the growing threats of gun violence that disproportionately targeted the Latino community. If confirmed, Everytown believes that Ms. Gupta will use the resources of the offices and programs she will oversee to support evidence-informed interventions to gun violence. As our nation works to address growing injustice, Ms. Gupta's nomination would break barriers as the first woman of color to serve as Associate Attorney General.

Similarly, Ms. Clarke's experience and background will help her restore the Civil Rights Division's role as an important protector of the rights of every American. She currently serves as the President and Executive Director of the Lawyers Committee for Civil Rights Under Law. In that position, Ms. Clarke has led efforts to ensure policing accountability and fight discrimination. Ms. Clarke also led the Civil Rights Bureau in the New York State Attorney General's office and worked at the NAACP Legal Defense Fund. As a former prosecutor at the Department of Justice, Ms. Clarke handled important cases related to police misconduct, hate crimes and voting rights - issues that will be at the forefront of the Civil Rights Division in the current Administration.

We are disappointed in some of the unwarranted criticism and mischaracterizations of their views and believe both will faithfully uphold the Constitution, including the rights secured under the Second Amendment. Despite attacks on their records, both Ms. Gupta and Ms. Clarke are eminently qualified and have demonstrated their willingness to work with stakeholders across the ideological spectrum to ensure the equal application of justice. In fact, Ms. Gupta enjoys broad support across the law enforcement community. We are confident that they would work in partnership with law enforcement to ensure greater transparency and accountability in reforming policing practices.

We are pleased to support the nominations of Vanita Gupta and Kristen Clarke and urge the Senate to act swiftly to confirm them. We appreciate your consideration of our views.

Respectfully submitted,

John Feinblatt
President, Everytown for Gun Safety Action Fund

Donald J. Rosenberg

March 28, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Letter in Support of Kristen Clarke, nominee for Assistant Attorney General of the Civil Rights Division

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

I write in unqualified support of Kristen Clarke, President Biden's nominee to become the Assistant Attorney General of the Civil Rights Division of the U.S. Department of Justice.

As a member of the Executive Committee and Board of the Lawyers' Committee for Civil Rights Under Law, I have observed first hand, the extraordinary work ethic and devotion Kristen brings to the cause of civil rights and equal justice for all. I participated in the recruitment and hiring of Ms. Clarke which included personally examining every aspect of her career from her undergraduate experience at Harvard University through each of her professional positions following her Columbia Law School graduation. My conclusion, shared by the entire Executive Committee, was enthusiastic support. And we have not been disappointed. In just five years, Ms. Clarke has elevated the profile and accomplishments of the Lawyers' Committee to a level not previously seen in the more than 50 years since President Kennedy's call to arms. She has worked with lawyers, both Republican and Democrat, from major corporate law firms and Fortune 500 companies to promote the cause of equal justice under law. I can personally attest to Ms. Clarke's legal abilities, principled leadership, and unshakeable integrity and can think of no person more qualified to head the Civil Rights Division.

Donald J. Rosenberg

In my role as Qualcomm's General Counsel, I have spoken to each of you in the past, sharing Qualcomm's story of innovation in wireless communications and its many contributions to our country. These great accomplishments have been achieved through the efforts of our diverse workforce. In these challenging times we have increased our efforts to engage with our employees in open discussions about discrimination based on race, color, national origin, gender, sexual orientation, disability, and religion. This includes the importance of voting rights and the connection between discrimination and disenfranchisement. Our employees welcome this open exchange, which has led to greater appreciation of how injustice can permeate our society and its institutions, even in the most subtle ways. Consistent with this perspective, Qualcomm has continued to contribute its time and resources in support of committee initiatives led by Ms. Clarke.

Kristen Clarke has devoted her life and career to advancing civil rights. She is one of the most distinguished and accomplished civil rights attorneys in the country, having begun her career in the same office she has now been nominated to lead. As a junior lawyer and civil rights prosecutor in the Division, Ms. Clarke took on the mantle of enforcing our nation's civil rights laws to protect voting rights, and to prosecute hate crimes and human trafficking offenses. She then went on to lead the Civil Rights Bureau at the New York State Attorney General's office, where she led pioneering work touching every aspect of the Civil Rights Bureau's portfolio.

While the Justice Department fulfills many functions, there is none greater than upholding our federal civil rights laws, particularly at this time in our nation's history. Leadership of the Civil Rights Division requires an individual with the highest moral character and competence. Ms. Clarke is an exceptional and inspired choice. I urge the Judiciary Committee to expeditiously process her nomination, and to swiftly confirm her.

Thank you for your attention.

Sincerely yours,



Donald J. Rosenberg
*Executive Vice President, General Counsel and Corporate Secretary
Qualcomm
*For identification purposes



CK Hoffler
President & CEO
Atlanta, GA

Carlos Moore
President-Elect
Grenada, MS

Lamont Bailey
Vice President of Sections & Divisions
Queens, NY

Lonita Baker
Vice President of Regions & Affiliates
Louisville, KY

Dominique Calhoun
Vice President of Membership
Houston, TX

Henry Floyd, Jr.
Vice President of Finance
Washington, DC

Ashley Upkins
Secretary
Nashville, TN

Nicholas Austin
Treasurer
Washington, DC

March 30, 2021

Dear Chairman Durbin and Ranking Member Grassley:

I write to you as the 78th President of the National Bar Association (the "NBA"). The NBA is the nation's oldest and largest national network of predominantly African-American attorneys and judges. Our organization represents the interests of approximately 66,000 lawyers, judges, law professors and law students. On behalf of the NBA, I am pleased to offer our support for the confirmation of Vanita Gupta for Associate Attorney General at the Justice Department and, Kristen Clarke as U.S. Assistant Attorney General for the Civil Rights Division at the Justice Department. Both nominees are imminently qualified and are exceptional lawyers. Although the NBA has endorsed several letters relating to the nomination of both Clarke and Gupta, I felt it important to send a separate letter at this time to express our unwavering support of their candidacy, in light of the unrelenting tension and merciless accusations launched against them in the ongoing confirmation proceedings in the United States Senate.

Vanita Gupta is an experienced leader and litigator who has devoted her entire career to civil rights work. Ms. Gupta formerly served as Acting Assistant Attorney General for the Civil Rights Division. As the chief civil rights prosecutor for the United States, Gupta oversaw a wide range of criminal and civil enforcement efforts to ensure equal justice and to protect equal opportunity for all during one of the most consequential periods for the division. Under Gupta's leadership, the division did critical work in several areas, including advancing constitutional policing and criminal justice reform; prosecuting hate crimes and human trafficking; promoting disability rights; protecting the rights of LGBTQ individuals; ensuring voting rights for all; and combating discrimination in education, housing, employment, lending, and religious exercise. She regularly engaged with a broad range of stakeholders in the course of this work. Her experience, her intellectual capacity and her proven track-record in working at the Justice Department make her an ideal choice for Associate Attorney General at the Justice Department.

NBA member Kristen Clarke is simply exceptional on all fronts. Her educational background, work experience, community engagement, civil and human rights' track-records are virtually unassailable. In college and law school, she was a champion for civil rights and human rights and her work experience further cemented her excellence in these areas. In fact, she brings a broader array of civil rights experience to the role than any nominee before her. During her tenure at the New York Attorney General's Office, she launched a Religious Rights Initiative and worked to secure accommodations for employees in multiple workplaces to observe the Sabbath.

As the head of the Lawyers' Committee for Civil Rights Under Law, she has partnered with Jewish organizations and has spoken up against hate toward our community and other religious minorities. It is worth noting that Clarke would not only be the first Black woman confirmed to lead the Civil Rights Division, but she would be the first woman confirmed to lead it at all since it was created in 1957. But, it is her passion for civil and human rights which make her an outstanding nominee for this position.

As you are aware, both nominees have received letters of support from a broad, bipartisan coalition of former department officials and law enforcement groups. They represent what America stands for: advocacy at its best, and sheer excellence. As this country continues the process of healing, the NBA challenges you to live by your commitment to fairness and integrity as you move through the nominations process and confirm 2 of the more stellar and imminently qualified candidates that this country has bred, raised and groomed for greatness.

I am proud to submit this letter on behalf of National Bar Association and am available to answer any questions regarding our undying support of these nominees.

Sincerely,

Tricia "CK" Hoffler
78th President
National Bar Association

March 8, 2021

United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Durbin, Ranking Member Grassley, and Committee Members:

On behalf of the 102 undersigned interfaith and community-based organizations, we write to express our strong support of Kristen Clarke for Assistant Attorney General for Civil Rights at the US Department of Justice (DOJ).

As the nation's top law enforcement agency, DOJ serves as an entity for advancing fair and impartial justice for everyone and a backstop for our fundamental civil rights. Therefore, it is critical that DOJ is comprised of leaders committed to ending discrimination; addressing white supremacy and hate violence; and advancing racial, gender, disability, ethnic, religious, immigrant, and LGBTQ justice. This is particularly true at a time when our country is grappling with the dangerous consequences caused by bigotry and discrimination stoked under the previous administration. The hateful rhetoric has infiltrated our discourse, social media, communities, and even Congress. Now, more than ever before, our elected and appointed leaders must be committed to a nation that is just and equitable for all people. We believe there is no better candidate to lead DOJ's Civil Rights Division than Kristen Clarke.

Clarke has spent her entire career dedicated to the pursuit of equal justice and civil rights. She is a deeply qualified and passionate civil rights leader with an unparalleled depth and breadth of experience, and is the leader our country needs in this vital role right now.

At the Lawyers Committee for Civil Rights Under Law, Clarke has worked to promote fair housing and community development, economic justice, voting rights, equal educational opportunity, criminal justice, judicial diversity, and beyond. While Clarke served as its head, Lawyers Committee launched the Stop Hate Project specifically focused on combating hate and responding to hate crimes against communities including Muslims, Jews, immigrants, and others. Clarke formerly served as the head of the Civil Rights Bureau for the New York State Attorney General's Office, where she led broad civil rights enforcement, including on issues of criminal justice, education and housing discrimination, fair lending, barriers to reentry, voting rights, immigrants' rights, gender inequality, disability rights, reproductive access, and LGBTQ equality. Under her leadership, the Bureau secured landmark agreements with banks to address unlawful redlining, employers to address barriers to reentry for people with criminal backgrounds, police departments on reforms to policies and practices, major retailers on racial profiling of consumers, and one of the country's largest school districts concerning issues relating to the school-to-prison pipeline.

At the NAACP Legal Defense and Educational Fund, Inc. (LDF), Clarke led the organization's work in the areas of voting rights and election law. Prior to joining LDF, she worked in the very

office she has now been nominated to lead. She served as a federal prosecutor in the Criminal Section of the Civil Rights Division, handling police misconduct, police brutality, hate crimes, and human trafficking cases. Clarke also worked on voting rights and redistricting cases through the Division's Voting Section. Consistent throughout her distinguished career is a focus on strengthening democracy and ensuring justice.

We have no doubt that Kristen Clarke is the right person to ensure the safety of our communities and strengthen our civil rights protections as head of the Civil Rights Division. Given her life's work, Kristen Clarke will restore integrity, independence, and the pursuit of justice to this critical federal agency. **We urge the Senate Judiciary Committee to quickly confirm Kristen Clarke as Assistant Attorney General for Civil Rights.**

Sincerely,
National:
African American Ministers In Action
ALEPH: Alliance for Jewish Renewal
Ameinu
America Indivisible
American Friends Service Committee
American Jewish Congress
American Muslim Institution
Americans United for Separation of Church & State
American-Arab Anti-Discrimination Committee
Anti-Defamation League
Arab American Institute
Avodah
Bend the Arc Jewish Action
Catholics for Choice
Engage Action
Freethought Society
ICNA Council for Social Justice
In Our Own Voice: National Black Women's Reproductive Justice Agenda
Interfaith Voices for Reproductive Justice
Islamic Networks Group
Ismailis Rise Up
Jewish Democratic Council of America
Jewish Women International
Jewish World Watch
Keshet
Lady Liberty League
Many Voices
Muslim Advocates
Muslim Public Affairs Council
Muslims for Progressive Values

National Action Network
National Council of Jewish Women
National Religious Campaign Against Torture
North American Islamic Foundation, Inc.
Pax Christi USA
Planned Parenthood Federation of America's Clergy Advocacy Board
Reconstructing Judaism
Religious Coalition for Reproductive Choice
SisterReach
Sojourners
T'ruah: The Rabbinic Call for Human Rights
The Sikh Coalition
The Workers Circle
Uri L'Tzedek
Women's Alliance for Theology, Ethics, and Ritual (WATER)

State:
Carolina Jews for Justice
Faith Commons
Indiana Muslim Advocacy Network
Jewish Community Action
Muslim Alliance of Indiana
National Council of Jewish Women Arizona
National Council of Jewish Women Colorado
National Council of Jewish Women Florida
National Council of Jewish Women Georgia
National Council of Jewish Women Illinois
National Council of Jewish Women Kentucky
National Council of Jewish Women Minnesota
National Council of Jewish Women Maryland
National Council of Jewish Women Massachusetts
National Council of Jewish Women Michigan
National Council of Jewish Women Northern Virginia
National Council of Jewish Women Tennessee
National Council of Jewish Women Texas
National Council of Jewish Women Washington
New Jersey Jewish Labor Committee
New York Jewish Agenda

Local:
A Just Harvest
Bend the Arc: Pittsburgh
Darul Arqum Islamic Center
Greater Bethesda MBC

IKAR
Islamic Society of Tulsa
Jewish Democratic Women's Salon Atlanta
Jewish Silicon Valley
Kesher Pittsburgh
McCormick Theological Seminary
Minnesota Deaf Muslim Community
Muslim Community Center
National Council of Jewish Women Atlanta (GA) Section
National Council of Jewish Women Austin (TX) Section
National Council of Jewish Women Bergen County (NJ) Section
National Council of Jewish Women Chicago North Shore (IL) Section
National Council of Jewish Women Cleveland (OH) Section
National Council of Jewish Women Essex County (NJ) Section
National Council of Jewish Women Greater Dallas (TX) Section
National Council of Jewish Women Houston (TX) Section
National Council of Jewish Women Kendall (FL) Section
National Council of Jewish Women Lakeville (FL) Section
National Council of Jewish Women Greater Long Beach (CA) Section
National Council of Jewish Women Louisville (KY) Section
National Council of Jewish Women Greater Miami (FL) Section
National Council of Jewish Women Milwaukee (WI) Section
National Council of Jewish Women Palm Beach (FL) Section
National Council of Jewish Women Peninsula (NY) Section
National Council of Jewish Women Greater Philadelphia (PA) Section
National Council of Jewish Women San Antonio (TX) Section
National Council of Jewish Women Saddleback (CA) Section
National Council of Jewish Women Sarasota-Manatee (FL) Section
National Council of Jewish Women SE Atlantic (F) Section
National Council of Jewish Women Valencia Shores (FL) Section
Reviving the Islamic Sisterhood for Empowerment
Sisters Need A Place

MINISTRY OF FOREIGN AFFAIRS AND FOREIGN TRADE
JAMAICA

Ref. 21st January 2021

Dear Ms. Clarke,

I write to congratulate you on your recent appointment by President Biden to the post of United States Assistant Attorney General for Civil Rights.

Jamaicans at home and abroad are indeed proud that you have been chosen to serve in this capacity. We are confident that your excellent credentials and vast experience in the legal field, particularly in the area of civil rights, as well as the numerous awards and recognitions received during the course of your career, will augur well for the effective discharge of your duties in this new position.

Jamaica and the United States enjoy a special relationship based on strong historical and cultural ties. A shared respect for the rule of law and human rights, as well as the fact that there is such a large Jamaican Diaspora in the United States, continue to shape and nurture these relations. We look forward to a strengthening of the relations with the United States in the months and years to come.

As you embark on your new responsibilities, please accept my very best wishes for a fruitful and productive tenure, and for continued success in your personal and professional endeavours.

Yours sincerely,

Leslie Campbell
Minister of State

Ms. Kristen Clarke
Assistant Attorney General for Civil Rights
Lawyers' Committee for Civil Rights Under Law
1500 K Street NW
Suite 900
20005 Washington D.C.

JCPA | JEWISH COUNCIL FOR PUBLIC AFFAIRS

25 Broadway, Suite 1700
New York, NY 10004
(212) 684-6950
contactus@thejcpa.org
www.jewishpublicaffairs.org

April 6, 2021

Honorable Dick Durbin, Chairman
Honorable Chuck Grassley, Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Durbin and Ranking Member Grassley:

We write regarding Kristen Clarke, President Biden's nominee to lead the Civil Rights Division of the Department of Justice. The Jewish Council for Public Affairs (JCPA) is the network hub of 125 local Jewish community relations councils and 16 national Jewish agencies, including the four denominations of American Judaism. Together, we advocate for a just and pluralistic America, peace and security in Israel, and human rights around the world. Throughout our 77-year history, JCPA has rarely taken public positions regarding political appointees, and this letter is not intended as an endorsement of Ms. Clarke's nomination, but to repudiate misleading allegations of antisemitism made against her.

JCPA's Board of Directors arranged for a meeting on March 25 between Ms. Clarke and representatives of JCPA's national agencies, as well as a number of local Jewish community relations councils. At this meeting, we discussed with Ms. Clarke her civil rights record, as well as her work fighting antisemitism and domestic extremism in the United States.

For many years, JCPA has worked alongside Ms. Clarke in coalitions to advance a range of critical civil rights issues, including combatting antisemitism, white nationalism, and hate. Some highlights of Ms. Clarke's career include:

- President and CEO of the Lawyers' Committee for Civil Rights Under Law
- Head of the New York State Attorney General's Civil Rights Bureau where, among other things, she established a Religious Rights Initiative to ensure that employees, including Jews, had the right to observe the Sabbath
- Attorney at the NAACP Legal Defense Fund
- Leading efforts to combat hate crimes and white supremacy, including suing neo-Nazi and antisemitic websites
- Attorney in the Criminal Section of the federal Justice Department's Civil Rights Division where she prosecuted hate crimes

During our meeting with Ms. Clarke, she explained her civil rights vision and commitment to fighting religious discrimination, in particular protecting the rights of Sabbath observers. She also agreed that violence against readily identifiable Jews is a problem and discussed the Justice Department's use of the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act and other statutes to prosecute violent hate crimes. She similarly spoke about the use of the Religious

Land Use and Institutionalized Persons Act to protect the rights of Jewish and other religious organizations.

It should be noted that Ms. Clarke has previously publicly acknowledged and apologized for an error in judgment she made as a young college student, which some are using to label her as antisemitic. JCPA is committed to conducting due diligence on a person's record and background and does not believe that accusations of antisemitism should ever be used as a political wedge issue.

After reviewing the entirety of Ms. Clarke's professional career fighting for civil rights and against hate, JCPA considers attempts to focus on purported antisemitism during her confirmation process to be inappropriate, pretextual, and baseless. As a national organization representing a wide diversity of the organized Jewish community, we urge the Senate to consider her confirmation based on her career and actual record of leadership and not based upon these unfounded charges of antisemitism.

Sincerely,

Michael Fromm
JCPA Chair

David Bohm
JCPA Policy Advisory Committee Chair

Cc: Members of the Senate Committee on the Judiciary



March 23, 2021

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Support the Confirmation of Kristen Clarke as Assistant Attorney General of the Civil Rights Division of the United States Department of Justice

Dear Senators Durbin and Grassley:

On behalf of the leadership and board members of the Chicago Lawyers' Committee for Civil Rights, Colorado Lawyers Committee, Lawyers' Committee for Civil Rights of the San Francisco Bay Area, Lawyers for Civil Rights Boston, Mississippi Center for Justice, Public Counsel, The Public Interest Law Center, and the Washington Lawyers' Committee for Civil Rights and Urban Affairs, we write to express our strong support for the confirmation of Kristen Clarke to serve as Assistant Attorney General for Civil Rights at the U.S. Department of Justice (DOJ).

Our non-partisan, independently funded and governed organizations were formed beginning in the late 1960s as local committees of the Lawyers' Committee for Civil Rights Under Law. Since

our inception we have harnessed the pro bono support of the private bar to advance civil rights and work towards greater equity and justice under the legal system. Our organizations and the national Lawyers' Committee for Civil Rights Under Law collaborate to strengthen the largest network of private lawyers in America directed primarily to civil rights issues, working together on legal strategy, litigation, national and state public policy issues. We have worked closely with Ms. Clarke as the Lawyers' Committee president and executive director since 2016, and in that capacity, Ms. Clarke has demonstrated her incredible skill as one of the most talented civil rights attorneys of our time.

Ms. Clarke will bring an unprecedented breadth of civil rights litigation experience and civil rights leadership to the division. Her 20 years of experience is unparalleled in both scope and skill. At the start of her career, she enforced civil rights laws for six years in the administration of President George W. Bush, including as a Special Assistant U.S. Attorney. Further, in 2006, Ms. Clarke directed the voting rights project at the NAACP Legal Defense Fund, founded by Thurgood Marshall. In 2011, she was appointed as the Chief of the Civil Rights Bureau in the New York Office of the Attorney General. During her career, she has done groundbreaking and courageous work encompassing virtually every area of civil rights, including voting rights, equal educational opportunity, fair housing and lending, equal employment, economic justice, environmental justice, online hate speech, and criminal justice reform.

If confirmed, Ms. Clarke would become the first woman to lead the Division since it was created in 1957, and the first Black woman to hold the post in any capacity. We urge the Senate Judiciary Committee to advance Ms. Clarke's nomination as quickly as possible, and for the Senate to confirm her. We are confident that the Justice Department and the nation would benefit tremendously from her decades of distinguished leadership and expertise in the field of civil rights.

Sincerely,

Chicago Lawyers' Committee for Civil Rights
Bonnie Allen, Executive Director

Colorado Lawyers Committee
Constance C. Talmage, Executive Director
Aaron Boschee, Board Member, Denver, CO
Katayoun Donnelly, Board Member, Denver, CO
T.A. Taylor-Hunt, Board Member, Denver, CO
Blain Myhre, Board Member, Centennial, CO
Susan Boothby, Board Member, Boulder, CO
Rich Harris, Board Member, Denver, CO
Camila Palmer, Board Member, Denver, CO
Iris Eytan, Board Member, Denver, CO

Lawyers' Committee for Civil Rights of the San Francisco Bay Area
Monika Kalra Varma, Executive Director

Thomas McInerney, Board Member, San Francisco, CA
Loren Kieve, Board Member, San Francisco, CA
Alyssa Koo, Board Member, San Francisco, CA
Bernida Reagan, Board Member, Oakland, CA
Khari Tillery, Board Member, San Francisco, CA
Patrick Thompson, Board Member, San Francisco, CA
Hilarie Atkisson, Board Member, San Francisco, CA
Jacob Sorensen, Board Member, San Francisco, CA
Amy Tovar, Board Member, San Francisco, CA

Lawyers for Civil Rights Boston
Ivan Espinoza-Madrigal, Executive Director

Mississippi Center for Justice
Vangela M. Wade, Executive Director, Jackson, MI
David Lipman, Board Member, Miami, FL

Public Counsel, Los Angeles, CA

The Public Interest Law Center
Brenda L. Marrero, Executive Director
Ellen S. Friedell, Board Member, Philadelphia, PA

Washington Lawyers' Committee for Civil Rights and Urban Affairs
Jonathan Smith, Executive Director, Washington, DC

MICHAEL R. BLOOMBERG

February 26, 2021

The Honorable Richard J. Durbin
Chairman
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Charles E. Grassley
Ranking Member
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senators Durbin and Grassley:

I am writing to express my strong support for the historic nomination of Kristen Clarke to serve as Assistant Attorney General for Civil Rights at the U.S. Department of Justice.

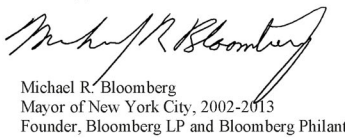
Ms. Clarke represents the best of New York City. A daughter of immigrants who taught her to "make the most of every opportunity," Ms. Clarke has spent her distinguished career doing exactly that – and devoting her life to expanding access to opportunity for others. Throughout her career, she has worked to protect civil rights and voting rights – as a lawyer for the NAACP, as Director of the Civil Rights Bureau for the New York State Attorney General, and as president of the Lawyers' Committee for Civil Rights Under Law. Since the start of the pandemic, she has built on her commitment to equality by advocating for the government to release more data on the impact COVID-19 is having on America's diverse communities. With the pandemic taking an especially tragic toll on Black Americans, more and better data is crucial to attacking racial and ethnic disparities – not just with this pandemic, but on other health issues, and economic, social, and environmental issues, too.

Ms. Clarke's diversity of experience will serve her well at the Civil Rights Division, where the rate of new civil rights cases brought by the Department fell dramatically over the last four years, compared to the two previous administrations. As a nation of laws, enforcement is essential, as our history bears out. The ratification of the 14th Amendment was a momentous milestone for our nation, but for the next century, it was also a dead letter for many of the very people it was intended to protect. Ms. Clarke's understanding of this history and determination to right it will serve our nation well.

I am confident she will be a vigorous and energetic enforcer of our nation's laws in service of the American people. She well understands the essential truth my father taught me as a young boy: that discrimination against anyone threatens all of us. And she knows we cannot allow bias and bigotry to debase our society, our economy, or our institutions.

I strongly share her commitment to equal enforcement of the law and equal protection of civil rights, and I have great respect for the integrity, energy, and focus with which she has always brought to these issues. I am confident that she will bring that same sense of duty and drive to the U.S. Department of Justice.

Sincerely,



Michael R. Bloomberg
Mayor of New York City, 2002-2013
Founder, Bloomberg LP and Bloomberg Philanthropies

MRB:fb

MICHAEL S. STEELE

LT. GOVERNOR OF MARYLAND
2003-2007

February 22, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

I am writing in strong support of the nomination of Kristen Clarke to serve as the Assistant Attorney General for the Civil Rights Division at the U.S. Department of Justice. I have come to know Ms. Clarke during her tenure as the President and Executive Director of the Lawyers' Committee for Civil Rights Under Law (Lawyers' Committee), and I have found that she is an exemplary lawyer and national leader, focused on the advancement of justice and committed to working in partnership with groups from across the ideological spectrum. Her willingness to engage and work with people regardless of partisan affiliation is precisely what makes her uniquely qualified to serve in this critical role.

As the former Lieutenant Governor of Maryland, I worked closely with then-Governor Robert Ehrlich to address one of the most critical issues in education—the failure to provide adequate funding and equal educational opportunities for students at Maryland's Historically Black Colleges and Universities (HBCUs). By 2000, the State of Maryland entered into a settlement agreement with the U.S. Department of Education's Office for Civil Rights to bring our state into compliance with what had been settled law since *Brown v. the Board of Education*: the state cannot operate separate and unequal schools.

For over a decade, the Lawyers' Committee has represented the Coalition for Equity and Excellence in Maryland Higher Education, who are graduates from Morgan State University, Coppin State University, Bowie State University, and the University of Maryland Eastern Shore, as well as students and faculty from these HBCUs, a case that is being handled by the Lawyers' Committee. The way that Ms. Clarke led the Lawyers' Committee work on this issue was holistic and thoughtful, and ended up uniting people across our state in a shared commitment to adequately fund our state's HBCUs. I strongly believe that she will bring this same empathetic, thoughtful, and open leadership to enforcing our nation's civil rights laws in communities like mine across the country.

Indeed, that commitment to bringing people together to work on advancing justice and equality is evident in Ms. Clarke's leadership in advocating for re-authorization of the Voting Rights Act. During the last re-authorization in 2006, Ms. Clarke worked closely with other voting rights attorneys and advocates to assemble an impressive bi-partisan coalition that ultimately resulted in overwhelming passage by both the U.S. House of Representatives and the U.S. Senate—including a 98-0 vote in favor in the Senate. On so many issues that I have discussed with her, she always looks for opportunities to forge common ground, and to bring different communities of people closer together while tackling our nation's thorniest challenges of inequality. I know that she will bring that same unifying leadership to the Civil Rights Division of the Department of Justice, and that our nation will be stronger and more cohesive with her strong and steady hand guiding the work.

I strongly support Ms. Clarke's nomination to lead the Civil Rights Division of the U.S. Department of Justice and look forward to celebrating the historic nature of her confirmation in the coming weeks.

Thank each of you for your continued leadership and service to our nation.

Sincerely,

Michael Steele

Michael Steele

PREP for PREP 328 West 71st Street • New York, NY 10023 • 212.579.1390 • www.prepforprep.org

1 February 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Senators:

This letter is in support of Kristen Clarke's appointment as Assistant Attorney General for the Civil Rights Division of the Department of Justice. Kristen became a member of Prep for Prep in December 1988 when she was thirteen years old. Prep for Prep is a non-partisan, educational, leadership development program that prepares and places New York City's most able students of color into independent schools and provides them with on-going support and life-changing opportunities. PREP 9 is the boarding school branch of Prep for Prep. Known for its community of highly intelligent and motivated students, its rigorous preparatory component which requires students to attend full-day classes for seven weeks in the summers before and after seventh grade, as well as on Saturdays during the academic year in between as they continue to attend public school, for assisting students in their applications to some of the nation's most selective independent schools, and for the support the program gives its students once they enter those schools. Prep for Prep has been extraordinarily successful in its forty-three-year history. Prep for Prep's motto is: Excellence, Integrity, Commitment, Courage. Kristen Clarke fully embodies those words, and she has endeavored to perfect her personification of them ever since we have known her.

Like all Prep for Prep students, Kristen was admitted based partially on an outstanding school record. Excellence was no stranger to her, but she adapted quickly to the increased demands or our classes and began to achieve at a level that would prove she understood what Prep for Prep meant by the word "excellence." Throughout her education, Kristen always strove for superior results. Seeing her record of

achievement, as well as her personal qualities, the admissions office of Choate Rosemary Hall eagerly vied for Kristen and they celebrated when Kristen chose them. Her record of excellence at Choate propelled her to Harvard, and her accomplishments there helped open the door at Columbia Law, but wherever she is, Kristen is always about excellence.

In addition to the values expressed in the words of its motto, Prep for Prep stresses the value of hard work. Because students who are admitted to the program have been blessed with superior intelligence, more often than not, they have outperformed all of the rest of the students in their public-school classes. As highly motivated as they are, Prep students have faced little competition in their previous academic lives. In order to succeed in the world for which we prepare them, however, they have to increase their effort significantly, and so Prep teaches that "being smart is not enough." As the child of immigrants, Kristen grew up understanding the value of hard work, but her experience at Prep for Prep compounded the lesson. Kristen demonstrated her diligence starting on the first day of her PREP 9 classes, and she stood out as someone who would never quit. As a student at Choate Rosemary Hall, Kristen's advisor once called her mother to say that he was concerned that her daughter might be working *too* hard. The typical Choate student takes five courses a trimester, sometimes four, and on the rarest of occasions, six. Kristen insisted on taking six courses every trimester, and it was that insistence that led to the advisor's concern. Needless to say, Kristen's mom brushed him off.

Once Prep for Prep students enter independent schools, the program keeps in touch with them, monitoring their progress, assisting with issues that might come up, and counseling them on negotiating their very wealthy, mainly white environments. As students advance in their grades, Prep offers them leadership opportunities. The mission of Prep for Prep is to develop leaders, the goal to nurture a generation of leaders. In Kristen's day this aspect of Prep for Prep had not yet developed into the full-scale curriculum of later years, but the program did provide leadership training to the students, usually juniors and seniors in high school. The training always started by emphasizing the importance for students returning to their local communities to begin their leadership trajectories. The notion of "giving back" was presented as an option, not a requirement, but for students like Kristen going back to work in and for communities of color seemed like an obvious conclusion to the Prep experience.

As a junior at Choate, Kristen went on a school trip to a Hartford courtroom to observe a desegregation case. She says that experience "lit the spark." Kristen's commitment to social and racial justice only grew during her years at Harvard which included a semester in South Africa. When she was a college freshman, Kristen joined the Black Students Association and there recognized an opportunity both to serve and to lead. As she saw it, issues of inequity and inequality loomed large for Black undergraduates, and most upperclassmen/women seemed reluctant to take up the challenge of trying to improve the situation for Black students. According to a close friend from PREP 9, a fellow student at Harvard, Kristen's peers recognized her brilliance, her determination, and her courage, and consequently elected her as President of the Black Students Association, giving her the rare distinction of leading such a group as a sophomore.

By the time she reached graduation, she knew that public service would become her life's work. Armed with acceptances from several of the nation's leading law schools, Kristen asked Prep for Prep for advice in making her choice. She approached this decision as always with a thorough examination of all factors, but she wanted our opinion. She worried that if she chose one over another, her loans would be larger and that she would need to work in the corporate world for some time in order to pay her debt. Clearly, such a course would keep her from her real goal which was to work in public service. We deliberated together and gave the best advice possible but there were no easy answers. Ultimately, Kristen chose Columbia Law. Given that she decided to work at the Justice Department as her first job after law school, she clearly had made the right choice.

Kristen achieved academic excellence throughout her life. She is a person of the highest integrity, someone who is so genuine and authentic that anyone who is sentient must recognize those qualities in her. Kristen committed herself to her life's work, to the cause of social and racial justice, from an early age, and she has never wavered in that commitment, even to the point of rejecting the high corporate salaries available to her when she received her law degree. She has demonstrated her courage in small and large ways throughout her life from her decision to join Prep for Prep, in spite of its demands, to assuming a position of leadership at a young age at Harvard, to raising a wonderful son as a single mother, first in New York and then in Washington, to accepting every challenge put before her throughout her legal career. Prep for Prep is justly proud of Kristen Clarke, an ideal standard bearer for our program. She is just the kind of student we set out to serve, just the type of leader we hoped to foster. We urge you to vote to confirm her as the Assistant Attorney General for the Civil Rights Division of the Department of Justice.

Sincerely,

Peter Bordonaro
Deputy Executive Director and
Director of Academic Programs
(Retired)

Lisa Cashin
Chair of the Board, Prep for Prep

Ruth Jurgensen
CEO, Prep for Prep

Religious Action Center of Reform Judaism

RABBI JONAH DOV PESNER, *Director*
SUSAN FRIEDBERG KALSON, *Chair, Commission on Social Action of Reform Judaism*

Arthur and Sara Jo Kobacker Building
2027 Massachusetts Avenue, NW, at Kivie Kaplan Way, Washington, DC 20036

(202) 387-2800 @theRAC www.rac.org

February 3, 2021

Dear Senator:

As you consider the nomination of Kristen Clarke to lead the Department of Justice's Civil Rights Division, I write to add my voice to the chorus of others who have worked positively and productively with Ms. Clarke over her many years as a civil rights leader.

The Reform Jewish Movement, the largest denomination in American Jewish life with more than 1.8 million congregants, 2000 rabbis, and 850 congregations, has long worked to address the many civil rights challenges facing our nation. Indeed, the Religious Action Center, where I serve as the director, was founded during the height of the Civil Rights Movement to ensure we had a permanent presence and voice on these issues. In our earliest days, we were proud to provide workspace for Rev. Dr. Martin Luther King, Jr. when he came to Washington. We continue to celebrate the fact that the Civil Rights Act of 1964 and Voting Rights Act of 1965 were drafted largely in the building that remains our home today. In the more than six decades since our founding, we have worked alongside generations of civil rights leaders to ensure equity and opportunity for all, no matter race, religion, gender, national origin, and ability or disability.

Kristen Clarke has taken her place among those leaders whose voices have been essential to ensuring that every individual's civil rights are affirmed and protected. That was true during her tenure at the NAACP Legal Defense Fund, as the leader of the Civil Rights Bureau within the New York State Attorney General's office, and more recently as President and Executive Director of the Lawyers' Committee for Civil Rights Under Law. We were especially proud to partner with Ms. Clarke and the Lawyers' Committee on our nonpartisan civic engagement campaign focused on ensuring every eligible American could cast their vote and have that vote counted.

The civil rights challenges facing the nation are so significant, and a leader of Ms. Clarke's experience is so vital, that I believe it is important to share with you our conviction that her nomination is of the utmost importance.

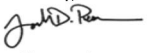
During Ms. Clarke's tenure as chief of the New York Attorney General's Civil Rights Bureau, among the many achievements she oversaw was a Religious Rights Initiative that was a critical tool in enforcing anti-discrimination statutes. That effort, along with her strong fight for religious accommodations, was of particular consequence to us as

Jews. In the same spirit, while at the Lawyers' Committee for Civil Rights Under Law, she led a lawsuit against white supremacists who were harassing an African American student leader at American University while also fighting the proliferation of online antisemitism.

Americans' civil rights are at a critical moment. Antisemitism and hate crimes are rising. More than four centuries of systemic racism have left a widening gap between the lived experiences of white Americans and Americans of Color. In education, health care, employment, wages, and all areas of life, we have yet to realize the promise of civil rights for Americans of Color. LGBTQ individuals, women, and people with disabilities also continue to experience civil rights violations that inhibit the United States from achieving its highest aspirations. A strong and experienced leader at the helm of the DOJ Civil Rights Division, like Kristen Clarke, can help address these injustices.

As you consider the nomination of Kristen Clarke, I hope you will consider her outstanding record, her partnership with us and others in the Jewish community on issues of shared importance, and act in the best interests of a strong DOJ Civil Rights Division.

Sincerely,



Rabbi Jonah Dov Pesner

THE SIKHCOALITION

Kristen Clarke
Lawyers' Committee for Civil Rights Under Law
1500 K Street NW Suite 900
Washington, DC 20005

January 8, 2020

Dear Ms. Clarke,

On behalf of the Sikh Coalition, the nation's largest Sikh American civil rights and legal aid organization, we wanted to congratulate you on being nominated as Assistant Attorney General to the U.S. Department of Justice's Civil Rights Division. We have appreciated your leadership at the Lawyers' Committee for Civil Rights Under Law and are grateful for your allyship with the Sikh American community on a myriad of civil rights issues throughout the years. Your work at the Lawyers' Committee for Civil Rights Under Law has helped ensure that the challenges of hate crime, bullying, discrimination, and profiling are not accepted as a part of everyday life for Sikhs and other religious and racial minorities in the United States of America.

On behalf of the Sikh American community, we view this nomination as a beacon of hope during these dark times and we trust that our nation will benefit from your leadership as we work together to heal our divisions, defend civil rights and work towards a far more equal and racially just America.

On behalf of the Sikh Coalition, we look forward to continuing this important work with you in the U.S. Department of Justice and trust that the agency will reinvest in consulting with stakeholders from the Muslim, Arab, Sikh, South Asian and Hindu (MASSAH) Communities that have been neglected by the outgoing Administration.

Sincerest regards,

Satjeet Kaur
Executive Director
The Sikh Coalition

Sim J. Singh
Senior Manager of Policy & Advocacy
The Sikh Coalition

National Office: 50 Broad Street, Suite 504 | New York, NY 10004
t: 212.655.3095 | f: 212.208.4611
www.sikhcoalition.org

THIRD WAY

April 5, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

After four years of neglect and gross mismanagement during the Trump administration, Third Way is delighted that President Biden has chosen someone as supremely qualified as Kristen Clarke to breathe life back into the Civil Rights Division of the Department of Justice. Kristen is a brilliant and passionate public servant, who has shown her deep commitment to equal justice through her work as a federal prosecutor, years of work at the NAACP Legal Defense Fund, and her leadership as President and Executive Director of the National Lawyers' Committee for Civil Rights Under Law.

Kristen will bring to DOJ the pragmatic, moderate sensibility that has characterized her entire professional career. Though this nomination has, unfortunately, become somewhat politicized, the charges are absurd. As anyone who has worked with Kristen would attest, calling her temperament or values 'extreme' or 'radical' is self-evidently baseless.

Notably, if confirmed, she will be the first Black woman to serve in this role, further underscoring the wisdom of this choice at a moment when real progress on racial justice is a moral, substantive, and political imperative. Seldom in our recent history has this post held more importance than now, and rarely have we had a nominee for this position with more promise than Kristen Clarke.

All of us at Third Way look forward to her swift confirmation and to the vital work she will accomplish leading DOJ's Civil Rights office.

Sincerely,

Matt Bennett
Executive Vice President for Public Affairs

1025 Connecticut Ave NW, Suite 400 • Washington, D.C. 20036 • 202.384.1700 • 202.775.0430 fax

Letter in Support of Kristen Clarke from 77 Former Civil Rights Division Career Attorneys Across Republican and Democratic Administrations

April 7, 2021

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Nomination of Kristen M. Clarke as Assistant Attorney General

Dear Chairman Durbin and Ranking Member Grassley:

We write as former career attorneys in the Civil Rights Division of the U.S. Department of Justice to support the confirmation of Kristen Clarke as Assistant Attorney General for Civil Rights. Our service extends from the 1960s through the period of Ms. Clarke's employment and up to the more recent past, in both Republican and Democratic administrations. Some of us also served in supervisory roles in the Civil Rights Division. We are convinced that Ms. Clarke possesses the legal acuity, character, and commitment to the mission of the Civil Rights Division to lead it successfully.

Since its founding, the Division has been assigned responsibility for enforcement of the nation's foundational civil rights laws, including those addressing voting, police misconduct, violence motivated by race and other forms of bigotry, education, employment, and housing. Its primary tools are civil litigation and criminal prosecutions, but it also pursues cooperative solutions and renders legal advice on civil rights matters.

Of particular note, while serving as a trial attorney in the Division, Ms. Clarke specialized in areas of crucial contemporary relevance. In the Voting Section, she enforced the Voting Rights Act to ensure that all qualified people could cast meaningful ballots and participate equally in the political process. While in the Criminal Section, she handled matters involving law enforcement officers who violated constitutional rights and individuals who committed hate motivated violence. These areas should be central priorities for the Division in the years ahead.

Ms. Clarke's career since leaving the Civil Rights Division has deepened and broadened her experience. Through her employment with the NAACP Legal Defense Fund, her service with the New York Attorney General, and her leadership of the Lawyers Committee for Civil Rights Under Law, she has been involved in nearly every area of civil rights enforcement.

Her experience with the New York Attorney General has given her insight into state authorities, who are often the objects of Civil Rights Division enforcement efforts, and has enhanced her ability to deal sensitively and persuasively with them. Her position at the Lawyers Committee has allowed her to demonstrate her leadership ability, her litigation skills, and her effectiveness

as a spokesperson for a substantial organization.

Since its founding, the Civil Rights Division has been at the heart of the federal government's commitment to remedy past and ongoing discrimination and to move the reality of America closer to its majestic ideals. It has developed a culture based on rigorous investigation, careful legal analysis, honest negotiation, clear communication, and, when necessary, skillful litigation.

In our collective view, Kristen Clarke has the qualities to continue that culture and our nation's progress toward a more just society. We, therefore, strongly endorse her confirmation as Assistant Attorney General for Civil Rights.

Respectfully,

Abdulaleem, Raheemah, 2009-2015

Adelson, Bruce, 2000-2006

Adelstein, Jay, 1995-2018

Annexstein, Leslie, 1992-1997

Austin, Roy, 1995-2000

Becker, David 1998-2005

Berlin, Brenda, 1991-1997

Bhargava, Anurima, 2010-2016

Brett, Sharon, 2013-2018

Brochu, Kayla K., 2002-2011

C.deBaca, Luis, 1993-2009

Cader, Yasmin, 1993-1995

Cox, Todd, 1992-1995

Daniels, Gilda 1998-2006

Davis, Andre 1980-1981

Delaney, Sheila, 1973-2011

Letter in Support of Kristen Clarke from 77 Former Civil Rights Division Career Attorneys Across Republican and Democratic Administrations

Dougherty, Burtis M., 1974-2016

Dougherty, Salliann S.M., 1972-2005

Dunn, Christine, 2002-2008

Flowers, Kobie, 2000-2004

French, Susan, 1977-1987, 1998-2012

Gardner, William, 1970-1979

Gordon, Dan, 2000-2005

Gross, Mark, 1974-2016

Hack, Elizabeth, 1990-1997, 2010-2014

Harmon, Rachel, 1998-2006

Harrington, Sarah, 2000-2009

Heffernan, Brian 1978-2011

Hogan, Gerard 1988-2017

Hunter, David, 1975-2000

Jackson, Shelley, 1996-2000, 2010-2020

Jang, Deeana, 2010-2016

Jenkins, Sabrina, 1995-2005

Keefe, Edward, 2000-2004

Kengle, Robert 1984-2005

King, Loretta, 1980-1990, 1992-2011

Landsberg, Brian K., 1964-1986, 1993-1994

Letter in Support of Kristen Clarke from 77 Former Civil Rights Division Career Attorneys Across Republican and Democratic Administrations

Lewis, Donald, 1978-1982

Libman, Robert, 1991-2004

Liu, Andy, 2001-2003

Lomax, Christopher, 2008-2013

Lopez-Ortiz, Luz 2000-2019

Maloney, Karima, 2003-2015

Mansukhani, Sunil, 1999-2005

McAuliffe, Michael, 1989-1993

McGowan, Sharon, 2010-2012, 2014-2017

Merritt, Ted, 1978-1985

Middleton, Michael, 1971-1974

Miller, Tamara, 1996-2003

Moore, Hugh, 1970-1973

Moskowitz, Albert 1984-2006

Pershing, Steve 1996-2005

Rich, Joseph 1968-2005

Rifkin, Lori, 2010-2013

Rosenberg, John M., 1962-1970

Ruzicho, Jack, 1967-1973

Samberg-Champion, Sasha, 2010-2014

Schlanger, Margo, 1995-1998

Searing, Dan, 1977-2005

Letter in Support of Kristen Clarke from 77 Former Civil Rights Division Career Attorneys Across Republican and Democratic Administrations

Shinskie, Karen, 2001-2006

Spratt, Jacqueline, 1997-2006

Stapleton, Bill, 1980-1986

Stewart, Louie, 1974-2003

Telfeyan, Phil, 2009-2014

Troth, Rebecca, 1990-2001

Tucker, James 1999-2002

Swaruup, Vikram, 2016-2019

Ver Ploeg, Christine, 1974-1977

Vieco, Adriana, 1999-2015

Walsh, James, 2000-2009

Weinberg, Barry, 1965-2000

Winfree, Hon. Gregory, 1991-1993

Wodatch, John, 1980-2011

Yeomans, William 1981-2005

Zisser, Aaron, 2009-2015

Zolle, Dayna, 2016-2019

Zwibelman, Michael, 1999-2002

April 7, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Letter in Support of Kristen Clarke, nominee for Assistant Attorney General for the Civil Rights Division of the U.S. Department of Justice

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

We write to urge the Senate to quickly confirm Kristen Clarke to become the 19th Assistant Attorney General of the Civil Rights Division of the U.S. Department of Justice.

We serve as managing partners and chairpersons of law firms throughout the country, and oversee lawyers across practice areas who are at the senior-most levels to the junior-most levels, striving to provide our clients with zealous advocacy and sound legal counsel. Our commitment to our clients, to courts, and to adversaries in our legal system is driven by a steadfast belief in unbiased application of the rule of law. We write in support of Ms. Clarke because we have seen in practice that she is driven by the same belief.

This commitment to the rule of law is how the Lawyers' Committee for Civil Rights Under Law (the "Lawyers' Committee") – the nonpartisan organization that Ms. Clarke now leads – was first formed in 1963. Then-President John F. Kennedy made a call for private lawyers to mobilize to promote the rule of law and utilize legal services to combat discrimination in the deep south. The call to the private bar in 1963 came on the heels of acts by then-Alabama-Governor George Wallace to maintain illegal discriminatory practices and segregation in education, employment, and voting participation. The Lawyers' Committee was formed to squarely confront those illegal actions, and the

organization has since continued to be one of the leading civil rights organizations in the country.

Ms. Clarke has led the Lawyers' Committee with extraordinary skill, integrity, and wisdom since assuming the leadership mantle of the organization in 2016. Under her steady leadership, the organization has been at the forefront of some of the most impactful civil rights litigation in the country today, tackling issues ranging from voting rights, online solicitation of hate and violence, and educational opportunity.

Ms. Clarke has not only overseen the organization's impact litigation, but she also has masterfully led a Board comprising over 200 prominent lawyers in America, and has helped bring together thousands of legal professionals and hundreds of the most prominent law firms in America to provide legal services to protect the rule of law and serve vulnerable clients in need of representation. One such area in which hundreds of law firms, including ours, and corporate legal departments, have participated is the Lawyers' Committee's work on election protection and voting rights. Under Ms. Clarke's leadership, the Lawyers' Committee helped train and deploy over 13,000 attorney volunteers who staffed over 46,000 national voter hotline shifts to assist voters as part of last year's non-partisan election protection effort, and mobilized 200 national, state, and local partners to work year-round to ensure that all voters in all states have an equal opportunity to vote and that the ballots of eligible voters are counted.

Those efforts are simply unquantifiable in terms of overall impact. They also point to how Ms. Clarke has been able to brilliantly harness the talent and passion of private lawyers all across America to protect the right to vote, and to ensure that the law is applied and enforced equally and justly.

Ms. Clarke has now been nominated by the President to lead the Civil Rights Division of the United States Justice Department, an office charged to uphold the civil and constitutional rights for all. We can think of no better lawyer in the country to lead that office in this important time in our nation's history. Ms. Clarke herself is an alumnus of that office, having begun her extraordinary career there, and is well-suited to lead the professionals there with dignity, integrity, and independence. We have no doubt that she will continue to bring her brilliance, her thoughtful deliberation, and her vision for a more equal and just America to that office.

We urge the Senate Judiciary Committee to quickly process Ms. Clarke's nomination, and for the Senate to expeditiously confirm her.

Sincerely yours,

Richard M. Alexander
Chairman
Arnold & Porter Kaye Scholer LLP[1]
Washington, D.C.

Barbara L. Becker
Managing Partner-Elect
Gibson, Dunn & Crutcher LLP
New York, NY

Matthew J. Becker
Managing Partner
Axinn, Veltrop & Harkrider LLP
Hartford, CT

David Boies
Chairman and Managing Partner
Boies Schiller Flexner LLP
Armonk, NY

Brad D. Brian
Chair
Munger, Tolles & Olson LLP
Los Angeles, CA

Lisa E. Cleary
Managing Partner
Patterson Belknap Webb & Tyler LLP
New York, NY

H. Rodgin Cohen
Senior Chair
Sullivan & Cromwell LLP
New York, NY

Kenneth M. Doran
Chairman & Managing Partner
Gibson, Dunn & Crutcher LLP
Los Angeles, CA

Marc E. Elovitz
Co-Managing Partner
Schulte Roth & Zabel LLP
New York, NY

Steven E. Fineman
Managing Partner
Lieff Cabraser Heimann & Bernstein, LLP
New York, NY

Eric Friedman
Executive Partner
Skadden, Arps, Slate, Meagher & Flom LLP
New York, NY

William R. Dougherty
Chairman of the Executive Committee
Simpson Thacher & Bartlett LLP
New York, NY

[1] Firms noted for identification purposes only.

Ernest Greer
Co-President
Greenberg Traurig, LLP
Atlanta, GA

Philip T. Inglima
Chair, Management Board
Crowell & Moring LLP
Washington, D.C.

Brad S. Karp
Chairman
Paul, Weiss, Rifkind, Wharton & Garrison LLP
New York, NY

Jeffrey R. Keitelman
Co-Managing Partner
Stroock & Stroock & Lavan LLP
Washington, D.C.

Andrew W. Kentz
Managing Partner
Picard, Kentz & Rowe, LLP
Washington, D.C.

Alan M. Klinger
Co-Managing Partner
Stroock & Stroock & Lavan LLP
New York, NY

Adam Klein
Managing Partner
Outten & Golden LLP
New York, NY

Sharon Krevor-Weisbaum
Managing Partner
Brown, Goldstein & Levy LLP
Baltimore, MD

William G. Malley
Managing Partner
Perkins Coie LLP
Washington, D.C.

Jami McKeon
Chair
Morgan, Lewis & Bockius LLP
Philadelphia, PA

Ellen Moran Dwyer
Chair, Executive Committee
Crowell & Moring LLP
Washington, D.C.

Megan P. Norris
Chief Executive Officer
Miller, Canfield, Paddock and Stone, P.L.C.
Detroit, MI

Marshall M. Redmon
Managing Partner
Phelps Dunbar LLP
New Orleans, LA

John P. Relman
Managing Partner
Relman Colfax PLLC
Washington, D.C.

Allen K. Robertson
Managing Partner
Robinson, Bradshaw & Hinson, P.A.
Charlotte, NC

Richard A. Rosenbaum
Executive Chairman
Greenberg Traurig, LLP
New York, NY

Joseph M. Sellers
Chair of the Executive Committee
Cohen Milstein Sellers & Toll PLLC
Washington, D.C.

David Smith
Chairman
Schnader Harrison Segal & Lewis LLP
Philadelphia, PA

Mark S. Stewart
Chairperson
Ballard Spahr LLP
Philadelphia, PA

David B. Van Slyke
Managing Partner
Preti, Flaherty, Beliveau & Pachios,
Chartered, LLP
Portland, ME

Neil H. Wasser
Chair of the Executive Committee
Constangy, Brooks, Smith & Prophete LLP
Atlanta, GA

Mark D. Wasserman
Managing Partner
Eversheds Sutherland (US) LLP
Atlanta, GA

Benjamin F. Wilson
Chairman
Beveridge & Diamond, P. C.
Washington, D.C.

Gary M. Wingens
Chair and Managing Partner
Lowenstein Sandler LLP
New York, NY

Donna Wilson, Esq.
Chief Executive Officer and Managing
Partner
Manatt, Phelps & Phillips, LLP
Los Angeles, CA

Barry M. Wolf
Executive Partner
Weil, Gotshal & Manges LLP
New York, NY

Stephen D. Zubiago
CEO and Managing Partner
Nixon Peabody LLP
Providence, RI

Mitchell Zuklie
Chairman and Chief Executive Officer
Orrick
Menlo Park, CA

LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW

1500 K Street, NW
Suite 900
Washington, DC 20005

Tel: 202.662.8600
Fax: 202.783.0857
www.lawyerscommittee.org

April 7, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Nomination of Kristen Clarke as Assistant Attorney General of the Civil Rights Division of the United States Department of Justice

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

We, the members of the Board of Directors and Honorary Lifetime Trustees of the Lawyers' Committee for Civil Rights Under Law and leaders of the legal profession, write in strong support of the nomination of Kristen Clarke for the position of Assistant Attorney General of the Civil Rights Division of the United States Department of Justice. Our Board includes representatives from more than 150 major law firms, Fortune 500 corporations, as well as academic institutions, each of whom shares a commitment to securing equal justice for all through the rule of law.

Since its creation in 1963, at the request of President John F. Kennedy, the Lawyers' Committee has been a leader in the struggle for safeguarding civil rights. Current events remind us now, more than ever, of the critical need for experienced, committed and principled leadership at the Department of Justice generally, and at the Civil Rights Division in particular.

As President and Executive Director of the Lawyers' Committee for the past five years, Ms. Clarke has worked tirelessly to lead the organization's groundbreaking and impactful efforts to protect civil rights for all. She has done so with an unwavering ethical compass while representing the highest ideals of the legal profession. In all of her engagements with our Board, staff, clients and partners, she has conveyed a deep and abiding respect for all people across the spectrum of race, ethnicity, faith and sexual identity.

LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW

1500 K Street, NW
Suite 900
Washington, DC 20005

Tel: 202.662.8600
Fax: 202.783.0857
www.lawyerscommittee.org

Ms. Clarke is the embodiment of the American ideal: She grew up in Brooklyn, New York, the daughter of immigrants. Through hard work and discipline, she graduated from Choate Rosemary Hall, Harvard College and Columbia Law School.

After law school, Ms. Clarke began her career at the very office she has now been tapped to lead, the Civil Rights Division of the Department of Justice. While working as a trial attorney in the Voting Section and as a federal prosecutor in the Criminal Section, she handled cases involving voting rights, hate crimes, and human trafficking. After continuing her fight for justice at the NAACP Legal Defense Fund and as Chief of the Civil Rights Bureau for the New York State Attorney General's Office, in 2016 Ms. Clarke accepted the invitation to lead the Lawyers' Committee.

Throughout the last five years, during a time of heightened awareness and challenge for the civil rights agenda, the Lawyers' Committee has been at the forefront of every major effort to uphold the rule of law, to confront systemic racism, to protect the underprivileged, and to fight for the fair administration of justice. The impact our organization has had during this time is a testament to Ms. Clarke's leadership. During her tenure, the organization's docket expanded significantly, including filing more than 250 cases over a 5-year span. Virtually all of the Lawyers' Committee's cases have been carried out in partnership and collaboration with Board members, their law firms and other members of the private bar.

Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional work load, to find some time to participate in serving the disadvantaged." Ms. Clarke works every day to promote this principle by partnering with the private bar to ensure that law firms and corporations across the country devote significant time and resources to serving the disadvantaged and to promoting equal justice under law. One example of this is Election Protection, the nation's largest non-partisan voter protection program, which is led by the Lawyers' Committee and supported by Board members. More than 42,000 lawyers across the country supported this extraordinary, non-partisan program under Ms. Clarke's watch in 2020.

We know Ms. Clarke well, we have worked with her and seen her in action, and we know that she has fought throughout her career to achieve the goals of equity and justice for all. Kristen Clarke is the perfect choice to lead the Civil Rights Division of the United States Department of Justice as it confronts the inequities faced by so many Americans during this difficult time. She has our complete confidence and support, and we urge her swift confirmation.

With Regards,

Officers
Shira Scheindlin, Co-Chair — New York
Stroock & Stroock & Lavan LLP[1]

[1] Please note, the signatories listed below have joined solely in their personal capacity. The firms, organizations, and universities listed are provided for identification purposes of the signatory only.

LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW

1500 K Street, NW
Suite 900
Washington, DC 20005

Tel: 202.662.8600
Fax: 202.783.0857
www.lawyerscommittee.org

Joseph K. West, Co-Chair Duane Morris, LLP	Washington, D.C.
Nicholas Christakos, General Counsel Eversheds Sutherland (US) LLP	Maryland
Eleanor Smith, Secretary Zuckerman Spaeder LLP	Washington, D.C.
David Smith, Treasurer Schnader Harrison Segal & Lewis LLP	Pennsylvania
Damon T. Hewitt, Acting President & Executive Director Lawyers' Committee for Civil Rights Under Law	Washington, D.C.

Executive Committee Members

Stanley J. Brown, Hogan Lovells	Washington, D.C.
Danielle Holley-Walker, Howard University School of Law	Washington, D.C.
Michael Jones, Kirkland & Ellis LLP	Washington, D.C.
James P. Joseph Arnold & Porter LLP	Washington, D.C.
Robert E. Harrington, Robinson, Bradshaw & Hinson, P.A.	North Carolina
Adam Klein, Outten & Golden LLP	New York
Don J. Rosenberg, Qualcomm	California
Thomas L. Sager, Ballard Spahr LLP	Delaware
Jane Sherburne, Sherburne PLLC	Washington, D.C.
Teresa Wynn Roseborough, The Home Depot	Georgia

Board of Directors

Atiba Adams, Mars Incorporated	New York
Kevin Armstrong, Mitchell Hamline School of Law	Minnesota
Roy Austin, Jr.	Washington, D.C.
Adam Banks, Weil, Gotshal & Manges LLP	New York
Daniel Barr, Perkins Coie, LLP	Arizona
Judy Barrasso, Barrasso, Usdin, Kupperman, Freeman & Sarver	Louisiana
Douglas Baruch	Washington, D.C.
Lynne Bernabei, Bernabei & Kabat PLLC	Washington, D.C.
Laura Besvinick, Stroock & Stroock & Lavan LLP	Florida
John Bick, Davis Polk & Wardwell LLP	New York
Victoria Bjorklund, Simpson Thacher & Bartlett LLP (Ret.)	New York
Jonathan Blackman, Cleary Gottlieb Steen & Hamilton LLP	New York
Benjamin Blustein, Miner Barnhill & Galland, P.C.	Illinois
David Bodney, Ballard Spahr LLP	Arizona
Gary Bornstein, Cravath, Swaine & Moore LLP	New York
Kim Boyle	Louisiana
Alvin Bragg, New York Law School	New York
Chava Brandriss, Davis Wright Tremaine LLP	Washington, D.C.
Terrel Broussard, Broussard Dispute Solutions LLC	Louisiana
David Brown, Paul, Weiss, Rifkind, Wharton & Garrison LLP	New York
Paulette Brown, Locke Lord LLP	New Jersey

LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW
1500 K Street, NW
Suite 900
Washington, DC 20005
Tel: 202.662.8600
Fax: 202.783.0857
www.lawyerscommittee.org

Paulette Caldwell, New York University School of Law Emerita	New York
Douglass Cassel, King & Spalding LLP	New York
Todd Chandler	New York
Michael Chanin, Retired	Maryland
Kami Chavis, Wake Forest University School of Law	North Carolina
Fay Clayton, Retired	Illinois
Lisa Cleary	New York
Peter Connell, Retired	Maryland
Jeanine Conley Daves, Littler Mendelson	Massachusetts
Edward Correia, Correia & Associates, PC	Washington, D.C.
Michelle Craig, Transcendent Law Group	
Nora Cregan, The Access Project, Inc.	California
Terry Dee, McDermott Will & Emery LLP	Illinois
Armand Derfner, Derfner & Altman	South Carolina
Cynthia Dow, Russell Reynolds Associates	Massachusetts
Emma Dickson, BroadRiver Asset Management, L.P.	New York
Joseph Drayton, Cooley LLP	New York and New Jersey
Paul Eckstein, Perkins Coie LLP	Arizona
Robert Ehrenbard, Kelley, Drye & Warren LLP	New York
John Ericson, Simpson, Thacher & Bartlett LLP	New York
Ira M. Feinberg, Hogan Lovells US LLP	New York
Owen Fiss, Sterling Professor Emeritus of Law, Yale University	Connecticut
Marc Fleischaker, Aren't Fox, LLP	Washington, D.C.
John Fleming	Georgia
Eleanor Fox, New York University School of Law	New York
Harold Franklin, Jr., King & Spalding LLP	Georgia
Shirlethia V. Franklin, Jones Day	Washington, D.C.
Marc Gary, Jewish Theological Seminary	Georgia
Joseph Gelb, Weil Gotshal & Manges	New York
Danielle C. Gray, Blue Cross and Blue Shield of North Carolina	North Carolina
Ernest LaMont Greer, Greenberg Traurig, LLP	Georgia
Deepak Gupta, Gupta Wessler PLLC and Harvard Law School	Washington, D.C.
Gregory Hansel, Preti Flaherty Beliveau & Pachios LLP	Maine
John Harkrider, Axinn, Veltrop & Harkrider LLP	New York
Conrad K. Harper	New York
Sarah Harrington	Washington, D.C.
David Harris, Lowenstein Sandler LLP (Ret.)	New Jersey
Keith Harrison, Crowell & Moring LLP	Washington, D.C.
Vilia Hayes, Hughes Hubbard & Reed LLP	New York
Andrew D. Hendry, Colgate-Palmolive Company (Ret.)	North Carolina
Damaris Hernandez, Cravath, Swaine & Moore	New York
Kirkland Hicks, Traffk, LLC	Florida
Jay Himes, Labaton Sucharow LLP	New York
Derek Ho, Kellogg, Hansen, Todd, Figel & Frederick, PLLC	Washington, D.C.
Matthew Hoffman	Maryland

LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW
1500 K Street, NW
Suite 900
Washington, DC 20005
Tel: 202.662.8600
Fax: 202.783.0857
www.lawyerscommittee.org

Sadik Huseny, Latham & Watkins LLP	California
R William Ide, Akerman	Georgia
Robert Kapp, Hogan Lovells	Washington, D.C.
Jerome Katz, Ropes & Gray LLP	New York
Michael Keats	New York
Kim Keenan	Washington, D.C.
Past President District of Columbia Bar and National Bar Association	
Susan Kennedy, Baker Botts L.L.P.	Texas
Andrew Kentz, Picard, Kentz, and Rowe, LLP	Washington, D.C.
Charles Kerr, Morrison & Foerster LLP (Ret.)	New York
Paul Kiernan, Holland & Knight LLP	Washington, D.C.
John S. Kiernan, Debevoise & Plimpton LLP	New York
Loren Kieve, Kieve Law Offices	California
Alan Klinger, Stroock & Stroock & Lavan LLP	New York
Naho Kobayashi, McGuireWoods LLP	North Carolina
Daniel Kolb, Davis Polk & Wardwell	New York
Edward Labaton	Washington, D.C.
Michael Lacovara, Latham & Watkins LLP	New York
Gregory Landis, Yarmuth LLP	Washington
Brian Landsberg, University of the Pacific,	California
McGeorge School of Law	
Charles T. Lester, Jr.	Georgia
Jerome Levine, Loeb & Loeb LLP	New York
John Libby, Manatt, Phelps & Phillips, LLP	California
Marjorie Press Lindblom, Kirkland & Ellis LLP	New York
Andy Liu, Nichols Liu LLP	Washington, D.C.
Jack Londen, Morrison & Foerster LLP	California
Christopher Mann	New York
Christopher M. Mason, Nixon Peabody LLP	New York
Brian Matsui	Washington, D.C.
Marilyn McClure-Demers, Nationwide Mutual Insurance	Ohio
Tom McDonald, Vorys, Sater, Seymour and Pease LLP	Washington, D.C.
Robert McDuff, Mississippi Center for Justice	Mississippi
Neil McKittrick	Massachusetts
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.	
James McLoughlin Jr., Moore & Van Allen PLLC	North Carolina
Brian Melendez, Barnes & Thornburg LLP	Minnesota
Becky Monroe	California
Leadership Conference on Civil and Human Rights	
Rodney Moore, Dentons US LLP	Georgia
Robert Murphy, Casner & Edwards, LLP	Massachusetts
John Nonna, Westchester County Law Department	New York
Linda Odom	Washington, D.C.
Alex Young K. Oh	Washington, D.C.
Paul, Weiss, Rifkind, Wharton & Garrison LLP	
Bradley Phillips, Munger Tolles & Olson LLP	California

LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW
1500 K Street, NW
Suite 900
Washington, DC 20005
Tel: 202.662.8600
Fax: 202.783.0857
www.lawyerscommittee.org

Michael Pignato, Dorsey & Whitney LLP	Minnesota
Bettina B. Plevan, Proskauer	New York
Kenneth A. Polite Jr., Morgan, Lewis & Bockius LLP	Pennsylvania
Harold Pope, Dykema	Michigan
Neil Potts	California
Eva Pulliam, Arent Fox LLP	Washington, D.C.
Tracie N. Ransom, Ransom Strategies Group LLC	Missouri
John Relman, Relman Colfax, PLLC	Washington, D.C.
Michael Remington	Wisconsin
Wendolyn Richards, Miller, Canfield, Paddock and Stone	Michigan
William Robinson, University of the District of Columbia	Washington, D.C.
Sidney Rosdeitcher, Paul, Weiss, Rifkind, Wharton & Garrison LLP	New York
David Rosenbaum, Osborn Maledon, P.A.	Arizona
Paul C. Saunders	New York
John Savarese, Wachtell, Lipton, Rosen & Katz	New York
Richard Schwartz, Holland & Hart LLP	Washington, D.C.
Jennifer Scullion	New York
Marc Seltzer	California
Marsha E. Simms, Weil, Gotshal & Manges LLP	New York
John S. Skilton, Perkins Coie LLP	Wisconsin
Matthew Slater, Cleary Gottlieb Steen & Hamilton LLP	Washington, D.C.
Rodney Slater, Squire Patton Boggs LLP	Washington, D.C.
Mark Srere, Bryan Cave Leighton Paisner LLP	Washington, D.C.
Neil Steiner, Dechert LLP	New York
Michael Swartz, Schulte Roth & Zabel LLP	New York
Craig Thompson, Venable LLP	Maryland
Rossie Turman, Lowenstein Sandler LLP	New York
Suzanne Turner, Dechert LLP	Washington, D.C.
Michael Tyler, Kilpatrick Townsend & Stockton LLP	Georgia
Sharon Werner, PNC Bank	Pennsylvania
Joe R. Whatley Jr., Whatley Kallas, LLP	New York
Raymond Williams, DLA Piper LLP (US)	Pennsylvania
Brenda Wright, Demos	Massachusetts
Ekow Yankah, Cardozo Law School	New York

April 7, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington DC 20510

Re: Nomination of Kristen Clarke as Assistant Attorney General of the Civil Rights Division of the United States Department of Justice

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

We serve as General Counsel for a broad range of businesses in the United States and we write in support of the nomination of Kristen Clarke for the position of Assistant Attorney General of the Civil Rights Division of the United States Department of Justice. Many of us have had the privilege of knowing and working with Ms. Clarke over the course of her career. Those of us who haven't had that opportunity have familiarized ourselves with Ms. Clarke's qualifications, as well as the positions she has taken on issues, including those of interest to the business community.

The need for a strong leader with Ms. Clarke's stature at the helm of the Civil Rights Division is an imperative, especially at this moment. The global pandemic has affected communities of color in ways that compel us to understand and challenge how structural issues in our society could produce such a disproportionate impact. The horrifying events of January 6th revealed the vulnerability of our democratic institutions. And the convulsive response across the country to the death of George Floyd made plain the imperative that we must re-dedicate ourselves to improving legal protections for underserved communities.

These events have created a defining moment in the history of our nation and a critical need for leaders who have a deep understanding of the civil rights laws and the communities they protect. Getting this right is of crucial importance to our businesses. Our employees and our customers place growing importance on ensuring that every American has access to the ballot, that all Americans enjoy equal justice and opportunity, and that our democratic institutions remain vibrant.

These issues will be directly impacted by who serves as the Assistant Attorney General of the Civil Rights Division. As General Counsels who believe in the rule of law, we care about who

sits in this seat. We strongly believe Kristen Clarke is the right leader for this moment. She is a proven civil rights leader who will not only help the country navigate complex civil rights issues, but she will also listen to a full range of views to help forge inclusive solutions.

Ms. Clarke has dedicated her career to advancing equity and justice. She is known for her effectiveness as a consensus builder, bringing people with disparate views together to forge a way forward. She has used this skill to lead non-partisan efforts to protect voting rights and promote election integrity, marshaling the resources of the legal community to ensure that all Americans, regardless of their political affiliation, have access to the ballot. She has fought against forms of violent extremism that have fomented hate, including prosecuting hate crimes. She has worked to address religious rights issues in the workplace and enforced anti-discrimination laws. She has worked tirelessly to protect Dreamers and DACA. As a daughter of immigrants herself, Ms. Clarke understands and appreciates immigrant contributions to American innovation, the American economy, and the American dream.

Ms. Clarke's career began as a lawyer in the Civil Rights Division of the Department of Justice. She then worked at the NAACP Legal Defense Fund and later served as Chief of the Civil Rights Bureau for the New York State Attorney General's Office. For the last five years as President and Executive Director of the Lawyers' Committee for Civil Rights Ms. Clarke has been deeply involved in cases involving the full range of issues within the scope of the Civil Rights Division. Ms. Clarke brings the greatest depth and breadth of civil rights experience of any nominee to the position since it was created in 1957.

We strongly believe Ms. Clarke is the right person to lead the Civil Rights Division at this critical moment in time. Her work as a lawyer, an administrator, and a civil rights leader has prepared her to guide the work of the Division with steadiness and passion. Only with this kind of leadership will it be able to fully realize its mission to uphold the civil and constitutional rights of all Americans.

We encourage the prompt confirmation of Ms. Clarke to lead the Civil Rights Division of the United States Department of Justice.

Sincerely yours[1],

Teresa Wynn Roseborough
General Counsel
The Home Depot, Inc.
Georgia

Tony West
Chief Legal Officer
Uber Technologies, Inc.
California

Don J. Rosenberg
General Counsel
Qualcomm Inc.
California

Kristin Sverchek
General Counsel
Lyft, Inc.
California

[1] Business names and titles are provided for identification purposes only.

David F. Levine
General Counsel
Bloomberg L.P.
New York

Stacey Friedman
General Counsel
JPMorgan Chase & Co.
New York

Gregory B. Jordan
General Counsel
PNC Bank
Pennsylvania

Louise Pentland
Chief Legal Officer
PayPal Holdings, Inc.
California

Wanji Walcott
Chief Legal Officer
Discover Financial Services
Illinois

Heather J. Russell
Chief Legal Officer
TransUnion
Illinois

Danielle Gray
Chief Legal Officer
Blue Cross & Blue Shield of North Carolina
North Carolina

Rhonda S. Ferguson
Chief Legal Officer
Allstate Corporation
Illinois

Natalie Lamarque
General Counsel
New York Life Insurance Company
New York

Anne E. Robinson
General Counsel
The Vanguard Group
Pennsylvania

Sandra Phillips Rogers
General Counsel
Toyota Motor North America, Inc.
Texas

Sheila C. Cheston
General Counsel
Northrop Grumman Corporation
Virginia

Melanie S. Cibik
General Counsel
Teledyne Technologies, Inc.
California

Denise Cade
General Counsel
IDEX Corporation
Illinois

Steven R. Rodgers
General Counsel
Intel Corporation
California

Christopher Lewis
General Counsel
Edward D. Jones & Co., L.P.
Missouri

Emma Dickson
General Counsel
BroadRiver Asset Management, L.P.
New York

Carlos M. Brown
General Counsel
Dominion Energy, Inc.
Virginia

April Miller Boise
General Counsel
Eaton Corporation
Ohio

Deneen Donley
General Counsel
Consolidated Edison Company of New York
New York

Trecia M. Canty
General Counsel
PBF Energy Inc.
New Jersey

Cornel B. Feurer
General Counsel
Corteva Agriscience
Delaware

Gena Ashe
General Counsel
Anterix Inc.
New Jersey

Juliette Pryor
General Counsel
Albertsons' Companies
Idaho

Rashida La Lande
General Counsel
The Kraft Heinz Company
Illinois

Christopher J. Poindexter
General Counsel
Cadent
New York

Rhonda Powell
General Counsel
Buzzfeed, Inc.
New York

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General

ATTORNEY GENERAL
KARL A. RACINE

April 9, 2021

The Honorable Charles Schumer
Majority Leader
United States Senate
322 Hart Senate Office Building
Washington, D.C. 20510

The Honorable A. Mitchell McConnell
Minority Leader
United States Senate
317 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Richard Durbin
Chairman
Committee on the Judiciary
Washington, D.C. 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
Washington, D.C. 20510

Re: Support for the confirmation of Kristen Clarke as Assistant Attorney General, Civil Rights Division, U.S. Department of Justice

Dear Senators:

We, the undersigned Attorneys General of our States, write to urge the Senate to expeditiously confirm the nomination of Kristen Clarke as Assistant Attorney General of the Civil Rights Division of the U.S. Department of Justice. Ms. Clarke is an experienced civil rights leader who will work closely with law enforcement to combat hate and discrimination and make our justice system and society fairer.

Ms. Clarke has a breadth of civil rights experience. Among these experiences, we note particularly her leadership of the Civil Rights Bureau in the New York Attorney General's Office, which gave her keen insight into the role of state attorneys general in striking the appropriate balance between our work representing state agencies and our mandate to advance the public interest. During her tenure in New York, Ms. Clarke led on a range of critical issues, including criminal justice, housing discrimination, religious rights, and fair lending. These issues remain pressing today, and Ms. Clarke is prepared to lead on them at the Department of Justice.

Simply put, Ms. Clarke has tackled the most important challenges we are confronting. The focus of the National Association of Attorneys General this year is on combatting hate, an area where Ms. Clarke has substantial expertise. Under Ms. Clarke's leadership, the Lawyers' Committee for Civil Rights Under Law worked closely with law enforcement on a months-long effort to produce guidance and training materials to enhance hate crime prevention. The Department of

Justice plays a significant role in collecting hate crime data, prosecuting hate crimes, and leading the nation's efforts to combat hate crimes. We are pleased that the nominee to lead that work is an experienced leader in that space.

In addition to combatting hate crimes, Ms. Clarke has worked on other issues that are central to our efforts over the last few years and are areas where the Justice Department must lead: advancing constitutional policing, combatting human trafficking, protecting the rights of indigent defendants, and stopping violent extremism, including by holding accountable social media platforms hosting content that violates federal and state laws.

Ms. Clarke not only has deep substantive expertise on civil rights matters, but she also understands how states and the federal government can effectively partner to accomplish shared goals. From her time in New York, Ms. Clarke has a deep and thorough understanding of how to work in a multistate coalition to create meaningful change that no state could achieve alone. Ms. Clarke's work at an attorney general's office and as an advocate has also given her unique insights into effectively marshaling federal resources to advance civil rights.

Kristen Clarke is an experienced professional who is ready to work with law enforcement, communities that have been left behind, and others to make our nation safer and fairer. We are proud to support her nomination and encourage you to do the same, and we look forward to the opportunity to work with her to advance the civil rights of all Americans in the coming years.

Sincerely,

KARL A. RACINE
District of Columbia Attorney General

PHILIP J. WEISER
Colorado Attorney General

WILLIAM TONG
Connecticut Attorney General

KATHLEEN JENNINGS
Delaware Attorney General

CLARE E. CONNORS
Hawaii Attorney General

KWAME RAOUL
Illinois Attorney General

TOM MILLER
Iowa Attorney General

AARON M. FREY
Maine Attorney General

BRIAN E. FROSH
Maryland Attorney General

MAURA HEALEY
Massachusetts Attorney General

KEITH ELLISON
Minnesota Attorney General

AARON D. FORD
Nevada Attorney General

HECTOR BALDERAS
New Mexico Attorney General

LETITIA JAMES
New York Attorney General

JOSH STEIN
North Carolina Attorney General

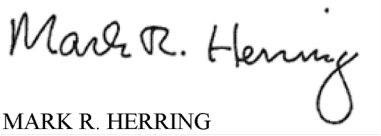
ELLEN ROSENBLUM
Oregon Attorney General

JOSH SHAPIRO
Pennsylvania Attorney General

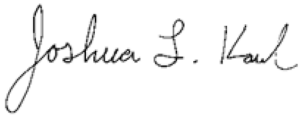
PETER F. NERONHA
Rhode Island Attorney General



THOMAS J. DONOVAN, JR.
Vermont Attorney General



MARK R. HERRING
Virginia Attorney General



JOSH KAUL
Wisconsin Attorney General

April 8, 2021

The Honorable Dick Durbin
Chair
Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Chuck Grassley
Ranking Member
Senate Committee on the Judiciary
152 Dirksen Senate Office Building
Washington, D.C. 20510

Re: *Gender Justice Coalition Letter in Support of Kristen Clarke to be Assistant Attorney General for the Civil Rights Division at the Department of Justice*

Dear Chairman Durbin and Ranking Member Grassley:

We write on behalf of 56 gender justice; reproductive health, rights, and justice; and anti-violence organizations unified in strong support for the confirmation of Kristen Clarke as Assistant Attorney General for the Civil Rights Division at the Department of Justice. The Civil Rights Division (the Division) is responsible for enforcing federal laws of utmost importance to women, girls, and anyone facing discrimination, and the nomination of the leader for this Division is a top priority for our communities. The Division oversees litigation sections including the Employment Litigation Section, which litigates gender discrimination cases under Title VII; the Educational Opportunities Section, which brings Title IX claims; and the Criminal Section, which handles cases brought under the Freedom of Access to Clinic Entrances Act (FACE) and prosecutes hate crimes. The Division also includes other important sections to gender justice, such as disability rights, voting, immigration, and housing and civil enforcement. With an unprecedented breadth of civil rights litigation and civil rights leadership, Ms. Clarke is the right person we need to lead the Division at this critical juncture.

With over 20 years of experience advancing equal justice in state and federal civil rights agencies and national civil rights organizations, Ms. Clarke will bring much needed skills, knowledge, and expertise to the leadership team of the Justice Department. Ms. Clarke is intimately familiar with the very Division she is tasked to lead as she started her career in the Civil Rights Division prosecuting police misconduct, police brutality, hate crimes, and voting rights cases. She later helped lead the NAACP Legal Defense and Educational Fund's voting rights and election law work, where she defended the constitutionality of the Voting Rights Act in federal court. She went on to lead the Civil Rights Bureau for the New York State Attorney General's Office, where she supervised broad civil rights enforcement matters in the areas of criminal justice, education and housing discrimination, fair lending, barriers to reentry, voting rights, immigrants' rights, gender inequality, disability rights, reproductive health care access, and LGBTQ discrimination. Most recently, Ms. Clarke was the Executive Director of the Lawyers' Committee for Civil Rights under Law, one of the nation's most respected civil rights organizations dedicated to securing equal justice for all. Under her command, the organization has been on the forefront of combating the rise in hate crimes and white supremacy, stopping rampant voter suppression in the face of a pandemic, holding accountable law enforcement officers for violating the rights of peaceful Black Lives Matters protesters, defending racial diversity policies in higher education, and fighting attempts to eviscerate fair housing discriminatory effects claims. Ms. Clarke's extensive experience on virtually every area of civil rights makes her ready on day one to confront the inequities and injustices faced by the most vulnerable communities.

Additionally, Ms. Clarke's racial justice work importantly included work to address discrimination that particularly affected women and girls of color. Through the New York State Attorney General's Civil Rights Bureau, she led a groundbreaking gender equity and sexual harassment investigation against a major corporation that resulted in a multimillion-dollar settlement fund for employees.[i] Moreover, under her leadership, the Lawyers' Committee broadened its partnerships on gender justice efforts. It collaborated on litigation demanding equal pay data collection,[ii] supported trans women and girls in schools,[iii] challenged the harmful Title IX sexual harassment rules,[iv] opposed a rule that would block access to birth control,[v] and ensured workplaces are free from discrimination.[vi] Ms. Clarke also successfully represented American University student body president Taylor Dumpson, who was targeted in an online troll storm because of her race and gender, in her case against neo-Nazi website the Daily Caller.[vii] Notably, in her recent testimony in front of this Committee, she focused on issues disproportionately affecting women of color, including "the right to be free from discrimination in jobs and housing and the right to privacy-including contraception and abortion."[viii] Her deep understanding of the intersecting forms of structural discrimination and the real-life impacts of the laws makes her uniquely able to incorporate diverse interests when tackling the pressing civil rights challenges of our time.

Kristen Clarke's nomination comes at a crucial time. Under the Trump Administration, the Department of Justice's Civil Rights Division acted counter to the core mission of protecting and enforcing the legal rights of all people in American and instead scapegoated immigrants and communities of color and defended a litany of unconstitutional legal battles. The Justice Department argued that the Affordable Care Act is unconstitutional, a move decried by former DOJ officials and legal scholars and defended unconstitutional abortion restrictions. It was the driving force of the cruel and unjust policy separating immigrant children from their parents at the border. It cast aside the rule of law and encouraged discrimination in schools, workplaces, and health care; allowed rampant voter suppression; and otherwise weakened civil rights protections. The Department of Justice's Civil Rights Division is in dire need of strong leadership to rebuild trust and repair the credibility of this agency, and Ms. Clarke is precisely the tried and tested civil rights champion to undo the harm and trauma the Division inflicted on communities of color.

Ms. Clarke is exactly the accomplished civil rights attorney who will bolster civil rights enforcement and ensure equal justice for all. Kristen Clarke has a sterling reputation amongst the civil rights and the gender justice community. She has worked on a broad set of issues, from religious freedom to criminal justice to discrimination in housing, workplace, and health care. Furthermore, Ms. Clarke's confirmation to this position would be historic as she would be the first woman to be confirmed in that role and the first Black woman to ever hold that position. Her lived experiences and unparalleled dedication to civil rights make her uniquely situated to root out hate and discrimination. In a time when this country is reckoning with its deeply imbedded institutional racism and sexism, Ms. Clarke's leadership is desperately needed in the Justice Department to begin the hard work of rectifying these systemic inequities.

Kristen Clarke is an exceptional nominee for the Assistant Attorney General for the Civil Rights Division of the Department of Justice. We urge the Committee to approve her nomination swiftly.

Sincerely,

A Better Balance
A Woman's Choice of Jacksonville
A Woman's Choice of Raleigh
A Woman's Choice of Greensboro
A Woman's Choice of Charlotte
Advocates for Youth
All* Above All Action Fund
American Association of University Women (AAUW)
American Federation of Teachers
California National Organization for Women
Casa de Esperanza: National Latin@ Network
Clearinghouse on Women's Issues
Cobalt
Colorado Coalition Against Sexual Assault
Feminist Majority Foundation
Feminist Majority Foundation
Florida Interfaith Coalition for Reproductive Health and Justice
Futures Without Violence
Gender Justice
Girls for Gender Equity
In Our Own Voice: National Black Women's Reproductive Justice Agenda
Iowa Coalition Against Sexual Assault (IowaCASA)
Justice for Migrant Women
KWH Law Center for Social Justice and Change
League of Women Voters of the United States
Minnesota Coalition Against Sexual Assault
MomsRising
Monroe County NOW
NARAL Pro-Choice America
National Asian Pacific American Women's Forum (NAPAWF)
National Coalition Against Domestic Violence
National Council of Jewish Women
National Organization for Women
National Partnership for Women & Families
National Women's Law Center
National Women's Political Caucus
Nebraska Coalition to End Sexual and Domestic Violence
Nevada Coalition to End Domestic and Sexual Violence
New York State Coalition Against Sexual Assault
NYC Alliance Against Sexual Assault

Ohio Alliance to End Sexual Violence
Ohio National for Women
Physicians for Reproductive Health
Planned Parenthood Federation of America
Religious Coalition for Reproductive Choice
Reproaction
SisterLove Inc.
TIME'S UP Now
Ujima Inc., The National Center on Violence Against Women in the Black Community
UltraViolet
United State of Women
URGE: Unite for Reproductive & Gender Equity
Vote Run Lead
Wisconsin Coalition Against Sexual Assault
Women's Medical Fund
YWCA USA

---

[i] A.G. Schneiderman And U.S. EEOC Announce $3.8 Million Settlement With Con Edison Over Allegations Of Sexual Harassment And Gender Discrimination Against Female Employees, New York State Attorney General (ny.gov), Sept. 9, 2015, https://ag.ny.gov/press-release/2015/ag-schneiderman-and-us-eeoc-announce-38-million-settlement-con-edison-over

[ii] NWLC and Lawyers' Committee for Civil Rights Under Law File FOIA Request to Uncover OMB's Secretive Decision-making Process that Halted Equal Pay Data Collection, Sept/ 20, 2017, https://nwlc.org/press-releases/nwlc-and-lawyers-committee-for-civil-rights-under-law-file-foia-request-to-uncover-ombs-secretive-decision-making-process-that-halted-equal-pay-data-collection/

[iii] Brief for Amici Curiae National Women's Law Center, Lawyers' Committee for Civil Rights Under Law and 60 additional organizations in support, Hecox v. Little, Dec. 21, 2020, https://nwlc.org/resources/hecox-v-little/

[iv] Brief of the Civil Rights and Advocacy Amici as *Amici Curiae* in support of Plaintiffs' Motion for Preliminary Injunction, July 27, 2020, https://www.aauw.org/app/uploads/2020/08/Victim-Rights-Law-Center-v.-DeVos-72720.pdf

[v] NWLC Blog, Our Fight in the Supreme Court Includes Your Stories About Birth Control, https://nwlc.org/blog/our-fight-in-the-supreme-court-includes-your-stories-about-birth-control/

[vi] *See* NWLC Comment on EEOC Religious Discrimination Guidance https://nwlc.org/resources/nwlc-comment-on-eeoc-religious-discrimination-guidance/ ; Lawyer's Committee Statement, Civil Rights Groups Condemn White House Move to Censor Race and Gender Equity, https://lawyerscommittee.org/civil-rights-groups-condemn-white-house-move-to-censor-race-and-gender-equity/

[vii] Landmark Settlement Between Hate Incident Perpetrator and Survivor Announced in Dumpson v. Ade, Lawyers' Committee for Civil Rights Under Law, Dec. 19, 2018, https://lawyerscommittee.org/landmark-settlement-between-hate-incident-perpetrator-and-survivor-announced-in-dumpson-v-ade/

[viii] Statement of Kristen Clarke, President and Executive Director of the Lawyers' Committee for Civil Rights under the Law, Testimony before the Senate Judiciary Committee regarding the nomination of Amy Coney Barrett, Oct 15, 2021, https://www.judiciary.senate.gov/imo/media/doc/Clarke%20Testimony.pdf

April 8, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

We write in support of President Biden's nomination of Ms. Kristen Clarke for Assistant Attorney General for the Civil Rights Division of the Department of Justice. We are a group of individuals who have directly experienced the impact of hate crimes. As those who have had our lives shattered by hate crimes and violence, we owe a tremendous amount of gratitude to those who investigated our cases, and took seriously the crimes committed against us to hold perpetrators accountable and for justice to be realized. Those courageous acts have helped us heal and have helped vindicate our rights.

As hate crime survivors and family members of hate crime victims, we also believe we bring a unique perspective to Ms. Clarke's skills and experience serving Americans and fighting hate, both throughout her career within the government and outside of the government. Indeed, based upon our personal knowledge of Ms. Clarke and her exceptional reputation, we are confident that Ms. Clarke will ensure fair and full enforcement of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, and other laws instituted to protect the rights of hate crime victims.

As others have noted, Ms. Clarke is one of the most distinguished civil rights lawyers of her generation. She has fought tirelessly on behalf of those, like ourselves, who have had their lives devastated by hateful activity and she has done so with a fierce dedication to raising up the stories of victims of racist and bigoted violence. For instance, in supporting us and our families, and continuing the fight against hate, Ms. Clarke:

- Created the James Byrd Jr. Center to Stop Hate in 2019, in honor of James Byrd Jr., the late brother of Louvon Byrd Harris. James was a Black man and a father of three. He loved music and was the life of the party. In 1998, however, James was violently killed by white supremacists, robbing Louvon Byrd Harris and the rest of her family of a brother, father and son.[1] In creating the Center, Ms. Clarke helped ensure that Mr. Byrd's

[1] Audra D.S. Burch, *In Texas, a Decades-Old Hate Crime, Forgiven but Never Forgotten*, N.Y. Times, July 9, 2018, https://www.nytimes.com/2018/07/09/us/james-byrd-jasper-texas-killing.html.

legacy is remembered and that the fight against white supremacy continues in his name. Since its creation, the Center has supported individuals and communities targeted for hate, including filing litigation on behalf of the historic Metropolitan African Methodist Episcopal Church after it was targeted for vandalism by the Proud Boys.

- Supported Ms. Taylor Dumpson, the first African-American woman elected student body president of American University after she was targeted for a hate crime. Shortly after her historic inauguration, Taylor learned that a hooded man had gone around campus hanging nooses with bananas with racist messages on them. White supremacists then took to the internet, celebrating the hooded man's actions and sending Taylor numerous trolling and harassing messages. Ms. Clarke and her team worked with Taylor to tell her story and bring litigation against the online trolls, obtaining a groundbreaking settlement against one of the trolls requiring the former white supremacist to issue a personal apology to Taylor and engage in other forms of restorative justice.[2] Ms. Clarke continues to support and mentor Taylor, as Taylor begins her own journey as a young civil rights lawyer.

- Worked with Dawn and Rick Collins who lost their only son – 2nd Lt. Richard Collins III – a young Black man with plans to serve his country in the military in 2017. 2nd Lt. Richard Collins III was killed in a violent attack by someone with white supremacist affiliations on the campus of the University of Maryland. In the wake of this racist murder, Ms. Clarke stood with the Collins family, pushing to improve Maryland's hate crimes law and providing support as the criminal process against the murderer proceeded.

- Collaborated with the families of Matthew Shepard, a young gay man who was killed in a horrific hate crime in Wyoming in 1998, and Heather Heyer, a young racial justice activist killed in Charlottesville in 2017, to partner and train law enforcement on how to better respond to hate crimes. More than 1,300 officers have attended these trainings, hearing directly from families and community members who have experienced hate.

- Worked with the family of Emmett Till, including the late Airickca Gordon-Taylor, to ensure that Till's legacy is advanced and secured, and to advocate for passage of the Emmett Till Antilynching Act.

---

[2] Samantha Schmidt, *Federal Judge Awards Over $700,000 to Former American University Student Targeted in Neo-Nazi 'Troll Storm'*, WASH. POST, Aug. 10, 2019, https://www.washingtonpost.com/local/education/federal-judge-awards-700000-to-former-american-university-student-targeted-in-neo-nazi-troll-storm/2019/08/10/f73dca84-bb7f-11e9-bad6-609f75bfd97f_story.html.

- Represented the Metropolitan African Methodist Episcopal Church, a historic Black church in Washington D.C., when it was attacked and vandalized by members of the Proud Boys in the days after the 2020 presidential election.[3]
- Partnered with the International Association of Chiefs of Police to develop guidance for responding to and working toward preventing hate crimes. The action agenda has been promoted to law enforcement agencies across the country with the goal of enhancing the ability of law enforcement, civil rights organizations, and community organizations to more effectively address hate and bias-motivated crimes in their communities and try to ensure the safety of all individuals threatened by hate.

Hate crimes like those experienced by us, our families, and our communities, involve the intentional selection of a victim because of an immutable characteristic.[4] In addition to the immediate impact on the individual targeted and their families, hate crimes send a clear message to anyone who shares the victim's identity that they are not safe; that if they somehow challenge their role in a white supremacist society, they too could lose their lives or otherwise be targeted. As Dawn Collins, mother of 2nd Lt. Richard Collins III, has powerfully testified, the type of hate that families of hate crime victims experience is not just "heartbreaking" - it completely shatters the hearts and lives of family members of victims. Ms. Clarke understands that the impact of the type of hateful activity we have experienced reverberates across communities and across generations, shaping both the present and the future ways in which communities like ours engage with the world.

Ms. Clarke's commitment to serving those targeted for violence is demonstrated as much during those quiet moments when she has stood by the side of victims of hate, as in the high publicity moments. In our experience, truly standing in solidarity with individuals and communities who have been targeted for hate requires more than simply helicoptering in in the immediate aftermath of an attack, when the media focus is at its height. Ms. Clarke has called many of us to check in, she has made time to chat, to brainstorm ways to advance our causes and stand together in the fight against hate. But, more importantly, she has made time to listen – to hear the stories of families like ours and understand the impact that hate crimes can have.

As those who have felt the direct impact of hateful activity and have experienced heartbreaking losses to violence, we know that Ms. Clarke approaches her work as a civil rights lawyer with legal vigor as well as compassion for those most impacted by injustice. She has stood with families like ours in our worst moments, making time to connect even in the hustle of her very full legal practice. She has not only been a zealous advocate in individual cases, but Ms. Clarke has also been a spokesperson to shed light on hate crimes. She has pioneered education, training, and prevention on behalf of various constituencies, partnering with law enforcement, the private

---

[3] Andrew Beaujon, *Historic DC Black Church Sues the Proud Boys,* WASHINGTONIAN MAGAZINE, Jan. 4, 2021, https://www.washingtonian.com/2021/01/04/historic-dc-black-church-sues-the-proud-boys/.

[4] U.S. Department of Justice, *Learn About Hate Crimes*, https://www.justice.gov/hatecrimes/learn-about-hate-crimes.

sector, and beyond, to better equip our communities to confront hate and foster greater trust in our communities.

We believe Ms. Clarke approaches this work with the intellect and the *heart* necessary for advancing civil rights for all Americans. We applaud President Biden's selection of her for this position and urge you to support this nomination.

Sincerely,

Louvon Byrd Harris
(Sister of James Byrd Jr.)
Texas

Judy L. Shepard and Dennis W. Shepard
(Parents of Matthew Shepard)
Wyoming

Ollie S. Gordon
(Cousin of Emmett Till)
Illinois

Susan Bro
(Mother of Heather Heyer)
Virginia

Rick and Dawn Collins
(Parents of 2nd Lt. Richard Collins III)
Maryland

Sunayana Dumala
(Wife of Srinivas Kuchibhotla)
Kansas

Taylor Dumpson
(Former Student Body President, American University)
New York

The Jabara Family
(Family of Khalid Jabara)
Oklahoma

Rev. William H. Lamar IV
(Metropolitan African Methodist Episcopal Church)
Washington D.C.

April 9, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Letter in Support of Kristen Clarke, nominee for Assistant Attorney General of the Civil Rights Division

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

We write this letter in strong support of Kristen Clarke, the President's nominee to serve as Assistant Attorney General in the Civil Rights Division.

We have served as rank and file law enforcement officers, as administrators, and as Police Chiefs and Sheriffs in cities and counties throughout the country. We have the utmost respect and admiration for those law enforcement officers who risk their lives every day and act with courage and honor to keep our communities safe. Indeed, some of us have had to bury brave and honorable officers who died in the line of duty and console loved ones for their ultimate sacrifice, and we all remain deeply grateful to them. We are further immensely proud to be in the fraternity of law enforcement professionals who served our communities.

The past several years have shed light on just how important it is for law enforcement officers to develop trust within communities. Trust is integral to provide and promote public safety, seek justice for victims, and pursue accountability for those who commit crimes against the vulnerable. Hate crimes in particular have become far too commonplace in communities all over America.

While many issues contribute to the deterioration of trust between law enforcement and communities (such as unconstitutional policing and misconduct), there are also many solutions. Some of these solutions involve high-quality training and education, resources, and recruitment of individuals with high character. Additional solutions involve healthy and collaborative partnerships across the criminal justice landscape, including between and among federal, state, and local officials, and collaborative partnerships with victims advocates, social service professionals, and prosecutors and defense lawyers.

Kristen Clarke, the President's Civil Rights Division nominee, is someone who is undoubtedly a part of the solution. First and foremost, she is a listener. Throughout her career, first as a federal prosecutor prosecuting sensitive human trafficking cases, domestic violence cases, and litigating voting rights cases, she demonstrated an uncanny ability to work closely with federal and state and local law enforcement officials, and worked closely with domestic violence survivors and crime victims to ensure they obtained justice.

When Ms. Clarke later served as Chief of the Civil Rights Bureau in the New York Attorney General's office, she dove head first into working closely with state police and sheriffs to listen to their challenges, and devise best practices for working with communities with limited English proficiency. When Ms. Clarke left government service to lead the non-profit Lawyers' Committee of Civil Rights Under Law, she pioneered a program to work alongside the International Association of Chiefs of Police to help improve law enforcement responses to hate crimes and hate incidents.

Throughout her career, Ms. Clarke has built a national reputation as someone who is trustworthy and who fiercely defends and protects the most vulnerable crime victims in our communities. As a result, she is someone who will bring an enormous amount of credibility among community leaders to the Civil Rights Division of the Justice Department. This credibility will be of paramount importance as she does some of the important work of building relationships with law enforcement leaders and seeking accountability where needed. This will take sensitivity and skill, which Ms. Clarke has demonstrated in abundance throughout her impressive career.

We recognize that in this critical time, the Justice Department's mandate to promote equal justice under law requires leaders of impeccable credentials, character, and credibility. The Civil Rights Division, in particular, must be led by someone with such qualifications. We believe Kristen Clarke to be well-suited to take on this important role. And we urge the Senate to confirm her immediately.

Thank you for your consideration.

Truly Yours,

Charles Ramsey (Ret.)
Commissioner (Fmr.), Philadelphia Police Department
Chief of Police (Fmr.), D.C. Metropolitan Police Department
Past President, Major Cities Chiefs Association
Past President, Police Executive Research Forum
Co-Chair, President Obama Task Force on 21st Century Policing

Jim Bueermann
Police Chief (Fmr.), Redlands Police Department
Past President, National Police Foundation

Edward Davis
Police Commissioner (Fmr.), Boston Police Department

William Bratton
Police Commissioner (Fmr.), New York Police Department

J. Scott Thomson
Police Chief (Fmr.), Camden County New Jersey Police Department
Past President, the Police Executive Research Forum

Ivonne Roman, PhD
Police Chief (Fmr.), Newark Police Department

Terrance W. Gainer
Sergeant at Arms (Fmr.), United States Senate
Chief of Police (Fmr.), United States Capitol Police

Renee' Hall
Chief of Police, Dallas Police Department

Charlie Beck
Superintendent of Police, Chicago Police Department
Chief of Police (Fmr.), Los Angeles Police Department

Arif Alikhan
Director of Constitutional Policing (Fmr.), Los Angeles Police Department

Chris Magnus
Police Chief, Tucson Police Department 2016-present

Sonia Y. W. Pruitt
Captain (Ret.), Montgomery County Police Department

George N. Turner
Public Safety Commissioner (Fmr.), Atlanta Police Department
Police Chief (Fmr.), Atlanta Police Department

Carmen Y. Best
Police Chief (Fmr.), Seattle Police Department

Daniel J Oates
Police Chief (Fmr.), Miami Beach Police Department
Police Chief (Fmr.), Aurora Police Department
Police Chief (Fmr.), Ann Arbor Police Department
New York Police Department

Richard W. Stanek
Sheriff, Hennepin County Sheriff's Office

Kim C. Dine (Ret.)
Chief of Police (Fmr.), U.S. Capitol Police
Chief of Police (Fmr.), Frederick Police Department (MD)

Jerry Clayton
Sheriff, Washtenaw County Sheriff's Office

Kathleen O'Toole (Ret.)
Chief of Police (Fmr.), Seattle Police Department
Commissioner (Fmr.), Boston Police Department
Massachusetts Secretary of Public Safety (Fmr.)

Sue Rahr
Sheriff (Fmr.), King County Sheriff's Office

Cassandra Deck-Brown
Police Chief, Raleigh Police Department

Darrel W Stephens
Executive Director (Fmr.), Major Cities Chiefs Association

Kim Jacobs
Chief of Police (Retired), Columbus Division of Police

Robert White
Police Chief (Fmr.), Denver Police Department

Art Acevedo
Chief of Police, Miami Police Department

Charlie Beck
Superintendent of Police, Chicago Police Department
Chief of Police (Fmr.), Los Angeles Police Department

Roberto Villaseñor (Ret.)
Chief of Police (Fmr.) Tucson Police Department

Rodney Monroe
Chief of Police (Fmr.), Charlotte Police Department

Richard Ross
Commissioner (Fmr.), Philadelphia Police Department

Kevin Bethel
Deputy Police Commissioner (Fmr.), Philadelphia Police Department

Ronal Serpas, Ph.D.
Superintendent of Police (Ret.), New Orleans Police Department
Chief of Police (Fmr.), Nashville Police Department
Chief of the Washington State Patrol (Fmr.)

J. Thomas Manger
Chief of Police (Ret.), Montgomery County Police Department
Chief of Police (Ret.), Fairfax County Police Department
Past President Major Cities Chiefs Association

Gordon Ramsay
Police Chief, Wichita Police Department
Police Chief, (Fmr.), Duluth Police Department

Dr. Cedric L. Alexander
Retired Police Executive, DeKalb County Police Department

Kevin Davis
Police Commissioner (Fmr.), Baltimore Police Department

Terry G. Hillard

Retired Superintendent, Chicago, Illinois, 1998-2003 & Interim (2011-March/May)

Rick Lincoln
Sheriff (Fmr.), Clinton County Sheriff's Office

Gil Kerlikowske
Police Chief (Fmr.), Seattle Police Department

Richard W. Myers
Police Chief (Ret.): Newport News Police Department
Colorado Springs Police Department
Appleton Police Department
Lisle Plymouth Police Department
Former Executive Director, Major Cities Chiefs Association

Kenton Buckner
Chief of Police, Syracuse Police Department

Earnell Lucas
Sheriff, Milwaukee County Sheriff's Office

William G. Gross
Police Commissioner, Boston Police Department

David Mitchell
Chief of Police, University of Maryland Police Department
Chief of Police (Fmr.), Prince George's County Police Department
Superintendent (Fmr.), Maryland State Police Department
Secretary of Safety and Homeland Security, State of Delaware

CLC
ADVANCING DEMOCRACY THROUGH LAW

April 8, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

I am writing this letter in support of Kristen Clarke, the President's nominee to serve as Assistant Attorney General of the Civil Rights Division.

I am the President and Founder of the non-partisan Campaign Legal Center (CLC), which works to protect the right to vote for all Americans, regardless of political affiliation. I previously served as a Republican Commissioner and Chairman of the Federal Election Commission (FEC). In private practice I have also served as the General Counsel of Republican Presidential campaigns and represented a number of Republican candidates and committees.

CLC is extremely familiar with Ms. Clarke's professional record, but perhaps more importantly, CLC is deeply familiar with who Ms. Clarke is as a person. She is one of the foremost legal experts in the country on voting rights -- having begun her career in the Voting Section of the Justice Department's Civil Rights Division, and later having led the voting rights project at the NAACP Legal Defense and Educational Fund. She is smart, honest, and deeply committed to equal justice under law. She works well with people, looks at all sides of an issue, listens to opposing views, and is always ready to learn. She is the right candidate to lead the Civil Rights Division at this critical moment in our history.

During her tenure as President and Executive Director of the Lawyers' Committee for Civil Rights Under Law, Ms. Clarke has been an outstanding partner with CLC in our efforts to advance voting rights and voting protections for all Americans, regardless of political affiliation. Our two organizations have worked together on a number of important voting rights cases. And, as a result of Ms. Clarke's leadership, the reputation and output of the Lawyers' Committee has grown considerably over the past seven years. Ms. Clarke has indeed been a committed and steadfast partner to advance the rule of law and promote voting rights and election security.

While Ms. Clarke has an impressive array of accomplishments with respect to voting rights, she is equally accomplished in so many areas that also fall under the portfolio of the Civil Rights Division. From housing and civil enforcement, disability rights, educational opportunities, and special litigation, Ms. Clarke has an incredible record of effective leadership that dates back to her time in public service at the N.Y. Attorney General's office, as well as during her tenure as the President and Executive Director of the Lawyers' Committee.

In short, Ms. Clarke possesses an unparalleled legal and professional record for any nominee to lead the Justice Department's Civil Rights Division. She deserves the support of every Senator, and I applaud the President's decision to nominate her to such an important position.

I urge you and your colleagues to swiftly process Ms. Clarke's nomination, and vote to confirm her as the next Assistant Attorney General for the Civil Rights Division.

Thank you for your consideration.



Trevor Potter
Republican former FEC Chairman and FEC Commissioner

ASIAN AMERICANS
ADVANCING
JUSTICE
AAJC

April 8, 2021

The Honorable Richard J. Durbin
Chair, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chair Durbin and Ranking Member Grassley:

On behalf of Asian Americans Advancing Justice | AAJC, I write to express our strong support for the confirmation of Kristen Clarke to serve as the Assistant Attorney General for Civil Rights at the U.S. Department of Justice.

Asian Americans Advancing Justice | AAJC (Advancing Justice | AAJC) is a national non-profit, non-partisan organization that works through policy advocacy, community education, and litigation to advance the civil and human rights of Asian Americans and to build and promote a fair and equitable society for all. Founded in 1991, Advancing Justice | AAJC is one of the nation's leading experts on civil rights issues of importance to the Asian American community.

In the wake of the January 6th white supremacist insurrection at the Capitol, Asian Americans and other communities of color are still left to grapple with a justice system that has yet to achieve full equity and protection of immigrants and communities of color. In this moment, our country is seeing heinous acts of violence against Asian Americans, a trend that may outlast the virus for which its victims have been wrongfully scapegoated. We see this in the unrelenting efforts to disenfranchise our communities from the ballot box, the Census, and redistricting. And we see it in the disparities in access to lifesaving health services during a historic public health crisis.

The daughter of Jamaican immigrants, Ms. Clarke is someone who, like the majority of Asian Americans in this country, comes from an immigrant family. She has a deep understanding of how justice has been, and often still is, unequally applied towards communities of color, and that the stewardship and protection of an individual's civil and human rights—regardless of race, sex, color, gender identity, and immigration status— require exceptional and compassionate leadership.

1620 L Street, N.W., Suite 1050, Washington, DC 20036 T 202-296-2300 F 202-296-2318 www.advancingjustice-aajc.org

Ms. Clarke has demonstrated such leadership time and time again, leading an extraordinary career combating structural racism and inequality in the justice system with courage and discernment. She began her career in the Justice Department's Civil Rights Division, helped lead litigation on voting rights at the NAACP Legal Defense and Educational Fund, and later was appointed to head the Civil Rights Bureau of the New York State Attorney General's Office.

Most recently, Ms. Clarke served as president and executive director of the Lawyers' Committee for Civil Rights Under Law, one of our nation's premier national civil rights organizations. We have had the pleasure of working closely with Ms. Clarke and the Lawyers' Committee under her leadership, partnering in the national Election Protection efforts – sharing the infrastructure that supports voter protection hotlines in numerous languages, including Advancing Justice | AAJC's Asian languages hotline. We also collaborated as litigating organizations, each filing successful legal challenges against the prior administration's attempt to add a citizenship question to the 2020 Census. Furthermore, under her leadership, the Lawyers' Committee launched the Stop Hate Project, and partnered with Advancing Justice | AAJC in our efforts to fight anti-Asian hate.

Ms. Clarke's confirmation would be historic for the Justice Department, and for our country: she would be the first woman confirmed to lead the Civil Rights Division and the first Black woman to hold the post in any capacity. It is for all of these reasons that we urge the Senate to confirm Kristen Clarke as Assistant Attorney General for Civil Rights without delay.

Sincerely,



John C. Yang
President & Executive Director
Asian Americans Advancing Justice | AAJC

Cc: Members of the U.S. Senate Committee on the Judiciary

ASIAN AMERICANS ADVANCING JUSTICE AAJC

April 12, 2021

The Honorable Richard J. Durbin
Chair, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chair Durbin and Ranking Member Grassley:

On behalf of Asian Americans Advancing Justice | AAJC and the 26 undersigned organizations representing Asian American and Pacific Islander communities, we write to express our strong support for the confirmation of Kristen Clarke to serve as the Assistant Attorney General for Civil Rights at the U.S. Department of Justice.

Asian Americans Advancing Justice | AAJC (Advancing Justice | AAJC) is a national non-profit, non-partisan organization that works through policy advocacy, community education, and litigation to advance the civil and human rights of Asian Americans and to build and promote a fair and equitable society for all. Founded in 1991, Advancing Justice | AAJC is one of the nation's leading experts on civil rights issues of importance to the Asian American community.

In the wake of the January 6th white supremacist insurrection at the Capitol, Asian Americans and other communities of color are still left to grapple with a justice system that has yet to achieve full equity and protection of immigrants and communities of color. In this moment, our country is seeing heinous acts of violence against Asian Americans, a trend that may outlast the virus for which its victims have been wrongfully scapegoated. We see this in the unrelenting efforts to disenfranchise our communities from the ballot box, the Census, and redistricting. And we see it in the disparities in access to lifesaving health services during a historic public health crisis.

The daughter of Jamaican immigrants, Ms. Clarke is someone who, like the majority of Asian Americans in this country, comes from an immigrant family. She has a deep understanding of how justice has been, and often still is, unequally applied towards communities of color, and that the stewardship and protection of an individual's civil and human rights—regardless of race, sex,

color, gender identity, and immigration status— require exceptional and compassionate leadership.

Ms. Clarke has demonstrated such leadership time and time again, leading an extraordinary career combating structural racism and inequality in the justice system with courage and discernment. She began her career in the Justice Department's Civil Rights Division, helped lead litigation on voting rights at the NAACP Legal Defense and Educational Fund, and later was appointed to head the Civil Rights Bureau of the New York State Attorney General's Office.

Most recently, Ms. Clarke served as president and executive director of the Lawyers' Committee for Civil Rights Under Law, one of our nation's premier national civil rights organizations that for the past four years served as a bulwark against civil rights abuses neglected by the previous Justice Department. At the Lawyer's Committee, Ms. Clarke oversaw the filing of over 250 cases that sought to protect Americans against large-scale hate, bias, and discrimination, whether in the context of our elections and Census, housing and criminal justice, or racial and gender justice.

Ms. Clarke's confirmation would be historic for the Justice Department, and for our country: she would be the first woman confirmed to lead the Civil Rights Division and the first Black woman to hold the post in any capacity. It is for all of these reasons that we urge the Senate to confirm Kristen Clarke as Assistant Attorney General for Civil Rights without delay.

Sincerely,

Asian Americans Advancing Justice | AAJC
Asian Americans Advancing Justice | Asian Law Caucus
Asian Americans Advancing Justice | Chicago
Asian Americans Advancing Justice | Los Angeles
American Citizens for Justice/Asian American Center for Justice
APAPA Ohio
Asian & Pacific Islander American Health Forum (APIAHF)
Asian American Federation
Asian and Pacific Islander American Vote (APIAVote)
Asian Law Alliance
Asian Pacific Islander American Public Affairs Association (APAPA)
Asian/Pacific Islander Domestic Violence Resource Project
Burmese Rohingya Community of Wisconsin Inc.
Chinese American Progressive Action
Empowering Pacific Islander Communities (EPIC)
Japanese American Citizens League
National Asian Pacific American Bar Association (NAPABA)
National Asian Pacific American Women's Forum
National CAPACD - National Coalition for Asian Pacific American Community Development
National Council of Asian Pacific Americans (NCAPA)
New American Leaders

OCA – Asian Pacific American Advocates
OCA-Greater Houston
Ohio Chinese American Association (OCAA)
Sikh American Legal Defense and Education Fund (SALDEF)
South Asian American Policy and Research Institute (SAAPRI)
Virginia Civic Engagement Table

Cc: Members of the U.S. Senate Committee on the Judiciary



April 13, 2021

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Durbin, Ranking Member Grassley, and members of the Committee:

The United States Department of Justice ("DOJ" or "the Department") should be guided by the principle that Thomas Jefferson believed was the "most sacred of the duties of government": "to do equal and impartial justice" to all.[1] The Department plays a critical role in our country's noble pursuit of equal and impartial justice, helping to realize values embedded in the Constitution and codified in a long list of federal statutes that help implement constitutional guarantees.

At the heart of the Department's mission to provide and promote justice lies the Civil Rights Division. Created in 1957, the Civil Rights Division ("Division") "works to uphold the civil and constitutional rights of all Americans, particularly some of the most vulnerable members of our society. The Division enforces federal statutes prohibiting discrimination on the basis of race, color, sex (including pregnancy, sexual orientation, and gender identity), disability, religion, familial status, national origin, and citizenship status;"[2] challenges discriminatory laws and policies in court;[3] and proactively develops policy and legislative proposals.[4] Therefore, to help move DOJ closer to the promise of equal justice under law for all, the Assistant Attorney General who leads the Division must have a certain set of qualifications: a deep commitment to the core constitutional principles of liberty, equality, and fairness; a history of defending and/or advancing substantive fundamental rights; and a demonstrated willingness to respect the whole Constitution and the values therein, whatever their own policy preferences, or those of the President.

Kristen Clarke, President Joe Biden's nominee for Assistant Attorney General of the Civil Rights Division, has had a career that exemplifies the qualities necessary for the job for which she has been nominated. From a young age she committed herself to being "a person who could use the power of the law to stand up for vulnerable communities."[5] And when speaking of the Department of Justice, she noted that it "is to stand above the political fray and ensure that its work is carried out with faithfulness to the rule of law."[6]

Ms. Clarke would bring a breadth of experience and civil rights leadership to the Division. After graduating from Columbia Law School, Ms. Clarke began her career in the prestigious Honors Program at DOJ.[7] She then served for six years as a career attorney in the Civil Rights Division—the same office she has now been nominated to lead. There she worked in the Division's Voting Section and handled voting rights and

Constitutional Accountability Center
1200 18th Street NW, Suite 501, Washington, D.C. 20036
Phone: 202-296-6889 | Twitter: @MyConstitution

theusconstitution.org
Kristine A. Kippins, Director of Policy
kristine@theusconstitution.org

redistricting cases.[8] She also served in the division's Criminal Section, where she prosecuted police misconduct cases, hate crimes, and human trafficking cases.[9] Having been a career attorney in the Division, Ms. Clarke would bring to the post a deep knowledge of the office's mission and the urgency of aggressively enforcing our nation's federal civil rights laws.

Ms. Clarke went on to co-direct the voting rights work of the NAACP Legal Defense and Educational Fund where she litigated voting rights cases under laws including the Voting Rights Act and National Voter Registration Act.[10] She also served as the Co-Director of the NAACP's Political Participation Group between July 2010 and August 2011,[11] and provided testimony to Congress, the U.S. Election Assistance Commission, and state legislatures on redistricting, voting rights, and election reform.[12]

For four years, she led the Civil Rights Bureau in the New York State Attorney General's Office where she was responsible for civil rights enforcement over a broad range of areas, including voting rights, fair housing, equal educational opportunity, disability rights, religious rights, LGBTQ+ rights, and hate crimes—much like she would be if confirmed to lead the Civil Rights Division at DOJ. While in office, she demonstrated effective leadership by establishing the Religious Rights Unit, which helps to combat religious discrimination and promotes tolerance. Notably, she secured major settlements with employers to safeguard the rights of Shabbat-observing employees.

Since January 2016, Ms. Clarke has served as President and Executive Director of the Lawyers' Committee for Civil Rights Under Law, which was founded at the request of President John F. Kennedy in 1963 to mobilize the legal profession to defend civil rights.[13] In this role, Ms. Clarke is responsible for determining the organization's strategy on voting rights, fair housing, criminal justice, educational opportunity, economic justice, hate crimes, and digital justice.[14] Under her leadership, the organization participated in approximately 200 cases representing parties or filing amicus curiae briefs.[15]

Ms. Clarke has an extensive civil rights record rooted in defending the text, history, and values of the whole Constitution. She has been a voting rights champion, a bulwark against hate and violent extremism, and a defender of civil rights for all.

At the root of the text, history, and values of the whole Constitution is the creation of a representative democracy where each person is counted and each adult citizen has the right to participate fully in it by exercising their right to vote, free from discrimination. Ms. Clarke has demonstrated through her career that she is committed not only to preserving our representative democracy but also to making it accessible for all citizens. She has litigated several cases on the Voting Rights Act, including *Northwest Austin Municipal Utility District Number One v. Holder* and *Shelby County v. Holder*, in order to protect the right to vote for all people, focusing on barriers that Black voters in particular face.[16] Her work in those and other cases demonstrated that racial discrimination persists in the communities that had been covered by the preclearance provision of the Voting Rights Act of 1965. Ms. Clarke understands the vital importance of the right to vote, calling it "[a] bedrock principle of our democracy" and saying that our "democracy benefits when government takes action to ensure that all eligible Americans can exercise the sacred right to vote."[17] In the face of new discriminatory state voting laws, it is imperative to have a leader like Ms. Clarke at the helm of the Civil Rights Division who believes in the federal government taking action to protect and enforce this "sacred right."

Our Constitution was amended over time to make our nation more equal and more free, but the promise of our Constitution has failed to be a reality for far too many because of pervasive systemic racism, sexism, and hate. Perhaps the most critical aspect of Ms. Clarke's career is her dedication to racial justice, particularly as her appointment comes at a time when our nation is reckoning with its history of white supremacy and racial oppression. Hate crimes are on the rise,[18] there is a surge of attacks targeting Asian Americans and Pacific Islanders,[19] and transgender women of color continue to have tragically low life expectancy because of hate-fueled violence.[20] We need leadership at DOJ that takes seriously the corrosive and unconstitutional nature of hate crimes, which threaten our national security as well as individual life and liberty, and Ms. Clarke has proven she is the right person for this task. Under her leadership, the Lawyers' Committee launched the James Byrd, Jr. Center to Stop Hate and has worked tirelessly to combat hate crimes, neo-Nazis, and white supremacist groups.[21] And Ms. Clarke has spoken in defense of transgender women of color, stating, "policymakers and the public should treat the recent wave of hate-motivated violence toward trans women of color as the national crisis it is. It is an epidemic that strikes at the heart of the freedoms we share, and it is getting worse."[22]

Through the Equal Protection Clause of the Fourteenth Amendment, "We the People" rewrote the Constitution to provide a universal guarantee of equality to all persons—regardless of factors such as race, sex, sexual orientation, gender identity or expression, ability, age, income, or citizenship status. The text and history of the Equal Protection Clause make clear that *all* persons in the United States are afforded equal protection under law.[23] Ms. Clarke has a track record that demonstrates a respect for the text and history of the Fourteenth Amendment, as she has worked diligently to secure equal justice for all, including the most marginalized among us. As Chief of the Civil Rights Bureau in the New York Office of the Attorney General, Ms. Clarke led the establishment of the Religious Rights Unit, as noted above, to combat religious discrimination and promote tolerance.[24] She also has fought to protect the rights of people with disabilities in areas such as transportation,[25] public accommodations,[26] communications accessibility,[27] and voting.[28] She has worked to stop discrimination in hiring and employment for people with felony[29] and other criminal convictions,[30] victims of domestic violence,[31] and LGBTQ+ people.[32] She has fought for equality in education by addressing the school-to-prison pipeline,[33] speaking to the relationship between public education and democracy,[34] working on cases related to racial discrimination in access to higher education,[35] and advocating for access to education for students who have had contact with the criminal justice system.[36] Ms. Clarke has worked to secure the civil rights of those who have been discriminated against in the housing market, including tenants attempting to organize,[37] victims of redlining,[38] tenants who receive government assistance,[39] tenants facing harassment[40] and racial discrimination,[41] tenants who are the victims of race-motivated violence,[42] and individuals with a criminal history who are applying for housing.[43] She has fought to protect the rights of immigrants on issues including fraud,[44] education,[45] the right to be counted in the decennial Census,[46] and the ability to reside and work in the United States.[47] She has fought to protect individuals from sexual orientation discrimination in professional sports[48] and openly gay leaders from discrimination in community organizations.[49] Clarke has also worked to ensure equal access to medical care for the transgender community[50] and to stop LGBTQ+ discrimination in employment.[51] And Ms. Clarke has worked on cases related to sexual harassment and gender discrimination[52] and has spoken out about the importance of equal access to abortion care.[53]

Finally, she is uniquely qualified to lead the Division, as her lived experiences and deep commitment to civil rights would bring a much-needed new perspective to the position. Ms. Clarke, a daughter of Jamaican immigrants, would be the first woman confirmed by the Senate to lead the Division and the first

Black woman to hold the post in any capacity.[54] As Ms. Clarke said herself, "I know what it's like to struggle, I know what it's like for communities that are suffering, especially in the wake of the pandemic. I think that having that lens is something that has animated my work throughout my career—kind of understanding what it's like to be on the other side."[55]

We at CAC have had the privilege of working closely with Ms. Clarke during her tenure at the Lawyers' Committee, witnessing up close her genuine dedication to honoring and advancing core protections of the Constitution, furthering racial and social justice, and fighting for the most marginalized among us. **CAC enthusiastically supports Kristen Clarke's confirmation to be the next Assistant Attorney General of the Civil Rights Division of the Department of Justice and urges the Senate Judiciary Committee to report out favorably her nomination to the Senate floor for swift confirmation.**

If you have any questions or would like any additional information, please contact Kristine Kippins, CAC's Director of Policy, at kristine@theusconstitution.org or (202) 296-6889 x313.

Sincerely,



Elizabeth B. Wydra
President

ewydra@theusconstitution.org
Phone: 202-296-6889 | Twitter: @ElizabethWydra

Endnotes

[1] *About DOJ,* The United States Department of Justice (last visited Apr. 12, 2021), https://www.justice.gov/about.

[2] *About the Division,* The United States Department of Justice (last updated Apr. 8, 2021), https://www.justice.gov/crt/about-division.

[3] *Appellate Section*, The United States Department of Justice (last visited Apr. 12, 2021), https://www.justice.gov/crt/appellate-section.

[4] *Policy and Strategy Section*, The United States Department of Justice (last visited Apr. 12, 2021), https://www.justice.gov/crt/policy-and-strategy-section.

[5] Kristen Clarke, *A New Vision for the Department of Justice*, Shondaland (Feb. 11, 2021), https://www.shondaland.com/act/news-politics/a35471737/kristen-clarke-department-of-justice/.

[6] Kristen Clarke, *Trump's Labor Secretary Pick Acosta Will Have to Escape His Past Record*, The Hill (Feb. 24, 2017), https://thehill.com/blogs/pundits-blog/the-administration/321008-trumps-labor-secretary-pick-acosta-will-have-to-escape.

[7] United States Senate Committee on the Judiciary: Questionnaire for Non-Judicial Nominee Kristen Clarke 1 [hereinafter "SJQ"]; *Hearing on "The Impact of COVID-19 on Voting Rights and Election*

Administration: Ensuring Safe and Fair Elections" Before the H. Comm. On Administration, 116 Cong. (June 4, 2020), *available at* https://www.congress.gov/116/meeting/house/110770/witnesses/HHRG-116-HA08-Wstate-ClarkeK-20200611.pdf.

[8] SJQ at 39-40.

[9] *Id.* at 39.

[10] *Id*. at 10.

[11] *Id.* at 2.

[12] *Id.* at 39.

[13] *Id.* at 2, 42.

[14] *Id.* at 9.

[15] *Id.*

[16] *Id.* at 17, 19-20.

[17] Kristen Clarke & Rev. Jesse L. Jackson Sr., *President Trump Sends a Chilling Message to Minority Voters*, St. Louis Post-Dispatch (May 23, 2017), https://www.stltoday.com/opinion/columnists/president-trump-sends-a-chilling-message-to-minority-voters/article_bb1808aa-a23c-5a0e-974f-1bf221ae95b6.html.

[18] Hannah Allam, *FBI Report: Bias-Motivated Killings At Record High Amid Nationwide Rise In Hate Crime*, NPR (Nov. 16, 2020), https://www.npr.org/2020/11/16/935439777/fbi-report-bias-motivated-killings-at-record-high-amid-nationwide-rise-in-hate-c.

[19] Suzanne Nuyen, *Anti-Asian Attacks Rise During Pandemic. Read NPR's Stories on the Surge in Violence*, NPR (Mar. 17, 2021), https://www.npr.org/2021/03/17/978055571/anti-asian-attacks-rise-during-pandemic-read-nprs-stories-on-the-surge-in-violen.

[20] Alicia Garza, *Trans Women Don't Want Your Sympathy. They Want to Be Treated as Human Beings*, Marie Claire (Jun. 24, 2019), https://www.marieclaire.com/politics/a28169056/black-trans-women-murdered/.

[21] Don Owens, *Lawyers' Committee for Civil Rights Under Law Remembers James Byrd Jr.*, Lawyers' Committee for Civil Rights Under Law (Jun 7. 2020), https://lawyerscommittee.org/lawyers-committee-for-civil-rights-under-law-remembers-james-byrd-jr/; Press Release, Lawyers' Committee for Civil Rights Under Law, National Civil Rights Organization Wins Lawsuit Against Daily Stormer and White Supremacists Engaging in Online Threats and Harassment (Aug. 9, 2019), https://lawyerscommittee.org/national-civil-rights-organization-wins-lawsuit-against-daily-stormer-and-white-supremacists-engaging-in-online-threats-and-harassment/.

[22] Chad Griffin and Kristen Clarke, *Urgent Action Needed to End Anti-LGBTQ Violence*, The Inquirer (Feb. 23, 2018), https://www.inquirer.com/philly/opinion/commentary/violence-transgender-lgbtq-human-rights-campaign-opinion-20180223.html.

[23] David H. Gans, *Perfecting the Declaration: The Text and History of the Equal Protection Clause of the Fourteenth Amendment*, Constitutional Accountability Center (Nov. 16, 2011), https://www.theusconstitution.org/think_tank/perfecting-the-declaration-the-text-and-history-of-the-equal-protection-clause-of-the-fourteenth-amendment/.

[24] SJQ at 39.

[25] Press Release, New York State Office of the Attorney General, A.G. Schneiderman Secures Agreement With National Bus Company Ensuring Equal Access For People With Disabilities (Oct. 23, 2012), https://ag.ny.gov/press-release/2012/ag-schneiderman-secures-agreement-national-bus-company-ensuring-equal-access.

[26] Press Release, New York State Office of the Attorney General, A.G. Schneiderman Secures Agreements With Century 21, JCPenney, And Petland Discounts To Ensure Equal Access For People With Disabilities (May 22, 2012), https://ag.ny.gov/press-release/2012/ag-schneiderman-secures-agreements-century-21-jcpenney-and-petland-discounts.

[27] Press Release, New York State Office of the Attorney General, A.G. Schneiderman Announces Agreements Requiring Three NYC Theatres To Provide Listening Devices To Individuals With Hearing Loss (May 5, 2014), https://ag.ny.gov/press-release/2014/ag-schneiderman-announces-agreements-requiring-three-nyc-theatres-provide.

[28] Press Release, New York State Office of the Attorney General, A.G. Schneiderman Announces Victories for Disability Rights on 23rd Anniversary of Americans with Disabilities Act (July 26, 2013), https://ag.ny.gov/press-release/2013/ag-schneiderman-announces-victories-disability-rights-23rd-anniversary-americans.

[29] Press Release, New York State Office of the Attorney General, A.G. Schneiderman Announces Agreement With Party City To End Discrimination In Hiring Based On Criminal Records (Oct. 2, 2014), https://ag.ny.gov/press-release/2014/ag-schneiderman-announces-agreement-party-city-end-discrimination-hiring-based.

[30] Press Release, New York State Office of the Attorney General, A.G. Schneiderman Announces Agreements With Background Check Agencies To End Illegal Hiring Practices (Mar. 13, 2014), https://ag.ny.gov/press-release/2014/ag-schneiderman-announces-agreements-background-check-agencies-end-illegal-hiring.

[31] Press Release, New York State Office of the Attorney General, A.G. Schneiderman Agreement With Bon-Ton Stores Resolves Allegation Of Discrimination Against Victim Of Domestic Violence (Nov. 19, 2015), https://ag.ny.gov/press-release/2015/ag-schneiderman-agreement-bon-ton-stores-resolves-allegation-discrimination.

[32] Press Release, Lawyers' Committee for Civil Rights Under Law, Lawyers' Committee for Civil Rights Under Law and the Leadership Conference on Civil and Human Rights File Amicus Brief on Behalf of 57 Organizations In SCOTUS LGBTQ Workplace Discrimination Cases (July 3, 2019), https://lawyerscommittee.org/lawyers-committee-for-civil-rights-under-law-and-the-leadership-conference-on-civil-and-human-rights-file-amicus-brief-on-behalf-of-57-organizations-in-scotus-lgbtq-workplace-discrimination-c/.

[33] Press Release, New York State Office of the Attorney General, A.G. Schneiderman Announces Agreement Addressing School Discipline Issues In Syracuse (July 10, 2014), https://ag.ny.gov/press-release/2014/ag-schneiderman-announces-agreement-addressing-school-discipline-issues-syracuse.

[34] Kristen Clarke, *Yes, They're Kids. Try Listening to Them*, TribTalk (Mar. 1, 2018), https://www.tribtalk.org/2018/03/01/yes-theyre-kids-try-listening-to-them/ ("Our democracy can only survive if citizens are engaged in the process. Our public education system lays that important foundation. Attempts to disregard that solemn responsibility are a threat to our democracy and to the future of today's students who will be tomorrow's leaders.").

[35] SJQ at 24-25.

[36] Press Release, Lawyers' Committee for Civil Rights Under Law, Lawyers' Committee Launches National Initiative to Eliminate Barriers to Educational Opportunity Faced by Students with Criminal Histories (Jan. 28, 2016), https://lawyerscommittee.org/lawyers-committee-launches-national-initiative-eliminate-barriers-educational-opportunity-faced-students-criminal-histories/.

[37] Press Release, New York State Office of the Attorney General, A.G. Schneiderman Secures More Than $1 Million In Relief For Tenants Living In 1,700 NYC Apartments (Apr. 15, 2014), https://ag.ny.gov/press-release/2014/ag-schneiderman-secures-more-1-million-relief-tenants-living-1700-nyc-apartments.

[38] Press Release, New York State Office of the Attorney General, A.G. Schneiderman Secures Agreement With Evans Bank Ending Discriminatory Mortgage Redlining In Buffalo (Sept. 10, 2015), https://ag.ny.gov/press-release/2015/ag-schneiderman-secures-agreement-evans-bank-ending-discriminatory-mortgage.

[39] Press Release, New York State Office of the Attorney General, A.G. Schneiderman Announces Settlements With Three NYC Real Estate Brokers And Two Buffalo Landlords Prohibiting Discrimination Against Tenants Who Receive Government Assistance (Aug. 13, 2014), https://ag.ny.gov/press-release/2014/ag-schneiderman-announces-settlements-three-nyc-real-estate-brokers-and-two.

[40] Press Release, New York State Office of the Attorney General, A.G. Schneiderman Secures Agreement Shuttering Company That Engaged In Unlawful Tenant Harassment (Oct. 27, 2014), https://ag.ny.gov/press-release/2014/ag-schneiderman-secures-agreement-shuttering-company-engaged-unlawful-tenant.

[41] Press Release, New York State Office of the Attorney General, A.G. Schneiderman Secures Agreement With Five Star Bank To End Racially Discriminatory Mortgage Lending Practices In Rochester (Jan. 19, 2015), https://ag.ny.gov/press-release/2015/ag-schneiderman-secures-agreement-five-star-bank-end-racially-discriminatory.

[42] SJQ at 16-17.

[43] Press Release, Lawyers' Committee for Civil Rights Under Law, Lawyers' Committee Opens Nationwide Inquiry Into Housing Providers That Impose "Blanket Bans" Upon Applicants Who Have Had Contact with the Criminal Justice System (Apr. 4, 2016), https://lawyerscommittee.org/lawyers-committee-opens-nationwide-inquiry-housing-providers-impose-blanket-bans-upon-applicants-contact-criminal-justice-system/.

[44] Press Release, New York State Office of the Attorney General, A.G. Schneiderman Secures Landmark Agreement That Permanently Shuts Down Two Of The Nation's Largest Immigration Services Organizations For Defrauding Immigrants (May 31, 2013), https://ag.ny.gov/press-release/2013/ag-schneiderman-secures-landmark-agreement-permanently-shuts-down-two-nations; Press Release, New York State Office of the Attorney General, A.G. Schneiderman Announces $2.2 Million Restitution Fund For Victims Of Immigration Scam (July 21, 2014), https://ag.ny.gov/press-release/2014/ag-schneiderman-announces-22-million-restitution-fund-victims-immigration-scam; Press Release, New York State Office of the Attorney General, A.G. Schneiderman Announces Conviction And Sentencing Of Serial Fraudster Who Preyed On Immigrants (Feb. 5, 2015), https://ag.ny.gov/press-release/2015/ag-schneiderman-announces-conviction-and-sentencing-serial-fraudster-who-preyed.

[45] Press Release, New York State Office of the Attorney General, A.G. Schneiderman Files Civil Rights Lawsuit Against Utica City School District Regarding Enrollment Barriers Faced by Immigrant and Refugee Students (Nov. 18, 2015), https://ag.ny.gov/press-release/2015/ag-schneiderman-files-civil-rights-lawsuit-against-utica-city-school-district.

[46] *2020 Census Citizenship Question*, Lawyers' Committee for Civil Rights Under Law (last visited Apr. 12, 2021), https://lawyerscommittee.org/2020-census-citizenship-question/.

[47] Press Release, African Communities Together, Liberian Immigrants Sue President Trump (Mar. 8, 2019), https://africans.us/liberianssuetrump.

[48] Press Release, New York State Office of the Attorney General, AG Schneiderman & Major League Soccer Announce Strengthened Policies Against Discrimination Based On Sexual Orientation (Mar. 13, 2014), https://ag.ny.gov/press-release/2014/ag-schneiderman-major-league-soccer-announce-strengthened-policies-against; Press Release, MLB, A.G. Schneiderman, MLB Commissioner Selig & MLBPA Executive Director Michael Weiner Announce New Code of Conduct Strengthening Protections Against Discrimination Based on Sexual Orientation (July 16, 2013), https://www.mlb.com/news/ag-schneiderman-mlb--mlbpa-announce-new-anti-discrimination-code-of-conduct/c-53917834.

[49] Michael Virtanen, *NY Attorney General Warns Boy Scouts on LGBT Hiring Discrimination*, NBC New York (Apr. 21, 2015), https://www.nbcnewyork.com/news/local/boy-scouts-discrimination-lgbt-hiring-gay-lesbian-new-york-attorney-general-letter/821654/; Press Release, New York State Office of the Attorney General, A.G. Schneiderman Announces Agreement with the Boy Scouts Of America to Allow Openly Gay Leaders (July 27, 2015), https://ag.ny.gov/press-release/2015/ag-schneiderman-announces-agreement-boy-scouts-america-allow-openly-gay-leaders.

[50] Press Release, New York State Office of the Attorney General, A.G. Schneiderman Launches Initiative To Ensure Equal Access To Medical Care For Transgender Individuals (May 15, 2015), https://ag.ny.gov/press-release/2015/ag-schneiderman-launches-initiative-ensure-equal-access-medical-care-transgender.

[51] Press Release, *supra* note 32.

[52] SJQ at 23.

[53] Kristen Clarke, *Louisiana's Act 620 Will Restrict Abortion Access For Black Women*, Essence (Mar. 3, 2020), https://www.essence.com/op-ed/louisiana-abortion-restrictions-act-620/.

[54] Averi Harper, *DOJ Nominee Kristen Clarke Wants to Make The Promise of 'Justice for All' a Reality*, ABC News (Jan. 26, 2021), https://abcnews.go.com/Politics/doj-nominee-kristen-clarke-make-promise-justice-reality/story?id=75476613; Press Release, The Leadership Conference for Civil and Human Rights, Civil Rights Organizations Urge Senate to Confirm Vanita Gupta and Kristen Clarke for Historic Nominations to Justice Department (Feb. 25, 2021), https://civilrights.org/2021/02/25/civil-rights-organizations-urge-senate-to-confirm-vanita-gupta-and-kristen-clarke-for-historic-nominations-to-justice-department/.

[55] Harper, *supra* note 54.

BIPARTISAN LETTER OF SUPPORT FROM FORMER SENIOR JUSTICE DEPARTMENT OFFICIALS AND U.S. ATTORNEYS ON BEHALF OF KRISTEN CLARKE

April 12, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Letter in Support of Kristen Clarke, nominee for the United States Assistant Attorney General for the Civil Rights Division

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin, and Ranking Member Grassley:

We write in enthusiastic support of Kristen Clarke, the President's nominee to serve as the Assistant Attorney General for the Civil Rights Division of the U.S. Department of Justice.

We served as Senior Officials in the U.S. Department of Justice and as United States Attorneys in federal districts across the country in multiple Republican and Democratic Administrations. We understand the importance of being able to work closely with Justice Department leadership, and especially with the Civil Rights Division, in order to protect some of the most important rights of the people in both civil and criminal cases. This includes the enforcement of federal civil rights laws, including disability rights, education rights, employment rights, housing rights, and voting rights.

In our roles, we saw firsthand the importance of building broad coalitions across state and local law enforcement, as we worked together to bring down human trafficking rings and apprehend fugitives. The Justice Department and U.S. Attorney community need an effective leader at the helm of the Civil Rights Division, someone with immense credibility, who is capable of building partnerships and trust with state and local law enforcement, with community organizations and leaders, and with our offices.

Ms. Clarke is one of the leading civil rights lawyers in America, and she is uniquely suited to carry on this work of coalition-building as the head of the Civil Rights Division. She has not only vigorously fought against discrimination in all forms, including housing discrimination and

religious discrimination, but she has also developed a national reputation as someone who is principled, dedicated, and faithful to the rule of law.

Ms. Clarke began her career in the U.S. Department of Justice's Civil Rights Division where she first served as a trial attorney in the Voting Section and then moved on to become a federal prosecutor handling law enforcement misconduct cases, hate crimes, human trafficking, and other criminal violations. Much of this work involved partnership and collaboration with U.S. Attorney's Offices. She then became the Co-Director of the Political Participation Group at the storied NAACP Legal Defense Fund in 2006. This was followed by her groundbreaking work at the New York State Attorney General's Office where she served as the Chief of the Civil Rights Bureau. While leading that venerable office, Ms. Clarke achieved long-lasting results, tackling issues such as tenant harassment, registration barriers faced by students who had limited English proficiency, disability access, religious discrimination, sexual harassment in blue-collar industries and more. She further led, and skillfully handled, a variety of cases dealing with voting rights, fair housing, and education equity.

Ms. Clarke was then tapped to become the President and Executive Director of the Lawyers' Committee for Civil Rights Under Law, which was founded in 1963 following a call from President John F. Kennedy for lawyers to mobilize to combat discrimination in the deep south. That call from President Kennedy followed a summer in 1963 when protests over illegal discriminatory practices and segregation in education, employment, voting participation, and public accommodations were occurring in Alabama, but then-Governor George Wallace vowed to disobey court-ordered desegregation at its state university, leading attorneys to call for the Governor and elected officials to adhere to the rule of law.

Ms. Clarke has skillfully led the Lawyers' Committee since 2016. This national, non-partisan organization has championed a wide range of civil rights litigation, such as on voting rights, hate crimes, fair housing, and educational opportunities. Ms. Clarke has led a Board composed of over 200 of the nation's most preeminent lawyers, brought together thousands of legal volunteers, and partnered with hundreds of private law firms to commence (and defend against) legal proceedings to promote the rule of law and civil rights, just as President John F. Kennedy envisioned over 57 years ago. Ms. Clarke has pioneered this nationwide effort as its leader, and she has been at the forefront of harnessing the legal community to uphold the rule of law on behalf of vulnerable populations. This enterprising work, in addition to the depth and breadth of Ms. Clarke's legal experience, make her supremely qualified to lead the dedicated professionals of the Civil Rights Division of the U.S. Department of Justice.

BIPARTISAN LETTER OF SUPPORT FROM FORMER SENIOR JUSTICE DEPARTMENT OFFICIALS AND U.S. ATTORNEYS ON BEHALF OF KRISTEN CLARKE

Since the Justice Department's Civil Rights Division was created in 1957, it has dramatically grown in both size and scope, and its work is now carried out by eleven different sections, including its criminal section, employment litigation section, housing and civil enforcement section, and its voting section. This is a critical time in our nation's history, when violent extremism is on the rise, hate crimes against vulnerable communities are more commonplace, and our institutions have been undermined by disinformation and chaos. The Civil Rights Division will play a key role in addressing these pressing issues and protecting the rights of vulnerable populations. Ms. Clarke's experience, in addition to her high character, make her a superior choice to lead that important Division.

We urge the Committee to quickly process Ms. Clarke's nomination and the Senate to expeditiously vote to confirm her.

Thank you for your consideration.

Very Truly Yours,

Eric Holder
Attorney General of the United States, 2009 – 2015; Deputy Attorney General, 1997 – 2001; U.S. Attorney, District of Columbia, 1993 – 1997

Stuart M. Gerson
Acting Attorney General of the United States, 1993; Assistant Attorney General, 1989 – 1993, U.S. Attorney, District of Columbia, 1972 – 1975

Sally Q. Yates
Acting Attorney General of the United States, 2017; Deputy Attorney General, 2015 – 2017; U.S. Attorney, N. District of Georgia, 2004, 2010 – 2015

Donald Ayer
Deputy Attorney General, 1989 – 1990; Principal Deputy Solicitor General, 1986 – 1988; U.S. Attorney, E. District of California, 1982 – 1986

Jamie S. Gorelick
Deputy Attorney General, 1994 – 1997

David W. Ogden
Deputy Attorney General, 2009 – 2010; Assistant Attorney General for the Civil Division, 1999 – 2001

Gary G. Grindler
Acting Deputy Attorney General, 2010; Chief of Staff to the Attorney General, 2011 – 2012; Principal Associate Deputy Attorney General, 1999

Donald B. Verrilli, Jr.
Solicitor General, 2011 – 2016

BIPARTISAN LETTER OF SUPPORT FROM FORMER SENIOR JUSTICE DEPARTMENT OFFICIALS AND U.S. ATTORNEYS ON BEHALF OF KRISTEN CLARKE

Seth Waxman
Solicitor General, 1997 – 2001

Walter E. Dellinger III
Acting Solicitor General, 1996 – 1997; Assistant Attorney General for the Office of Legal Counsel, 1993 – 1996

Daniel Marcus
Associate Attorney General, 2000 – 2001

John Schmidt
Associate Attorney General, 1993 – 1997

Tony West
Associate Attorney General, 2012 – 2014; Assistant Attorney General for the Civil Division, 2009 – 2012

Bill Baer
Acting Associate Attorney General, 2016 – 2017; Assistant Attorney General for the Antitrust Division, 2013 – 2016

Kenneth Wainstein
Assistant Attorney General for National Security, 2006 – 2008; U.S. Attorney, District of Columbia, 2004 – 2006

A. Brian Albritton
U.S. Attorney, Middle District of Florida, 2008 – 2010

Gregory A. Brower
U.S. Attorney, District of Nevada, 2008 – 2009

Richard G. Callahan
U.S. Attorney, E. District of Missouri, 2010 – 2017

Paul K. Charlton
U.S. Attorney, District of Arizona, 2001 – 2007

Tristram Coffin
U.S. Attorney, District of Vermont, 2009 – 2015

Michael W. Cotter
U.S. Attorney, District of Montana, 2009 – 2017

Gregory Davis
U.S. Attorney, S. District of Mississippi, 2012 – 2017

Steven Dettelbach
U.S. Attorney, N. District of Ohio, 2009 – 2016

Conner Eldridge
U.S. Attorney, W. District of Arkansas, 2010 – 2015

David Fein
U.S. Attorney, District of Connecticut, 2010 – 2013

Wifredo Ferrer
U.S. Attorney, S. District of Florida, 2010 – 2017

Deborah R. Gilg
U.S. Attorney, District of Nebraska, 2009 – 2017

Jonathan L. Goldstein
U.S. Attorney, District of New Jersey, 1974 – 1977

BIPARTISAN LETTER OF SUPPORT FROM FORMER SENIOR JUSTICE DEPARTMENT OFFICIALS AND U.S. ATTORNEYS ON BEHALF OF KRISTEN CLARKE

Booth Goodwin
U.S. Attorney, S. District of West Virginia, 2010 – 2015

Barry R. Grissom
U.S. Attorney, District of Kansas, 2010 – 2016

Timothy J. Heaphy
U.S. Attorney, W. District of Virginia, 2009 – 2014

John Horn
U.S. Attorney, N. District of Georgia, 2015 – 2017

Marcos Daniel Jiménez
U.S. Attorney, S. District of Florida, 2002 – 2005

Brendan V. Johnson
U.S. Attorney, District of South Dakota, 2009 – 2015

B. Todd Jones
U.S. Attorney, District of Minnesota, 1998 – 2001, 2009 – 2013

David N. Kelley
U.S. Attorney, S. District of New York, 2003 – 2005

William C. Killian
U.S. Attorney, E. District of Tennessee, 2010 – 2015

James A. Lewis
U.S. Attorney, Central District of Illinois, 2010 – 2016

Neil MacBride
U.S. Attorney, E. District of Virginia, 2009 – 2013

Ronald C. Machen, Jr.
U.S. Attorney, District of Columbia, 2010 – 2015

Damon P. Martinez
U.S. Attorney, District of New Mexico, 2014 – 2017

Barbara L. McQuade
U.S. Attorney, E. District of Michigan, 2010 – 2017

Jan Paul Miller
U.S. Attorney, Central District of Illinois, 2002 – 2005

Peter F. Neronha
U.S. Attorney, District of Rhode Island, 2009 – 2017

Bill Nettles
U.S. Attorney, District of South Carolina, 2010 – 2016

Wendy Olson
U.S. Attorney, District of Idaho, 2010 – 2017

Carmen M. Ortiz
U.S. Attorney, District of Massachusetts, 2009 – 2017

Matt Orwig
U.S. Attorney, E. District of Texas, 2001 – 2007

BIPARTISAN LETTER OF SUPPORT FROM FORMER SENIOR JUSTICE DEPARTMENT OFFICIALS AND U.S. ATTORNEYS ON BEHALF OF KRISTEN CLARKE

Kenneth Polite
U.S. Attorney, E. District of Louisiana,
2013 – 2017

Carole S. Rendon
U.S. Attorney, N. District of Ohio,
2016 – 2017

Edward J. Tarver
U.S. Attorney, S. District of Georgia,
2009 – 2017

Anne M. Tompkins
U.S. Attorney, W. District of North Carolina,
2010 – 2015

John W. Vaudreuil
U.S. Attorney, W. District of Wisconsin,
2010 – 2017

Debra Wong Yang
U.S. Attorney, Central District of California,
2002 – 2006

Tim Purdon
U.S. Attorney, District of North Dakota,
2010 – 2015

Carter Stewart
U.S. Attorney, S. District of Ohio, 2009 – 2016

Kevin W. Techau
U.S. Attorney, N. District of Iowa,
2014 – 2017

Joyce White Vance
U.S. Attorney, N. District of Alabama,
2009 – 2017

John Walsh
U.S. Attorney, District of Colorado,
2010 – 2016

NATIONAL EDUCATION ASSOCIATION
nea.org
Great Public Schools for Every Student

1201 16th Street, NW | Washington, DC 20036 | Phone: (202) 833-4000

Rebecca S. Pringle
President

Princess R. Moss
Vice President

Noel Candelaria
Secretary-Treasurer

Kim A. Anderson
Executive Director

April 12, 2021

Committee on the Judiciary
U.S. Senate
Washington, DC 20510

Dear Senator:

On behalf of our 3 million members and the 50 million students they serve, we urge you to VOTE YES on Kristen Clarke's nomination as Associate Attorney General for Civil Rights in the U.S. Department of Justice. Votes on this issue may be included in NEA's Report Card for the 117th Congress.

The daughter of Jamaican immigrants, Ms. Clarke began her career in the Civil Rights Division at the U.S. Department of Justice—the same office she has been nominated to lead. She also served as chief of the Civil Rights Bureau in the New York State Attorney General's office and in leadership roles at the NAACP Legal Defense Fund. Most recently, she has been president and executive director of the Lawyers' Committee for Civil Rights Under Law.

Through this experience, Ms. Clarke has gained expertise in key civil rights issues, including voting rights, hate crimes, human trafficking, disability rights, fair housing, education, employment, and police-community relations. She has demonstrated respect for all communities, appreciation for the diversity that makes our nation strong, and worked tirelessly to fulfill the promise engraved above the entrance to the U.S. Supreme Court: equal justice under law.

We urge you to VOTE YES on Kristen Clarke's nomination as Asssociate Attorney General for Civil Rights.

Sincerely,

Marc Egan
Director of Government Relations
National Education Association

The Leadership Conference
on Civil and Human Rights

1620 L Street, NW
Suite 1100
Washington, DC
20036

202.466.3311 voice
202.466.3435 fax
www.civilrights.org



February 25, 2021

SUPPORT THE CONFIRMATION OF KRISTEN CLARKE
TO BE ASSISTANT ATTORNEY GENERAL FOR CIVIL RIGHTS

Dear Senator:

On behalf of The Leadership Conference on Civil and Human Rights – a coalition of more than 220 national organizations committed to promoting and protecting the civil and human rights of all persons in the United States – and the 117 undersigned organizations, we write to express our strong support for the confirmation of Kristen Clarke to serve as Assistant Attorney General for Civil Rights at the U.S. Department of Justice (DOJ).

Ms. Clarke leads one of our nation's premier civil rights organizations – the Lawyers' Committee for Civil Rights Under Law – and she has been a strong champion of civil rights throughout her distinguished career. The Lawyers' Committee is a member of The Leadership Conference on Civil and Human Rights, and we have worked closely with Ms. Clarke during her tenure as the Lawyers' Committee's president and executive director. In that capacity, Ms. Clarke also served on the Board of Directors for The Leadership Conference on Civil and Human Rights. It is because of her extensive civil rights record and our close work with Ms. Clarke that we are confident that the Justice Department and the nation would benefit tremendously from her leadership, knowledge, and experience. Ms. Clarke would be the first woman in history to be confirmed by the Senate as Assistant Attorney General for Civil Rights at the Justice Department.

Ms. Clarke has spent her entire 20-year career fighting for civil rights and racial justice. After graduating from Harvard University and Columbia Law School, she was selected for the Attorney General's Honors Program and spent her first six years as a career attorney in the Civil Rights Division – the same office she has now been nominated to lead. She worked in the Division's Voting Section and handled voting rights and redistricting cases, and she also worked in the Division's Criminal Section, where she prosecuted police misconduct and brutality cases, hate crimes, and human trafficking cases. Having served as a career attorney in the Division, Ms. Clarke will bring a deep knowledge of the office's mission and the urgency of aggressively enforcing our nation's federal civil rights laws.

In 2006, Ms. Clarke went to work for the NAACP Legal Defense and Educational Fund, Inc. (LDF), a litigating organization that has helped lead the fight for racial justice in America for the past 80 years. Ms. Clarke helped lead LDF's litigation on voting rights and election law, and she helped defend the constitutionality of the Voting Rights Act in federal court. In 2011, Ms. Clarke was appointed to head the Civil Rights Bureau of the New York State Attorney General's Office, where she led broad civil rights enforcement on matters including criminal justice issues, police reform, education and housing

discrimination, fair lending, barriers to reentry, voting rights, immigrants' rights, gender equality, disability rights, reproductive rights, and LGBTQ equality.

In 2016, Ms. Clarke began her tenure as president and executive director of the Lawyers' Committee for Civil Rights Under Law, one of the country's largest and most important national civil rights organizations dedicated to the pursuit of equal justice for all. The work of the Lawyers' Committee has always been critical, but never more so than over the past four years, when civil rights organizations have had to take up the mantle of enforcing our federal civil rights laws in the absence of enforcement by the Justice Department under the previous administration. Under Ms. Clarke's leadership, the Lawyers' Committee has served as an essential bulwark in defending civil rights when the Justice Department refused to do so, working through litigation and legislative advocacy to fight hate and bias and to protect and promote voting rights and elections, racial justice, economic justice, educational opportunities, fair housing, criminal justice, digital justice, gender justice, and a fair and accurate census. During her tenure, the organization filed more than 250 cases to safeguard civil rights nationwide.

The breadth and scope of Ms. Clarke's civil rights record is without parallel. Her substantial professional accomplishments span from our nation's leading civil rights organizations to federal and state government service. Her extensive litigation experience and strong leadership skills are necessary to effectively lead the Civil Rights Division today. Her experience defending access to the ballot is especially notable. She has been involved in virtually all of the Voting Rights Act cases that have been brought in the modern era, including *Shelby County v. Holder*.

Ms. Clarke is universally respected. In announcing his intent to nominate Ms. Clarke, President Biden rightfully described her as "one of the most distinguished civil rights attorneys in America."[1] Former U.S. District Judge Shira Scheindlin observed: "Kristen Clarke is a force of nature. She has been working tirelessly, around the clock, morning, noon and night to ensure that all Americans share the same rights and privileges as equal members of our society. Without her commitment, past, present and future we would not be confident that this promise would be fulfilled. But with her leadership at the Department of Justice, we can again believe in a just future."[2] Sherrilyn Ifill, the president and director-counsel of LDF, noted: "Ms. Clarke has led one of the country's most important civil rights organizations, including its national Election Protection voter protection coalition, which has helped to protect the vote and ensure access to the ballot box for millions of voters. Ms. Clarke will undoubtedly understand the priorities needed for the division at this critical moment."[3] And Sheila Katz, CEO of the National Council of Jewish Women, said: "as the leader of one of this country's most important civil rights organizations, Kristen Clarke has devoted her life to the pursuit of equal justice for all. Her efforts to combat discrimination throughout her career have helped to strengthen our democracy."[4]

President Biden made an outstanding choice in nominating Kristen Clarke to be the Assistant Attorney General for Civil Rights, and we urge the Senate to confirm Ms. Clarke as quickly as possible. The Civil Rights Division is in desperate need of a course correction, and Ms. Clarke is an ideal person to right the ship.

The Leadership Conference

Sincerely,

The Leadership Conference on Civil and Human Rights
A. Philip Randolph Institute
ACCESS (Arab Community Center for Economic and Social Services)
Advancement Project National Office
AFL-CIO
Alliance for Justice
Alliance For Youth Action
American Association for Justice
American Association of People with Disabilities
American Federation of Teachers
American Humanist Association
American-Arab Anti-Discrimination Committee (ADC)
Americans for Financial Reform
Americans United for Separation of Church & State
America's Voice
Anti-Defamation League
Arab American Institute
Asian American Legal Defense and Education Fund (AALDEF)
Asian Americans Advancing Justice – AAJC
Asian and Pacific Islander American Vote
Augustus F. Hawkins Foundation
Autistic Self Advocacy Network
Bazelon Center for Mental Health Law
Bend the Arc Jewish Action
Brady
Center for American Progress
Center for Constitutional Rights
Center for Disability Rights
Center for Law and Social Policy (CLASP)
Center for Responsible Lending
Center for Public Representation
Center for the Study of Hate & Extremism, California State University, San Bernardino
Clearinghouse On Women's Issues
Coalition on Human Needs
Constitutional Accountability Center
Council on American-Islamic Relations (CAIR)
Daily Kos
Demand Justice
Demos
Drug Policy Alliance
Earthjustice

The Leadership Conference

End Citizens United//Let America Vote Action Fund
Equal Justice Society
Fair Elections Center
Family Equality
Feminist Majority Foundation
Free Speech For People
Freedom From Religion Foundation
Futures Without Violence
Generation Progress
Girls for Gender Equity
Hispanic Federation
Human Rights Campaign
Indivisible
Japanese American Citizens League
Joint Center for Political and Economic Studies
Justice for Migrant Women
Labor Council for Latin American Advancement
Lambda Legal
LatinoJustice PRLDEF
Lawyers' Committee for Civil Rights Under Law
Lawyers for Good Government (L4GG)
League of Conservation Voters
League of United Latin American Citizens (LULAC)
MALDEF
March For Our Lives
Matthew Shepard Foundation
Muslim Advocates
Muslim Public Affairs Council
NAACP
NAACP Legal Defense and Educational Fund, Inc. (LDF)
NARAL Pro-Choice America
National Action Network
National Alliance for Partnerships in Equity (NAPE)
National Asian Pacific American Women's Forum (NAPAWF)
National Association of Human Rights Workers
National Association of Social Workers
National Black Justice Coalition
National Center for Lesbian Rights
National Community Reinvestment Coalition (NCRC)
National Council of Jewish Women
National Council on Independent Living
National Education Association
National Employment Law Project

The Leadership Conference

National Employment Lawyers Association
National Fair Housing Alliance
National Health Law Program
National Hispanic Media Coalition
National Immigration Law Center
National Legal Aid & Defender Association
National Organization for Women
National Partnership for Women & Families
National Redistricting Foundation
National Urban League
National Women's Law Center
Not In Our Town
OCA - Asian Pacific American Advocates
People For the American Way
PFLAG National
Planned Parenthood Federation of America
POWER Interfaith
Protect Our Care
Public Advocacy for Kids
Public Citizen
Public Justice
Service Employees International Union (SEIU)
Sierra Club
Sikh Coalition
Southeast Asia Resource Action Center (SEARAC)
SPLC Action Fund
Supermajority
The National Council of Asian Pacific Americans (NCAPA)
UnidosUS
United State of Women
URGE: Unite for Reproductive & Gender Equity
Voices for Progress
Voto Latino
YWCA USA

** Signers updated as of April 9, 2021

April 12, 2021

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510
Attn: Phillip Brest, Chief Nominations Counsel

Dear Senator Durbin:

WIFLE Foundation, Inc. also known as Women in Federal Law Enforcement would like to join our fellow law enforcement organizations in supporting Ms. Kristen Clarke to lead the Civil Rights Division of the United States Department of Justice. As you know the percentage of women in Law Enforcement is at 12% and those figures have not changed since 2007. In the Federal sector the percentage of women have actually decreased from 16% to 13.8%. Research has demonstrated the importance women bring to creating better relationships between law enforcement and the communities they serve.

- She began her career as a federal prosecutor enforcing civil rights laws and spent years serving in the Civil Rights Division during the President George W. Bush Administration
- Served as a Special Assistant Attorney General in the U.S. Attorney's Office in the District of Columbia
  Chief of the Civil Rights Bureau in the New York State Attorney General's Office
- Partnered with the International Association of Chiefs of Police on Hate Crimes
- Works with law enforcement organizations to increase public safety and public trust
- Works with crime victims and the rights of survivors
- Works to reduce the impacts of systemic barrier to justice

I believe Ms. Clarke possesses the credibility among the law enforcement and community leaders as well as the skills necessary to lead the Department of Justice Civil Rights Division. Should you have any questions please feel free to contact me at wifle@comcast.net or via our telephone number 301-805-2180.

Sincerely

Catherine W. Sanz
President
WIFLE Foundation, Inc.

WIFLE FOUNDATION, INC.
Suite 102, PMB-204 2200 Wilson Blvd. Arlington, VA 22201
Phone: (301) 805-2180 | Web: www.WIFLE.org | Email: WIFLE@comcast.net

ALLIANCE FOR JUSTICE

PRESIDENT
NAN ARON

CHAIR
PAULETTE MEYER

April 13, 2021

The Honorable Richard Durbin
Chairman
Senate Judiciary Committee

Dear Chairman Durbin:

On behalf of the Alliance for Justice (AFJ), a national association representing over 120 public interest and civil rights organizations, I write to strongly support the confirmation of Kristen Clarke to serve as Assistant Attorney General for Civil Rights at the U.S. Department of Justice (DOJ).

Our nation today is faced with some of the most virulent attacks on our fundamental civil rights in generations. Over the past four years, we have seen a rise in violence and hate crimes motivated by racial and religious intolerance; egregious state-led attacks on voting rights; and a seemingly unceasing wave of police misconduct resulting in countless deaths. In this moment, the DOJ and the nation need a leader with a strong and demonstrated commitment to equal justice for all at the helm of the Civil Rights Division. In nominating Kristen Clarke, President Biden has found that leader.

Ms. Clarke has dedicated her entire career to safeguarding the civil rights of the most vulnerable members of our society. As the head of the Civil Rights Bureau for the New York State Attorney General's Office, she established the Religious Rights Unit to fight religious intolerance and enforced civil rights laws prohibiting discrimination based on race, sex, disability, and other protected traits. Additionally, under her guidance as President and Executive Director, the Lawyers' Committee for Civil Rights Under Law established the James Byrd, Jr. Center to Stop Hate and which has led efforts opposing neo-Nazis, the Proud Boys, and other white supremacist groups responsible for rising racially motivated violence. And during her earlier service at the DOJ Civil Rights Division, Ms. Clarke worked in the Criminal Section, where she not only prosecuted cases of police misconduct and brutality, but also human trafficking and hate crimes.

Ms. Clarke has also worked for years to guarantee the right to vote in the face of partisan suppression

and redistricting efforts, currently through the Lawyers' Committee's Election Protection coalition, and previously in the Civil Rights Division's Voting Section and at the Voting Rights Project at the NAACP Legal Defense and Educational Fund. Notably, while later overturned by the Supreme Court, at LDF Ms. Clarke won an early victory in *Shelby County v. Holder*, presciently arguing that without the guardrails created by the Voting Rights Act of 1965, many states would revert to discriminating against voters on the basis of race.

Kristen Clarke's hands-on experience advocating for our most vulnerable and protecting this wide range of civil rights makes her uniquely qualified to serve as Assistant Attorney General for Civil Rights. And her life experience as the first-generation daughter of Jamaican immigrants who came to America seeking better opportunities for their children gives her an invaluable insight into the promise of the American Dream and its reliance on DOJ leadership dedicated to equal justice for all. Her commitment to the fight for fair courts and judges with a demonstrated commitment to equal justice and the proper application of constitutional rights and legal protections is made more apparent by her leadership at the Lawyers' Committee where the Judicial Diversity Initiative fights to increase representation of jurists from diverse backgrounds on the federal bench.

AFJ is confident that Kristen Clarke has not only the breadth of professional experience required of the Assistant Attorney General for Civil Rights, but also a deep passion for justice and equity that will drive the Division to meet the challenges our nation faces in this moment.

The Senate should expeditiously confirm Ms. Clarke as assistant attorney general.

Sincerely,

Nan Aron
President

AFSCME
We Make America Happen

Lee Saunders
President
Elissa McBride
Secretary-Treasurer
Vice Presidents
Jody Barr
New Britain, CT
Denise Berkley
Albany, NY
Mark Bernard
Boston, MA
Ron Briggs
Latham, NY
Stacy Chamberlain
Portland, OR
Connie Derr
Albuquerque, NM
Daniel DiClemente
North Chili, NY
Shannon S. Douvier
St. Cloud, MN
Denise Duncan
San Dimas, CA
David R. Fillman
Harrisburg, PA
Craig A. Ford
Newark, NJ
Henry A. Garrido
New York, NY
R. Sean Grayson
Worthington, OH
Vicki Hall
Tallahassee, FL
J. David Henderson
Franklin, PA
Johanna Puno Hester
San Diego, CA
Danny J. Homan
Des Moines, IA
Kathryn Lybarger
Oakland, CA
Roberta Lynch
Chicago, IL
Christopher Mabe
Westerville, OH
Glenard S. Middleton Sr.
Baltimore, MD
Douglas Moore Jr.
San Diego, CA
Michael Newman
Chicago, IL
Debbie Parks
Hamilton, NJ
Randy Perreira
Honolulu, HI
Steven Quick Sr.
Indianapolis, IN
Jose Ramirez
San Juan, PR
Lawrence A. Roehrig
Lansing, MI
Joseph P. Rugola
Columbus, OH
Alan F. Shanahan
Los Angeles, CA
Paul Spink
Milwaukee, WI
Mary E. Sullivan
Albany, NY
Anthony Wells
New York, NY
Mike Yestramski
Olympia, WA

April 12, 2021

United States Senate
Washington, D.C. 20510

Dear Senator:

On behalf of the 1.4 million members of the American Federation of State, County and Municipal Employees (AFSCME), I urge you to support the nomination of Kristen Clarke to be Associate Attorney General for the Civil Rights Division at the United States Department of Justice (DOJ). The Civil Rights Division of the DOJ is charged with upholding the civil and constitutional rights of all Americans. This involves enforcing federal laws prohibiting discrimination on the basis of race, color, sex (including pregnancy, sexual orientation, and gender identity), disability, religion, familial status, national origin, and citizenship status. Kristen Clarke not only has the career experience that is needed for this mission, but also the wisdom, skills and ability needed to further implement and enforce these critical measures.

As the current President and Executive Director of the National Lawyers' Committee for Civil Rights Under Law (Lawyers' Committee), Clarke has been a leader in promoting fairness in housing, reproductive access, immigrants' rights, economic justice, voting rights, disability rights, education, LBGTQIA+ issues and criminal justice. She has made an impressive career of doing just these things, including serving at the NAACP Legal Defense and Education Fund (LDF), and as head of the Civil Rights Bureau for the New York Attorney General's Office. Wherever she has been she has worked to expand meaningful civil rights measures for all.

The nation is confronting some very serious challenges at this time. We know it is more important than ever that an individual with solid leadership, integrity and commitment serve the nation at DOJ in this important position. Kristen Clarke is just such a person. Too many Americans continue to face racism and discrimination that result in disparities across a wide range of issues such as in community development, fair lending, public accommodations, educational opportunity, judicial diversity and with the administration of justice in the courts. Clarke will no doubt help to improve the condition that many working families face and prepare our nation for the challenges of the future, particularly for some of the most vulnerable members of our society.

We urge members of the U.S. Senate to vote yes on the nomination of Kristen Clarke to be Associate Attorney General for the Civil Rights Division.

Sincerely,

Bailey K. Childers

Bailey K. Childers
Director of Federal Government Affairs

BKC:cg

American Federation of State, County and Municipal Employees, AFL-CIO
TEL (202) 429-1000 FAX (202) 429-1293 TDD (202) 659-0446 WEB www.afscme.org 1625 L Street, NW, Washington, DC 20036-5687

#201-20

Congress of the United States
Washington, DC 20515

April 12, 2021

Hon. Richard J. Durbin, Chairman
Committee on the Judiciary
224 Dirksen Senate Office Building
U.S. Senate
Washington, DC 20510

Dear Chairman Durbin:

I am writing on behalf of the Congressional Black Caucus to offer our very strong, unqualified, and enthusiastic support of the nomination for Assistant Attorney General for Civil Rights of Kristen Clarke, the President and Executive Director of the National Lawyers' Committee for Civil Rights Under Law (Lawyers' Committee) and whose confirmation hearing, we understand, is scheduled for Wednesday, April 14, 2021. Ms. Clarke is uniquely qualified to lead this important division of the Department of Justice at this critical time in our nation's history, and when confirmed will become the first woman to lead the Civil Rights Division, which has played a life-changing role in securing the constitutionally guaranteed rights of all Americans, especially the marginalized and powerless, since it was created by the Civil Rights Act of 1957, which at the time was the first federal civil rights statute enacted by Congress in nearly a century.

Kristen Clarke is a career civil rights lawyer who has spent her entire professional life in public service building bridges and working to make equal justice under law a reality for all. Serving as Assistant Attorney General for Civil Rights will be a return to service for her since her distinguished legal career began as a trial attorney in the Civil Rights Division when she joined the Department of Justice Honors Law Program after graduating from Columbia Law School. She has personally prosecuted crimes based on hatred and bigotry, human trafficking, domestic violence, and sexual assault, and her work has touched virtually every area of civil rights, including voting rights, equal educational opportunity, fair housing and lending, equal employment, environmental justice, disability rights, LGBTQ rights, hate crimes and criminal justice.

Kristen Clarke continued her work advancing the cause of civil rights at the Legal Defense Fund, eventually becoming Co-Director of the Political Participation Group where she oversaw and coordinated the legal program in the areas of voting rights and election law. In 2009, as part of the LDF legal team, Kristen Clarke assisted in successfully defending the Voting Rights Act against a constitutional challenge in one of the most important civil rights cases to come before the U.S. Supreme Court up until

that time, *Northwest Austin Municipal Utility District No. One v. Holder, 557 U.S. 193 (2009),* which upheld the constitutionality of Section 5 of the Voting Rights Act and involved collaboration among a number of local and national organizations.

What is truly impressive about Kristen Clarke is the wide-spread and universal support she has garnered from the law enforcement community as she worked with these organizations to build trust between them and the communities they serve. She understands that the bedrock of democracy and of law and order is the diffuse support these communities have for the political system, regime, and authorities. That is why in 2019 she worked with the International Association of Chiefs of Police to develop strategies to enhance officers' response to hate crimes and hate incidents. These model policies have since been adopted by police forces across the globe. Paul Cell, the President of IACP said of their joint project: "I believe the IACP and Lawyers' Committee have provided unique expertise to establish an achievable action agenda that will help stakeholders respond effectively to these crimes, improve the well-being of targeted communities, and enhance the quality of overall community-police relations." In today's climate this experience is particularly relevant in fighting the rise in hate incidents targeted against the Asian American Pacific Islander and other communities.

Kristen Clarke's nomination is also strongly supported by the Major Cities Chiefs Association, the National Organization of Black Law Enforcement (NOBLE), the National Association of Women Law Enforcement Executives (NAWLEE), the Hispanic American Police Command Officers Association (HAPCOA), and Vincent Talucci, Executive Director of the International Association of Chiefs of Police.

The breadth and depth of Kristen Clark's experience can be seen in her accomplishments and achievements during other periods of her remarkable legal career. While serving as a federal prosecutor at the U.S. Department of Justice in the Criminal Section of the Civil Rights Division, she worked closely with federal, state, and local law enforcement officials to conduct investigations into issues such as human trafficking, hate crimes and official misconduct and she worked with law enforcement to investigate and prosecute domestic violence cases, including intimate partner violence, family violence, assaults, and stalking. As Chief of the Civil Rights Bureau in the New York State Attorney General's Office, Clarke worked with sheriffs' offices to institute best practices on language access to build trust and improve policing of communities with limited English proficiency. This collaborative work led to comprehensive language policies for forces across the state. And as the head of the Lawyers' Committee for Civil Rights Under Law, she conducted training for the National Sheriffs' Association on 21st Century Community Policing.

As President and CEO of the Lawyers' Committee, Ms. Clarke has led its efforts to protect and expand voting rights, promote fair housing and community development, fight for economic justice, promote equal educational opportunity, reform the criminal justice system, diversify the federal judiciary, and advocate for policies and programs to secure equal justice for all.

As has already been noted, Ms. Clarke served as Chief of the Civil Rights Bureau in the New York State Attorney General's Office, where she additionally led broad civil rights enforcement on matters including criminal justice issues, education and housing discrimination, fair lending, barriers to reentry, voting rights, immigrants' rights, gender inequality, disability rights, reproductive access and LGBT issues.

Ms. Clarke has a long and exceptional record of working well with Members of Congress from both political parties on issues relating to women's rights and empowerment, voting rights, and combating all forms of discrimination, including religious bigotry. She has testified before congressional committees frequently, offered constructive advice and thoughtful assistance on many of the major challenges facing the nation.

After the turbulence of the past four years at the Department of Justice, it is more important than ever that stability, responsibility, and above all, the commitment to equal justice for all be restored to the department and its reputation reestablished as the defender of the rule of law and of discrete and insular minorities vulnerable to unfair and unequal treatment. As Assistant Attorney General for Civil Rights, Ms. Clarke will bring the same passion for justice that is the hallmark of her remarkable legal career to ensuring that all persons are treated equal under law and to combating discrimination, whether it be on the grounds of race, sex, religion, national origin, or sexual orientation. We are confident that Ms. Clarke is the ideal person at this time to lead the Civil Rights Division and we strongly support her nomination. We therefore urge the Judiciary Committee to report her nomination favorably and urge the full U.S. Senate to confirm her as Assistant Attorney General for Civil Rights.

Thank you for your consideration.

Very Truly Yours,



Congresswoman Joyce Beatty (OH-03), Chairwoman
Congressional Black Caucus

cc: U.S. Senator Charles Grassley
Ranking Member
Committee on the Judiciary

Members of U.S. Senate Committee on the Judiciary

LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW

1500 K Street, NW
Suite 900
Washington, DC 20005

Tel: 202.662.8600
Fax: 202.783.0857
www.lawyerscommittee.org

April 13, 2021

United States Senate
Washington, DC 20510

Re: Support of Nomination of Kristen Clarke for Assistant Attorney General for the Civil Rights Division at the United States Department of Justice

Dear Senator:

On behalf of the Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee"), we urge you to support the nomination of Kristen Clarke to the position of Assistant Attorney General for the Civil Rights Division at the United States Department of Justice ("DOJ"). The Lawyers' Committee is one of the nation's leading nonprofit civil rights legal organizations, founded in 1963 at the request of President John F. Kennedy to enlist the private bar's leadership and resources in combating racial discrimination and securing equal justice under law. For over fifty years, the Lawyers' Committee has been at the forefront of many of the most significant cases to advance racial equality and secure equal justice.

While our mission makes us particularly qualified to comment on this nomination, our history makes us uniquely well positioned to do so. Ms. Clarke has been the well-respected and beloved leader of our organization since 2016. She has devoted herself entirely to the creation of a more equitable nation, and has masterfully stewarded the organization toward increased growth and impact. Ms. Clarke has spent her career exemplifying our passion for social and racial justice, as well as championing civil rights and equality for all. NAACP Legal Defense and Educational Fund's president and director-counsel, Sherrilyn Ifill, noted that "Ms. Clarke has led one of the country's most important civil rights organizations…Ms. Clarke will undoubtedly understand the priorities needed for the division at this critical moment."[1] Sheila Katz, CEO of the National Council of Jewish Women, said that "as the leader of one of this country's most important civil rights organizations, Kristen Clarke has devoted her life to the pursuit of equal justice for all. Her efforts to combat discrimination throughout her career have helped to strengthen our democracy."[2]

[1] "LDF Issues Statement on President-Elect Biden's Nominees for Attorney General and Key Department of Justice Leadership Position", LDF, Jan. 7, 2021, https://naacpldf.org/wp-content/uploads/AG-Statement-01.07.21-FINAL-1.pdf?_ga=2.94284701.1000485116.1617191962-274206298.1617191962.
[2] Shana Sisk, "National Council of Jewish Women Applauds Department of Justice Nominees", NCJW, Jan. 7, 2021, https://www.ncjw.org/news/national-council-of-jewish-women-applauds-department-of-justice-nominees/.

Ms. Clarke will bring an unprecedented breadth of experience and civil rights leadership to the Civil Rights Division of the DOJ. As such, we wholeheartedly support her nomination and urge her prompt confirmation by the United States Senate.

The Civil Rights Division of the Department of Justice was created by the Civil Rights Act of 1957, and has since worked to uphold the civil and constitutional rights of all Americans. The Division protects society's most vulnerable groups, enforcing federal statutes barring discrimination on the basis of race, color, sex, disability, familial status, citizenship status, and national origin. This work is of the utmost importance. In President Joe Biden's announcement of his DOJ nominees, he stated that the Civil Rights Division "represents the moral center of the Department of Justice. And the heart of that fundamental American ideal that we're all created equal and all deserve to be treated equally."[3] We are currently facing a pivotal moment in our nation's history and understanding of racial justice. From the police killings of unarmed Black Americans, including Elijah McClain, George Floyd and Breonna Taylor, whose deaths sparked nationwide outrage last summer, to the white supremacist violence at the Capitol on January 6th, America is in need of a Civil Rights Division that protects the rights of all people. There is no one better prepared to lead the Division in this mission than Ms. Clarke, who President Biden called "one of the most distinguished civil rights attorneys in America."[4]

Ms. Clarke has spent two decades devoting herself to the enforcement of civil rights and advocating for equality for all in America. After graduating from Harvard University and Columbia Law School, she began her career in the DOJ's prestigious honors program. There, she spent six years working as a career attorney for the Civil Rights Division, affording her invaluable experience within the office she has now been nominated to lead. Ms. Clarke worked in the Division's Voting Section, where she handled voting rights and redistricting cases. She also served as a federal prosecutor in the Criminal Section, handling cases of police brutality, police misconduct, hate crimes, and human trafficking. Both roles have afforded Ms. Clarke a deep knowledge of the Division's mission and the necessity of aggressively enforcing America's federal civil rights laws.

Following her time at the DOJ, Ms. Clarke continued her commitment to voting rights in her role as Co-Director of the Political Participation Group at the NAACP Legal Defense and Educational Fund ("LDF"). It was at LDF, a racial justice legal organization founded by Thurgood Marshall, that she litigated important voting rights cases such as *Northwest Austin Municipal Utility District Number One v. Holder* and *Shelby County v.*

---

[3] "Joe Biden Introduces DOJ Nominees, Merrick Garland Transcript", Rev, Jan. 7, 2021, https://www.rev.com/blog/transcripts/joe-biden-introduces-doj-nominees-merrick-garland-transcript.
[4] *Id.*

Holder. In her work on these cases, Ms. Clarke fought to defend the constitutionality of the Voting Rights Act of 1965 and demonstrated the persistence of racial discrimination in the communities that were covered by the Act's preclearance provision.

In 2011, Ms. Clarke continued to advocate for social and racial justice in her role as head of the Civil Rights Bureau for the New York State Attorney General's Office. In this position, she led civil rights enforcement over a broad range of issues, including employment discrimination, criminal justice reform, education, housing discrimination, fair lending, barriers to reentry, voting rights, immigrants' rights, gender inequality, disability rights, reproductive access, LGBTQ+ rights, and hate crimes. She also led the establishment of the Religious Rights Unit, which helped to combat religious discrimination and promote tolerance. Specifically, she secured major settlements with employers to protect the rights of Shabbat-observing employees.

We, of course, are most familiar with Ms. Clarke's unparalleled work at the helm of the Lawyers' Committee for the last five years. As one of the nation's leading civil rights organizations, the Lawyers' Committee has always done critical work on behalf of people of color and low-income people. Under Ms. Clarke's leadership, the Lawyers' Committee has not only continued this tireless fight, but has expanded our litigation and legislative advocacy to protect and advance voting rights, equitable educational opportunities, economic justice, fair housing, immigrant rights, judicial integrity, and to combat hate crimes. As our President and Executive Director, Ms. Clarke led our Election Protection Coalition, the nation's largest and longest-running nonpartisan voter protection program. She also spearheaded the launch of our James Byrd, Jr. Center to Stop Hate, and has worked continuously to combat hate crimes, neo-Nazis, and white supremacist groups. Under her leadership, we partnered with the International Association of Chiefs of Police to strengthen law enforcement response to hate crimes and ensure the safety of all threatened by hate. Regarding Ms. Clarke and her impressive role in the civil rights community, former U.S. District Court Judge and National Lawyers' Committee Board Co-Chair Shira Scheindlin stated, "Kristen Clarke is a force of nature. She has been working tirelessly, around the clock, morning, noon and night to ensure that all Americans share the same rights and privileges as equal members of our society."[5] If confirmed as the leader of the Civil Rights Division, Ms. Clarke would be unwilling to do anything less.

The American public expects and relies upon the Senate to take its constitutionally mandated duty to vet executive appointees seriously to ensure they fulfill their duties to our country. Kristen Clarke's track record demonstrates a respect for all communities, appreciation for the diversity that makes our nation strong, and determination to enforce civil rights protections for all, indicating that she is the right

---

[5] Don Owens, "National Lawyers' Committee Board Co-Chairs Scheindlin, Sager and West on Kristen Clarke's Nomination as Assistant Attorney General for Civil Rights", The Lawyers' Committee for Civil Rights Under Law, Jan. 7, 2021, https://lawyerscommittee.org/national-lawyers-committee-board-co-chairs-scheindlin-sager-and-west-on-kristen-clarkes-nomination-as-assistant-attorney-general-for-civil-rights/.

choice to lead the Civil Rights Division during these times. For twenty years, she has worked tirelessly to secure equal justice for all, including for communities of color facing racial and sex discrimination, the LGBTQ+ community, and religious minorities targeted because of their beliefs. Furthermore, if confirmed, Ms. Clarke will set historic precedent as the first woman confirmed to lead the Civil Rights Division since it was founded in 1957.

Thank you for your consideration of our support of the nomination of Ms. Kristen Clarke to the position of Assistant Attorney General for Civil Rights at the United States Department of Justice. We welcome the opportunity to discuss her nomination with your office further; if you have any questions or concerns, please contact Demelza Baer, Director of Public Policy, at dbaer@lawyerscommittee.org or Erinn D. Martin, Policy Counsel, at emartin@lawyerscommittee.org.

Sincerely,



Damon T. Hewitt
Acting President & Executive Director/
Executive Vice President
Lawyers' Committee for Civil Rights Under Law
Washington, D.C.

April 13, 2021

The Honorable Dick Durbin
Chair
Committee on the Judiciary
United States Senate
Washington, DC 20515

The Honorable Chuck Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20515

Re: Over 1800 Americans—Including Over 1400 Lawyers—Support the Nominations of Kristen Clarke and Vanita Gupta

Dear Senators Durbin and Grassley:

On behalf of Lawyers for Good Government, 1404 lawyers, and 456 non-lawyers in all 50 states, the District of Columbia, and Puerto Rico we write to strongly urge you to support the nominations of Vanita Gupta for the position of Associate Attorney General and Kristen Clarke for the position of Assistant Attorney General for Civil Rights. We also encourage you to support the nomination of other experienced civil rights attorneys like Vanita Gupta and Kristen Clarke for future political and judicial nominations.

Over the past four years, Donald Trump and his administration worked to undermine civil and human rights, defended voting laws that restrict access to the vote for people of color, challenged affirmative action policies, attempted to undermine the census, scapegoated immigrants and Black Lives Matter protestors, encouraged a white supremacist insurrection on the nation's seat of power, and gave people who support many of these efforts lifetime appointments to be judges.

Trump did profound damage to our institutions, and to repair that damage, we need people who have devoted their lives to fighting against injustice—we need Vanita Gupta, Kristen Clarke, and others like them. After years of leading the fight for civil rights at two of the nation's premier civil rights organizations, Vanita Gupta and Kristen Clarke represent the future of our country and the legal community's finest advocates. They represent who America needs leading the Department of Justice, other executive agencies, and on our courts.

Again, we encourage you to support the nominations of Vanita Gupta, Kristen Clarke, and other experienced civil rights attorneys. If you have any questions about this letter, please contact Adam Fernandez, Vice President of Policy and Strategic Engagement at Nominations@L4GG.org.

Thank you,



Traci Feit Love
President and Executive Director
Lawyers for Good Government

CC: Members of the Senate Judiciary Committee

An additional 1860 signers—including 1404 lawyers and 456 non-lawyers—are listed below. They include:

Alabama — 2 lawyers.

Alaska — 4 lawyers.

Arizona — 17 lawyers and 7 non-lawyers.

Arkansas — 2 lawyers and 1 non-lawyer.

California — 316 lawyers and 88 non-lawyers.

Colorado — 46 lawyers and 19 non-lawyers.

Connecticut — 23 lawyers and 7 non-lawyers.

Delaware — 5 lawyers and 4 non-lawyers.

District of Columbia — 59 lawyers and 6 non-lawyers.

Florida — 42 lawyers and 15 non-lawyers.

Georgia — 19 lawyers and 3 non-lawyers.

Hawaii — 4 lawyers and 3 non-lawyers.

Idaho — 5 lawyers.

Illinois — 61 lawyers and 14 non-lawyers.

Indiana — 7 lawyers and 5 non-lawyers.

Iowa — 5 lawyers.

Kansas — 2 lawyers and 1 non-lawyer.

Kentucky — 3 lawyers and 3 non-lawyers.

Louisiana — 9 lawyers.

Maine — 6 lawyers and 2 non-lawyers.

Maryland — 60 lawyers and 20 non-lawyers.

Massachusetts — 66 lawyers and 28 non-lawyers.

Michigan — 12 lawyers and 3 non-lawyers.

Minnesota — 18 lawyers and 8 non-lawyers.

Mississippi — 1 lawyer and 2 non-lawyers.

Missouri — 19 lawyers and 6 non-lawyers.

Montana — 3 lawyers and 1 non-lawyer.

Nebraska — 2 lawyers and 1 non-lawyer.

Nevada — 6 lawyers and 2 non-lawyers.

New Hampshire — 4 lawyers and 3 non-lawyers.

New Jersey — 44 lawyers and 16 non-lawyers.

New Mexico — 7 lawyers and 1 non-lawyer.

New York — 164 lawyers and 41 non-lawyers.

North Carolina — 31 lawyers and 13 non-lawyers.

North Dakota — 1 lawyer.

Ohio — 15 lawyers and 5 non-lawyers.

Oklahoma — 3 lawyers.

Oregon — 28 lawyers and 16 non-lawyers.

Pennsylvania — 61 lawyers and 17 non-lawyers.

Puerto Rico — 1 lawyer.

Rhode Island — 1 lawyer and 1 non-lawyer.

South Carolina — 6 lawyers and 4 non-lawyers.

South Dakota — 4 lawyers and 2 non-lawyers.

Tennessee — 10 lawyers and 8 non-lawyers.

Texas — 60 lawyers and 22 non-lawyers.

Utah — 6 lawyers and 1 non-lawyer.

Vermont — 5 lawyers and 6 non-lawyers.

Virginia — 40 lawyers and 18 non-lawyers.

Washington — 65 lawyers and 24 non-lawyers.

West Virginia — 5 lawyers and 4 non-lawyers.

Wisconsin — 17 lawyers and 4 non-lawyers.

Wyoming — 2 lawyers and 1 non-lawyer.

# # #

Valerie Mitchell, Lawyer (Alabama)

Lisa Singer, Lawyer (Alabama)

Marianna Carpeneti, Lawyer (Alaska)

Nicole Lynch, Lawyer (Alaska)

Ruth Ptak, Lawyer (Alaska)

Lauren Sommer, Lawyer (Alaska)

Ivan Aguirre, Non-Lawyer (Arizona)

Don Bayles, Lawyer (Arizona)

Sharon Briggs, Lawyer (Arizona)

Patty Chan, Lawyer (Arizona)

Pamela Donison, Lawyer (Arizona)

Alona Gottfried, Lawyer (Arizona)

Anastacia Gutierrez, Non-Lawyer (Arizona)

Diana Hamlet-Cox, Lawyer (Arizona)

Rebecca Haynes, Non-Lawyer (Arizona)

Jessica Kitterman, Non-Lawyer (Arizona)

Cynthia Lemons, Non-Lawyer (Arizona)

Kathryn Martin, Lawyer (Arizona)

Eleanor Miller, Lawyer (Arizona)

Karen Nally, Lawyer (Arizona)

Maria Nicholson, Lawyer (Arizona)

Faryl Palles, Non-Lawyer (Arizona)

Daniel Pochod, Lawyer (Arizona)

Ann Richards, Non-Lawyer (Arizona)

Eadie Rudder, Lawyer (Arizona)

Lisa Streu, Lawyer (Arizona)

Priyanka Sundareshan, Lawyer (Arizona)

Dawn Valdivia, Lawyer (Arizona)

Mary-Carol Wagner, Lawyer (Arizona)

Daniel Wallin, Lawyer (Arizona)

Gretchen Bellamy, Lawyer (Arkansas)

Linda Meola, Non-Lawyer (Arkansas)

Ellen Weintraut, Lawyer (Arkansas)

Lauren Abrams, Lawyer (California)

Ray Acosta, Lawyer (California)

Lesly Adams, Lawyer (California)

Romina Aghai, Lawyer (California)

Raquel Aldana, Lawyer (California)

Mahlon Aldridge, Non-Lawyer (California)

Judy Alter, Non-Lawyer (California)

Laura Altieri, Lawyer (California)

Kathleen Antonia, Lawyer (California)

Mary Appel, Lawyer (California)

Ruthe Ashley, Lawyer (California)

Ellie Austin, Lawyer (California)

Suzanne Badenhoop, Lawyer (California)

Melissa Badgett, Lawyer (California)

Natasha Baker, Lawyer (California)

Brooke Barnum-Roberts, Lawyer (California)

Ellen Barry, Lawyer (California)

Katherine Basile, Lawyer (California)

Caryn Becker, Lawyer (California)

Kathleen Becket, Lawyer (California)

Daniel Bednarski, Lawyer (California)

Catherine Bennett, Lawyer (California)

Meredith Bergman, Lawyer (California)

Janet Bettencourt, Non-Lawyer (California)

Catherine Bidart, Lawyer (California)

Robert Binion, Lawyer (California)

Toni Bixby, Lawyer (California)

Charles Bleiler, Lawyer (California)

Elizabeth Bluestein, Lawyer (California)

Diane Bond, Lawyer (California)

Vanessa Bonifacio Redula, Lawyer (California)

Richard Bowers, Lawyer (California)

Angel Braach, Lawyer (California)

Betsy Brazy, Lawyer (California)

Moira Brennan, Lawyer (California)

Ellen Bridle, Non-Lawyer (California)

Cindy Bromberg, Non-Lawyer (California)

Mary Ray Brophy, Lawyer (California)

Meredith Brown, Lawyer (California)

Benjamin Bycel, Lawyer (California)

Morgan Callahan, Lawyer (California)

Roxana Cardenas, Lawyer (California)

Lindsay Carlson, Lawyer (California)

Daniel Carpio, Lawyer (California)

M. Carrillo, Lawyer (California)

M.R. Carrillo, Lawyer (California)

Lisa Cassandra, Non-Lawyer (California)

Sean Cassis, Lawyer (California)

Andrea Caster, Lawyer (California)

Madelyn Chaber, Lawyer (California)

Judy Chang, Non-Lawyer (California)

Yair Chaver, Lawyer (California)

Christina Checel, Lawyer (California)

Sylvia Chi, Lawyer (California)

Kelly Ching, Lawyer (California)

Douglas Chinn, Non-Lawyer (California)

Sarah Chon, Lawyer (California)

Luci-Ellen Chun, Lawyer (California)

Kristen Clark, Lawyer (California)

Flynn Coleman, Lawyer (California)

Joe Colton, Lawyer (California)

Joseph Colton, Lawyer (California)

Miranda Condra, Lawyer (California)

Heather Cooper, Lawyer (California)

Tracy Corral, Non-Lawyer (California)

Michelle Corsilles, Lawyer (California)

Abigail Coursolle, Lawyer (California)

Katherine Covert, Lawyer (California)

Carmen-Nicole Cox, Lawyer (California)

Anne Coyle, Lawyer (California)

Nora Coyle, Non-Lawyer (California)

Jessica Cozzetto-Duong, Non-Lawyer (California)

Dina Crawford, Lawyer (California)

Jane Crist, Lawyer (California)

Karen Croley, Non-Lawyer (California)

Erin Crum, Lawyer (California)

Marian Cruz, Lawyer (California)

Stefanie Cutler, Lawyer (California)

Maryam Dadar, Lawyer (California)

Melissa Dagodag, Lawyer (California)

Vandana Date, Lawyer (California)

Ruth Dawson, Lawyer (California)

Vicki DeBear, Non-Lawyer (California)

Susan DeSanti, Lawyer (California)

Meredith Desautels Taft, Lawyer (California)

Michele Desoer, Lawyer (California)

Hagar Dickman, Lawyer (California)

Rami Djemal, Lawyer (California)

Baby Djojonegoro, Non-Lawyer (California)

Emily Doskow, Lawyer (California)

Patrick Dunlevy, Lawyer (California)

Linda Durston, Lawyer (California)

Barbara Duvan-Clarke, Lawyer (California)

Antoinette Edwards, Lawyer (California)

Catherine Egelhoff, Non-Lawyer (California)

Daley Elene, Lawyer (California)

Shelby Emerald, Lawyer (California)

Chelsea Epps, Lawyer (California)

Kimberly Epstein, Lawyer (California)

Yvonne Estime, Lawyer (California)

Linda Eun, Lawyer (California)

Alysia Evans, Lawyer (California)

Rachel Ewing, Lawyer (California)

Laura Faer, Lawyer (California)

Lynn Faris, Lawyer (California)

Frieda Ferrick, Non-Lawyer (California)

Sara Fields, Non-Lawyer (California)

Cheryl Fischer, Non-Lawyer (California)

Michael Fischer, Lawyer (California)

Darlene Flanders, Lawyer (California)

Susan Flieder, Lawyer (California)

R. Michael Flynn, Lawyer (California)

Shannon Foley, Lawyer (California)

Tammara Fort, Lawyer (California)

Melissa Fox, Lawyer (California)

Lloyd Freeberg, Lawyer (California)

Jenn French, Lawyer (California)

Hope Frye, Lawyer (California)

Barbara Galvin, Non-Lawyer (California)

Lana Gartin, Non-Lawyer (California)

Lennie Gee, Lawyer (California)

Felicia Germany, Lawyer (California)

Marcia Gerston, Lawyer (California)

Pouneh Ghaffarian, Lawyer (California)

Talene Ghazarian, Lawyer (California)

Gai Gibson, Lawyer (California)

Rita Giles, Lawyer (California)

Jessica Giordano, Non-Lawyer (California)

Mark Glasser, Lawyer (California)

Prisca Gloor, Non-Lawyer (California)

Jana Gold, Lawyer (California)

Deirdre Goldfarb, Lawyer (California)

Karen Goldman, Lawyer (California)

Dana Gomez-Gayne, Lawyer (California)

Laura Gordon, Lawyer (California)

Rosie Gozali, Lawyer (California)

Lena Graber, Lawyer (California)

Melodie Grace, Lawyer (California)

Alice Graham, Lawyer (California)

Misasha Graham, Lawyer (California)

Nell Green Nylen, Lawyer (California)

Marcy Gribin-Sanchez, Lawyer (California)

Darleen Guien, Non-Lawyer (California)

Kathleen Guinses, Non-Lawyer (California)

Kathleen Guiy, Non-Lawyer (California)

Emi Gusukuma, Lawyer (California)

Carol Guthrie, Non-Lawyer (California)

Sara Hayes, Non-Lawyer (California)

Joanne Held, Non-Lawyer (California)

Carol Herrera, Non-Lawyer (California)

Dorothy Herrera Settlage, Lawyer (California)

Kathleen Hill, Non-Lawyer (California)

Tanya Hill, Non-Lawyer (California)

Brian Hilmers, Non-Lawyer (California)

Miriam Hiser, Lawyer (California)

Elizabeth Hisserich, Lawyer (California)

Lani Ho, Lawyer (California)

Diana Hoag, Non-Lawyer (California)

Beth Hodess, Lawyer (California)

Judith Hollifield, Non-Lawyer (California)

Ayanna Holmes, Lawyer (California)

Diana Honig, Lawyer (California)

Pam Hooley, Lawyer (California)

Elizabeth Hopkins, Lawyer (California)

Ji-In Houck, Lawyer (California)

Leslie-Anne Huff, Non-Lawyer (California)

D'lorah Hughes, Lawyer (California)

Alva Huguenin, Lawyer (California)

Francisco Hulse, Non-Lawyer (California)

Kendra Humphreys, Lawyer (California)

Beth Hurley, Lawyer (California)

Julie Isen, Lawyer (California)

Atossa Jackson, Lawyer (California)

Cecily Jackson-Zapata, Lawyer (California)

Bruce Joffe, Non-Lawyer (California)

Celeste Johansson, Lawyer (California)

Rebecca Johnson, Non-Lawyer (California)

Gail Jonas, Lawyer (California)

Janet Jonte, Non-Lawyer (California)

Kenneth Kann, Lawyer (California)

Edward Kansa, Lawyer (California)

Kathleen Kauffmann, Lawyer (California)

Richard Keenan, Lawyer (California)

Ballinger Kemp, Lawyer (California)

Jennifer Kern, Non-Lawyer (California)

Paul Kimelman, Non-Lawyer (California)

Maria Klopf, Non-Lawyer (California)

Angela Knight, Non-Lawyer (California)

Paria Kooklan, Lawyer (California)

Langley Kreuze, Lawyer (California)

Gregory Kromhout, Non-Lawyer (California)

Nicole Kuklok-Waldaman, Lawyer (California)

Shari Kulanu, Lawyer (California)

Leemore Kushner, Lawyer (California)

Maya Kuttan, Lawyer (California)

Linda Kwak, Lawyer (California)

Judy Lam, Lawyer (California)

Patricia Lamborn, Non-Lawyer (California)

Christopher Lapinig, Lawyer (California)

Michele Lau, Lawyer (California)

Mary Lawler, Lawyer (California)

Barbara Lawless, Lawyer (California)

Ronald Lebow, Lawyer (California)

Audrey Ledesma, Non-Lawyer (California)

Mary Lehman, Lawyer (California)

Christine Lemieux, Non-Lawyer (California)

Polly Levin, Lawyer (California)

Derek Lipkin, Lawyer (California)

Ryan Lippert, Non-Lawyer (California)

Danielle K. Little, Lawyer (California)

Elizabeth Lorenz, Lawyer (California)

Jennifer Low, Lawyer (California)

Brandon Lowentrout, Non-Lawyer (California)

Monika Loya, Lawyer (California)

Quan Luc, Lawyer (California)

Abby Lucha, Lawyer (California)

Deborah Ludewig, Lawyer (California)

Sue Lunbeck, Lawyer (California)

Belinda Macauley, Lawyer (California)

Susana Magana-Williams, Non-Lawyer (California)

Rita Mah, Lawyer (California)

Donna Malamud, Non-Lawyer (California)

Laily Maleki, Lawyer (California)

Fabio Marino, Lawyer (California)

Suzanne Martindale, Lawyer (California)

Sara Matlin, Lawyer (California)

Chris Ann Maxwell, Lawyer (California)

Robin Maybury, Non-Lawyer (California)

Lillian Mayers, Lawyer (California)

Charlene McAulay, Non-Lawyer (California)

Eve McCabe, Lawyer (California)

Phyra McCandless, Lawyer (California)

Lynn McCrea, Lawyer (California)

Erin McCusker, Lawyer (California)

Marilyn McMahon, Lawyer (California)

Monika Mehta, Lawyer (California)

Joe Mellis, Lawyer (California)

Jennifer Messersmith, Lawyer (California)

Alyssa Milano, Non-Lawyer (California)

Kyndra Miller, Lawyer (California)

Robin Miller, Lawyer (California)

Robert Mills, Lawyer (California)

Marjorie Minnetian, Lawyer (California)

Kristy Montee, Lawyer (California)

Margaret Mooney, Lawyer (California)

Sara Mooney, Lawyer (California)

Theresa Moran, Lawyer (California)

Andrea Morgan, Lawyer (California)

Brian Moskal, Lawyer (California)

Megan Mostyn-Brown, Non-Lawyer (California)

Ellen Moy, Lawyer (California)

Janet Mueller, Lawyer (California)

Michelle Murphy, Lawyer (California)

Kathleen Murray, Lawyer (California)

Gayathri Murthy, Lawyer (California)

Michelle Myers, Lawyer (California)

H. S. Nadler, Lawyer (California)

Beverly Narayan, Lawyer (California)

Nicole Neubert, Lawyer (California)

Suzanne Nicholson, Lawyer (California)

Michelle Noble McCain, Lawyer (California)

Neelam Noorni, Lawyer (California)

Jody Nunez, Lawyer (California)

Ellen Obstler, Lawyer (California)

Trinidad Ocampo, Lawyer (California)

Barbara Olinger, Non-Lawyer (California)

Jamie Ormond, Lawyer (California)

Jennifer Orthwein, Lawyer (California)

Heather Owens, Non-Lawyer (California)

Judith Pacht, Non-Lawyer (California)

Michael Painter, Lawyer (California)

Aeryn Palmer, Lawyer (California)

Nancy Parker, Lawyer (California)

Kathy Paspalis, Lawyer (California)

Saswati Paul, Lawyer (California)

Karen Paull, Lawyer (California)

Chantal Payton, Lawyer (California)

Susan Peregoy, Non-Lawyer (California)

Dhonnizella Perfetti, Non-Lawyer (California)

Roberta Perkins, Lawyer (California)

Terasa Perkins, Lawyer (California)

Mary Kelly Persyn, Lawyer (California)

James Pettis, Lawyer (California)

Jesse Philips, Non-Lawyer (California)

Nancy Pollock, Non-Lawyer (California)

Susan Price, Non-Lawyer (California)

Ora Prochovnick, Lawyer (California)

Mary Puthoff, Lawyer (California)

Jesus Quinonez, Lawyer (California)

Anthony Rabinowitz, Non-Lawyer (California)

Heidi Rand, Lawyer (California)

Renate Rand, Non-Lawyer (California)

Nona Randois, Lawyer (California)

Joanne Ratinoff, Lawyer (California)

Barbara Reardon, Lawyer (California)

Jennifer Reitman, Non-Lawyer (California)

Abigail Rezneck, Lawyer (California)

Kristen Rinaker, Lawyer (California)

Rafael Rios, Lawyer (California)

Victoria Rivapalacio, Lawyer (California)

Diana Rivero, Lawyer (California)

Clara Roberts, Lawyer (California)

Renay Grace Rodriguez, Lawyer (California)

Jorge RodriguezChoi, Lawyer (California)

Meredith Rohr, Lawyer (California)

Irene Rokaw, Non-Lawyer (California)

Deirdre Roney, Lawyer (California)

Deborah Rothman, Lawyer (California)

Jill Rowland, Lawyer (California)

Amanda Roze, Lawyer (California)

Fernande RV Duffly, Non-Lawyer (California)

Lee Ryan, Lawyer (California)

Carolina Saavedra, Lawyer (California)

Jahan Sagafi, Lawyer (California)

Patricia Sandberg, Lawyer (California)

Shelley Sandusky, Lawyer (California)

Elena Saxonhouse, Lawyer (California)

Lisel Scannell, Lawyer (California)

Karen Scarr, Lawyer (California)

Hope Schmeltzer, Lawyer (California)

Alexandrea Schmidt, Non-Lawyer (California)

David Schwartz, Non-Lawyer (California)

Lisa Sciandra, Lawyer (California)

Elizabeth Senhen, Non-Lawyer (California)

Puja Shah, Lawyer (California)

haleh Shahmohammadi, Lawyer (California)

Marsha Shanle, Lawyer (California)

Sanjesh Sharma, Lawyer (California)

Elizabeth Sheldon, Lawyer (California)

Samantha Sheppard, Non-Lawyer (California)

Susan Sheu, Non-Lawyer (California)

Adam Shoor, Lawyer (California)

Alisa Shorago, Lawyer (California)

Ann Shores, Lawyer (California)

Ed Siebel, Lawyer (California)

Erica Silverman, Lawyer (California)

Woon-Wah Siu, Lawyer (California)

Cheryl Smith, Lawyer (California)

Mary-Lee Smith, Lawyer (California)

Robert Smith, Lawyer (California)

Beverly Smrha, Non-Lawyer (California)

Robert Solomon, Lawyer (California)

Roxana Soltani, Lawyer (California)

Nancy Spero, Lawyer (California)

Artemis Spyridonidis, Lawyer (California)

Michele Stafford, Lawyer (California)

Armilla Staley-Ngomo, Lawyer (California)

Jerilyn Stapleton, Non-Lawyer (California)

Christine Start, Lawyer (California)

Andrew Steiker, Lawyer (California)

Barbara Steinhardt-Carter, Lawyer (California)

Jessica Stender, Lawyer (California)

Michael Stern, Lawyer (California)

Miriam Stombler, Lawyer (California)

Anastasia Surch, Non-Lawyer (California)

Katy Suttorp, Lawyer (California)

Analisa Swan, Lawyer (California)

Eric Swanson, Lawyer (California)

Ghazal Tajmiri, Lawyer (California)

Gregory Tanner, Lawyer (California)

Talin Tenley, Lawyer (California)

Sara Theiss, Lawyer (California)

Jordanna Thigpen, Lawyer (California)

Deepika Thompson, Lawyer (California)

Molly Tierney, Non-Lawyer (California)

Jennifer Tobkin, Lawyer (California)

Marty Torok, Non-Lawyer (California)

Bende Toth, Lawyer (California)

Amanda Trefethen, Non-Lawyer (California)

Jodi Tudor, Lawyer (California)

Hermine Valizadeh, Lawyer (California)

Jonathan Vallejo, Lawyer (California)

Diana Van Dyke, Non-Lawyer (California)

Rachel Van Patten, Non-Lawyer (California)

Selene Vega, Non-Lawyer (California)

M. vonBurkleo, Non-Lawyer (California)

Karsten Wade, Non-Lawyer (California)

Kristine Waggener, Lawyer (California)

Danielle Wakefield, Lawyer (California)

Deborah Wald, Lawyer (California)

Andrea Walker, Non-Lawyer (California)

Terry Walker, Lawyer (California)

Karin Wang, Lawyer (California)

Norm Waybright, Lawyer (California)

Sharon Webster, Lawyer (California)

Joanna Weiss, Lawyer (California)

Tracy Wells, Lawyer (California)

Michelle Wenner, Non-Lawyer (California)

Cynthia Werner Grenier, Lawyer (California)

Mark Westwind, Non-Lawyer (California)

Kari White, Lawyer (California)

Wendi Whitmore, Lawyer (California)

Darshann Wienick, Lawyer (California)

April Wooden, Lawyer (California)

Laura Woodman, Lawyer (California)

Abigale Wool, Non-Lawyer (California)

Robin Yeamans, Lawyer (California)

Julie Zaligson, Lawyer (California)

Jonathan Zasloff, Lawyer (California)

Cat Zavis, Lawyer (California)

Elizabeth Zeigler, Lawyer (California)

Jessica Zertuche, Lawyer (California)

Maurice Zilber, Lawyer (California)

Elizabeth Zitrin, Lawyer (California)

Arielle Berens, Lawyer (Colorado)

Donna Bonetti, Non-Lawyer (Colorado)

June Bourrillion, Lawyer (Colorado)

Ellen Buckley, Lawyer (Colorado)

Rachael Bunn, Non-Lawyer (Colorado)

Melissa Cameron, Lawyer (Colorado)

Guy Cerasoli, Lawyer (Colorado)

Angela Denning, Non-Lawyer (Colorado)

Linda DeWaay, Non-Lawyer (Colorado)

Sharyn Dreyer, Lawyer (Colorado)

Monique DuPont, Lawyer (Colorado)

Rachel Ellis, Lawyer (Colorado)

Ciara Faber, Lawyer (Colorado)

Anne Frantz, Lawyer (Colorado)

Gary Frantz, Non-Lawyer (Colorado)

David Frieder, Non-Lawyer (Colorado)

Susan Greenwald, Lawyer (Colorado)

Maggie Greenwood, Non-Lawyer (Colorado)

Benjamin Hand-Bender, Lawyer (Colorado)

Emily Hines, Non-Lawyer (Colorado)

Linda Hofgard, Lawyer (Colorado)

Arash Jahanian, Lawyer (Colorado)

Mona Karpouzos, Non-Lawyer (Colorado)

Elizabeth Katkin, Lawyer (Colorado)

Jamie Keairns, Lawyer (Colorado)

Courtney Keller, Non-Lawyer (Colorado)

Jerima King, Non-Lawyer (Colorado)

Tal Kitron, Lawyer (Colorado)

Marianna Kosharovsky, Lawyer (Colorado)

Jeanne Koss, Non-Lawyer (Colorado)

Michelle Lazar, Lawyer (Colorado)

Michele Lodin, Lawyer (Colorado)

Indra Lusero, Lawyer (Colorado)

James Lusero, Lawyer (Colorado)

Clara Madrid, Lawyer (Colorado)

Susan Marcus, Lawyer (Colorado)

Esteban Martinez, Lawyer (Colorado)

Sandra Martinez, Non-Lawyer (Colorado)

Ronnie May, Lawyer (Colorado)

Kathy McCardwell, Non-Lawyer (Colorado)

Olivia Mendoza, Lawyer (Colorado)

Nazune Menka, Lawyer (Colorado)

Theresa Moore, Lawyer (Colorado)

Elisa Moran, Lawyer (Colorado)

Cassandra Netzke, Lawyer (Colorado)

Charles Nicholas, Lawyer (Colorado)

Mary Peckham, Lawyer (Colorado)

Vivian Perla, Lawyer (Colorado)

Ilias Politis, Lawyer (Colorado)

Carolyn Powell, Lawyer (Colorado)

Amanda Ramsay, Non-Lawyer (Colorado)

Kathryn Reid, Non-Lawyer (Colorado)

Erin Richards Wilhelm, Lawyer (Colorado)

Erica Rogers, Lawyer (Colorado)

Tracy Rogers, Lawyer (Colorado)

Hillary Ross, Lawyer (Colorado)

Ashton Seip, Lawyer (Colorado)

Elizabeth Sherry, Non-Lawyer (Colorado)

Jennifer Shriver, Non-Lawyer (Colorado)

Alicia Truman, Lawyer (Colorado)

Meredith Van Horn, Lawyer (Colorado)

Lindsey Webb, Lawyer (Colorado)

Travis Weiner, Lawyer (Colorado)

Shannon Wildrick, Lawyer (Colorado)

Greg Willson, Non-Lawyer (Colorado)

Michelle Adams, Lawyer (Connecticut)

Nancy Alisberg, Lawyer (Connecticut)

Lida Angier, Lawyer (Connecticut)

Debra Brown, Lawyer (Connecticut)

Karen Caffrey, Lawyer (Connecticut)

Julia Carabillo, Lawyer (Connecticut)

Joseph Celentano, Lawyer (Connecticut)

Becky Conekin, Non-Lawyer (Connecticut)

Allison Cook, Non-Lawyer (Connecticut)

Jan Cunningham, Non-Lawyer (Connecticut)

Berri Gerjuoy, Lawyer (Connecticut)

Kay Goldfarb, Lawyer (Connecticut)

Elizabeth Howard Small, Lawyer (Connecticut)

Gaye Hyre, Non-Lawyer (Connecticut)

Sneha Jayaraj, Non-Lawyer (Connecticut)

Thalia Julme, Lawyer (Connecticut)

Michelle Laubin, Lawyer (Connecticut)

Laura LaVelle, Lawyer (Connecticut)

Andrea Leonardi, Non-Lawyer (Connecticut)

Priya Morganstern, Lawyer (Connecticut)

Leslie Paoletti, Lawyer (Connecticut)

Jonathan Peck, Lawyer (Connecticut)

Judith Rosenberg, Lawyer (Connecticut)

Robert Russo, Lawyer (Connecticut)

Susana Sabogal, Lawyer (Connecticut)

Elizabeth Salsedo, Lawyer (Connecticut)

Jon Schoenhorn, Lawyer (Connecticut)

Joan Sitomer, Non-Lawyer (Connecticut)

Emily Turner, Lawyer (Connecticut)

Steven Zoni, Lawyer (Connecticut)

Sally Barclay, Non-Lawyer (Delaware)

Emma Bradley, Lawyer (Delaware)

Spencer Brown, Lawyer (Delaware)

Thomas Crowley, Lawyer (Delaware)

Gertrude Cuttino-White, Non-Lawyer (Delaware)

John Fannan, Lawyer (Delaware)

M. Flynn, Non-Lawyer (Delaware)

Kelly Head, Lawyer (Delaware)

Dawn Schatz, Non-Lawyer (Delaware)

Nancy Anderson, Lawyer (District of Columbia)

Mahlet Ayalew, Lawyer (District of Columbia)

Laura Bailey, Non-Lawyer (District of Columbia)

J. Bawa, Lawyer (District of Columbia)

Allison Bohm, Lawyer (District of Columbia)

Rhoda Buford, Lawyer (District of Columbia)

Hung Bui, Lawyer (District of Columbia)

Esther Bushman, Lawyer (District of Columbia)

Catherine Bye, Lawyer (District of Columbia)

George Chipev, Lawyer (District of Columbia)

Vivien Clair, Lawyer (District of Columbia)

Amy Cocuzza, Lawyer (District of Columbia)

Anne Crowell, Lawyer (District of Columbia)

Samantha Cyrulnik-Dercher, Lawyer (District of Columbia)

Beth Davidson, Lawyer (District of Columbia)

Angela Davis, Lawyer (District of Columbia)

Sabrina Davis, Non-Lawyer (District of Columbia)

Sasha Drobnick, Lawyer (District of Columbia)

Maria Earley, Lawyer (District of Columbia)

Peter Edelman, Lawyer (District of Columbia)

Stacey Eunnae, Lawyer (District of Columbia)

Julianna Gonen, Lawyer (District of Columbia)

Shaina Goodman, Lawyer (District of Columbia)

Gabriel Gopen, Lawyer (District of Columbia)

Daniel Hankes, Lawyer (District of Columbia)

Julie Herr, Lawyer (District of Columbia)

Judith Jones, Lawyer (District of Columbia)

Katy Joseph, Lawyer (District of Columbia)

Catherine Klein, Lawyer (District of Columbia)

Justin Lam, Non-Lawyer (District of Columbia)

Bridget Lawson, Non-Lawyer (District of Columbia)

Daphne Lin, Lawyer (District of Columbia)

Margaret Lin, Lawyer (District of Columbia)

Julie Locascio, Lawyer (District of Columbia)

Edward Luria, Lawyer (District of Columbia)

Kaiya Lyons, Lawyer (District of Columbia)

Karen Manning, Lawyer (District of Columbia)

Vonda Marshall, Lawyer (District of Columbia)

Linda Mastandrea, Lawyer (District of Columbia)

Lorelie Masters, Lawyer (District of Columbia)

Keira McNett, Lawyer (District of Columbia)

Vicky McPherson, Lawyer (District of Columbia)

Mike Michel, Lawyer (District of Columbia)

Neha Misra, Lawyer (District of Columbia)

Jill Morrison, Lawyer (District of Columbia)

Sara Mosenkis, Non-Lawyer (District of Columbia)

Siham Nurhussein, Lawyer (District of Columbia)

Ayo Otukoya, Lawyer (District of Columbia)

Evan Pelz, Lawyer (District of Columbia)

Sczerina Perot, Lawyer (District of Columbia)

Lauren Phillips, Lawyer (District of Columbia)

Vasu Reddy, Lawyer (District of Columbia)

Patricia Reilly, Lawyer (District of Columbia)

Sarah Remes, Lawyer (District of Columbia)

Katy Robinette, Lawyer (District of Columbia)

Michelle Rose, Lawyer (District of Columbia)

Marc Rotenberg, Lawyer (District of Columbia)

Jillian Rubino, Lawyer (District of Columbia)

Agatha Schmaedick, Lawyer (District of Columbia)

Vicki Shabo, Lawyer (District of Columbia)

Judith Shapiro, Lawyer (District of Columbia)

Sim J. Singh, Lawyer (District of Columbia)

Peter Stein, Non-Lawyer (District of Columbia)

Kim Ushigome, Lawyer (District of Columbia)

April Williams, Lawyer (District of Columbia)

Jeffrey Adelman, Lawyer (Florida)

Lorelle Anderson, Non-Lawyer (Florida)

Howard Aronoff, Non-Lawyer (Florida)

Chanelle Artiles, Lawyer (Florida)

Amy Baker, Lawyer (Florida)

Beth Bennion, Lawyer (Florida)

Richard Brown, Lawyer (Florida)

Megan Carroll, Lawyer (Florida)

Adrienne Coffin, Lawyer (Florida)

Susan Connolly, Lawyer (Florida)

Burke Culler, Lawyer (Florida)

Adriana de Armas, Lawyer (Florida)

Nancy Dusek-Gomez, Lawyer (Florida)

Charlene Frank, Non-Lawyer (Florida)

Bree Gathers, Lawyer (Florida)

Gary Gershman, Lawyer (Florida)

Jessica Gottsleben, Non-Lawyer (Florida)

Pauline Green, Lawyer (Florida)

Dominique Hawkins, Lawyer (Florida)

Pamela Hoffman, Lawyer (Florida)

Maja Holman, Lawyer (Florida)

Stefany Howard, Non-Lawyer (Florida)

Kathy Huffman, Lawyer (Florida)

Lesley Jacobs, Lawyer (Florida)

Anita Jarrett, Non-Lawyer (Florida)

Annie Johnson, Non-Lawyer (Florida)

David Karas, Lawyer (Florida)

David Karp, Lawyer (Florida)

Barbara Katz, Lawyer (Florida)

Patricia Kelly, Lawyer (Florida)

Carmen King, Non-Lawyer (Florida)

Erin Lewis, Lawyer (Florida)

Catherine MacIvor, Lawyer (Florida)

Karen Marriott, Lawyer (Florida)

Quilla Miralia, Lawyer (Florida)

Douglas Rawnsley, Lawyer (Florida)

Linda Rice, Non-Lawyer (Florida)

Diane Saint-Louis, Lawyer (Florida)

Sabrina Salomon, Lawyer (Florida)

Sasha Sampaio, Lawyer (Florida)

Kevin Sanderson, Lawyer (Florida)

Nesly Seraphin, Non-Lawyer (Florida)

Kisa Shapiro, Lawyer (Florida)

Mitchell Silverman, Lawyer (Florida)

Susan Smith, Non-Lawyer (Florida)

Shannon Southard, Non-Lawyer (Florida)

Kimberley Spire-Oh, Lawyer (Florida)

Rosa S Suarez, Non-Lawyer (Florida)

Jill Talbot, Lawyer (Florida)

Darlene Varner, Non-Lawyer (Florida)

Dahlia Walker-Huntington, Lawyer (Florida)

Amy Weintraub, Non-Lawyer (Florida)

Jill Wenner, Lawyer (Florida)

Sherry Williams, Lawyer (Florida)

Renee Wolforth, Lawyer (Florida)

Wendy Wonnell, Lawyer (Florida)

Eileen Yasbin, Lawyer (Florida)

L. Patricia Arias, Lawyer (Georgia)

Ted Blumoff, Lawyer (Georgia)

Marla Caldwell, Non-Lawyer (Georgia)

Shirley Dillard, Non-Lawyer (Georgia)

Richard Fedder, Lawyer (Georgia)

Carol Goding, Non-Lawyer (Georgia)

Mark Golub, Lawyer (Georgia)

Sarah T. Gordon, Lawyer (Georgia)

Erica Harrison Arnold, Lawyer (Georgia)

Andrew Immerman, Lawyer (Georgia)

Elizabeth Johnson, Lawyer (Georgia)

Patricia Lamar, Lawyer (Georgia)

Cullen Larson, Lawyer (Georgia)

Alice Mccarthy, Lawyer (Georgia)

Amelia Phillips, Lawyer (Georgia)

Sarah Reise, Lawyer (Georgia)

Tim Saviello, Lawyer (Georgia)

Nan Schivone, Lawyer (Georgia)

Michelle Simpson, Lawyer (Georgia)

Michael Wakefield, Lawyer (Georgia)

Jill Wasserman, Lawyer (Georgia)

Sheila Woods, Lawyer (Georgia)

Andrew Young Choi, Non-Lawyer (Hawaii)

Tred Eyerly, Lawyer (Hawaii)

Virginia Hench, Lawyer (Hawaii)

Carolyn Brasser Koehler, Non-Lawyer (Hawaii)

Christina Lizzi, Lawyer (Hawaii)

Erik Meade, Non-Lawyer (Hawaii)

Alan Murakami, Lawyer (Hawaii)

Sim Avika, Lawyer (Idaho)

Judith Brawer, Lawyer (Idaho)

Michele Buckley, Lawyer (Idaho)

Judith Butler, Lawyer (Idaho)

Terri Pickens, Lawyer (Idaho)

Jill Adams, Lawyer (Illinois)

Kelly Baldrate, Lawyer (Illinois)

Claire Battle, Lawyer (Illinois)

Dyann Berndt, Non-Lawyer (Illinois)

Jessica Bloodgood, Lawyer (Illinois)

Thomas Brabec, Lawyer (Illinois)

Cassandra Burright, Lawyer (Illinois)

Patricia Carrera, Lawyer (Illinois)

Jennifer Cassel, Lawyer (Illinois)

Thomas Cmar, Lawyer (Illinois)

MiAngel Cody, Lawyer (Illinois)

Lorena M. Contreras, Non-Lawyer (Illinois)

Jody Coultas, Lawyer (Illinois)

Jennifer Danish, Lawyer (Illinois)

John Darragh, Lawyer (Illinois)

Gretchen Davidson, Non-Lawyer (Illinois)

Sara Davis, Lawyer (Illinois)

Colleen Devine, Lawyer (Illinois)

Catherine Diebel, Lawyer (Illinois)

Robin Dusek, Lawyer (Illinois)

Kenneth Edwards, Lawyer (Illinois)

Christine Evans, Lawyer (Illinois)

Amanda Garcia, Lawyer (Illinois)

Christopher Garcia, Lawyer (Illinois)

James Graham, Non-Lawyer (Illinois)

Denise Harper-Saxon, Non-Lawyer (Illinois)

Brandy Harty, Lawyer (Illinois)

Miles Henderson, Lawyer (Illinois)

Danielle Hirsch, Lawyer (Illinois)

Sharlene Hobson, Lawyer (Illinois)

Darla Hoffmann, Non-Lawyer (Illinois)

Toya Horn Howard, Lawyer (Illinois)

Miranda Johnson, Lawyer (Illinois)

Paul Johnson, Lawyer (Illinois)

Hannah Kalogriopoulos, Lawyer (Illinois)

Brian Kolva, Lawyer (Illinois)

Lindsay Lefteroff, Lawyer (Illinois)

John Lillig, Lawyer (Illinois)

Rebecca Little, Lawyer (Illinois)

Sheila Loop, Lawyer (Illinois)

Shobha Mahadev, Lawyer (Illinois)

Susan Malter, Lawyer (Illinois)

Elizabeth Martin, Lawyer (Illinois)

Katie Martin-Browne, Lawyer (Illinois)

Jim McCrea, Non-Lawyer (Illinois)

Marena McPherson, Lawyer (Illinois)

Elsa Miller, Lawyer (Illinois)

Michelle Owen, Lawyer (Illinois)

Fernanda Perez, Non-Lawyer (Illinois)

Dina Petrakis, Non-Lawyer (Illinois)

Dolores Pino, Lawyer (Illinois)

Rosie Rees, Lawyer (Illinois)

Genita Robinson, Lawyer (Illinois)

Anthony Rothert, Lawyer (Illinois)

Makeba Rutahindurwa, Lawyer (Illinois)

Kendra Scheuerlein, Lawyer (Illinois)

David Sensibar, Non-Lawyer (Illinois)

Nancy Shafer, Lawyer (Illinois)

William Shipley, Lawyer (Illinois)

Gretchen Silver, Lawyer (Illinois)

Gail T Smith, Lawyer (Illinois)

Eileen Soderstrom, Non-Lawyer (Illinois)

Laura Spero, Non-Lawyer (Illinois)

Joan Steinman, Lawyer (Illinois)

James Strnal, Lawyer (Illinois)

Claudia Swan, Non-Lawyer (Illinois)

Michelle Thomas, Lawyer (Illinois)

Kelly Turner, Lawyer (Illinois)

Christine Walsh Donnelly, Lawyer (Illinois)

Lori Watkins Owens, Lawyer (Illinois)

Terrill Wilkins, Lawyer (Illinois)

Jennifer Wong, Lawyer (Illinois)

Lauren Worsek, Lawyer (Illinois)

Lila Yusen, Non-Lawyer (Illinois)

Linda Zuba, Lawyer (Illinois)

Alejandro Amezcua, Lawyer (Indiana)

Evelyn Fried, Non-Lawyer (Indiana)

Theresa Heamon, Lawyer (Indiana)

Robert J. Krull, Lawyer (Indiana)

Garth Lewis, Lawyer (Indiana)

Cynthia Locke, Lawyer (Indiana)

Eileen Prince, Non-Lawyer (Indiana)

Lindsey Robison, Lawyer (Indiana)

K. Sircar, Lawyer (Indiana)

Jessica Sturm, Non-Lawyer (Indiana)

Ann Tobin, Non-Lawyer (Indiana)

Michelle Wallis, Non-Lawyer (Indiana)

Mary Hoefer, Lawyer (Iowa)

Margaret Mayhugh, Lawyer (Iowa)

Ian Murray, Lawyer (Iowa)

Kelcey Patrick-Ferree, Lawyer (Iowa)

David Shriver, Lawyer (Iowa)

Angie Esslinger, Non-Lawyer (Kansas)

Shelby Grau, Lawyer (Kansas)

Joy Springfield, Lawyer (Kansas)

Sami Allison, Non-Lawyer (Kentucky)

Lisa Black, Non-Lawyer (Kentucky)

Adele Burt Brown, Lawyer (Kentucky)

Caroline L. Kaufmann, Lawyer (Kentucky)

Tricia Lister, Lawyer (Kentucky)

Julianne Pease, Non-Lawyer (Kentucky)

Jennifer Coco, Lawyer (Louisiana)

Priscilla Faucheaux, Lawyer (Louisiana)

Margaret Eileen Gleason, Lawyer (Louisiana)

Melissa Harris, Lawyer (Louisiana)

Robert Knights, Lawyer (Louisiana)

John Magrisso, Lawyer (Louisiana)

Susan East Nelson, Lawyer (Louisiana)

Laura Reeds, Lawyer (Louisiana)

Patti Shelton, Lawyer (Louisiana)

Joan Carrier, Non-Lawyer (Maine)

Dawn DiBlasi, Lawyer (Maine)

Cynthia Hagerthy, Non-Lawyer (Maine)

Toni Kemmerle, Lawyer (Maine)

Shelby Leighton, Lawyer (Maine)

Stacey Mondschein Katz, Lawyer (Maine)

Sarah Ruef-Lindquist, Lawyer (Maine)

Rebecca Steele, Lawyer (Maine)

Meg Ahern, Non-Lawyer (Maryland)

Scott Arnold, Lawyer (Maryland)

Alice Barrett, Lawyer (Maryland)

Sharifa Bernard, Non-Lawyer (Maryland)

Jennifer Blasdell, Lawyer (Maryland)

Nikki Bossert, Lawyer (Maryland)

Paula Brantner, Lawyer (Maryland)

Andrea Chamblee, Lawyer (Maryland)

Apple Chapman, Lawyer (Maryland)

Sue Cohen, Non-Lawyer (Maryland)

Alexandra Collins, Lawyer (Maryland)

Roberta Cutter, Lawyer (Maryland)

Lauren Dana-Evans, Lawyer (Maryland)

Gabriela Dickson La Rotta, Non-Lawyer (Maryland)

Christopher Doherty, Lawyer (Maryland)

Angelique Dorsey, Lawyer (Maryland)

Janell Mayo Duncan, Lawyer (Maryland)

Ronnie Edelman, Lawyer (Maryland)

Sarah Felber, Non-Lawyer (Maryland)

Adam Fernandez, Lawyer (Maryland)

Janelle Fernandez, Non-Lawyer (Maryland)

Cynthia Foss, Non-Lawyer (Maryland)

Estelle Franklin, Lawyer (Maryland)

Roy Ghim, Non-Lawyer (Maryland)

Irene Giarratano, Non-Lawyer (Maryland)

Candace Gibson, Lawyer (Maryland)

Jesse Glickstein, Lawyer (Maryland)

Phyllis Goldfarb, Lawyer (Maryland)

Martha Gouel, Lawyer (Maryland)

Eboni Govan, Lawyer (Maryland)

Patricia Greenwell, Lawyer (Maryland)

Anika Gzifa, Lawyer (Maryland)

Lindsay Harris, Lawyer (Maryland)

Cate Hodgetts, Lawyer (Maryland)

Jay Holland, Lawyer (Maryland)

Elizabeth Holliday, Lawyer (Maryland)

Rhonda Holmes, Lawyer (Maryland)

Ayesha Khan, Lawyer (Maryland)

Fasiha Khan, Lawyer (Maryland)

Mitchell Lazarus, Lawyer (Maryland)

Sara Leibman, Lawyer (Maryland)

Marilyn Levitt, Lawyer (Maryland)

Susan Liu, Non-Lawyer (Maryland)

Jessica Lowy, Lawyer (Maryland)

Joan Matlack, Lawyer (Maryland)

Sharon McGowan, Lawyer (Maryland)

Gretchen McMullen, Lawyer (Maryland)

Maurene McNeil, Lawyer (Maryland)

Michele Murphy, Lawyer (Maryland)

Robin Murphy, Lawyer (Maryland)

Suzanne Nash, Lawyer (Maryland)

Aryani Ong, Lawyer (Maryland)

Jeanne Osborne, Non-Lawyer (Maryland)

Corrine Parver, Lawyer (Maryland)

Beth Perry, Non-Lawyer (Maryland)

Dianne Piché, Lawyer (Maryland)

Javaneh Pourkarim, Lawyer (Maryland)

Eileen Powers, Lawyer (Maryland)

Kerry Rice, Non-Lawyer (Maryland)

Sara Robinson, Lawyer (Maryland)

Richard Roe, Lawyer (Maryland)

Karyl Rosen, Non-Lawyer (Maryland)

Lilah Rosenblum, Lawyer (Maryland)

Karen Rothschild, Lawyer (Maryland)

Marguerite Schervish, Lawyer (Maryland)

Mary Schroeder, Non-Lawyer (Maryland)

Angela Shelton, Lawyer (Maryland)

Polly Sherard, Non-Lawyer (Maryland)

Susan Silber, Lawyer (Maryland)

Sarah Simmons, Lawyer (Maryland)

Daljit Soni, Lawyer (Maryland)

Nathaniel Spiller, Lawyer (Maryland)

Sarah Starrett, Lawyer (Maryland)

Leslie Tarantola, Lawyer (Maryland)

Michelle Thomas, Lawyer (Maryland)

Allison Thurman, Non-Lawyer (Maryland)

Meghana Vodela, Non-Lawyer (Maryland)

Megan Walker, Non-Lawyer (Maryland)

Hannibal Williams II Kemerer, Lawyer (Maryland)

Max Wolfthal, Non-Lawyer (Maryland)

Emily Achtenberg, Non-Lawyer (Massachusetts)

Carly Andersen, Lawyer (Massachusetts)

Leslie Anton, Non-Lawyer (Massachusetts)

Dianne M. Baron, Lawyer (Massachusetts)

Joan Bennett, Lawyer (Massachusetts)

Kathleen Berry, Non-Lawyer (Massachusetts)

Emily Bloomenthal, Lawyer (Massachusetts)

Vicki Bonnington, Lawyer (Massachusetts)

Annique Boomsma, Non-Lawyer (Massachusetts)

Jay Bronstein, Lawyer (Massachusetts)

Amy Carafa, Lawyer (Massachusetts)

Naoka Carey, Non-Lawyer (Massachusetts)

Cathleen C. Cavell, Lawyer (Massachusetts)

James Chamberlain, Non-Lawyer (Massachusetts)

Susan Cohen, Lawyer (Massachusetts)

Brian Concannon, Lawyer (Massachusetts)

Candida Cote, Lawyer (Massachusetts)

Nancy Cremins, Lawyer (Massachusetts)

Kristen Dee, Lawyer (Massachusetts)

Michelle Dhanda, Lawyer (Massachusetts)

Chris DiOrio, Lawyer (Massachusetts)

Joshua Duncan, Lawyer (Massachusetts)

Deborah Dunn, Non-Lawyer (Massachusetts)

Edie Ellin, Lawyer (Massachusetts)

Ellen Ellis, Lawyer (Massachusetts)

Andrew Fischer, Lawyer (Massachusetts)

Christine Foot, Lawyer (Massachusetts)

Marla Frederick, Lawyer (Massachusetts)

Lizbeth Ginsburg, Lawyer (Massachusetts)

Anastasia Gogol, Lawyer (Massachusetts)

Joanne Golden, Lawyer (Massachusetts)

Laurie Gorelick, Lawyer (Massachusetts)

Cynthia Granata, Lawyer (Massachusetts)

Mary-Ann Greene, Non-Lawyer (Massachusetts)

Riley Hammond, Lawyer (Massachusetts)

Laurel Hemmer, Non-Lawyer (Massachusetts)

Mark Hickernell, Lawyer (Massachusetts)

Geraldine Hines, Lawyer (Massachusetts)

Corey Hipps, Lawyer (Massachusetts)

Erica Hitchings, Lawyer (Massachusetts)

Shel Horowitz, Non-Lawyer (Massachusetts)

Carolyn Hunt, Lawyer (Massachusetts)

Ellen Israel, Non-Lawyer (Massachusetts)

Alexis Kaplan, Lawyer (Massachusetts)

Jennifer Karnakis, Lawyer (Massachusetts)

Rua Kelly, Lawyer (Massachusetts)

Rob Kinslow, Non-Lawyer (Massachusetts)

Anna L Riley, Non-Lawyer (Massachusetts)

Victoria Labriola, Lawyer (Massachusetts)

Jennifer Lamanna, Lawyer (Massachusetts)

Sherry Leibowitz, Lawyer (Massachusetts)

Marta Lev, Non-Lawyer (Massachusetts)

Betty Lo, Non-Lawyer (Massachusetts)

Julie Low, Lawyer (Massachusetts)

Nancy Lyons, Non-Lawyer (Massachusetts)

Shawn Marquis, Non-Lawyer (Massachusetts)

Katherine Marsland, Non-Lawyer (Massachusetts)

Maureen McCarthy, Non-Lawyer (Massachusetts)

L. Stephen McCready, Lawyer (Massachusetts)

Naomi Meyer, Lawyer (Massachusetts)

Rielle Montague, Lawyer (Massachusetts)

Donna Morelli, Lawyer (Massachusetts)

Virginia Morrison, Lawyer (Massachusetts)

Ann Marie Nichokas, Non-Lawyer (Massachusetts)

James Ostendorf, Lawyer (Massachusetts)

Christopher Pimentel, Lawyer (Massachusetts)

Dagmar Pollex, Lawyer (Massachusetts)

Rebecca Pontikes, Lawyer (Massachusetts)

Nadine Premo, Lawyer (Massachusetts)

Carrie Rainen, Lawyer (Massachusetts)

Maya Rege-Colt, Non-Lawyer (Massachusetts)

Florence Rosenstock, Non-Lawyer (Massachusetts)

Anne Ross, Lawyer (Massachusetts)

Cynthia Russo, Lawyer (Massachusetts)

Tina Sanchez, Lawyer (Massachusetts)

Verna Tina Sanchez, Lawyer (Massachusetts)

Seth Schorr, Non-Lawyer (Massachusetts)

Honey Sharp, Lawyer (Massachusetts)

Maggie Shirland, Non-Lawyer (Massachusetts)

Vivienne Simon, Lawyer (Massachusetts)

Myra Slotnick, Lawyer (Massachusetts)

Marshall Stein, Lawyer (Massachusetts)

Ann Sullivan, Lawyer (Massachusetts)

Jennifer Taddeo, Lawyer (Massachusetts)

Alice Taylor, Lawyer (Massachusetts)

Christine Tetreault, Lawyer (Massachusetts)

Curtis Tuden, Non-Lawyer (Massachusetts)

Kristan Watson, Lawyer (Massachusetts)

Cheryl-Ann Weekes, Non-Lawyer (Massachusetts)

Jesse Weinstein, Non-Lawyer (Massachusetts)

Lauren Wilton, Lawyer (Massachusetts)

Anne Yeomans, Non-Lawyer (Massachusetts)

Rebecca Young, Lawyer (Massachusetts)

Veronica Zolina, Lawyer (Massachusetts)

Lindsay Bliven, Lawyer (Michigan)

Darcie Brault, Lawyer (Michigan)

Ingrid Clover, Lawyer (Michigan)

Jo Robin Davis, Lawyer (Michigan)

Genevieve Delonis, Lawyer (Michigan)

Sharon Devine, Lawyer (Michigan)

Jennifer Grieco Burch, Lawyer (Michigan)

Rebecca Jensen, Non-Lawyer (Michigan)

David Kotwicki, Lawyer (Michigan)

LaToya Larkin, Lawyer (Michigan)

Ann Lehman, Non-Lawyer (Michigan)

Audrey Lustgarten, Lawyer (Michigan)

Amy Maldonado, Lawyer (Michigan)

Roberta Renshaw, Non-Lawyer (Michigan)

Heather Sexton, Lawyer (Michigan)

Lindsay Brice, Lawyer (Minnesota)

Charles Burkitt, Non-Lawyer (Minnesota)

Mary Callaghan, Lawyer (Minnesota)

Molly Coleman, Non-Lawyer (Minnesota)

Lauren Davis, Non-Lawyer (Minnesota)

Michael Florey, Lawyer (Minnesota)

Kari Hansen, Non-Lawyer (Minnesota)

Emily Hoppenworth, Non-Lawyer (Minnesota)

Kathleen Hustad, Non-Lawyer (Minnesota)

Corey Kobbervig, Lawyer (Minnesota)

Heather Labat, Lawyer (Minnesota)

Maury Landsman, Lawyer (Minnesota)

Dara Larson, Lawyer (Minnesota)

Dan Le, Lawyer (Minnesota)

David Liebow, Lawyer (Minnesota)

Jacquelyn Lutz, Lawyer (Minnesota)

Alyssa Merbler, Non-Lawyer (Minnesota)

LuAnne Pederson, Lawyer (Minnesota)

Leo Reid, Lawyer (Minnesota)

John Sayer, Lawyer (Minnesota)

Sarah Schultz, Lawyer (Minnesota)

Art Serotoff, Non-Lawyer (Minnesota)

Whitney Sevilla, Lawyer (Minnesota)

Randall Smith, Lawyer (Minnesota)

Sara Stephenson, Lawyer (Minnesota)

Ann Vidoloff, Lawyer (Minnesota)

Christine Magee, Non-Lawyer (Mississippi)

Terry Porter, Non-Lawyer (Mississippi)

Gerald Waltman, Lawyer (Mississippi)

Andrea Bartling, Lawyer (Missouri)

Johnda Boyce, Lawyer (Missouri)

Loretta Burns-Bucklew, Lawyer (Missouri)

Greg Campbell, Lawyer (Missouri)

Lindsey Collins, Lawyer (Missouri)

Ashlee Crowl, Lawyer (Missouri)

Carol Davis, Non-Lawyer (Missouri)

Kim Diamond, Lawyer (Missouri)

Susan Goodman, Non-Lawyer (Missouri)

Sherrie Hall, Lawyer (Missouri)

Nadine Johnson, Lawyer (Missouri)

Kristin Jones, Lawyer (Missouri)

Felice Joyce, Lawyer (Missouri)

Yvonne Lindgren, Lawyer (Missouri)

Charles Miller, Non-Lawyer (Missouri)

Rachel Murphy Azzara, Non-Lawyer (Missouri)

Carl Perez, Non-Lawyer (Missouri)

Brandon Schatsiek, Non-Lawyer (Missouri)

Eric Selig, Lawyer (Missouri)

Michael Sharma-Crawford, Lawyer (Missouri)

Jan Shelly, Lawyer (Missouri)

Elizabeth Siemer, Lawyer (Missouri)

Cindy Wallace, Lawyer (Missouri)

Gail Wechsler, Lawyer (Missouri)

Rebecca Woodman, Lawyer (Missouri)

Janel Chin, Lawyer (Montana)

Shelley Eisenrich, Non-Lawyer (Montana)

Ada Montague, Lawyer (Montana)

Tricia Petek, Lawyer (Montana)

Leigh Hessel, Non-Lawyer (Nebraska)

Julie Jorgensen, Lawyer (Nebraska)

Elena Roberts, Lawyer (Nebraska)

Hawah Ahmad, Non-Lawyer (Nevada)

Judee Genetin, Lawyer (Nevada)

Angela Grace, Non-Lawyer (Nevada)

Karen Jackson, Lawyer (Nevada)

Allison Joffee, Lawyer (Nevada)

Cynthia Mohiuddin, Lawyer (Nevada)

Jaimie Stilz, Lawyer (Nevada)

Carlia Waite, Lawyer (Nevada)

Ken Barnes, Lawyer (New Hampshire)

Kathleen Cavanaugh, Non-Lawyer (New Hampshire)

Tamar Cerafici, Lawyer (New Hampshire)

Chad Henry, Non-Lawyer (New Hampshire)

Kim Rosenfield, Lawyer (New Hampshire)

Steven Scudder, Lawyer (New Hampshire)

Diane Stolar, Non-Lawyer (New Hampshire)

Shakira Abdul-Ali, Non-Lawyer (New Jersey)

Nicholas Azulay, Non-Lawyer (New Jersey)

Pamela Barroway, Non-Lawyer (New Jersey)

Jocelyn Block, Lawyer (New Jersey)

Michael Brown, Lawyer (New Jersey)

Jean Carmalt, Lawyer (New Jersey)

Ruben Carranza, Lawyer (New Jersey)

Kristina Chenault, Non-Lawyer (New Jersey)

Elyse Cohen, Lawyer (New Jersey)

Pamela Donison, Lawyer (New Jersey)

Matt Dragon, Non-Lawyer (New Jersey)

Leslie Farber, Lawyer (New Jersey)

Melissa Feinberg, Lawyer (New Jersey)

Maria Fernandez de Cordova, Non-Lawyer (New Jersey)

Lia Fiol-Matta, Lawyer (New Jersey)

Linda Fisher, Lawyer (New Jersey)

Yasmin Gamboa, Lawyer (New Jersey)

Asina Gant, Lawyer (New Jersey)

Susan Gerber, Non-Lawyer (New Jersey)

Robert Goldstein, Lawyer (New Jersey)

Rhonda Greenblatt, Lawyer (New Jersey)

Debra Guston, Lawyer (New Jersey)

Cori Herbig, Lawyer (New Jersey)

Una Kang, Lawyer (New Jersey)

Erin Law, Lawyer (New Jersey)

Michelle Lerner, Lawyer (New Jersey)

Gerald Levine, Lawyer (New Jersey)

Doris Lin, Lawyer (New Jersey)

Hilary May, Lawyer (New Jersey)

Elizabeth McCoy, Lawyer (New Jersey)

Ayanna McKay, Lawyer (New Jersey)

Alison Mingle, Non-Lawyer (New Jersey)

Thi Bay Miradoli, Non-Lawyer (New Jersey)

Lynn Norcia, Lawyer (New Jersey)

Amanda Nordstrom, Lawyer (New Jersey)

Craig Patruno, Non-Lawyer (New Jersey)

Stephanie Pendell, Lawyer (New Jersey)

Kara McCarthy Perry, Lawyer (New Jersey)

Yael Port, Lawyer (New Jersey)

Donna Price, Non-Lawyer (New Jersey)

Linda Rinaldi, Lawyer (New Jersey)

Michael Rothmel, Lawyer (New Jersey)

Lawrence Russ, Lawyer (New Jersey)

Diane Sammons, Lawyer (New Jersey)

Barbara Schweiger, Lawyer (New Jersey)

Colleen Scrocca, Lawyer (New Jersey)

Dimple Shah, Lawyer (New Jersey)

Carolyn Shea, Non-Lawyer (New Jersey)

Randi Shea, Lawyer (New Jersey)

Linda Simms, Non-Lawyer (New Jersey)

Bill Singer, Lawyer (New Jersey)

William Singer, Lawyer (New Jersey)

Jonette Smart, Non-Lawyer (New Jersey)

Tiffany Smith, Lawyer (New Jersey)

Kathleen Smith-Wenning, Non-Lawyer (New Jersey)

Jennifer Stark, Non-Lawyer (New Jersey)

Reena Wade, Lawyer (New Jersey)

Dina Willner, Lawyer (New Jersey)

Paul Winke, Lawyer (New Jersey)

Tracy Young, Lawyer (New Jersey)

Kari Converse, Lawyer (New Mexico)

Elyse Eckart, Lawyer (New Mexico)

Aaron Ezekiel, Lawyer (New Mexico)

Kristina G Fisher, Lawyer (New Mexico)

Vinay Harpalani, Lawyer (New Mexico)

John House, Lawyer (New Mexico)

Debrianna Mansini, Non-Lawyer (New Mexico)

Susan Page, Lawyer (New Mexico)

Janet Abrams Piechota, Lawyer (New York)

Nikki Adame Winningham, Lawyer (New York)

Hannah Adkison, Non-Lawyer (New York)

Bhavna Agnihotri, Lawyer (New York)

Linda Alario, Lawyer (New York)

Robin Alperstein, Lawyer (New York)

Walter Alton, Lawyer (New York)

Stephen Appell, Lawyer (New York)

Betsy Apple, Lawyer (New York)

Dorina Armani, Lawyer (New York)

Geri Armine-Klein, Lawyer (New York)

Phyllis Arnold, Lawyer (New York)

Daniel Ashworth, Lawyer (New York)

Barbara Atwell, Lawyer (New York)

Melissa Bachner, Non-Lawyer (New York)

Salua Baida, Lawyer (New York)

Tom Bantle, Lawyer (New York)

Stephanie Batcheller, Lawyer (New York)

Ellen Bender, Lawyer (New York)

Amy Bernstein, Lawyer (New York)

Roger Bernstein, Lawyer (New York)

Pushpa Bhat, Lawyer (New York)

Julie Bleha, Non-Lawyer (New York)

Jessica Boulet, Lawyer (New York)

Stephan Bradley, Lawyer (New York)

Nancy Breen, Non-Lawyer (New York)

Linda Brisson, Non-Lawyer (New York)

Laura Buchwald, Non-Lawyer (New York)

Sheila Butler, Non-Lawyer (New York)

Potso Byndon, Lawyer (New York)

Casey Callanan, Lawyer (New York)

Alix Cervantes, Non-Lawyer (New York)

Elaine Chapnik, Lawyer (New York)

Nina Chernoff, Lawyer (New York)

Aria Chiodo, Non-Lawyer (New York)

Adam Cohen, Lawyer (New York)

Howard Cohen, Non-Lawyer (New York)

Judith Cohen, Lawyer (New York)

Lisa Corn, Non-Lawyer (New York)

Monica Corton, Non-Lawyer (New York)

John Corwin, Lawyer (New York)

Sara Cribbs, Lawyer (New York)

Lurie Daniel Favors, Lawyer (New York)

Gabrielle Davis Ginsberg, Lawyer (New York)

Maddy deLone, Lawyer (New York)

Ralph DeRosa, Lawyer (New York)

Sue Dodell, Lawyer (New York)

Susan Dooha, Lawyer (New York)

Anne Doss, Non-Lawyer (New York)

Tracy Dressner, Lawyer (New York)

Cristal Duverge, Non-Lawyer (New York)

Nina Evison, Lawyer (New York)

Elizabeth Fajans, Lawyer (New York)

Flora Feng, Lawyer (New York)

Jenine Ferrari, Lawyer (New York)

Tiffany Fisher-Love, Lawyer (New York)

Margo Flug, Lawyer (New York)

Caitlin Foran, Lawyer (New York)

Mia Francis, Lawyer (New York)

Alex Franco, Lawyer (New York)

Robin Frankel, Lawyer (New York)

Henry Freedman, Lawyer (New York)

David Fromartz, Lawyer (New York)

Paula Galowitz, Lawyer (New York)

Nadia Gareeb, Lawyer (New York)

Rhonda Gaynier, Lawyer (New York)

Lisa Genn, Lawyer (New York)

Marin Gerber, Lawyer (New York)

Esther Goldbas, Lawyer (New York)

David Goldberg, Lawyer (New York)

Lesley Goldberg, Lawyer (New York)

Leila Goldmark, Lawyer (New York)

Danielle Goodsell, Non-Lawyer (New York)

Christine Green, Lawyer (New York)

Mehreen Hayat, Lawyer (New York)

Anne Hays, Non-Lawyer (New York)

Natalie Hennessy, Lawyer (New York)

Robin Herzig, Non-Lawyer (New York)

Janice Hinson, Non-Lawyer (New York)

David Holmes, Lawyer (New York)

Leah Horowitz, Lawyer (New York)

Noelia Hurtado, Lawyer (New York)

Edward Jacobs, Lawyer (New York)

Paula Johnson, Lawyer (New York)

Alicia Kaplow, Lawyer (New York)

Stephanie Kass, Lawyer (New York)

Harlene Katzman, Lawyer (New York)

Julia Kaye, Lawyer (New York)

Shirley Kelly, Non-Lawyer (New York)

Kristin Keranen, Lawyer (New York)

Helen Kim, Lawyer (New York)

Sara Kimbell, Non-Lawyer (New York)

Kawana King, Lawyer (New York)

Michelle Ko, Lawyer (New York)

Pooja Kothari, Lawyer (New York)

Jessica Kramer, Lawyer (New York)

Parkin Lee, Lawyer (New York)

Richard Leff, Lawyer (New York)

Michelle Levine, Lawyer (New York)

Shari Lewis, Lawyer (New York)

Mike Litrownik, Lawyer (New York)

Lillian Llambelis, Lawyer (New York)

Vivian Llodrá, Non-Lawyer (New York)

Susan LoFurno, Non-Lawyer (New York)

Melissa Lusk, Lawyer (New York)

Rebecca Magid, Non-Lawyer (New York)

Kathleen Mahoney, Non-Lawyer (New York)

Barbara Malmet, Non-Lawyer (New York)

Sara Manaugh, Lawyer (New York)

Erin Manning, Lawyer (New York)

Jessica Marcus, Lawyer (New York)

Jeanette May, Non-Lawyer (New York)

Dominica McCoy, Non-Lawyer (New York)

Vanessa Merton, Lawyer (New York)

Alessandra Messing, Lawyer (New York)

Carlin Meyer, Lawyer (New York)

Ethan Middlebrooks, Lawyer (New York)

Lia Minkoff, Lawyer (New York)

Lauren Mitchell, Lawyer (New York)

Cara Moore, Lawyer (New York)

Mical Moser, Non-Lawyer (New York)

Leslie Moyer, Lawyer (New York)

Tracy Murray, Lawyer (New York)

Andrew Nagel, Lawyer (New York)

Arnold Nager, Lawyer (New York)

Nancy Nardella, Lawyer (New York)

Marissa Nardi, Lawyer (New York)

Nicole Negron, Lawyer (New York)

Miriam Nunberg, Lawyer (New York)

Ann O'Shea, Lawyer (New York)

Sarah O'Connor, Lawyer (New York)

Grace Oboma, Lawyer (New York)

Katharine Ogg, Lawyer (New York)

Richard Ottinger, Lawyer (New York)

Kirsten Paap, Non-Lawyer (New York)

Lisa Paget-Kahn, Lawyer (New York)

Lissa Palermo Surgeoner, Lawyer (New York)

Jill Paperno, Lawyer (New York)

Jennifer Patota, Lawyer (New York)

Maia Pelleg, Lawyer (New York)

Jeffrey Penn, Lawyer (New York)

Jose Perez, Lawyer (New York)

Nicole Perez, Lawyer (New York)

Aswini Periyasamy, Non-Lawyer (New York)

Carol Perlmutter, Non-Lawyer (New York)

Lauren Phillips, Lawyer (New York)

Noah Plofker, Non-Lawyer (New York)

Leonard Polletta, Lawyer (New York)

Beth Popik, Lawyer (New York)

R. Potasznik, Lawyer (New York)

Audrey Rabinowitz, Lawyer (New York)

Shruti Raju, Lawyer (New York)

Laura Redman, Lawyer (New York)

Katherine Robb, Lawyer (New York)

Bertha Rodriguez, Lawyer (New York)

Clarissa Rodríguez, Lawyer (New York)

Lindsay Roseler, Lawyer (New York)

Marilyn Rosen, Non-Lawyer (New York)

Donna Russo, Non-Lawyer (New York)

Alanna Rutherford, Lawyer (New York)

Wanda Sanchez Day, Lawyer (New York)

Heidi Schmid, Lawyer (New York)

Beth Schwartz, Lawyer (New York)

Alice Scovell, Lawyer (New York)

Jamin Sewell, Lawyer (New York)

Lily Shapiro, Lawyer (New York)

Sonja Shield, Lawyer (New York)

Claire Silberman, Lawyer (New York)

Carolyn Silver, Lawyer (New York)

Seth Silverman, Lawyer (New York)

Terryl Simeina, Lawyer (New York)

Jill Simpson-Owens, Non-Lawyer (New York)

Kate Skolnick, Lawyer (New York)

Karen Smith, Lawyer (New York)

McGregor Smyth, Lawyer (New York)

Lina Srivastava, Lawyer (New York)

Rachel Stanton, Lawyer (New York)

Susan Starker, Lawyer (New York)

Benjamin Steinberg, Lawyer (New York)

Richard Stern, Lawyer (New York)

B. Stone, Non-Lawyer (New York)

Katelyn Stone, Non-Lawyer (New York)

Laurie Stricks, Non-Lawyer (New York)

Suzanna Talbot, Lawyer (New York)

Ronald Thomas, Lawyer (New York)

Mindy Tindel, Lawyer (New York)

Lilia Toson, Lawyer (New York)

Vania Tseng, Lawyer (New York)

Jill Van Berg, Lawyer (New York)

Consuelo Vasquez, Lawyer (New York)

Anna Vikse, Lawyer (New York)

Heike Vogel, Lawyer (New York)

Keith Walsh, Lawyer (New York)

Sharon Wedderburn, Non-Lawyer (New York)

Bruce Weiner, Lawyer (New York)

Joan Weinstein, Non-Lawyer (New York)

Hazel Weiser, Lawyer (New York)

Stef Weiss, Lawyer (New York)

Amanda Wilmsen, Lawyer (New York)

Leroy Wilson Jr., Lawyer (New York)

Samuel Yaggy, Lawyer (New York)

Katy Yang, Lawyer (New York)

Elizabeth Yockel, Lawyer (New York)

Aaron Zakem, Lawyer (New York)

Susie Zeiger, Non-Lawyer (New York)

Gretchen Bellamy, Lawyer (North Carolina)

Brittainy Boessel, Lawyer (North Carolina)

Tiffany Canaday, Non-Lawyer (North Carolina)

Cynthia Carrasco White, Lawyer (North Carolina)

Kelly Clarke, Lawyer (North Carolina)

Charlotte Collins, Lawyer (North Carolina)

Margaret Costley, Lawyer (North Carolina)

Jennifer Dominguez, Lawyer (North Carolina)

Deborah Finn, Non-Lawyer (North Carolina)

Joel Gallagher, Non-Lawyer (North Carolina)

Todd Gers, Lawyer (North Carolina)

Stephen Gheen, Lawyer (North Carolina)

Elaine Gordon, Lawyer (North Carolina)

Christopher Gottfried, Lawyer (North Carolina)

James Gronquist, Lawyer (North Carolina)

Sara Harrington, Lawyer (North Carolina)

Heather Hazelwood, Lawyer (North Carolina)

Gregory Herrell, Lawyer (North Carolina)

Andrea Hessey, Non-Lawyer (North Carolina)

Meredith Horton, Lawyer (North Carolina)

Kelly House, Non-Lawyer (North Carolina)

Laurie Janus, Lawyer (North Carolina)

Rick Kane, Lawyer (North Carolina)

Anna Kennington, Non-Lawyer (North Carolina)

Tamzin Kinnett, Lawyer (North Carolina)

Adrienne Kirschner, Non-Lawyer (North Carolina)

Elizabeth Kuniholm, Lawyer (North Carolina)

Alexander Levy, Lawyer (North Carolina)

Elizabeth Lunn, Lawyer (North Carolina)

Deirdre MacNeil, Lawyer (North Carolina)

Jessica Marlies, Lawyer (North Carolina)

Manoj Menon, Non-Lawyer (North Carolina)

Jennifer Osborne, Lawyer (North Carolina)

William Pirkey, Non-Lawyer (North Carolina)

Joanna Quiah, Non-Lawyer (North Carolina)

Sue Resnik, Lawyer (North Carolina)

Allison Rice, Lawyer (North Carolina)

Sherri Zann Rosenthal, Lawyer (North Carolina)

Rick Schmidt, Lawyer (North Carolina)

Harriet Solomon, Non-Lawyer (North Carolina)

Brooke Johnson Suiter, Non-Lawyer (North Carolina)

Becky Whitaker, Lawyer (North Carolina)

Amanda Willis, Lawyer (North Carolina)

Melodie Winter, Non-Lawyer (North Carolina)

Kylie Oversen, Lawyer (North Dakota)

Jennifer Atzberger, Lawyer (Ohio)

Linda Averbeck, Lawyer (Ohio)

Allison Bates, Non-Lawyer (Ohio)

Annamarie Beckmeyer, Non-Lawyer (Ohio)

Phyllis Bossin, Lawyer (Ohio)

Abby Botnick, Lawyer (Ohio)

Thomas Cochrane, Lawyer (Ohio)

Anne Lederman Flamm, Lawyer (Ohio)

Kelly Jackson, Lawyer (Ohio)

Laurie Johnson, Non-Lawyer (Ohio)

Nora Kancelbaum, Non-Lawyer (Ohio)

Lewis Katz, Lawyer (Ohio)

Eric O'Neil, Non-Lawyer (Ohio)

Barkha Patel, Lawyer (Ohio)

Laura Perme, Lawyer (Ohio)

Gerald Simmons, Lawyer (Ohio)

Latha Srinivasan, Lawyer (Ohio)

Liana Walczak, Lawyer (Ohio)

JaMesha Williamson, Lawyer (Ohio)

William Wyler, Lawyer (Ohio)

Sara Hawkins, Lawyer (Oklahoma)

Jorjana Marx, Lawyer (Oklahoma)

Mary Rounds, Lawyer (Oklahoma)

Susan Ackerman, Lawyer (Oregon)

Donna Bader, Lawyer (Oregon)

Clarke Balcom, Lawyer (Oregon)

William Banning, Non-Lawyer (Oregon)

Maureen Berrie-Lawson, Non-Lawyer (Oregon)

Jenny Bloom, Non-Lawyer (Oregon)

Kathryn Bourn, Lawyer (Oregon)

Viet Bui, Lawyer (Oregon)

Sarah Comerford, Non-Lawyer (Oregon)

Heather Decker, Non-Lawyer (Oregon)

Kathleen Dillon, Lawyer (Oregon)

Cheri Elson, Lawyer (Oregon)

Donna Franklin, Lawyer (Oregon)

Vanessa Fritz, Non-Lawyer (Oregon)

Charity Glass-Cotta, Lawyer (Oregon)

Ekua Hackman, Lawyer (Oregon)

Gwen Hadland, Non-Lawyer (Oregon)

Renee Holland Chang, Non-Lawyer (Oregon)

DeAnna Horne, Lawyer (Oregon)

Adelia Hwang, Lawyer (Oregon)

Barbara Isaacman, Lawyer (Oregon)

Sam Jacobson, Lawyer (Oregon)

Claudia Judson, Non-Lawyer (Oregon)

Kristen Leist, Non-Lawyer (Oregon)

Vivien Lyon, Lawyer (Oregon)

Torin McDonald, Lawyer (Oregon)

Katherine McDowell, Lawyer (Oregon)

Shelley McIntyre, Lawyer (Oregon)

Larry Morningstar, Non-Lawyer (Oregon)

Kathryn Olney, Lawyer (Oregon)

Shannon Parrott, Lawyer (Oregon)

Jovanna Patrick, Lawyer (Oregon)

Shelly Perry, Non-Lawyer (Oregon)

Robin Pope, Lawyer (Oregon)

Cathy Rodgers, Non-Lawyer (Oregon)

Jeannine Rustad, Lawyer (Oregon)

John Schlosser, Lawyer (Oregon)

Shelby Smith, Lawyer (Oregon)

Amanda Tucker, Non-Lawyer (Oregon)

Kailin Tutor, Non-Lawyer (Oregon)

Kirk Wallace, Lawyer (Oregon)

Noah Warman, Lawyer (Oregon)

Akia Woods, Non-Lawyer (Oregon)

Conrad Yunker, Lawyer (Oregon)

Deirdre Aaron, Lawyer (Pennsylvania)

Fred Albright, Non-Lawyer (Pennsylvania)

Valery Alicea, Lawyer (Pennsylvania)

Carol Aronoff, Lawyer (Pennsylvania)

Brian Auerbach, Lawyer (Pennsylvania)

Sarah Auerbach, Lawyer (Pennsylvania)

Mark Aurand, Lawyer (Pennsylvania)

Heather Batzel, Lawyer (Pennsylvania)

Erica Bazzell-May, Lawyer (Pennsylvania)

Robin David Bleecher, Lawyer (Pennsylvania)

Kathy Bloom, Lawyer (Pennsylvania)

Ellen Brown, Lawyer (Pennsylvania)

Elise Bruhl, Lawyer (Pennsylvania)

Shirley Clark, Non-Lawyer (Pennsylvania)

Lindsay Clarke, Non-Lawyer (Pennsylvania)

Michael Coard, Lawyer (Pennsylvania)

Enedina Conkright, Non-Lawyer (Pennsylvania)

Mary Ennis, Lawyer (Pennsylvania)

Amy Ershler, Lawyer (Pennsylvania)

Jill Fertel, Lawyer (Pennsylvania)

Linda Floyd, Lawyer (Pennsylvania)

Alan Frankel, Non-Lawyer (Pennsylvania)

Sara Geelan, Lawyer (Pennsylvania)

Gerrie Greene, Lawyer (Pennsylvania)

David Guleke, Lawyer (Pennsylvania)

Karen Guss, Lawyer (Pennsylvania)

Kevin Harden, Lawyer (Pennsylvania)

Sara Hentschke, Lawyer (Pennsylvania)

Linda Hibbs, Non-Lawyer (Pennsylvania)

Margaret Hogan, Non-Lawyer (Pennsylvania)

Linda Hollinger, Lawyer (Pennsylvania)

Karyn Hollis, Lawyer (Pennsylvania)

Jenny Anne Horst-Martz, Lawyer (Pennsylvania)

Dwayne King, Lawyer (Pennsylvania)

Joanne Kleiner, Lawyer (Pennsylvania)

Jonathan Kooker, Lawyer (Pennsylvania)

Dorothy Langton, Lawyer (Pennsylvania)

Emily Leader, Lawyer (Pennsylvania)

Ena Lebel, Lawyer (Pennsylvania)

Susan Leech, Lawyer (Pennsylvania)

Ryan Lockman, Lawyer (Pennsylvania)

Joseph Magid, Non-Lawyer (Pennsylvania)

John Mannarino, Non-Lawyer (Pennsylvania)

Steve Masters, Lawyer (Pennsylvania)

Garen Meguerian, Lawyer (Pennsylvania)

Jules Mermelstein, Lawyer (Pennsylvania)

Kathleen Metcalfe, Lawyer (Pennsylvania)

Lisa Michel, Lawyer (Pennsylvania)

Cathryn Miller-Wilson, Lawyer (Pennsylvania)

David Millstein, Lawyer (Pennsylvania)

Kevin Mincey, Lawyer (Pennsylvania)

Christine Moretti, Non-Lawyer (Pennsylvania)

Jeffrey Muldawer, Lawyer (Pennsylvania)

Noemi Nolter, Non-Lawyer (Pennsylvania)

Melissa Osborne, Lawyer (Pennsylvania)

Margaret Parker, Non-Lawyer (Pennsylvania)

Andrea Parry, Lawyer (Pennsylvania)

Sofia Plotzker, Lawyer (Pennsylvania)

Regina Pollock, Lawyer (Pennsylvania)

Peter A. Rabinowitz, Lawyer (Pennsylvania)

Melissa Romero, Lawyer (Pennsylvania)

Lynn Rosenstock, Lawyer (Pennsylvania)

Riley Ross, Lawyer (Pennsylvania)

Ellyn Sapper, Lawyer (Pennsylvania)

Janet Scanlon, Lawyer (Pennsylvania)

Brett Schratz, Non-Lawyer (Pennsylvania)

Sasha Shapiro, Lawyer (Pennsylvania)

Heather Simons, Non-Lawyer (Pennsylvania)

Christina Sorenson, Lawyer (Pennsylvania)

Richard Steel, Lawyer (Pennsylvania)

Brad Stephenson, Non-Lawyer (Pennsylvania)

Eric Tars, Lawyer (Pennsylvania)

Ginger Underwood, Non-Lawyer (Pennsylvania)

Eric Vankirk, Lawyer (Pennsylvania)

Cynthia Verges, Lawyer (Pennsylvania)

Lin-Chi Wang, Lawyer (Pennsylvania)

Leanna Lee Whitman, Lawyer (Pennsylvania)

Kimberly Yost, Non-Lawyer (Pennsylvania)

Leslie Davis, Lawyer (Puerto Rico)

Candace Brown Casey, Lawyer (Rhode Island)

Chanravy Proeung, Non-Lawyer (Rhode Island)

Sue Berkowitz, Lawyer (South Carolina)

Cindi Caron, Non-Lawyer (South Carolina)

Angelica Colwell, Lawyer (South Carolina)

Dawn Darkes, Lawyer (South Carolina)

Darlena Goodwin, Non-Lawyer (South Carolina)

Dana Lanigan, Lawyer (South Carolina)

Mary Perugini, Non-Lawyer (South Carolina)

Jennifer Richard, Non-Lawyer (South Carolina)

Mary Siren, Lawyer (South Carolina)

Alex Skinner, Lawyer (South Carolina)

Lars Aanning, Non-Lawyer (South Dakota)

Nora Gold, Lawyer (South Dakota)

Taneeza Islam, Lawyer (South Dakota)

Denise Langley, Lawyer (South Dakota)

Pamela Naessig, Non-Lawyer (South Dakota)

Elizabeth Skarin, Lawyer (South Dakota)

Julie Bethell, Lawyer (Tennessee)

Mary Kay Christophersen, Non-Lawyer (Tennessee)

Lori Coleman, Non-Lawyer (Tennessee)

Tasia Harris, Non-Lawyer (Tennessee)

Mary Hock, Non-Lawyer (Tennessee)

Jamal Johnson, Lawyer (Tennessee)

Dorothy Jones, Non-Lawyer (Tennessee)

Kim Jordahl, Lawyer (Tennessee)

William Lakey, Lawyer (Tennessee)

Bill Pemerton, Lawyer (Tennessee)

John Scannapieco, Lawyer (Tennessee)

Christine Scott, Lawyer (Tennessee)

Trish Spore, Non-Lawyer (Tennessee)

Nicole Tuchinda, Lawyer (Tennessee)

Maria van Werkhooven, Non-Lawyer (Tennessee)

Emma Drozdowski Webb, Lawyer (Tennessee)

Julie Worley, Non-Lawyer (Tennessee)

Kinika Young, Lawyer (Tennessee)

Ron Beal, Lawyer (Texas)

Sarah Beebe, Lawyer (Texas)

Alecia Best, Lawyer (Texas)

Bhuvanesh Bhatt, Non-Lawyer (Texas)

Danica Bingham, Non-Lawyer (Texas)

Erin Boase, Lawyer (Texas)

Helen Boursier, Non-Lawyer (Texas)

Rachel Braver, Lawyer (Texas)

Douglas Brock, Lawyer (Texas)

Annette Brown, Non-Lawyer (Texas)

Faisal Charania, Lawyer (Texas)

Aimee Cooper, Lawyer (Texas)

Jane Corley, Lawyer (Texas)

Zantia Crier, Non-Lawyer (Texas)

Elizabeth Davis-Pratt, Lawyer (Texas)

Ricardo de Anda, Lawyer (Texas)

Andrea Del-Pan, Lawyer (Texas)

Archangela DeSilva, Lawyer (Texas)

Surya Deuja, Non-Lawyer (Texas)

Susan Dobie, Non-Lawyer (Texas)

Elizabeth Dunlap, Lawyer (Texas)

Maria Fernandez, Lawyer (Texas)

Julie Ford, Non-Lawyer (Texas)

Anne Garcia, Lawyer (Texas)

Jennifer Gehrt, Lawyer (Texas)

R. Javier Guerra, Lawyer (Texas)

Lorri Haden, Lawyer (Texas)

Laura Heiman, Lawyer (Texas)

Sterling Howard, Lawyer (Texas)

Jenna Jabara, Lawyer (Texas)

Angela James, Non-Lawyer (Texas)

Elena Jimenez Gutierrez, Non-Lawyer (Texas)

Charlotte Johnson, Lawyer (Texas)

Kathleen Kennedy, Lawyer (Texas)

Judith Kim, Lawyer (Texas)

Katherine Kunz, Lawyer (Texas)

Joan Labay-Marquez, Lawyer (Texas)

Zenobia Lai, Lawyer (Texas)

Annette Lamoreaux, Lawyer (Texas)

Daniella Landers, Lawyer (Texas)

Eileen Lawrence, Lawyer (Texas)

Susan Lefler, Lawyer (Texas)

Sarah Lindholm, Non-Lawyer (Texas)

Stephen Luce, Lawyer (Texas)

Lysondra Ludwig, Lawyer (Texas)

Melissa Lum, Lawyer (Texas)

James Lyne, Lawyer (Texas)

Lisa Lyne, Lawyer (Texas)

Sarika Maheshwari, Lawyer (Texas)

Ruth Malinas, Lawyer (Texas)

Denise Manley, Lawyer (Texas)

Terah Moxley, Lawyer (Texas)

Dona Murphey, Non-Lawyer (Texas)

Maria Palacios Herrera, Non-Lawyer (Texas)

Lois Phillips, Non-Lawyer (Texas)

Cheryl Pollman, Lawyer (Texas)

Griselda Ponce, Lawyer (Texas)

Roberta Powell, Non-Lawyer (Texas)

Claire Reynolds, Lawyer (Texas)

Kimmy Robinson, Non-Lawyer (Texas)

Carmen Rumbaut, Lawyer (Texas)

Jacqueline Saldarriaga, Lawyer (Texas)

Becky Schenker, Non-Lawyer (Texas)

Erica Schommer, Lawyer (Texas)

Susan Schoon, Lawyer (Texas)

Kelly Schulte, Lawyer (Texas)

Alexa Sendukas, Lawyer (Texas)

Jennifer Sevilla, Non-Lawyer (Texas)

Jason Sheffield, Non-Lawyer (Texas)

Sarah Shipp, Non-Lawyer (Texas)

Becky Singer, Lawyer (Texas)

Susan Sweigart, Non-Lawyer (Texas)

Susan Thal, Lawyer (Texas)

Jolsna Thomas, Lawyer (Texas)

David Todd, Lawyer (Texas)

CeCelia Valentine, Lawyer (Texas)

Patricia Vaughan, Lawyer (Texas)

Whitney Warren, Lawyer (Texas)

Alison Wetter, Lawyer (Texas)

Ezshwan Winding, Non-Lawyer (Texas)

Rachel Yurek, Lawyer (Texas)

Meghan Zuraw, Lawyer (Texas)

Andy Barros, Lawyer (Utah)

Stanley Berdinka, Non-Lawyer (Utah)

Nick Bernard, Lawyer (Utah)

Melinda Bowen, Lawyer (Utah)

Stacy Ehrlich, Lawyer (Utah)

Rebecca Voymas, Lawyer (Utah)

Emily Wilson, Lawyer (Utah)

Nancy Alexander, Non-Lawyer (Vermont)

Nelson Campbell, Lawyer (Vermont)

Barb Chicatell, Non-Lawyer (Vermont)

Josephine Lowrey, Non-Lawyer (Vermont)

Rita Pitkin, Non-Lawyer (Vermont)

Rebecca Plummer, Lawyer (Vermont)

Loretta Pontillo, Non-Lawyer (Vermont)

Verandah Porche, Lawyer (Vermont)

Zoe Sajor, Lawyer (Vermont)

Joyce Vining Morgan, Non-Lawyer (Vermont)

Patricia Whalen, Lawyer (Vermont)

Jennifer Amos, Non-Lawyer (Virginia)

Susan Apgar, Non-Lawyer (Virginia)

Jessica Arons, Lawyer (Virginia)

Benjamin Austrin-Willis, Lawyer (Virginia)

Katherine Beck Fey, Lawyer (Virginia)

Robert Boltralik, Non-Lawyer (Virginia)

Kristin Cabral, Lawyer (Virginia)

Tara Casey, Lawyer (Virginia)

Kathy Chaney-Grooms, Non-Lawyer (Virginia)

Michael Chang, Lawyer (Virginia)

Ricki Cole, Non-Lawyer (Virginia)

Edmund Cooke, Lawyer (Virginia)

Rebecca Dansky, Lawyer (Virginia)

Claudia Dulmage, Lawyer (Virginia)

Andreas Eichler, Non-Lawyer (Virginia)

Rebecca Eichler, Lawyer (Virginia)

Elizabeth Fabrizio, Lawyer (Virginia)

Sarah Flourance, Lawyer (Virginia)

Eve Gaige, Non-Lawyer (Virginia)

Samantha Garvin, Lawyer (Virginia)

Gerald Gilliard, Lawyer (Virginia)

Michael Goldenpine, Lawyer (Virginia)

Alicia Green, Non-Lawyer (Virginia)

Sinsi Hernández-Cancio, Lawyer (Virginia)

Andrea Hilton, Lawyer (Virginia)

Yen Hoang, Lawyer (Virginia)

Angela Holbert, Lawyer (Virginia)

Marcy Huster, Lawyer (Virginia)

Nancy Kalanta, Non-Lawyer (Virginia)

Marilyn Karp, Non-Lawyer (Virginia)

Jeffrey Krasnow, Lawyer (Virginia)

Heather Latino, Lawyer (Virginia)

Laura Leussing, Lawyer (Virginia)

Andrea Lewis, Lawyer (Virginia)

Elizabeth Lichter, Non-Lawyer (Virginia)

Erica McFarquhar, Lawyer (Virginia)

Elaine Metlin, Lawyer (Virginia)

Elise Milstein, Lawyer (Virginia)

Colleen Naseem, Lawyer (Virginia)

Carol Parham, Non-Lawyer (Virginia)

Inger Pettygrove, Non-Lawyer (Virginia)

Kristy Phillips, Lawyer (Virginia)

Kimberly Ramsey, Non-Lawyer (Virginia)

Danny Reed, Lawyer (Virginia)

Alexander Reidell, Lawyer (Virginia)

Ellen Renaud, Lawyer (Virginia)

Beth Richardson, Lawyer (Virginia)

Greg Richardson, Non-Lawyer (Virginia)

Sallie Ross, Non-Lawyer (Virginia)

Michael Schwartz, Non-Lawyer (Virginia)

Caren Sempel, Lawyer (Virginia)

Renee Servance, Lawyer (Virginia)

Lori Shapiro, Non-Lawyer (Virginia)

Ari Sommer, Lawyer (Virginia)

Ronald Stern, Lawyer (Virginia)

Katherine Wallace, Lawyer (Virginia)

Susan Wuchinich, Lawyer (Virginia)

Gerald Zerkin, Lawyer (Virginia)

Dena Alo-Colbeck, Lawyer (Washington)

CeCelia Andrews, Lawyer (Washington)

Alissa Baier, Lawyer (Washington)

Kelsey Beckner, Lawyer (Washington)

Patrick Blakely, Non-Lawyer (Washington)

Emily Blue, Non-Lawyer (Washington)

Kathryn Boling, Lawyer (Washington)

Antoinette Bonsignore, Non-Lawyer (Washington)

Michael Burg, Lawyer (Washington)

Cynthia Cannon, Lawyer (Washington)

Catherine Caron, Non-Lawyer (Washington)

Colton Carothers, Lawyer (Washington)

Kim Clark, Lawyer (Washington)

Charlie Commeree, Lawyer (Washington)

Randi Covin, Lawyer (Washington)

Michelle Danley, Lawyer (Washington)

Catherine Darley, Non-Lawyer (Washington)

Gary Davis, Lawyer (Washington)

Lindsy Doucette, Lawyer (Washington)

George Elliott, Lawyer (Washington)

Rebekah Fox, Non-Lawyer (Washington)

Andrea Freimuth Carter, Lawyer (Washington)

Susan Gilmore, Lawyer (Washington)

Christina Godfrey, Lawyer (Washington)

Kathleen Grover, Lawyer (Washington)

Debra Hannula, Lawyer (Washington)

Darlene Harris, Non-Lawyer (Washington)

Wynona Heim, Non-Lawyer (Washington)

Carol Hendry, Lawyer (Washington)

Kimberly Henson, Lawyer (Washington)

Melissa Huelsman, Lawyer (Washington)

Melissa Jackson Witek, Lawyer (Washington)

Emanuel Jacobowitz, Lawyer (Washington)

Lynnette Jenkins, Lawyer (Washington)

Pamela Jones, Non-Lawyer (Washington)

Donna Joslyn, Non-Lawyer (Washington)

Bree Kame'enui, Lawyer (Washington)

Leigh Kellogg, Non-Lawyer (Washington)

Margaret Kemp-Williams, Lawyer (Washington)

Donna Killian, Non-Lawyer (Washington)

Ailynn Knox-Collins, Non-Lawyer (Washington)

Milos Kovacevic, Lawyer (Washington)

Kristin Lamson, Lawyer (Washington)

Steve Lawrenz, Lawyer (Washington)

Ilona Lindsay, Lawyer (Washington)

Sara Longley, Lawyer (Washington)

Sarah Lunn, Lawyer (Washington)

Mariah Lynge, Lawyer (Washington)

Robyn Martin, Lawyer (Washington)

Roxanne May, Non-Lawyer (Washington)

Kim Maynard, Lawyer (Washington)

Sarah McBride, Lawyer (Washington)

Marvin McCoy, Lawyer (Washington)

Hugh McGAvick, Lawyer (Washington)

Karen Mensinger, Non-Lawyer (Washington)

Sylvia Miller, Lawyer (Washington)

Donna Musgrove, Non-Lawyer (Washington)

Allyn Parker, Lawyer (Washington)

Lynn Paul, Non-Lawyer (Washington)

Maureen Pescaia, Non-Lawyer (Washington)

Sheryl Pewitt, Lawyer (Washington)

Sean Phelan, Lawyer (Washington)

Terri Pollock, Lawyer (Washington)

Steffani Powell, Lawyer (Washington)

Julia Riggs, Lawyer (Washington)

Mercedes Riggs, Lawyer (Washington)

Rachel Roberts, Lawyer (Washington)

Mary Kathryn Rodgers, Lawyer (Washington)

Elaine Rose, Lawyer (Washington)

Michael Russo, Lawyer (Washington)

P. Diane Schneider, Non-Lawyer (Washington)

Timothy Sears, Lawyer (Washington)

Kate Sigafoos, Lawyer (Washington)

Beverly Skeffington, Non-Lawyer (Washington)

Harriet Strasberg, Lawyer (Washington)

Shara Svendsen, Lawyer (Washington)

Brenda Tausch Lapora, Lawyer (Washington)

Cynthia Thomas, Lawyer (Washington)

Joan Tierney, Lawyer (Washington)

Kristina Turner, Non-Lawyer (Washington)

Ananda Valenzuela, Non-Lawyer (Washington)

Beth Vogl, Non-Lawyer (Washington)

Tahmina Watson, Lawyer (Washington)

Lee Webb, Non-Lawyer (Washington)

Jessica West, Lawyer (Washington)

Megan Yoshimura, Lawyer (Washington)

Bridget Young, Lawyer (Washington)

Laura Young, Lawyer (Washington)

Kristine Zucconi, Lawyer (Washington)

Stacy Ashworth, Non-Lawyer (West Virginia)

SaraBeth Griesacker, Lawyer (West Virginia)

Denise Lane, Lawyer (West Virginia)

Tana McCraw, Non-Lawyer (West Virginia)

Lydia Milnes, Lawyer (West Virginia)

Rosalinda Pascual, Lawyer (West Virginia)

Sharon Pickens, Non-Lawyer (West Virginia)

Carolyn Rodis, Lawyer (West Virginia)

Marianne Turkal, Non-Lawyer (West Virginia)

Kathryn Block, Lawyer (Wisconsin)

Elizabeth Cavell, Lawyer (Wisconsin)

Steven Corfman, Lawyer (Wisconsin)

Hannah Eldridge, Non-Lawyer (Wisconsin)

Deborah Elsas, Lawyer (Wisconsin)

Gregory Erickson, Lawyer (Wisconsin)

Mary Ferwerda, Lawyer (Wisconsin)

Aleen Grabow, Non-Lawyer (Wisconsin)

Hannah Jahn, Lawyer (Wisconsin)

Margarte Kerr, Non-Lawyer (Wisconsin)

Meredith Marine, Lawyer (Wisconsin)

Frances Martin, Lawyer (Wisconsin)

Larraine McNamara-McGraw, Lawyer (Wisconsin)

Jennifer Miller, Lawyer (Wisconsin)

Patrick Patterson, Lawyer (Wisconsin)

Felicia Petroff, Lawyer (Wisconsin)

Georgette Rodriguez, Non-Lawyer (Wisconsin)

Carrie Santulli Schudda, Lawyer (Wisconsin)

Carrie Schudda, Lawyer (Wisconsin)

Jeff Spitzer-Resnick, Lawyer (Wisconsin)

Kristen Zorbini Bongard, Lawyer (Wisconsin)

Susan Kelly Burkitt, Lawyer (Wyoming)

Wendy Ross, Lawyer (Wyoming)

Ellin Stiteler, Non-Lawyer (Wyoming)

# # #

MCCA ™
Advancing Diversity, Equity and Inclusion

BOARD OF DIRECTORS

Stuart Alderoty
MCCA Chair,
General Counsel,
Ripple

Damien Atkins
MCCA Chair-Elect
Former Senior Vice President,
General Counsel & Secretary
The Hershey Company

Jean Lee
President & CEO
MCCA

Ricardo A. Anzaldua
Former Executive Vice President
& General Counsel
Freddie Mac

Craig B. Glidden
Executive Vice President &
General Counsel
General Motors Company

Duane Holloway
Senior Vice President, General
Counsel, Chief Ethics & Compliance
Officer & Corporate Secretary
United States Steel Corporation

Seth Krauss
Chief Legal Officer
Endeavor

Sandra Leung
Executive Vice President &
General Counsel
Bristol-Myers Squibb

Hannah Lim-Johnson
Senior Vice President, Chief Legal
Officer & Corporate Secretary
Meritor, Inc.

Linda Lu
Senior Vice President &
Deputy General Counsel –
Litigation, Enforcement & Strategy
TransUnion

Lanesha Minnix
Senior Vice President, Chief Legal
Officer & Corporate Secretary
Flowserve Corporation

Amy Fliegelman Olli
Executive Vice President &
General Counsel
VMware, Inc.

Tom Robertson
Corporate Vice President &
Deputy General Counsel
Microsoft Corporation

Anne Robinson
Managing Director, General
Counsel & Corporate Secretary
Vanguard

Robin H. Sangston
Vice President, Chief
Compliance & Privacy Officer
Cox Communications, Inc.

Dawn Smith
President &
Chief Operating Officer
Cologix, Inc.

Michael Tang
Senior Vice President,
General Counsel & Secretary
Agilent Technologies, Inc.

Amy Tu
Executive Vice President, General
Counsel, & Corporate Secretary
Tyson Foods, Inc.

Wanji Walcott
Executive Vice President, Chief
Legal Officer & General Counsel
Discover Financial Services

Neil H. Wilcox
Executive Vice President & Head of
Corporate Social Responsibility
Fiserv, Inc.

April 12, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington DC 20510

Re: Letter in Support of Kristen Clarke, nominee for Assistant Attorney General of the Civil Rights Division of the United States Department of Justice

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

We write to urge the timely confirmation of Kristen Clarke to serve as the 19th Assistant Attorney General of the Civil Rights Division of the U.S. Department of Justice (DOJ).

As the board of the Minority Corporate Counsel Association (MCCA), we represent hundreds of diverse attorneys across more than 200 of the nation's leading law firms and corporations. Over the years, many of us have crossed paths with Ms. Clarke in her capacity as the President and Executive Director of the Lawyers' Committee for Civil Rights Under Law. We have seen firsthand her commitment to a mission we all share: to ensure a just America, one where the rights of all individuals are protected and everybody has a chance to succeed.

That is why, though we come from different backgrounds, we come together with one voice to declare our unequivocal support for Ms. Clarke—the nominee who meets this moment. Whether it is protecting the right to vote at the NAACP Legal Defense Fund, leading civil rights enforcement at the Office of the New York State Attorney General, or defending the rights of marginalized communities at the Lawyers' Committee, Ms. Clarke has made the pursuit of justice the work of her career and life, and we are all better for it.



Now more than ever, we need her leadership. We live in a moment when so many underrepresented communities are under threat. The pandemic has laid bare the harsh inequities faced by Black and brown communities. The death of George Floyd exposed the injustices present in our justice system, especially towards Black Americans. And the brutal murders in Atlanta reminded us that hate, if left unaddressed, has a tendency to metastasize—as it did that day against the Asian American community, which has too often been sidelined in our national discourse.

Ms. Clarke is well-equipped to counter the recent onslaught of hate because, in many ways, it is what she has done throughout her career. She has worked alongside victims of hate to ensure they receive justice and accountability—victims like Sunayana Dumala, the widow of the young South Asian man who was killed in a Kansas bar in 2017. She has worked hand-in-hand with law enforcement to improve officers' responses to hate crimes. The hate crime investigation policies that she helped develop with the International Association of Chiefs of Police, for example, are being used by police forces around the world. In addition to her extensive professional experience, she would bring to the role her perspective as a Black woman—one that has never been reflected in the leadership of the Civil Rights Division.

At a time when the civil rights and safety of Americans are at stake, we need someone who can beat back the rising tide of hate and enforce the rule of law without fear or favor. Someone who can protect our underrepresented communities and ensure that they have equal access to opportunity. Someone who can reflect the diversity of our country through her own lived experiences and break barriers for the next generation of diverse talent.

Kristen Clarke is that person. As she recently said, the Department of Justice has the ability to take "bold action that moves us closer to that promise of equal justice under law for all, [and is] uniquely positioned to truly help breathe life into that promise." Under her leadership of the Civil Rights Division—the very office where she first began her career—we are confident that the Department of Justice will do just that.

We urge the Judiciary Committee, and the full Senate, to swiftly confirm Ms. Clarke.

Sincerely yours,

Jean Lee
President and CEO
Minority Corporate Counsel Association

Stuart Alderoty
General Counsel,
Ripple & MCCA Board Chair

Damien Atkins
Former Senior Vice President,
General Counsel & Secretary
The Hershey Company
MCCA Board Chair-Elect

Ricardo Anzaldua
Former Executive Vice President
Freddie Mac



Craig Glidden
Executive Vice President & General Counsel
General Motors Company

Duane Holloway
Senior Vice President, General Counsel,
Chief Ethics & Compliance Officer &
Corporate Secretary
United States Steel Corporation

Seth Krauss
Chief Legal Officer
Endeavor

Sandra Leung
Executive Vice President, General Counsel
Bristol-Myers Squibb

Hannah Lim-Johnson
Senior Vice President, Chief Legal Officer
& Corporate Secretary
Meritor, Inc.

Linda Lu
Senior Vice President & Deputy General
Counsel – Litigation, Enforcement &
Strategy, TransUnion

Lanesha Minnix
Senior Vice President, Chief Legal Officer
& Corporate Secretary
Flowserve Corporation

Amy Fliegelman Olli
Executive Vice President &
General Counsel
VMware, Inc.

Tom Robertson
Corporate Vice President &
Deputy General Counsel
Microsoft Corporation

Anne Robinson
Managing Director, General Counsel
& Corporate Secretary
Vanguard

Robin H. Sangston
Vice President, Chief Compliance &
Privacy Officer
Cox Communications, Inc.

Dawn Smith
President & Chief Operating Officer
Cologix, Inc.

Michael Tang
Senior Vice President,
General Counsel & Secretary
Agilent Technologies, Inc.

Amy Tu
Executive Vice President, General Counsel,
& Corporate Secretary
Tyson Foods, Inc.

Wanji Walcott
Executive Vice President, Chief Legal Officer
& General Counsel
Discover Financial Services

Neil H. Wilcox
Executive Vice President &
Head of Corporate Social Responsibility
Fiserv, Inc.

April 13, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

I write in support of President Biden's nomination of Kristen Clarke for Assistant Attorney General for the Civil Rights Division of the Department of Justice. The neo-Nazi rally in Charlottesville and the massacre in Pittsburgh have made clear that American Jews are more vulnerable today than we have been in generations. We need an effective ally in the fight against anti-Semitism leading the DOJ Civil Rights Division. Based on her record of the past two decades, Kristen Clarke is exactly who we need in this position.

In the absence of any real basis to challenge her nomination, opponents of Kristen Clarke have unearthed a December 1994 incident that happened during Clarke's sophomore year at Harvard, when she was president of Harvard's Black Students Association. Wellesley professor Tony Martin, after attempting to rescue his academic career from obscurity by publishing an anti-Semitic screed, invited himself onto the Harvard campus to promote it. In a decision that Clarke has publicly regretted, she agreed to BSA sponsorship of Martin's speech. This has been deployed to falsely tar Clarke as an anti-Semite by those who want Clarke's nomination to fail because they do not want the DOJ's Civil Rights Division to succeed.

Unlike those claiming outrage 26 years after the fact, I was there in 1994. As the Jewish community's representative to the Harvard Foundation for Race and Intercultural Affairs, these events impacted me personally. Martin's demagoguery was not a unique event. The early 1990s Harvard campus was a magnet for provocateurs pitching anti-Semitism as Black pride. Each time the scene prior to the speech was the same – Jewish demands for sensitivity, Black assertions of independence and two communities talking past each other. What was different in 1994 was the aftermath. Instead of the Black and Jewish communities retreating into mutual recrimination and sullen silence as in the past, after Martin's visit there were multiple dialogues co-sponsored by the BSA and Hillel to discuss what had happened and how to move forward. Kristen's leadership was essential to the healing that happened afterward.

It is clear from Kristen Clarke's subsequent career that the leadership she showed *after* Martin's visit was the true reflection of her character and predictor of her future career. Clarke has been a tireless advocate for civil rights for all. She has fought anti-Semitism just like she has fought all

forms of discrimination – with courage, compassion and skill. It is no wonder that Jewish organizations such as the ADL that have worked closely with her have endorsed her nomination without reservation. We must not allow bad faith claims of anti-Semitism deprive Americans of a public servant who will effectively wield the power of our hard-won civil rights laws to stem the rising tide of racism, Anti-Semitism and bigotry we face in in this critical moment.

Michael H. Pine (Goldenpine)
Harvard College, Class of 1995

New York Office
40 Rector Street, 5th Floor
New York, NY 10006-1738

T 212.965.2200
F 212.226.7592

www.naacpldf.org

Washington, D.C. Office
700 14th Street, NW, Suite 600
Washington, D.C. 20005

T 202.682.1300
F 202.682.1312

LDF
DEFEND EDUCATE EMPOWER

April 12, 2021

Senator Dick Durbin
United States Senate
711 Hart Senate Office Building
Washington, D.C. 20510

Senator Chuck Grassley
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20510

Re: Letter of support for Assistant Attorney General for Civil Rights nominee, Kristen Clarke

Dear Chairman Durbin and Ranking Member Grassley:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. ("LDF"), I write to express the unequivocal support of LDF for the nomination of Kristen Clarke to serve as the Assistant Attorney General for Civil Rights at the United States Department of Justice ("Department"). LDF is the country's first and foremost civil rights organization. Founded in 1940 under the leadership of Thurgood Marshall, LDF's mission has always been transformative: to achieve racial justice, equality, and an inclusive society.[1] Ms. Clarke was an esteemed member of the LDF staff from March 2006 to August 2011. During that time, she worked tirelessly to advance LDF's mission, especially in the areas of voting rights and political participation.

The work and leadership of the Civil Rights Division of the Department of Justice is of particular interest to LDF. Created by the Civil Rights Act of 1957, the Civil Rights Division ("Division") is charged with upholding "the civil and constitutional rights of all Americans, particularly some of the most vulnerable members of our society."[2] The Division is responsible for protecting and building

[1] LDF has been a separate organization from the NAACP since 1957.
[2] About Division Overview, Department of Justice (last accessed March 29, 2021) https://www.justice.gov/crt/about-division-overview

upon the hard-won civil rights of marginalized communities, and it requires a leader with a proven commitment to that goal.

Since its formation in the early days of the Civil Rights Movement, many of the leaders of the Division[3] have brought a wealth of experience and commitment to the robust enforcement of civil rights statutes that prohibit discrimination on the basis of race, sex, disability, religion, familial status and national origin. For most of its history, the Division has been at the forefront of civil rights protection in each of these areas. However in recent years, we saw a drastic change with the Division largely absent from leadership in, and often opposed to, civil rights enforcement. At the same time, we have seen a dramatic increase in the attacks and antagonism against civil rights laws in this country.

This is indeed a critical moment in the nation's history and it is of paramount importance that the Department of Justice and the Civil Rights Division be led by lawyers with a demonstrated commitment to integrity, independence, civil rights, and equal justice under the law. As President Biden recently noted,

> "[The Justice Department] was formed in 1870 to enforce the civil rights amendments that grew out of the Civil War. The 13th, 14th, and 15th amendments. To stand up to the Klan, to stand up to racism, to take on domestic terrorism. This original spirit must again guide and animate its work."[4]

Ms. Clarke is precisely the person to restore the original spirit of the Civil Rights Division. She has dedicated her entire career to the enforcement and expansion of civil rights. In fact, when announcing his intent to nominate Ms. Clarke, President Biden described her as "one of the most distinguished civil rights attorneys in America."[5]

---

[3] Four former LDF staff attorneys have served as the Assistant United States Attorney General for Civil Rights, leading the Civil Rights Division in its work during critical periods in the Division's history: Vanita Gupta, Bill Lann Lee, Deval Patrick, and Drew S. Days III.
[4] *Joe Biden Introduces DOJ Nominees Merrick Garland Transcript*, (Jan. 07, 2021) https://www.rev.com/blog/transcripts/joe-biden-introduces-doj-nominees-merrick-garland-transcript.
[5] *Id.*



Ms. Clarke's extensive record of civil rights advocacy and enforcement, as well as her deep commitment to justice and professional integrity makes us confident in her ability to excel as Assistant Attorney General for Civil Rights. After graduating from Harvard University and Columbia Law School, Ms. Clarke spent six years as a career attorney at the Civil Rights Division.[6] Serving in both the Criminal Section and Voting Section, she handled critical matters ranging from police misconduct, hate crimes and human trafficking to voting rights and redistricting.

After serving at the Civil Right Division, Ms. Clarke joined LDF and helped lead litigation focused on voting rights and election law. As Co-Director of the Political Participation Group at LDF, Ms. Clarke oversaw and coordinated LDF's legal strategy to defend the constitutionality of the Voting Rights Act in federal courts and to fight for full political participation for communities of color.

Ms. Clarke litigated some of LDF's most important and high-profile voting rights cases, including *Northwest Austin Municipal Utility District Number One v. Holder*[7] which upheld the constitutionality of Section 5 of the Voting Rights Act. She also led the effort to intervene in the watershed case of *Shelby County v. Holder*[8] representing local African-American community leaders and voters. Ms. Clarke presented argument on behalf of the intervenors before a three-judge panel of the D.C. Circuit Court of Appeals. That argument was successful as the both the district court and the Court of Appeals rejected the constitutional challenges to the Voting Rights Act ("VRA") asserted by Shelby County. However, in June 2013, the Supreme Court issued a ruling that the geographic coverage provision of the VRA was unconstitutional.

After leaving LDF, Ms. Clarke served as chief of the Civil Rights Bureau of the New York State Attorney General's office. In that position, she led and coordinated civil rights enforcement in the State of New York and helped to direct investigations and prosecute discrimination cases on the basis of race, color, national origin, sex, marital status, sexual orientation, gender identity, religion, source of income and disability status.

---

[6] Kristen Clarke, Responses to Senate Judiciary Questionnaire (last accessed March 3, 2021) p. 2
[7] 557 U.S. 193 (2009).
[8] 679 F.3d 848 (2012)

LDF
DEFEND EDUCATE EMPOWER

Most recently, Ms. Clarke served as president and executive director of the Lawyers' Committee for Civil Rights ("Lawyers Committee"), one of the country's premier civil rights organizations. In that capacity, she has also led the Lawyers' Committee's national Election Protection coalition, the nation's largest and longest-running nonpartisan voter protection program.[9] Ms. Clarke also launched the James Byrd, Jr. Center to Stop Hate,[10] a national project focused on combating and responding to hate crimes against marginalized communities. Ms. Clarke's tenure at the Lawyers' Committee is marked by the organization's legal advocacy combating racist, anti-Semitic, Islamophobic and anti-immigrant hate on the internet. In 2019, the Lawyers' Committee, stewarded by Ms. Clarke, won a landmark victory against *The Daily Stormer* for engaging in online racial harassment and threats.[11]

The breadth and depth of Ms. Clarke's professional record is unparalleled. Her litigation and advocacy experience in crucial civil rights issues provide expertise desperately needed in the Division today. Moreover, she has the reputation of a trusted and respected civil rights advocate, across ideological or partisan boundaries.[12] Ms. Clarke is an incredibly qualified and passionate civil rights leader with a career of distinction, committed to fighting hate and bias and promoting racial justice.

As the nation's top law enforcement agency, the Department of Justice serves as a backstop for the protection of fundamental civil rights. Kristen Clarke will restore integrity, independence, and the pursuit of justice to Civil Rights Division of

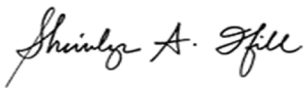
---

[9] About, Election Protection: 866-Our-Vote (last accessed March 29, 2021) https://866ourvote.org/about/.
[10] Don Owens, *Lawyers' Committee for Civil Rights Under Law Remembers James Byrd Jr.*, Lawyers' Committee for Civil Rights Under Law (Jun. 7, 2020) https://lawyerscommittee.org/lawyers-committee-for-civil-rights-under-law-remembers-james-byrd-jr/#:~:text=Earlier%20this%20year%2C%20the%20Lawyers%E2%80%99%20Committee%20for%20Civil,the%20Lawyers%E2%80%99%20Committee%20for%20Civil%20Rights%20Under%20Law%3A.
[11] Stanley Augustin, *National Civil Rights Organization Wins Lawsuit Against Daily Stormer and White Supremacists Engaging in Online Threats and Harassment,* Lawyers' Committee for Civil Rights Under Law (Aug. 9, 2019) https://lawyerscommittee.org/national-civil-rights-organization-wins-lawsuit-against-daily-stormer-and-white-supremacists-engaging-in-online-threats-and-harassment/.
[12] Spectrum News Staff & Associated Press, *Police Groups Endorse Kristen Clarke, Biden's Pick for Civil Rights Chief,* Spectrum News New York 1, (March 11, 2021) https://www.ny1.com/nyc/all-boroughs/news/2021/03/11/police-groups-endorse-kristen-clarke-civil-rights.

LDF
DEFEND EDUCATE EMPOWER

the Department of Justice. We urge the Senate Judiciary Committee to confirm Kristen Clarke as Assistant Attorney General for Civil Rights without delay.

Sincerely,



Sherrilyn Ifill
President-Director Counsel
NAACP Legal Defense & Educational Fund
40 Rector Street
5th Floor
New York, NY 10006
sifill@naacpldf.org

cc: Members of Senate Judiciary Committee

NAACP

April 12, 2021

The Honorable Richard Durbin
Chairman, Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Charles Grassley
Ranking Member, Senate Judiciary Committee
152 Dirksen Senate Office Building
Washington, DC 20510

RE: NOMINATION OF KRISTEN CLARKE FOR ASSISTANT ATTORNEY GENERAL FOR CIVIL RIGHTS

Dear Chairman Durbin and Ranking Member Grassley:

On behalf of the NAACP, our nation's oldest, largest, and most widely-recognized grassroots based civil rights organization, I strongly urge you to support the nomination of Kristen Clarke to be Assistant Attorney General for Civil Rights in the U.S. Department of Justice.

The selection of the next leader of the Civil Rights Division may be the most important executive nomination considered by the Senate this year. Established in 1957, the Civil Rights Division is charged with enforcing our nation's civil rights laws and is known as the "Crown Jewel" of the Justice Department. Its vital work represents the core of the Department's mission to ensure justice on behalf of all Americans.

Kristen Clarke is exactly the extraordinary leader we need at the helm of the Civil Rights Division at this critical moment when a number of civil rights crises have converged to render the work of the Division the most consequential in decades. Longstanding racial disparities are in stark relief as the pandemic still disproportionately impacts communities of color. Police violence remains a looming danger for people of color. Racially-motivated domestic terrorism is now classified as the gravest threat to our democracy. Communities across the country are targets of hate-filled assaults, tragically only growing in number. At the same time, we are forced to defend against a reinvigorated attack on our democracy post-election that has produced hundreds of state-sponsored voter suppression bills, unprecedented in the modern era. Finally, after four years of civil rights reversals and rollbacks by the Trump administration, the Department of Justice must repair the grave harm done to the Civil Rights Division and move quickly to restore and advance civil rights enforcement. Civil rights are always front and center, but never more so than now.

Kristen Clarke's confirmation is imperative in this moment. She would make history in becoming the first Senate-confirmed woman to lead the Civil Rights Division. As the daughter of Jamaican immigrants, she will be the first woman of color to serve in this position. Women of color have always been an integral part of the civil rights movement and many are leading the civil rights battles of today. It is unfathomable that

a woman has never been confirmed as Assistant Attorney General for Civil Rights in the sixty-four years since the founding of the Division. With Ms. Clarke's nomination, the Senate has the opportunity to correct this longstanding omission in civil rights leadership.

Kristen Clarke is an incredibly accomplished civil rights lawyer who has devoted her entire career to advancing the cause of justice. It was civil rights that first motivated her to become a lawyer when, as a high school student, she attended a hearing in the famous school desegregation lawsuit, *Sheff v. O'Neill*. After graduating from Harvard University and Columbia Law School, she began her civil rights career with the Civil Rights Division, participating in the prestigious Honors Program. As a testament to her longstanding belief that civil rights are never partisan issues, she spent her first years as a lawyer with the Civil Rights Division under the George W. Bush administration, prosecuting hate crimes, domestic violence, human trafficking, police brutality, and voting rights cases.

In addition to her federal civil rights enforcement background, Kristen Clarke has substantial leadership experience in state civil rights enforcement. For four years, she served as Chief of the Civil Rights Bureau in the New York Attorney General's Office. As New York's top civil rights enforcement officer, she directed one of the most active and robust civil rights dockets in the country, supervising a broad range of civil rights enforcement activity in areas such as voting rights, fair housing and lending, equal opportunity in education, anti-discrimination in the workplace, access for individuals with disabilities, religious rights, LGBTQ rights, and hate crimes. She also worked to address barriers to reentry for individuals with criminal convictions, the school-to-prison pipeline, and police misconduct, including overseeing preparation of a comprehensive report regarding the New York City Police Department's Stop and Frisk Program.

In addition to her prosecutorial experience, Kristen Clarke has held leadership positions with national civil rights litigating organizations. She headed the political participation project at the NAACP Legal Defense & Educational Fund, which was founded by Thurgood Marshall. Currently, she serves as president and executive director of the Lawyers' Committee for Civil Rights Under Law, which was established at the request of President John F. Kennedy in 1963 to engage the legal profession in the protection of civil rights.

Over the course of her career, Ms. Clarke has developed an incredible breadth and depth of civil rights litigation experience which makes her an extraordinary nominee to lead the Civil Rights Division. She has litigated in every civil rights area in which the Division is involved, including voting rights, equal educational opportunity, fair housing, equal employment, environmental justice, and criminal justice. Importantly, she has also represented many diverse communities protected by our nation's civil rights laws, including people of color, women, people with disabilities, members of the LGBTQ community, people of faith, older Americans, service members, and victims of hate crimes.

Our nation needs a nationally renowned voting rights lawyer like Kristen Clarke in the top civil rights position at the Department of Justice. Ensuring full political participation for voters of color has been a central theme of Ms. Clarke's career. As a young lawyer in the Division's Voting Section, she enforced voting rights laws on behalf of the United States. While working on voting rights at the Legal Defense Fund, she was engaged in some of the most complex and consequential voting rights cases of our time. It was Ms. Clarke who argued on behalf of Black intervenors in the lower court hearing in *Shelby County v. Holder*, defending the constitutionality of Section 5 of the Voting Rights Act. Ms. Clarke also supervised voting rights cases when she directed New York's Civil Rights Bureau. The Lawyers' Committee for Civil Rights Under Law, which she has headed for the last five years, operates a signature year-round election protection program for federal, state, and local elections and manages a campaign staffed by thousands of

volunteer lawyers to ensure that all citizens, from Hawaii to New Hampshire, can cast a ballot and have that ballot count. Ms. Clarke has testified before Congress and numerous state and local public bodies about the importance of defending the franchise for communities of color. It is difficult to think of someone more experienced at protecting democracy than Kristen Clarke.

The NAACP believes that Ms. Clarke is exceptionally suited to oversee the Civil Rights Division at a time when people of color have suffered devastating harm at the hands of law enforcement. She is the leader we need to ensure local police agencies are complying with civil rights laws and advancing public safety by maintaining positive relationships with the communities they serve. Ms. Clarke has prosecuted police misconduct cases and has worked to make the criminal justice system fairer for people of color. She can help the Justice Department develop effective solutions to the tremendous challenges created by the policing crisis by prioritizing accountability and transparency and inspiring confidence and trust. Ms. Clarke is known as a bridge-builder who opens lines of communication and works collaboratively to advance the cause of justice. Her nomination enjoys broad support from the law enforcement community such as the Major Cities Chiefs Association, the National Association of Police Organizations, the executive director of the International Association of Chiefs of Police, and the National Association of Women Law Enforcement Executives. She is also supported by bipartisan groups of U.S. Attorneys, State Attorneys General, former top Justice Department officials, and police chiefs and sheriffs across the country.

Importantly, Kristen Clarke has fought against hatred and bigotry throughout her 20-year career and can use her experience to help the Justice Department stem the shocking rise in hate crimes. She prosecuted hate crimes on behalf of the Department under the George W. Bush administration. In the New York Civil Rights Bureau, she oversaw a religious rights initiative which promoted religious tolerance and religious accommodations. At the Lawyers' Committee, she launched the James Byrd Jr. Center to Stop Hate to address hate crimes by strengthening the capacity of community leaders, law enforcement, and national organizations to combat hate. She led efforts to ban hate speech on social media platforms and won a lawsuit against one white supremacist website and shut down numerous others. Under her leadership, the Lawyers' Committee filed suit against the Proud Boys for attacking a historic Black church in Washington, D.C.

Our nation urgently needs Kristen Clarke's civil rights vision and leadership at the Justice Department. President Biden was correct when he introduced Kristen Clarke as "one of the most distinguished civil rights attorneys in America." Every community protected by our federal civil rights laws is extremely fortunate that she is willing to head the Civil Rights Division at a time when her commitment and expertise are vitally necessary to restore the "Crown Jewel" of the Department. Her unique combination of talents and skills can assuredly help chart our nation's path toward the promise of equal justice under law. The Senate should confirm her as quickly as possible.

Thank you for your attention to this important matter. Should you have any questions or comments, please contact Hilary Shelton, Director of the Washington Bureau and Senior Vice President for Policy and Advocacy at his office at (202) 463-2940.

Sincerely yours,

Derrick Johnson, President and CEO

cc: Members of the Senate Judiciary Committee

NCLR NATIONAL CENTER FOR LESBIAN RIGHTS

WASHINGTON DC OFFICE
1300 Pennsylvania Ave, NW
#190-706
Washington DC 20004

April 13, 2021

United State Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington DC 20510

Dear Chairman Durbin, Ranking Member Grassley, and Members of the Committee:

The National Center for Lesbian Rights (NCLR) writes in support of the confirmation of Kristen Clarke to serve as Assistant Attorney General for Civil Rights.

NCLR is a national public interest law firm that litigates precedent-setting cases at the trial and appellate court levels, advocates for equitable public policies affecting the lesbian, gay, bisexual, transgender, and queer (LGBTQ) community, provides free legal assistance to LGBTQ people and their advocates, and conducts community education on LGBTQ issues. NCLR has been advancing the civil and human rights of LGBTQ people and their families across the United States through litigation, legislation, policy, and public education since its founding in 1977. As a civil rights organization, we understand the critical role of the Department of Justice, and particularly the Civil Rights Division, and the need for strong leadership at the agency's highest levels. Ms. Clarke embodies the kind of leadership that we need at this time.

Ms. Clarke's career and her many accomplishments make her well-suited for the role for which she has been nominated. In addition to serving in the Justice Department early in her career, she has championed civil rights in her other roles, including at the NAACP Legal Defense and Educational Fund, the Civil Rights Bureau in the New York State Attorney General's Office, and the Lawyers' Committee for Civil Rights Under Law.

We know that as head of the Civil Rights Division Ms. Clarke will be a stalwart defender of equality for everyone, including the LGBTQ community. She has shown this through her career-long commitment to civil rights for all, and through leading an amicus brief on behalf of the Lawyers' Committee in the landmark *Bostock v. Clayton County* case that established federal employment discrimination protections for LGBTQ people. We enthusiastically support her nomination not only because of her demonstrated support for the civil equality of LGBTQ people, but also because she is eminently well-equipped to confront the myriad other pressing civil rights issues facing our country, including racial and gender justice and voting rights. We are confident she will be a voice for all people and will diligently endeavor to ensure that every person in this country has an equal chance to participate and contribute.

We urge the committee to advance, and the entire Senate to swiftly confirm, Kristen Clarke to the position of Assistant Attorney General for Civil Rights.

If you require additional information, please contact Julie Gonen, NCLR's federal policy director, at jgonen@nclrights.org or 202-734-3547.

Sincerely,

National Center for Lesbian Rights



National Council of Negro Women, Inc. • ncnw.org • ncnwhq@ncnw.org
633 Pennsylvania Avenue, NW Washington, DC 20004 • 202-737-0120

The Honorable Richard Durbin, Chairman
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Charles Grassley, Ranking Member
Senate Judiciary Committee
152 Dirksen Senate Office Building
Washington, DC 20510

RE: NOMINATION OF KRISTEN CLARKE FOR ASSISTANT ATTORNEY GENERAL FOR CIVIL RIGHTS

Dear Chairman Durbin and Ranking Member Grassley:

I write to urge your support for the nomination of Kristen Clarke to be Assistant Attorney General for Civil Rights in the U.S. Department of Justice. Each day, events in the news remind us just how significant the Civil Rights Division is to the common welfare of U.S. citizens. Whether we confront domestic terrorism, the proper use of police force, the guarantee of equal protection in the redistricting process, or the integrity of the ballot, we look to the Department of Justice to help protect and defend the essence of U.S. citizenship.

Kristen Clarke is a living example of what justice means to this nation. When she is confirmed, Ms. Clarke will be the first person of color and the first Senate-confirmed woman to lead the Civil Rights Division. For Black people, there is no federal agency more important to the pursuit of life, liberty and happiness. It is of paramount importance that the next leader of the Civil Rights Division demonstrates a belief in justice for all Americans.

Kristen Clarke is an incredibly accomplished civil rights lawyer who has devoted her entire career to advancing the cause of justice, beginning more than two decades in the Civil Rights Division's Honors program. Ms. Clark has been an advocate for due process and equal protection under the law across a broad spectrum of issues, without regard to partisan politics. She spent her first years as a lawyer with the Civil Rights Division under the George W. Bush administration, prosecuting hate crimes, domestic violence, human trafficking, police brutality, and voting rights cases.

Kristen Clarke served for four years as the Chief of the Civil Rights Bureau in the New York Attorney General's Office. She provided laudable leadership of civil rights enforcement in voting rights, fair housing and lending and anti-discrimination in the workplace. She also worked to

Founder: Dr. Mary McLeod Bethune
President & Chair Emerita: Dr. Dorothy Irene Height (1957-2010)
Chair of the Board and 7th President: Dr. Johnnetta Betsch Cole
Executive Director: Janice L. Mathis, Esq. Chief Administrative Officer: Krystal Ramseur, MPA

ncnw
commitment | unity | self reliance
National Council of Negro Women, Inc. • ncnw.org • ncnwhq@ncnw.org
633 Pennsylvania Avenue, NW Washington, DC 20004 • 202-737-0120

address barriers to reentry for individuals with criminal convictions, the school-to-prison pipeline, and police misconduct, including overseeing preparation of a comprehensive report regarding the New York City Police Department's Stop and Frisk Program.

In addition to her prosecutorial experience, Kristen Clarke currently serves as president and executive director of the Lawyers' Committee for Civil Rights Under Law, which was established at the request of President John F. Kennedy in 1963 to engage the legal profession to protect of civil rights. Over the course of her career, Ms. Clarke has developed an incredible amount of litigation experience fighting hate and advocating for people with disabilities, LGBTQ rights, education, housing, voting rights and environmental justice. She led efforts to ban hate speech on social media platforms and won a lawsuit against one white supremacist website and shut down numerous others.

At this critical hour, our nation urgently needs a woman with Kristen Clarke's demonstrated expertise and commitment to a vision of robust civil rights enforcement at the Justice Department. Former colleagues say Clarke's experience, both as a Justice Department lawyer and as executive director of a large civil rights organization, make her qualified to tackle the challenge. "If you were inventing a nominee from scratch... you'd come up with Kristen or someone very, very close," said Justin Levitt, a former colleague who teaches law at Loyola Law School. Her unique combination of talents, experience and skills uniquely qualify her to chart our nation's path toward the promise of equal justice under law. The Senate should confirm her as quickly as possible.

For more than 85 years, The National Council of Negro Women (NCNW) has been a voice for women of African descent, their families, and communities. Thank you for your consideration of this message. Should you have any questions or comments, please contact me at (202) 870-2870.

Most Sincerely,

Johnnetta Betsch Cole, Ph. D.
National President and Chair of the Board
National Council of Negro Women, Inc.

Founder: Dr. Mary McLeod Bethune
President & Chair Emerita: Dr. Dorothy Irene Height (1957-2010)
Chair of the Board and 7th President: Dr. Johnnetta Betsch Cole
Executive Director: Janice L. Mathis, Esq. Chief Administrative Officer: Krystal Ramseur, MPA

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

April 13, 2021

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin, and Ranking Member Grassley:

We went to college with Kristen Clarke. She was compassionate and respectful towards people of all backgrounds. She is an inspired choice to lead the Civil Rights Division of the Department of Justice.

We studied at Harvard College with Kristen Clarke. We knew her to be deeply committed to principles of justice and equality, as she has been ever since. Kristen consistently treated people from all walks of life with kindness and respect. In her work with the Black Students Association, the Phillips Brooks House Association (dedicated to community service), and the Institute of Politics, Kristen fostered dialogue and collaboration across lines of race, class, religion, ethnicity, and sexual orientation.

Kristen served as a wise and guiding light to many of us in college. She created space for us to engage and learn from one another, and to forge relationships and community across our many identities and perspectives.

Her remarkable career as an advocate and civil rights leader came as no surprise. Today, we join together in full support of Kristen's nomination to lead the Civil Rights Division of the U.S. Department of Justice. She is who families and communities need to lead us forward at this pivotal moment in our nation's history.

The signatories of this statement include students from the many racial, ethnic, and religious communities on campus during Kristen's tenure (1993-1997) at Harvard. We are Republicans, Democrats, and Independents living in neighborhoods across America, and united in our support for Kristen's nomination.

Sincerely,

Vivek Maru, Harvard Class of 1997 (Class Marshal; Political Chair, South Asian Association)

Anurima Bhargava, Harvard Class of 1996 (President, South Asian Association; Institute of Politics; Phillips Brooks House Association)

Kishka McClain, Harvard Class of 1997

Anupam Mishra, Harvard Class of 1998 (Class Marshal)

Allyson Hobbs, Harvard Class of 1997 (Class Marshal)

Peter S. Cahn, Harvard Class of 1996 (Class Marshal)

Alvin Bragg, Harvard Class of 1995 (Class Marshal)

Eli Aheto, Harvard Class of 1997 (Class Marshal)

Michael H. Pine (Goldenpine), Harvard Class of 1995

A. Omiyinka Doris, Harvard Class of 1997

Florencia Greer Polite, MD, Harvard Class of 1997 (Harvard Black Students Association Board Member '93-'97)

Olamide Jarrett, Harvard Class of 1997

Marco Simons, Harvard Class of 1997

Mynette Louie, Harvard Class of 1997 (Education-Political Chair, Asian American Association; Undergraduate Minority Recruitment Program; Phillips Brooks House Association)

Irene Cheng, Harvard Class of 1997 (Co-President, Asian American Association)

Corinne Funk Hammons, Harvard Class of 1997

Adam Hootnick, Harvard Class of 1997

Rey Ramos, Harvard Class of 1997

Alison L. Moore, Harvard Class of 1997

Ubong "Bobby" Edemeka, Harvard Class of 1997

Crescent Muhammad, Harvard Class of 1997

Mia Esther Alpert, Harvard Class of 1999 (Cofounder, Harvardwood)

Jennifer Ching, Harvard Class of 1996 (Co-President, Asian American Association)

Michaella M Prasad, Harvard Class of 1999

Peter B. Albers, Harvard Class of 1997 (Harvard Baseball Captain, '97)

Aaron Myers, Harvard Class of 1997

Julie C. Suk, Harvard Class of 1997

Andrew K. Sachs, Harvard Class of 1997

Kamil Shields, Harvard Class of 2000

Nisha Botchwey, Harvard Class of 1997 (Black Student Alliance, Harvard Caribbean Club)

Vikaas Singh Sohal, Harvard Class of 1997 (President, South Asian Association)

Oba McMillan, Harvard Class of 1995

Caprice Corona, Harvard Class of 1997

Elizabeth Zacharias, Harvard Class of 1997

Carolyn Magill, Harvard Class of 1997

Shilpa Jain, Harvard Class of 1998

Jamil Myrie, Harvard Class of 1997

Trenton Allen, Harvard Class of 1997

Tifarah Allen, Harvard Class of 1999

Derrick N. Ashong, Harvard Class of 1997 (President, Black Students Association; Founder, Black Men's Forum; Member, Harvard African Students Association)

Vanessa Liu, Harvard Class of 1996 (Institute of Politics)

Kweli Washington, Harvard Class of 1997

Adey Fisseha, Harvard Class of 1995 (Co-President Harvard African Students Association)

Jason Opeña Disterhoft, Harvard Class of 1997

Ana Cepin, Harvard Class of 1995

Kisha Marzouca, Harvard Class of 1995

Jared S. Leake, Harvard Class of 1995

Solangel Minotta, Harvard Class of 1995

Nisha Atre Richardson, Harvard Class of 1995

Cicely Wedgeworth, Harvard Class of 1993

Sarah Dryden-Peterson, Harvard Class of 1997

Paul J. Rowe MD ATSF, Harvard Class of 1995 (Alpha Phi Alpha Fraternity Inc.)

Kelli Y. English, Harvard Class of 1997

Traci English-Clarke, Harvard Class of 1999

Moupali Das, Harvard Class of 1996

Carmen O'Shea, Harvard Class of 1997

Daveena Ma, Harvard Class of 1997

Tjada D'Oyen McKenna, Harvard Class of 1996

Amara Balthrop-Lewis Hastings, Harvard Class of 1997

Rachel B. Tiven, Harvard Class of 1996 (Founder, Harvard Progressive Jewish Alumni)

Nadine Duplessy Kearns, Harvard Class of 1996

Eryn Ament Bingle, Harvard Class of 1995

Patricia Seo-Mayer, MD, Harvard Class of 1996

Timothy Patrick McCarthy, Harvard Class of 1993

Kecia Boulware, Harvard Class of 1996 (Black Students Association)

Jeffrey H. Tignor, Harvard Class of 1996

Modupe Akinola, Harvard Class of 1996

Dominique Day, Harvard Class of 1996 (UN Working Group of Experts on People of African Descent, DAYLIGHT | Rule of Law • Access to Justice • Advocacy)

Rotonya Carr, MD, FACP, Harvard Class of 1996

Caroline Butler-Rahman, Harvard Class of 1996

Cary Donaldson, Harvard Class of 1996

Michelle Brooks, Harvard Class of 1996

Sandhya Rao, Harvard Class of 1996

Lindsay Tomenson, Harvard Class of 1996

Ethan Nasr, Harvard Class of 1996

Natasha D. Bir, Harvard Class of 1996

Dr. Amelia Kaplan Romanowsky, Harvard Class of 1996 (Education For Action, Harvard Hillel)

Anne Heavey Scheinfeldt, Harvard Class of 1996

Max Levasseur, Jr., Harvard Class of 1997

Sameer Bhargava, Harvard Class of 1995

John Lewis Ford, Harvard Class of 1997

Sean Coar, Harvard Class of 1997

E. Abim Thomas, Harvard Class of 1996

Emily Buxton McCann, Harvard Class of 1994 (Citizen Schools CEO, HBS '99)

Natosha Reid Rice, Harvard Class of 1993 (Elected Director, HAA)

Sozi Tulante, Harvard Class of 1997

Cassia van der Hoof Holstein, Harvard Class of 1998

Jane Kim, Harvard Class of 1996

Tiffany Graham, Harvard Class of 1996

Koma Gandy Fischbein, Harvard Class of 1995 (Chief Marshal, Harvard Class of 1995 25th Reunion)

Jennifer Burns, Harvard Class of 1997

Anne H. Charity Hudley, Harvard Class of 1998

Angela Chien, Harvard Class of 1999 (Chinese Students Association; Boston Refuge Youth Enrichment program)

Triada Stampas, Harvard Class of 1998

Renée Richardson Gosline, Harvard Class of 1996 (Association of Black Radcliffe Women, President)

Natalee Sansone MD, Harvard Class of 1996

Percival G Matthews, Harvard Class of 1997

Pratima Gupta, Harvard Class of 1996

Jerome Lee, Harvard Class of 1996

Norma Rey-Alicea, Harvard Class of 1997 (President of Fuerza Quisqueyana, Harvard's Dominican Students Association)

Zaire Dinzey-Flores, Harvard Class of 1995

Joshua Bloodworth, Harvard Class of 1997

Ian H. Solomon, Harvard Class of 1994

Dionne Fraser-Redhead, Harvard Class of 1999

Robin Stevens, Harvard Class of 1999

Tim Clinton, Harvard Class of 2000

Richard A. Phillips, Harvard Class of 1999

Gary L. Ford Jr., Harvard Class of 1999

Keith Bernard, Harvard Class of 1999

Mark McIntosh, Harvard Class of 1999

Aelaf Worku, Harvard Class of 1998

Shakti Floyd, Harvard Class of 1994

Dav Doodnauth, Harvard Class of 1995

Chaundra Monday, Harvard Class of 1999

Jane Manners, Harvard Class of 1997

John Collins, Harvard Class of 1997

Nikia Bergan, Harvard Class of 1997

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

April 13, 2021

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking Member Grassley:

As graduates of Columbia University School of Law, we write to express our strong support for the confirmation of our fellow Columbia Law School alumnus (class of 2000), Kristen Clarke, as Assistant Attorney General for the U.S. Department of Justice Civil Rights Division.

Many of us knew Ms. Clarke when we were students at Columbia Law School. She distinguished herself academically, and as a peer. Kristen was named a Harlan Fiske Stone Scholar (one of the highest academic honors awarded to students), was a member of the Human Rights Law Review, and served as Editor-in-Chief of the National Black Law Journal. Upon graduation, Kristen was awarded the Jane Marks Murphy Prize for excellence in advocacy as a clinical student. She took nearly every course offered in constitutional and civil rights law as well as courses designed to hone her advocacy skills.

Others of us did not overlap with Ms. Clarke at Columbia, but are proud to be associated with her as fellow graduates of the law school. We consider ourselves privileged to be in the company of many extremely distinguished members of the legal profession who are graduates of Columbia Law School, Kristen Clarke most notably. Since her graduation she has brought the highest honor and integrity to the practice of law and to the community of Columbia Law graduates. Ms. Clarke has charted a legal career that has demonstrated a steadfast commitment to serving the public interest and defending fundamental constitutional and civil rights. Upon graduation from law school, she was invited to serve in the prestigious Attorney General's Honors Program, working as a trial attorney in the Civil Rights Division of the U.S. Department of Justice, the very department she is now nominated to lead. From the Honors Program, she moved to the NAACP Legal Defense Fund, litigating political participation and voting rights cases. From there she was appointed to serve as the Director of the Civil Rights Bureau of the New

York State Attorney General's Office, where she led initiatives on criminal justice issues and housing discrimination. Since 2015, Ms. Clarke has been the Executive Director of the Lawyers' Committee for Civil Rights Under Law, one of the most distinguished civil rights organizations in the United States, founded in 1963 at the behest of President John F. Kennedy.

While maintaining this exceptional practice defending and advancing the civil rights of all Americans, Ms. Clarke also found the time to return to her alma mater, and co-taught "Civil Rights Lawyering in the Modern Era: Theory and Practice" at Columbia Law School. Columbia's Black Law Students Association honored Ms. Clarke with the Distinguished Alumni Award in 2010, and she was invited to deliver the keynote address at the 2015 Paul Robeson Gala. In July 2020, in the height of the COVID-19 pandemic, Ms. Clarke addressed Columbia Law students about how they can prepare themselves for a career in civil rights and social change.

We are proud to have Kristen Clarke as a fellow alumnus of Columbia Law School. In her professional life she has embodied the highest standards of integrity and a commitment to a vision of the fundamental rights secured in the constitution and laws of the United States as a sacred promise to all Americans. We can think of no better person to serve as the Assistant Attorney General for the U.S. Department of Justice Civil Rights Division. We urge the Senate to undertake her speedy confirmation for this position.

Sincerely,

Abraham, Habib-Emmanuel (CLS 2023)
Adebayo, Dola (CLS 2022)
Alexander, Jeffrey (CLS 2008)
Alexander, Kamari (CLS 2000)
Alfaro, Pablo (CLS 2001)
Alger, Maureen (CLS 1998)
Ali, Ehsan (CLS 2014)
Alpert, David (CLS 2020)
Andrews, Penelope (CLS 1984)
Armer, Angie (CLS 2000)
Ash, Melanie (CLS 2000)
Ashton, Annika (CLS 2007)
Barbosa, Gabriella (CLS 2013)
Barker, Angela (CLS 2000)
Baxter, Aja (CLS 1999)
Bell, Stacey (CLS 2000)
Bhargava, Anurima (CLS 2002)
Black, Barbara (CLS 1955)
Bobb, Julian (CLS 2000)
Boler, Kimberly (CLS 2009)
Bowden, Yohance (CLS 2000)
Brelvi, Farah (CLS 1997)
Brock, Marla (CLS 2000)
Brown, Deana (CLS 2009)
Brown,Stephen L. (CLS 1999)
Browne Dianis, Judith (CLS 1992)
Bruce-Jones, Eddie (CLS 2009)
Bui, Van Ann (CLS 2011)
Carter, Erika (CLS 2022)

Castelly, Nia (CLS 2000)
Chintoya, Franck (CLS 2011)
Choi, Lana (CLS 1999)
Clemon, Michelle (CLS 1999)
Coleman, Kirk (CLS 2019)
Connor, Karl (CLS 1995)
Cooper, Dash (CLS 2007)
Craig, Florence (CLS 2000)
Cummings, Jody (CLS 2000)
Daniels, Emily High (CLS 2000)
Davis, Clive (CLS 1997)
Davis, Pierre (CLS 2000)
Demaske, Uchechi (CLS 2011)
Dias, Wesley (CLS 1978)
El-Hage, Javier (CLS 2009)
Estime, Keren (CLS 2000)
Felton, Melvin (CLS 2010)
Ferguson-Bohnee, Patty (CLS 2001)
Fernandez, Tina (CLS 1999)
Forbes Jr., Carl (CLS 2010)
Fowler-Williams, Mavis (CLS 1987)
Fraser, Jason (CLS 1998)
Gaillard, Terra (CLS 1999)
Gay, Darrell (CLS 1979)
Geman, Rachel (CLS 1997)
Genao, Laura (CLS 1999)
Gilliam, Fatimah (CLS 2001)
Gizaw, Betre (CLS 2010)
Goines, Lisan (CLS 1999)
Gomaez, Julia A. (CLS 2013)
Gonzalez, Joseph (CLS 2014)
Goodwyn, Ofonedu-Ime (CLS 2005)
Granne, Michael (CLS 2002)
Gringer, David (CLS 2008)
Hall, Andre (CLS 1997)
Hall, Jamila (CLS 2003)
Halm, Monick (CLS 2000)
Hamirani, Zohra (CLS 1999)
Hardwick, Zachary D. (CLS 2022)
Hardy (Williams), Kristen V. (CLS 2006)
Harris, Ian (CLS 2021)
Harris, Jeremy (CLS 2000)
Higginson, Carletta (CLS 2003)
Hornstein, Rebecca (CLS 1999)
Hoyes, Candice (CLS 2004)
Ikhinmwin, Zeze (CLS 2014)
Issa, Kokayi (CLS 1996)
Jeffries, Shavar (CLS 1999)
Jenab, Michelle (CLS 2000)
Jenkins, Jamie (CLS 2024)
Jenkins, Vendarryl (CLS 2020)

Joachin, Mayra (CLS 2015)
Johnson Burns, Jennifer (CLS 1999)
Kassam, Amin (CLS 2001)
Khokher, Aroosa (CLS 2021)
Kumi, Kodjo (CLS 2021)
LaVelle, Laura (CLS 1999)
Lee, Jessica (CLS 2005)
Lee, Robinne (CLS 2000)
Lee, Young (CLS 2006)
Leen, Craig (CLS 2000)
LeGrand, Andrew (CLS 2009)
Lewis, Christopher (CLS 2000)
Lifeso, Catherine (CLS 2000)
Liu, Cailin (CLS 2023)
Liu, Megan (CLS 2022)
Lynch, Justin (CLS 2005)
Marks, Lisa (CLS 1998)
Martínez Vega, Belinda (CLS 1999)
Martínez-Llompart, Patricio (CLS 2018)
McGowen, Gailon (CLS 1986)
McPherson, Vicky (CLS 1999)
Mejía-Cuéllar, Kim (CLS 2021)
Mengu, Norita (CLS 2018)
Mercado, Ariana (CLS 2022)
Miller, Barbara (CLS 2001)
Minofu, Kevin (CLS 2018)
Mitchell, Chandra (CLS 2000)
Monday, Chaundra (CLS 2004)
Moore, Alison (CLS 2001)
Moore, Julian J. (CLS 2001)
Morgan, Damonta (CLS 2022)
Muldro, Asha (CLS 2002)
Murillo, Tiana (CLS 2007)
Mustafa, Hamaad (CLS 2017)
Napolitano, Gabrielle (CLS 2007)
Natarajan, Ranjana (CLS 1999)
Nelson, Justin (CLS 2000)
Newman, Tara (CLS 2000)
Newton, Edward Bota (CLS 2010)
North, Barbara (CLS 1977)
North, Terrill (CLS 2000)
Obasogie, Osagie (CLS 2002)
Odom, Doreen (CLS 2000)
Oppenheim, Adam (CLS 2000)
Papish, Pamela (CLS 1997)
Perez, Cuda (CLS 2000)
Peterson, Thayne (CLS 1999)
Pham, Tam (CLS 1999)
Pinchuk, Lianne (CLS 2000)
Poindexter, Christopher (CLS 2003)
Polonio-Jones, Thanya (CLS 2006)

Powell, Jeri (CLS 2007)
Pratcher, Tyson (CLS 2000)
Price, Frantz (CLS 2001)
Rabinowitz, Steven (CLS 1983)
Rana, Shruti (CLS 2000)
Ratnoff, David (CLS 2023)
Rector, Felicia (CLS 1999)
Regaignon, Greg (CLS 1999)
Reid, Erin (CLS 2007)
Reid, Rayna (CLS 2014)
Ricardo, Marta (CLS 1994)
Rivera, Christine (CLS 1999)
Robinson, Anne (CLS 1994)
Robinson, LaRue (CLS 2009)
Robinson, William (CLS 1966)
Rodriguez, Lorena (CLS 2021)
Romer-Friedman, Peter (CLS 2006)
Rutherford, Alanna (CLS 2000)
Rutherford, Christian (CLS 2005)
Rutherford, Jack (CLS 2008)
Saavedra, Andrea (CLS 2006)
Salim-Williams, Zakiyyah (CLS 2001)
Saul, Tomica (CLS 2010)
Schwarz, Ghita (CLS 1998)
Seith, Patricia (CLS 1998)
Shah, Payal (CLS 2006)
Sheanin, Aaron (CLS 1999)
Shepherd, Jacob (CLS 2020)
Singleton, Stacey (CLS 1998)
Smallwood, Shelton (CLS 2003)
Smith, George (CLS 2021)
Sorensen, Juliet (CLS 2000)
Spiller, David (CLS 2006)
St. Louis, Diana (CLS 1999)
Starghill, Clinton (CLS 2005)
Strauss, Meredith (CLS 2000)
Taveras, Freddy (CLS 2001)
Tejada, Roger (CLS 2023)
Terry, Keeva (CLS 1998)
Then, Jeffrey (CLS 2017)
Tiven, Rachel B. (CLS 2003)
Tran, Edward (CLS 2000)
Turman, Rossie (CLS 1998)
Veciana-Muiño, Sira (CLS 1999)
Waldrop, Patrick (CLS 2019)
Weaver, Aisha (CLS 2009)
Weiss, Noah (CLS 2000)
Wilds, Christopher (CLS 2015)
Williams, Eric (CLS 2000)
Williams, Kahlil (CLS 2011)
Wilson, Scott (CLS 2007)

Xie, Victoria (CLS 2019)
Yang, Amanda (CLS 2023)
Young, Ezra (CLS 2012)
Yuille, Lua Kamal (CLS 2004)
Yurke, Alice (CLS 1987)
Yusuf, Temitope (CLS 2008)
Zaid, Zaid (CLS 2007)
Zhou, Jenny (CLS 2022)



April 13, 2021

The Honorable Richard Durbin, Chairman
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Charles Grassley, Ranking Member
Senate Judiciary Committee
152 Dirksen Senate Office Building
Washington, DC 20510

RE: NOMINATION OF KRISTEN CLARKE FOR ASSISTANT ATTORNEY GENERAL FOR CIVIL RIGHTS

Dear Chairman Durbin and Ranking Member Grassley,

On behalf of the National Panhellenic, comprised of over 2.5 million predominantly African American, college-educated members representing nine Black Greek Letter Organizations (Alpha Phi Alpha Fraternity Inc., Alpha Kappa Alpha Sorority Inc., Kappa Alpha Psi Fraternity Inc., Omega Psi Phi Fraternity Inc., Delta Sigma Theta Sorority Inc., Phi Beta Sigma Fraternity Inc., Zeta Phi Beta Sorority Inc., Sigma Gamma Rho Sorority Inc., Iota Phi Theta Fraternity Inc.), we urge you to support the nomination of Kristen Clarke to be Assistant Attorney General for Civil Rights in the U.S. Department of Justice.

The Justice Department's mission is to ensure equal justice on behalf of all Americans. Kristen Clarke is exactly the leader we need at the helm of the Civil Rights Division, just as multiple civil rights crises have surfaced at this moment in time. Historical disparities across racial lines continue to plague our nation and police violence continues to loom over people of color, especially the Black community.

Communities across the country continue to be targets of hate-filled assaults. And while we continue to forge ranks and publicly denounce these assaults, we are forced to also defend against a renewed assault on our democracy that has now produced literally hundreds of state-sponsored voter suppression bills. After the previous Administration's wholesale reversal of civil rights advancements, it is the Civil Rights Division that must lead the way to repair and restore our nation's federal civil rights enforcement programs.

Importantly, Kristen Clarke will go down in history as the first Senate-confirmed woman to lead the Civil Rights Division. As the daughter of Jamaican immigrants, she will be the first woman of color to serve in this position. Women of color have always been an integral part of the civil rights movement and many are leading the civil rights battles of today. The Senate should seize this opportunity to correct this glaring gap in representation that has continued for far too long.

Kristen Clarke's civil rights credentials for this leadership position at the Justice Department are unassailable. She is a graduate of Harvard University and Columbia Law School. She began her legal career in the prestigious Honors Program within the Civil Rights Division, which she will now lead. Working primarily under the George W. Bush administration, Ms. Clarke spent the first years of her legal career prosecuting hate crimes, domestic violence, human trafficking, police brutality, and voting rights cases.

Kristen Clarke possesses considerable leadership experience in state civil rights enforcement. As Chief of the Civil Rights Bureau in the New York Attorney General's Office, she supervised a broad range of civil rights enforcement activity in areas such as voting rights, fair housing and lending, equal opportunity in education, anti-discrimination in the workplace, access for individuals with disabilities, religious rights, LGBTQ rights, and hate crimes. Under her supervision, the Bureau focused on barriers to reentry for individuals with criminal convictions, the school-to-prison pipeline, and police misconduct, including overseeing preparation of a comprehensive report regarding the New York City Police Department's Stop & Frisk Program.

Notably, Ms. Clarke has held leadership positions with our nation's most prominent civil rights litigating organizations. Early in her career, she managed the political participation project at the NAACP Legal Defense & Educational Fund, which was founded by Thurgood Marshall. Currently, she serves as president and executive director of the Lawyers' Committee for Civil Rights Under Law, which was established at the request of President John F. Kennedy to engage the legal profession in the protection of civil rights. The Lawyers' Committee represents the largest national effort to collaborate with the private bar to ensure that victims of discrimination everywhere can secure the legal representation they need to pursue and redress their civil rights claims.

It is extremely noteworthy to us that Ms. Clarke has litigated in every civil rights area in which the Civil Rights Division is involved, including voting rights, equal educational opportunity, fair housing, equal employment, environmental justice, and criminal justice. Just as importantly, she has represented the full range of communities protected by our nation's federal civil rights laws, including people of color, women, people with disabilities, members of the LGBTQ community, people of faith, older Americans, service members, and victims of hate crimes.

A powerful and enduring thread through Ms. Clarke's illustrious career has been the protection of voting rights for communities of color. She began her legal career litigating voting rights cases at the Department of Justice. She headed the NAACP Legal Defense Fund's voting rights docket, even participating in the oral argument in Shelby County v. Holder, in the U.S. District Court for the District of Columbia. Voting rights cases were among Ms. Clark's docket when she headed New York's Civil Rights Bureau. Finally, the organization she now leads—The Lawyers' Committee for Civil Rights Under Law—operates the largest election protection program in the country, ensuring that every eligible voter in every election can safely cast a vote and have that vote count. Additionally, the Lawyers' Committee has litigated seminal voting rights cases throughout the country in recent years. There is no question

whatsoever of Kristen Clarke's commitment to democracy and to ensuring that all citizens can participate.

We also know Kristen Clarke to be a bridge-builder, who listens carefully, reaches out, and can bring sides together to advance the cause of justice. She is supported by a wide range of law enforcement groups and officials such as the Major Cities Chiefs Association, the National Association of Police Organizations, the executive director of the International Association of Chiefs of Police, and the National Association of Women Law Enforcement Executives. She enjoys the support of hundreds of United States Attorneys, State Attorneys General, former top Justice Department officials, and local police chiefs and sheriffs. Of course, national civil rights organizations, including the NAACP and the NAACP Legal Defense Fund and others, strongly stand with Kristen Clarke and have urged her swift confirmation by the Senate.

Today, our nation faces tremendous challenges in many areas of civil rights. We need a brilliant, visionary, and experienced leader like Kristen Clarke to lead the national effort to ensure that our nation's many diverse communities receive the full protection of our federal civil rights laws. We trust that the Senate will recognize that Kristen Clarke is an extraordinary candidate to lead the Civil Rights Division and confirm her as quickly as possible so that she may begin this critically important job to pursue justice on behalf of the American people.

Thank you for your attention.

Sincerely,

The National Council of Presidents

Dr. Willis L. Lonzer, III
General President
Alpha Phi Alpha Fraternity, Inc.

Dr. Glenda Glover
International President
Alpha Kappa Alpha Sorority, Inc.

Reuben A. Shelton, III, Esq. Vice Chairman
Grand Polemarch
Kappa Alpha Psi Fraternity, Inc.

Dr. David E. Marion, Chairman
Grand Basileus
Omega Psi Phi Fraternity, Inc.

Beverly E. Smith
National President & CEO
Delta Sigma Theta Sorority, Inc.

Micheal E. Cristal
International President
Phi Beta Sigma Fraternity, Inc.

Valerie Hollingsworth Baker
International President
Zeta Phi Beta Sorority, Inc.

Rasheeda S. Liberty
International Grand Basileus
Sigma Gamma Rho Sorority, Inc.

Andre R. Manson
International Grand Polaris
Iota Phi Theta Fraternity, Inc.

April 14, 2021

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Durbin and Ranking Member Grassley,

We write in support of Kristen M. Clarke's nomination as Assistant Attorney General for the Civil Rights Division of the Department of Justice.

There are few people better suited to this critical role — particularly at such a critical moment — than Ms. Clarke. We know, because we've seen her work up close.

As former and current officials in the Office of the New York State Attorney General, where Ms. Clarke led the Civil Rights Bureau, we know her intellect, her tenacity, and her values firsthand. Many of us worked closely with her day in and day out for years, on high-pressure cases and other stressful situations that allowed us to truly know and understand who she is and what drives her.

We have no doubt that Ms. Clarke is motivated by a deep and abiding commitment to equal justice under the law and the belief that all Americans are entitled to fundamental dignity. And at a moment when civil rights are under attack, her experience and leadership are precisely what we need at DOJ.

While serving as the Civil Rights Bureau Chief in the New York Attorney General's office, Ms. Clarke won justice for New Yorkers from all walks of life, across many areas of the law.

She secured a multi-million dollar settlement with ConEd following an investigation into gender-based discrimination and sexual harassment complaints involving over 300 women employees at the utility company.

She was central to launching the Religious Rights Initiative, targeting faith-based discrimination and violations of New Yorkers' freedom of religion.

She established a statewide voter rights hotline and helped craft a voting rights bill that drove the conversation on election reform in New York State — culminating in many of the reforms that recently became law.

She took on discrimination in our financial system — expanding access to mainstream banking services for unbanked and underbanked communities nationwide, through agreements with four major banks to address the use of tools that prevented many customers from opening basic checking accounts. The agreements Ms. Clarke led with Capital One, Citibank, Santander, and Chase help steer low-income Americans away from reliance on payday loans and other predatory lending options of last resort.

She reached landmark agreements to stop unlawful redlining, preventing banks from refusing to make mortgages available in predominantly Black neighborhoods.

She launched a crucial investigation into tenant harassment that ultimately led to the largest-ever monetary settlement with an individual landlord and additional unprecedented restitution.

The list goes on and on. There isn't enough space here to recount everything else Ms. Clarke has done to protect New Yorkers' civil rights — from defending the rights of immigrants, LGBTQ New Yorkers, and people with disabilities, to tackling racial profiling of consumers and race-based discrimination in our school system.

Ms. Clarke went on to lead the Lawyers' Committee for Civil Rights Under Law, taking on violent extremism, fighting for fair housing and education, and so much more. Some of us were fortunate enough to also partner with her during her time at the Lawyers' Committee and see her in action yet again.

Ms. Clarke's decades-long record of justice speaks for itself. What might not be as evident is the incomparable legacy she left at the NY Attorney General's office — and the deep admiration and respect she's garnered among her former colleagues.

There is no question: Kristen Clarke is exactly who we need leading the Department of Justice's Civil Rights Division.

As Senators consider Ms. Clarke's nomination, please know that those who've worked directly with her — and have seen her leadership up close — are among her most enthusiastic supporters. The Department of Justice, and our country, would be a better place with Kristen Clarke leading the charge on civil rights. We hope that the Senate will quickly confirm her nomination.

Sincerely,

Jessica Attie
Jane Azia
Michael Barbosa
Dana Biberman
Trisha Botty
Alvin Bragg
Simon Brandler
Erica Buckley
Brant Campbell

Thomas Teige Carroll
Aaron Chase
Anushua Choudhury
Jason Clark
Jessica Clarke
Adam Cohen
Doug Cohen
Stephanie Cooper (Sheehan)
Daniel Cort
Desiree Cummings
Justin Deabler
Lisa Dell
Jesse Devine
Leslie Dubeck
Conor Duffy
Peggy Farber
Najah Farley
Donya Fernandez
John Ferrara
Randall Fox
Andrew Friedman
Yael Fuchs
Terri Gerstein
Melvin Goldberg
Jerry Goldfeder
Melissa Grace
Kenya Handy-Hilliard
Monique Harding
Christina Harvey
Thomas James Hatter
Claudia Henriquez
Benjamin Holt
Monica Iyer
Chad Johnson
Patricia Kakalec
James Katz
Lacey Keller
Rochelle Kelly-Apson
Molly Keogh
Sania Khan
Jihoon Kim
Gregory Krakower
Neal Kwatra
Mark Ladov
Lisa Landau
Micah Lasher

Dan Lavoie
Roberto Lebron
Christopher Leung
Dina Levy
Harlan Levy
Jason Lilien
Diane Lucas
Martin Mack
Brian Mahanna
Meredith McCarron
Kathleen McGee
Michael Meade
Josh Meltzer
Katherine Milgram
Veronica V. Montenegro
ReNika Moore
Jeanette Moy
David Nachman
Shanti Nayak
Melissa O'Neill
Robert Pablo
Joshua Pepper
Lilliam Perez
Marissa Piesman
Adam Pollock
Sandra Pullman
Christine Reynolds
Lourdes Rosado
Janet Sabel
Ajay Saini
Jordan Salberg
Karla Sanchez
Mayur Saxena
Jennifer Simcovitch
Arlene Smoler
Eric Soufer
John Spagna
Alyson Spindell
Amy Spitalnick
Kent Stauffer
Eric Stock
Nick Suplina
Barbara Underwood
Justin Wagner
Jonathan Werberg

Laura Wood
Haeya Yim

**All signatories are signing in their personal capacities and no endorsement of their current or former employers should be implied.*

AFL-CIO

LEGISLATIVE ALERT

April 16, 2021

The Honorable Richard Durbin, Chairman
The Honorable Charles Grassley, Ranking Member
Senate Committee on the Judiciary United States Senate
Washington, D.C. 20510

Dear Chairman Durbin and Ranking Member Grassley:

The AFL-CIO urges swift confirmation of Kristen Clarke to be Assistant Attorney General for the Civil Rights Division in the U.S. Department of Justice (DOJ) which is charged with enforcing federal statutes that aim to protect every person in the United States from discriminatory treatment. Ms. Clarke is the ideal person to lead this work, which is as consequential today as it was when the Division was created by the Civil Rights Act of 1957.

Ms. Clarke most recently served as the President and Executive Director of the Lawyers' Committee for Civil Rights Under Law (Lawyers Committee). Established in 1963 to engage the private bar in the defense of civil rights, the Lawyer's Committee is now well known for its signature "Election Protection" operation, our nation's largest and longest-running nonpartisan voter assistance program. Under Ms. Clarke's leadership, the Lawyer's Committee expanded its traditional work against discriminatory practices and partnered with the International Association of Chiefs of Police to strengthen the law enforcement response to hate crimes and with the National Sheriffs'Association on 21st Century Community Policing.

Ms. Clarke came to the lawyers Committee after serving as Chief of the Civil Rights Bureau for the New York State Attorney General's Office where she directed one of the country's most robust civil rights dockets. Her accomplishments there include establishing the Religious Rights Unit and securing religious accommodations for employees observing Shabbat, as well as collaborating with sheriffs' offices to improve policing of communities with limited English proficiency. Prior to this role as New York's chief civil rights prosecutor, Ms. Clarke litigated voting rights cases as co-director of the Political Participation Group at the NAACP Legal Defense & Educational Fund (LDF). Her legal career began through the Honors Program in the Civil Rights Division of DOJ, where she served as a career attorney in the Voting Section and as a prosecutor in the Division's Criminal Section.

Ms. Clarke has the skills to address both the historic problems exacerbated by the pandemic and the tremendous new challenges of the 21st Century. Multinational corporations now have expansive power to treat workers as mere commodities in our global economy, while algorithms, databases, artificial intelligence, facial recognition, genetic testing, and other new technologies are known to have a discriminatory impact on those in our most vulnerable communities. With her extensive background and expertise, Ms. Clark is exactly the right candidate to lead the DOJ Civil Rights Division. The AFL-CIO urges her swift confirmation.

Sincerely,



William Samuel
Director, Government Affairs



April 19, 2021

The Honorable Richard Durbin
Chairman, Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Charles Grassley
Ranking Member, Senate Judiciary Committee
152 Dirksen Senate Office Building
Washington, DC 20510

RE: AAAED LETTER IN SUPPORT OF THE NOMINATION OF KRISTEN CLARKE FOR ASSISTANT ATTORNEY GENERAL FOR CIVIL RIGHTS

Dear Senators Durbin and Grassley:

On behalf of the American Association for Access, Equity, and Diversity (AAAED), we strongly urge you to support the confirmation of Kristen Clarke, Esq., as the Assistant Attorney General for Civil Rights in the U.S. Department of Justice. AAAED, a 501c6 membership organization, is the oldest operating association of professionals in the Equal Opportunity profession and is a leader in Equal Opportunity, affirmative action and diversity training and advocacy for professionals in higher education, private industry and government.

Kristen Clarke will bring an unprecedented breadth of experience and civil rights leadership to the Civil Rights Division. A tireless champion of equal justice, Clarke has done groundbreaking and courageous work encompassing virtually every area of civil rights enforcement and litigation. Her credentials make her the right person to lead the Civil Rights Division. She worked in the Civil Rights Division's Voting Section and handled voting rights and redistricting cases. She also worked in the division's Criminal Section, where she prosecuted police misconduct and brutality cases, hate crimes, and human trafficking cases. Having served as a career attorney in the division, Ms. Clarke will bring a deep knowledge of the office's mission and the urgency of aggressively enforcing our nation's federal civil rights laws.

1701 Pennsylvania Avenue, NW • Suite 200 • Washington, DC 20006 • Phone: 866-562-2233
202-349-9855, • Fax: 202-355-1399 • execdir@aaaed.org • www.aaaed.org

Her historic nomination would make her the first woman ever confirmed to lead the Civil Rights Division and the first Black woman to hold the post in any capacity since the Division was created in 1957.

AAAED would also like to thank Kristen Clarke for her support and leadership while she was the President and Executive Director of the Lawyers' Committee for Civil Rights Under Law. Under Kristen Clarke, the organization supported our LEAD Fund project on Campus Civility, where we conducted listening sessions, a survey and toolkit regarding hate on college campuses.

Clarke's leadership in challenging hate and bias, which poses a grave threat to our national security, makes her uniquely qualified to lead federal civil rights enforcement. Under Clarke, the national Lawyers' Committee launched the James Byrd, Jr. Center to Stop Hate and has worked tirelessly to combat hate crimes, neo-Nazis, and white supremacist groups — including pioneering work to confront the Proud Boys, another organization that has since become infamous due to its alleged role in the deadly insurrection at the Capitol building. Under Clarke's leadership, the National Lawyers' Committee took legal action to remove racist, anti-Semitic, and anti-immigrant hate off the internet and urged social media companies and web service providers to protect impacted communities by enforcing their own terms of service, which prohibit such conduct. This work included shutting shut down a neo-Nazi website, stormfront.org (one of the largest and longest running hate sites in the world), and achieved a landmark victory against The Daily Stormer and its publisher for engaging in online threats and racial harassment.

As president and executive director of the Lawyers' Committee for Civil Rights Under Law, Clarke also leads the nonpartisan Election Protection coalition, the nation's largest and longest-running nonpartisan voter protection program. Under Clarke's leadership, the coalition has grown to more than 300 national, state, and local partners. During the historic 2020 election cycle, the Lawyers' Committee filed over 50 voting rights cases pre-and post-election, mobilized volunteer attorneys to fill over 45,000 pro bono volunteer slots, and helped nearly 250,000 Americans access the ballot box.

Clarke is known for bringing together the private and non-profit sectors to promote the rule of law and serve communities. She is respected throughout the legal community and in the corporate sector. She has partnered with hundreds of private law firms and in-house legal departments to mobilize tens of thousands of lawyers in service of defending civil rights. Ms. Clarke has a history of securing landmark agreements, working collaboratively with law enforcement to promote transparency and improved community relations, and engaging corporate leaders on issues of diversity and accountability. Her work has helped strengthen important institutions while also holding them accountable. Clarke has a lifetime of experience working with law enforcement, from the FBI to local police. She has earned the endorsement from law enforcement organizations and leaders in public safety and national security.

Lastly, Kristen Clarke's track record demonstrates a respect for all communities and an appreciation for the diversity that makes our nation strong. She has worked to secure equal justice for all, including for communities of color facing racial and sex discrimination, the LGBTQ+ community, and religious minorities targeted because of their beliefs. As Chief of the Civil Rights Bureau in the New York Office of the Attorney General, Clarke led the establishment of the Religious Rights Unit, helping to combat religious discrimination and promote tolerance. She also secured major settlements with employers to safeguard the rights of Shabbat-observing employees.

We strongly urge you to support the confirmation of Kristen Clarke, Esq. She will serve the Department of Justice and the American people with excellence, dignity and respect for all who are protected by the nation's civil rights laws.

Sincerely,

Shirley J. Wilcher

Shirley J. Wilcher, MA, JD, CAAP
Executive Director





1666 K Street, NW
Fourth Floor, Suite 440
Washington, DC 20006
202-659-4929
www.ncbcp.org

April 21, 2021

The Honorable Dick Durbin
Chairman, Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Chuck Grassley
Ranking Member, Senate Judiciary Committee
152 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Letter of Support for Assistant Attorney General for Civil Rights Nominee, Kristen Clarke

Dear Chairman Durbin and Ranking Member Grassley:

On behalf of the National Coalition on Black Civic Participation (NCBCP) and the Black Women's Roundtable (BWR), I write to express the unequivocal support of NCBCP and BWR for the nomination of Kristen Clarke to serve as the Assistant Attorney General for Civil Rights at the United States Department of Justice. Founded in 1976, the NCBCP is a non-profit, non-partisan organization dedicated to increasing civic engagement and voter participation in Black the community. The NCBCP has a national membership of organizations representing a diverse constituency base including leaders in such areas as civil rights, labor, business, fraternities and sororities; women's rights, youth advocacy, education, the faith community, public policy, research, and others. The BWR, serves as the NCBCP's intergenerational leadership development, mentoring, empowerment and power building arm for Black women and girls. The BWR is at the forefront of championing just and equitable public policies that center racial, economic and gender justice to promote health and wellness, economic security and prosperity, education, and global empowerment as key elements of success for Black women and girls.

Since its inception in 1957, the charge of the Civil Rights Division of the Department of Justice has been to "uphold the civil and constitutional rights of all Americans, particularly some of the most vulnerable members of our society."[1] As our nation faces a reckoning with racism and hate that tears at the fabric of communities across our country, the selection of the next leader of the

[1] The United States Department of Justice, *About the Division*, available at https://www.justice.gov/crt

Civil Rights Division will play a critical role in moving our nation toward fully realizing the fundamental tenet of the U.S. Constitution, "equal justice under law".

Kristen Clarke is exactly the leader this country needs at the helm of the Civil Rights Division during this volatile time in our nation. As this country continues to be plagued with police violence that endangers the lives of Black people, racially motivated domestic terrorism, and attacks on our democracy that have produced hundreds of state-sponsored pre- and post-election voter suppression laws, Ms. Clarke's extensive record of civil rights advocacy and enforcement, coupled with her deep commitment to justice and professional integrity makes her uniquely qualified to combat these attacks on our nation's civil rights and democracy.

Ms. Clarke has established a distinguished record of advancing and protecting the civil rights of marginalized communities. She has dedicated her career to the enforcement and expansion of civil rights.

It was civil rights that first motivated Ms. Clarke to become a lawyer when, as a high school student from an immigrant family who lived in public housing in Brooklyn, New York, she attended a hearing in the school desegregation lawsuit, *Sheff v. O'Neill*. After graduating from Harvard University and Columbia Law School, Ms. Clarke began her career as a civil rights attorney in the prestigious Honors Program of the Civil Rights Division. During her six years as an attorney at the Civil Rights Division, she served in both the Criminal Section and Voting Section, where she handled critical matters ranging from police misconduct, hate crimes and human trafficking to voting rights and redistricting.

After serving at the Civil Right Division, Ms. Clarke joined the NAACP Legal Defense Fund, where she worked on litigation focused on voting rights and election law. As Co-Director of the Political Participation Group at the NAACP Legal Defense Fund, Ms. Clarke litigated some of the organization's most important voting rights cases, including arguing on behalf of Black voters in the lower court hearing of *Shelby County v. Holder*[2], where she defended the constitutionality of Section 5 of the Voting Rights Act.

Ms. Clarke went on to serve as chief of the Civil Rights Bureau in the New York Attorney General's Office. In her role as New York's civil rights enforcement officer, she directed one of the most active and robust civil rights dockets in the country. She supervised a broad range of civil rights enforcement activity, which included voting rights, fair housing and lending, equal opportunity in education, anti-discrimination in the workplace, access for individuals with disabilities, religious rights, LGBTQ rights, and hate crimes. She also worked to address barriers to reentry for individuals with criminal convictions, the school-to-prison pipeline, police misconduct, and overseeing preparation of a comprehensive report on the New York City Police Department's Stop and Frisk Program.

Ms. Clarke served as president and executive director of the Lawyers' Committee for Civil Rights (Lawyers Committee), one of the country's premier civil rights organizations. In that capacity, she has protected democracy by defending the voting rights of citizens across the nation as the leader of the Lawyers' Committee's national Election Protection Program[3], the

[2] *Shelby County, Alabama v. Holder*, 679 F.3d 848 (2012)

[3] Election Protection Program, available at https://lawyerscommittee.org/project/election-protection/

nation's largest and longest-running nonpartisan voter protection program. Ms. Clarke also launched the James Byrd, Jr. Center to Stop Hate,[4] a national project focused on combating and responding to hate crimes against marginalized communities by strengthening the capacity of community leaders, law enforcement, and national organizations to combat hate. She led efforts to ban hate speech on social media platforms and won a lawsuit against *The Daily Stormer*[5], *a* white supremacist website and shut down numerous others. Under her leadership, the Lawyers' Committee filed suit against the Proud Boys for attacking a historic Black church in Washington, D.C.[6]

Throughout her career, Ms. Clarke has fought against hatred and bigotry. Her breadth and depth of civil rights advocacy is unparalleled; and her reputation as a trusted and respected civil rights advocate, across ideological and partisan boundaries is above reproach[7].

Black women have always been at the forefront of this nation's civil rights movement. Ms. Clarke is an addition to the long list of incredibly qualified and passionate Black women civil rights leaders who have served with distinction and commitment to fighting hate and bias and promoting civil rights and racial justice. During this critical moment in our nation's history, it is paramount that the Civil Rights Division be led by Ms. Clarke, a woman who is uniquely qualified to restore the Civil Rights Division to its mission of upholding the civil rights of all Americans.

I have no doubt that Ms. Clarke will bring the same high level of integrity, commitment, and sound judgment to leading the Civil Rights Division as she has demonstrated throughout her 20-year career as an advocate for justice and civil rights. On behalf of the NCBCP and BWR, I urge the Senate Judiciary Committee to confirm Kristen Clarke as Assistant Attorney General for Civil Rights without delay.

Sincerely,



Melanie L. Campbell
President, National Coalition on Black Civic Participation
Convenor, Black Women's Roundtable

Cc: Members of the Senate Judiciary Committee

---

[4] The James Byrd, Jr. Center to Stop Hate, available at https://lawyerscommittee.org/project/stop-hate-project/

[5] Stanley Augustin, National Civil Rights Organization Wins Lawsuit Against Daily Stormer and White Supremacists Engaging in Online Threats and Harassment, Lawyers' Committee for Civil Rights Under Law (Aug. 9, 2019), available at https://lawyerscommittee.org/national-civil-rights-organization-wins-lawsuit-against-daily-stormer-and-white-supremacists-engaging-in-online-threats-and-harassment/.

[6] Jordan Pascal, Church, *Civil Rights Group Suing Proud Boys Over Theft, Vandalism of BLM Signs*, National Public Radio, (January 5, 2021), available at https://www.npr.org/local/305/2021/01/05/953574644/church-civil-rights-group-suing-proud-boys-over-theft-vandalism-of-b-l-m-signs

[7] Spectrum News Staff & Associated Press, Police Groups Endorse Kristen Clarke, Biden's Pick for Civil Rights Chief, Spectrum News New York 1, (March 11, 2021) https://www.ny1.com/nyc/all-boroughs/news/2021/03/11/police-groups-endorse-kristen-clarke-civil-rights.

Memorandum

DEPARTMENT OF JUSTICE REPORT REGARDING THE CRIMINAL INVESTIGATION INTO THE SHOOTING DEATH OF MICHAEL BROWN BY FERGUSON, MISSOURI POLICE OFFICER DARREN WILSON

MARCH 4, 2015

Table of Contents

I. Introduction 4
II. Summary of the Evidence, Investigation, and Applicable Law 5
A. Summary of the Evidence 5
B. Initial Law Enforcement Investigation 8
C. Legal Summary 9
1. The Law Governing Uses of Deadly Force by a Law Enforcement Officer 9
i. The Shootings Were Not Objectively Unreasonable Uses of Force Under 18 U.S.C. § 242 10
ii. Wilson Did Not Willfully Violate Brown's Constitutional Right to Be Free from Unreasonable Force 11
III. Summary of the Evidence 12
A. Darren Wilson's Account 12
B. Physical and Forensic Evidence 16
1. Crime Scene 16
2. Autopsy Findings 17
3. DNA Analysis 20
4. Dispatch Recordings 21
5. Ballistics 23
i. Wilson's Firearm and Projectiles Fired 23
ii. Projectile Recovered from SUV 23
iii. Gunshot Residue on Brown's Shirt 23
6. Fingerprints 24
7. Audio Recording of Shots Fired 24
8. Wilson's Medical Records 25
9. Brown's Toxicology 25
10. Ferguson Market Surveillance Video 25
C. Witness Accounts 26
1. Witnesses Materially Consistent with Prior Statements, Physical Evidence, and Other Witnesses and Therefore, Give Credible Accounts 27

i. Witnesses Materially Consistent with Prior Statements, Physical Evidence, and Other Witnesses Who Corroborate That Wilson Acted in Self-Defense 27

ii. Witnesses Consistent with Prior Statements, Physical Evidence, and Other Witnesses Who Inculpate Wilson 36

2. Witnesses Who Neither Inculpate Nor Fully Corroborate Wilson 36

3. Witnesses Whose Accounts Do Not Support a Prosecution Due to Materially Inconsistent Prior Statements, or Inconsistencies With the Physical and Forensic Evidence 44

IV. Legal Analysis 78

A. Legal Standard 79

B. Uses of Force 79

1. Shooting at the SUV 80

2. Wilson's Subsequent Pursuit of Brown and Shots Allegedly Fired as Brown was Moving Away 81

3. Shots Fired After Brown Turned to Face Wilson 82

C. Willfulness 85

VI. Conclusion 86

I. Introduction

At approximately noon on Saturday, August 9, 2014, Officer Darren Wilson of the Ferguson Police Department ("FPD") shot and killed Michael Brown, an unarmed 18-year-old. The Criminal Section of the Department of Justice Civil Rights Division, the United States Attorney's Office for the Eastern District of Missouri, and the Federal Bureau of Investigation ("FBI") (collectively, "The Department") subsequently opened a criminal investigation into whether the shooting violated federal law. The Department has determined that the evidence does not support charging a violation of federal law. This memorandum details the Department's investigation, findings, and conclusions. Part I provides an introduction and overview. Part II summarizes the federal investigation and the evidence uncovered during the course of the investigation, and discusses the applicable federal criminal civil rights law and standards of federal prosecution. Part III provides a more in-depth summary of the evidence. Finally, Part IV provides a detailed legal analysis of the evidence and explains why the evidence does not support an indictment of Darren Wilson.

The Department conducted an extensive investigation into the shooting of Michael Brown. Federal authorities reviewed physical, ballistic, forensic, and crime scene evidence; medical reports and autopsy reports, including an independent autopsy performed by the United States Department of Defense Armed Forces Medical Examiner Service ("AFMES"); Wilson's personnel records; audio and video recordings; and internet postings. FBI agents, St. Louis County Police Department ("SLCPD") detectives, and federal prosecutors and prosecutors from the St. Louis County Prosecutor's Office ("county prosecutors") worked cooperatively to both independently and jointly interview more than 100 purported eyewitnesses and other individuals claiming to have relevant information. SLCPD detectives conducted an initial canvass of the area on the day of the shooting. FBI agents then independently canvassed more than 300 residences to locate and interview additional witnesses. Federal and local authorities collected cellular phone data, searched social media sites, and tracked down dozens of leads from community members and dedicated law enforcement email addresses and tip lines in an effort to investigate every possible source of information.

The principles of federal prosecution, set forth in the United States Attorneys' Manual ("USAM"), require federal prosecutors to meet two standards in order to seek an indictment. First, we must be convinced that the potential defendant committed a federal crime. *See* USAM § 9-27.220 (a federal prosecution should be commenced only when an attorney for the government "believes that the person's conduct constitutes a federal offense"). Second, we must also conclude that we would be likely to prevail at trial, where we must prove the charges beyond a reasonable doubt. *See* USAM § 9-27.220 (a federal prosecution should be commenced only when "the admissible evidence will probably be sufficient to sustain a conviction"); Fed R. Crim P. 29(a)(prosecution must present evidence sufficient to sustain a conviction). Taken

together, these standards require the Department to be convinced both that a federal crime occurred and that it can be proven beyond a reasonable doubt at trial.[1]

In order to make the proper assessment under these standards, federal prosecutors evaluated physical, forensic, and potential testimonial evidence in the form of witness accounts. As detailed below, the physical and forensic evidence provided federal prosecutors with a benchmark against which to measure the credibility of each witness account, including that of Darren Wilson. We compared individual witness accounts to the physical and forensic evidence, to other credible witness accounts, and to each witness's own prior statements made throughout the investigations, including the proceedings before the St. Louis County grand jury ("county grand jury"). We worked with federal and local law enforcement officers to interview witnesses, to include re-interviewing certain witnesses in an effort to evaluate inconsistencies in their accounts and to obtain more detailed information. In so doing, we assessed the witnesses' demeanor, tone, bias, and ability to accurately perceive or recall the events of August 9, 2014. We credited and determined that a jury would appropriately credit those witnesses whose accounts were consistent with the physical evidence and consistent with other credible witness accounts. In the case of witnesses who made multiple statements, we compared those statements to determine whether they were materially consistent with each other and considered the timing and circumstances under which the witnesses gave the statements. We did not credit and determined that a jury appropriately would not credit those witness accounts that were contrary to the physical and forensic evidence, significantly inconsistent with other credible witness accounts, or significantly inconsistent with that witness's own prior statements.

Based on this investigation, the Department has concluded that Darren Wilson's actions do not constitute prosecutable violations under the applicable federal criminal civil rights statute, 18 U.S.C. § 242, which prohibits uses of deadly force that are "objectively unreasonable," as defined by the United States Supreme Court. The evidence, when viewed as a whole, does not support the conclusion that Wilson's uses of deadly force were "objectively unreasonable" under the Supreme Court's definition. Accordingly, under the governing federal law and relevant standards set forth in the USAM, it is not appropriate to present this matter to a federal grand jury for indictment, and it should therefore be closed without prosecution.

II. Summary of the Evidence, Investigation, and Applicable Law

A. Summary of the Evidence

Within two minutes of Wilson's initial encounter with Brown on August 9, 2014, FPD officers responded to the scene of the shooting, and subsequently turned the matter over to the SLCPD for investigation. SLCPD detectives immediately began securing and processing the scene and conducting initial witness interviews. The FBI opened a federal criminal civil rights investigation on August 11, 2014. Thereafter, federal and county authorities conducted cooperative, yet independent investigations into the shooting of Michael Brown.

[1] The threshold determination that a case meets the standard for indictment rests with the prosecutor, *Wayte v. United States*, 470 U.S. 598, 607 (1985), and is "one of the most considered decisions a federal prosecutor makes." USAM 9-27.200, Annotation.

The encounter between Wilson and Brown took place over an approximately two-minute period of time at about noon on August 9, 2014. Wilson was on duty and driving his department-issued Chevy Tahoe SUV westbound on Canfield Drive in Ferguson, Missouri when he saw Brown and his friend, Witness 101,[2] walking eastbound in the middle of the street. Brown and Witness 101 had just come from Ferguson Market and Liquor ("Ferguson Market"), a nearby convenience store, where, at approximately 11:53 a.m., Brown stole several packages of cigarillos. As captured on the store's surveillance video, when the store clerk tried to stop Brown, Brown used his physical size to stand over him and forcefully shove him away. As a result, an FPD dispatch call went out over the police radio for a "stealing in progress." The dispatch recordings and Wilson's radio transmissions establish that Wilson was aware of the theft and had a description of the suspects as he encountered Brown and Witness 101.

As Wilson drove toward Brown and Witness 101, he told the two men to walk on the sidewalk. According to Wilson's statement to prosecutors and investigators, he suspected that Brown and Witness 101 were involved in the incident at Ferguson Market based on the descriptions he heard on the radio and the cigarillos in Brown's hands. Wilson then called for backup, stating, "Put me on Canfield with two and send me another car." Wilson backed up his SUV and parked at an angle, blocking most of both lanes of traffic, and stopping Brown and Witness 101 from walking any further. Wilson attempted to open the driver's door of the SUV to exit his vehicle, but as he swung it open, the door came into contact with Brown's body and either rebounded closed or Brown pushed it closed.

Wilson and other witnesses stated that Brown then reached into the SUV through the open driver's window and punched and grabbed Wilson. This is corroborated by bruising on Wilson's jaw and scratches on his neck, the presence of Brown's DNA on Wilson's collar, shirt, and pants, and Wilson's DNA on Brown's palm. While there are other individuals who stated that Wilson reached out of the SUV and grabbed Brown by the neck, prosecutors could not credit their accounts because they were inconsistent with physical and forensic evidence, as detailed throughout this report.

Wilson told prosecutors and investigators that he responded to Brown reaching into the SUV and punching him by withdrawing his gun because he could not access less lethal weapons while seated inside the SUV. Brown then grabbed the weapon and struggled with Wilson to gain control of it. Wilson fired, striking Brown in the hand. Autopsy results and bullet trajectory, skin from Brown's palm on the outside of the SUV door as well as Brown's DNA on the inside of the driver's door corroborate Wilson's account that during the struggle, Brown used his right hand to grab and attempt to control Wilson's gun. According to three autopsies, Brown sustained a close range gunshot wound to the fleshy portion of his right hand at the base of his right thumb. Soot from the muzzle of the gun found embedded in the tissue of this wound coupled with indicia of thermal change from the heat of the muzzle indicate that Brown's hand was within inches of the muzzle of Wilson's gun when it was fired. The location of the recovered bullet in the side panel of the driver's door, just above Wilson's lap, also corroborates Wilson's account of the struggle over the gun and when the gun was fired, as do witness accounts that Wilson fired at least one shot from inside the SUV.

[2] With the exception of Darren Wilson and Michael Brown, the names of individuals have been redacted as a safeguard against an invasion of their personal privacy.

Although no eyewitnesses directly corroborate Wilson's account of Brown's attempt to gain control of the gun, there is no credible evidence to disprove Wilson's account of what occurred inside the SUV. Some witnesses claim that Brown's arms were never inside the SUV. However, as discussed later in this report, those witness accounts could not be relied upon in a prosecution because credible witness accounts and physical and forensic evidence, *i.e.* Brown's DNA inside the SUV and on Wilson's shirt collar and the bullet trajectory and close-range gunshot wound to Brown's hand, establish that Brown's arms and/or torso were inside the SUV.

After the initial shooting inside the SUV, the evidence establishes that Brown ran eastbound on Canfield Drive and Wilson chased after him. The autopsy results confirm that Wilson did not shoot Brown in the back as he was running away because there were no entrance wounds to Brown's back. The autopsy results alone do not indicate the direction Brown was facing when he received two wounds to his right arm, given the mobility of the arm. However, as detailed later in this report, there are no witness accounts that could be relied upon in a prosecution to prove that Wilson shot at Brown as he was running away. Witnesses who say so cannot be relied upon in a prosecution because they have given accounts that are inconsistent with the physical and forensic evidence or are significantly inconsistent with their own prior statements made throughout the investigation.

Brown ran at least 180 feet away from the SUV, as verified by the location of bloodstains on the roadway, which DNA analysis confirms was Brown's blood. Brown then turned around and came back toward Wilson, falling to his death approximately 21.6 feet west of the blood in the roadway. Those witness accounts stating that Brown never moved back toward Wilson could not be relied upon in a prosecution because their accounts cannot be reconciled with the DNA bloodstain evidence and other credible witness accounts.

As detailed throughout this report, several witnesses stated that Brown appeared to pose a physical threat to Wilson as he moved toward Wilson. According to these witnesses, who are corroborated by blood evidence in the roadway, as Brown continued to move toward Wilson, Wilson fired at Brown in what appeared to be self-defense and stopped firing once Brown fell to the ground. Wilson stated that he feared Brown would again assault him because of Brown's conduct at the SUV and because as Brown moved toward him, Wilson saw Brown reach his right hand under his t-shirt into what appeared to be his waistband. There is no evidence upon which prosecutors can rely to disprove Wilson's stated subjective belief that he feared for his safety.

Ballistics analysis indicates that Wilson fired a total of 12 shots, two from the SUV and ten on the roadway. Witness accounts and an audio recording indicate that when Wilson and Brown were on the roadway, Wilson fired three gunshot volleys, pausing in between each one. According to the autopsy results, Wilson shot and hit Brown as few as six or as many as eight times, including the gunshot to Brown's hand. Brown fell to the ground dead as a result of a gunshot to the apex of his head. With the exception of the first shot to Brown's hand, all of the shots that struck Brown were fired from a distance of more than two feet. As documented by crime scene photographs, Brown fell to the ground with his left, uninjured hand balled up by his waistband, and his right, injured hand palm up by his side. Witness accounts and cellular phone video prove that Wilson did not touch Brown's body after he fired the final shot and Brown fell to the ground.

Although there are several individuals who have stated that Brown held his hands up in an unambiguous sign of surrender prior to Wilson shooting him dead, their accounts do not support a prosecution of Wilson. As detailed throughout this report, some of those accounts are inaccurate because they are inconsistent with the physical and forensic evidence; some of those accounts are materially inconsistent with that witness's own prior statements with no explanation, credible for otherwise, as to why those accounts changed over time. Certain other witnesses who originally stated Brown had his hands up in surrender recanted their original accounts, admitting that they did not witness the shooting or parts of it, despite what they initially reported either to federal or local law enforcement or to the media. Prosecutors did not rely on those accounts when making a prosecutive decision.

While credible witnesses gave varying accounts of exactly what Brown was doing with his hands as he moved toward Wilson – *i.e.*, balling them, holding them out, or pulling up his pants up – and varying accounts of how he was moving – *i.e.*, "charging," moving in "slow motion," or "running" – they all establish that Brown was moving toward Wilson when Wilson shot him. Although some witnesses state that Brown held his hands up at shoulder level with his palms facing outward for a brief moment, these same witnesses describe Brown then dropping his hands and "charging" at Wilson.

B. Initial Law Enforcement Investigation

Wilson shot Brown at about 12:02 p.m. on August 9, 2014. Within minutes, FPD officers responded to the scene, as they were already en route from Wilson's initial radio call for assistance. Also within minutes, residents began pouring onto the street. At 12:08 p.m., FPD officers requested assistance from nearby SLCPD precincts. By 12:14 p.m., some members of the growing crowd became increasingly hostile in response to chants of "[We] need to kill these motherfuckers," referring to the police officers on scene. At around the same time, about 12:15 p.m., Witness 147, an FPD sergeant, informed the FPD Chief that there had been a fatal officer-involved shooting. At about 12:23 p.m., after speaking with one of his captains, the FPD Chief contacted the SLCPD Chief and turned over the homicide investigation to the SLCPD. Within twenty minutes of Brown's death, paramedics covered Brown's body with several white sheets.

The SLCPD Division of Criminal Investigation, Bureau of Crimes Against Persons ("CAP") was notified at 12:43 p.m. to report to the crime scene to begin a homicide investigation. When they received notification, SLCPD CAP detectives were investigating an armed, masked hostage situation in the hospice wing at St. Anthony's Medical Center in the south part of St. Louis County, nearly 37 minutes from Canfield Drive. They arrived at Canfield Drive at approximately 1:30 p.m. During that time frame, between about 12:45 p.m. and 1:17 p.m., SLCPD reported gunfire in the area, putting both civilians and officers in danger. As a result, canine officers and additional patrol officers responded to assist with crowd control. SLCPD expanded the perimeter of the crime scene to move the crowd away from Brown's body in an effort to preserve the crime scene for processing.

Upon their arrival, SLCPD detectives from the Bureau of Criminal Identification Crime Scene Unit erected orange privacy screens around Brown's body, and CAP detectives alerted the

St. Louis County Medical Examiner ("SCLME") to respond to the scene. To further protect the integrity of the crime scene, and in accordance with common police practice, SLCPD personnel did not permit family members and concerned neighbors into the crime scene (with one brief exception). Also in accordance with common police practice, crime scene detectives processed the crime scene with Brown's body present. According to SLCPD CAP detectives, they have one opportunity to thoroughly investigate a crime scene before it is forever changed upon the removal of the decedent's body. Processing a homicide scene with the decedent's body present allows detectives, for example, to accurately measure distances, precisely document body position, and note injury and other markings relative to other aspects of the crime scene that photographs may not capture.

In this case, crime scene detectives had to stop processing the scene as a result of two more reports of what sounded like automatic weapons gunfire in the area at 1:55 p.m. and 2:11 p.m., as well as some individuals in the crowd encroaching on the crime scene and chanting, "Kill the Police," as documented by cell phone video. At each of those times, having exhausted their existing resources, SLCPD personnel called emergency codes for additional patrol officers from throughout St. Louis County in increments of twenty-five. Livery drivers sent to transport Brown's body upon completion of processing arrived at 2:20 p.m. Their customary practice is to wait on scene until the body is ready for transport. However, an SLCPD sergeant briefly stopped them from getting out of their vehicle until the gunfire abated and it was safe for them to do so. The SLCME medicolegal investigator arrived at 2:30 p.m. and began conducting his investigation when it was reasonably safe to do so. Detectives were at the crime scene for approximately five and a half hours, and throughout that time, SLCPD personnel continued to seek additional assistance, calling in the Highway Safety Unit at 2:38 p.m. and the Tactical Operations Unit at 2:44 p.m. Witnesses and detectives described the scene as volatile, causing concern for both their personal safety and the integrity of the crime scene. Crime scene detectives and the SLCME medicolegal investigator completed the processing of Brown's body at approximately 4:00 p.m, at which time Brown's body was transported to the Office of the SLCME.

C. Legal Summary

1. The Law Governing Uses of Deadly Force by a Law Enforcement Officer

The federal criminal statute that enforces Constitutional limits on uses of force by law enforcement officers is 18 U.S.C. § 242, which provides in relevant part, as follows:

> Whoever, under color of any law, . . . willfully subjects any person . . . to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States [shall be guilty of a crime].

To prove a violation of Section 242, the government must prove the following elements beyond a reasonable doubt: (1) that the defendant was acting under color of law, (2) that he deprived a victim of a right protected by the Constitution or laws of the United States, (3) that he acted willfully, and (4) that the deprivation resulted in bodily injury and/or death. There is no dispute that Wilson, who was on duty and working as a patrol officer for the FPD, acted under

color of law when he shot Brown, or that the shots resulted in Brown's death. The determination of whether criminal prosecution is appropriate rests on whether there is sufficient evidence to establish that any of the shots fired by Wilson were unreasonable, as defined under federal law, given the facts known to Wilson at the time, and if so, whether Wilson fired the shots with the requisite "willful" criminal intent.

i. *The Shootings Were Not Objectively Unreasonable Uses of Force Under 18 U.S.C. § 242*

In this case, the Constitutional right at issue is the Fourth Amendment's prohibition against unreasonable seizures, which encompasses the right of an arrestee to be free from "objectively unreasonable" force. *Graham v. Connor*, 490 U.S. 386, 396-97 (1989). "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." *Id.* at 396. "Careful attention" must be paid "to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight." *Id.* Allowance must be made for the fact that law enforcement officials are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving. *Id.* at 396-97.

The use of deadly force is justified when the officer has "probable cause to believe that the suspect pose[s] a threat of serious physical harm, either to the officer or to others." *Tennessee v. Garner*, 471 U.S. 1, 11 (1985); *see Nelson v. County of Wright*, 162 F.3d 986, 990 (8th Cir. 1998); *O'Bert v. Vargo*, 331 F.3d 29, 36 (2d Cir. 2003) (same as *Garner*); *Deluna v. City of Rockford*, 447 F.3d 1008, 1010 (7th Cir. 2006), *citing Scott v. Edinburg*, 346 F.3d 752, 756 (7th Cir. 2003) (deadly force can be reasonably employed where an officer believes that the suspect's actions place him, or others in the immediate vicinity, in imminent danger of death or serious bodily injury).

As detailed throughout this report, the evidence does not establish that the shots fired by Wilson were objectively unreasonable under federal law. The physical evidence establishes that Wilson shot Brown once in the hand, at close range, while Wilson sat in his police SUV, struggling with Brown for control of Wilson's gun. Wilson then shot Brown several more times from a distance of at least two feet after Brown ran away from Wilson and then turned and faced him. There are no witness accounts that federal prosecutors, and likewise a jury, would credit to support the conclusion that Wilson fired at Brown from behind. With the exception of the two wounds to Brown's right arm, which indicate neither bullet trajectory nor the direction in which Brown was moving when he was struck, the medical examiners' reports are in agreement that the entry wounds from the latter gunshots were to the front of Brown's body, establishing that Brown was facing Wilson when these shots were fired. This includes the fatal shot to the top of Brown's head. The physical evidence also establishes that Brown moved forward toward Wilson after he turned around to face him. The physical evidence is corroborated by multiple eyewitnesses.

Applying the well-established controlling legal authority, including binding precedent from the United States Supreme Court and Eighth Circuit Court of Appeals, the evidence does

not establish that it was unreasonable for Wilson to perceive Brown as a threat while Brown was punching and grabbing him in the SUV and attempting to take his gun. Thereafter, when Brown started to flee, Wilson was aware that Brown had attempted to take his gun and suspected that Brown might have been part of a theft a few minutes before. Under the law, it was not unreasonable for Wilson to perceive that Brown posed a threat of serious physical harm, either to him or to others. When Brown turned around and moved toward Wilson, the applicable law and evidence do not support finding that Wilson was unreasonable in his fear that Brown would once again attempt to harm him and gain control of his gun. There are no credible witness accounts that state that Brown was clearly attempting to surrender when Wilson shot him. As detailed throughout this report, those witnesses who say so have given accounts that could not be relied upon in a prosecution because they are irreconcilable with the physical evidence, inconsistent with the credible accounts of other eyewitnesses, inconsistent with the witness's own prior statements, or in some instances, because the witnesses have acknowledged that their initial accounts were untrue.

ii. Wilson Did Not Willfully Violate Brown's Constitutional Right to Be Free from Unreasonable Force

Federal law requires that the government must also prove that the officer acted willfully, that is, "for the specific purpose of violating the law." *Screws v. United States*, 325 U.S. 91, 101-107 (1945) (discussing willfulness element of 18 U.S.C. § 242). The Supreme Court has held that an act is done willfully if it was "committed" either "in open defiance or in reckless disregard of a constitutional requirement which has been made specific or definite." *Screws*, 325 U.S. at 105. The government need not show that the defendant knew a federal statute or law protected the right with which he intended to interfere. *Id.* at 106-07 ("[t]he fact that the defendants may not have been thinking in constitutional terms is not material where their aim was not to enforce local law but to deprive a citizen of a right and that right was protected"); *United States v. Walsh*, 194 F.3d 37, 52-53 (2d Cir. 1999) (holding that jury did not have to find defendant knew of the particular Constitutional provision at issue but that it had to find intent to invade interest protected by Constitution). However, we must prove that the defendant intended to engage in the conduct that violated the Constitution and that he did so knowing that it was a wrongful act. *Id.*

"[A]ll the attendant circumstances" should be considered in determining whether an act was done willfully. *Screws*, 325 U.S. at 107. Evidence regarding the egregiousness of the conduct, its character and duration, the weapons employed and the provocation, if any, is therefore relevant to this inquiry. *Id.* Willfulness may be inferred from blatantly wrongful conduct. *See id.* at 106; *see also United States v. Reese*, 2 F.3d 870, 881 (9th Cir. 1993) ("Intentionally wrongful conduct, because it contravenes a right definitely established in law, evidences a reckless disregard for that right; such reckless disregard, in turn, is the legal equivalent of willfulness."); *United States v. Dise*, 763 F.2d 586, 592 (3d Cir. 1985) (holding that when defendant "invades personal liberty of another, knowing that invasion is violation of state law, [defendant] has demonstrated bad faith and reckless disregard for [federal] constitutional rights"). Mistake, fear, misperception, or even poor judgment does not constitute willful conduct prosecutable under the statute. *See United States v. McClean*, 528 F.2d 1250, 1255 (2d Cir. 1976) (inadvertence or mistake negates willfulness for purposes of 18 U.S.C. § 242).

As detailed below, Wilson has stated his intent in shooting Brown was in response to a perceived deadly threat. The only possible basis for prosecuting Wilson under 18 U.S.C. § 242 would therefore be if the government could prove that his account is not true – *i.e.*, that Brown never punched and grabbed Wilson at the SUV, never attempted to gain control of Wilson's gun, and thereafter clearly surrendered in a way that no reasonable officer could have failed to perceive. There is no credible evidence to refute Wilson's stated subjective belief that he was acting in self-defense. As discussed throughout this report, Wilson's account is corroborated by physical evidence and his perception of a threat posed by Brown is corroborated by other credible eyewitness accounts. Even if Wilson was mistaken in his interpretation of Brown's conduct, the fact that others interpreted that conduct the same way as Wilson precludes a determination that he acted for the purpose of violating the law.

III. Summary of the Evidence

As detailed below, Darren Wilson has stated that he shot Michael Brown in response to a perceived deadly threat. This section begins with Wilson's account because the evidence that follows, in the form of forensic and physical evidence and witness accounts, must disprove his account beyond a reasonable doubt in order for the government to prosecute Wilson.

A. Darren Wilson's Account

Darren Wilson made five voluntary statements following the shooting. Wilson's first statement was to Witness 147, his supervising sergeant at the FPD, who responded to Canfield Drive within minutes and immediately spoke to Wilson.[3] Wilson's second statement was made to an SLCPD detective about 90 minutes later, after Wilson returned to the FPD. This interview continued at a local hospital while Wilson was receiving medical treatment. Third, SLCPD detectives conducted a more thorough interview the following morning, on August 10, 2014. Fourth, federal prosecutors and FBI agents interviewed Wilson on August 22, 2014. Wilson's attorney was present for both interviews with the SLCPD detectives. Two attorneys were present for his interview with federal agents and prosecutors. Wilson's fifth statement occurred when he appeared before the county grand jury for approximately 90 minutes on September 16, 2014.

According to Wilson, he was traveling westbound on Canfield Drive, having just finished another call, when he saw Brown and Witness 101 walking single file in the middle of the street on the yellow line. Wilson had never before met either Brown or Witness 101. Wilson approached Witness 101 first and told him to use the sidewalk because there had been cars trying to pass them. When pressed by federal prosecutors, Wilson denied using profane language, explaining that he was on his way to meet his fiancée for lunch, and did not want to antagonize the two subjects. Witness 101 responded to Wilson that he was almost to his destination, and Wilson replied, "What's wrong with the sidewalk?" Wilson stated that Brown unexpectedly

[3] Witness 147 was jointly interviewed by SLCPD detectives and federal agents and prosecutors on August 19, 2014. He then testified before the county grand jury on September 16, 2014. Witness 147 never documented what Wilson told him during those initial few minutes after the shooting. Witness 147 acknowledged that while talking to Wilson, he was also focused on the shooting scene and crowd safety.

responded, "Fuck what you have to say." As Wilson drove past Brown, he saw cigarillos in Brown's hand, which alerted him to a radio dispatch of a "stealing in progress" that he heard a few minutes prior while finishing his last call. Wilson then checked his rearview mirror, and realized that Witness 101 matched the description of the other subject on the radio dispatch.

Wilson requested assistance over the radio, stating that he had two subjects on Canfield Drive. Wilson explained that he intended to stop Brown and Witness 101 and wait for backup before he did any further investigation into the theft. Wilson reversed his vehicle and parked in a manner to block Brown and Witness 101 from walking any further. Upon doing so, he attempted to open his driver's door, and said, "Hey, come here." Before Wilson got his leg out, Brown responded, "What the fuck are you gonna do?"[4] Brown then slammed the door shut and Wilson told him to "get back." Wilson attempted to open the door again. Wilson told the county grand jury that he then told Brown, "Get the fuck back," but Brown did not comply and, using his body, pushed the door closed on Wilson.

Brown placed his hands on the window frame of the driver's door, and again Wilson told Brown to "get back." To Wilson's surprise, Brown then leaned into the driver's window, so that his arms and upper torso were inside the SUV. Brown started assaulting Wilson, "swinging wildly." Brown, still with cigarillos in his hand, turned around and handed the items to Witness 101 using his left hand, telling Witness 101 "take these." Wilson used the opportunity to grab Brown's right arm, but Brown used his left hand to twice punch Wilson's jaw. As Brown assaulted Wilson, Wilson leaned back, blocking the blows with his forearms. Brown hit Wilson on the side of his face and grabbed his shirt, hands, and arms. Wilson feared that Brown's blows could potentially render him unconscious, leaving him vulnerable to additional harm.

Wilson explained that he resorted to his training and the "use of force triangle" to determine how to properly defend himself. Wilson explained that he did not carry a taser, and therefore, his options were mace, his flashlight, his retractable asp baton, and his firearm. Wilson's mace was on his left hip and Wilson explained that he knew that the space within the SUV was too small to use it without incapacitating himself in the process. Wilson's asp baton was located on the back of his duty belt. Wilson determined that not only would he have to lean forward to reach it, giving more of an advantage to Brown, but there was not enough space in the SUV to expand the baton. Wilson's flashlight was in his duty bag on the passenger seat, out of his reach. Wilson explained that his gun, located on his right hip, was his only readily accessible option.

Consequently, while the assault was in progress and Brown was leaning in through the window with his arms, torso, and head inside the SUV, Wilson withdrew his gun and pointed it at Brown. Wilson warned Brown to stop or he was going to shoot him. Brown stated, "You are

---

[4] The Ferguson Market store clerk's daughter stated that Brown used a similar statement when her father tried to stop Brown from stealing cigarillos, *i.e.*, "What you gonna do?" While it might seem odd that a person in Brown's position would verbally confront a police officer, the fact that another witness at a separate location described Brown as speaking similarly a few minutes earlier tends to corroborate Wilson.

too much of a pussy to shoot,"[5] and put his right hand[6] over Wilson's right hand, gaining control of the gun. Brown then maneuvered the gun so that it was pointed down at Wilson's left hip. Wilson explained that Brown's size and strength, coupled with his standing position outside the SUV relative to Wilson's seated position inside the SUV, rendered Wilson completely vulnerable. Wilson stated that he feared Brown was going to shoot him because Brown had control of the gun. Wilson managed to use his left elbow to brace against the seat, gaining enough leverage to push the gun forward until it lined up with the driver's door, just under the handle. Wilson explained that he twice pulled the trigger but the gun did not fire, most likely because Brown's hand was preventing the gun from functioning properly. Wilson pulled the trigger a third time and the gun fired into the door. Immediately, glass shattered because the window had been down, and Wilson noticed blood on his own hand. Wilson initially thought he had been cut by the glass.

Brown appeared to be momentarily startled because he briefly backed up. Wilson saw Brown put his hand down to his right hip, and initially assumed the bullet went through the door and struck Brown there. Wilson then described Brown becoming enraged, and that Brown "looked like a demon." Brown then leaned into the driver's window so that his head and arms were inside the SUV and he assaulted Wilson again. Wilson explained that while blocking his face with his left hand, he tried to fire his gun with his right hand, but the gun jammed. Wilson lifted the gun, without looking, and used both hands to manually clear the gun while also trying to shield himself. He then successfully fired another shot, holding the gun in his right hand. According to Wilson, he could not see where he shot, but did not think that he struck Brown because he saw "smoke" outside the window, seemingly from the ground, indicating to him a point of impact that was farther away.

Brown then took off running. Wilson radioed for additional assistance, calling out that shots were fired. Wilson then chased after Brown on foot. Federal prosecutors questioned Wilson as to why he did not drive away or wait for backup, but instead chose to pursue Brown despite the attack he just described. Wilson explained that he ran after Brown because Brown posed a danger to others, having just assaulted a police officer and likely stolen from Ferguson Market. Given Brown's violent and otherwise erratic behavior, Wilson was concerned that Brown was a danger to anyone who crossed his path as he ran.

Wilson denied firing any shots while Brown was running from him. Rather he kept his gun out, but down in a "low ready" position. Wilson explained that he chased after Brown, repeatedly yelling at him to stop and get on the ground. Brown kept running, but when he was about 20 to 30 feet from Wilson, abruptly stopped, and turned around toward Wilson, appearing "psychotic," "hostile," and "crazy," as though he was "looking through" Wilson. While making

[5] According to Wilson's sergeant, Witness 147, Wilson told him that Brown made that comment later when Brown was charging at Wilson in the roadway. Witness 147 remembered this part of Wilson's account when he testified before the county grand jury, and not when he was interviewed by state and federal authorities. In every other account, Wilson stated that Brown made that comment as soon as he withdrew his gun.

[6] During his second interview with SLCPD detectives, Wilson stated he was unsure with which hand Brown reached for Wilson's gun. During all other statements, when asked, Wilson said that Brown used his right hand.

a "grunting noise" and with what Wilson described as the "most intense aggressive face" that he had ever seen on a person, Brown then made a hop-like movement, similar to what a person does when he starts running. Brown then started running at Wilson, closing the distance between them to about 15 feet. Wilson explained that he again feared for his life, and backed up as Brown came toward him, repeatedly ordering Brown to stop and get on the ground. Brown failed to comply and kept coming at Wilson. Wilson explained that he knew if Brown reached him, he "would be done." During Brown's initial strides, Brown put his right hand in what appeared to be his waistband, albeit covered by his shirt. Wilson thought Brown might be reaching for a weapon. Wilson fired multiple shots. Brown paused. Wilson explained that he then paused, again yelled for Brown to get on the ground, and again Brown charged at him, hand in waistband. Wilson backed up and fired again. The same thing happened a third time where Brown very briefly paused, and Wilson paused and yelled for Brown to get on the ground. Brown continued to "charge." Wilson described having tunnel vision on Brown's right arm, all the while backing up as Brown approached, not understanding why Brown had yet to stop. Wilson fired the last volley of shots when Brown was about eight to ten feet from him. When Wilson fired the last shot, he saw the bullet go into Brown's head, and Brown "went down right there." Wilson initially estimated that on the roadway, he fired five shots and then two shots, none of which had any effect on Brown. Then Brown leaned forward as though he was getting ready to "tackle" Wilson, and Wilson fired the last shot.

Federal prosecutors questioned Wilson about his actions after the shooting. Wilson explained that he never touched Brown's body. Using the microphone on his shoulder, Wilson radioed, "Send me every car we got and a supervisor." Within seconds, additional officers and his sergeant arrived on scene. In response to specific questions by federal prosecutors, Wilson explained that he had left his keys in the ignition of his vehicle and the engine running during the pursuit, so he went back to his SUV to secure it. In so doing, he was careful only to touch the door and the keys. Wilson then walked over to his sergeant, Witness 147, and told him what happened.[7] Both Wilson and Witness 147 explained that Witness 147 told Wilson to wait in his SUV, but Wilson refused, explaining that if he waited there, it would be known to the neighborhood that he was the shooter. Wilson explained that the atmosphere was quickly becoming hostile, and he either needed to be put to work with his fellow officers or he needed to leave. Per Witness 147's orders, Wilson drove Witness 147's vehicle to the FPD. It was during the drive that Wilson realized he was not bleeding, but had what he thought was Brown's blood on both hands.

As soon as Wilson got to the police department, he scrubbed both hands. When federal prosecutors challenged why he did so in light of the potential evidentiary value, Wilson explained that he realized after the fact that he should not have done so, but at the time he was reacting to a potential biohazard while still under the stress of the moment. Wilson then rendered his gun safe and packaged it with the one remaining round in an evidence envelope. When federal prosecutors further questioned why he packaged his own gun, Wilson explained that he wanted to ensure its preservation for analysis because it would prove what happened. At first, he hoped Brown's fingerprints or epithelial DNA from sweat on his hand might be present from when Brown grabbed the gun. But then Wilson actually saw blood on the gun, and

[7] According to Witness 147, he spoke to Wilson while Wilson was seated in his SUV.

assumed that since he was not bleeding, the blood likely belonged to Brown, and therefore, Brown's DNA would be present.

During Wilson's interview with federal authorities, prosecutors and agents focused on whether he was consistent with his previous statements, the motivation for his actions, and his training and experience relative to when the use of deadly force is appropriate. Federal prosecutors challenged Wilson with specificity about why he stopped Brown and whether he was aware that Brown and Witness 101 were suspects in the Ferguson Market robbery. Similarly, prosecutors challenged Wilson about his decision to use deadly force inside the SUV, to chase after Brown, and to again use deadly force on Brown in the roadway. Wilson responded to those challenges in a credible manner, offering reasonable explanations to the questions posed.

At the time of his interview, federal prosecutors and agents were aware of the autopsy, DNA, and ballistics results, as detailed below. Wilson's account was consistent with those results, and consistent with the accounts of other independent eyewitnesses, whose accounts were also consistent with the physical evidence. Wilson's statements were consistent with each other in all material ways, and would not be subject to effective impeachment for inconsistencies or deviation from the physical evidence.[8] Therefore, in analyzing all of the evidence, federal prosecutors found Wilson's account to be credible.

B. Physical and Forensic Evidence

1. Crime Scene

As noted above, SLCPD detectives from the Bureau of Criminal Identification, Crime Scene Unit processed the scene of the shootings. During processing, they photographed and took video of the crime scene, including Brown's body and Wilson's SUV. They measured distances from Brown's body, Wilson's SUV, and various pieces of evidence. As described in detail below, they recovered twelve spent shell casings.[9] One was located on the ground between the driver's door and back passenger door of the SUV and another was located near the sidewalk, diagonally across from the driver's door. Seven casings and one spent projectile were located in the general vicinity of Brown's body. Those casings were located on the ground next to the left side of his body (on the south side of Canfield Drive), with four closer to his body, and three in the grassy area of the sidewalk. The projectile was located on the right side of Brown's body (on the north side of Canfield Drive). Three additional casings were further east, or further away from where Brown came to rest. Crime scene detectives also recovered a spent projectile fragment from the wall of an apartment building located east of Brown's body, in the direction

[8] Federal prosecutors were aware of and reviewed prior complaints against Wilson, as well as media reports, alleging Wilson engaged in misconduct. Such allegations were not substantiated, and do not contain information admissible in federal court in support of a prosecution.

[9] The locations of the shell casings are consistent with Wilson's account and the credible witness accounts. However, shell casings provide limited evidentiary value relative to the precise location of the shooter and bullet trajectory because they tend to bounce and roll unpredictably after being ejected from the firearm and before coming to rest.

toward which Wilson had been shooting.[10] As described below, crime scene detectives noted apparent blood[11] in the roadway approximately 17 feet and 22 feet east of where Brown's body was found and east of the casings that were recovered, consistent with Brown moving toward Wilson before his death. There was no other blood found in the roadway, other than the pool of blood surrounding Brown's body.

Crime scene detectives recovered Brown's St. Louis Cardinals baseball cap by the driver's door of the SUV. Two bracelets, one black and yellow, and the other beaded, were found on either side of the SUV.[12] Brown's Nike flip flops were located in the roadway, the left one near the front of the driver's side of the vehicle, approximately 126 feet west of where Brown's head came to rest, and the right one in the center of the roadway, 82.5 feet west of where Brown's head came to rest and just south of the center line. This is consistent with witness descriptions that Brown, wearing his socks, described as bright yellow with a marijuana leaf pattern, ran diagonally away from the SUV, crossing over the center line.

Prior to transport of Brown's body, the SLCME medicolegal investigator documented the position of Brown's body on the ground. Brown was on his stomach with his right cheek on the ground, his buttocks partially in the air. His uninjured left arm was back and partially bent under his body with his left hand at his waistband, balled up in a fist. His injured right arm was back behind him, almost at his right side, with his injured right hand at hip level, palm up. Brown's shorts were midway down his buttocks, as though they had partially fallen down.

The forensic analysis of the seized evidence is detailed below:

2. Autopsy Findings

There were three autopsies conducted on Michael Brown's body. SLCME conducted the first autopsy. A private forensic pathologist conducted the second autopsy at the request of Brown's family. AFMES conducted the third autopsy at the Department's request.

The SLCME, AFMES, and the private forensic pathologist were consistent in their findings unless otherwise noted. Brown was shot at least six and at most eight times. As described below, two entrance wounds may have been re-entry wounds, accounting for why the number of shots that struck Brown is not definite.

Of the eight gunshot wounds, two wounds, a penetrating gunshot wound to the apex of Brown's head, and a graze or tangential wound to the base of Brown's right thumb, have the most significant evidentiary value when determining the prosecutive merit of this matter. The former is significant because the gunshot to the head would have almost immediately

[10] Crime scene detectives also noted a hole in the wall of an apartment building located on the south side of Canfield Drive, east of Wilson's SUV. They removed a small section of siding, but were unable to determine whether there was a projectile within the wall without causing significant structural damage to the building. There is no evidence to indicate what caused the hole or when it was made.

[11] As noted below, the blood in the roadway was determined to be Brown's blood.

[12] It was never determined to whom these bracelets belong or when they were left in the street.

incapacitated and immobilized Brown; the latter is significant because it is consistent with Brown's hand being in close range or having near-contact with the muzzle of Wilson's gun and corroborates Wilson's account that Brown struggled with him to gain control of the gun in the SUV.

The skin tags, or flaps of skin created by the graze of the bullet associated with the right thumb wound, indicate bullet trajectory. They were oriented toward the tip of the right thumb, indicating the path of the bullet went from the tip of the thumb toward the base. Microscopic analysis of the wound indicates that Brown's hand was near the muzzle of the gun when Wilson pulled the trigger. Both AFMES and SLCME pathologists observed numerous deposits of dark particulate foreign debris, consistent with gunpowder soot from the muzzle of the gun embedded in and around the wound. The private forensic pathologist called it gunshot residue, opining that Brown's right hand was less than a foot from the gun. The SLCME pathologist opined that the muzzle of the gun was likely six to nine inches from Brown's hand when it fired. AFMES pathologists opined that the particulate matter was, in fact, soot and was found at the exact point of entry of the wound. The soot, along with the thermal change in the skin resulting from heat discharge of the firearm, indicates that the base of Brown's right hand was within inches of the muzzle of Wilson's gun when it fired. AFMES pathologists further opined that, given the tangential nature of the wound, the fact that the soot was concentrated on one side of the wound, and the bullet trajectory as detailed below, the wound to the thumb is consistent with Brown's hand being on the barrel of the gun itself, though not the muzzle, at the time the shot was fired.

The presence of soot also proves that the wound to the thumb was the result of the gunshot at the SUV.[13] As detailed below, several witnesses described Brown at or in Wilson's SUV when the first shot was fired, and a bullet was recovered from within the driver's door of the SUV. There is no evidence that Wilson was within inches of Brown's thumb other than in the SUV at the outset of the incident. Additionally, according to the SLCME pathologist and the private forensic pathologist, a piece of Brown's skin recovered from the exterior of the driver's door of the SUV is consistent with skin from the part of Brown's thumb that was wounded. It is therefore a virtual certainty that the first shot fired was the one that caused the tangential thumb wound.

The order of the remaining shots cannot be determined, though the shot to Brown's head would have killed him where he stood, preventing him from making any additional purposeful movement toward Wilson after the final shots were fired.[14] The fatal bullet entered the skull, the brain, and the base of the skull, and came to rest in the soft tissues of the right face. The trajectory of the bullet was downward, forward, and to the right. Brown could not have been standing straight when Wilson fired this bullet because Wilson is slightly shorter than Brown. Brown was likely bent at the waist or falling forward when he received this wound. It is also possible, although not consistent with credible eyewitness accounts, that Brown had fallen to his knees with his head forward when Wilson fired this shot. However, the lack of stippling and soot indicates that Wilson was at least two to three feet from Brown when he fired.

---

[13] Soot typically appears if the muzzle is within less than one foot of the target and stippling typically appears if the muzzle is within two to three feet of the target.

[14] This fact was critical for prosecutors in evaluating the credibility of witness accounts that stated that Brown continued moving toward Wilson after Wilson ceased firing shots.

The remaining gunshots, like the thumb wound, were all on Brown's right side and none of them would have necessarily immediately immobilized Brown. The lack of soot and stippling indicates that the shots were fired from a distance of at least two to three feet. However, as described below, because of environmental conditions and because Brown's shirt was blood soaked, it was not suitable for gunshot residue analysis to determine muzzle-to-target distance. Therefore, we cannot reliably say whether gunshot residue on Brown's shirt might have provided evidence of muzzle-to-target distance. Regardless, gunshot residue is inherently delicate and easily transferrable. [15]

In addition to the thumb wound and the fatal shot to the head, Brown sustained a gunshot wound to his central forehead, with a corresponding exit wound of the right jaw. The bullet tracked through the right eye and right orbital bone, causing fractures of the facial bones. Brown sustained another gunshot wound to the upper right chest, near the neck. The bullet tracked though the right clavicle and upper lobe of the right lung, and came to rest in the right chest. Brown sustained another entrance wound to his lateral right chest. The bullet tracked through and fractured the eighth right rib, puncturing the lower lobe of the right lung. The bullet was recovered from the soft tissue of the right back. The AFMES pathologists and the private forensic pathologist opined that the right chest wound could have been a re-entry wound from an arm wound as described below, and the clavicle wound could have been a re-entry wound from the bullet that entered Brown's forehead and exited his jaw. The SLCME pathologist also allowed for the possibility of re-entry wounds, but did not opine with specificity due to the variability of such wounds.

Brown also sustained a gunshot wound to the front of the upper right arm, near the armpit, with a corresponding gunshot exit wound of the back of the upper right arm. The remaining gunshot wounds were also to the right arm. These bullet trajectories are described according to the standard anatomic diagram, that is, standing, arms at sides, palms facing forward. That said, Brown sustained a gunshot wound to the dorsal (back) right forearm, below the elbow. The bullet tracked through the bone in the forearm, fracturing it, and exiting through the ventral (front) right forearm. Finally, Brown sustained a tangential or graze gunshot wound to the right bicep, above the elbow.

Given the mobility of the arm, it is impossible to determine the position of the body relative to the shooter at the time the arm wounds were inflicted. Therefore, the autopsy results do not indicate whether Brown was facing Wilson or had his back to him. They do not indicate whether Brown sustained those two arm wounds while his hands were up, down, or by his waistband. The private forensic pathologist opined that he would expect a re-entry wound across Brown's stomach if Brown's hand was at his waistband at the time Wilson fired. However, as mentioned, there is no way to know the exact position of Brown's arm relative to his waistband

[15] Although Brown's shirt was blood soaked, the private forensic pathologist noted the following with regard to Brown's shorts and socks, "Examination of the clothing...shows small dried blood drops on his khaki shorts and yellow socks most consistent with drops from the hand wound." This was significant to prosecutors because it is not inconsistent with Brown lowering his hands and/or putting his hand(s) near his waistband.

at the time the bullets struck. Therefore, these gunshot wounds neither corroborate nor discredit Wilson's account or the account of any other witness. However, the concentration of bullet wounds on Brown's right side is consistent with Wilson's description that he focused on Brown's right arm while shooting.

The autopsy established that Brown did not sustain gunshot wounds to his back.[16] There was no evidence to corroborate that Wilson choked, strangled, or tightly grasped Brown on or around his neck, as described by Witness 101 in the summary of his account below. There were no bruises, abrasions, hemorrhaging of soft tissues, or any other injuries to the neck, nor was there evidence of petechial hemorrhaging of Brown's remaining left eye. The private forensic pathologist opined that although the lack of injury does not signify the absence of strangulation, it would be "surprising," given Brown's size, if Wilson attempted to strangle Brown. The private forensic pathologist explained that the act of strangling is often committed by the stronger person, as it is rarely effective if attempted by the person of smaller size or weaker strength.[17]

Brown sustained a one inch superficial incised wound to the right middle of the front of his left arm. SCLME differed with AFMES, characterizing this wound as an abrasion, but AFMES opined that this was more like a cut, consistent with being caused by broken window glass. Brown also sustained abrasions to the right side of the head and face, including abrasions near the right forehead, the lateral right face, and the upper right cheek, consistent with Brown falling and impacting the ground with his face. The private forensic pathologist opined that the severity of these abrasions could have been caused by involuntary seizures as Brown died. He also opined, as did the SLCME pathologist, that these abrasions were consistent with Brown impacting the ground upon death and sliding on the roadway due to the momentum from quickly moving forward.

According to the AFMES and SCLME pathologists, Brown also had small knuckle abrasions, but the pathologists could not link them to any specific source. The SLCME pathologist opined they may have been inflicted post mortem, while the AFMES pathologist opined that they were too small to determine whether they were caused pre or post-mortem.[18] The private forensic pathologist did not note any knuckle abrasions or injury to Brown's hands, explaining that he would expect Brown to have knuckle injury if Wilson sustained broken bones, but not necessarily bruising. AFMES pathologists likewise concurred that lack of injury to Brown's hands is not inconsistent with bruising to Wilson's face.

3. DNA Analysis

---

[16] This evidence was significant to prosecutors when determining the credibility of those witness accounts that stated that Wilson shot Brown in the back.

[17] This evidence was significant to prosecutors when determining the credibility of those witness accounts that stated that Wilson choked or grabbed Brown by the neck at the outset of the struggle at the SUV.

[18] Post mortem abrasions are consistent with Brown's hands hitting the ground after the final shot to the vortex of the head. It is less likely that they were inflicted during removal of Brown's body because Brown's hands were secured in brown paper bags prior to transport.

The SLCPD Crime Laboratory conducted DNA analysis on swabs taken from Wilson, Brown, Wilson's gun, and the crime scene. Brown's DNA was found at four significant locations: on Wilson's gun; on the roadway further away from where he died; on the SUV driver's door and inside the driver's cabin area of the SUV; and on Wilson's clothes. A DNA mixture from which Wilson's DNA could not be excluded was found on Brown's left palm.

Analysis of DNA on Wilson's gun revealed a major mixture profile that is 2.1 octillion times more likely a mixture of DNA from Wilson and DNA from Brown than from Wilson and anyone else. This is conclusive evidence that Brown's DNA was on Wilson's gun.[19]

Brown is the source of the DNA found in two bloodstains on Canfield Drive, approximately 17 and 22 feet east of where Brown fell to his death, proving that Brown moved forward toward Wilson prior to the fatal shot to his head.

Brown's DNA was found both on the inside and outside of the driver's side of the SUV. Brown is the source of DNA in blood found on the exterior of the passenger door of the driver's side of the SUV. Likewise, a piece of Brown's skin was recovered from the exterior of the driver's door of the SUV, consistent with Brown sustaining injury while at that door. Brown is also the source of the major contributor of a DNA mixture found on the interior driver's door handle of the SUV. A DNA mixture obtained from the top of the exterior of the driver's door revealed a major mixture profile that is 6.9 million times more likely a mixture of DNA from Wilson and DNA from Brown than from Wilson and anyone else.

Brown's DNA was found on Wilson's uniform shirt collar and pants. With respect to the left side of Wilson's shirt and collar, it is 2.1 trillion times more likely that the recovered DNA mixture is DNA from Wilson and DNA from Brown than from Wilson and anyone else. Similarly, with respect to a DNA mixture obtained from the left side of Wilson's pants, it is 34 sextillion times more likely that the mixture is DNA from Wilson and DNA from Brown than from Wilson and anyone else. Brown is also the source of the major male profile found in a DNA mixture found in a bloodstain on the upper left thigh of Wilson's pants.

DNA analysis of Brown's left palm revealed a DNA mixture with Brown as the major contributor, and Wilson being 98 times more likely the minor contributor than anyone else.

DNA analysis of Brown's clothes, right hand, fingernails, and clothes excluded Wilson as a possible contributor.

4. Dispatch Recordings

---

[19] While it is possible that Wilson inadvertently transferred Brown's blood from his own hand to his gun either after the struggle or while packaging his gun (even though Wilson claimed to have already washed his hands), such a possibility is speculative. The autopsy results and bullet trajectory are consistent with Brown's DNA being present on the gun as a result of the struggle over the gun. Regardless, the absence of Brown's DNA on Wilson's gun would not change the prosecutive decision.

According to FPD records, at about 11:53 a.m., a dispatcher called out a "stealing in progress" at the address of Ferguson Market while Wilson was in the midst of a sick infant call. During his interview with federal officials, Wilson told prosecutors and agents that he heard the call on his portable radio, but did not hear the specifics about the location of the "stealing in progress." He also stated that he heard that one of the suspects was wearing a "black shirt," that they had stolen cigarillos, and were going toward the Quick-Trip. The actual description given was that of a "black male in a white t-shirt," "running toward the Quick-Trip," and that "he took a whole box of Swisher cigars." Two officers, Witness 145 and Witness 146, the same two FPD officers who first responded to Canfield Drive after the shooting, responded to the Ferguson Market. At approximately 11:56 a.m., Witness 145, via radio, added, "He's with another male. He's got a red Cardinals hat, white t-shirt, yellow socks, and khaki shorts."

Wilson left the sick call at approximately 11:58 a.m., after EMS arrived to transport the mother and sick child to the hospital. Twenty-seven seconds later, Wilson radioed to Witness 145 and Witness 146, "Do you guys need me?," corroborating that Wilson was aware of the theft at Ferguson Market prior to his encounter with Brown. Witness 145 responded that the suspect "disappeared into the woodwork." Wilson, having not heard him, asked the dispatcher to "relay." The dispatcher then clarified, "He thinks that they…disappeared." Wilson then said "clear," indicating that he understood.

Wilson drove his police SUV west on Canfield Drive, where he encountered Brown and Witness 101 walking east in the middle of the street. Wilson's last recorded radio transmission occurred at approximately noon when he called out, "Put me on Canfield with two and send me another car," consistent with Wilson's account that he radioed for backup once he interacted with Brown and Witness 101.

Several radio transmissions followed from dispatch and from Officer 145 seeking a response from Wilson to no avail. About one minute and forty seconds following Wilson's last transmission, Witness 145 called out to send the supervising sergeant to Canfield Drive and Copper Creek Court, the location of the shooting incident. There were no recorded radio transmissions from Wilson from the time Wilson called for assistance to the time that Witness 145 called for a supervisor.

As noted above, Wilson stated that he also radioed for backup after the initial shots when Brown ran from the SUV, and then again after he shot Brown to death. According to Wilson, as he left the shooting scene, he realized that his radio must have switched from channel 1, which he had been using, to channel 3 during the initial struggle. Channel 3 is a dedicated channel for the North County Fire Department. It only receives transmissions, and therefore, officers cannot use that channel to transmit messages to dispatch. While this is not definitive evidence that Wilson attempted to call for assistance both after the initial shots in the SUV and after he killed Brown, it offers a plausible explanation for the lack of radio transmissions. Moreover, as detailed below, there are several witnesses who state that Wilson paused in the SUV after Brown took off running, arguably giving him enough time to attempt to radio dispatch. Likewise, several witnesses saw Wilson appear to use his shoulder microphone after Brown fell to the ground, presumably to radio dispatch.

5. Ballistics

Witness 143, a firearms and toolmarks examiner with the SLCPD, conducted the ballistics analysis for the St. Louis County Police Laboratory. Witness 144, an FBI firearms and toolmarks examiner, conducted gunshot residue analysis and reconstructed the shooting incident.

i. *Wilson's Firearm and Projectiles Fired*

There were a total of five projectiles, and a fragment from another projectile, recovered from the crime scene and Brown's autopsy. There were a total of 12 shell casings recovered from the crime scene. Wilson's gun can hold up to 13 rounds, 12 in the magazine and one in the chamber. Witness 143 test-fired Wilson's Sig Sauer S&W .40 caliber semi-automatic pistol, noting apparent blood on the gun. He compared the test bullets and casings to those seized as evidence from Brown's body and the crime scene. Witness 143 confirmed that all 12 shell casings were fired from Wilson's gun, consistent with the one round remaining in the gun after the shooting. Witness 143 also confirmed that four of the recovered projectiles, as well as the recovered fragment, were fired from Wilson's gun. The remaining projectile, recovered from the inside of the driver's door of Wilson's SUV, was too damaged to conclusively find that it came from Wilson's gun.

ii. *Projectile Recovered from SUV*

Witness 144 conducted a shooting incident reconstruction of the interior driver's door panel of Wilson's SUV to determine the trajectory of the bullet that was recovered there. The trajectory of the bullet was at a downward angle from left to right, striking the armrest near the interior door handle, entering the door from inside the SUV, and coming to rest inside the door. This is consistent with Wilson's description of the initial gunshot.

Witness 144 conducted gunshot residue analysis on the inside of the driver's door. Particulate and vaporous lead residues found on the interior driver's door panel near the interior window weather stripping and on the interior side frame of the driver's door were, like the recovery of the bullet itself, consistent with the discharge of a firearm. These residues were unsuitable for muzzle-to-target distance determinations. However, vaporous lead residues rarely are deposited at a distance greater than 24 inches, consistent with Wilson discharging his firearm while seated in the driver's seat, less than two feet from the driver's door.

iii. *Gunshot Residue on Brown's Shirt*

Witness 144 conducted gunshot residue analysis on Brown's shirt. For the most part, gunshot residue analysis can only determine whether defects in an item, *i.e.*, the holes in his shirt, are the result of gunshots. Analysis cannot determine the directional travel of bullets.

Witness 144 examined seven holes in the shirt. Gunshot residues in the form of nitrite and bullet wipe lead residues were found near some of the holes. This does not necessarily suggest that the remaining holes were not created by bullets. According to Witness 144, lack of

gunshot residue could be due to the possibility of intervening conditions, like large amounts of blood, environmental conditions, or the way the shirt was folded and packaged.

Likewise, the presence of nitrite residues tells very little. Nitrite residues were found near three holes in Brown's right sleeve, and one hole in the right chest of this shirt. Test-firing of the gun showed that nitrite residues appear at a muzzle-to-target distance of eight feet or less, consistent with Wilson's description and several other witness descriptions that Wilson and Brown were about eight feet apart during the final shots. However, the residues were not in a measurable pattern. This means that they may not even be associated with the specific holes in the shirt that they are near, but rather may be just indiscriminate residue from any of the shots, including the close range shots at the SUV, or transferred from one shot to another during the handling and packaging of the clothes.

6. Fingerprints

Wilson's gun was not tested for the presence of Brown's fingerprints. After SLCPD crime scene detectives recovered Wilson's gun, they submitted the gun for DNA analysis rather than for fingerprints analysis. The detectives told federal prosecutors that they knew that typically testing for one would preclude testing for the other, and there was a high likelihood of DNA given the presence of apparent blood on the gun. They also knew that even according to Wilson, Brown never had sole possession of the gun, and if Brown ever had control of the gun at all, it was only when Brown's hand was over Wilson's hand during a struggle for the gun, lessening the likelihood of fingerprints. Furthermore, based on their training and experience, there was a greater likelihood of finding a DNA profile on the gun than lifting fingerprints with enough fine ridge detail to make it suitable for comparison.[20] Because the gun was swabbed in its entirety, it could not later undergo latent fingerprint analysis.[21]

SLCPD crime scene detectives lifted five latent fingerprints from the outside of the driver's door of the SUV. Two were unsuitable for comparison; one was determined to be Wilson's fingerprint; and the remaining two prints, although suitable for comparison, belonged to neither Brown nor Wilson. The leather interior of the SUV was unsuitable for recovering latent prints. Fingerprint examiners also tested Wilson's duty belt for fingerprints, but none recovered was suitable for comparison.

7. Audio Recording of Shots Fired

Witness 136 was in his apartment using a video chat application on his mobile phone when the shooting occurred. According to Witness 136, he heard "maybe three" gunshots followed by a five to six second pause. After those first gunshots, Witness 136 recorded the remainder of his chat and turned it over to the FBI. The recording is about 12 seconds long and captured a total of 10 gunshots. The gunshots begin after the first four seconds. The recording

[20] The grips and hammer, the latter of which was where blood was recovered on Wilson's gun, are textured, making it difficult to lift latent prints.

[21] Fingerprint analysis would not have changed the prosecutive decision. Had the gun yielded Brown's fingerprints, such evidence would further corroborate Wilson's account. If the gun did not test positive for Brown's fingerprints, the state of the evidence would remain the same.

then captured six gunshots in two seconds. There was a three second pause, followed by a seventh gunshot. There was a quick pause of less than one second before the final three-shot volley within two seconds. The recording was not time-stamped. As detailed below, this recording is consistent with several credible witness accounts as well as Wilson's account, that he fired several volleys of shots, briefly pausing between each one.

8. Wilson's Medical Records

Paramedics examined Wilson when he returned to the FPD after the shooting, and recommended that he go to the hospital for follow-up treatment. Wilson sought medical treatment at Christian Northwest Hospital within two hours of the shooting. Witness 117, a nurse practitioner, examined Wilson. For the purpose of making a medical diagnosis, Witness 117 questioned Wilson about what happened. Wilson stated that he was twice punched in the jaw. Witness 117 noted acute or fresh pink scratch marks on the back of Wilson's neck as well as swelling to his jaw. Wilson sustained a contusion of the mandibular joint or jaw area, but did not break his jaw or any other bones. According to Witness 117, Wilson's injuries were consistent with his description of what transpired.

Wilson submitted to a drug and alcohol screen. His blood alcohol content was 0.00% and he tested negative for cocaine, marijuana metabolites, amphetamines, opiates, and phencyclidine, the chemical commonly known as PCP.

9. Brown's Toxicology

A toxicologist with the St. Louis University (SLU) Toxicology Laboratory and the Chief of the Division of Forensic Toxicology at AFMES each conducted blood and urine screens on samples collected from Brown's body. Brown tested positive for the presence of cannabinoids, the hallucinogenic substances associated with marijuana use. The SLU Toxicology Laboratory found 12 nanograms per milliliter of Delta-9-THC, the active ingredient in marijuana, where AFMES found 11 nanograms per milliliter of Delta-9-THC in Brown's blood.

According to both laboratories, these levels of Delta-9-THC are consistent with Brown having ingested THC within a few hours before his death. This concentration of THC would have rendered Brown impaired at the time of his death. As a general matter, this level of impairment can alter one's perception of time and space, but the extent to which this was true in Brown's case cannot be determined. THC affects individuals differently depending on unknown variables such as whether Brown was a chronic user and the concentration of the THC ingested.

10. Ferguson Market Surveillance Video

At approximately 11:53 a.m. on August 9, 2014, about ten minutes prior to the shooting, Brown and Witness 101 went to Ferguson Market, a nearby convenience store. Surveillance video shows Brown stealing several packages of cigarillos and then forcefully shoving the store clerk who tried to stop him from leaving the store without paying. Evidence of this theft and assault likely would be admissible by the defense in a prosecution of Wilson because it is relevant to show Brown's state of mind at or near the time of the shooting, and arguably corroborates Wilson's self-defense claim.

Surveillance cameras captured the incident without audio. SLCPD detectives, FBI agents, and federal prosecutors jointly interviewed the store employees who were present at the time. The employees, a father (the clerk who was assaulted) and his adult daughter, are of Indian origin. The father does not speak English well, and therefore, was not as able as his daughter to recount with specificity what Brown said during the incident.

The video depicts Brown and Witness 101 entering the store and proceeding to the front counter. Brown stood at the register, as Witness 101 waited behind him. Brown asked the clerk behind the counter for cigarillos. The clerk put a package of cigarillos on the counter. Brown then "snatched" the package of cigarillos from the counter. Using his left hand, Brown reached behind him and gave them to Witness 101.[22] Brown then reached over the counter, as Witness 101 described and the video shows, and took additional packages of cigarillos. In so doing, Brown dropped some of the cigarillos and had an exchange with the clerk during which he refused to pay. Witness 101 then placed the cigarillos that Brown had given him back on the register counter, as Brown picked up his stolen goods from the floor.

Brown and Witness 101 proceeded to the exit and the clerk, who is about 5'6" and 150 lbs, attempted to stop them. The clerk first tried to hold the store door closed to prevent Brown's exit. However, Brown shoved the clerk aside, and as Witness 101 walked out the door, Brown menacingly re-approached the clerk. According to the store employees, Brown, looking "crazy" and using profane language, said something like, "What are you gonna do about it?" Brown then exited the store and the clerk's daughter called 911.

C. Witness Accounts

As the first responding investigators, SLCPD detectives interviewed witnesses on Canfield Drive within the first few hours of the shooting. One week later, on August 16, 2014, in an effort to identify additional witnesses who may have been reluctant to speak with local law enforcement, the FBI conducted a neighborhood canvass of more than 300 residences. Federal and county authorities largely conducted additional interviews jointly, unless a witness expressed discomfort with the presence of either federal agents or SLCPD detectives. To evaluate the merits of a potential federal prosecution, federal prosecutors and FBI agents conducted follow-up interviews. Many witnesses also testified before the county grand jury. Unless otherwise noted, witnesses did not know, or know of, Brown or Wilson prior to the shooting.

For ease of review, this report divides the summaries of witness accounts into three sections based on the nature and credibility of their accounts to a jury. First, the report summarizes the accounts of those witnesses whose statements have been materially consistent, are consistent with the physical evidence, and that are mutually corroborative. For these reasons, prosecutors determined these witness accounts were reliable and would be credible to jurors. This section is further broken down into subsections for those witness accounts that support Wilson's claim of self-defense and those that support a criminal prosecution of Wilson. Of

[22] Brown's actions on the surveillance video at that moment mimicked the way in which Wilson described Brown again handing the cigarillos to Witness 101 minutes later as Brown assaulted Wilson in the SUV.

course, to support a prosecution of Wilson under 18 U.S.C. § 242, the weight of the evidence from those witness accounts that support a prosecution must be prove the violation beyond a reasonable doubt to twelve reasonable jurors. A prosecution will fail if the credible evidence creates "reasonable doubt" of Wilson's guilt by supporting Wilson's statements that he acted reasonably and in self-defense. The second section of summaries contains those accounts that neither inculpate Wilson nor fully corroborate Wilson's account. These witnesses, regardless of whether prosecutors determined their accounts to be credible, would not strengthen the government's case in a prosecution of Wilson. The third section of summaries contains those witness accounts that are inconsistent with the physical and forensic evidence, materially inconsistent with that witness's own prior statements, or those witnesses who have recanted large portions of their accounts, admitting that they did not in fact witness the shooting as they initially claimed. Therefore, for this last category of witnesses, federal prosecutors either could not rely on their accounts to support a prosecution of Darren Wilson or did not consider their accounts in making a prosecutive decision.

1. Witnesses Materially Consistent with Prior Statements, Physical Evidence, and Other Witnesses and Therefore, Give Credible Accounts

i. *Witnesses Materially Consistent with Prior Statements, Physical Evidence, and Other Witnesses Who Corroborate That Wilson Acted in Self-Defense*

a. Witness 102

Witness 102 is a 27-year-old bi-racial male. Witness 102 gave three statements. First, SLCPD detectives interviewed him; second, FBI agents interviewed him; third, Witness 102 testified before the county grand jury.

Witness 102 was doing house repairs on a residence on Canfield Drive when the shooting occurred. Witness 102 first noticed Brown and Witness 101 walking down Canfield Drive about 20 minutes prior to the shooting when he went to his truck to retrieve a broom. Brown's size initially drew Witness 102's attention. When Witness 102 later came back outside to get another tool, he noticed Wilson's SUV parked in the middle of the street at an angle, with the driver's side closer to the center of the street. Witness 102's vantage point was street level, about 450 feet from the SUV with a view of the driver's side of the SUV.

According to Witness 102, he saw Brown standing on the driver's side of the SUV, bent over with his body through the driver's window from the waist up. Witness 102 explained that Brown was "wrestling" through the window, but he was unable to see what Wilson was doing. After a few seconds, Witness 102 heard a gunshot. Immediately, Brown took off running in the opposite direction from where Witness 102 was standing. Witness 102 heard something metallic hit the ground. Witness 102 thought that he had just witnessed the murder of a police officer because a few seconds passed before Wilson emerged from the SUV. Wilson then chased Brown with his gun drawn, but not pointed at Brown, until Brown abruptly turned around at a nearby driveway. Witness 102 explained that it made no sense to him why Brown turned around. Brown did not get on the ground or put his hands up in surrender. In fact, Witness 102 told investigators that he knew "for sure that [Brown's] hands were not above his head." Rather,

Brown made some type of movement similar to pulling his pants up or a shoulder shrug, and then "charged" at Wilson. It was only then that Wilson fired five or six shots at Brown. Brown paused and appeared to flinch, and Wilson stopped firing. However, Brown charged at Wilson again, and again Wilson fired about three or four rounds until Brown finally collapsed on the ground. Witness 102 was in disbelief that Wilson seemingly kept missing because Brown kept advancing forward. Witness 102 described Brown as a "threat," moving at a "full charge." Witness 102 stated that Wilson only fired shots when Brown was coming toward Wilson. It appeared to Witness 102 that Wilson's life was in jeopardy. Witness 102 was unable to hear whether Brown or Wilson said anything.

Witness 102 did not see Brown's friend, Witness 101, at any time during the incident until Witness 101 "came out of nowhere," shouting, "'They just killed him!'" Witness 101 seemed to be shouting toward a blue Monte Carlo[23] that had stopped behind Wilson's SUV. Witness 101 then ran off. Witness 102 explained that once he saw officers putting up police tape, he went down to the scene and began telling another onlooker what he had witnessed. Witness 102 later learned via a "friend" on Facebook that his voice was inadvertently captured on another bystander's cell phone recording. Federal prosecutors reviewed this recording and Witness 102 identified his voice on the recording when he testified before the county grand jury. In it, Witness 102 can be heard correcting someone else who was recounting what he heard from others, that Wilson "stood over [Brown] and shot while on the ground." In response, Witness 102 stated that Wilson shot Brown because Brown came back toward Wilson. Witness 102 "kept thinking" that Wilson's shots were "missing" Brown because Brown kept moving.

Witness 102 did not stay on Canfield Drive long after the shooting, but rather started to leave the area after about five minutes because he felt uncomfortable. According to Witness 102, crowds of people had begun to gather, wrongly claiming the police shot Brown for no reason and that he had his hands up in surrender. Two black women approached Witness 102, mobile phones set to record, asking him to recount what he had witnessed. Witness 102 responded that they would not like what he had to say. The women responded with racial slurs, calling him names like "white motherfucker."

Witness 102 called 911 the following day to report what he saw. He then went to the FPD on Monday, August 11, 2014, where he was referred to the SLCPD. Witness 102 explained that he came forward because he "felt bad about the situation," and he wanted to "bring closure to [Brown's] family," so they would not think that the officer "got away with murdering their son." He further explained that "most people think that police are bad for 'em up until the time they're in need of the police," and he felt that witnesses would not come forward to tell the truth in this case because of community pressure.

As described above, all of Witness 102's statements were materially consistent with each other, with physical and forensic evidence, and with other credible witness accounts. Witness 102 does not have a criminal history. Therefore, if called as a defense witness in a prosecution of Darren Wilson, this witness's account would not be vulnerable to meaningful cross-examination and would not be subject to impeachment due to bias or inconsistencies in his prior statements. Accordingly, after a thorough review of all the evidence, federal prosecutors

[23] As detailed below, the Monte Carlo in question was white.

determined his account to be credible and likewise determined that a jury appropriately would credit his potential testimony.

b. **Witness 103**

Witness 103 is a 58-year-old black male who gave two statements. First, Witness 103 was reluctant to meet with SLCPD detectives, FBI agents, and federal prosecutors because he has no particular allegiance to law enforcement. Witness 103 is a convicted felon who served time in federal prison, and has a son who was shot and injured by law enforcement during the commission of a robbery. Witness 103 expressed concerns because there were signs in the neighborhood of Canfield Drive stating, "snitches get stitches." Therefore, he agreed to be interviewed only on the condition of confidentiality. Witness 103 later testified before the county grand jury.

According to Witness 103, he was driving his blue pickup truck in the opposite direction of Wilson's SUV, and ended up virtually next to the driver's side of the SUV when it stopped. Relative to Witness 102, Witness 103 had a similar, but much closer view of the driver's side of the SUV. If the parked SUV is viewed as dividing Canfield Drive in half, both Witness 102 and Witness 103 were on the same side, with a view of Brown's back as he ran from Wilson, and a view of Brown's front as he ran toward Wilson.

When Witness 103 stopped his truck on Canfield Drive, although he did not see what led up to it, he saw Brown punching Wilson at least three times in the facial area, through the open driver's window of the SUV. Witness 103 described Wilson and Brown as having hold of each other's shirts, but Brown was "getting in a couple of blows." Wilson was leaning back toward the passenger seat with his forearm up, in an effort to block the blows. Then Witness 103 heard a gunshot and Brown took off running. Wilson exited the SUV, appeared to be using his shoulder microphone to call into his radio, and chased Brown with his gun held low.

Witness 103 explained that Brown came to a stop near a car, put his hand down on the car, and turned around to face Wilson. Brown's hands were then down at his sides. Witness 103 did not see Brown's hands up. Wanting to leave, Witness 103 began to turn his car around in the opposite direction that Brown had been running when he heard additional shots. Witness 103 turned to his right, and saw Brown "moving fast" toward Wilson. Witness 103 then drove away.

Witness 103 had a passenger in his truck. Although Witness 103 tried to facilitate contact between federal and state authorities and the passenger, the passenger refused to identify himself or provide any information.

When Witness 103 was initially subpoenaed to testify before the county grand jury, he expressed even more reluctance than he did during his investigative interview, this time alleging memory loss. However, he ultimately testified consistently with his original account, with the physical and forensic evidence, and with other credible witness accounts. Therefore, if called as a defense witness in a federal prosecution of Darren Wilson, Witness 103 would be subject to limited impeachment for his two felony convictions, including a theft conviction, but his apparent antipathy toward law enforcement would bolster testimony that corroborates Wilson.

Accordingly, after a thorough review of all the evidence, federal prosecutors determined his account to be credible, and likewise determined that a jury appropriately would credit his potential testimony.

c. **Witness 104**

Witness 104 is a 26-year-old bi-racial female. Witness 104 gave three statements. SLCPD detectives interviewed her, federal prosecutors and agents interviewed her, and she testified before the county grand jury.

Witness 104 was in a minivan that had been traveling in the opposite direction of Wilson, and came to a halt in front of Wilson's SUV, and somewhat behind, yet adjacent to Witness 103's blue pickup truck. Witness 104 was on the same side of the SUV as Witness 102 and Witness 103. She was seated in the middle row behind the driver's seat of the minivan, leaning over toward the center, with a direct view of Brown running away from Wilson, a frontal view of Brown coming back toward Wilson, and the shooting thereafter. Witness 104 is the adult daughter of the two witnesses in the driver and passenger front seats, Witness 105 and Witness 106, respectively. She is the sister of Witness 107, who was seated in the middle row passenger seat to her right.

According to Witness 104, she was leaning over, talking to her sister, Witness 107, when she heard two gunshots. She looked out the front window and saw Brown at the driver's window of Wilson's SUV. Witness 104 knew that Brown's arms were inside the SUV, but she could not see what Brown and Wilson were doing because Brown's body was blocking her view. Witness 104 saw Brown run from the SUV, followed by Wilson, who "hopped" out of the SUV and ran after him while yelling "stop, stop, stop." Wilson did not fire his gun as Brown ran from him. Brown then turned around and "for a second" began to raise his hands as though he may have considered surrendering, but then quickly "balled up in fists" in a running position and "charged" at Wilson. Witness 104 described it as a "tackle run," explaining that Brown "wasn't going to stop." Wilson fired his gun only as Brown charged at him, backing up as Brown came toward him. Witness 104 explained that there were three separate volleys of shots. Each time, Brown ran toward Wilson, Wilson fired, Brown paused, Wilson stopped firing, and then Brown charged again. The pattern continued until Brown fell to the ground, "smashing" his face upon impact. Wilson did not fire while Brown momentarily had his hands up. Witness 104 explained that it took some time for Wilson to fire, adding that she "would have fired sooner." Wilson did not go near Brown's body after Brown fell to his death.

Witness 104 explained that she first saw Brown's friend, Witness 101, when he took off running as soon as the first two shots were fired. She never saw him again.

All three of Witness 104's statements were consistent with each other, consistent with the physical and forensic evidence, and consistent with other credible witness accounts. Witness 104 does not have a criminal history. Therefore, if called as a defense witness in a prosecution of Darren Wilson, this witness's account would not be vulnerable to meaningful cross–examination and would not be subject to impeachment due to bias or inconsistencies in prior statements. Accordingly, after a thorough review of all the evidence, federal prosecutors

determined her account to be credible, and likewise determined that a jury appropriately would credit her potential testimony.

d. **Witness 105**

Witness 105 is a 50-year-old black female. She gave two statements. SLCPD detectives interviewed her, and federal prosecutors explained the nature of the two parallel criminal investigations to Witness 105 prior to her testimony before the county grand jury. Witness 105 was driving a minivan in which Witness 104, her daughter, was seated behind the driver's seat in the middle row. Her husband, Witness 106, was next to her in the front passenger seat, and her other daughter, Witness 107, was seated behind her husband and next to Witness 104. Witness 105 had been traveling east on Canfield Drive, when she stopped in front of Wilson's vehicle with a view of the driver's side of his vehicle. Her view was also of the back of Brown as he first ran away, and then the front of Brown as he turned around and came back toward Wilson.

According to Witness 105, Wilson was driving a car, not an SUV, and a gunshot drew her attention to the vehicle. She noticed Brown's hands on Wilson's "car." Brown then ran eastbound and Wilson chased after him, gun in hand but held low. Witness 105 explained that Brown put his hands up "for a brief moment," and then turned around and made a shuffling movement. Wilson told Brown to "get down," but Brown did not comply. Instead, Brown put his hands down "in a running position." Witness 105 could not tell whether Brown was "charging" at Wilson or whether his plan was to run past Wilson, but either way, Brown was running toward Wilson. According to Witness 105, Wilson only shot at Brown when Brown was moving toward him. She could not see Brown's hands as he was running, but saw him reaching down as he began to fall to the ground. Witness 105 saw Wilson shoot Brown in the face before he began to stumble. Once Brown was on the ground, it appeared to Witness 105 that Wilson was calling out on the radio using his shoulder microphone.

When Witness 105 contacted SLCPD detectives, she was reluctant to identify herself and ultimately met with them in a library parking lot. She explained that she was coming forward because in speaking with her neighbors, she realized that what they believed had happened was inconsistent with what actually happened. She further explained that that she had not been paying attention to media accounts, and had been unaware of the inaccuracies being reported.

Both of Witness 105's statements were consistent with each other, materially consistent with the physical and forensic evidence, and consistent with other credible witness accounts in all material ways. Witness 105 has no criminal history. If called as a defense witness in a prosecution of Darren Wilson, this witness's account would be subject to limited impeachment on her ability to accurately perceive what occurred, *e.g.*, that she perceived Wilson driving a car, rather than an SUV. However, that line of cross-examination does not undermine the overall consistency of her account with other credible witness accounts and with the physical evidence. Accordingly, after a thorough review of all the evidence, federal prosecutors determined her account to be largely credible and likewise determined that a jury appropriately would credit her potential testimony.

e. **Witness 108**

Witness 108 is a 74-year-old black male who claimed to have witnessed the shooting, stated that it was justified, but repeatedly refused to give formal statements to law enforcement for fear of reprisal should the Canfield Drive neighborhood find out that his account corroborated Wilson. He was served with a county grand jury subpoena and refused to appear.

During the initial canvass of the crime scene on August 9, 2014, in the hours after the shooting, SLCPD detectives approached Witness 108, who was sitting in his car on Canfield Drive. They asked if he witnessed what happened. Witness 108 refused to identify himself or give details, but told detectives that the police officer was "in the right" and "did what he had to do," and the statements made by people in the apartment complex were inaccurate. Both state and federal investigators later attempted to locate and interview Witness 108, who repeatedly expressed fear in coming forward. During the investigators' attempts to find Witness 108, another individual reported that two days after the shooting, Witness 108 confided in her that he "would have fucking shot that boy, too." In saying so, Witness 108 mimicked an aggressive stance with his hands out in front of him, as though he was about to charge. SLCPD detectives finally tracked down Witness 108 at a local repair shop, where he reluctantly explained that Wilson told Brown to "stop" or "get down" at least ten times, but instead Brown "charged" at Wilson. Witness 108 told detectives that there were other witnesses on Canfield Drive who witnessed the same thing. An SLCPD detective and federal prosecutor again tracked down Witness 108 in hopes of obtaining a more formal statement. However, Witness 108 refused to provide additional details to either county or federal authorities, citing community sentiment to support a "hands up" surrender narrative as his reason to remain silent. He explained that he would rather go to jail than testify before the county grand jury.

Witness 108 has no criminal history. Witness 108's accounts, although quite general, are clearly exculpatory as to Wilson and consistent with other credible evidence. His reluctance to testify in opposition to community sentiment lends further credence to his account.

f. **Witness 109**

Witness 109 is a 53 year-old black male. Like Witness 108, Witness 109 claimed to have witnessed the shooting, stated that it was justified, and repeatedly refused to give formal statements to law enforcement for fear of reprisal should the Canfield Drive neighborhood find out that his account corroborated Wilson. He was served with a county grand jury subpoena and refused to appear. Likewise, Witness 109 repeatedly refused to formally meet with SLCPD detectives, FBI agents, or federal and county prosecutors.

Law enforcement identified Witness 109 through a phone call that he made to the SLCPD information line at 5:19 p.m. on the day of the shooting. During that six-minute recorded call, the operator transferred Witness 109 to an SLCPD detective, and Witness 109 provided the following information, repeatedly refusing to meet with detectives in person. Witness 109 stated that he did not want his phone number traced, and would deny everything if it was traced. Witness 109 stated that he did not know Brown or his friend, Witness 101. However, he was calling because Witness 101, whom he described as the "guy with the dreads," lied on national television. Witness 109 described Brown and Witness 101 walking on the center line of the

street when the officer asked them to get out of street. Brown responded something to the effect of, "Fuck the police." According to Witness 109, Wilson got out of his vehicle and Brown, the "young guy that died," hit him in the face. Witness 109 explained that Wilson reached for what appeared to be a taser but dropped it, and then grabbed a gun. Witness 109 explained that Brown reached for Wilson's gun. Although Witness 109's description was somewhat disjointed, he also stated that at first Brown ran away from Wilson, but then kept coming toward Wilson. Wilson told Brown to stop and lie down, but Brown failed to comply. Witness 109 said that Wilson fired in self-defense, explaining that Wilson did not shoot to kill at first, but "he unloaded on him when [Brown] wouldn't stop." Witness 109 said that "a lot of people saw that it was justified," ending the call by stating, "I know police get a bad rap, but they're here to protect us."

Federal and county prosecutors and investigators tried to no avail to interview Witness 109. True to his word on that initial phone call, he would not discuss what he saw. He did, however, acknowledge that he placed a call to the SLCPD information line.

Witness 109 does have a criminal history that would be admissible in federal court. Witness 109 has a misdemeanor theft conviction from 1985 and a felony arrest, both of which likely would be inadmissible in federal court for impeachment purposes. Witness 109's account is exculpatory as to Wilson and although Witness 109 may be subject to limited impeachment, the majority of his description is consistent with the physical and forensic evidence, and consistent with other credible witness accounts. Community sentiment and therefore his reluctance to testify on behalf of Wilson would likely bolster his account.

g. **Witness 113**

Witness 113 is a 31-year-old black female. She was interviewed one time by FBI agents during their canvass on August 16, 2014, and gave an account that generally corroborated Wilson, but only after she was confronted with untruthful statements she initially made in an effort to avoid neighborhood backlash. When local authorities tried to serve Witness 113 with a subpoena to testify before the county grand jury, she blockaded her door with a couch to avoid service.

Witness 113 was on her brother's balcony, located opposite and to the left of the aforementioned minivan, when she first saw Brown walking in the street. Contrary to other witness accounts, Witness 113 saw what she believed to be three black males walking in the street, and two police vehicles present, calling into question whether she actually witnessed the beginning of the incident. She explained that one of the police officers told Brown and his friends to go on the sidewalk, and then subsequently called Brown over to his vehicle, where a struggle occurred.

Witness 113 then gave an account that was contrary to physical evidence, internally inconsistent, and admittedly untrue. She first explained that Brown ran east, away from Wilson, as Wilson shot at him. However, she then explained that she watched as Brown ran west past Wilson, who shot Brown right next to the SUV. Witness 113 stated that Wilson fired shots into Brown's back as he lay flat on his stomach on the ground. When the FBI told Witness 113 that the autopsy results and other evidence were inconsistent with her account, she admitted that she

lied. She explained to the FBI that, "You've gotta live the life to know it," and stated that she feared offering an account contrary to the narrative reported by the media that Brown held his hands up in surrender.

Witness 113 then admitted that she saw Brown running toward Wilson, prompting Wilson to yell, "Freeze." Brown failed to stop and Wilson began shooting Brown. Witness 113 told the FBI that it appeared to her that Wilson's life was in danger. She explained there was a pause in the shots before the firing resumed, but Witness 113 had ducked down for cover and did not see anything after the first volley of shots.

Witness 113 was with her brother and boyfriend when the shooting occurred. Witness 113 refused to provide their contact information, and they both repeatedly evaded law enforcement's attempts to meet with them.

Witness 113 has no criminal history that would be admissible in federal court. Witness 113 has past arrests but no convictions, which likely would be inadmissible in federal court. In a federal prosecution, if served and called to testify on behalf of Wilson, federal prosecutors could subject Witness 113 to cross-examination due to her admittedly untruthful statements during the first part of her interview with the FBI. However, her reasons for being untruthful, coupled with the fact that she immediately changed course when her statements were challenged, give her account reliability. Accordingly, prosecutors did not discount her narrative in its entirety, but rather in examining all of the evidence, considered this witness's account in making a prosecutive decision.

h. **Witness 134**

Witness 134 is a 36-year-old white female. She was interviewed one time by federal authorities. At the time of her interview with federal agents and prosecutors, she was Wilson's fiancée and was Wilson's field training officer in 2011. Prosecutors considered her potential bias when interviewing Witness 134, but sought out and evaluated her account for several reasons. First, as noted below in the legal analysis, to make a determination as to whether a potential civil rights defendant has the requisite criminal intent, prosecutors must consider a subject officer's training as part of an evaluation of his overall understanding of when the use of deadly force is permissible. Second, Witness 134 spoke to Wilson minutes after the shooting, while he was arguably still under the stress of the situation and immediately after he perceived it. It is possible that in a prosecution of Wilson, defense counsel would be permitted to introduce Wilson's initial statements to Witness 134 through the "present sense impression" or "excited utterance" hearsay exceptions. Fed. R. Evid. 803(1); 803(2).

Witness 134 explained that when she was Wilson's field training officer for the FPD, he did not require a lot of training because he had prior experience as a law enforcement officer. Wilson knew and understood that he was permitted to use physical force when he or someone else was met with a physical threat. As Wilson's training officer, she never had concerns as to whether he understood when he was permitted to use force.

Witness 134 was on light duty on August 9, 2014, working at the police department building because she was pregnant. She was working the same shift as Wilson and was waiting to join him for lunch. Witness 134 stated that when Wilson arrived at the FPD at about 12:15 p.m., he did not seem like himself. His face was red and puffy, consistent with injury. Knowing something was wrong, she asked Wilson what happened. Wilson responded, "I just killed someone." Wilson also told her that he had washed blood from his hands.

Witness 134 also explained that other than facial injuries, she did not notice additional injuries or blood on Wilson, but she did notice blood on the hammer of his gun, still holstered in his belt. Wilson asked her to retrieve latex gloves for him, which Wilson then used to clear and package his gun. Witness 134 did not actually see Wilson do this because her back was to him, although she could hear what he was doing. She also saw the envelope, presumably containing the gun, sealed with evidence tape, but did not know who eventually took it to an evidence locker.

Prior to packaging his gun, Wilson gave Witness 134 a narrative consistent with the accounts he later gave throughout the course of the investigation. Federal agents and prosecutors asked Witness 134 to be specific about what Wilson told her at the police department in the immediate aftermath as opposed to subsequent conversations that they have had since the shooting. Witness 134 was certain that Wilson told her the following: He told Brown and his friend to get out of the street, but did not say anything "ignorant" that would anger them. As Wilson was passing Brown and his friend, he saw cigarillos in Brown's hand and noticed Witness 101's black shirt and realized that they matched the description of the suspects involved in the "stealing in progress." As Brown was attacking Wilson, Wilson explained that in his mind, he went through the weapons available to him on his gun belt. He knew that he had no choice but to use his gun.

Wilson explained to Witness 134 that he was able to shoot inside the SUV, but did not know where the bullet went and whether it hit Brown. Brown ran off and Wilson chased him, explaining to Witness 134 that "all of a sudden," Brown stopped, turned around, and started "charging" him. Witness 134 explained that although she could not remember the exact words Wilson said he used, he said something like, "Get on the ground," trying to get Brown to stop. However, Wilson told her that Brown did not stop and continued to charge at Wilson. Wilson fired at Brown and continued to do so until Brown was on the ground because Brown "just wouldn't stop."

Witness 134 explained that Wilson was shaken, but confident that he did the right thing in the moment, although he became worried in the few minutes that followed the shooting because the neighborhood was quickly becoming hostile.

Witness 134 explained that in all of their conversations, Wilson had been adamant that Brown's hands were not up, but rather, Brown's right hand was in his waistband with his left hand in a fist, as though he was running. Witness 134 said that she was relieved to see the results of the private autopsy in the media because it showed a series of shots in Brown's right arm, consistent with Wilson's explanation that he had tunnel vision during the shooting.

After learning of Witness 101's account alleging that Wilson grabbed Brown's throat by reaching out the driver's window and then subsequently shooting him while he was surrendering, Wilson told Witness 134 that Witness 101 was not present for the shooting because he saw Witness 101 run off as soon as Brown handed him the cigarillos during the assault at the SUV window. Wilson and Witness 134 agreed that the notion that a police officer would attempt to pull an individual into his vehicle, especially someone as big as Brown, is contrary to training. Wilson described Brown as Hulk Hogan-like, such that he could have easily overpowered Wilson.

Witness 134 has no criminal history. If called as a defense witness in a prosecution of Darren Wilson, Witness 134 would be subject to cross- examination due to obvious bias. However, her account of what Wilson told her is consistent with Wilson's previous statements, with other credible witness accounts, and with the forensic and physical evidence. Accordingly, having met Witness 134 and considered her manner and demeanor, federal prosecutors found her account credible. Nonetheless, because of Witness 134's relationship with Wilson and because most of her information came directly from Wilson, prosecutors did not heavily rely on her account when making a prosecutive decision.

ii. Witnesses Consistent with Prior Statements, Physical Evidence, and Other Witnesses Who Inculpate Wilson

There are no witnesses who fall under this category.

2. Witnesses Who Neither Inculpate Nor Fully Corroborate Wilson

i. **Witness 107**

Witness 107 is a 30-year-old black female. Witness 107 was seated in the passenger seat in the middle row of a minivan that was stopped opposite Wilson's SUV at the time of the shooting. Witness 107 was seated next to her sister Witness 104 and behind her father, Witness 106. Witness 105, her mother, was seated in the driver's seat. However, when Witness 107 initially described what happened, she mistakenly thought she was in the front passenger seat and forgot that her father was present. She also mistakenly thought that they had been driving in the same direction as Wilson.

Witness 107 gave three statements. First, an SLCPD detective and an FBI agent jointly interviewed her. Federal prosecutors and agents conducted a follow-up interview to address inconsistencies with the physical evidence in her original account. Witness 107 also testified before the county grand jury.

According to Witness 107, she was looking at her mobile phone when she heard two gunshots. She looked up and out the front windshield, and saw Brown run away from Wilson. Witness 107 mistakenly thought that Wilson was standing toward the front of the passenger side of the police vehicle, and could not remember whether the vehicle was an SUV or a car. Wilson then chased after Brown and drew his gun, shooting three times. Contrary to the autopsy results, Witness 107 stated that Wilson shot Brown in the leg and hip as Brown was running away.

Brown then turned around and briefly put his hands with up, palms forward, near his shoulders, as though he was "giving up." But then Brown put his hands down, one of them holding his chest, as he came back toward Wilson, though Witness 107 was unsure whether Brown was stumbling or running. Wilson fired the last shots from 10 to 15 feet away from Brown, and kept shooting as Brown was falling to the ground.

Witness 107 explained that immediately following the shooting, her mother drove to a nearby parking lot. She and her family members discussed what they witnessed, and they all seemed to have witnessed different things. Her sister, Witness 104, for example, was adamant that Brown "charged" at Wilson, whereas Witness 107 expressed uncertainty. The family also could not reach a consensus as to the number of shots fired.

When Witness 107 met with federal prosecutors and agents, she was visibly shaken by what she witnessed, articulating the difficulty of watching someone die. However, given the differences among what she and her family saw, and realizing that she was factually incorrect about the direction of the police vehicle, the location where Wilson stood, and where the bullets struck Brown, she was not certain about what she believed she witnessed.

Witness 107 has one prior misdemeanor arrest that likely would not be admissible in federal court. As detailed above, Witness 107 was admittedly mistaken or unsure about some of what she perceived, rendering her account vulnerable to effective cross-examination. Regardless of credibility, her account does not inculpate Darren Wilson and does not support a federal prosecution.

ii. **Witness 106**

Witness 106 is a 45-year-old white male. As mentioned, he was seated in the front passenger seat of a minivan, driven by his wife, Witness 105. Witness 106's daughters, Witness 104 and Witness 107, were seated in the middle row of the minivan, behind the driver and front seat passenger, respectively. According to Witness 106, although his wife saw Wilson emerge from what she remembered was a police car, he first saw Wilson and Brown when they were in the street. It initially looked to Witness 106 like Brown had a gun and there was a firefight happening, although he has since realized that not to be the case. Regardless, Witness 106's overall impression was that he witnessed a police officer "taking down a gunman in a residential neighborhood before anyone else got hurt." It was for that reason that Witness 106 agreed to speak with SLCPD detectives. He otherwise does not "have any love" for law enforcement, having served 18 years in prison. Witness 106 also testified before the county grand jury.

Witness 106 explained that he first saw Brown as he ran from Wilson. Wilson fired one shot which seemed to hit Brown in the leg because Brown appeared to stagger. Brown's arms then "briefly flung" out and he turned around to face Wilson. Witness 106 then explained that even though the neighborhood had been talking about Brown having his "hands up," Brown "did not have his hands up." Brown's arms were down at his sides, such that Witness 106 could not even see Brown's hands. Witness 106's vantage point was over Wilson's shoulder. Witness 106 saw Brown walk toward Wilson and thought that Brown was about to shoot Wilson, as Wilson

shot Brown until he fell to his death. Wilson was about six to 10 feet from Brown when he fired the final shots at Brown.

Witness 106's account is inconsistent with the physical and forensic evidence and other credible witness accounts. He has a conviction for sexual abuse that would likely be admissible in federal court as impeachment evidence, although his bias tends to bolster his account. Regardless of its credibility, Witness 106's account does not inculpate Darren Wilson and therefore does not support a federal prosecution.

iii. **Witness 110**

Witness 110 is a 51-year-old black male who is married to Witness 111. Witness 110 spoke to SLCPD detectives on two occasions. As noted below, the second interview occurred because Witness 111 was too upset to complete the first interview. Witness 110 also testified before the county grand jury.

Witness 110 and Witness 111 first came into contact with SLCPD detectives because they were attending a social function the evening of August 9, 2014. The couple told a friend, an attorney, what they had witnessed, and the friend called the SLCPD on their behalf. SLCPD detectives responded to the venue of the social function to interview Witness 110 and Witness 111, but they were reluctant to speak to law enforcement, fearing retaliation from people in the community. They agreed to speak only on the condition of confidentiality. However, during that initial contact with SLCPD detectives, Witness 111 began crying and could not talk about what she witnessed. Witness 110 was too shaken to give a full account, but he did explain that earlier that day, he and his wife were at the Canfield Green Apartments complex visiting Witness 110's elderly mother and brother, Witness 112. He then gave a brief account which he detailed a few days later when he met again with SLCPD detectives.

According to Witness 110, he and Witness 111 were driving on Canfield Drive when they noticed Brown and his friend, Witness 101, walking in the center of the street and had to veer around them to avoid hitting them. Witness 111 commented to Witness 110, "Why don't they just get on the sidewalk?" As they were pulling into the driveway of the building they were visiting, they noticed Wilson driving in the opposite direction. During his initial interview with SLCPD detectives, Witness 110 explained that while in the driveway, he noticed Brown standing beside the driver's door of the SUV, with the upper portion of his body inside the driver's area of the SUV. Witness 110 did not mention this during his second interview with SLCPD detectives or when he testified in front of the county grand jury.

Witness 110 then explained that he and Witness 111 went up to the second floor apartment balcony, located opposite and off to the right of the minivan with Witness 104, Witness 105, Witness 106, and Witness 107. Their vantage point was of the passenger side of the SUV, followed by the right profile of Brown as he ran away from Wilson, and then the left profile of Brown as he turned around and moved toward Wilson.

Witness 110 stated that he witnessed an exchange between Wilson, Brown, and Witness 101, but did not hear what was said. Wilson reversed his vehicle, using it to block Brown and Witness 101. Brown and Wilson engaged in a back and forth "scuffle," although Witness 110

could not see exactly what happened because the SUV blocked his view of Brown. They then heard a shot and Witness 101 "disappeared." Brown remained at the SUV and the scuffle continued until there was a second gunshot and Brown took off running. When Brown reached a nearby driveway, he stopped and looked down at his hand, which Witness 111 noted had blood on it. Witness 110 believed that Brown looked at his left hand. Brown put his hands out at his sides, palms up, as though asking, "What the heck?" Brown then moved toward Wilson with his hands in that same position, and Wilson shot Brown. Brown then paused, the shooting stopped, and then Brown advanced again. Witness 110 stated that Wilson shot Brown only when Brown was moving toward him, and did not shoot at Brown as he ran away. Witness 110 initially told SLCPD detectives that Brown moved "quickly," although he testified in the county grand jury that he could not describe how Brown was moving toward Wilson, though he was not "charging" or "running." At no time were Brown's hands up in surrender or otherwise.

Witness 110 has no criminal history. As noted, Witness 110's second interview was consistent with his grand jury testimony, though partially inconsistent with what he initially told SLCPD detectives. Nonetheless, Witness 110's account was consistent with the physical and forensic evidence. Regardless of the credibility of his account, it does not inculpate Wilson, and therefore does not support a federal prosecution.

iv. **Witness 111**

Witness 111 is a 48-year-old black female who is married to Witness 110. As mentioned, she was too upset to speak with SLCPD detectives on the evening of August 9, 2014, but did speak to law enforcement on August 18, 2014, when she was jointly interviewed by SLCPD detectives, FBI agents, and federal prosecutors. Federal authorities also met with Witness 110 at that time. Witness 111 subsequently testified before the county grand jury.

Witness 111's account is consistent with the account of Witness 110, with two exceptions. First, when she witnessed Brown turn around after fleeing from Wilson, Witness 111 explained that Brown looked down at his right hand, which was bleeding. This is contrary to Witness 110, who said that Brown looked down at his left hand and did not mention seeing blood. Second, Witness 111 described Brown as moving back toward Wilson in "slow motion," where Witness 110 at one time described Brown walking "quickly," but later could not characterize his pace. According to Witness 111, at no time were Brown's hands up in surrender or otherwise.

Witness 111 has no criminal history. Witness 111's statements were consistent with each other, and with the physical and forensic evidence, and therefore, Witness 111 would not be vulnerable to cross-examination on those grounds. However, Witness 111 was especially distraught during her investigatory interview, stating that she, too, has a teenage son and commenting that she wished Wilson had used a form of less lethal force. Her bias could subject her to effective cross-examination, and led federal prosecutors to question whether her bias was affecting her ability to accurately recall events. Regardless, Witness 111's account does not inculpate Wilson, and therefore does not support a federal prosecution.

v. **Witness 115**

Witness 115 is a 32-year-old black male. Witness 115 gave three investigatory statements and was interviewed by the media on several occasions. First, SLCPD detectives interviewed Witness 115 within hours of Brown's death. Second, federal agents and prosecutors conducted a follow-up interview, during which they challenged Witness 115 on what he actually witnessed as opposed to what he assumed had taken place. Witness 115 also testified before the county grand jury.

According to Witness 115, he was in his second floor apartment at the time of the shooting, on the same side of the SUV as the minivan occupied by Witness 104, Witness 105, Witness 106, and Witness 107, but with a view of Brown's right profile as he was coming back toward Wilson. Just before noon, Witness 115 was in his bedroom when he heard what he thought was an altercation. He described hearing "strong voices" or loud grunts, but could not make out specific words or sounds. Witness 115 went to his window and looked through horizontal blinds by pushing them apart. He saw Brown at the driver's door of the SUV and "arms were being exchanged." Federal prosecutors and agents asked Witness 115 to demonstrate Brown's actions, and he did so by making a fist and a punching motion. Witness 115 demonstrated that Wilson had his arm bent across his chest in a defensive position, but he was reluctant to state that Brown "punched" Wilson. However, after federal prosecutors played Witness 115's own cell phone video back to him, he acknowledged that on the video, recorded right after Brown died, he narrated, "Dude was all up in his car; dude was punching on him," and that "dude" was Brown. Witness 115 explained that his initial impression was that Brown was punching Wilson because Brown was on the outside, standing on the street, and appeared to have the upper hand.

Witness 115 explained that he suddenly saw both Brown and his friend, Witness 101, who had been standing toward the front part of the SUV, start running. Witness 115 did not know why they started to run and he did not hear a gunshot, though he acknowledged that the suddenness with which they ran was consistent with a shot being fired. Brown ran down the middle of the street and Witness 101 started to crouch down by a white Monte Carlo. According to Witness 115, Wilson then got out of his SUV, gun drawn, and immediately fired shots as he began to quickly walk in Brown's direction. With each shot, Witness 101 ducked down a little more, creeping around the Monte Carlo until he went from the driver's side to the passenger side, and out of Witness 115's view. Witness 115 explained that while he was watching Witness 101, he was not watching Brown, who had disappeared from his range of view once he ran from Wilson.

Witness 115 stated that there was a pause in the shooting and he used this opportunity to go out on his balcony to get a better look. As he did, he realized that he left his mobile phone on his dresser. He went back to his bedroom, retrieved his phone, and returned to his balcony. At the same time, he called to his wife, Witness 124, who joined him with their three children. By the time Witness 115 saw Brown again, Brown was walking back toward Wilson with his arms folded across his stomach. Witness 115 said he "assumed" that Wilson had shot Brown in the stomach, although he did not see this happen. This assumption is inconsistent with the autopsy findings.

Witness 115 stated that he did not see Brown with his hands up and Brown did not appear to be surrendering. Rather, Brown looked as though he was slowly going down to the ground as he walked toward Wilson. Wilson then fired another volley of shots and Brown fell to the ground with one arm under him and the other at his side. Consistent with Wilson's account, Witness 115 explained that once Brown was on the ground, Wilson kept his gun drawn and appeared to be talking in his radio on his shoulder. According to Witness 115, at no time did Wilson touch Brown's body.

Witness 115 described the crowds that began to form immediately after the shooting, as people began to gather and talk about what happened. Witness 115 explained that although he initially spoke to SLCPD detectives only four hours after the incident, by then, he had already discussed the incident with Witness 124 and with a passerby on the street. He explained that this passerby can be heard on Witness 115's cell phone video, attempting to correct Witness 115, as Witness 115 narrated that Brown had been punching Wilson.

Witness 115 expressed that he felt comfortable with federal prosecutors and agents who were questioning him about assumptions and inconsistencies. However, Witness 115 was concerned that because of the constant talk in the neighborhood and his multiple media appearances without the presence of a lawyer, he may have unwittingly made inconsistent statements in the past.

Witness 115 has one prior misdemeanor conviction, which likely would be inadmissible in federal court as impeachment evidence. Witness 115 is vulnerable to effective cross-examination because he did not witness significant parts of the shooting and based parts of his account on assumption. Regardless of credibility, Witness 115's account does not inculpate Darren Wilson and therefore does not support a federal prosecution.

vi. **Witness 141**

Witness 141 is a 19-year-old black male who moved out of Missouri after the shooting. Witness 141 gave three statements. First, FBI agents based in Texas interviewed him. Federal prosecutors and agents conducted a follow-up interview. Finally, Witness 141 testified before the county grand jury.

According to Witness 141, he was sitting on his balcony when he saw Brown and Witness 101 walking down the middle of Canfield Drive. Witness 141 knew Brown through a friend, but did not have regular interaction with him. Unrelated to the shooting incident, Witness 141 went into his apartment to retrieve his mobile phone. While inside, he heard gunshots, prompting him to go back out to the balcony. Witness 141 saw Wilson pointing his gun at Brown, who had his hand across his front torso or waist. Brown never had his hands up in surrender or otherwise. Brown appeared to be stumbling or walking toward Wilson, who fired about five to seven shots at Brown from a distance of about eight feet. Brown collapsed to the ground. Witness 141 did not see Witness 101 anywhere. Witness 141 used his mobile phone to record a video in the aftermath of Brown's death.

Witness 141 testified before the county grand jury that he thought that after Wilson fired the first shot, the additional shots were "excessive," an opinion that would be inadmissible in federal court, and a misstatement of the applicable federal law. Witness 141 based that opinion on the fact that he did not perceive Brown to be a physical threat. However, he acknowledged that he did not see what led up to the initial shots, and did not see Brown run from Wilson, turn around to face Wilson, or any of Brown's actions during that time. Rather, he only saw Wilson shoot Brown as Brown moved toward him.

Witness 141 has no criminal history. Witness 141's statements were consistent with each other, but he did not witness large parts of the incident. Regardless of whether his account is credible, it does not inculpate Darren Wilson and therefore does not support a federal prosecution.

vii. **Witness 114**

Witness 114 is a 75-year-old black female. She gave two statements. First, she was interviewed by the FBI, and she later testified before the county grand jury.

Witness 114 saw the initial interaction between Brown and Wilson from her second floor window. Witness 114's view was of the passenger side of Wilson's SUV. Witness 114 saw Brown and Witness 101 walking in the middle of Canfield Drive, when Wilson stopped his SUV and leaned his head out of the driver's window as though saying something to Brown. Brown then made some sort of hand gesture, indicating to Witness 114 that he was responding to Wilson. Wilson continued driving, but then jerked back his SUV and parked it at an angle, with the back of the SUV closer to the center of the street. According to Witness 114, Brown remained there, while Witness 101 kept walking. She did not see Witness 101 again.

Next, Witness 114 saw Wilson hold onto Brown, though she was unsure how the physical contact began. Witness 114 stated that Wilson and Brown were "tussling," explaining that she could see Brown's hands inside the SUV by looking through the passenger side window. However, she did not see any other part of his body go into the SUV because Brown was standing straight up. From her perspective, it looked like Brown was trying to pull away. Yet Witness 114 acknowledged that had Wilson un-holstered his gun in the manner he described, it was also possible, given Brown's position, that Brown reached for Wilson's gun.

Witness 114 watched Brown run from the SUV, followed by Wilson with his gun drawn, until they both disappeared from her line of sight. She heard two gunshots followed by six more gunshots, but did not see Wilson fire any shots. Witness 114 changed her clothes and went down to street level to see Brown's body in the street.

Witness 114 has no criminal history. Witness 114's statements were consistent with each other, however, she did not see the majority of the shooting. Accordingly, her account does not inculpate Wilson and therefore does not support a federal prosecution.

viii. **Witness 129**

Witness 129 is a 22-year-old black male. He gave two statements. First, FBI agents interviewed him as part of their canvass on August 16, 2014. Second, Witness 129 testified before the county grand jury.

Witness 129 was outside his apartment when he saw Brown and his friend, Witness 101, walking in the middle of Canfield Drive. Wilson pulled up next to them in his SUV. Brown and Witness 101 kept walking and Wilson backed up to cut them off. Brown and Wilson then engaged in a "scuffle." Witness 129's view was of the passenger side of the SUV. Therefore, although he could tell that Wilson remained in the driver's seat of the SUV while Brown was standing outside of the SUV, Witness 129 could not describe exactly what Brown and Wilson were doing or how the upper half of Brown's body was positioned relative to the SUV. Witness 129 then heard a gunshot, but Brown remained at the SUV and the scuffle continued for another 20 to 30 seconds. A second shot then went off and Brown ran eastbound down Canfield Drive. Witness 129 explained that Witness 101 ducked behind a white car, ran around it, and went in the other direction. Wilson got out of the SUV and fired one or two shots, though Witness 129 did not see whether the shots struck Brown, nor did he see what Brown was doing, because a nearby building blocked his view.

Witness 129 has no criminal history. Witness 129's statements were materially consistent with each other and consistent with other credible evidence. However, Witness 129's account does not inculpate Wilson, and therefore does not support a federal prosecution.

ix. **Witness 116**

Witness 116 is a 16-year-old black male. He gave three statements. First, he met with SLCPD detectives within hours of the shooting in the presence of his father and father's girlfriend. He subsequently met with federal agents and prosecutors. Finally, he testified before the county grand jury.

Witness 116 explained that he was in his apartment watching television when he heard screams, prompting him to go to the window and look out of the vertical blinds. Witness 116 saw Brown with his hands inside the driver's side of the SUV. He then saw Wilson take out what appeared to be a taser. Wilson shot the taser one time, but missed, which is why Witness 116 surmised that Wilson took out his gun. Brown's friend, Witness 101, took off running somewhere into the apartment complexes.

Wilson shot once or twice, and Brown, with arms at his sides, ran out of view. Witness 116 looked away because he assumed that Brown had been apprehended. He then heard five or six more shots and looked back out the window to see Brown dead on the ground. Witness 116 did not see what happened leading up to Brown standing by the SUV.

Witness 116's statements were consistent, but he also mistakenly believed that Wilson used a taser. Regardless of the reliability of his account, Witness 116 did not witness significant parts of the shooting. Like several of the witnesses in this section of the report, that which he did see does not inculpate Darren Wilson and therefore does not support a federal prosecution.

3. Witnesses Whose Accounts Do Not Support a Prosecution Due to Materially Inconsistent Prior Statements or Inconsistencies With the Physical and Forensic Evidence

i. **Witness 101**

Witness 101 is a 22-year-old black male who was walking in the middle of Canfield Drive with Brown when they encountered Wilson. Witness 101 made multiple statements to the media immediately following the incident that spawned the popular narrative that Wilson shot Brown execution-style as he held up his hands in surrender. These media interviews occurred prior to Witness 101 giving his two statements. First, FBI and SLCPD jointly interviewed Witness 101 on August 13, 2014, in the presence of Witness 101's mother, Witness 101's two attorneys, and an individual who explained that he was in charge of Witness 101's personal security. Witness 101 subsequently testified before the county grand jury.

According to Witness 101, he and Brown had been friends for about two to three months as of the day of the shooting. Witness 101 viewed himself as a role model or mentor to Brown. Witness 101 came into contact with Brown on August 9, 2014, at about 7:00 a.m. At some point between then and just prior to noon, he and Brown decided to go to Ferguson Market to get cigarillos. Witness 101 could not recall in detail what the pair was doing in those five intervening hours, other than to explain that they were playing video games and talking. However, Witness 101 explained that just prior to going to Ferguson Market, Brown engaged in a 25-minute conversation about marijuana with one of two contractors who were working in the apartment complex.

Witness 101 explained that when they went to Ferguson Market, Brown stole cigarillos from behind the counter as though he was entitled to them, and then subsequently shoved the store clerk, who was substantially smaller in stature than Brown, who was 6'5" and 289 lbs. Witness 101 initially minimized these events when speaking with law enforcement, but then acknowledged to the county grand jury that Brown was surprisingly aggressive. Brown's behavior caught Witness 101 off guard because it was uncharacteristic of Brown and contrary to Brown's usual behavior. Witness 101 expected to encounter the police when they left Ferguson Market because he heard the clerk say he was going to call the police. Witness 101 described Brown's behavior as "bold" when Brown openly carried the stolen cigarillos as they walked down Canfield Drive.

Witness 101 and Brown were walking eastbound, single-file, on Canfield Drive in the center of the street on the yellow line when they encountered Wilson driving in the opposite direction in his marked FPD SUV. Witness 101 explained that they had not been obstructing traffic, although several cars had to avoid Brown and Witness 101 as they drove by. Wilson told them to "get the fuck on the sidewalk," and Witness 101 responded that they were "not but one minute from their destination." Brown and Witness 101 did not move onto the sidewalk, but continued to walk in the middle of the street. As Wilson drove past them, he reversed his SUV and parked it at an angle, blocking both lanes in the road and almost hitting them, asking, "What did you just say?" According to Witness 101, Wilson attempted to open the driver's side in an "aggressive" and "forceful" manner. The door opened less than an inch because of Brown and

Witness 101's proximity to the door. The door quickly bounced off of Brown and Witness 101 and shut on Wilson. According to Witness 101, this angered Brown. Witness 101 also stated that he understood how Wilson could have perceived that Brown shut the door on him.

According to Witness 101, Wilson then reached out the window and up with his left hand, grabbing Brown by the throat. The private forensic pathologist termed such an action "surprising," based on the autopsy results and his experience as a forensic pathologist. Wilson and Brown engaged in a "tug of war," during which Wilson unsuccessfully tried to pull Brown toward the SUV as Brown attempted to pull away, while still holding the cigarillos. Witness 101 told county and federal investigators that Brown told Wilson, "Get the fuck off me. We're not doin' anything wrong. Leave us the fuck alone." However, Witness 101 explained that even though Wilson had his grip on Brown, Brown had the upper hand both because of his stature and his physical position relative to the car. As Witness 101 told investigators, Wilson would have to be "superhuman" to "overpower" Brown. Witness 101 told the county grand jury that Brown was getting "the best of the officer" because Wilson was only using his left hand. During this tug of war, Wilson's grip gradually slipped from Brown's throat to his shirt, down to his shoulder and arm. Although Witness 101 told the county grand jury that Wilson gripped Brown's right arm, Witness 101 told investigators that Wilson mostly was gripping Brown's shirt by pulling it down over Brown's forearm. According to Witness 101, at no point did Brown ever strike, punch, or grab any part of Wilson. He could offer no explanation as to how Wilson sustained injury, other than to speculate that it was the result of their "tug of war."

As the "tug of war" continued, Brown was then able to turn to his right toward Witness 101 and hand off the cigarillos with both hands. Brown then put his left hand on the door frame under the rearview mirror, while Wilson, using his left hand, maintained hold of Brown's right arm or sleeve. According to Witness 101, Wilson used his right hand to grab hold of Brown's left arm, although it is unclear from Witness 101's accounts whether he actually saw that happen or assumed it happened. Wilson, also using his right hand, then took out his gun and said, "I'm going to shoot." Witness 101 saw Wilson holding the gun and aiming it out the window when Wilson again started to say, "I'm going to shoot."

Witness 101 explained that Wilson fired, hitting Brown in the torso. Witness 101 described blood on the right side of Brown's torso. At the time of the shot, Brown was standing straight, his midsection up against the door, with his left hand down at his side and Wilson gripping Brown's right arm. Contrary to the autopsy results, particularly with regard to the thumb wound and the round recovered from the inside of the driver's door, Witness 101 was adamant that Wilson neither fired a shot within the SUV, nor did Brown have his hand(s) near the gun when the first shot was fired. Witness 101 explained that Wilson fired the shot and "the bullet traveled outside the car and struck [Brown] in the chest." Witness 101 was equally adamant that Brown's hands and arms never entered the SUV, telling investigators that the only hand that would have been "free" would have been Brown's left hand, and that hand neither entered the vehicle nor "reached for" Wilson's gun. However, when he testified before the county grand jury, Witness 101 made room for the possibility that Brown's arm entered the SUV when he was not looking.

According to Witness 101, after the first shot, Brown and Witness 101 simultaneously ran eastbound, away from the SUV. Witness 101 explained that he got ahead of Brown, such

that his back was to both Brown and Wilson. Fearing for his life, Witness 101 crouched down among the cars that had now stopped in the middle of the street because of the parked SUV. Witness 101 attempted to get into a nearby car, a gray Sunfire, but the occupants would not allow him inside. Brown ran past Witness 101, telling him, "Keep running, bro." After a pause, Witness 101 explained that he heard Wilson emerge from the SUV. Witness 101 stood up and watched "in plain sight" as Wilson passed him and chased after Brown.

According to Witness 101, Wilson then fired a second shot which appeared to strike Brown in the back. Brown's arms were not raised at that time. During his investigative interview, Witness 101 stated that the bullet "definitely struck [Brown] in the back." During his county grand jury testimony, Witness 101 stated that the bullet likely "grazed" Brown's arm, acknowledging that since he had made his original statements, he had watched media reports of the privately-commissioned autopsy of Brown. Witness 101 said that he assumed that had Brown not been struck, he would have kept on running. Instead, Brown stopped. Brown put his hands up above his head, in the air, and turned around to face Wilson. In so doing, one arm was lower than the other, though Witness 101 could not say whether it was the left or right arm. According to Witness 101, Brown then stated, "I don't have a gun" or "I'm unarmed." Brown started to say it again, but Wilson, while walking toward Brown, fired one volley of at least four shots and Brown fell to his death. Wilson never said a word; he never commanded Brown to stop or freeze. Witness 101 was steadfast that Brown fell to the ground right where he initially stopped and turned around. At most, Brown took a half-step forward, but he did not move toward Wilson. Witness 101 was also steadfast that Brown never put his hand(s) near his waist. As described earlier, the physical evidence establishes that Brown moved forward about 20 feet toward Wilson, and the SLCME medicolegal investigator found Brown with his left hand at his waistband.

Witness 101 also told the county grand jury that he "stood and watched face-to-face as every shot was fired as [Brown]'s body [fell] to the ground," but was unaware that Wilson shot Brown in the face and head until he saw media reports of the privately-commissioned autopsy. Until then, he thought the only shots were to Brown's "upper region" and chest.

Witness 101 ran from the scene, saying, "He just killed my friend." Witness 101 went home and changed his shirt, so he later would not be recognized by the police. By the time he went back to the scene of the shooting, the streets were crowded with people, but, contrary to the dispatch recordings and cellular phone video, there were no police officers on scene. When police officers did arrive, he did not want to speak with them. Instead, Witness 101 went to Brown's grandmother's home and told her and other family members what happened. With the encouragement of Brown's family, Witness 101 went back out onto the street and gave an interview to the media.

During his testimony before the county grand jury, Witness 101 acknowledged that he had discussed the incident with another witness, Witness 118. Witness 101 explained that he was friendly with Witness 118, and noticed her standing on her balcony when he and Brown first encountered Wilson on Canfield Drive. He explained that he was surprised that so many other witnesses came forward because Witness 118 was the only person he saw outside, and she was the only person who saw the incident from the "first shot to the last shot." However, as detailed

below, Witness 118 was not out on her balcony for the majority of the incident, and it is unknown at what point she actually witnessed the shootings, if at all.

Witness 101 has a misdemeanor conviction for a crime of dishonesty likely admissible in federal court as impeachment evidence. As described above, material parts of Witness 101's account are inconsistent with the physical and forensic evidence, internally inconsistent from one part of his account to the next, and inconsistent with other credible witness accounts that are corroborated by physical evidence. It is also unclear whether Witness 101 had the ability to accurately perceive the shootings. Witness 101 likely crouched down next to a white Monte Carlo as Wilson chased Brown. The Monte Carlo was facing west with a view of the passenger side of the SUV. Brown ran in the opposite direction that the Monte Carlo was facing. Witness accounts vary as to whether Witness 101 was ducking for cover on the passenger side of the Monte Carlo with his back to the shooting, or whether he fled the scene prior to the final shots being fired. Both Witness 101's inconsistencies and his ability to perceive what happened, or lack thereof, make his account vulnerable to effective cross-examination and extensive impeachment. Accordingly, after a thorough review of all of the evidence, federal prosecutors determined material portions of Witness 101's account lack credibility and therefore determined that his account does not support a prosecution of Darren Wilson.

ii. **Witness 123**

Witness 123 is a 29-year-old black male who gave two statements. First, he was jointly interviewed by FBI agents and SLCPD detectives. Second, he testified before the county grand jury.

Witness 123 was in the front passenger seat of a white Monte Carlo that was traveling west on Canfield Drive behind Wilson before Wilson stopped his SUV. Witness 133, a black female, was driving the Monte Carlo. Witness 123 first observed Brown and his friend, Witness 101, walking in the street in the opposite direction of the SUV. It seemed to Witness 123 that Brown and Witness 101 failed to comply with a directive from Wilson because the SUV quickly swerved back, and stopped while Brown and Witness 101 were still standing on the yellow line in the middle of the street.

The SUV was then positioned such that Witness 123 and Witness 133 had a view of its passenger side. Therefore, although Witness 123 described a tussle involving Brown at the driver's window, he could not be more specific. During the tussle, Witness 101 looked startled and ran off. Witness 123 then heard a gunshot and told Witness 133 to back up. He heard a second gunshot just as Brown was running past the driver's window of the Monte Carlo. Witness 123 ducked after the second shot and, therefore, could not see if Brown was injured. Between four and six seconds later, he looked out the front windshield to see Wilson emerge from the SUV with his gun held low. At about the same time, Witness 101 approached the Monte Carlo's passenger side door, which Witness 123 had already opened to allow him more room to duck. Witness 101 asked if he could get into their car, but Witness 123 would not permit him to do so, instead instructing him to duck down. Witness 123 then turned his attention to Witness 133, who was shaking. While Witness 123 attempted to calm Witness 133, Witness 101 disappeared and they never saw him again.

Witness 123 explained to the FBI and the SLCPD that he turned around and watched through the back window as Brown turned around with hands half-way up, shoulder height, and crunched up as though he was about to go to the ground. Witness 123 did not know what prompted Brown to turn around. He then heard a volley of about five shots in addition to the two initial shots, and Brown fell forward to his death, palms face forward and arms tucked under him. Witness 123 told the county grand jury that he saw Brown turn around and hold his hands up. Wilson shot Brown three times and Brown fell to the ground dead. Contrary to the physical evidence, Witness 123 explained that Brown died where he turned around and did not move toward Wilson. After the final shots, Wilson appeared to be looking at his (Wilson's) arms.

Witness 133 quickly drove around the SUV and away from the scene after the shooting. Witness 123 and Witness 133 subsequently discussed what they had seen with each other while watching media reports.

Witness 123 has no criminal history. Witness 123's accounts to investigators and to the county grand jury were inconsistent with the physical and forensic evidence, making him vulnerable to effective cross-examination. His focus was split among the driver of the vehicle, Witness 101, and the shooting itself. For those reasons, prosecutors questioned his ability to accurately perceive the incident and could not rely upon his account to support prosecution of Darren Wilson.

iii. **Witness 133**

Witness 133 is a 33-year-old black female who gave three statements. SLCPD detectives first interviewed Witness 133 within hours of the shooting. She subsequently met with federal agents and prosecutors who questioned her more in-depth. She then testified before the county grand jury.

As previously noted, Witness 133 was driving a white Monte Carlo west on Canfield Drive when she was forced to stop behind Wilson's SUV. Witness 123 was seated in Witness 133's front passenger seat. Witness 133 initially saw Brown and Witness 101 walking down the center line of the street in the opposite direction in which she was traveling. Wilson stopped his SUV alongside Brown and Witness 101, and it appeared to Witness 133 that "something had to have been said between the two parties." However, Witness 133 could not hear anything. Once the SUV stopped, her vantage point was of its passenger side. She was able to see that there was some sort of "tussle" on the driver's side of the SUV between Wilson, who was seated in the SUV, and Brown, whose feet she could see moving underneath the SUV. The SUV was shaking. Witness 101, who was standing closer to the front of the SUV, was trying to see what was happening.

Witness 133 then heard a gunshot from within the SUV. Witness 133 stated that the "suspect who got shot, backed up, and seemed amazed." Both Brown and Witness 101 then ran eastbound past her vehicle down Canfield Drive. The gunshot "terrified" Witness 133, and when she saw Wilson get out of the SUV, she immediately ducked down for cover. It was then that Witness 101 appeared at her passenger side door, asking if he could get in the car, saying "Can

you get me away from here? It's crazy." Witness 133 refused to allow Witness 101 into her car, instead telling him to duck. Witness 123, Witness 133, and Witness 101 all ducked for cover together. During her interview with federal authorities, Witness 133 added that she likely "blacked out" while all of this was happening.

Shortly thereafter, Witness 133 looked in her rearview mirror, and saw Brown's face, indicating to her that Brown had turned to face Wilson. She described hearing two or three shots and then Brown fell to the ground. At some point, Witness 101 disappeared, but having been focused on Brown, she did not know where he went or when he left. Wanting to leave quickly, Witness 133 drove on the grass and around the SUV to get out of the area.

During both her interview with SLCPD and her follow-up interview with federal agents and prosecutors, Witness 133 was repeatedly asked if there was anything else that she saw or anything she thought investigators would need to know. In both instances, Witness 133 denied knowing any more information, telling federal authorities that she had given "everything [she's] got." However, she expressed sorrow as the mother of a teenaged son.

Despite her repeated assurances that she saw nothing else, Witness 133 testified before the county grand jury that when she looked in the rearview mirror, Brown had his hands up before he fell to his death. When questioned by the county prosecutor about providing this new information, Witness 133 acknowledged that the transcripts from her prior statements were correct, and that she told SLCPD detectives, FBI agents and federal prosecutors everything she could think of that was important. Witness 133 never offered an explanation as to why she did not previously disclose that Brown's hands were up. Witness 133 also acknowledged that she has been watching the news and "hands up" had become the "mantra" of the protesters.

Witness 133 has no criminal history. Witness 133's repeated omission of a material detail that goes directly to whether Wilson used unreasonable force, coupled with the fact that she told federal authorities that she "blacked out" before later testifying that she saw Brown's hands up, would subject her to effective cross-examination if called as a prosecution witness. It calls into question whether she actually saw Brown's hands at all, had "blacked out," or had been distracted by Witness 101. Accordingly, federal prosecutors determined material portions of her account to be unreliable, and therefore it does not support a prosecution of Darren Wilson.

iv. **Witness 119**

Witness 119 is a 15-year-old black male. He initially told SLCPD detectives that he witnessed the shooting. However, he later recanted, telling federal agents and prosecutors that he lied to SLCPD detectives because he just wanted to be involved in the investigation. Witness 119 reiterated the same thing to county prosecutors and did not testify before the county grand jury.

Witness 119 initially spoke to SLCPD detectives within hours of the shooting, while standing on Canfield Drive. In part because of the chaos around him during the interview, and in larger part because he was lying, much of Witness 119's initial account did not make sense. Witness 119 seemed to claim that Wilson shot Brown in the side from out of the window of the

SUV, possibly while he was still driving. Wilson then chased after Brown, and ultimately shot him to death in the head while Brown had his hands in the air.

Federal agents and prosecutors sought to follow up with Witness 119 to clarify his account. Witness 119 readily admitted that he never saw the shooting, but was sitting near a flowerbed playing video games on his phone when he heard gunshots. Witness 119 could not see the SUV from his vantage point. He and his brother waited until the gunshots stopped before going to the scene because they did not want to get hit by a stray bullet. By the time they arrived on scene, Brown was dead. Witness 119 claimed that he told the police that he was a witness because he was traumatized and because he "wanted to be a part of it."

Because Witness 119 admitted that he gave a false account, federal prosecutors did not consider his account in the prosecutive decision.

v. **Witness 125**

Witness 125 is a 23-year-old black female. She initially told law enforcement that she witnessed the shooting, but later recanted, claiming that she wanted to be involved from the outset and therefore lied to investigators.

SLCPD detectives briefly interviewed Witness 125 during their initial canvass after the shooting. Witness 125 claimed that she was asleep for the first two gunshots. Her boyfriend, Witness 131, told her to get up and go to the window. Witness 125 then gave an internally inconsistent account, first saying that Brown's arms were by his waist, followed by his hands going up. When asked for clarification, she said the same thing in reverse, explaining that it all occurred while Brown was kneeling.

In an effort to reconcile this inconsistency and help inform the prosecutive decision, federal prosecutors sought to meet with Witness 125. Witness 125 refused to meet with federal prosecutors but did meet with FBI agents. She reiterated that she was asleep during the first few shots, but then went to her window where she witnessed Brown standing with his hands up in surrender. Although she could not see who was shooting Brown due to a tree blocking her line of sight, Witness 125 explained that she witnessed two volleys of shots, one which caused Brown to grab his torso with his left hand and a second volley causing his head to snap back before he fell to the ground. Witness 125 did not see Brown move from his position. Despite saying otherwise in her recorded statement to the SLCPD, she denied telling FBI agents that she originally told SLCPD detectives that Brown was kneeling prior to his death.

When Witness 125 appeared at the St. Louis County Prosecutor's Office to testify before the county grand jury, she was accompanied by an attorney. Prior to her testimony, Witness 125 told the county prosecutors that she lied to the FBI and to SLCPD detectives. Witness 125 was then given immunity from federal prosecution for making material false statements to federal agents so long as she testified truthfully in the grand jury. She testified that she did not, in fact, witness any part of the incident, but claimed she did so because she wanted to be "part of something." She claimed that a friend in the community told her to tell the SLCPD and the FBI what her boyfriend saw, but to claim it as her own.

Witness 125 has no criminal history. Because Witness 125 admitted that she gave false accounts, federal prosecutors did not consider her accounts in the prosecutive decision.

vi. **Witness 131**

Witness 131 is a 22-year-old black male. As previously mentioned, Witness 131 is the fiancé of Witness 125, who first told SLCPD detectives and then FBI agents that she saw Wilson shoot Brown while he had his hands in the air, and then admitted to county prosecutors that she lied to law enforcement and did not, in fact, see anything. Witness 131 gave two statements, first to FBI agents and then he testified before the county grand jury.

Witness 131 told the FBI that he was in his apartment when he heard three gunshots, prompting him to call Witness 125 to come look out their living room window. However, he changed his account when he testified before the county grand jury, claiming that he only called to his fiancée once the shooting had stopped.

Witness 131 stated that he initially did not see Wilson, but saw only Brown, who was taking a few steps forward. Witness 131 testified before the county grand jury that his view was somewhat obstructed, but he also saw Witness 101 run across the yard. Witness 131 then heard about five more shots, and watched as Brown grabbed his torso with his left hand, while holding his right hand in the air, in front him at a 45 degree angle. Witness 131 then heard another volley of shots and Brown's arms dropped. Brown fell to his knees and collapsed face down in the street. Witness 131 explained to the FBI that once Brown stopped moving forward, the shooting stopped. It was then that Witness 131 noticed a police officer approach Brown just as other officers arrived on scene.

Despite Witness 131 telling the FBI that Brown was shot only when he moved forward, he testified to the contrary in front of the county grand jury. There, he testified that Brown stood still as he was shot to death and denied that Brown moved forward at all. When county prosecutors confronted Witness 131 with his inconsistency, he denied that he said anything different to the FBI.

Witness 131 has no criminal history. Witness 131's accounts are inconsistent with each other, and his most recent version is inconsistent with the physical and forensic evidence. He also claimed that his fiancée was present for something she admitted she did not witness. Accordingly, based on a thorough review of all of the evidence, federal prosecutors determined his account not to be credible, and it therefore does not support a prosecution of Darren Wilson.

vii. **Witness 112**

Witness 112 is a 62-year-old black male who was with his brother, Witness 110, and sister-in-law, Witness 111, when he witnessed the shooting. As described above, they witnessed the shooting from the second floor balcony located opposite and off to the right of the minivan occupied by Witness 104, Witness 105, Witness 106, and Witness 107. Their view was of the

passenger side of the SUV, followed by the right profile of Brown as he ran away from Wilson, and then the left profile of Brown as he turned around and moved toward Wilson.

Witness 112 gave three investigative statements, and he also spoke to the print media. He spoke first with SLCPD detectives. He then met with federal prosecutors and agents, and subsequently testified before the county grand jury.

Witness 112 agreed to meet with SLCPD detectives only because he spoke to his pastor, and realized that what he witnessed was "weighing on [him]." Witness 112 explained that Witness 101 could not have seen what he is claiming to have seen in his media interviews. According to Witness 112, he was sitting by his bedroom window when he saw Brown and Witness 101 walking in the center of the street. Witness 112 knew Brown from the neighborhood and always found him to be respectful.

Witness 112 saw Wilson's SUV pass Brown and Witness 101, and then back up. Witness 112 then went out to his balcony to get a better view. Once there, he saw a "tussling" at the SUV, and acknowledged that he did not know whether Wilson grabbed Brown or vice versa. However, Witness 112 was adamant that, contrary to what he kept hearing from people in his neighborhood, at least one of Brown's arms was inside the SUV. Wilson fired a shot from within the SUV, likely in an effort to get Brown off of him because Brown was so big. After that initial shot, Brown looked startled and took off running. Witness 101 took off running as well, and did not reappear until much later, once Brown's body was covered.

Witness 112 explained that it appeared that Brown stopped running because either the pain or shock hit him. Brown turned around, and looked down, as though checking himself for injury. In so doing, Witness 112 explained that Brown raised his arms partly, palms up, clarifying that he "didn't have his hands all the way up." Brown then moved his arms out at a 35 to 45 degree angle, as if to say, "What?" It was then that Wilson trained his gun on Brown, and as Brown moved forward, Wilson repeatedly yelled, "Stop!" When Brown failed to stop, Wilson fired shots. Brown's arms went limp at his sides, but he kept moving toward Wilson, though Witness 112 characterized it as "not in a menacing way." Witness 112 explained that at no time did Brown say a word. Instead, Witness 112 yelled out from his balcony for Brown to stop, but Brown kept slowly advancing, bent forward, and Wilson kept shooting.

When Witness 112 subsequently met with federal agents and prosecutors, he gave a similar account, except that he steadfastly claimed that when Brown turned around in the roadway, he held his arms up in surrender, at ninety degree angles with his palms facing out. When asked about his previous description, Witness 112 became agitated and angry, and refused to listen to a recording of his previous statement. He was unable to explain the difference in his accounts, and why his statement had changed. Witness 112 similarly described that Brown held his hands up in surrender when he testified before the county grand jury.

Subsequent to his meeting with federal authorities and his appearance before the county grand jury, Witness 112 gave an "anonymous" interview to the local print media. Although Witness 112 never identified himself, based on the account given that was almost verbatim to his initial SLCPD interview and the proximity in time to his county grand jury testimony, federal

and county prosecutors and investigators recognized that it was Witness 112. In that media interview, Witness 112 reverted to his initial version that he told SLCPD detectives, explaining that Brown did not have his hands up in surrender, but rather partly raised his arms, palms up, checking for injury. This stood in stark contrast to what he told the FBI and federal prosecutors, and to his testimony in the county grand jury.

Witness 112 has a felony conviction for stealing from 18 years ago that likely would be inadmissible in federal court as impeachment evidence. Witness 112 made it clear in all of his statements that he believes that Wilson should not have shot and killed Brown, stating that it was "overkill," without offering more of an explanation. Witness 112's accounts are inconsistent as to whether Brown held his hands up in surrender, and his most recent account is that Brown's hands were not up in surrender. Because federal prosecutors cannot discern the truth among Witness 112's versions, and his most recent account does not inculpate Wilson, federal prosecutors cannot rely upon it to support a prosecution of Darren Wilson.

viii. **Witness 135**

Witness 135 is a 20-year-old black female. She was walking on Canfield Drive at the time of the initial interaction between Brown and Wilson. She gave three statements. The FBI first interviewed Witness 135 during their canvass on August 16, 2014, and she subsequently met with federal prosecutors. She then testified before the county grand jury.

According to Witness 135, as she was standing on the south side of the street, she saw Wilson's SUV back up and bump up against Brown and his friend. Brown then "charged over" to the driver's side of the SUV and put his arms inside the driver's window. She was unable to see what transpired inside the vehicle because the width of Brown's back obstructed her view. She did, however, explain that Brown's arms were moving aggressively and his head, shoulders, and top half of his body were in the window.

Witness 135 stated that this interaction lasted about 15 seconds during which time she saw a gun fall to the ground and then heard a gunshot. She moved to a nearby tree where she initially waited, and then continued her walk home. Brown ran anywhere from five to 10 steps, and then turned around to face Wilson who had emerged from the SUV seconds after Brown took off running. Witness 135 explained that she was both walking away and scanning the street as this was happening, so she did not see the entire incident. She recalled that as Brown turned around, he put his hands up with his arms, "scrunched up," pulled tight against his body, palms out at about shoulder height. According to Witness 135, Brown was hunched forward, though he took a few steps backward, and was shot about five times before he fell to his death. According to Witness 135, there was only this one additional volley of shots after the initial shot, Brown never moved forward, and Wilson never shot Brown as he was running away.

Witness 135 readily acknowledged to federal prosecutors that she has poor vision, and was not wearing her contact lenses on the date of the shooting. She was able to see shapes and figures, but could not see details or facial expressions from where she stood once Brown ran from the SUV. Because the physical evidence proves that Brown moved forward before he fell to his death, federal prosecutors and agents asked Witness 135 if it was possible that Brown

moved forward, but she did not see it. Witness 135 responded that it was possible, not only because of her vision problems but because she was not watching Brown the entire time. Instead, she was scanning the block, and was worried for her own safety due to the ringing of gunshots.

Witness 135 explained to federal prosecutors that Brown's friend ran off as soon as the first shot was fired and she never saw him again. However, she described a similarly built black male with dreadlocks who was later running around the Canfield apartments, saying something to the effect of, "The police shot my friend and his hands were up." Witness 135 explained that quickly became the narrative on the street, and to her frustration, people used it both as an excuse to riot and to create a "block party" atmosphere.

During her county grand jury testimony, Witness 135 characterized Wilson's actions as "murder," an opinion that would be inadmissible in federal court. When county prosecutors pressed her for an explanation, she stated that she sees it that way because Wilson should have used a taser, night stick, or similar weapon. Witness 135 also stated that when she saw the gun drop by the SUV, she assumed it belonged to Brown, acknowledging that it was not unreasonable for Wilson to think that Brown had a weapon. Witness 135 also testified about her own negative experience with the FPD, when an officer arrested her and "basically beat [her] up." That officer was not Darren Wilson, nor did she ever have prior interactions with Wilson.

Witness 135 has no criminal history. As detailed above, Witness 135's initial account was inconsistent with the forensic and physical evidence and inconsistent with other credible witness accounts. She admittedly was unsure of what she saw, both because she was distracted and because she has poor vision. Because of her admitted inconsistencies along with her questionable ability to have accurately perceived what happened, federal prosecutors determined material parts of this witness's account to lack reliability and therefore, her account does not support a prosecution of Darren Wilson

ix. **Witness 124**

Witness 124 is a 31-year-old black female. As previously noted, Witness 124 is the wife of Witness 115. In addition to testifying before the county grand jury, Witness 124 gave two interviews to law enforcement, first to SLCPD detectives and then to FBI agents during their canvass one week after the shooting.

In her initial interview to SLCPD detectives, Witness 124 explained that she was on the phone and eating when her husband, Witness 115, called to her, "Baby, Look out the window. They're shooting." She went to the window and saw Brown running from Wilson, who was walking and steadily shooting at Brown from behind. Brown then disappeared from her sight, making her think that Brown got away. However, Brown then reappeared and came back toward Wilson. Witness 124 then joined Witness 115 on the balcony with their three children. Once on the balcony, Witness 124 saw Wilson shoot Brown in the chest area, firing two shots, followed by three shots until Brown tipped over and fell to the pavement. She further told the SLCPD detective that Brown had nothing in his hands, and Wilson did not go near Brown's body. At no

point did Witness 124 describe Brown's arm across his torso as her husband described. At no point did she describe Brown's hands up in surrender.

However, during her interview with the FBI, Witness 124 described that she first saw Wilson's SUV when Wilson tried to run over Brown and Witness 101. This directly contradicts her prior statement that Witness 115 called to her to look out the window after the first shots were fired. During her FBI interview, Witness 124 also added that she saw Brown turn around and put his hands up. This also directly contradicts her initial statement in which she claimed that Brown disappeared from sight and that she did not see him until he reappeared in her line of sight. Witness 124 also added that, contrary to virtually every other witness account, Wilson walked toward Brown and shot him to death.

Witness 124 has no criminal history. In an effort to reconcile the apparent inconsistencies in Witness 124's accounts and determine what she actually witnessed as opposed to what she may have heard from others, federal prosecutors sought to meet with her. However, Witness 124 failed to appear for a scheduled meeting and refused to reschedule at any time or place of her convenience. Therefore, federal prosecutors did not have the opportunity to assess her credibility and determine which parts of her account, if any, were accurate. Because the substance of her two investigative accounts stood in stark contrast to each other, without further explanation, federal prosecutors determined her accounts not to be credible and therefore did not consider them in its prosecutive decision.

x. **Witness 127**

Witness 127 is a 27-year-old black female who gave three investigative statements, including testifying before the county grand jury. SLCPD detectives initially interviewed Witness 127 within two hours of the shooting. She subsequently appeared in the media several times. Federal agents and prosecutors interviewed Witness 127, in the presence of her lawyer, because parts of her account were inconsistent with the physical evidence.

According to Witness 127, she was driving east on Canfield Drive, traveling in the opposite direction of Wilson's SUV. and heard tires screeching as she rounded a curve. When she pulled up to where the SUV was stopped, Witness 127 saw Brown "rassling" at the driver's window. Brown's head was bent at the window, with his palms on the outside of the door. Witness 127 said that it looked like Brown was either pushing off of the door or pulling away and that someone was pulling him into the car, in a "tug of war" manner. However, she did not see anyone or anything pulling Brown. At the same time this was happening, Witness 127 was looking at her mobile phone, trying to no avail to record what was transpiring "because it didn't look right." Witness 127 then heard a gunshot, but did not see blood or injury. She said that Brown broke free, indicating that it looked like Brown's right shirtsleeve was being pulled, though she could not see anything pulling it.

Upon hearing that gunshot, Witness 127 drove around the SUV and turned left into a nearby parking lot. She parked her car and got out. By that time, she saw Brown running and heard shots being fired. Witness 127 did not actually see Wilson exit the SUV, but she saw him chase after Brown. Witness 127 described volleys of gunshots without specificity. She

explained that once she was out of her car, she began walking on the sidewalk as the shooting continued. She saw Brown's body make a jerking movement such that his hands started going up involuntarily. In one quick motion, Brown turned around with his hands up at right angles at his shoulders. Wilson then shot him, and Brown fell to his death where he stood. Witness 127 did not see injury to either of Brown's hands when his hands were up. Witness 127 was adamant that, contrary to DNA evidence with regard to the blood east of Brown's body, Brown never moved toward Wilson. She insisted that he fell to his death right where he turned around. She was equally adamant that Brown's hands remained outside the SUV during the initial interaction between Wilson and Brown, despite forensic and physical evidence to the contrary. When questioned by federal prosecutors and then by county prosecutors during her county grand jury testimony, she disallowed any possibility that perhaps her perception was compromised because she was using her phone, driving, and parking, among other reasons. Additionally, Witness 127 appeared in the media with her friend, Witness 118, allowing for the possibility that their accounts became conflated .

Witness 127 has no criminal history. Although Witness 127's statements are materially consistent with each other, significant portions are contrary to the forensic and physical evidence and inconsistent with credible witness accounts. Witness 127 was unable to give reasonable explanations as to why the physical evidence might be inconsistent with what she remembers, and therefore prosecutors were left to conclude that she inaccurately perceived material portions of the shootings either because of the stress of incidents or because she was distracted. Accordingly, after a thorough review of the evidence, federal prosecutors determined material portions of this witness's account not reliable and therefore cannot be used to support prosecution of Darren Wilson.

xi. **Witness 118**

Witness 118 is a 19-year-old black female who lives in the Canfield Green neighborhood and knew Brown through a mutual friend, Witness 120. Witness 118 also knew Witness 101, with whom she became friendly when she moved into the neighborhood. Prior to the shootings, Witness 118 and Witness 101 socialized almost weekly. Witness 118 denied speaking with Witness 101 since the shootings, contrary to what Witness 101 said during his testimony before the county grand jury. However, Witness 118 acknowledged speaking to Witness 120 about the shooting. As detailed later in this memorandum, Witness 120 was admittedly untruthful about what he claimed to have witnessed.

Witness 118 gave three investigative statements, and testified before the county grand jury. A SLCPD detective initially interviewed Witness 118 approximately two hours after the shooting. She subsequently appeared in the media several times. During those media interviews, Witness 118 added details that she did not report to local law enforcement, claiming in the news that she saw the "whole scenario play out." In an effort to evaluate the inconsistencies between her statements to law enforcement and her statements to the media as well as inconsistencies with physical evidence, federal agents and prosecutors interviewed Witness 118 in the presence of her lawyer.

During her initial SLCPD interview, Witness 118 stated that just before the shooting, she was in her apartment when she heard the screech of tires and thought someone might be hurt. She then heard three gunshots and went to look out her bedroom window. Witness 118 denied to the SLCPD detective that she witnessed any "tussle" at the side of the SUV. In fact, her view was of the passenger side of the SUV, which would have limited her ability to see a struggle at the driver's side even if she had looked out the window in time.

Witness 118 told the SLCPD detective that she then saw Wilson get out of the SUV and run in a hurry. She did not see anyone else at that time. She left her bedroom window to go to her patio door when she heard no less than four more shots. Those shots occurred about 30 seconds after the first three shots. Witness 118 thought someone was trying to shoot Wilson. She did not see Brown until she got to her patio door, when she peeked through the blinds to see him running. While looking through her glass door, she was distracted for about 10 to 30 seconds by Witness 101 ducking behind a black Monte Carlo and trying to hide. Witness 101 was creeping westward, toward the front of the Monte Carlo, with his back to Wilson and Brown as they ran east on Canfield Drive.

Witness 118 told the SLCPD detective that she then looked back toward Brown as he turned around, put his hands in the air, and got shot two times. Brown fell to the ground face down, with his arms at 90 degree angles on either side of his head, contrary to what the crime scene photos depict and the SLCME medicolegal investigator noted, *i.e.*, Brown's left hand was at his waistband and his right hand was down at his side.

At the conclusion of the interview with the SLCPD, Witness 118 assured the detective that what she reported was her best recollection of the incident and that she was not leaving anything out. Nonetheless, Witness 118's accounts to the media and to federal prosecutors and agents were different from her initial statement to the SLCPD, even though her grand jury testimony was ultimately more consistent with her initial SLCPD account.

Witness 118 claimed to the media that she "saw" screeching tires as the SUV swerved at Brown and Witness 101. She further claimed that she watched Brown as he was reaching, pulling, and "hassling" through the window of the SUV, in what appeared to be "arm wrestling." Witness 118 told the media that Wilson was pulling Brown into the SUV while Brown was trying to flee. She claimed to have seen the first gunshots hit Brown as he pulled away and fled. She also claimed that she saw a bullet strike a nearby building, but acknowledged that she inferred this because she saw SLCPD detectives attempting to remove one from a building wall.

Witness 118 added to her media narrative that Wilson shot Brown in the back from three feet away and that Brown never moved back towards Wilson. Physical evidence is inconsistent with both of those added details. Also, contrary to her initial account, Witness 118 told federal agents and prosecutors that Brown's arms were at his sides and his hands were around his hips when he came to rest on the ground.

When federal prosecutors and agents challenged the inconsistencies in her accounts, Witness 118 conceded that she likely assumed facts that she did not witness herself based on talking with other residents in the Canfield Green complex and watching the news, but was not

specific about which facts. Witness 118 also added that she did not have a lawyer when she was first interviewed by the SLCPD, though there was nothing to indicate that interview was custodial or coercive and Witness 118 expressed no apprehension or hesitation when speaking with the SLCPD.

Witness 118 has no criminal history. Witness 118's accounts are riddled with internal inconsistencies, inconsistencies with the physical and forensic evidence, and inconsistencies with credible witness accounts. Her attention was admittedly diverted away from the shooting when she watched Witness 101 ducking for cover and she acknowledged that her account was also based on assumption and media coverage. Accordingly, after a thorough review of the evidence, federal prosecutors determined the various versions of this witness's account to lack credibility and therefore it does not support a prosecution of Darren Wilson.

xii. **Witness 122**

Witness 122 is a 46-year-old white male. He was laying drain pipe on Canfield Drive with Witness 130 on the morning of the shooting. Witness 122 gave six statements, including testimony before the county grand jury. SLCPD detectives and an FBI agent twice jointly interviewed him, and SLCPD detectives once independently interviewed him. Witness 122 and Witness 130 authored one-page written statements on advice of a former boss. Witness 122 and Witness 130 claimed that they did not discuss what they witnessed, though Witness 130 admitted that they read each other's statements after they were written. Witness 122 gave a media interview on the condition of anonymity. As noted throughout this memorandum, federal prosecutors interviewed many potential witnesses in an effort to assess credibility and reconcile internal inconsistencies and inconsistencies with physical evidence, as is necessary to make a fair prosecutive decision. Witness 122 agreed to meet with federal prosecutors only after assurances that he would not be held against his will at the FBI office, claiming that he had heard of instances where individuals go to the FBI office and do not emerge for days.

According to Witness 122, Witness 122 and Witness 130 (collectively, "the contractors") twice encountered Brown during the morning of the shootings, first when Brown was alone and then when Brown was with Witness 101. Witness 122 and Brown did most of the talking, and the topics included God and smoking marijuana. About 20 minutes after their last conversation with Brown, the contractors heard a loud bang. Witness 122 saw Brown running, staggering, or falling forward. Contrary to the autopsy results, Witness 122 described Brown being shot in the back and "knew he had gotten hit." In fact, both contractors claimed to have witnessed bullets go through Brown and exit his back, as evidenced by his shirt "popping back" and "stuff coming through." However, in his interview with federal prosecutors, Witness 122 explained that he thought that Brown was shot in the back and stumbled until he saw media reports about the autopsy commissioned by Brown's family. After learning about that autopsy, he realized that Brown was not shot in the back and admittedly changed his account.

Witness 122 also claimed that Brown put his right hand to the ground to regain his balance when he was hit and as he turned around. According to both contractors, Brown then turned around with his hands up and repeatedly screamed "Okay!" as many as eight times, an exclamation heard by no other witness. When Witness 122 demonstrated the position of

Brown's hands for federal prosecutors and agents, he wavered from a position of surrender to one indicative of a person trying to maintain balance.

Contrary to the autopsy results establishing that the shot to the top of Brown's head would have incapacitated Brown almost immediately, both contractors insisted that Brown continued to move toward Wilson as far as 20, 25, or even 30 feet after the final shots. Witness 122 described Brown as walking "dead on his feet, and then he just fell forward." Later, both contractors admitted that they did not actually see Brown fall to the ground, because their view was obstructed by the corner of a building.

Witness 122 insisted that there were three officers present during the shootings, demonstrating the inaccuracy of his perception. Witness 122 described three uniformed police officers engaged with Brown in a "triangle formation" at the time of the shootings. Witness 122 described a heavyset, older officer, and two "skinny, little people," one of whom was possibly a female and the other with dark hair and a moustache, who was a head shorter than the heavyset officer. Witness 122 described the shooter as the heavyset officer. Witness 122 explained that the heavset officer shot until he ran out of bullets, and then the shorter officer with the moustache trained his gun on Brown, but did not shoot. These statements cannot be reconciled with the fact that Wilson was the only officer present when Brown was shot and that Wilson has a slim build.

Witness 122 also explained that he did not see Witness 101 at all during the shooting itself, and did not understand how Witness 101 could claim to see everything if he was hiding behind a car. Witness 122 also said that contrary to what was reported in the media, Brown did not say, "Don't shoot."

The contractors, apparently unwittingly, were captured on a widely circulated video taken several minutes after the shooting while responding officers were securing the scene with crime scene tape. That video depicts another individual yelling, "He wasn't no threat at all," as Witness 122 put his hands up and stated, "He had his fucking hands in the air." As detailed below, two other witnesses, Witness 128 and Witness 137, each took credit for making the statement, "He wasn't no threat at all."[24] Both of those witnesses have since acknowledged to federal agents and prosecutors that they did not, in fact, know whether Brown was a threat.

According to the Brown family, Witness 122 called them after the shooting and told them that he had seen Wilson shoot Brown execution-style as Brown was on his knees holding his hands in the air. However, Witness 122 denied making any statements about the nature of the shooting to the Brown family. As mentioned, despite his earlier statements, Witness 122 recanted the claim that he actually saw Brown fall dead to the ground.

Witness 122 has no criminal history. As detailed above, material portions of Witness 122's accounts are irreconcilable with the physical and forensic evidence. These accounts are also inconsistent with each other and inconsistent with credible witness accounts. Accordingly, after a thorough review of all of the evidence, federal prosecutors determined this witness's accounts not to be credible and therefore do not support a prosecution of Darren Wilson.

[24] The person who recorded this video claimed that yet another person, "Chris," made that statement.

xiii. **Witness 130**

Witness 130 is a 26–year-old white male. As previously noted, he was laying drain pipe on Canfield Drive with Witness 122, on the morning of the shooting. Witness 130 gave five statements, including testimony before the county grand jury. SLCPD detectives and an FBI agent twice jointly interviewed him, and SLCPD detectives once independently interviewed him. Like Witness 122, Witness 130 authored a one-page written statement on advice of a former boss. Witness 122 and Witness 130 claimed that they did not discuss what they witnessed, though Witness 130 admitted that they read each other's statements after they were written. Like Witness 122, Witness 130 gave a media interview on the condition of anonymity.

As noted, Witness 122 and Witness 130 twice encountered Brown during the morning of the shootings, first when Brown was alone and then when Brown was with Witness 101. Witness 122 and Brown did most of the talking, and Witness 130 admitted that at times, Brown seemed paranoid and aggressive, clenching his fists and causing Witness 130 some concern. Witness 130 thought Brown "was not in his right mind," based upon how paranoid he seemed.

About 20 minutes after their last conversation with Brown, Witness 130 heard a loud bang. Witness 130 stepped around the corner of an apartment building that was obstructing his view, and saw Brown "fast walk[ing]" east on Canfield Drive. According to both contractors, Brown then turned around with his hands up and repeatedly screamed "Okay!" as many as eight times, an exclamation heard by no other witness According to Witness 130, after Brown turned around, he continued to stumble or otherwise approach Wilson, although he did not know whether Brown was speeding up to come after Wilson, or whether his momentum was carrying him forward. Wilson then fired at least seven shots, but as Witness 130 told the grand jury, Wilson only fired when Brown moved forward. Witness 130 described Wilson "unloading his clip" into Brown, although Witness 130 acknowledged that Brown put his arms down after the third shot.

Witness 130 explained that Wilson backed up as Brown approached him. Contrary to the autopsy results establishing that the shot to the top of Brown's head would have incapacitated Brown almost immediately, like Witness 122, Witness 130 insisted that Brown continued to move toward Wilson as far as 20, 25, or even 30 feet after the final shots. Contrary to his initial account, Witness 130 admitted that he did not actually see Brown fall to the ground because his view was obstructed by the corner of a building.

Witness 130 has no criminal history. Federal prosecutors attempted to meet with Witness 130 to evaluate inconsistencies in his various statements. Witness 130 refused to meet with federal prosecutors, making reliance on his account problematic because his statements are inconsistent with each other, inconsistent with the physical and forensic evidence, and inconsistent with credible witness accounts. Therefore, federal prosecutors could not rely on Witness 130's account to support a prosecution of Darren Wilson.

xiv. **Witness 142**

Witness 142 is a 48-year-old black male. Witness 142 briefly spoke to SLCPD detectives within hours of the shooting incident and denied that he witnessed the shooting. However, the

SLCPD and the FBI then followed up with Witness 142 after SLCPD detectives learned that Witness 142 called in to an Atlanta-based podcast on August 11, 2014, where he described the shootings. Witness 142 then testified before the county grand jury.

During the podcast, Witness 142 explained that he was sitting on his front patio when he heard the first gunshot. He then moved closer to get a better look at what he termed a "scuffle," and saw "the brother (referring to Brown) leaning over into the window." Witness 142 further described Brown's "upper body in the windshield." The podcast announcer then asked if what "the officer is saying is true," relative to what happened at the SUV. Witness 142 responded, "yes." Witness 142 explained that Brown then took off running and Wilson chased after him. Witness 142 thought that Wilson shot at Brown while Brown was running away. Brown then turned around and came back toward Wilson. Wilson "unloaded on him" and Brown fell to the ground.

The podcast announcer then asked if Brown's hands were up. Witness 142 responded, "Well, I don't know. I didn't see that." He went on to explain that "the crowd" was saying that Brown's hands were up, and that he was ducking to avoid getting hit by gunfire. The announcer later asked, "If you had to say from your opinion, was it justified?" Witness 142 paused and then said, "yes," referencing the scuffle in the SUV. However, he then stated that Wilson should not have shot at Brown while Brown was "fleeing the scene," an opinion that would be inadmissible in federal court and a misstatement of applicable federal law.

SLCPD detectives recognized Witness 142's voice on the podcast from their initial canvass of Canfield Drive, when Witness 142 denied seeing anything. Therefore, an SLCPD detective and an FBI agent interviewed Witness 142 again in an effort to determine what he actually saw. However, during that interview, Witness 142 again changed his account from what he stated on the podcast. Witness 142 told the SLCPD detective and the FBI agent that he was inside his apartment and heard one gunshot. He looked out his patio sliding glass door and saw the driver's side of a police SUV, where Brown was "tussling" with Wilson, who was inside the SUV. Witness 142 stated that Wilson was tugging on Brown's shirt collar. Even though Brown's back was to him, Witness 142 saw Brown's hands against the SUV and Wilson's hands grabbing Brown's shirt. He denied seeing any part of Brown's body inside the SUV. Brown then pushed away from the SUV and "sprinted" east on Canfield Drive. Wilson, with his gun on his hip, immediately got out of the SUV and chased Brown. After that, Witness 142 does not know what happened, claiming that a concrete barrier obstructed his view.

Witness 142 admitted that on the podcast, he stated that Brown's head was inside the SUV, but claimed that he lied, though he could offer no explanation for doing so. He recalled saying that Wilson shot Brown as Brown was running away, though he admitted to law enforcement that he did not see that happen. Witness 142 clarified that he thought Wilson was shooting at Brown because everything happened in a matter of seconds. He also acknowledged that he told the podcast announcer that he saw Brown stop, turn around, and come back at Wilson. However, he told the SLCPD detective and the FBI agent that he only assumed that Brown did those things, based on Brown's body facing west in the street. Witness 142 told law enforcement that he stayed outside in the street for hours after the shooting, hearing people say that Brown had his hands up. However, he did not see Brown with his hands up. Witness 142

stood by his initial statement that the shooting was justified, though he stated that he did not actually see what happened. He further told law enforcement that he originally lied to SLCPD detectives on the day of the shooting, when he claimed to not have seen anything. Witness 142 explained that he was afraid and did not want to get involved.

Witness 142 has no criminal history. Witness 142 changed his account and could offer no explanation as to why he did so, and his most recent account is inconsistent with credible witness accounts and inconsistent with forensic and physical evidence. Accordingly, federal prosecutors determined that they could not credit either one of his accounts. Regardless, his accounts do not inculpate Darren Wilson and therefore do not support a prosecution.

xv. **Witness 138**

Witness 138 is a 22-year-old black male. The SLCPD first interviewed Witness 138 about five hours after the shooting. The interview was very brief and federal prosecutors and agents sought to interview him to obtain more detailed information. Witness 138 repeatedly ignored attempts by federal authorities to meet with him when he lived in St. Louis. He then moved out of state. Again, Witness 138 failed to respond to messages left by county and federal authorities, and refused to appear before the county grand jury. Finally, an FBI agent and federal prosecutor tracked down Witness 138 outside of his mother's house in Kentucky. Witness 138's account to federal authorites stood in stark contrast to what he initially told the SLCPD.

Witness 138 told SLCPD that on the day of the shooting, he was watching television in his apartment when he heard one gunshot, causing him to run outside. Brown had kicked off his flip flops and started running away from Wilson, who had emerged from his SUV with his gun drawn. Wilson ran east after Brown, past Witness 101 who was by a white Monte Carlo. Wilson shot Brown as he was running away. Brown then turned around, "threw his hands up," and said something. Initially, Witness 138 stated that he could not hear what Brown said. Then he explained that Brown said something with the word "shoot" in it. By the end of the interview, Witness 138 stated that Brown said, "Please don't shoot." Brown then fell to his knees, and Wilson shot him again. Other police officers arrived on the scene, and Wilson got into a different police vehicle than the one in which he arrived, and left the scene.

Witness 138 told federal authorities that Brown and Witness 101 came to his house the morning of the shooting, prior to their walk to Ferguson Market. They made plans to smoke marijuana later in the day and Brown and Witness 101 told Witness 138 that they were going to get cigarillos and would return. Thereafter, Witness 120 arrived at Witness 138's house. While Witness 138 and Witness 120 were talking in the doorway, Witness 138 heard two gunshots. He ran toward the gunshots, while Witness 120 ran in a different direction. Witness 138 saw Wilson "walk quickly" toward Brown. Unlike what he told the SLCPD detective, Witness 138 said that while going after Brown, Wilson was yelling "stop" or "freeze." Also contrary to his initial account, Witness 138 said that he did not hear Brown say anything. He saw Brown stop and put his hands up, shoulder height at 90 degree angles. Because he heard gunfire, Witness 138 ducked for cover, face-first in the dirt where two white contractors were working. Witness 138 remained in that position until the incident was over, and he looked up and saw Brown dead on the ground.

Witness 138 told federal authorities that Brown fell to the ground in the exact place where he first turned around and did not move forward toward Wilson. Because this is inconsistent with the physical evidence and other credible accounts, federal authorities asked Witness 138 if it was possible that Brown moved toward Wilson. Witness 138 explained that Brown could have moved forward, could have put his arms down, and in fact, he did not know what Brown did for the majority of the shooting because he was face-first in the dirt. He did not look up until Brown was already dead. Witness 138 described the position of Brown's body as having his hands at right angles next to his head, contrary to photographic evidence and the observations of the SLCME medicolegal investigator.

After Brown was killed, Witness 101 ran over to Witness 138 in shock. Witness 101 left the scene to change his clothes, and then returned. According to Witness 138, at the insistence of Witness 101's uncle and pastor, Witness 101 gave an interview to the media. Witness 138 explained that he was "stupid" to stand next to Witness 101 as he appeared on camera.

In response to federal authorities questioning about Wilson's description of Brown as "Hulk Hogan," Witness 138 said that Brown was more like the World Wrestling Federation wrestler "Big Show" in stature, but not in personality. Brown was intimidating because of his size, and Witness 138 understood how Wilson could generally perceive him as a threat. Witness 138 explained that he was friendly with Brown, and although it would surprise him if Brown attacked a police officer, it also surprised him to see the surveillance video of Brown shoving a store clerk, as it was uncharacteristic of him. In the days leading up to his death, Brown was acting out of character, speaking about his desire to get away from the struggles of life.

Witness 138 has no criminal history. There are significant inconsistencies between his two accounts, with the physical and forensic evidence, and with credible witness accounts. Accordingly, after a thorough review of the evidence, federal prosecutors determined this witness's first account to lack credibility. His second account, regardless of credibility, does not inculpate Wilson. Therefore, these accounts do not support a prosecution of Darren Wilson.

xvi. **Witness 132**

Witness 132 is a 25-year-old black male. He spoke with FBI agents on three occasions. First, Witness 132 met with FBI agents during their canvass on August 16, 2014. At that time, Witness 132 stated that he did not see the shooting or hear the gunshots. However, he stated that his wife may have seen some of the incident. Ten days later, two other FBI agents followed up with his wife. She indicated that she did not see anything, but Witness 132, contrary to what he stated before, claimed to have witnessed the shooting of Brown. Finally, Witness 132 spoke again to the FBI, claiming her memory of the shooting was "blurry."

During her second encounter with the FBI, contrary to all accounts that Wilson was driving westbound, Witness 132 said that he, Witness 132, was driving eastbound behind two FPD marked SUVs. Each SUV had two police officers, all of whom were white. According to Witness 132, the first SUV stopped in the middle of the street, cutting off Brown and running over his feet. Brown then "punched into the police car" because he was angry. In return, the police officer, to whom Witness 132 referred as "Ears," reached down and shot Brown. Witness

132 explained that Brown tried to run, but again, the officer shot Brown right where he stood, about five feet from the SUV. Brown half-turned, fell to his knees, and put his hands up. The officer shot Brown eight or nine more times. This all occurred on the passenger side of the vehicle.

After that interview with the FBI, Witness 132 actively and successfully evaded service of a county grand jury subpoena. Federal and county prosecutors independently and repeatedly tried to contact Witness 132 to no avail in an effort to reconcile the inconsistencies in his statements. However, Witness 132 ignored phone calls, hung up on the prosecutors, and pretended he was not at home. Witness 132 moved out of state and the FBI tracked him down in Georgia. Witness 132 refused to meet with federal prosecutors and told the FBI that the events of August 9, 2014 were "blurry," he could not remember what happened, and he was starting a new chapter in his life.

Witness 132 has no criminal history. Witness 132's second statement is starkly inconsistent with what he initially told law enforcement, is inconsistent with forensic and physical evidence, and is inconsistent with credible witness accounts. Federal prosecutors determined his account to inherently lack credibility, and did not consider it when making a prosecutive decision.

xvii. **Witness 121**

Witness 121 is a 36-year-old black female who twice spoke to federal authorities, and then testified before the county grand jury.

FBI agents initially interviewed Witness 121 in the presence of three other people during the FBI canvass on August 16, 2014. Her account was confusing and hard to follow, made more confusing by the three other individuals who interjected their thoughts into her account. Nonetheless, Witness 121 initially told the FBI that she saw Brown and Witness 101 walking in the street and she also saw an SUV with two police officers. The police officer on the driver's side of the SUV reached out from within the vehicle and grabbed Brown by the collar. She assumed that the officer had his hand on his gun when he grabbed Brown. She heard a gunshot which struck Brown in the upper chest, leaving a red spot on Brown's shirt. Witness 121 explained that the officer then immediately fired a second shot. Witness 121 seemed to suggest that the second shot happened while Brown was still by the SUV, prompting him to run; at another point during the same interview, Witness 121 suggested that the second shot occurred as Brown was running. She did not know whether that second shot struck Brown. She also explained that the second police officer emerged from the vehicle, though Witness 121 could not provide a description of him, nor be specific about when he emerged. Witness 121 explained that after Brown took off running, Brown put his hands up, walked toward Wilson, and then Wilson shot him. She further stated that Wilson walked over to Brown and "emptied" his gun into Brown, and that Brown "finally fell" after the last shot.

In contrast, however, during her follow up interview with federal prosecutors, Witness 121 explained that based on her vantage point, she did not see the initial interaction between Wilson and Brown. She explained that she had been standing by a dumpster, smoking a cigarette

and talking on her phone when a gunshot drew her attention to the SUV. Once she heard the first shot, she became terrified and got ready to run, but instead watched Brown run from the SUV. Witness 121 made no mention of the second shot during her second interview. Likewise, Witness 121 denied that the second officer got out of the vehicle.

As before, Witness 121 explained that after Brown took off running, he put his hands up, walked toward Wilson, and then Wilson shot Brown. However, unlike in her first interview, Witness 121 denied that Wilson walked over to Brown and "emptied his gun" into him. Although she admitted making that prior statement, Witness 121 could offer no explanation for saying something that was inconsistent with the physical evidence and the accounts of almost all other witnesses. Instead, she described a chaotic scene and broke down in tears, acknowledging that she did not know what led up to the shooting. Witness 121 tearfully stated that she "didn't see that young man do anything wrong," empathizing with Brown's mother because her own mother lost a child.

Witness 121 confirmed during her interview with federal authorities that Wilson did not fire any shots while Brown was running way. According to Witness 121, the only shots fired were the first one and the volley of shots as Brown was walking toward the officer with his hands up in surrender. Contrary to how Brown's body was found and photographed when he fell to his death, Witness 121 was certain that Brown's body landed in the same position that his hands were in when he was standing, at right angles adjacent to his head.

Contrary to every other witness account and mobile phone video taken in the immediate aftermath of the shooting, Witness 121 explained that Wilson then checked Brown's pulse while his body lay on the ground. When federal prosecutors pressed her on this, Witness 121 acknowledged that perhaps she was mistaken. She stated that she was unsure which police officer checked his pulse and it likely happened after the police tape went up.

When asked about Witness 101's presence, Witness 121 explained that she had been looking back and forth between Brown and Witness 101 during the shooting. However, Witness 101's whereabouts were unclear throughout both of her accounts. During her first interview, Witness 121 stated that Witness 101 took off running when the initial shots were fired. During the second interview, she first stated that Witness 101 stood by the SUV and vomited on the street. When federal prosecutors asked if crime scene investigators would find vomit on the street to corroborate her claim, Witness 121 admitted that she did not see, but rather heard from others, that Witness 101 vomited on the street. Federal prosecutors and agents repeatedly urged Witness 121 to describe what she herself witnessed. It was then that she stated that Witness 101 had been crouched down, below car level, before he ran from the scene.

When Witness 121 appeared before the county grand jury, she again testified inconsistently. She testified that while she witnessed the shooting, she was standing next to Witness 126. As detailed below, Witness 126's account was internally inconsistent and inconsistent with physical evidence. She also claimed that Witness 137 tossed a cigarette down to her from a balcony above. Witness 137, as detailed below, admitted to being untruthful when he was first interviewed by the FBI, giving an account inconsistent with the physical evidence.

Reverting back to her initial account, Witness 121 testified before the county grand jury that even though her view was of the passenger side of the SUV, contrary to the physical evidence and other credible witnesses, Brown's hands were never inside the SUV. She also added that she heard Witness 101 tell Wilson that he and Brown "weren't that far" from where they were going.

Further, even though she admitted to federal prosecutors that she never heard Brown say anything, Witness 121 told the county grand jury that Brown screamed, "I give up!" as Wilson faced him in the roadway, gun drawn. However, she claimed that she was too far away to hear Wilson say anything.

Witness 121 has no criminal history. Witness 121 admittedly made false statements during her initial interview, her accounts are inconsistent with each other, inconsistent with the physical and forensic evidence, inconsistent with credible accounts, and she demonstrated bias in favor of Brown's family. Accordingly, after a thorough review of all of the evidence, federal prosecutors determined this witness's accounts to lack credibility and therefore do not support a prosecution of Darren Wilson.

xviii. **Witness 126**

Witness 126 is a 53-year-old black female. She is the godmother of Witness 137. Witness 126 gave two statements, first to the FBI and then to the county grand jury. During the course of her interview with the FBI, Witness 126 stated that her godson had been shot by police.

According to Witness 126, she suffers from memory loss and is under psychiatric care. Her account to the FBI was brief and is inconsistent with the autopsy results. She claimed that she was outside of her apartment during the shooting, never mentioning Witness 121 who claimed to be with Witness 126 at the time. Witness 126 saw Brown on his knees with his hands up, as Wilson was coming toward him and shooting at him. Brown then fell face down to the ground. Wilson went over to him, and similar to what her godson, Witness 137, said, "finished him off." When the FBI told Witness 126 that her account was contrary to the evidence, she became belligerent, grabbed the recording device, shut it off, and would not return it to the agents.

When the agents retrieved it, and turned the recording device back on, Witness 126 admitted that she initially lied. She stated that she never saw Wilson inflict gunshot wounds on Brown. Rather, she saw him running from behind, and then fall to his knees with his hands in the air. She then saw Wilson walking toward Brown, followed by a "click click" sound. Wilson had bruising and redness on the right side of his face. Someone then tapped her on the shoulder and she turned away. She heard nine gunshots in total, and by the time she turned back around, Brown was dead on the ground.

Witness 126 stated that she had spoken with Brown before. They discussed college and helping senior citizens. Brown told her that "everything he used to do, he wouldn't do it anymore."

Witness 126 telephoned the FBI the day after her interview to schedule an interview because she did not remember meeting with the agents and giving her account.

When Witness 126 testified before the county grand jury, she claimed to suffer from memory loss, but then recounted everything she had eaten for breakfast and every pill she had taken on the morning of August 9, 2014. Then she testified that she heard several shots, came out onto the parking lot, and saw Brown on his knees as Wilson fired shots into his head. She denied being untruthful to the FBI, and denied that she admitted to being untruthful to the FBI.

After Witness 126 testified before the county grand jury, she told the state prosecutor that she recorded the shooting on her mobile phone. However, she had since dropped the phone in the toilet. When the state prosecutor told her that forensic experts may still be able to recover the data, Witness 126 stated that she got mad and threw the phone in the junk yard.

Witness 126 has several felony arrests and a misdemeanor conviction that likely would be inadmissible in federal court as impeachment evidence. However, Witness 126 was admittedly untruthful to the FBI, suffers from memory loss, and provided internally inconsistent accounts that are also inconsistent with the physical and forensic evidence and credible witness accounts. Her account would be subject to extensive cross examination. Accordingly, federal prosecutors determined this witness's account to lack credibility and therefore it does not support a prosecution of Darren Wilson.

xix. **Witness 137**

Witness 137 is 40-year-old black male. After the shooting, Witness 137 had learned that Brown was his nephew's friend. He is the godson of Witness 126. He gave two law enforcement statements and testified before the county grand jury. Witness 137 first met with FBI agents on August 16, 2014, during their neighborhood canvass. Witness 137 also gave an interview to the media which was widely circulated throughout various media outlets. The account to the media and to the FBI was both internally inconsistent and inconsistent with the physical evidence. Therefore, federal agents and prosecutors subsequently met with Witness 137 in an attempt to assess inconsistencies and clarify his statement.

In his initial account during the neighborhood canvass, Witness 137 stated that he was on his porch using his mobile phone when he heard a gunshot. He looked out from his porch and saw Brown running away from a police officer who was chasing him. The police officer shot Brown in the back. "Realiz[ing] he was shot," Brown turned around with his hands up in surrender. Brown walked toward the officer and as he did so, the officer "closed in on him" until they were less than an arm's length apart. The officer fired "every round" into Brown, killing him "execution" style. Witness 137 explained that the officer shot Brown in the lower abdomen, chest, and then the "head shot." Witness 137 stated that after Brown fell forward, "the officer stood over him and finished him off." Witness 137 stated that the officer shot Brown in the head both when he was still standing and then when he was on the ground. Although Witness 137 stated that Brown fell to his knees for the final shots, and the last words Brown said were "Don't shoot," he also stated that Brown was lying on the ground when the final bullets were fired. Witness 137 referred to how clear the "visual" of events was to him.

Throughout the interview, Witness 137 also referred to events that preceded the initial gunshots even though he admitted that he did not see those events. He also discussed the interaction at the SUV, the location of recovered bullets, and the type of clip in the officer's gun.

During their follow-up interview with Witness 137, federal prosecutors and agents asked Witness 137 to describe only what he saw. Witness 137 once again stated that the sound of a gunshot drew his attention. When he moved further onto his porch, he said that he heard another shot, and saw Brown turn around with his hands up. Referencing the arm graze wound that was widely reported in the news after the privately-commissioned autopsy, Witness 137 stated that he believed that wound caused Brown to turn around. He then saw the officer backing up while firing shots as Brown walked at a "steady pace" of about ten steps in total toward him. According to Witness 137, there was no pause in the succession of shots, and Brown kept walking, even after he was shot in the torso. Witness 137 stated, "that's all I seen," explaining that he did not see Brown fall to the ground because that occurred in a blind spot. However, he was able to see the officer walk away, call for back up, and appear to be discombobulated. It was then that Witness 137 walked over to the scene where Brown's body lay in the street.

Contrary to his previous statement, Witness 137 denied that the officer shot Brown from less than an arm's length away, denied that he saw the officer shoot Brown execution-style; denied that the officer shot Brown when he was on the ground; denied that the officer "finished him off;" and denied that Brown's last words while on his knees were "Don't shoot." Witness 137 explained that he initially told the FBI that the officer stood over Brown and shot him execution-style while on his knees because he "assumed" that to be true. Witness 137 based his assumptions on the sound of the bullets and "common sense" from living in the community, despite claiming to have a "clear visual" of events.

Witness 137 also identified his voice on the aforementioned video taken in the aftermath of the shooting depicting the two contractors. As mentioned, Witness 137 was one of two people who claimed to be off camera shouting, "He wasn't no threat at all," because he did not perceive Brown to be a threat. However, Witness 137 acknowledged that contrary to what he originally told the FBI, the only part he saw was Brown moving back toward the officer. He did not witness what transpired at the SUV, did not witness Brown run from the SUV, and he did not witness Brown fall to his death. Therefore, Witness 137 agreed that he did not know whether Brown was a physical threat before or after the portion that Witness 137 claimed to see.

Witness 137 has previously been convicted of second-degree murder and armed criminal action which likely would be admissible in federal court as impeachment evidence. Additionally, Witness 137 was untruthful to the FBI during his initial interview, and untruthful in his media accounts. Although he later recanted most of what he claimed to have seen, he was unable to offer a credible explanation as to why he was not truthful at the outset, leaving federal prosecutors to question what, if anything, he actually did witness. His accounts are inconsistent with each other, inconsistent with the physical and forensic evidence, and inconsistent withcredible witness accounts. Accordingly, after a thorough review of the evidence, federal prosecutors determined this witness's accounts not to be credible and therefore do not support a prosecution of Darren Wilson.

xx. **Witness 128**

Witness 128 is a 23-year-old black male who has made three different statements to law enforcement and testified before the county grand jury. He initially had a telephone interview with an investigator from the St. Louis County Prosecutor's Office and then an additional interview with that same investigator and the FBI. Both interviews were materially inconsistent with the physical evidence. Federal agents and prosecutors interviewed Witness 128 again in an effort to evaluate some of the inconsistencies.

According to Witness 128's initial accounts, he was driving east on Canfield Drive when he witnessed the shooting. It is unclear what Witness 128 initially saw because in one interview, he stated that he saw the police vehicle quickly back up. In another interview, he stated that by the time he pulled up, Wilson had already stopped his vehicle. Witness 128 stated that he then saw Brown struggling to get away from Wilson, who was choking Brown with both hands, while Witness 101 stood behind Brown. Witness 128 then heard a gunshot and saw the impact of the bullet, initially giving little detail but subsequently adding that Wilson held the gun out the window with his right hand while holding Brown with his left hand, and firing the gun into Brown's left chest.

Brown broke free and ran about 15 feet while Witness 101 ducked down between the police vehicle and the car right behind it. Witness 128 explained that while Wilson was still seated in the vehicle with the door closed, Wilson "let more shots go." Brown appeared to get hit by four rounds in the middle of his back. Brown "slowed up" and turned around, although Witness 128 later stated that Brown continued running another 20 or 25 feet before he turned around.

Wilson then emerged from the SUV about five seconds after he fired four or five rounds, and "patiently" walked toward Brown in "lazy pursuit." Brown "threw his hands up, clean in the air." Initially, Witness 128 stated that Brown said, "Don't kill me," but later admitted that he did not actually hear Brown or Wilson say anything. Wilson then fired two shots at "point blank range" from within two feet. The shots hit Brown in the face and Brown fell to the ground. Wilson then fired four or five shots into Brown's back after Brown was already dead, face first on the ground. Witness 128 then drove by Wilson and asked him why he shot Brown. Wilson told Witness 128 to "shut the fuck up," "mind [his] own business," and "keep going." Witness 128 then pulled into his complex and parked, staying away because he did not want to get shot himself. According to Witness 128, there were no other people or cars on the street, except for a white pick-up truck behind him.

Federal prosecutors and agents met with Witness 128 and challenged him on internal inconsistencies and statements he made that were inconsistent with physical evidence. Contrary to his previous account, he stated that when he pulled up on Canfield Drive, he saw Brown in the driver's side window of the SUV from his mid-chest up. He stated that Brown and Wilson were pulling on each other's shirts until Brown backed up. Wilson then held his gun out the window and fired a shot. As a result, Brown ran from the vehicle. Contrary to his previous statement to the FBI, Witness 128 told federal prosecutors that although he heard additional shots, he did not see them because he ducked down in his vehicle. For the first time, Witness 128 mentioned the

presence of a female passenger in his vehicle. He could not identify the passenger, but explained that during the shooting, his attention was diverted to her because he was trying to keep her calm, as she had become hysterical.

Witness 128 explained that when he stopped ducking for cover, he saw Brown coming back toward Wilson with his hands up. Witness 128 stated that Wilson shot Brown, causing him to fall face down to the ground. He maintained that Wilson then stood over Brown and shot into his back. When federal prosecutors asked him to reconcile those final shots with the autopsy report that shows that Brown was not shot in the back, Witness 128 said he may have hallucinated but could not offer more of an explanation. He also admitted that much of what he initially said was assumption.

As mentioned, Witness 128 was one of two witnesses who identified his voice on the aforementioned video taken in the aftermath of the shooting depicting the two contractors. Witness 128 claimed to be the person off camera shouting, "He wasn't no threat at all," because he did not perceive Brown to be a threat. However, Witness 128 acknowledged that he did not know what happened at the SUV. Contrary to what he originally told the FBI, he did not see Brown run from the SUV, was mistaken about the final shots fired, and therefore did not know whether Brown was a threat to Wilson.

Witness 128 also admitted that he spoke to Brown's mother on the day of the shooting and shared details of the shooting. Witness 128 told Brown's mother that Wilson shot Brown at point blank range while his hands were up, and that even after Brown fell to his death, Wilson stood over Brown and fired several more times. Witness 128 also told several neighbors his inaccurate version of what happened, as they were gathering in the minutes and hours after the shooting. Several individuals identified Witness 128 through description as someone who was going around spreading a narrative that Brown was shot with his hands up in surrender.

Witness 128 has been convicted of multiple felonies including crimes of dishonesty, all of which would be admissible in federal court as impeachment evidence. Witness 128's accounts are inconsistent with each other, inconsistent with the forensic and physical evidence, and inconsistent with credible witness accounts. Accordingly, after a thorough review of the evidence, federal prosecutors determined this witness's accounts to lack credibility and therefore do not support a prosecution of Darren Wilson.

xxi. **Witness 140**

Witness 140 is a 45-year-old white female who gave two statements to law enforcement and testified before the county grand jury. Witness 140 contacted SLCPD detectives in September 2014, claiming to have been a witness to the shooting of Brown, but too fearful to come forward when it happened. She explained that she decided it was time to come forward because she knew the case was being presented to the county grand jury and she was "tired of hearing that the officer is guilty." SLCPD and the FBI jointly interviewed Witness 140, who completely corroborated Wilson's account. Although the physical and forensic evidence was consistent with her account, the timing of her disclosure and the details of her narrative caused

investigators to question her veracity. Therefore, federal prosecutors and agents conducted a follow-up interview.

During her follow-up interview, as in her initial account, Witness 140 claimed that she inadvertently ended up on Canfield Drive because she got lost on her way to visit a friend in Florissant, whom she had not seen in about 25 years. Witness 140 explained that she did not have a cell phone or a GPS, and was prone to getting lost. She pulled into the Canfield Green apartment complex to ask for directions, getting out of her car to do so. When federal prosecutors asked her why, as a woman, she would get out of her car in an unfamiliar neighborhood, she explained that she wanted to smoke a cigarette. Thereafter, while standing on the sidewalk, smoking a cigarette with a man from whom she was getting directions, she saw Wilson's SUV drive in the opposite direction of Brown and Witness 101, who were walking in the middle of the street. Witness 140 explained that she saw Wilson stop, speak to Brown and Witness 101, pull forward, and then back up. Wilson then tried to open the door of the SUV, but Brown punched it shut. Witness 101 grabbed the rearview mirror, bending it inward and catching his bracelet which broke and fell to the ground.

The specificity of this description initially caused SLCPD detectives concern because it mimicked an obscure media article which offered theories about how the SUV rearview mirror came to be folded inward and how beaded bracelets, found at the scene, landed on the ground. During Witness 140's follow-up interview, federal prosecutors asked her about this online article and Witness 140 acknowledged reading it prior to meeting with SLCPD detectives, possibly using it to fill in gaps in her memory.

According to Witness 140, she saw a struggle by the SUV, explaining that Brown was bent forward such that the top portion of his body, starting at the navel, was in the SUV. She described "childish wrestling" or "fist fighting" that ensued. She heard one gunshot from within the SUV, and then saw Brown run away, as Wilson shouted, "Stop. Freeze. I'm gonna shoot." Wilson fired a second gunshot as he got out of the SUV. Witness 140 described it as a possible "warning shot" because Brown did not "even flinch," indicating to her that he was not hit. Wilson then pursued Brown, who "made it further than where he got shot." Brown then turned around as Brown's arms flew upward, and Wilson stopped pursuing him. Brown bent forward in a "football-type" mode, hands balled up in fists, and "started charging." Witness 140 explained that Brown looked like "he was on something." Wilson looked panicked as he repeatedly shot Brown in the arm. Brown, however, kept coming at Wilson, who backed up as Brown closed the distance. Witness 140 heard a volley of four shots, a pause, and then two more shots before Brown fell to his death and "it got gross."

Witness 140 explained that she did not see Witness 101 after the initial interaction at the SUV until he reappeared five to 10 minutes after the shooting with his black t-shirt draped over his "wife-beater" tank top. This description matched how Witness 101 appeared in media interviews in the aftermath of the shooting. Also, seeing Witness 101 reappear conflicted with Witness 140's explanation that she immediately left Canfield Drive after the last shots because she was the only white woman in a neighborhood that was quickly growing hostile.

Investigators also questioned Witness 140 about the route she took out of the complex, which looks navigable on a map, but in reality is blocked by a concrete street barrier. Witness 140 responded that she is not good with directions, and was unsure the route she took. Since the shooting incident, she has acquired both a GPS and a mobile phone.

Witness 140 stated that she went immediately home and told no one about what she witnessed except her ex-husband. However, when SLCPD detectives attempted to verify this, Witness 140's ex-husband reported that Witness 140 has a tendency to lie. Witness 140's response was that her ex-husband was distrustful that the detectives were who they claimed to be. Nonetheless, Witness 140 acknowledged that she suffers from bouts of mania because she does not take her medicine for bipolar disorder and she suffered traumatic brain injury from a car crash several years ago.

Witness 140 also admitted to federal prosecutors that although she told no one about what she had witnessed, she posted comments on websites and Facebook about the shooting. Her comments were blatantly profane and racist. Furthermore, she was involved in developing a fundraising organization for first responders, and had a picture of a "thin blue line" as her Facebook profile picture.

During her testimony before the county grand jury, Witness 140 admitted that she did not get lost on Canfield Drive while en route to visit a high school friend, but rather she purposely went to Canfield Drive that day because she fears black people and was attempting to conquer her fears. However, in an effort to bolster he testimony, Witness 140 provided county prosecutors with a daily journal she claimed to keep, with one entry that documented the events of August 9. While that entry was detailed, all of the other entries were generic and sporadic.

Witness 140 was twice convicted of passing bad checks, felonies that are crimes of dishonesty and likely admissible in federal court as impeachment evidence. Although Witness 140's account of this incident is consistent with physical and forensic evidence and with credible witness accounts, large parts of her narrative have been admittedly fabricated from media accounts, and her bias in favor of Wilson is readily apparent. Accordingly, while her account likely is largely accurate, federal prosecutors determined that the account as a whole was not reliable and therefore did not consider it when making a prosecutive decision.

xxii. **Witness 139**

Witness 139 is 50-year-old black female. She made two statements, including her county grand jury testimony. As detailed below, Witness 139's initial account was riddled with inconsistencies from one sentence to the next. She was unable to provide a coherent narrative, and when she was asked to clarify, Witness 139 would respond with "you know what I mean," answer with a non sequitur, or break down in sobs. The details that she did provide were largely inconsistent with the physical evidence. Witness 139 was similarly incoherent and inconsistent when she testified before the county grand jury, unable to provide any sort of linear narrative.

Witness 139 reluctantly came to the NAACP office in St. Louis to meet with SLCPD detectives, FBI agents, and federal prosecutors. Through hysterical tears, she expressed fear in

speaking with law enforcement because she felt pressured by the community to make a statement about what she had purportedly witnessed. She explained that ever since she gave a media interview,[25] people have been anonymously calling her. Witness 139 explained that these calls made her feel threatened, though she could not articulate how or why she felt threatened.

According to Witness 139, at about 2:30 to 3:00 p.m., she was driving eastbound on Canfield Drive, in the same direction she claimed Wilson's "four door car" was traveling, and the same direction in which Brown and Witness 101 were walking. She had difficulty distinguishing between Brown and Witness 101. Witness 139 stated that she was behind the police car, but pulled over to let him pass. Wilson then stopped his car to speak with Brown and Witness 101, though Witness 139 was inconsistent about whether two or three cars pulled past her and drove off or whether there were two or three cars in front of her when Wilson stopped. Witness 139 stated that Wilson told Brown and Witness 101 to use the sidewalk, but then said that she could not actually hear words. Rather, she just heard a deep voice. Either Brown or Witness 101 then walked toward the front of the police car and Wilson grabbed that person. Witness 139 could not be more descriptive, explaining that she had answered her mobile phone while this was happening.

Witness 139 explained that Wilson reached for his gun and held it straight out of the driver's side window, firing one or two shots. Later in her interview, she described Wilson holding the gun on the window frame when firing. Either way, Witness 139 explained that while this was happening, Witness 101 ran behind the police car. Brown was standing by the driver's side window, close enough to touch the car. However, she later described Brown being closer to the headlights of the car. When she saw those first gunshots, Witness 139 put her head down on the steering wheel, covering her eyes. Wilson then got out of his car, stood over Brown, and kept shooting. If Witness 139 was initially driving behind Wilson, she would have had the same vantage point as Witness 123 and Witness 133 in the white Monte Carlo, and therefore, would have been unable to see the driver's side of Wilson's vehicle and much of what she described.

Also inconsistent with what she initially described, Witness 139 said that Brown ran from the police car after the first two shots. She first claimed that Wilson shot Brown in the back as Brown was running, which caused Brown to turn around. Witness 139 also stated that Wilson was still getting out of his car when Brown turned around, making it unclear if Wilson shot at Brown as he was running away. To that end, Witness 139 also stated that she was not sure if the bullet struck him in the back. Regardless, Brown turned around, never moving forward from where he stood. According to Witness 139, Brown fell to the ground dead with his hands next to his head at right angles because his hands had been up. Wilson then fired at least three shots as Brown was lying face down on the ground. Witness 139 saw that Brown was bleeding from his back. When asked how she was able to witness the final shots if she had her head down in her arms, Witness 139 explained that she put her head down in her arms after the first two shots, but she could still see because she was peeking. Witness 139 claimed that when she asked Wilson if she could check on Brown because she is a nurse, he told her to "get the fuck on."

[25] There is no indication that Witness 139 ever gave a media interview that was broadcast to the public.

Witness 139 has no criminal history. Witness 139's account was incoherent and inconsistent throughout, markedly inconsistent with the physical and forensic evidence, and inconsistent with credible witness accounts. Wilson was driving an SUV westbound at noon, not a car eastbound at 2:30 p.m.; Wilson fired the first shot inside the SUV, not straight out the window; Brown moved toward Wilson and did not fall to his death where he turned around, nor did he die within an arm's length of the police vehicle; and Wilson did not stand over Brown and shoot him causing him to bleed from the back. Accordingly, federal prosecutors determined this witness's account not to be credible and therefore it does not support a prosecution of Darren Wilson.

xxiii. **Witness 120**

Witness 120 is a 19-year-old black male who said he was Brown's best friend and Witness 101's "cousin." Brown was staying with Witness 120 the night before the shooting occurred, during which time they did "a whole lot of talking about God" and "about the problems that [they have] been going through." Witness 120 explained that it seemed like Brown was "going through a phase."

Witness 120 gave three statements, including his testimony before the county grand jury. FBI agents and SCLPD detectives initially interviewed Witness 120 in the presence of his lawyer and his uncle. Witness 120 gave an internally inconsistent account that was also inconsistent with physical evidence. Federal prosecutors and agents interviewed Witness 120, with his lawyer present, in an attempt to determine what he actually witnessed.

According to Witness 120's initial account, he was on the phone on the third floor of his sister's apartment when he heard a gunshot. He instantly hopped up to look out the window because he knew that Brown and Witness 101 were walking to the store to get cigarillos to smoke marijuana later that day. When he looked out the window, Witness 120 saw Brown, who was facing the window, drop to his knees with his hands in the air, blood coming from his left shoulder and ribcage.[26] Brown's back was to the police vehicle. Witness 101 was next to Brown. Brown told Witness 101 to "run for your life." However, later in the same interview, Witness 120 stated that Witness 101 told him (Witness 120) that he, Witness 101, ran away after that first shot. When Witness 120 testified before the county grand jury, he said that he did not see Witness 101 until after the shooting was over.

According to Witness 120, Wilson then got out of the police cruiser, and positioned himself "a step away" from Brown, who stated, "Please don't shoot me." Wilson then shot Brown "point blank" in the head and Brown fell on his side. Wilson then fired eight more shots while Brown was on the ground, one of which grazed his arm.[27]

During his follow-up interview with federal prosecutors and federal agents, Witness 120 stated that he was asleep when Brown and Witness 101 left to go to the store. He woke to the sound of a gunshot. Witness 120 then repeated the same account as before: He went to the window and saw Brown on his knees with his hands up, situated about five feet from the police

[26] Autopsy results indicate that Brown was shot on his right side.
[27] Witness 120 cited to media reports as to why he knew that Brown was shot in the arm.

vehicle. Brown said, "Please don't shoot me," and Wilson fired a shot into Brown's head at "point blank" range. However, during the second interview, Witness 120 acknowledged that he never saw Wilson emerge from his vehicle and never saw any injury on Brown. Instead, he claimed that after that second shot, he ran downstairs and heard two volleys of four shots each with a pause in between. By the time he got downstairs, the gunfire had ended. Witness 120 explained that although he did not see the shots, common sense dictates that those eight shots struck Brown. He also explained that he based most of his recanted account on what people "in the community told [him]."

Although Witness 120 recanted most of his original statement, his version to federal prosecutors was still inconsistent with the autopsy results. Likewise, Witness 120 gave an inconsistent account to the county grand jury, admittedly based on rumor and hearsay, and motivated by his allegiance to his friend. When grand jurors questioned Witness 120 about inconsistencies with physical evidence, he dismissed the question, stating that Brown "was assassinated for what reason."

Witness 120's claim that Brown's body was found five feet from the police vehicle is inconsistent with the crime scene; Witness 120's description that Wilson shot Brown at point blank range is inconsistent with the autopsy results; Witness 120's description that he was at home at the time the first shots were fired is inconsistent with Witness 138's description that Witness 120 was at Witness 138's house when the shots were fired.

Witness 120 has a felony arrest that likely would be inadmissible in federal court as impeachment evidence. In addition to his accounts being riddled with inconsistencies with each other, the physical and forensic evidence, and credible witness accounts, Witness 120's account is driven by apparent bias for his friend. Accordingly, federal prosecutors determined his account to lack credibility and it does not therefore support a prosecution of Darren Wilson.

xxiv. **Witness 148**

Witness 148 is a 26-year-old black female who did not report to federal authorities that she witnessed the shooting until late February, 2015. Witness 148 briefly spoke to federal prosecutors via telephone to provide a summary of what she witnessed on August 9, 2014. Based on that description, federal prosecutors and agents subsequently met with Witness 148 in person.

According to Witness 148, she was driving eastbound on Canfield Drive, traveling in the same direction as Brown and Witness 101. She drove past Wilson, who was driving his SUV, and Brown and Witness 101 who were walking in the street, but right next to the curb of the sidewalk. Contrary to all other evidence, they were not in the middle of the street. She heard Wilson say, "Get the fuck on the sidewalk," and she heard either Brown or Witness 101 respond that they were near their "destination." Suspecting something was going to happen between Wilson and Brown and Witness 101 because she is from Chicago and is used to bad interactions with police, she slowed down and watched over her right shoulder, out her back window. She heard tires "screech" and saw the SUV reverse back.

Witness 148 pulled her vehicle into a nearby parking lot and parked because she wanted to see what would happen next. She told her four-year-old son to wait in her car while she got out of her vehicle and watched as Brown and Wilson engaged in a struggle on the driver side of the SUV. Witness 148 stated her that her vantage point was of the passenger side of the SUV, but she could nonetheless see Brown using his hands to push off the driver's door as Wilson pulled Brown toward the SUV. She heard Brown repeatedly state, "I didn't do anything," as Wilson stated, "Stop resisting." Despite being in a parking lot and on the opposite side of the SUV as Brown, Witness 148 stated that Brown "looked scared and it's not like he's a giant or anything." Witness 148 also stated that Brown never put his hands inside the SUV window, despite forensic and physical evidence to the contrary. However, she ultimately acknowledged to prosecutors that because she could not see the driver's side of the SUV, she did not know whether Brown put his hands inside the SUV window.

According to Witness 148, her son then got out of her vehicle because he wanted to watch what was happening. Witness 148 heard a gunshot. Witness 148 got down on the grass and covered her child's body with her own to protect him. While doing so, she watched Witness 101 and then Brown run from the SUV. After that, Witness 101 disappeared and she never saw him again. Wilson then emerged from the SUV and fired at least two shots. Brown flinched, arching his body back as though the bullet had "grazed" him. Brown then turned around and put his hands up in right angles at shoulder-height in a sign of surrender. He then dropped to his knees, and started to say something like, "I don't have a -," but was cut off as Wilson walked toward Brown firing at least six shots, killing Brown. Witness 148 described Wilson as "possessed" based on the "look in his eyes," as though "he wasn't human." It is unclear based on Witness 148's description how she was able to see both the look in Wilson's eyes and Brown trying to speak as he was surrendering, all at the same time.

Witness 148 was initially adamant that, contrary to DNA evidence in the roadway and credible witness accounts that establish otherwise, Brown never moved forward from the spot where he turned around to face Wilson. When prosecutors specifically asked her about this, Witness 148 acknowledged that because he son was squirming on the ground and she feared for his safety, her attention may have been diverted during the shooting, and therefore she may have missed parts of it. Nonetheless, she repeated that Wilson shot Brown as he was "surrendering."

When prosecutors and agents pressed Witness 148 as to why it took her nearly seven months to come forward and report what she witnessed, she explained that she feared the FPD. She maintained that she did not tell anyone – "not one living soul" – about what she witnessed on August 9, 2014. Witness 148 stated however, that she was she was not going to live in fear and therefore went to Ferguson every day since the shooting until the day of the county grand jury's decision on November 24, 2014. She protested and marched, but never shared with anyone what she witnessed, including her god-daughter who started a "Michael Brown movement." However, Witness 148 met a close friend of the Brown family after a Martin Luther King Day protest. Several weeks after that, she told the friend what she had witnessed and ultimately met with Brown's mother. Witness 148 explained that as a mother herself, she wanted to share with Brown's mother what happened to Brown.

Federal prosecutors asked Witness 148 why she chose not report to the FBI or the SLCPD, since her distrust was specific to the FPD. Witness 148 explained that she did not know that either of those agencies was investigating, despite the fact that she went to Ferguson everyday for three months and admittedly, read media reports about the shooting in the hours, days, and weeks after it occurred.

Witness 148 has felony convictions including conviction for a crime of dishonesty that would be admissible in federal court as impeachment evidence. Her account is inconsistent with the physical and forensic evidence, inconsistent with undisputed facts, *i.e.* Brown and Witness 101 were in fact walking in the middle of the street, and she admittedly did not see portions of the incident based on her vantage point and because she was protecting her child from gunfire. Similar to Witness 140, even if Witness 148 was present on Canfield Drive on August 14, 2014, and saw parts of the incident, Witness 148's account is inherently unreliable and subject to extensive cross-examination based on how she obtained her information and what motivated her to come forward. She did not report what she witnessed for nearly seven months without any reasonable explanation for the delay, giving her ample opportunity to research the facts in the form of media stories and county grand jury transcripts; she has an apparent distrust of the police (she told federal prosecutors at the outset of her interview that she "didn't trust police at all"); she is upset that "Darren Wilson got away" with what she believes to be a crime and then subsequently engaged in months of protests, but yet she failed to report it to the FBI, not because of distrust, but because she was unaware of the federal investigation. This is difficult to reconcile in light of both her daily visits to Ferguson while the FBI was canvassing the area and her regular internet searches about the shooting. For these reasons, federal prosecutors did not credit her account and could not rely upon it to support a prosecution of Darren Wilson.

xxv. Other Individuals Who Did Not Witness the Shootings

Throughout the course of the two investigations, FBI agents and SLCPD detectives both jointly and independently monitored social media, print media, and local and national television broadcasts and news reports in an effort to locate potential witnesses and sources of information. Investigators tracked down several individuals who, via the aforementioned media, claimed to have witnessed Wilson shooting Brown as Brown held his hands up in clear surrender. All of these purported witnesses, upon being interviewed by law enforcement, acknowledged that they did not actually witness the shooting, but rather repeated what others told them in the immediate aftermath of the shooting.

For example, one individual publicly posted a description of the shooting during a Facebook chat, explaining that Brown "threw his hands up in the air" as Wilson shot him dead. A Twitter user took a screenshot of the description and "tweeted" it throughout the social media site. When the SLCPD and the FBI interviewed the individual who made the initial post, he explained that he "gave a brief description of what [he] was hearing from the people that were outside" on Canfield Drive, but he did not witness the incident itself. Similarly, another individual publicly "tweeted" about the shooting as though he had just witnessed it, even though he had not.

Likewise, another individual appeared on a television program and discussed the shooting as if he had seen it firsthand. When law enforcement interviewed him, he explained that it was a

"misconception" that he witnessed the shooting. He spoke to the host of the show because he was asked if he wanted to talk about the shooting. In so doing, he was inaccurately portrayed as a witness.

Another individual recorded the aforementioned video of the contractors taken in the aftermath of the shootings. When an FBI agent and federal prosecutor met with that individual, he explained that because the video had been widely circulated in the media, many people incorrectly believed that he had witnessed the shooting. He did not witness the shootings, and was initially unsurprised to hear gunshots because it was not uncommon to hear gunfire in the neighborhood. He started recording after the gunshots abated by placing his iPad in the ground-level window of his basement apartment. He provided federal authorities with that video and other videos taken minutes after the shooting. Several videos captured conversations of bystanders on Canfield Drive, standing by police tape as paramedics covered Brown's body with two more sheets in addition to the one that was already covering him. During those conversations, bystanders discussed what transpired, although none of what was recorded was consistent with the physical evidence or credible accounts from other witnesses. For example, one woman stated that the officer shot at Brown from inside his vehicle while the SUV was still moving and then the "officer stood over [Brown] and pow-pow-pow."

Because none of these individuals actually witnessed the shooting incident and admitted so to law enforcement, federal prosecutors did not consider their inaccurate postings, tweets, media interviews, and the like when making a prosecutive decision.

IV. Legal Analysis

The evidence discussed above does not meet the standards for presentation of an indictment set forth in the USAM and in the governing federal law. The evidence is insufficient to establish probable cause or to prove beyond a reasonable doubt a violation of 18 U.S.C. § 242 and would not be likely to survive a defense motion for acquittal at trial pursuant to Federal Rule of Criminal Procedure 29(a). This is true for all six to eight shots that struck Brown. Witness accounts suggesting that Brown was standing still with his hands raised in an unambiguous signal of surrender when Wilson shot Brown are inconsistent with the physical evidence, are otherwise not credible because of internal inconsistencies, or are not credible because of inconsistencies with other credible evidence. In contrast, Wilson's account of Brown's actions, if true, would establish that the shootings were not objectively unreasonable under the relevant Constitutional standards governing an officer's use of deadly force. Multiple credible witnesses corroborate virtually every material aspect of Wilson's account and are consistent with the physical evidence. Even if the evidence established that Wilson's actions were unreasonable, the government would also have to prove that Wilson acted willfully, *i.e.* that he acted with a specific intent to violate the law. As discussed above, Wilson's stated intent for shooting Brown was in response to a perceived deadly threat. The only possible basis for prosecuting Wilson under Section 242 would therefore be if the government could prove that his account is not true – *i.e.*, that Brown never punched and grabbed Wilson at the SUV, never struggled with Wilson over the gun, and thereafter clearly surrendered in a way that no reasonable officer could have failed to perceive. Not only do eyewitnesses and physical evidence corroborate Wilson's account, but there is no credible evidence to disprove Wilson's perception that Brown posed a

threat to Wilson as Brown advanced toward him. Accordingly, seeking his indictment is not permitted by Department of Justice policy or the governing law.

A. Legal Standard

To obtain a conviction of Darren Wilson at trial for his actions in shooting Michael Brown, the government must prove the following elements beyond a reasonable doubt: (1) that Wilson was acting under color of law; (2) that he acted willfully; (3) that he deprived Brown of a right protected by the Constitution or laws of the United States; and (4) that the deprivation resulted in bodily injury or death. The Constitutional right at stake depends on Brown's custodial status at the time Wilson shot him. *See Graham*, 490 U.S. at 395; *Loch v. City of Litchfield*, 689 F.3d 961, 965 (8th Cir. 2012). In this case, Wilson had attempted to stop and possibly arrest Brown. The rights of an arrestee are governed by the Fourth Amendment's prohibition against unreasonable searches and seizures, which includes the right to be free from excessive force during the course of an arrest. *See Nelson v. County of Wright*, 162 F.3d 986, 990 (8th Cir. 1998). Under the Fourth Amendment, an officer's use of force must be "objectively reasonable" under the facts and circumstances known to the officer at the time he made the decision to use physical force. *Id.* Establishing that the intent behind a Constitutional violation is "willful" requires proof that the officer acted with the purpose "to deprive a person of a right which has been made specific either by the express terms of the Constitution or laws of the United States or by decisions interpreting them." *See United States v. Lanier*, 520 U.S. 259, 267 (1997), *citing Screws v. United States*, 325 U.S. 91 (1945). While the officer need not be "thinking in Constitutional terms" when deciding to use force, he must know what he is doing is wrong and decide to do it anyway. *Screws* at 106-07. Mistake, panic, misperception, or even poor judgment by a police officer does not provide a basis for prosecution under Section 242. *See United States v. McClean*, 528 F.2d 1250, 1255 (2d Cir. 1976) (inadvertence or mistake negates willfulness for purposes of 18 U.S.C. § 242).

There is no dispute that Wilson, who was on duty and working as a patrol officer for the FPD, acted under color of law when he shot Brown, or that the shots resulted in Brown's death. The determination of whether criminal prosecution is appropriate rests on whether there is sufficient evidence to establish that any of the shots fired by Wilson were unreasonable given the facts known to Wilson at the time, and if so, whether Wilson fired the shots with the requisite "willful" criminal intent, which, in this case, would require proof that Wilson shot Brown under conditions that no reasonable officer could have perceived as a threat.

B. Uses of Force

Under the Fourth Amendment, a police officer's use of physical force against an arrestee must be objectively reasonable under the circumstances. *Graham*, 490 U.S. at 396-97 (1989). "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." *Id.* at 396. "Careful attention" must be paid "to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight." *Id.* Allowance must be made for the fact that law enforcement officials are

often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving. *Id.* at 396-97.

The use of deadly force is justified when the officer has "probable cause to believe that the suspect pose[s] a threat of serious physical harm, either to the officer or to others." *Tennessee v. Garner*, 471 U.S. 1, 11 (1985); *see Nelson*, 162 F.3d at 990; *O'Bert ex. rel. Estate of O'Bert v. Vargo*, 331 F.3d 29, 36 (2d Cir. 2003) (same as *Garner*); *Deluna v. City of Rockford*, 447 F.3d 1008, 1010 (7th Cir. 2006), *citing Scott v. Edinburg*, 346 F.3d 752, 756 (7th Cir. 2003) (deadly force can be reasonably employed where an officer believes that the suspect's actions place him, or others in the immediate vicinity, in imminent danger of death or serious bodily injury). An officer may use deadly force under certain circumstances even if the suspect is fleeing. "Where the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others, it is not constitutionally unreasonable to prevent escape by using deadly force. Thus, if the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape, and if, where feasible, some warning has been given." *See Garner*, 471 U.S. at 11-12.

An officer may not, on the other hand, use physical force, deadly or otherwise, once a threat has been neutralized. This is true even if the suspect threatened an officer's life – or that of another – prior to being brought under control. *See Moore v. Indehar*, 514 F.3d 756, 762 (8th Cir. 2008); *Nelson*, 162 F.3d at 990. For that reason, every instance in which Wilson shot Brown could potentially be prosecuted if the deployment of deadly force was objectively unreasonable in the particular circumstance. We must therefore determine whether, each time he fired his weapon, the available evidence could prove that Wilson acted reasonably or unreasonably in light of the facts available to him at the time. In particular, we must examine whether the available evidence shows that Wilson reasonably believed that Brown posed a threat of serious bodily harm to Wilson himself or others in the community, or whether Brown clearly attempted to surrender, prior to any of the shots fired by Wilson.

1. Shooting at the SUV

The evidence establishes that the shots fired by Wilson while he was seated in his SUV were in self-defense and thus were not objectively unreasonable under the Fourth Amendment. According to Wilson, when he backed up his SUV and attempted to get out to speak with Brown, Brown blocked him from opening the door. Brown then reached through the window and began to punch Wilson in the face, after which he reached for and gained control of Wilson's firearm by putting his hand over Wilson's hand. As Brown was struggling for the gun and pointing it into Wilson's hip, Wilson gained control of the firearm and fired it just over his lap at Brown's hand. The physical evidence corroborates Wilson's account in that the bullet was recovered from the door panel just over Wilson's lap, the base of Brown's hand displayed injuries consistent with it being within inches of the muzzle of the gun, and Wilson had injuries to his jaw consistent with being struck. Witnesses 102, 103, and 104 all state that they saw Brown with the upper portion of his body and/or arms inside the SUV as he struggled with Wilson. These witnesses have given consistent statements, and their statements are also consistent with the physical evidence.

In contrast, the two primary witnesses who state that Wilson instigated the encounter by grabbing Brown and pulling him toward the SUV and that Brown's hands were never inside the vehicle are Witnesses 101 and 127. Both of those witnesses have given accounts that are inconsistent with the forensic and physical evidence. For example, both witnesses insisted that Wilson shot Brown in the back as he fled and that they saw shots hit Brown in the back. These statements are contradicted by all three autopsies, which concluded that Brown had no entry wounds to his back. Both witnesses also insist that, after he turned to face Wilson, Brown raised his hands, never moved forward, and never reached for his waistband. While Brown might well have briefly raised his hands in some fashion (see below), the physical evidence in the form of the blood on the ground establishes that he did move forward and that he fell to the ground with his left hand near his waistband. Both of these accounts are further undermined by the witnesses' physical inability to perceive what they claim to have seen. Witness 101 was hiding behind a vehicle for significant portions of the incident and Witness 127 was looking at her cell phone, attempting to make a video recording of the encounter, and driving her car. Given the deficiencies in the accounts of these two witnesses, federal prosecutors credited the accounts of Witnesses 102, 103, 104, and Wilson and concluded that Brown did in fact reach for and attempt to grab Wilson's gun, that Brown could have overpowered Wilson, which was acknowledged even by Witness 101, and that Wilson fired his weapon just over his own lap in an attempt to regain control of a dangerous situation.

Under well-established Fourth Amendment precedent, it is not objectively unreasonable for a law enforcement officer to use deadly force in response to being physically assaulted by a subject who attempts to take his firearm. *See, e.g., Nelson,* 162 F.3d at 990-91 (holding that it was not objectively unreasonable for officer to shoot at a suspect through a closet door after suspect attempted to grab his gun, hit him in the head with an asp, and pushed him into closet). The government therefore cannot meet its burden of establishing probable cause to a grand jury or proving beyond a reasonable doubt to twelve trial jurors that the shots fired by Wilson at the SUV were unreasonable. These shots are thus not prosecutable violations of 18 U.S.C. § 242.

2. Wilson's Subsequent Pursuit of Brown and Shots Allegedly Fired as Brown Was Running Away

The evidence does not support concluding that Wilson shot Brown while Brown's back was toward Wilson. Witnesses, such as Witness 118, Witness 128, Witness 139 and others, who claim to have seen Wilson fire directly into Brown's back, gave accounts that lack credibility because the physical evidence establishes that there were no entry wounds to Brown's back, although there was a wound to the anatomical back of Brown's right arm, and a graze wound to Brown's right arm. Also, other witnesses who say that Wilson fired at Brown as he ran have given accounts that are not credible because significant aspects of their statements are irreconcilable with the physical evidence, such as Witness 101 and 127, whose statements are suspect for the reasons noted above. Similarly, Witness 124 claims to have seen Wilson following behind Brown while steadily firing at him. However, Witness 124 dramatically changed her accounts of what she saw between the time of her first statement to the SLCPD and second statement to the FBI. She refused to meet with the federal prosecutors to clarify her varying accounts. Also, her account was dramatically different from that of her husband, Witness 115, who was standing next to her during the incident. Witness 115 stated that he thought he saw Wilson fire once at Brown as he was running away, but other aspects of his

account lack credibility for the reasons set forth above, *i.e.* he did not witness significant parts of the shooting and based parts of his account on assumption. Witnesses 128 and 137 initially claimed that Wilson fired at Brown while he was running away, but then acknowledged that they did not see what Wilson and Brown were doing at this point and thus do not know whether Wilson fired at Brown as he was running away. Witnesses 105 and 106 thought they saw Wilson fire at Brown as he was running, but describe seeing Brown hit in the leg and back in a manner that does not match the autopsy findings. Accordingly, there is no credible evidence that establishes that Wilson fired at or struck Brown's back as Brown fled.

3. Shots Fired After Brown Turned to Face Wilson

The evidence establishes that the shots fired by Wilson after Brown turned around were in self-defense and thus were not objectively unreasonable under the Fourth Amendment. The physical evidence establishes that after he ran about 180 feet away from the SUV, Brown turned and faced Wilson, then moved toward Wilson until Wilson finally shot him in the head and killed him. According to Wilson, Brown balled or clenched his fists and "charged" forward, ignoring commands to stop. Knowing that Brown was much larger than him and that he had previously attempted to overpower him and take his gun, Wilson stated that he feared for his safety and fired at Brown. Again, even Witness 101's account supports this perception. Brown then reached toward his waistband, causing Wilson to fear that Brown was reaching for a weapon. Wilson stated that he continued to fear for his safety at this point and fired at Brown again. Wilson finally shot Brown in the head as he was falling or lunging forward, after which Brown immediately fell to the ground. Wilson did not fire any additional shots. Wilson's version of events is corroborated by the physical evidence that indicates that Brown moved forward toward Wilson after he ran from the SUV, by the fact that Brown went to the ground with his left hand at (although not inside) his waistband, and by credible eyewitness accounts.

Wilson's version is further supported by disinterested eyewitnesses Witness 102, Witness 104, Witness 105, Witness 108, and Witness 109, among others. These witnesses all agree that Brown ran or charged toward Wilson and that Wilson shot at Brown only as Brown moved toward him. Although some of the witnesses stated that Brown briefly had his hands up or out at about waist-level, none of these witnesses perceived Brown to be attempting to surrender at any point when Wilson fired upon him. To the contrary, several of these witnesses stated that they would have felt threatened by Brown and would have responded in the same way Wilson did. For example, Witness 104 stated that as Wilson ran after Brown yelling "stop, stop, stop," Brown finally turned around and raised his hands "for a second." However, Brown then immediately balled his hands into fists and "charged" at Wilson in a "tackle run." Witness 104 stated that Wilson fired only when Brown moved toward him and that she "would have fired sooner." Likewise, Witness 105 stated that Brown turned around and put his hands up "for a brief moment," then refused a command from Wilson to "get down" and instead put his hands "in running position" and started running toward Wilson. Witness 105 stated that Wilson shot at Brown only when Brown was moving toward him. These witnesses' accounts are consistent with prior statements they have given, consistent with the forensic and physical evidence, and consistent with each other's accounts. Accordingly, we conclude that these accounts are credible.

Furthermore, there are no witnesses who could testify credibly that Wilson shot Brown while Brown was clearly attempting to surrender. The accounts of the witnesses who have claimed that Brown raised his hands above his head to surrender and said "I don't have a gun," or "okay, okay, okay" are inconsistent with the physical evidence or can be challenged in other material ways, and thus cannot be relied upon to form the foundation of a federal prosecution.[28] The two most prominent witnesses who have stated that Brown was shot with his hands up in surrender are Witness 101 and Witness 127, both of whom claim that Brown turned around with his hands raised in surrender, that he never reached for his waistband, that he never moved forward toward Wilson after turning to face him with his hands up, and that he fell to the ground with his hands raised. These and other aspects of their statements are contradicted by the physical evidence. Crime scene photographs establish that Brown fell to the ground with his left hand at his waistband and his right hand at his side. Brown's blood in the roadway demonstrates that Brown came forward at least 21.6 feet from the time he turned around toward Wilson. Other aspects of the accounts of Witness 101 and Witness 127 would render them not credible in a prosecution of Wilson, namely their accounts of what happened at the SUV. Both claim that Wilson fired the first shot out the SUV window, Witness 101 claims that the shot hit Brown at close range in the torso, and both claim that Brown did not reach inside the vehicle. These claims are irreconcilable with the bullet in the SUV door, the close-range wound to Brown's hand, Brown's DNA inside Wilson's car and on his gun, and the injuries to Wilson's face.

Other witnesses who have suggested that Brown was shot with his hands up in surrender have either recanted their statements, such as Witnesses 119 and 125, provided inconsistent statements, such as Witness 124, or have provided accounts that are verifiably untrue, such as Witnesses 121, 139, and 132. Witness 122 recanted significant portions of his statement by acknowledging that he was not in a position to see what either Brown or Wilson were doing, and who falsely insisted that three police officers pursued Brown and that the shooter was heavy set (in contrast to the slimly-built Wilson). Similar to Witness 128, Witness 122 told Brown's family that Brown had been shot execution-style. Witness 120 initially told law enforcement that he saw Brown shot at point-blank range as he was on his knees with his hands up. Similar to Witness 138, Witness 120 subsequently acknowledged that he did not see Brown get shot but "assumed" he had been executed while on his knees with his hands up based on "common sense" and what others "in the community told [him.]" There is no witness who has stated that Brown had his hands up in surrender whose statement is otherwise consistent with the physical evidence. For example, some witnesses say that Wilson only fired his weapon out of the SUV, (*e.g.* Witnesses 128, 101, and 127) or that Wilson stood next to the SUV and killed Brown right there (*e.g.* Witnesses 139, 132, 120). Some witnesses insist that Wilson shot Brown in the back as he lay on the ground. (*e.g.* Witnesses 128 and 139). Some witnesses say that Wilson shot Brown and he went to the ground immediately upon turning to face Wilson. (*e.g.* Witnesses 138, 101, 118, and 127). Some say Wilson went to the ground with his hands raised at right angles. (*e.g.* Witnesses 138, 118, and 121). Again, all of these statements are contradicted by the physical and forensic evidence, which also undermines the credibility of their accounts of other aspects of the incident, including their assertion that Brown had his hands up in a surrender position when Wilson shot him.

[28] The media has widely reported that there is witness testimony that Brown said "don't shoot" as he held his hands above his head. In fact, our investigation did not reveal any eyewitness who stated that Brown said "don't shoot."

When the shootings are viewed, as they must be, in light of all the surrounding circumstances and what Wilson knew at the time, as established by the credible physical evidence and eyewitness testimony, it was not unreasonable for Wilson to fire on Brown until he stopped moving forward and was clearly subdued. Although, with hindsight, we know that Brown was not armed with a gun or other weapon, this fact does not render Wilson's use of deadly force objectively unreasonable. Again, the key question is whether Brown could reasonably have been perceived to pose a deadly threat to Wilson at the time he shot him regardless of whether Brown was armed. Sufficient credible evidence supports Wilson's claim that he reasonably perceived Brown to be posing a deadly threat. First, Wilson did not know that Brown was not armed at the time he shot him, and had reason to suspect that he might be when Brown reached into the waistband of his pants as he advanced toward Wilson. *See Loch v. City of Litchfield*, 689 F.3d 961, 966 (8th Cir. 2012) (holding that "[e]ven if a suspect is ultimately 'found to be unarmed, a police officer can still employ deadly force if objectively reasonable.'") (quoting *Billingsley v. City of Omaha,* 277 F.3d 990, 995 (8th Cir. 2002)); *Reese v. Anderson*, 926 F.2d 494, 501 (5th Cir. 1991) ("Also irrelevant is the fact that [the suspect] was actually unarmed. [The officer] did not and could not have known this."); *Smith v. Freland,* 954 F.2d 343, 347 (noting that "unarmed" does not mean "harmless) (6th Cir. 1992). While Brown did not use a gun on Wilson at the SUV, his aggressive actions would have given Wilson reason to at least question whether he might be armed, as would his subsequent forward advance and reach toward his waistband. This is especially so in light of the rapidly-evolving nature of the incident. Wilson did not have time to determine whether Brown had a gun and was not required to risk being shot himself in order to make a more definitive assessment.

Moreover, Wilson could present evidence that a jury likely would credit that he reasonably perceived a deadly threat from Brown even if Brown's hands were empty and he had never reached into his waistband because of Brown's actions in refusing to halt his forward movement toward Wilson. The Eighth Circuit Court of Appeals' decision in *Loch v. City of Litchfield* is dispositive on this point. There, an officer shot a suspect eight times as he advanced toward the officer. Although the suspect's "arms were raised above his head or extended at his sides," the Court of Appeals held that a reasonable officer could have perceived the suspect's forward advance in the face of the officer's commands to stop as resistance and a threat. As the Court of Appeals explained:

> Although [the suspect] had by this time thrown his firearm in the snow, ... [the officer] did not observe that action. Instead of complying with [the officer's] command to get on the ground, [the suspect] turned and moved toward the officer. [Plaintiffs], noting that [the suspect's] arms were raised above his head or extended at his sides, suggest that [the suspect] was simply trying to find a suitable place to get on the ground, because his truck sat near a tree and snowbank. But even if [the suspect's] motives were innocent, a reasonable officer on the scene could have interpreted [the suspect's] actions as resistance. *It is undisputed that [the suspect] continued toward [the officer] despite the officer's repeated orders to get on the ground .... Thus, a reasonable officer could believe that [the suspect's] failure to comply was a matter of choice rather than necessity.*

Loch, 689 F.3d 961, 966 (8th Cir. 2012) (emphasis added).

Were the government to prosecute Wilson, the court would instruct the jury using *Loch* as a foundation. Given the evidence in this matter, jurors would likely conclude that Wilson had reason to be concerned that Brown was a threat to him as he continued to advance, just as did the officer in *Loch*.

In addition, even assuming that Wilson definitively knew that Brown was not armed, Wilson was aware that Brown had already assaulted him once and attempted to gain control of his gun. Wilson could thus present evidence that he reasonably feared that, if left unimpeded, Brown would again assault Wilson, again attempt to overpower him, and again attempt to take his gun. Under the law, Wilson has a strong argument that he was justified in firing his weapon at Brown as he continued to advance toward him and refuse commands to stop, and the law does not require Wilson to wait until Brown was close enough to physically assault Wilson. Even if, with hindsight, Wilson could have done something other than shoot Brown, the Fourth Amendment does not second-guess a law enforcement officer's decision on how to respond to an advancing threat. The law gives great deference to officers for their necessarily split-second judgments, especially in incidents such as this one that unfold over a span of less than two minutes. "Thus, under *Graham,* we must avoid substituting our personal notions of proper police procedure for the instantaneous decision of the officer at the scene. We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day." *Smith*, 954 F.2d at 347 (6th Cir. 1992). *See also Ryburn v. Huff*, 132 S. Ct. 987, 991-92 (2012) (courts "should be cautious about second-guessing a police officer's assessment, made on the scene, of the danger presented by a particular situation"); *Estate of Morgan v. Cook*, 686 F.3d 494, 497 (8th Cir. 2012) ("The Constitution ... requires only that the seizure be objectively reasonable, not that the officer pursue the most prudent course of conduct as judged by 20/20 hindsight vision." (citing *Cole v. Bone*, 993 F.2d 1328, 1334 (8th Cir. 1993)) "It may appear, in the calm aftermath, that an officer could have taken a different course, but we do not hold the police to such a demanding standard." (citing *Gardner v. Buerger,* 82 F.3d 248, 251 (8th Cir. 1996) (same))). Rather, where, as here, an officer points his gun at a suspect to halt his advance, that suspect should be on notice that "escalation of the situation would result in the use of the firearm." *Estate of Morgan* at 498. An officer is permitted to continue firing until the threat is neutralized. *See Plumhoff v. Rickard*, 134 S.Ct. 2012, 2022 (2014) ("Officers need not stop shooting until the threat has ended").

For all of the reasons stated, Wilson's conduct in shooting Brown as he advanced on Wilson, and until he fell to the ground, was not objectively unreasonable and thus not a violation of 18 U.S.C. § 242.

C. Willfulness

Even if federal prosecutors determined there were sufficient evidence to convince twelve jurors beyond a reasonable doubt that Wilson used unreasonable force, federal law requires that the government must also prove that the officer acted willfully, that is, with the purpose to violate the law. *Screws v. United States*, 325 U.S. 91, 101-107 (1945) (discussing willfulness element of 18 U.S.C. § 242). The Supreme Court has held that an act is done willfully if it was "committed" either "in open defiance or in reckless disregard of a constitutional requirement which has been made specific and definite." *Screws*, 325 U.S. at 105. The government need not

show that the defendant knew a federal statute or law protected the right with which he intended to interfere. *Id.* at 106-07 ("[t]he fact that the defendants may not have been thinking in constitutional terms is not material where their aim was not to enforce local law but to deprive a citizen of a right and that right was protected"); *United States v. Walsh*, 194 F.3d 37, 52-53 (2d Cir. 1999) (holding that jury did not have to find defendant knew of the particular Constitutional provision at issue but that it had to find intent to invade interest protected by Constitution). However, we must prove that the defendant intended to engage in the conduct that violated the Constitution and that he did so knowing that it was a wrongful act. *Id.*

"[A]ll the attendant circumstance[s]" should be considered in determining whether an act was done willfully. *Screws*, 325 U.S. at 107. Evidence regarding the egregiousness of the conduct, its character and duration, the weapons employed and the provocation, if any, is therefore relevant to this inquiry. *Id.* Willfulness may be inferred from blatantly wrongful conduct. *See id.* at 106; *see also United States v. Reese*, 2 F.3d 870, 881 (9th Cir. 1993) ("Intentionally wrongful conduct, because it contravenes a right definitely established in law, evidences a reckless disregard for that right; such reckless disregard, in turn, is the legal equivalent of willfulness."); *United States v. Dise*, 763 F.2d 586, 592 (3d Cir. 1985) (holding that when defendant invades personal liberty of another, knowing that invasion is violation of state law, defendant has demonstrated bad faith and reckless disregard for federal constitutional rights). Mistake, fear, misperception, or even poor judgment do not constitute willful conduct prosecutable under the statute. *See United States v. McClean*, 528 F.2d 1250, 1255 (2d Cir. 1976) (inadvertence or mistake negates willfulness for purposes of 18 U.S.C. § 242).

As discussed above, Darren Wilson has stated his intent in shooting Michael Brown was in response to a perceived deadly threat. The only possible basis for prosecuting Wilson under section 242 would therefore be if the government could prove that his account is not true – *i.e.*, that Brown never assaulted Wilson at the SUV, never attempted to gain control of Wilson's gun, and thereafter clearly surrendered in a way that no reasonable officer could have failed to perceive. Given that Wilson's account is corroborated by physical evidence and that his perception of a threat posed by Brown is corroborated by other eyewitnesses, to include aspects of the testimony of Witness 101, there is no credible evidence that Wilson willfully shot Brown as he was attempting to surrender or was otherwise not posing a threat. Even if Wilson was mistaken in his interpretation of Brown's conduct, the fact that others interpreted that conduct the same way as Wilson precludes a determination that he acted with a bad purpose to disobey the law. The same is true even if Wilson could be said to have acted with poor judgment in the manner in which he first interacted with Brown, or in pursuing Brown after the incident at the SUV. These are matters of policy and procedure that do not rise to the level of a Constitutional violation and thus cannot support a criminal prosecution. *Cf. Gardner v. Howard*, 109 F.3d 427, 430–31 (8th Cir. 1997) (violation of internal policies and procedures does not in and of itself rise to violation of Constitution).

Because Wilson did not act with the requisite criminal intent, it cannot be proven beyond reasonable doubt to a jury that he violated 18 U.S.C.§ 242 when he fired his weapon at Brown.

VI. Conclusion

For the reasons set forth above, this matter lacks prosecutive merit and should be closed.

United States Senate
WASHINGTON, DC 20510

April 21, 2021

The Honorable Richard Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Chairman Durbin and Ranking Member Grassley:

On Wednesday, April 14, 2021, the Judiciary Committee held a hearing to consider the nomination of Kristen Clarke, nominee to be an Assistant Attorney General of the United States. During that hearing, I discussed with Ms. Clarke her comments on the case of Michael Brown, who was killed in connection with a police stop in 2014 in Ferguson, Missouri, and her refusal in the years since that case to acknowledge that the officer who shot Michael Brown was justified in his use of force. As I mentioned to Ms. Clarke in that discussion, three subsequent investigations, including a Department of Justice investigation conducted under then-Attorney General Eric Holder and then-acting Assistant Attorney General Vanita Gupta, found that Officer Darren Wilson was justified in his use of force in that case.

Later in the hearing, one of my colleagues stated that he was unable to locate any instances where former Attorney General Holder or Ms. Gupta concluded that Officer Wilson's use of force was justified. Chairman Durbin offered to keep the record open for clarification, and invited the submission of additional information on that point. I appreciate that invitation, and I have included that information in this letter for its inclusion in the hearing record and for the benefit of the Committee.

The Department of Justice, under Attorney General Holder, began an investigation into Michael Brown's death in August 2014, just days after Brown was killed. That investigation was jointly run by the local U.S. Attorney's Office and the Civil Rights Division, along with the FBI. Two months later, Attorney General Holder announced that Vanita Gupta had been hired to lead the Civil Rights Division in an acting role, and mentioned in that announcement that the head of the Civil Rights Division was overseeing the Michael Brown investigation.[1] In addition to the initial

[1] United States Dep't of Justice, Office of Pub. Affairs, *"Attorney General Holder Announces Vanita Gupta to Serve as Acting Assistant Attorney General for the Civil Rights Division"* (Oct. 15, 2014), https://www.justice.gov/opa/pr/attorney-general-holder-announces-vanita-gupta-serve-acting-assistant-attorney-general-civil.

interviews conducted hours after the shooting and the physical evidence, the federal investigators "interviewed and re-interviewed eyewitnesses and other individuals claiming to have relevant information and independently canvassed more than 300 residences to locate and interview additional witnesses."[2]

On March 4, 2015, Attorney General Holder announced the results of that investigation, and released the 87-page report that had been prepared by the Civil Rights Division. For the Committee's benefit, I have also included the full text of that report as an attachment to this letter. Attorney General Holder announced at the time that he concurred with the report's conclusion.[3]

The Department's report outlined the standard for the justified use of deadly force by a law enforcement officer:

> The use of deadly force is justified when the officer has 'probable cause to believe that the suspect pose[s] a threat of serious physical harm, either to the officer or to others.' [D]eadly force can be reasonably employed where an officer believes that the suspect's actions place him, or others in the immediate vicinity, in imminent danger of death or serious bodily injury.[4]

The report also summarized how that standard applied to the facts in that case:

> Wilson has stated his intent in shooting Brown was in response to a perceived deadly threat. . . . There is no credible evidence to refute Wilson's stated subjective belief that he was acting in self-defense. As discussed throughout this report, Wilson's account is corroborated by physical evidence and his perception of a threat posed by Brown is corroborated by other credible eyewitness accounts.[5]

Therefore, according to the Department of Justice under Attorney General Holder and acting Assistant Attorney General Vanita Gupta, deadly force is justified if the officer reasonably believed that the suspect posed a threat of serious or physical harm to the officer or to others. Not only was there "no credible evidence" whatsoever to refute Officer Wilson's belief of such a threat in the Michael Brown case, but both the physical evidence and the credible eyewitness accounts corroborated his belief. Therefore, as the report found, "it was not unreasonable for

---

[2] United States Dep't of Justice, Office of Pub. Affairs, "*Attorney General Holder Delivers Update on Investigations in Ferguson, Missouri*" (Mar. 4, 2015), https://www.justice.gov/opa/speech/attorney-general-holder-delivers-update-investigations-ferguson-missouri.
[3] Id.
[4] United States Dep't of Justice, "*Memorandum: DEPARTMENT OF JUSTICE REPORT REGARDING THE CRIMINAL INVESTIGATION INTO THE SHOOTING DEATH OF MICHAEL BROWN BY FERGUSON, MISSOURI POLICE OFFICER DARREN WILSON*" (Mar. 4, 2015), at 10. (Internal citations omitted).
[5] Id. at 12.

Wilson to perceive that Brown posed a threat of serious physical harm, either to him or to others."[6] The Department thus concluded that the use of force was justified, and that the investigation "should be closed."[7]

Sincerely,

Tom Cotton
United States Senator

Enclosure

[6] Id. at 11.
[7] Id. at 86.

UNITED STATES SENATE
COMMITTEE ON THE
JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

   Kristen Melissa Clarke

   (Kristen Clarke Avery and Kristen Clarke-Avery, used between 2004 and 2008)

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

   Assistant Attorney General for Civil Rights, U.S. Department of Justice

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

   Lawyers' Committee for Civil Rights Under Law
   1500 K Street, N.W.
   Washington, DC 20005

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

   November 25, 1974

   Brooklyn, NY

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

   Columbia University School of Law, J.D. (1997-2000)

   Harvard University, A.B. (1993-1997)

6. **Employment Record:** List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise,

with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

Jan. 2016-present	Lawyers' Committee for Civil Rights Under Law 1500 K Street, N.W. Washington, DC 20005 President and Executive Director
Sep. 2011-Dec. 2015	New York State Attorney General's Office Civil Rights Bureau 28 Liberty Street New York, NY 10005 Civil Rights Chief
Mar. 2006-Aug.2011	NAACP Legal Defense and Educational Fund 1444 Eye Street, N.W. Suite 1000 Washington, DC, 20005 Assistant Counsel (Mar. 2006-July 2010) Co-Director, Political Participation Group (approx. July 2010-Aug. 2011)
Oct. 2002-Mar. 2006	United States Department of Justice Civil Rights Division Criminal Section 601 D St., N.W. Washington, DC 20530 Federal Prosecutor
May-Oct. 2002	United States Attorney's Office for District of Columbia 555 Fourth Street, N.W. Washington, DC 20001 Special Assistant United States Attorney (Appointed to six-month detail).
Sep. 2000-May 2002	Department of Justice Civil Rights Division Voting Section 1800 G Street, N.W. Washington, DC 20006 Trial Attorney

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

   I have not served in the U.S. Military. I was not required to register for selective service.

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

   Andrew Mellon Foundation Fellowship (1994)

   Columbia Law School Harlan Fiske Stone Scholar (1998, 1999)

   Columbia Law School Human Rights Fellow (1998)

   Columbia Law School Jane Marks Murphy Prize for Excellence in Advocacy (2000)

   U.S. Department of Justice Commendation Award (2001)

   U.S. Department of Justice Performance Award (2002)

   Columbia Law School Paul Robeson Distinguished Alumni Award (2010)

   National Association of Attorneys General, Best Supreme Court Brief Award (2012)

   Network Journal Top 40 Under 40 (2012)

   National Bar Association Top 40 Under 40 (2011)

   New York State Senate Proclamation for Exemplary Service (2014)

   New York Law Journal Rising Stars (2015)

   National Bar Association 40 Under 40 Nation's Best Advocates (2016)

   National Black Law Students Association Alumni of the Year (2016)

   National Urban League Civil Rights & Social Justice Empowerment Award (2016)

   Choate Rosemary Hall Alumni of the Year (2017)

   Quinnipiac University School of Law Thurgood Marshall Award (2017)

Delaware Barristers Association Louis L. Redding Lifetime Achievement Award (2018)

Harvard College Service to Society Award (2018)

Kappa Alpha Psi Legislative Partnership Award (2018)

The Root 100 - The Most Influential African Americans (2019)

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

New York Bar Association (2001)

National Bar Association (2011-2012)

New York City Bar Association (approx. 2011-2015)

American Bar Association (2017-2019)

10. **Bar and Court Admission:**

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

State Bar of New York, 2000

District of Columbia, 2007

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

United States Supreme Court Bar, 2007 (active)

United States District Court for District of Columbia, 2007-2013. I did not renew my membership when I moved to New York.

United States Court of Appeals for the District of Columbia, 2010 (active)

United States District Court for the Northern District of New York, 2012 (active)

United States District Court for the Western District of Michigan, 2020 (active)

While I was at the Department of Justice, I practiced in various jurisdictions without formal admission, as permitted by Federal and local rules. I have also been admitted *pro hac vice* to various courts for specific cases.

11. **Memberships:**

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

Prep for Prep Alumni Group (1993-present)

Choate Rosemary Hall Alumni Association (1993-present)

Harvard University Alumni Association (1997-present)

New York Bar Association (2001)

Leadership Conference for Civil Rights, Voting Rights Task Force (approx. 2006-2011)

NAACP, General Member (approximately 2008-2010)

National Bar Association (2011-2012)

New York City Bar Association (approximately 2011-2015)

New York Bar Association, Civil Rights Committee Member (2015)

"Enhancing the Response to Hate Crimes" Advisory Committee, International Association of Chiefs of Police and the Lawyers' Committee for Civil Rights Under Law (approx. 2017-2019)

American Bar Association (2017-2019)

Columbia Law School Public Interest/Public Service Council (2019-present)

Freedom House, Board Member (November 2020-January 2021)

National Elections Task Force (2020)

I have made contributions to charitable organizations over the years. I have not included any organizations to which I gave funds, but did not otherwise participate in programmatic activities, although the organization may label me a member.

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

To the best of my knowledge, none of the organizations listed in response to question 11(a) discriminate or formerly discriminated on the basis of race, sex, religion or national origin through formal membership requirements or practical implementation of membership policies.

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

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

I have done my best to identify books, articles, reports, letters to the editor, editorial pieces or other published material, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials that I have been unable to identify, find or remember. A list of the materials I have located is attached as Attachment 12(a).

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

I have done my best to identify any reports, memoranda, or policy statements I prepared or contributed in the preparation of, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials that I have been unable to identify, find or remember. A list of the materials I have located is attached as Attachment 12(b).

c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or

legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

I have done my best to identify any testimony, official statements or other communications related, in whole or in part, to matters of public policy or legal interpretation, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find or remember. A list of the materials I have located is attached as Attachment 12(c).

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

I have done my best to identify any speeches or talks that I delivered, or in which I participated, including through a review of my personal files and searches of publicly available electronic databases. I have attempted to identify all responsive items; however, it is possible that I may have given additional remarks that I have been unable to identify or recall. A list of the materials I have located is attached as Attachment 12(d). When I can recall the nature of my remarks at an event and have not provided notes, a transcript, or a recording, I have included a description of what my remarks were.

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

I have done my best to identify all interviews given, including through a review of personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find or remember. A list of the materials I have located is attached as Attachment 12(e).

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

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who

appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I have not held any public office.

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

I have not served as a member or held office with any political party or election committee. I have not held a position or played a role in any political campaign.

14. **Legal Career:** Answer each part separately.

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

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

I did not serve as a clerk to a judge.

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

I have not practiced alone.

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

United States Department of Justice, Civil Rights Division, Voting Section, 1800 G Street, N.W., Washington, DC 20006, Trial Attorney (Sep. 2000-May 2002)

United States Attorney's Office for District of Columbia, 555 Fourth Street, N.W., Washington, DC 20001, Special Assistant United States Attorney (May-Oct. 2002)

United States Department of Justice, Civil Rights Division, Criminal Section, 601 D Street, N.W., Washington, DC 20530, Federal Prosecutor (Oct. 2002-Mar. 2006)

NAACP Legal Defense and Educational Fund, 1444 Eye Street, N.W., Suite 1000, Washington, DC 20005, Assistant Counsel (Mar. 2006-Jul.

2010); 99 Hudson Street, New York, N.Y. (Jul. 2010-Aug. 2011), Co-Director Political Participation Group

New York State Attorney General's Office, Civil Rights Bureau, 28 Liberty Street, New York, NY 10005, Civil Rights Chief (Sep. 2011-Dec. 2015)

Lawyers' Committee for Civil Rights Under Law, 1500 K Street N.W., Washington DC 20005, President and Executive Director (Jan. 2016-present)

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

I have not served as a mediator or arbitrator.

b. Describe:

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

My law practice has consistently focused on enforcement of and compliance with federal, state and local civil rights laws, and adherence to the Constitution. I have carried out this work on behalf of the federal government, a State Attorney General's Office and two non-partisan, non-profit organizations. My work has remained consistent throughout the duration of my career, focusing on various aspects of civil rights law.

As President and Executive Director of the Lawyers' Committee for Civil Rights Under Law, I am responsible for determining the organization's programmatic strategies in promoting civil rights and racial justice. This includes the organization's litigation in the areas of voting rights, fair housing, criminal justice, educational opportunities, economic justice, hate crimes, and digital justice. During my tenure, I have approved the Lawyers' Committee's involvement in approximately 200 cases representing parties in litigation or participating as amicus curiae. These cases are mostly litigated in federal court, including the United States Supreme Court and every United States Circuit Court of Appeals except for the Federal Circuit.

As Chief of the Civil Rights Bureau at the New York State Attorney General's Office, I led and coordinated civil rights enforcement in the State of New York using federal, state, and local civil rights laws, such as the Voting Rights Act of 1965, the Fair Housing Act, Title VI, Title VII, the Americans with Disabilities Act, New York State Human Rights Law, and other landmark laws. I helped to direct investigations and prosecute discrimination cases on the basis of race, color, national origin, sex, marital

status, sexual orientation, gender identity, religion, source of income and disability status.

At the NAACP Legal Defense Fund, I co-directed the organization's voting rights docket. I litigated voting rights cases arising under the Voting Rights Act, National Voter Registration Act and other laws.

I began my career at the U.S. Department of Justice, where I held a number of roles between 2000 and 2006. I served in the Criminal Section of the Civil Rights Division between 2003 and 2006. I prosecuted federal cases and handled investigations involving official misconduct, police misconduct, hate crimes and human trafficking. I also was detailed to the U.S. Attorney's Office for District of Columbia, serving as a Special Assistant United States Attorney in 2002. In this role, I prosecuted approximately two dozen assault, domestic violence and sex offense cases in District of Columbia Superior Court. I served as a Trial Attorney in the Voting Section of the Civil Rights Division of the U.S. Department of Justice between 2000 and 2002.

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

My practice in the non-partisan, non-profit sector has focused on using civil rights law to address the needs of vulnerable communities. My practice at the Lawyers' Committee for Civil Rights Under Law has included civil enforcement of a broad range of civil rights laws that touch issues concerning voting rights, criminal justice, fair housing, education, economic justice. My practice at the NAACP Legal Defense Fund included voting rights and election law. My clients at both organizations were typically individuals and local and national organizations, including organizations that seek to promote civil rights, civic engagement, and good government.

My practice at the New York State Attorney General's Office has included all of the areas identified, as well as disability rights, religious rights, reproductive rights and LGBTQ discrimination. While employed by the Attorney General's office, my client was the People and State of New York and its agencies.

My practice at the U.S. Department of Justice included voting rights and enforcement of federal criminal civil rights statutes. While employed by the Department of Justice, my client was the United States.

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

1. Indicate the percentage of your practice in:
    1. federal courts: 85%
    2. state courts of record: 10%
    3. other courts: -- n/a
    4. administrative agencies: 5%

11. Indicate the percentage of your practice in:
    1. civil proceedings: 85%
    2. criminal proceedings: 15%

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

I have tried approximately 35 cases to verdict or judgment, primarily while I was a federal prosecutor. For the cases I tried while I was a Special Assistant U.S. Attorney (approximately 24), I was typically the sole/lead counsel. For the cases I tried while I was in the Civil Rights Section, we would typically work in conjunction with the local U.S. Attorney's office, and I typically served as second chair. At the NAACP Legal Defense Fund, I served as first or second chair in approximately four voting rights cases.

What percentage of these trials were:
1. jury: 10%
2. non-jury: 90%

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

I have identified in the list below the Supreme Court cases in which I have been involved and listed as counsel on briefs. My Supreme Court practice has varied over time. At the Lawyers' Committee, I reviewed and authorized the filing of each brief. At the New York Attorney General's Office, I edited and reviewed the briefs in conjunction with the New York State Solicitor General's Office. At the NAACP Legal Defense Fund, I wrote and edited the briefs. I have not argued any cases before the Supreme Court.

Despite my searches, there may be other materials I have been unable to identify, find or remember. I have located the following:

- *Trump v. City of San Jose, California*, No. 20-561. Motion to Affirm for Appellees City of San Jose, et al. (Nov. 25, 2020).

- *Trump v. State of New York*, No. 20-366. Brief for City of San Jose, California; King County, Washington; Arlington County, Virginia; Harris County, Texas; Black Alliance For Just Immigration; Sam Liccardo; Rodney Ellis; Zerihoun Yilma; Lovette Kargbo-Thompson; and Santcha Etienne as Amici Curiae in Support of Appellees (Nov. 16, 2020).

- *Fulton v. City of Philadelphia*, No. 19-123. Brief of the Leadership Conference On Civil and Human Rights, Lawyers' Committee for Civil Rights Under Law, And 28 Other Organizations As Amici Curiae in Support of Respondents (Aug. 20, 2020).

- *Edwards v. Vannoy*, No. 19-5807. Brief for the Lawyers' Committee for Civil Rights Under Law and the Center for Constitutional Rights as Amici Curiae Supporting Petitioner (July 22, 2020).

- *Jones v. Mississippi*, No. 18-1259. Brief of Juvenile Law Center, NAACP Legal Defense & Educational Fund, Inc., Lawyers' Committee for Civil Rights Under Law, and 65 Other Organizations and Individuals as Amici Curiae in Support of Petitioner (June 12, 2020).

- *June Medical Services, LLC v. Gee*, Nos. 18-1323, 18-1460. Brief of Amici Curiae Lawyers' Committee for Civil Rights Under Law, the Leadership Conference on Civil and Human Rights, and 12 Civil Rights Organizations in Support of June Medical Services L.L.C. (Dec. 2, 2019).

- *Department of Homeland Security v. Regents of the University of California*, Nos. 18-587, 18-588, 18-589. Brief for Lawyers' Committee for Civil Rights Under Law, the Anti-Defamation League, the Leadership Conference on Civil and Human Rights, and 42 Other Social Justice Organizations as Amici Curiae in Support of Respondents (Oct. 4, 2019).

- *Comcast Corp. v. National Association of African American-Owned Media*, No. 18-1171. Brief of Lawyers' Committee for Civil Rights Under Law and 21 National Organizations as Amici Curiae in Support of Respondents (Sept. 30, 2019).

- *McKinney v. Arizona*, No. 18-1109. Brief of Amicus Curiae the Lawyers' Committee for Civil Rights Under Law in Support of Petitioner (Aug. 28, 2019).

- *Bostock v. Clayton County, Georgia*, Nos. 17-1618, 17-1623, 18-107. Brief for Lawyers' Committee for Civil Rights Under Law, the Leadership Conference on Civil and Human Rights, and 57 Civil Rights Organizations as Amici Curiae Supporting the Employees (July 3, 2019).

- *Department of Commerce v. New York*, No. 18-966. Brief for the City of San Jose and the Black Alliance for Just Immigration as Amici Curiae in Support of Respondents (Apr. 1, 2019).

- *Ross v. City of San Jose*, No. 18-1214. Brief for Respondents in Response to Petition for Writ of Certiorari Before Judgment (Mar. 20, 2019).

- *Rucho v. Common Cause*, Nos. 18-422, 18-726. Brief of the Lawyers' Committee for Civil Rights Under Law as Amicus Curiae in Support of Appellees (Mar. 8, 2019).

- *Virginia House of Delegates v. Bethune-Hill*, No. 18-281. Brief of the Lawyers' Committee for Civil Rights Under Law as Amicus Curiae in Support of Appellees (Feb. 4, 2019).

- *Abbott v. Perez*, Nos. 17-586, 17-626. Brief of Campaign Legal Center, Lawyers' Committee for Civil Rights Under Law, and NAACP Legal Defense & Educational Fund, Inc. as Amici Curiae in Support of Appellees (Apr. 4, 2018).

- *Trump v. State of Hawaii*, No. 17-965. Brief of Amici Curiae Pars Equality Center, Iranian American Bar Association, and Public Affairs Alliance of Iranian Americans, Inc., in Support of Respondents (Mar. 30, 2018).

- *Benisek v. Lamone*, No. 17-333. Brief of the National Association for the Advancement of Colored People, Inc., the Georgia State Conference of the NAACP, Lavelle Lemon, Marlon Reid, Celeste Sims, Patricia Smith, and Coley Tyson as Amici Curiae in Support of Neither Party (Jan. 29, 2018).

- *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission*, No. 16-111. Brief for Lawyers' Committee for Civil Rights Under Law, Asian American Legal Defense and Education Fund, Center for Constitutional Rights, Color of Change, the Leadership Conference of Civil and Human Rights, National Action Network, National Association for the Advancement of Colored People, National Urban League and Southern Poverty Law Center as Amici Curiae Supporting Respondents (Oct. 30, 2017).

- *Husted v. A. Philip Randolph Institute*, No. 16-980. Brief of the Lawyers' Committee for Civil Rights Under Law, Rock the Vote, The Nuns on the Bus of Ohio, The Texas Civil Rights Project, and The Center for Media and Democracy as Amici Curiae in Support of Respondents (Sept. 22, 2017).

- *Trump v. International Refugee Assistance Project*, Nos. 16-1436, 16-1540. Brief of Amici Curiae Pars Equality Center, Iranian American Bar Association, National Iranian American Council, and Public Affairs Alliance of Iranian Americans, Inc. in Support of Respondents (Sept. 18, 2017).

- *Gill v. Whitford*, No. 16-1161. Brief of the Georgia State Conference of the NAACP, Lavelle Lemon, Marlon Reid, Celeste Sims, Patricia Smith, and Coley Tyson as Amici Curiae in Support of Appellees (Sept. 5, 2017).

- *McCrory v. Harris*, No. 15-1262. Brief Amicus Curiae of the Lawyers' Committee for Civil Rights Under Law in Support of Appellees (Oct. 19, 2016)

- *Bethune-Hill v. Virginia State Board of Elections*, No. 15-680. Brief of the Lawyers' Committee for Civil Rights Under Law as Amicus Curiae in Support of Neither Party (Sept. 14, 2016).

- *Buck v. Davis*, No. 15-8049. Brief of Amicus Curiae Lawyers' Committee for Civil Rights Under Law in Support of Petitioner (Aug. 4, 2016).

- *Wittman v. Personhuballah*, No. 14-1504. Brief Amicus Curiae of The Lawyers' Committee for Civil Rights Under Law in Support of Appellees (Feb. 3, 2016).

- *Texas Department of Housing and Community Affairs v. The Inclusive Communities Project, Inc.*, No. 13-1371. Brief of Massachusetts, New York, Arizona, California, Connecticut, Hawaii, Illinois, Minnesota, Missouri, New Hampshire, New Mexico, North Carolina, Oregon, Utah, Vermont, Virginia, and Washington as Amici Curiae in Support of Respondent (Dec. 23, 2014).

- *State of Arizona v. United States*, No. 11-182. Brief for the States of New York, California, Connecticut, Hawaii, Illinois, Iowa, Maryland, Massachusetts, Oregon, Rhode Island, and Vermont as Amici Curiae in Support of Respondent (Mar. 26, 2012).

- *Perdue v. Kenny A. ex rel. Winn*, No. 08-970. Brief of Amicus Curiae NAACP Legal Defense & Educational Fund, Inc. in Support of Respondents (Aug. 28, 2009).

- *Northwest Austin Municipal Utility District Number One v. Mukasey*, No. 08-322. Brief for Intervenors-Appellees Rodney and Nicole Louis, et al.; Lisa and David Diaz, et al.; Angie Garcia, et al.; and People for the American Way (Mar. 18, 2009); Intervenor-Appellees' Motion to Affirm (Nov. 26, 2008).

- *Dean v. Leake*, No. 07-1458. Motion to Dismiss or Affirm for Appellee-Intervenor (July 23, 2008).

- *Riley v. Kennedy*, No. 07-77. Brief of Amicus Curiae the NAACP Legal Defense & Educational Fund, Inc. in Support of Appellees (Feb. 20, 2008).

- *Crawford v. Marion County Election Board*, Nos. 07-21, 07-25. Brief of the NAACP Legal Defense and Educational Fund, Inc. as Amicus Curiae in Support of Petitioners (Nov. 13, 2007).

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

    a. the date of representation;

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

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

1. ***Louisiana House of Representatives et al. v. Ashcroft***, D.D.C. 02-0062. United States District Court for the District of Columbia; Garland, Robertson, and Walton, JJ. Litigated from 2002 to 2003.

   Description: In *Louisiana House of Representatives et al. v. Ashcroft*, the U.S. Department of Justice, under Attorney General John Ashcroft, opposed Louisiana's effort to obtain judicial preclearance of its state legislative redistricting plan pursuant to Section 5 of the Voting Rights Act. Following the court's order, the parties reached a mutually acceptable settlement agreement before commencement of trial. I represented the United States and served as second chair on this case. My responsibilities included drafting pleadings, reviewing maps, taking depositions, and gathering evidence.

   Counsel:

Party:	**Counsel included:**
Counsel for Defendant Attorney General John Ashcroft	Brian F. Heffernan U.S. Department of Justice Washington, DC 20006 (202) 307-6262 Timothy C. Lambert (now) U.S. Department of Housing and Urban Development, Office of General Counsel, Fair Housing Enforcement Division 451 7th Street, S.W., Room 10270 Washington, DC 20410 (202) 435-7523
Counsel for Louisiana House of Representatives	Deanne E. B. Ross (now) 29 Hodges Street Mansfield Center, MA 02048

Party:	Counsel included:
	William Bradford Reynolds (deceased) Baker & Botts, LLP 1299 Pennsylvania Avenue, N.W. Washington, DC 20004 (202) 639-7700
Counsel for Defendant-Intervenors Beulah Labostrie, et al.	Todd A. Cox (now) Wellspring Philanthropic Fund 10 Times Square, Suite 1600 New York, NY 10018 (212) 609-2622 Damon Todd Hewitt Lawyers' Committee for Civil Rights Under Law 1500 K Street, N.W., 9th Floor Washington, DC 20006 (202) 662-8600 Chinh Q. Le (now) The Legal Aid Society of the District of Columbia 1331 H Street, N.W. Washington, DC 20005 (202) 628-1161 Norman Chachkin (retired) Accord, New York (845) 626-3092
Counsel for Defendant-Intervenors Citizens of the State of Louisiana and Members of the Louisiana Legislative Black Caucus	John Hardin Young Jeffrey Wice Sandler, Reiff Lamb Rosenstein & Birkenstock PC 1090 Vermont Avenue, N.W., Suite 750 Washington, DC 20005 (202) 479-1112

2. ***United States v. Bobby Gibson, Jr.***, E.D. Ky. 7:05-cr-00015, United States District Court for the Eastern District of Kentucky, Judge Caldwell.

   Description: This case involved a defendant from eastern Kentucky who was indicted on a federal hate crimes violation after allegedly setting fire to the apartment of three Black men who attended a local university. The defendant was alleged to have started a fire outside

the apartment of the three men to frighten them into moving out of an all-white neighborhood. I served as second chair during the trial in this case brought pursuant to a criminal provision of the Fair Housing Act which reaches conduct intended to frighten people into moving out of their neighborhood because of their race. The defendant was charged with using fire during the commission of a felony. He was found not guilty following a jury trial.

Counsel:

Party:	**Counsel included:**
Counsel for United States	Patrick H. Molloy (retired) Robert M. Duncan, Jr. (resigned as of 1/24/21) U.S. Attorney's Office 260 W. Vine Street Lexington, KY 40507 (859) 233-2661
Counsel for Bobby Gibson, Jr.	Clyde Johnson 181 E. Court Street Prestonburg, KY 41653 (606) 886-9901

3. ***Northwest Austin Municipal Utility District Number One v. Holder***, 557 U.S. 193 (2009). United States Supreme Court: Roberts, C.J., and Stevens, Scalia, Kennedy, Thomas, Souter, Ginsburg, Breyer, and Alito, JJ. Briefed and argued in 2009.

   Northwest Austin Municipal Utility District Number One v. Mukasey, No. 06-1384, slip op. (D.D.C. Sept. 11, 2008). United States District Court for the District of Columbia (three-judge panel); Friedman, Sullivan, and Tatel, JJ.

   Litigated from 2006 to 2010.

   Description: This case involved two claims: a request by the Northwest Austin Municipal Utility District Number One, a small Texas water district, to be exempted from the requirement that it submit all of its voting changes for federal preclearance pursuant to Section 5 of the Voting Rights Act of 1965, and a request that Section 5 be declared unconstitutional. At the time, I was Co-Chair of the Political Participation Group at the NAACP Legal Defense Fund. We moved to intervene to defend the statute on behalf of Black voters living within the municipal utility district. The Supreme Court ultimately held that the district was a political subdivision eligible to apply for exemption under the bailout provision of the Voting Rights Act. The Court declined to reach the constitutional question. Ultimately, the parties filed a joint motion for entry of a consent judgment and decree, which was granted by the three-judge court. *Northwest Austin Municipal Utility District No. One v. Holder,* No. 06-1384 (D.D.C. Nov. 3, 2009).

Counsel:

Party:	**Counsel included:**
Counsel for United States	Neal K. Katyal (now) Hogan Lovells, U.S. LLP 555 Thirteenth Street, N.W. Washington, DC 20004 (202) 637-5600 Sarah E. Harrington (now) U.S. Dept. of Justice 950 Pennsylvania Ave. NW Washington, DC 20530 (202) 598-3883 Thomas Christian Herren, Jr. U.S. Department of Justice Washington, DC 20530 (202) 514-4609 Douglas Hallward-Driemeier (now) Ropes & Gray 2099 Pennsylvania Avenue, N.W. Washington, DC 20006 (202) 508-4600
Counsel for Northwest Austin Utility District No. 1	Gregory S. Coleman (deceased) Christian J. Ward (now) Yetter, Coleman, LLP 811 Main Street, Suite 4100 Houston, TX 77002 (713) 632-8000 Erik Scott Jaffe Erik S. Jaffe, P.C. 5101 34th Street, N.W. Washington, DC 20008 (202) 237-8165 Ferdose al-Taie (now) Akerman LLP 2001 Ross Avenue, Suite 3600 Dallas, TX 75201 (214) 720-4308
Counsel for Defendant-Intervenors Rodney and Nicole Louis, et al.	John Payton (deceased) Ryan P. Haygood

Party:	Counsel included:
	(now) New Jersey Institute for Social Justice 60 Park Place, Suite 511 Newark, NJ 07102 (973) 755-9887 Samuel Spital NAACP Legal Defense and Educational Fund, Inc. 40 Rector Street New York, NY 10006 (212) 965-2200 Jenigh Garrett (now) Voting Section, Civil Rights Division, U.S. Department of Justice 950 Pennsylvania Avenue, N.W. Washington, DC 20530 (202) 305-0070 Danielle Y. Conley (now) Deputy Counsel to the President The White House 1600 Pennsylvania Avenue, N.W. Washington, DC 20500 (202) 456-1414 Jacqueline Berrien (deceased) Norman Chachkin (retired) Accord, NY, 12404 (845) 626-3092

4. ***Shelby County, Alabama v. Holder***, 570 U.S. 529 (2013).
United States Supreme Court: Roberts, C.J., and Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor, and Kagan, JJ. Briefed and argued in 2013.

Shelby County v. Holder et al., 679 F. 3d 848 (2012). United States Court of Appeals for the D.C. Circuit, Tatel, Griffith and Williams, JJ.

United States District Court for the District of Columbia, Bates, J.
Litigated from 2010 to 2012.

Description:

This case concerned a constitutional challenge to Sections 4(b) and 5 of the Voting Rights Act of 1965. At the time the case was filed, I was at the NAACP Legal Defense Fund. In that role, we moved to intervene to defend the statute on behalf of a group of Black community leaders and voters living in Shelby County, Alabama. I presented argument on behalf of Intervenors before a 3-judge panel of the D.C. Circuit Court of Appeals. The constitutional challenges were rejected by the district court and the Court of Appeals. However, the Supreme Court issued a ruling in 2013 finding that the geographic coverage provision of the Act was unconstitutional.

Counsel:

Party:	**Counsel included:**
Counsel for Shelby County, Alabama	William Consovoy Thomas McCarthy (now) Consovoy McCarthy 1600 Wilson Blvd., Ste. 700 Arlington, VA 22209 (703) 243-9423 Bert W. Rein Wiley Rein LLP 1776 K Street, N.W. Washington, DC 20006 (202) 719-7000 Brendan Morrissey (now) Walmart 702 SW 8th Street Bentonville, Arkansas 72716 (479) 273-4000
Counsel for Eric Holder	Donald B. Verrilli, Jr. (now) Munger Tolles & Olson LLP 1155 F Street, N.W. Washington, DC 20004 (202) 220-1100 The Honorable Sri Srinivasan (now) Chief United States Circuit Judge of the United States Court of Appeals for the DC Circuit 333 Constitution Ave., N.W. Washington, DC 20001 (202) 216-7000)

Party:	Counsel included:
	Sarah E. Harrington (now) U.S. Dept. of Justice Washington, DC 20530 (202) 598-3883 Diana K. Flynn (now) Lambda Legal 1776 K Street, N.W., 8th Floor Washington, DC 20006 (202) 804-6245 Thomas E. Perez (now) Takoma Park, MD Erin H. Flynn U.S. Department of Justice Washington, DC 20530 (202) 305-0070
Counsel for Respondent-Intervenor Bobby Lee Harris, et al.	Jon M. Greenbaum Robert Kengle (retired) Mark Posner (retired) Lawyers' Committee for Civil Rights Under Law 1500 K Street, N.W. Washington, DC 20005 (202) 662-8600 Steven R. Shapiro (now) Adjunct Faculty, Columbia and NYU Law Schools American Civil Liberties Union Foundation 125 Broad Street New York, NY 10004 (212) 549-2500 Laughlin McDonald American Civil Liberties Union Foundation 230 Peachtree Street, NW Atlanta, GA 30303-1504 (770) 303-8111 David I. Schoen American Civil Liberties Union of Alabama Foundation 2800 Zelda Road

Party:	Counsel included:
	Montgomery, AL 36106 (334) 395-6611 Arthur B. Spitzer American Civil Liberties Union of the Nation's Capital 1400 20th Street, N.W., Suite 119 Washington, DC 20036 (202) 457-0800 Kim Keenan (now) JAMS 1155 F. Street, N.W., Suite 1150 Washington, DC 20004 (202) 533-2019 Victor Goode NAACP 4802 Mt. Hope Drive Baltimore, MD 21215 (410) 580-5791
Counsel for Respondent-Intervenors Earl Cunningham et al:	Sherrilyn Ifill Leah C. Aden Samuel Spital NAACP Legal Defense & Educational Fund, Inc. 40 Rector Street New York NY 10006 (212) 965-2200 Elise C. Boddie (now) Rutgers Law School S.I. Newhouse Center for Law and Justice 123 Washington Street Newark, NJ 07102 (973) 353-3375 Ryan P. Haygood (now) New Jersey Institute for Social Justice 60 Park Place, Suite 511 Newark, NJ 07102 (973) 755-9887 Dale Ho (now) ACLU

Party:	Counsel included:
	125 Broad Street, 18th Floor New York, NY 10004 (212) 549-2500 Natasha M. Korgaonkar (now) McKinsey & Co. (no address or telephone number available) William J. Honan (now) Fox Rothschild 1301 Atlantic Ave., Midtown Building, Suite 400 Atlantic City, NJ 08401 (609) 348-4515 Harold Barry Vasios (deceased) Marisa Marinelli Robert J. Burns Holland & Knight, LLP 31 West 52nd Street New York, NY 10019 (212) 513-3200

5. ***In the Matter of the Investigation of Con Edison by Attorney General of the State of New York, EEOC Charge Nos. 520-2007-03938, 520-2007-04519,520-2008-01451, 520-2008-02278, 520-2008-03371, 520-2009-01857, 520-2010-00005, 520-2010-00673, and 520-2010-00935***

   Description: The New York State Attorney General's Civil Rights Bureau launched an investigation into complaints made by women at Con Edison, a utility company in the greater New York metropolitan area. Impacted employees included women working in field positions at Con Edison who were subject to ongoing sexual harassment and gender discrimination. The women workers alleged that they faced widespread harassment by male co-workers and a hostile work environment based on gender and that Con Edison had failed to address this discrimination. Although the investigation began before my tenure, I was head of the Bureau and participated in the development of the case through resolution.

   The matter was resolved in September 2015 after Consolidated Edison Company of New York, Inc. agreed to a settlement agreement in which they paid $3.8 million set forth other relief to resolve charges by women workers and agreed to other terms of relief.

   Counsel:

Party:	Counsel included:
Counsel for New York State	Dariely Rodriguez (now) Lawyers' Committee for Civil Rights Under Law 1500 K Street, N.W. Washington, DC 20005 (202) 662-8600 Anjana Samant (now) ACLU 125 Broad Street, 18th Floor New York, NY 10004 (212) 549-2500
Counsel for Con Edison	Lorie Almon Seyfarth Shaw LLP 620 Eighth Avenue New York, NY 10018-1405 (212) 218-5500 Avi Schick Dentons US LLP 1221 Avenue of the Americas New York, NY 10020-1089 (212) 768-6700

6. ***Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll. (Harvard Corp.)***, 397 F. Supp. 3d 126 (D. Mass. 2019), *aff'd sub. nom.* ***Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.***, 980 F.3d 157 (1st Cir. 2020).

   United States Court of Appeals for the First Circuit: Lynch, J., Howard, J. and Torruella, J. (Toruella, J. heard oral argument but died prior to release of opinion). Briefed and Argued in 2020.

   United States District Court for the District of Massachusetts: Burroughs, J. Litigated from 2014 to 2019.

   Description: This case involved a challenge to Harvard College's race conscious admissions plan and Harvard's alleged preferential treatment of White applicants over Asian American applicants brought by Students for Fair Admissions ("SFFA") under Title VI of the Civil Rights Act. The Lawyers' Committee for Civil Rights Under Law and pro bono counsel from Arnold & Porter Kaye Scholer LLP filed a Motion to Intervene on behalf of several prospective applicants and then-current students attending Harvard College (collectively, "Student-amici") in April of 2015. Although intervention was denied, the District Court permitted Student-amici to participate in pretrial briefing, to present witnesses and opening and closing statements at trial, and to submit post-trial findings of fact and conclusions of

law. Following a three-week trial held in 2018, the District Court issued its opinion upholding the lawfulness of Harvard's admissions plan. SFFA appealed the ruling and the Lawyers' Committee and co-counsel filed an amicus brief in support of affirmance and participated in oral argument on behalf of Student-amici. In 2020, the First Circuit affirmed the District Court's ruling. To date, SFFA has not filed a petition for writ of certiorari.

Although the Lawyers' Committee's involvement in this case pre-dates my tenure, it has been a priority case for the Committee, and I have been involved in helping develop case strategy, assisting in the development of the strategy to enable us as *amici* to participate at the trial and First Circuit, participating in moot arguments and attending hearings.

Counsel:

Party:	**Counsel included:**
Counsel for Student-amici (Co-Counsel): M.B., K.C., Sarah Cole, Y.D., G.E., A.G., I.G., R.H., J. L., Fadhal Moore, Arjini Kumari Nawal, R.S., Itzel Vasquez-Rodriguez, Keyanna Wigglesworth	Jon M. Greenbaum David Hinojosa Genevieve Bonadies Torres Lawyers' Committee for Civil Rights Under Law 1500 K Street, N.W. Washington, DC 20005 (202) 662-8600 Lawrence E. Culleen Elisabeth S. Theodore Nancy L. Perkins Janine M. Lopez Emma Dinan Camille Heyboer Arnold & Porter Kaye Scholer LLP 601 Massachusetts Avenue, N.W. Washington, DC (202) 942-5000 Niyati Shah Marita Etcubanez Eri Andriola Asian Americans Advancing Justice (AAJC) 1620 L Street, N.W., Suite 1050 Washington, DC 20036 (202) 296-2300 Oren M. Sellstrom Lawyers for Civil Rights 61 Batterymarch Street, Fifth Floor Boston, MA 02110

Party:	Counsel included:
	(617) 988-0608
Counsel for Defendants/Appellees President & Fellows of Harvard College	Seth P. Waxman Paul R.Q. Wolfson Brittany Blueitt Amadi Emma Simson Wilmer Cutler Pickering Hale and Dorr LLP 1875 Pennsylvania Avenue, N.W. Washington, DC 20006 (202) 663-6000 Danielle Y. Conley (now) Deputy Counsel to the President The White House 1600 Pennsylvania Avenue, N.W. Washington, DC 20500 (202) 456-1414 Alex Hemmer (now) Deputy Solicitor General of Illinois Office of the Attorney General 100 W. Randolph Street Chicago, IL 60601 (312) 814-3276 William F. Lee Felicia H. Ellsworth Andrew S. Dulberg Michelle Liszt Sandals Greg Schmidt Wilmer Cutler Pickering Hale and Dorr LLP 60 State Street Boston, MA 02109 (617) 526-6000 Debo P. Adegbile Wilmer Cutler Pickering Hale and Dorr LLP 7 World Trade Center 250 Greenwich Street New York, NY 10007 (212) 230-8800 Ara B. Gershengorn Harvard University, Office of the General Counsel

Party:	Counsel included:
	1350 Massachusetts Avenue Cambridge, MA 02138 (617) 495-8210
Counsel for Student-organizational amici: Coalition for a Diverse Harvard, Association of Black Harvard Women, First Generation Harvard Alumni, Fuerza Latina of Harvard, Harvard Asian American Alumni Alliance, Harvard Asian American Brotherhood, Harvard Black Alumni Society, Harvard Islamic Society, Harvard Japan Society, Harvard Korean Association, Harvard Latino Alumni Alliance, Harvard Minority Association of Pre-Medical Students, Harvard Phillips Brooks House Association, Harvard Progressive Jewish Alumni, Harvard South Asian Association, Harvard University Muslim Alumni, Harvard Vietnamese Association, Harvard-Radcliffe Asian American Association, Harvard-Radcliffe Asian American Women's Association, Harvard-Radcliffe Black Students Association, Harvard-Radcliffe Chinese Students Association, Kuumba Singers of Harvard College, Native American Alumni of Harvard University, Native Americans at Harvard College, Task Force for Asian American Progressive Advocacy and Studies, and 21 Colorful Crimson, amici curiae.	Jin Hee Lee Sherrilyn Ifill Janai Nelson Samuel Spital Rachel Kleinman Cara McClellan NAACP Legal Defense and Educational Fund, Inc. 40 Rector Street, 5th Floor New York, NY 10006 (212) 965-2200 Michaele N. Turnage Young Jennifer A. Holmes NAACP Legal Defense and Educational Fund, Inc. 700 14th Street N.W., Suite 600 Washington, DC 20005 (202) 682-1300 Kate R. Cook Kenneth N. Thayer Sugarman, Rogers, Barshak & Cohen, P.C. 101 Merrimac Street, 9th Floor Boston, MA 02114-4737 (617) 227-3030
Counsel for Plaintiff/Appellant:	William S. Consovoy Thomas R. McCarthy J. Michael Connolly Cameron T. Norris Consovoy McCarthy PLLC 1600 Wilson Blvd., Ste. 700 Arlington, VA 22209 (703) 243-9423 Patrick Strawbridge Consovoy McCarthy PLLC 10 Post Office Sq., 8th Fl., PMB #706 Boston, MA 02109 (617) 227-0548

Party:	Counsel included:
	Adam K. Mortara Bartlit Beck LLP 54 W. Hubbard Street, Ste. 300 Chicago, IL 60654 (312) 494-4469 John M. Hughes Bartlit Beck LLP 1801 Wewatta Steet, Ste. 1200 Denver, CO 80202 (303) 592-3140

7. ***Allen et al. v. Edwards et al.***, No. 655079, Nineteenth Judicial District Court, East Baton Rouge Parish, Louisiana; ***Allen et al. v. Edwards et al.***, Nos. 2019-CA-0125 and 2019-CW-0436, First Circuit Court of Appeal, Louisiana

Description: This case involves a challenge to Louisiana's state public defender system under the Fourteenth Amendment to the U.S. Constitution's rights of equal protection and due process, the Sixth Amendment to the U.S. Constitution's right to counsel, and the due process and right to counsel guarantees of the Louisiana Constitution through Section 1983. The Lawyers' Committee for Civil Rights Under Law, the Southern Poverty Law Center, pro bono counsel from Jones Walker LLP and Davis Polk & Wardwell LLP brought this lawsuit in February 2017 on behalf of several named plaintiffs who were facing non-capital criminal charges in Louisiana state courts and who had been assigned court-appointed counsel. The lawsuit alleges that the defendants have established and maintained a system of indigent criminal defense that denies effective assistance of counsel to poor people facing non-capital criminal charges. The defendants are the governor of Louisiana, the state public defender, and members of the state public defender board, all sued in their official capacities. Trial is scheduled over the course of two periods: June 7-11, 2021, and July 7-9, 2021, before the Honorable Ronald Johnson.

There are two interlocutory appeals in this case that remain unresolved. During the course of the case, plaintiffs' counsel filed a motion to certify the case as a class action, which was granted. Defendants filed a motion for summary judgment, which was denied. Defendants appealed both rulings to Louisiana's First Circuit Court of Appeal in cases 2019-CA-0125 and 2019-CW-0436. Both of these interlocutory appeals were consolidated and argued in November 2020. The appellate court has not yet ruled.

My involvement includes participating in the decision to bring the case, in strategic discussions, and in a conference with opposing counsel in Louisiana.

Counsel:

Party:	Counsel included:
Current Counsel for Plaintiffs (Co-Counsel):	Jon M. Greenbaum Arthur Ago Tianna Mays Lawyers' Committee for Civil Rights Under Law 1500 K Street, N.W. Washington, DC 20005 (202) 662-8600 Daniel F. Kolb Lara Samet Buchwald Chase McReynolds Michelle C. Musielewicz Molly Stein Diane O. Lucas Davis Polk & Wardwell LLP 450 Lexington Avenue New York, NY 10017 (212) 450-4000 Mark A. Cunningham Jones Walker LLP 201 St. Charles Ave, Ste 5100 New Orleans, LA 70170 (504) 582-8150 Conor Gaffney Anjana Joshi Leonard Laurenceau Tina Gillespie La Borde Jonathan Barry-Blocker Jasmin Mize Southern Poverty Law Center 201 St. Charles Avenue, Suite 2000 New Orleans, LA 70170 (334) 956-8200
Current Counsel for Defendants:	Thomas P. Owen, Jr. Kathryn W. Munson John P. D'Avello Stanley, Reuter Ross, Thornton & Alford, LLC 909 Poydras Street, Suite 2500 New Orleans, LA 70112 (504) 523-1580

Party:	Counsel included:

8. ***Lawyers' Committee for Civil Rights Under Law v. Presidential Advisory Commission on Electoral Integrity*, et al.**, Case No. 1:17-cv-01354 (D.D.C.).

Description: This case was a challenge brought by my organization as client and co-counsel under the Federal Advisory Committee Act ("FACA") against the Presidential Advisory Commission on Election Integrity ("PACEI") and defendants who had a role in that advisory commission. The lawsuit formally sought to require defendants to make the PACEI's meetings open and make its records publicly available consistent with the requirements of FACA. We sought a temporary restraining order, in which the district court found ripeness and standing but ruled against us on the merits. *Lawyers' Committee for Civil Rights Under Law v. Presidential Advisory Commission on Electoral Integrity*, 265 F. Supp. 3d 54 (D.D.C. 2017). The district court subsequently required the Defendants to produce a *Vaughn* index of the PACEI's documents. The release of the *Vaughn* index revealed some process and transparency issues that in part led one of the members of PACEI to sue PACEI. In January 2018, President Trump elected to disband the Commission.

My role included working with the Lawyers' Committee staff and firm co-counsel in devising the case against the Commission and participating in strategy discussions relating to the Commission and PACEI.

Counsel:

Party:	Counsel included:
Counsel for Amici	Jon M. Greenbaum Ezra D. Rosenberg Marcia Johnson-Blanco Lawyers' Committee for Civil Rights Under Law 1500 K Street, N.W. Washington, DC 20005 (202) 662-8600 John A. Freedman Robert N. Weiner David J. Weiner R. Stanton Jones Arnold & Porter Kaye Scholer LLP 601 Massachusetts Avenue, N.W. Washington, DC (202) 942-5000

Party:	Counsel included:
	Daniel A. Jacobson (now) General Counsel of the White House Office of Administration and Special Assistant to the President The White House 1600 Pennsylvania Avenue, N.W. Washington, DC 20500 (202) 456-1414
Counsel for Defendants Presidential Advisory Commission on Election Integrity; Executive Office of the President; Office of the Vice President; Office of Administration; Michael R. Pence, in his official capacity as Chair of the Presidential Advisory Commission on Election Integrity; Kris W. Kobach, in his official capacity as Vice Chair of the Presidential Advisory Commission on Election Integrity; Andrew Kossack, in his official capacity as Designated Federal Officer of the Presidential Advisory Commission on Election Integrity; Timothy R. Horne, in his Official Capacity as Acting Administrator of the General Services Administration; Marcia L. Kelly, in her Official Capacity as Director of the Office of Administration	Carol Federighi Kristina A. Wolfe Joseph E. Borson U.S. Department of Justice, Civil Division, Federal Programs Branch Washington, DC 20530 (202) 514-1259

9. ***Trump v. Hawaii,*** United States Supreme Court, 138 S. Ct. 2392 (2018)

Description: The Lawyers' Committee for Civil Rights Under Law and the co-counsel listed below filed an amicus in support of three Iranian American organizations in support of respondents State of Hawaii, et al., in the case decided before the United States Supreme Court concerning the policy commonly referred to as the Muslim Ban. This same set of co-counsel had previously filed litigation before the United States District Court of the District of Columbia seeking to enjoin the Muslim Ban on behalf of the Iranian American organizations and other organizational and individual plaintiffs. *Pars Equality Center v. Trump*, No. 17-cv-255 (D.D.C., Feb. 8, 2017). The *Pars Equality Center* litigation had been stayed pending the resolution of *Trump v. Hawaii*, and was subsequently dismissed.

In *Trump v. Hawaii*, the third iteration of the Muslim Ban at issue was upheld by the Supreme Court by a 5-4. Notably, the brief we filed was cited in both dissenting opinions, *Trump v. Hawaii*, 138 S. Ct. 2392, 2431 (Breyer, J., dissenting); *id.* at 2445 (Sotomayor, J. dissenting). Our brief was also mentioned in the oral argument. Oral Argument at 34, *Trump v. Hawaii*, No. 17-965,

https://www.supremecourt.gov/oral_arguments/argument_transcripts/2017/17-965_15gm.pdf.

I was involved in the decisions to bring the *Pars Equality Center v. Trump* and to file the amicus brief in *Trump v. Hawaii*.

Counsel:

Party:	**Counsel included:**
Counsel for Amici Pars Equality Center, Iranian American Bar Association, and Public Affairs Alliance of Iranian Americans, Inc. (Co-Counsel)	Jon M. Greenbaum Lawyers' Committee for Civil Rights Under Law 1500 K Street, N.W., Suite 900 Washington, DC 20005 (202) 662-8600 Mateya Kelley (now) D.C. Attorney General's Office 441 Fourth Street, N.W. Washington, DC 20001 Joanna Wasik (now) Washington Lawyers' Committee 700 14th Street, N.W. Washington, DC 20005 (202) 775-0323) Cyrus Mehri U.W. Clemon Mehri & Skalet, PLLC 1250 Connecticut Avenue, N.W., Suite 300 Washington, DC 20036 (202) 822-5100 Lisa Blatt (now) Williams Connolly LLP 725 Twelfth Street, N.W. Washington, DC 20004 (202) 434-5050 John A. Freedman R. Stanton Jones Samuel M. Witten Sally L. Pei Stephen K Wirth Lindsey D. Carson Melissa Raggi

Party:	Counsel included:
	Katelyn A Horne Amanda Claire Hoover David P. Gersch (retired) Nancy L. Perkins Allison B. Rumsey Ronald A. Schechter Robert N. Weiner Sonia Tabriz Hillary H. Dang Arnold & Porter Kaye Scholer LLP 601 Massachusetts Avenue, N.W. Washington, D.C. 20001 (202) 942-5000 Christopher M. Odell Josh McCollum Arnold & Porter Kaye Scholer LLP 700 Louisiana Street, Suite 4000 Houston, TX 77002 (713) 576-2400 Susan S. Hu Arnold & Porter Kaye Scholer LLP 250 West 55th Street New York, NY 10019 (212) 836-8000
Counsel for Petitioners, Donald J. Trump et al.,	Noel J. Francisco (now) Jones Day 51 Louisiana Avenue, N.W. Washington, DC 20001 (202) 879-3939 The Honorable Chad A. Readler (now) United States Circuit Judge of the United States Court of Appeals for the Sixth Circuit 100 East Fifth Street Cincinnati, OH 45202 (513) 564-7000 Jeffery B. Wall Edwin S. Kneedler Hashim M. Mooppan Jonathan C. Bond Michael R. Hurston

Party:	Counsel included:
	Sharon Swingle H. Thomas Byron III U.S. Department of Justice Washington, DC 20530 (202) 514-2217
Counsel for Respondent State of Hawaii	Russell A. Suzuki (former Attorney General of Hawaii) (no current contact information) The Honorable Clyde J. Wadsworth (now) Judge, Hawaii Intermediate Court of Appeals Kapuaiwa Building, 426 Queen Street, #201 Honolulu, HI 96813 (808) 539-4919 Deirdre Marie-Iha (now) Goodsill Anderson Quinn & Stifel 999 Bishop Street Honolulu, HI 96813 (808) 547-5600) Donna H. Kalama Kimberley T. Guidry Robert T. Nakatsuji Kaliko'onalani D. Fernades Kevin M. Richardson Department of the Attorney General, State of Hawaii Honolulu HI 96813 (808) 586-1500 Neal K. Katyal Hogan Lovells, U.S. LLP 555 Thirteenth Street, N.W. Washington, D.C. 20004 (202) 637-5600

10. ***National Urban League, et al. v. Wilbur L. Ross, Jr., et al.***, United States District Court for the Northern District of California, San Jose Division, Case N. 20-cv-5799: Koh, J., litigated from August 18, 2020 through the present; -- F.Supp.3d --, 2020 EL 5291452, Sept. 5, 2020 (grant of temporary restraining order); -- F.Supp.3d--, 2020 WL 5739144, Sept. 24, 2020 (grant of preliminary injunction); -- F.Supp.3d --, 2020 WL 5876939, Oct. 1, 2020 (finding of violation of TRO).

United States Court of Appeals for the Ninth Circuit, No. 20-16868, Oct. 7, 2020: Graber, W. Fletcher, and Berzon, Circuit Judges, 977 F.3d 698, Sept. 30, 2020 (denial of Defendants' motion for administrative stay); 977 F.3d 770 , Oct. 7, 2020 (partial grant and partial denial of Defendants' motion for stay).

United States Supreme Court no. 20A62, 141 S.Ct. 18 (Mem.) Oct. 13, 2020 (grant of Defendants' motion for stay).

Description: This litigation challenges the decision by Secretary of Commerce Ross and Census Bureau Director Steven Dillingham to curtail the data collection and data processing of the enumeration of the 2020 Census. In April 2020, the Census Bureau revised its final operational plan to account for the difficulties of census-taking during the pandemic, delaying the counting process, shifting the timeframe for conducting and completing its data-collection operation, and increasing the time for conducting data-process. On August 3, 2020, the Department of Commerce and the Census Bureau reversed course and replaced the Bureau's COVID-19 Plan with a new one that substantially reduced both the data collection (concluding that on September 30, 2020) and data processing time and reporting the apportionment results to the President (concluding that by December 31, 2020) ("the Replan"). Plaintiffs' suit claimed that this decision violated the Enumeration Clause and the Fourteenth Amendment of the U.S. Constitution and the Administrative Procedure Act.

On September 5, 2020, the district court entered an Order granting Plaintiffs' Motion for a Temporary Restraining Order, enjoining the Defendants from implementing the Replan until the court conducted a hearing on Plaintiffs' motion for a preliminary injunction. On September 24, 2020, the district court stayed the Replan entirely, including both the September 30, 2020 deadline of the completion of data collection and the December 31, 2020 deadline for reporting the tabulation of the total population to the President. On October 7, 2020, the Ninth Circuit denied Defendant's motion for a stay of that portion of the district court's preliminary injunction order that enjoined the September 30, 2020 deadline, and granted Defendants' motion for a stay of that portion of the district court's preliminary injunction order that enjoined the December 31, 2020 deadline. On October 13, 2020, the United States Supreme Court stayed that portion of the district court's preliminary injunction order that enjoined the September 30, 2020 deadline, and allowing the Census Bureau to finish its counting as of October 16, 2020.

The litigation is still pending. On January 15, 2021, the district court stayed the litigation for 21-days, on the conditions that reports, estimates, or data relating to (1) the July 21, 2020 Presidential Memorandum on Excluding Illegal Aliens from the Apportionment Base Following the 2020 Census; (2) Executive Order 13880 (Collecting Information About Citizenship Status in Connection with the Decennial Census); and (3) any population counts or estimates relating to the population as of April 1, 2020, will not be finalized, reported or publicly disclosed prior to the change of Administrations on January 20, 2021, and that Defendants would provide Plaintiffs with 7 days' notice prior to any such reporting or disclosure.

My role was in helping the Lawyers' Committee decide to bring this case and in participating in strategic discussions in the case.

Counsel:

Party:	**Counsel included:**
Counsel for Plaintiffs National Urban League; League of Women Voters; Black Alliance for Just Immigration; Harris County, Texas; King County, Washington; City of San Jose, California; Rodney Ellis; Adrian Garcia; NAACP; and Navajo Nation (Co-Counsel)	Jon M. Greenbaum Ezra D. Rosenberg Ajay Saini Maryum Jordan Pooja Chaudhuri Lawyers' Committee for Civil Rights Under Law 1500 K Street N.W., Suite 900 Washington, DC 20005 (202) 662-8600 Wendy R. Weiser Thomas P. Wolf Kelly M. Percival Brennan Center for Justice 120 Broadway, Suite 1750 New York, NY 10271 (202) 249-7190
Counsel for Plaintiffs National Urban League; League of Women Voters; Black Alliance for Just Immigration; Harris County, Texas; King County, Washington; City of San Jose, California; Rodney Ellis; Adrian Garcia; and the NAACP (Co-Counsel)	Sadik Huseny Steven M. Bauer Amit Makker Shannon D. Lankenau Latham & Watkins, LLP 505 Montgomery Street, Suite 2000 San Francisco, CA 94111 (415) 391-0600 Melissa Arbus Sherry Richard P. Bress Anne W. Robinson Tyce R. Walters Gemma Donofrio Christine C. Watkins Latham & Watkins, LLP 555 Eleventh Street N.W., Suite 1000 Washington, DC 20004 (202) 637-2200
Counsel for Plaintiff City of San Jose (Co-Counsel)	Mark Rosenbaum Public Counsel 610 South Ardmore Avenue

Party:	Counsel included:
	Los Angeles, CA 90005 (213) 385-2977
Counsel for Plaintiff Navajo Nation (Co-Counsel)	Doreen McPaul Jason Searle Navajo Nation Department of Justice P.O. Box 2010 Window Rock, AZ 86515 (928) 871-6345
Counsel for Plaintiff City of Los Angeles (Co-Counsel)	Michael N. Feuer Kathleen Kenealy Danielle Goldstein City Attorney for the City of Los Angeles 200 N. Main Street, 8th Floor Los Angeles, CA 90012 (213) 473-3231
Counsel for Plaintiff City of Plaintiff Salinas (Co-Counsel)	Christopher A. Callihan Michael Mutalipassi City of Salinas 200 Lincoln Avenue Salinas, CA 93901 (831) 758-7256
Counsel for Plaintiff City of Chicago (Co-Counsel)	Rafey S. Balabanian Lily E. Hough Edelson P.C. 123 Townsend Street, Suite 100 San Francisco, CA 94107 (415) 212-9300 Rebecca Hirsch Celia Mexa Stephen J. Kane 121 N. LaSalle Street, Room 600 Chicago, IL 60602 (312)744-8143
Counsel for Plaintiff Gila River Indian Community (Co-Counsel)	Donald R. Pongrace Merrill C. Godfrey Akin Gump Strauss Hauer & Feld LLP 2001 K Street, N.W. Washington, DC 20006 (202) 887-4000
Counsel for Plaintiff County of Los Angeles (Co-Counsel)	David I. Holtzman Holland & Knight LLP 50 California Street, 28th Floor San Francisco, CA 94111

Party:	Counsel included:
	(415) 743-6910
Counsel for Defendants Wilbur L. Ross, in his official capacity as Secretary of Commerce; United States Department of Commerce; Steven Dillingham, in his official capacity as Director of the U.S. Census Bureau; United States Census Bureau	Jennifer B. Dickey John V. Coghlan August E. Flentje Alexander K. Haas Diane Kelleher Brad D. Rosenberg Alexander V. Sverdlow Stephen Ehrlich M. Andrew Zee U.S. Department of Justice, Civil Division-Federal Programs Branch 1100 L Street, N.W. Washington, DC 20005 (202) 305-0550
Counsel for Intervenor-Defendants State of Louisiana and State of Mississippi on appeal to Ninth Circuit	Bradley A. Benbrook Stephen M. Duvernay Benbrook Law Group, P.C. 400 Capitol Mall, Suite 2530 Sacramento CA 95814 (916) 447-4900 Jeff Landry Joseph S. St. John Elizabeth B. Murrill Office of the Louisiana Attorney General 1885 N. Third Street Baton Rouge, LA 70804 (225) 326-6766 Lynn Fitch Krissy C. Nobile Office of Attorney General P.O. Box 220 Jackson MS 39205 (601) 359-3680

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

requested in this question, please omit any information protected by the attorney-client privilege.)

On behalf of the Lawyers' Committee for Civil Rights Under Law, I oversee the organization's nation-wide legal activities and work in a range of areas including voting rights, fair housing, criminal justice, educational opportunity, economic justice, hate crimes, and more. The Lawyers' Committee engages lawyers in the private bar in support of the ongoing movement to secure full civil rights for all people, focusing on the unique challenges faced by Black people, people of color and other vulnerable communities. The unique feature of the Lawyers' Committee that sets it apart from other important and successful civil rights entities is that the Lawyers' Committee collaborates with lawyers from the private bar, many from our Nation's most elite private law firms, who contribute thousands of pro bono service hours annually to work done in partnership with career civil rights staff lawyers to advance the cause of civil rights.

As Chief of the Civil Rights Bureau at the New York State Attorney General's Office, I led and coordinated civil rights enforcement in the State of New York using federal, state, and local civil rights laws, such as the Voting Rights Act of 1965, the Fair Housing Act, Title VI, Title VII, the Americans with Disabilities Act, New York State Human Rights Law, and other landmark laws. I helped to direct investigations and prosecute discrimination cases on the basis of race, color, national origin, sex, marital status, sexual orientation, gender identity, religion, source of income and disability status. A number of these cases concerned voting rights, access to fair housing and fair lending opportunities, access to equal employment and educational opportunities, and access for individuals with disabilities. Other core cases addressed discrimination and harassment in the workplace, discrimination on the basis of religion, clinic access, and police misconduct. I also oversaw the Religious Rights Unit which addressed discrimination based on religion.

At the NAACP Legal Defense Fund, I co-directed the organization's voting rights docket. This work included presenting oral argument in the D.C. District Court in connection with *Shelby County, Alabama v. Holder*, a case concerning the constitutionality of Section 5 of the Voting Rights Act. I also litigated other voting rights cases arising under the Voting Rights Act, National Voter Registration Act and other laws. In this role, I provided testimony to Congressional committees, the U.S. Election Assistance Commission, and state legislatures regarding redistricting, voting rights and election reform matters.

I began my career at the U.S. Department of Justice, where I held a number of roles between 2000 and 2006. I served in the Criminal Section of the Civil Rights Division between 2003 and 2006. I prosecuted federal cases and handled investigations involving official misconduct, police misconduct, hate crimes and human trafficking. In this capacity, I worked closely with federal law enforcement

agencies including the Federal Bureau of Investigations (FBI), International and Customs Enforcement (ICE) agents, and United States Attorneys' Offices. I also was detailed to the U.S. Attorney's Office for District of Columbia, and served as a Special Assistant United States Attorney in 2002. In this role, I prosecuted approximately two dozen assault, domestic violence and sex offense cases in District of Columbia Superior Court. I conducted investigations with law enforcement officials. I served as a Trial Attorney in the Voting Section of the Civil Rights Division of the U.S. Department of Justice between 2000 and 2002. I drafted pleadings and legal memoranda, helped negotiate settlements with local and state officials, and reviewed redistricting plans. I also helped coordinated election monitoring efforts and addressed issues faced by language minority voters.

I have never engaged in activities that would require me to register as a lobbyist.

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

Civil Rights Lawyering in the Modern Era: Practice and Theory, Columbia Law School, 2015. Co-taught with Professor Kendall Thomas, Columbia Law School. This seminar examined contemporary civil rights issues in areas including: voting rights, employment discrimination, access to education, fair housing, and fair lending. I have found a draft syllabus for this class and have provided it.

I served as a teaching assistant for an Introduction to African American Studies course at Columbia University in 1999. I have searched for syllabi and could not find one.

I taught a photography class at Maya Angelou Charter Public School in 2002. I have searched for syllabi and could not find one.

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

I have no deferred income arrangements, stock, options, uncompleted contracts or other future benefits to be received. In addition, I have not made any arrangements to be compensated in the future for any financial or business interest.

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

I have no plans, commitments or agreements to pursue outside employment, with or without compensation.

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

    See OGE-278.

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

    See attached net worth statement.

22. **Potential Conflicts of Interest:**

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

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

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

    In the event of a potential conflict of interest, I would consult the Department's designated agency ethics official, and I would follow their guidance and recommendations regarding recusal and conflicts of interest.

23. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each. If

you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

As a 501(c)(3) nonprofit, nonpartisan organization, the Lawyers' Committee for Civil Rights Under Law represents its clients for free and without charge. The Lawyers' Committee is a nonpartisan, nonprofit organization, formed in 1963 at the request of President John F. Kennedy, carries out its work and mission by enlisting the private bar's leadership and resources in combating racial discrimination and the resulting inequality of opportunity. Marshalling pro bono support from the private bar is a defining principle of the Lawyers' Committee's approach to safeguarding the rights of the disadvantaged. My work at LDF was without charging clients.

In addition, throughout my career, I have served as a mentor for law students, junior professionals, and high school students to help underscore the importance of the law as a tool for improving the lives of the disadvantaged and as a tool for ensuring adherence to principles underlying the United States Constitution.

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

Todd Sunhwae Kim

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

Assistant Attorney General, Environment and Natural Resources Division
U.S. Department of Justice

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

U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

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

Nov. 20, 1972
Edison, NJ

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

1994 – 1997, Harvard Law School, J.D., *magna cum laude*
1990 – 1994, Harvard College, A.B., *magna cum laude*

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

2021 – present
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585
Deputy General Counsel for Litigation, Regulation, and Enforcement

2018 – 2021
Reed Smith, LLP
1301 K Street, NW
Washington, DC 20005
Partner

2006 – 2017
Office of the Attorney General for the District of Columbia
441 4th Street, NW
Washington, DC 20001
Solicitor General for the District of Columbia

1998 – 2006
U.S. Department of Justice
Environment and Natural Resources Division, Appellate Section
950 Pennsylvania Avenue, NW
Washington, DC 20530
Trial Attorney

1997 – 1998
U.S. Court of Appeals for the District of Columbia
333 Constitution Avenue, NW
Washington, DC 20001
Judicial Law Clerk (Honorable Judith W. Rogers)

Summer 1997
U.S. Department of Justice
Office of Legal Counsel
950 Pennsylvania Avenue, NW
Washington, DC 20530
Intern

Summer 1996
Harvard Law School
1563 Massachusetts Avenue
Cambridge, MA 02138
Research Assistant (Prof. Laurence Tribe)

Summer 1996
Hogan & Hartson LLP (now Hogan Lovells)
555 13th Street, NW, #800E
Washington, DC 20004
Summer Associate

Fall 1995
Harvard Law School
1563 Massachusetts Avenue
Cambridge, MA 02138
Research Assistant (Prof. Philip Heymann)

Summer 1995
Defenders of Wildlife
1130 17th Street, NW
Washington, DC 20036
Summer Intern

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

I have not served in the military. I have registered for Selective Service.

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

2018: Resolution 22-249, Todd S. Kim Recognition Resolution of 2018, Council of the District of Columbia

2017 (co-winner), 2012: Supreme Court Best Brief Award, National Association of Attorneys General

2017, 2011, 2008: Award for Outstanding Head of a Division, D.C. Office of the Attorney General

2005: Gold Medal, U.S. Environmental Protection Agency

2005, 2003, 2001: Outstanding Performance Award, U.S. Department of Justice

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

Asian Pacific American Bar Association of the Greater Washington, D.C. Area
District of Columbia Bar (Nominations Committee; Publications Committee)
Edward Coke Appellate Inn of Court
Harvard Environmental Law Review (Executive Editor (1995))
Harvard Law Review (Executive Editor (1996 – 1997))
Lawyers Club of Washington
National Asian Pacific American Bar Association

10. **Bar and Court Admission:**

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

District of Columbia, Oct. 6, 2006
California, May 1, 1998

Although my membership in the California State Bar has never lapsed, I have been on inactive status in California since Jan. 24, 2021, and previously from Jan. 1, 2007 to Jan. 31, 2018.

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

Supreme Court of the United States, Feb. 21, 2006
U.S. Court of Appeals for the District of Columbia Circuit, July 13, 1999
U.S. Court of Appeals for the First Circuit, June 28, 2000
U.S. Court of Appeals for the Second Circuit, Apr. 20, 2018
U.S. Court of Appeals for the Third Circuit, June 19, 2018
U.S. Court of Appeals for the Fourth Circuit, Sept. 4, 2002
U.S. Court of Appeals for the Fifth Circuit, June 4, 1999
U.S. Court of Appeals for the Sixth Circuit, Oct. 31, 2018
U.S. Court of Appeals for the Ninth Circuit, Oct. 21, 1998
U.S. Court of Appeals for the Tenth Circuit, Apr. 27, 1999

11. **Memberships:**

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

Cathedral Choral Society, Washington, DC (1998 – 1999)

Choral Arts Society of Washington (1999 – 2007 (regular member); 2016 – 2020 (guest chorister)) (Assistant Section Leader (Bass Section) (2001 – 2002))

I have made contributions to charitable organizations over the years. I have not included in the list above any organizations to which I gave funds and did not otherwise participate in programmatic activities, although the organization may label me a member.

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

To the best of my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin.

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

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

Technology Law Dispatch, *Supreme Court drops hints about upcoming privacy decision in Carpenter* (May 25, 2018) (co-author), https://www.technologylawdispatch.com/2018/05/in-the-courts/supreme-court-drops-hints-about-upcoming-privacy-decision-in-carpenter/

Introductory chapter, *Law School Survival: A Crash Course for Students by Students* (Arco Books, 1998)

Note, *The Constitutional Requirement of Judicial Review for Administrative Deportation Decisions*, 110 Harv. L. Rev. 1850 (1997)

Leading Case, *Taxes on Insurance Premiums as Applied to Exports*, 110 Harv. L. Rev. 196 (1996)

Recent Case, *Colorado Supreme Court Upholds Display of Ten Commandments on Public Property*, 109 Harv. L. Rev. 530 (1995)

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

None.

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

None.

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

Feb. 6, 2018: Council of the District of Columbia, Remarks on Receipt of Todd S. Kim Recognition Resolution of 2018, Washington, DC, http://dc.granicus.com/MediaPlayer.php?view_id=&clip_id=4332&meta_id=111097

Oct. 24, 2017: National Conference of State Legislatures, Supreme Court Preview webinar (co-presenter) (group presentation previewing upcoming Supreme Court term; no outline or notes available)

Oct. 23, 2017; Sept. 19, 2016; Sept. 8, 2015; Sept. 15, 2014; Sept. 23, 2013; Sept. 24, 2012; Sept. 27, 2010; Sept. 21, 2009: District of Columbia Bar, *From the Ground Up: Fundamentals of Practice Before the D.C. Court of Appeals* (co-presenter) (practice tips on written and oral advocacy; no outline or notes available)

May 12, 2015; May 13, 2013; May 7, 2012; May 9, 2011: National Association of Attorneys General (NAAG)/National Attorneys General Training & Research Institute (NAGTRI) Appellate Practice Conference, Washington, DC (panelist on appellate strategies and oral argument tactics; no outline or notes available)

Mar. 22, 2006: Mayor Anthony Williams Weekly Briefing, Remarks on Appointment as Solicitor General (brief remarks; no outline or notes available)

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

Law360, *DC's First Solicitor General Joins Reed Smith*, Feb. 1, 2018, https://www.law360.com/articles/1008188/dc-s-first-solicitor-general-joins-reed-smith

Contestant on *Jeopardy*, Mar. 18, 2004 (unable to locate video).

Brief Interview on *Entertainment Tonight*, Feb. 23, 2004 (approx.) (unable to locate video).

Contestant on *Who Wants to Be a Super Millionaire*, Feb. 22, 2004 (video available at https://www.youtube.com/watch?v=NjgTYHeMBV0).

f. If applicable, list all published judicial opinions that you have written, including concurrences and dissents. Supply the citations for all published judicial opinions to the Committee.

None.

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

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

Solicitor General for the District of Columbia (2006 – 2017) (first appointed by Robert J. Spagnoletti, Attorney General for the District of Columbia)

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

In 2004, I was one of a large group of door-knocking volunteers for the special election campaign of Stephanie Herseth Sandlin, who represented South Dakota in the House of Representatives. To the best of my recollection, I did not participate as a volunteer in any other campaigns until the summer and fall of 2020, when I was a volunteer for the Biden-Harris campaign.

14. **Legal Career:** Answer each part separately.

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

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

I served as a judicial law clerk to the Honorable Judith W. Rogers of the U.S. Court of Appeals for the District of Columbia Circuit from Aug. 1997 to July 1998.

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

I have never practiced alone.

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

2021 – present
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585
Deputy General Counsel for Litigation, Regulation, and Enforcement

2018 – 2021
Reed Smith, LLP
1301 K Street, NW
Washington, DC 20005
Partner

2006 – 2017
Office of the Attorney General for the District of Columbia
441 4th Street, NW
Washington, DC 20001
Solicitor General for the District of Columbia

1998 – 2006
U.S. Department of Justice
Environment and Natural Resources Division, Appellate Section
950 Pennsylvania Avenue, NW
Washington, DC 20530
Trial Attorney

1997 – 1998
U.S. Court of Appeals for the District of Columbia
333 Constitution Avenue, NW
Washington, DC 20001
Judicial Law Clerk (Honorable Judith W. Rogers)

Summer 1997
U.S. Department of Justice
Office of Legal Counsel
950 Pennsylvania Avenue, NW
Washington, DC 20530
Intern

Summer 1996
Harvard Law School
1563 Massachusetts Avenue
Cambridge, MA 02138
Research Assistant (Prof. Laurence Tribe)

Summer 1996
Hogan & Hartson LLP (now Hogan Lovells)
555 13th Street, NW, #800E
Washington, DC 20004
Summer Associate

Fall 1995
Harvard Law School
1563 Massachusetts Avenue
Cambridge, MA 02138
Research Assistant (Prof. Philip Heymann)

Summer 1995
Defenders of Wildlife
1130 17th Street, NW
Washington, DC 20036
Summer Intern

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

I have never served as a mediator or arbitrator.

v. Whether you have held any judicial office, including positions as an administrative law judge, on any U.S. federal, state, tribal, or local court and if so, please provide the name of the court, the jurisdiction of that court, whether the position was appointed or elected, and the dates of your service.

I have never held judicial office.

b. Describe:

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

Through most of my career, I have been a government attorney practicing appellate litigation. From October 1998 until March 2006, I served as an appellate attorney in the Environment and Natural Resources Division of the U.S. Department of Justice. Beginning in April 2006, I served as the Solicitor General for the District of Columbia, overseeing appellate litigation for the District of Columbia government. In January 2017, I became a partner in the appellate group at a private firm, Reed Smith LLP. In January 2021, I rejoined the federal government as Deputy General Counsel for Litigation, Regulation, and Enforcement at the U.S. Department of Energy.

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

My typical clients have been governments (often acting through a particular agency or official), first the United States, then the District of Columbia, and then once again the United States. While I was in the Environment and Natural Resources Division of the U.S. Department of Justice, my cases fell within that division's particular subject matter areas. As Solicitor General for the District of Columbia, I represented the District government in civil and criminal appeals and in administrative petitions for review from a multitude of different District agencies. I also practiced in the federal appellate courts in matters presenting federal questions. When I joined Reed Smith LLP, I began representing a wide variety of government, corporate, and individual clients, including many *pro bono* clients, in a wide variety of subject matters. After joining the U.S. Department of Energy, my client again became the United States.

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

During my time at the U.S. Department of Justice (1998 – 2006), I noted my appearance in about fifteen to twenty appeals and presented oral argument about five or six times per year. As Solicitor General of the District of Columbia (2006 – 2017), I appeared in court frequently, as I appeared in the hundreds of appeals involving the District government per year and I attended nearly all of the seventy-five or so oral arguments the attorneys in my office presented in an average year. Given the nature of my duties there, I argued fewer cases personally than I did at the Department of Justice. At Reed Smith LLP (2018 – Jan. 2021), I continued to appear in court and present oral arguments occasionally. In my short time at the Department of Energy (Jan. 2021 – present), I have not appeared in court.

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

During my time at the U.S. Department of Justice, my practice was exclusively before federal appellate courts, including the Supreme Court. As Solicitor General, approximately 75% of my appearances were in the D.C. Court of Appeals and approximately 25% were in federal appellate courts (most frequently the D.C. Circuit). At Reed Smith, about 50% of my appearances were in federal court and 50% in state courts.

ii. Indicate the percentage of your practice in:
   1. civil proceedings:
   2. criminal proceedings:

During my time at the U.S. Department of Justice, my appearances were in civil cases about 90% of the time and criminal cases about 10%. As Solicitor General, approximately 70% of my litigation was in civil cases (including administrative cases) and approximately 30% was in criminal cases (including juvenile delinquency cases). At Reed Smith, my practice was almost exclusively civil. The same is true for my time at the U.S. Department of Energy.

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

I have not tried any cases to verdict in trial court, as my practice has focused on appellate litigation. I have been principal counsel in hundreds of appeals and have presented oral argument more than fifty times, including before the U.S. Supreme Court, each of the thirteen U.S. Courts of Appeals, the D.C. Court of Appeals (including multiple en banc arguments), and state appellate courts.

What percentage of these trials were:

1. jury:
2. non-jury:

I have not tried any cases to verdict before a trial court.

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

When I was in the Appellate Section of the Environment and Natural Resources Division at the U.S. Department of Justice, my duties included assisting the Office of the Solicitor General. I prepared drafts of briefs both at certiorari and on the merits, and assisted that office in preparing for oral argument. As the Solicitor General for the District of Columbia, I was counsel of record for numerous cases involving the District, including four in which the Court granted petitions for certiorari in cases under my watch. During that time, the National Association of Attorneys General awarded my office two "Best Brief" awards for outstanding Supreme Court advocacy. I also argued one case personally (as discussed further below in my response to question 15; transcript attached). At Reed Smith, I continued practicing before the Supreme Court, filing a petition for certiorari and consulting on other cases. At the U.S. Department of Energy, my duties include coordinating with the U.S. Department of Justice on all cases involving my agency, including those before the Supreme Court.

The following briefs, petitions, and motion on which my name was listed are attached to this questionnaire:

1. Brief for the United States as Amicus Curiae Supporting Respondents in *Atkinson Trading Co. v. Shirley*, No. 00-454, 532 U.S. 645 (2001).

2. Brief for the United States in Opposition to Petition for Writ of Certiorari in *Phelps Dodge Corp. v. United States*, No. 00-1464, *cert. denied*, 533 U.S. 941 (2001).

3. Brief for the United States in Opposition to Writ of Certiorari in *Elias v. United States*, No. 01-1502, *cert. denied*, 537 U.S. 812 (2002).

4. Brief for the United States in Opposition to Petition for Writ of Certiorari in *Atlantic Richfield Co. v. United States / Shell Oil Co. v. United States*, Nos. 02-500 and 02-506, *cert. denied,* 537 U.S. 1147 (2003).

5. Brief for the Federal Respondents in Opposition to Petition for Writ of Certiorari in *Sun Prairie v. Martin*, No. 02-751, *cert. denied*, 537 U.S. 1188 (2003).

6. Brief for the Respondents in Opposition to Petition for Writ of Certiorari in *DeWaal v. Alston*, No. 04-367, *cert. denied*, 543 U.S. 1145 (2005).

7. Petition for a Writ of Certiorari in *United States v. Pataki*, No. 05-978, *cert. denied*, 547 U.S. 1128 (2006).

8. Brief for the Federal Respondents in Opposition to Petition for Writ of Certiorari in *CropLife America v. Washington Toxics Coalition*, No. 05-395, *cert. denied*, 546 U.S. 1090 (2006).

9. Brief for the United States in *Rapanos v. United* States, No. 04-1034, 547 U.S. 715 (2006).

10. Brief for the Respondents; and Brief for the Respondents in Opposition to Petition for Writ of Certiorari in *Carabell v. Army Corps of Engineers*, No. 04-1384, 547 U.S. 715 (2006).

11. Brief for the United States in Opposition to Petition for Writ of Certiorari in *Environmental Defense v. Duke Energy Corp.*, No. 05-848, 549 U.S. 561 (2007).

12. Brief for Petitioners; and Reply on Behalf of Petitioners in *Commonwealth of Massachusetts v. Environmental Protection Agency*, No. 05-1120, 549 U.S. 497 (2007).

13. Brief in Opposition for State and Environmental Respondents in *National Petrochemical & Refiners, et al. v. South Coast Air Quality Management District, et al. / The Chamber of Greater Baton Rouge, et al. v. South Coast Air Quality Management District, et al.*, Nos. 07-333 & 07-311, *cert. denied*, 552 U.S. 1140 (2008).

14. Petition for a Writ of Certiorari; Petitioners' Reply to Brief in Response; Brief for Petitioners; and Reply Brief for Petitioners in *District of Columbia v. Heller*, No. 07-290, 554 U.S. 570 (2008).

15. Cross-Respondents' Brief in Opposition to Petition for a Writ of Certiorari in *Parker v. District of Columbia*, 554 U.S. 932 (2008).

16. Brief for Wykenna Watson in Opposition to Petition for a Writ of Certiorari; and Brief for the District of Columbia as Amicus Curiae in Support of Respondent in *Robertson v. Watson*, No. 08-6261, 558 U.S. 1090 (2009).

17. Brief for Respondents in Opposition to Petition for Writ of Certiorari in *Jackson v. District of Columbia Board of Elections and Ethics*, No. 10-511, *cert. denied*, 562 U.S. 1178 (2011).

18. Brief for Respondents in Opposition to Petition for a Writ of Certiorari in *Bowie v. Maddox*, No. 11-670, *cert. denied*, 565 U.S. 1235 (2012).

19. Brief for Amici Curiae in Support of Respondent in *Abramski v. United States*, No. 12-1493, 573 U.S. 169 (2014).

20. Brief in Opposition to Petition for Writ of Certiorari in *Bank of America, N.A. v. District of Columbia*, No. 13-1035, *cert. denied*, 572 U.S. 1115 (2014).

21. Motion to Intervene by the Commonwealth of Virginia and the District of Columbia in *Corr v. Metropolitan Washington Airports Authority*, No. 13-1559, 577 U.S. 815 (2015).

22. Petition for Writ of Certiorari; Reply Brief for Petitioners; Brief for Petitioners; Reply Brief for Petitioners; and Oral Argument in *District of Columbia v. Wesby*, No. 15-1485, 138 S. Ct. 577 (2018).

23. Brief for Respondent; and Brief in Opposition to Petition for Writ of Certiorari in *Artis v. District of Columbia*, No. 16-460, 138 S. Ct. 594 (2018).

24. Petition for Writ of Certiorari in *Nextel Communications v. Commonwealth of Pennsylvania*, No. 17-1506, *cert. denied*, 138 S.Ct. 2635 (2018).

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

    a. the date of representation;

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

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

(1) *United States v. Acadiana Treatment Systems*, No. 99-30476 (5th Cir. May 3, 2000) (Judges King, Reavley, and Stewart)

I represented the United States beginning with the appeal, which was noted on April 23, 1999. This case involved an appeal from an order placing certain sewage treatment plants in Louisiana into receivership for repeated violations of the Clean Water Act. Appellant argued that the receivership constituted a taking of private property without just compensation, and that the scope of the receivership was overbroad. The U.S. Court of Appeals for the Fifth Circuit dismissed the appeal for lack of standing. I drafted the United States' brief as appellee.

Co-counsel:

Lois J. Schiffer
National Oceanic and Atmospheric Administration
1401 Constitution Avenue, NW
Washington, DC 20230
(202) 482-3436

James A. Lofton
loftonlegallyspeaking@gmail.com
(504) 383-1989

John T. Stahr (ret.)
Environment & Natural Resources Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
(202) 514-2701

Elyse Dibiagio-Wood, Carlos Zequeira
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-4700

Counsel for co-appellee:

Jackie Marve
Louisiana Department of Environmental Quality
Legal Affairs Division
Baton Rouge, LA 70884-2282
1-866-896-LDEQ

Christopher A. Ratcliff
1068 Lils Ct
Baton Rouge, LA 70806-7635
(225) 936-5946

Opposing counsel:

Joseph A. Prokop, Jr.
628 North Blvd.
Baton Rouge, LA 70802
(225) 387-2277

(2) *United States v. Shell Oil Co.*, 294 F.3d 1045 (9th Cir. 2002) (Judges Trott, Thomas, and Fletcher)

I represented the United States beginning with the appeal, which was noted on December 9, 1999. This case involved liability under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for a $100 million cleanup of a Superfund site contaminated by the manufacture of aviation gasoline during World War II. The question was whether the oil companies that manufactured that gasoline should bear the cost, or if instead the United States should, given its purchase of the gasoline and close regulation of its manufacture. The case involved not only a substantial amount of money, but also a significant issue of CERCLA law relating to the circumstances under which a government is liable as an "arranger" for the disposal of hazardous waste. The U.S. Court of Appeals for the Ninth Circuit reversed a finding that the United States was such an arranger. The oil companies' petitions for rehearing en banc and certiorari were denied. I drafted the United States' briefs as appellant and response to the petition for rehearing en banc and argued the case before the Ninth Circuit. I also assisted with the United States' response to the petition for certiorari.

Co-counsel:

Lois J. Schiffer
National Oceanic and Atmospheric Administration
1401 Constitution Avenue, NW
Washington, DC 20230
(202) 482-3436

Joshua M. Levin
Tzedek DC
(202) 274-7386

Michael J. Zevenbergen, William A. Weinischke
Environment & Natural Resources Division
U.S. Department of Justice
Washington, DC 20530
(202) 514-2701

David C. Shilton
Retired

Opposing counsel:

Peter Taft
Retired

Ronald L. Olson
Munger, Tolles & Olson LLP
350 South Grand Avenue, 50th Floor
Los Angeles, CA 90071-3426
(213) 683-9100

(3) *General Electric Co. v. EPA*, 360 F.3d 188 (D.C. Cir. 2004) (per curiam) (Judges Ginsburg, Rogers, and Tatel)

I represented the Environmental Protection Agency (EPA) (including its Administrator) in the first appeal in this case, which was noted on April 18, 2003. This case involved a claim by General Electric Company that the CERCLA administrative orders regime violated the Due Process Clause of the Fifth Amendment. The issue on the first appeal was whether Section 113(h) of CERCLA deprived the district court of jurisdiction over the claim, as the district court held in dismissing the complaint. The controversy occurred in the greater factual context of the ongoing cleanup of massive polychlorinated biphenyl (PCB) contamination in the upper Hudson River. The U.S. Court of Appeals for the District of Columbia Circuit reversed, holding that Section 113(h) did not bar the constitutional challenge. I drafted the brief for EPA and argued the case before the D.C. Circuit.

Co-counsel:

Thomas L. Sansonetti
Holland & Hart LLP
555 17th Street, Suite 3200
Denver, CO 802020
(303) 290-1061

Jeffrey Bossert Clark
Unable to locate

Wendy L. Blake
Unable to locate

John A. Bryson
Unable to locate

Opposing counsel:

Laurence H. Tribe
Harvard Law School
Cambridge, MA 02138
(617) 495-1767

(4) *Cayuga Indian Nation v. Pataki*, 413 F.3d 266 (2d Cir. 2005) (Judges Cabranes, Pooler, and Hall)

I represented the United States beginning with the appeal, which was noted on May 10, 2002. This case involved a judgment against the State of New York for its violation of federal law in acquiring the ancient reservation of a Native American tribe in 1795 and 1807. After about two decades of litigation and two lengthy trials, two successor tribes supported by the United States won a nearly $248 million judgment for the loss of the approximately 64,000 acre reservation. A divided panel of the U.S. Court of Appeals for the Second Circuit reversed on laches grounds and the Supreme Court denied certiorari. The case was significant not only for how much money was at stake directly and through its precedential effect on similar cases pending in that Circuit, but also for how it raised fundamental questions regarding how Native American tribes were treated early in our Nation's history and how past injustices could be remedied two centuries later. I drafted the brief for the United States as appellee and a petition for rehearing en banc, and presented oral argument to the Second Circuit. I also assisted with the United States' petition for a writ of certiorari.

Co-counsel:

Thomas L. Sansonetti
Holland & Hart LLP
555 17th Street, Suite 3200
Denver, CO 802020
(303) 290-1061

Roger R. Martella, Jr
General Counsel, Environment, Health and Safety
General Electric
5 Necco Street
Boston, MA 02210
(617) 443-3000

Hank Meshorer
Retired

Elizabeth A. Peterson
Retired

Counsel for co-appellees:

Martin Gold
Dentons
1221 Avenue of the Americas
New York, NY 10020
(212) 398-8701

Glenn Feldman
Dickinson Wright
1850 North Central Avenue, Suite 1400
Phoenix, AZ 85004
(602) 285-5138

Opposing counsel:

Caitlin Halligan (former Solicitor General of New York)
Selendy & Gay PLLC
1290 Avenue of the Americas
New York, NY 10104
(212) 390-9013

(5) *Utah Ass'n of Counties v. Bush*, 455 F.3d 1094 (10th Cir. 2006) (Judges Kelly, Seymour, and Ebel)

I represented President George W. Bush and various other federal officials beginning with the appeal, which was noted on June 14, 2004. This case involved the creation of the Grand Staircase-Escalante National Monument in Utah. Plaintiffs claimed that the Presidential Proclamation at issue was illegal on numerous grounds, including that it and the underlying statute were unconstitutional, and that defendants violated numerous statutes. After the district court granted summary judgments to defendants, the U.S. Court of Appeals for the Tenth Circuit dismissed the appeal for lack of standing. I drafted the brief for the federal appellees and presented oral argument to the Tenth Circuit.

Co-counsel:

Thomas L. Sansonetti
Holland & Hart LLP
555 17th Street, Suite 3200
Denver, CO 802020
(303) 290-1061

Michael A. Gheleta
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240
(202) 208-3100

Ellen Durkee
Environment & Natural Resources Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
(202) 514-2701

Opposing counsel:

Jayme Ritchie
Brownstein Hyatt Farber Schreck
410 Seventeenth Street
Denver, CO 80202-4432
(303) 223-1516

(6) *United States v. Duke Energy Corp.*, 411 F.3d 539 (4th Cir. 2005) (Judges Luttig, Motz, and Wilson), *rev'd sub nom. Environmental Defense v. Duke Energy Corp.*, 549 U.S. 561 (2007)

I represented the United States beginning with the appeal, which was noted on June 10, 2004. This case involved an enforcement action against a utility under the Clean Air Act. The appeal involved whether construction projects at the utility's coal-fired power plants triggered provisions of the Act requiring a permit. The district court entered summary judgment for the utility, and both the United States and a group of environmental groups appealed. The U.S. Court of Appeals for the Fourth Circuit affirmed, after which the environmental groups successfully petitioned the U.S. Supreme Court for a writ of certiorari. The Supreme Court vacated the judgment of the Fourth Circuit, and remanded. I drafted the briefs for the United States and presented oral argument to the Fourth Circuit and drafted a petition for panel rehearing and rehearing en banc. I also assisted with the United States' response to the petition for certiorari.

Co-counsel (Supreme Court):

Paul D. Clement
Kirkland & Ellis LLP
1301 Pennsylvania Avenue, NW
Washington, DC 20004
(202) 389-5000

Sue Ellen Wooldridge
(202) 441-0326

Greer S. Goldman
Retired

Co-counsel (Fourth Circuit):

Thomas L. Sansonetti
Holland & Hart LLP
555 17th Street, Suite 3200
Denver, CO 802020
(303) 290-1061

Jason A. Dunn
U.S. Department of Justice
Environment and Natural Resources Division
950 Pennsylvania Avenue, NW
Washington, DC 20530
(202) 514-2701

John A. Bryson
Unable to locate

Counsel for co-appellants:

Sean H. Donahue
Donahue, Goldberg, Weaver & Littleton
1008 Pennsylvania Avenue, S.E.
Washington, DC 20003
(202) 277-7085

Opposing counsel:

F. William Brownell
Hunton Andrews Kurth LLP
2200 Pennsylvania Avenue, N.W.
Washington, DC 20037
(202) 955-1555

(7) *Rapanos v. United States*, 547 U.S. 715 (2006), and *Carabell v. U.S. Army Corps of Engineers*, 391 F.3d 704 (6th Cir. 2004) (Judges Batchelder, Gibbons, Stafford)

I represented the United States (including the U.S. Army Corps of Engineers and the EPA) beginning with the appeal in *Carabell*, which was noted on April 25, 2003. *Rapanos* and *Carabell*, which were decided together by the Supreme Court, involved the scope of regulatory jurisdiction of the Clean Water Act. The Supreme Court issued multiple opinions, none of which commanded a majority of the Court. I drafted the briefs for the federal appellees and presented oral argument to the Sixth Circuit in *Carabell*. I also assisted with the United States' response to the petition for certiorari and briefs as respondent in the Supreme Court.

Co-counsel:

Paul D. Clement
Kirkland & Ellis LLP
1301 Pennsylvania Avenue, NW
Washington, DC 20004
(202) 389-5000

Sue Ellen Wooldridge
(202) 441-0326

Thomas G. Hungar
Gibson Dunn, LLP
1050 Connecticut Avenue, NW
Washington, DC 20036

Malcolm L. Stewart
Office of the Solicitor General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
(202) 514-2203

Greer S. Goldman
Retired

Katherine W. Hazard
Retired

Ellen J. Durkee
Environment and Natural Resources Division
U.S. Department of Justice
950 Pennsylvania Avenue., NW
Washington, DC 20530
(202) 514-2701

Opposing counsel:

Paul Bernard
Maxwell Goss Law
370 E. Maple Road, Third Floor
Birmingham, MI 48009
(248) 266-5879

(8) *Parker v. District of Columbia*, 478 F.3d 370 (D.C. Cir. 2007) (Judges Henderson, Griffith, Silberman), *aff'd sub nom. District of Columbia v. Heller*, 554 U.S. 570 (2008) (*Heller I*), and *Heller v. District of Columbia* (*Heller II*), 670 F.3d 1244 (D.C. Cir. 2011) (Judges Ginsburg, Henderson, and Kavanaugh)

I represented the District of Columbia in these matters beginning with when I became Solicitor General, on April 3, 2006. *Heller I* involved a Second Amendment challenge to the District's handgun ban, which the Supreme Court held invalid. I was counsel of record for the District in the Supreme Court and was involved in the drafting of the briefs at certiorari and on the merits. I was also involved in the briefing in the U.S. Court of Appeals for the District of Columbia Circuit, including a petition for rehearing en banc, and argued the case there.

Heller II involved the sequel to the Supreme Court case. The D.C. Circuit held that the Second Amendment allows the District of Columbia to require the registration of handguns and to ban assault weapons and high-capacity magazines and remanded in part on other issues. I was involved in drafting the District's briefs and presented oral argument to the D.C. Circuit.

Heller I co-counsel:

Linda Singer
Motley Rice LLC
401 9th Street, NW, Suite 1001
Washington, DC 20004
(202) 232-5504

Alan Morrison
George Washington University School of Law
2000 H Street, NW
Washington, DC 20052
(202) 944-7120

Edward E. Schwab
Retired

Donna Murasky
Retired

Lutz Alexander Prager
Retired

Walter Dellinger
O'Melveny & Myers LLP
1625 Eye Street, NW
Washington, DC 20006
(202) 383-5319

Matthew M. Shors
UnitedHealth Group
Minneapolis, MN 55440
mshors@umn.edu

Mark S. Davies
Orrick, Herrington & Sutcliffe LLP
1152 15th Street, NW
Washington, DC 20005
(202) 339-8631

Brianne J. Gorod
Constitutional Accountability Center
1200 18th Street, NW
Washington, DC 20036
(202) 296-6889

Joseph Blocher
Duke University School of Law
210 Science Drive
Durham, NC 27708
(919) 613-7018

Thomas Goldstein
Goldstein & Russell, P.C.
7475 Wisconsin Avenue, Suite 850
Bethesda, Maryland 20814
(202) 362-0636

Christopher M. Egleson
Sidley Austin LLP
888 Prospect Street, Suite 200
La Jolla, CA 92037
(213) 896-6108

Robert Long
Covington & Burlington LLP
One CityCenter
850 10th Street, NW
Washington, DC 20001
(202) 662-5612

Jonathan L. Marcus
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, NW
Washington, DC 20005
(202) 371-7596

Heller I opposing counsel:

Alan Gura
Gura & Possessky, PLLC
105 Oronoco Street, Suite 305
Alexandria, Virginia 22314
(703) 835-9085

Heller II co-counsel:

Peter J. Nickles
Retired

Donna M. Murasky
Retired

Holly Johnson, Loren AliKhan
Office of the Attorney General for the District of Columbia
441 4th Street, NW, Suite 600 South
Washington, DC 20001
(202) 442-9890

Eugene A. Adams
Director, Mayor's Office of Legal Counsel
1350 Pennsylvania Avenue, NW
Washington, DC 20004
Heller II opposing counsel:

Stephen Halbrook
3925 Chain Bridge Road, Suite 403
Fairfax, Virginia 22030
(703) 352-7276

(9) *Jackson v. District of Columbia Board of Elections & Ethics*, 999 A.2d 89 (D.C. 2010) (en banc)

I represented the District of Columbia beginning with the appeal, which was noted on January 15, 2010. This case involved whether to place an initiative before the electorate that would have had the effect of repealing the legislation authorizing same-sex marriage in the District of Columbia. The D.C. Court of Appeals heard the case en banc and held that a longstanding statute that prohibits discriminatory initiatives is valid, rejecting the contrary argument that it violated the District Charter. The Supreme Court denied the other side's petition for certiorari. I was involved in drafting the appellate brief, an opposition to a stay request, and the brief in opposition to certiorari, and presented oral argument to the D.C. Court of Appeals sitting en banc.

Co-counsel:

Peter J. Nickles
Retired

Donna M. Murasky
Retired

Stacy Anderson
Office of the Attorney General for the District of Columbia
441 4th Street, NW, Suite 600-South
Washington, DC 20001
(202) 724-6625

Kenneth J. McGhie, Rudolph McGann
District of Columbia Board of Elections
1015 Half Street, SE, Suite 750
Washington, DC 20003

Opposing counsel:

David Austin Nimocks
Alliance Defending Freedom
801 G Street, NW, Suite 509
Washington, DC 20001

(10) *District of Columbia v. Wesby*, 816 F.3d 96 (D.C. Cir. 2016) (Judges Brown, Pillard, Edwards), *rev'd*, 138 S. Ct. 577 (2018)

I represented the District of Columbia (including two individual officers) beginning with the appeal to the U.S. Court of Appeals for the District of Columbia Circuit, which was noted on December 7, 2012. The case involved whether police officers had probable cause to effect a group arrest for unlawful entry, and if not whether they were nonetheless protected from liability under 42 U.S.C. § 1983 by the doctrine of qualified immunity. After the D.C. Circuit held that there was no probable cause and that qualified immunity did not apply, the Supreme Court reversed. I supervised the drafting of briefs before the D.C. Circuit, and was involved in the drafting of the Supreme Court briefs at certiorari and on the merits. I also presented oral argument to the Supreme Court.

Co-counsel:

Karl Racine
Loren AliKhan
Carl J. Schifferle
Office of the Attorney General for the District of Columbia
441 4th Street, NW, Suite 600-South
Washington, DC 20001
(202) 724-6625

Opposing counsel:

Nathaniel Garrett
Jones Day
555 California Street, 26th Floor
San Francisco, CA 94104
(415) 875-5731

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

My most significant legal activities have all involved litigation that progressed to trial-court proceedings.

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

None.

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

My former law firm will return my $64,000 partnership stake by the end of July.

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

No.

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

Please see my OGE Form 278e.

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

Please see attached statement of net worth.

22. **Potential Conflicts of Interest:**

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

I will recuse myself from cases involving my former firm or clients dating back to January 1, 2019, for two years after beginning service. I will also recuse myself from any matters involving my spouse's business. Further, I will consult with the Department of Justice's Designated Agency Ethics Official on whether to recuse myself from any matters involving the Chickasaw Nation, in which family members are enrolled members. There are no other likely conflicts of interest at this time.

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

In connection with the nomination process, I have consulted with, and will continue in the future to consult with, the Department of Justice's Designated Agency Ethics Official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's Designated Agency Ethics Official.

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

In addition to my decades of public service, I did substantial pro bono work at Reed Smith, for a variety of clients. For instance, I devoted about 35 hours to efforts to secure the right of transgender individuals to change their official names to match their gender identities, and about 25 hours in efforts to win early release for an individual incarcerated to a long prison term for offenses committed as a juvenile.