

**HOLDING RUSSIAN KLEPTOCRATS
AND HUMAN RIGHTS VIOLATORS
ACCOUNTABLE FOR THEIR
CRIMES AGAINST UKRAINE**

HEARING
BEFORE THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

APRIL 19, 2023

Serial No. J-118-12

Printed for the use of the Committee on the Judiciary



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

U.S. GOVERNMENT PUBLISHING OFFICE

WASHINGTON : 2025

COMMITTEE ON THE JUDICIARY

RICHARD J. DURBIN, Illinois, *Chair*

SHELDON WHITEHOUSE, Rhode Island	LINDSEY O. GRAHAM, South Carolina,
AMY KLOBUCHAR, Minnesota	<i>Ranking Member</i>
CHRISTOPHER A. COONS, Delaware	CHARLES E. GRASSLEY, Iowa
RICHARD BLUMENTHAL, Connecticut	JOHN CORNYN, Texas
MAZIE K. HIRONO, Hawaii	MICHAEL S. LEE, Utah
CORY A. BOOKER, New Jersey	TED CRUZ, Texas
ALEX PADILLA, California	JOSH HAWLEY, Missouri
JON OSSOFF, Georgia	TOM COTTON, Arkansas
PETER WELCH, Vermont	JOHN KENNEDY, Louisiana
LAPHONZA BUTLER, California	THOM TILLIS, North Carolina
	MARSHA BLACKBURN, Tennessee

JOSEPH ZOGBY, *Chief Counsel and Staff Director*

KATHERINE NIKAS, *Republican Chief Counsel and Staff Director*

CONTENTS

OPENING STATEMENTS

	Page
Durbin, Hon. Richard J.	1
Graham, Hon. Lindsey O.	3

WITNESS

Monaco, Hon. Lisa O.	5
Prepared statement	43
Responses to written questions	55

APPENDIX

Items submitted for the record	87
--------------------------------------	----

**HOLDING RUSSIAN KLEPTOCRATS
AND HUMAN RIGHTS VIOLATORS
ACCOUNTABLE FOR THEIR
CRIMES AGAINST UKRAINE**

Wednesday, April 19, 2023

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

The Committee met, pursuant to notice, at 10 a.m., in Room 216, Hart Senate Office Building, Hon. Richard J. Durbin, Chair of the Committee, presiding.

Present: Senators Durbin [presiding], Whitehouse, Klobuchar, Blumenthal, Hirono, Padilla, Ossoff, Welch, Graham, Grassley, Cornyn, Lee, Cruz, Hawley, Cotton, Tillis, and Blackburn.

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

Chair DURBIN. This meeting of the Senate Judiciary Committee will come to order.

More than a year ago, Vladimir Putin unleashed his unlawful war of aggression against Ukraine. During that year, the world has watched with horror as Russian forces have engaged in rampant, systematic war crimes and crimes against humanity: bombing schools, hospitals, homes, churches; shooting unarmed men and women and children in the streets; going house to house, raping and torturing those who live there.

Last week brought fresh horror as a video surfaced online, appearing to show a Russian soldier mercilessly beheading a Ukrainian prisoner of war, cutting his head off with a knife while he was still alive.

Responding to that video, Ukrainian President Zelensky called on the world to act, and to act now. To President Zelensky, and to all Ukrainians fighting for their survival, for global peace and freedom, let me start by saying this: This Committee stands with you. We support you.

We are compiling evidence of war crimes even as the war unfolds. Yesterday, Senator Graham and I met with the prosecutor general from Ukraine. In real time, in horrid detail, he is compiling evidence of these crimes. And we must not rest until the perpetrators of more than 77,000 war crimes that have been documented to date in Bucha, Izium, and beyond are held to account.

Before we proceed, I'd like to share a video, a few minutes, to understand what the people of Ukraine have been enduring since February of last year.

[Video is shown.]

Chair DURBIN. Last fall, this Committee held a hearing on the importance of defending an American legacy that began with the Nuremberg trials in 1945, bringing war criminals and perpetrators of crimes against humanity to justice.

Sadly, in more recent decades, our Nation has not always lived up to this legacy. As a result of glaring gaps in our own criminal law, many human rights violators have evaded justice. Some have even, shockingly, found safe haven on American soil.

But since Putin's invasion began, lawmakers on both sides of the aisle have recognized that Russia's aggression is not just against Ukraine but against the entire free world. That's why, since day one of this war, Congress has provided unwavering support to Ukraine: munitions, tanks, intelligence, and more to support the rule of law.

During President Zelensky's historic visit to Washington in December, the Senate passed the Justice for Victims of War Crimes Act with unanimous support. Thanks to this law, war criminals who come to our shores, from Russia or from anywhere else, will no longer find refuge in the United States.

I want to thank Senators Grassley, Graham, Coons, and Tillis, and many others, for joining me in introducing this measure. Together, we've sent a clear message to our allies and our adversaries: America will keep the promise we made at Nuremberg to defend human rights and the rule of law.

But our work is far from finished. Yesterday, Ranking Member Graham and I hosted a meeting for Committee Members with Prosecutor General Kostin. His team has gathered evidence, painstakingly put the effort together, risking their own lives to exhume bodies from mass graves and sift through the rubble of flattened schools and hospitals.

Here in America, we need to do our part to support these investigations and to address any remaining gaps in the law that enable impunity. To that end, we must finally—finally enact a crime against humanity statute. I urge my colleagues on both sides of the aisle to join me in closing this gap in the law.

And we need to lead our allies in forming a special tribunal to hold Russia's leadership accountable. We must also ensure that the world's preeminent law enforcement agency, the United States Department of Justice, deploys every resource at its disposal to hold Putin and those who enable him accountable.

Today, we'll have a chance to hear directly from the Justice Department leadership and learn more about how they're keeping up the pressure on Russia.

At this very moment, heroic Ukrainians are risking life and limb to defend the same freedoms and values that America is founded on. In their struggle, we see our own history, as well as our highest aspirations: service, sacrifice, selflessness. It's now our turn to live up to those values.

With that, I turn to Ranking Member Graham.

**OPENING STATEMENT OF HON. LINDSEY O. GRAHAM,
A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA**

Senator GRAHAM. Well, thank you, Mr. Chairman.

We have enjoyed bipartisan support since the invasion. I hope that continues. I believe it will. Just sort of an observation: When all this is said and done, if Putin is still standing and is not held accountable for the barbaric invasion of Ukraine under his watch, then you're going to get more of this, not less. If Putin's given a pass, then everything we've talked about since the end of World War II to make sure that never happens again becomes all talk.

This is a moment of testing for the international order. It is an opportunity for us to reassert who we are and what we believe. In that regard, this Committee can lend its voice. We can change our laws, and we can help the Ukrainians in many ways without putting American boots on the ground.

So, I want to compliment the Department of Justice for taking an aggressive approach to seizing Russian assets in the hands of oligarchs who support Putin and transferring that money to the Ukrainian people. We've been able to accomplish, in a bipartisan manner, a change in U.S. law.

While we're not members of the International Criminal Court, we have made a change to allow U.S. intelligence to be shared with the ICC to help prosecute Russian war criminals in Ukraine. That does not in any way jeopardize our soldiers. It's a very narrow change to the law. And Prosecutor Khan of the ICC said he believes it would be a game changer in his ability to bring justice against Russian war criminals.

The Department of Justice has been great. The Department of Defense has been terrible. I have called more than once to try to get an accounting of what's going on with the Task Force—and the White House, and I get the same answer every time.

The reservations of the Department of Defense are holding back the transfer of information that would be vital to allowing the ICC to be more aggressive in their prosecutions. If you get nothing else out of this hearing, I am tired of that, and I think there's a bipartisan support for the idea that the law we pass should be honored.

I've been a military lawyer for most of my adult life. We have done nothing to jeopardize or put in motion jurisdiction of American troops by ICC. Nothing at all. We have made a decision as a nation to help the ICC prosecute one of the most brutal invasions of the 21st century—may I say, in modern history.

We also passed a law, Mr. Chairman, to allow a KleptoCapture Task Force to be created, seizing assets from Russian oligarchs and, along with Senator Whitehouse and everybody in the Senate, those proceeds can be transferred to Ukraine to help them stabilize their country.

Over a half a million dollars has been seized as a result of Ms. Monaco and her team's work: a \$90 million yacht called the Tango; another one, \$300 million, called Amadea; \$100 million in real estate assets; two condos in Beverly Hills; three luxury properties in New York and DC; an apartment on Park Avenue in New York City; a \$45 million Boeing 737 owned by a Russian energy company; two airplanes worth over \$400 million owned by Russian oligarchs; \$90 million Airbus. The list goes on and on and on.

So, I want to applaud you. Go after their assets, follow them to the ends of the earth, take their ill-gotten gain, and give it to the long-suffering Ukrainian people.

I'll wrap this up very quickly. The hope here is that we can give the Department of Justice and the Ukrainian prosecutor all the assets they need—reasonably need, to keep the front in the courtroom open.

We have a front on the battlefield where Ukrainians are fighting and dying for their freedom.

I think it is in Americans' interest to make sure that Putin, who now has an arrest warrant issued by the ICC for his war crimes—that we do not forgive and forget, as a nation, and we help the international community.

With that, the State Department has been reluctant—dare say I, refused to designate Russia a state sponsor of terrorism. What more do they have to do to become a terrorist state under U.S. law?

Mr. Chairman, the Senate, 100-to-nothing, urged the Department of State to designate Russia a state sponsor of terrorism under U.S. law.

As the offensive begins this spring on the battlefield in Ukraine to evict the Russian invaders, I hope we can find momentum among ourselves here in Washington to label Russia as a state sponsor of terrorism, because with that designation, they become even more radioactive.

It's just a matter of time till China tests us. I think China is very seriously considering providing lethal aid to Russia. And if they do, I would like them to run into the sanctions that would come from helping a state sponsor of terrorism.

We have a chance to deter China by designating Russia a state sponsor of terrorism. I want to do that now, sooner rather than later, to avoid the mistakes of the preinvasion, where we sent the wrong signals to the Russians.

I don't want to send the wrong signal to the Chinese. I want China to know under U.S. law Russia is a state sponsor of terrorism, and you help them at their own peril. Thank you.

Chair DURBIN. Thank you, Senator Graham.

Today we welcome Deputy Attorney General Lisa Monaco. Ms. Monaco is the 39th Deputy Attorney General of the United States. As the Deputy, she is the Department's second-ranking official, responsible for overall supervision.

After we swear her in, she'll have 5 minutes to provide an opening statement. Then each Senator will have 5 minutes each to ask questions, and I urge my colleagues on both sides to focus their questions on the topic of our hearing.

Could the witness please stand to be sworn? Could you please raise your right hand?

[Witness is sworn in.]

Chair DURBIN. Let the record reflect that she answered in the affirmative. Now, Ms. Monaco, you are invited to proceed with your opening statement.

**STATEMENT OF HON. LISA O. MONACO, DEPUTY ATTORNEY
GENERAL, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, DC**

Deputy Attorney General MONACO. Thank you very much, Mr. Chairman, and Ranking Member Graham, and Members of the Committee.

I am honored to appear before you today to discuss how the Justice Department is working to hold Russia accountable for its brutal and unprovoked invasion in Ukraine.

I want to thank the Members of the Committee for their bipartisan leadership and support of the administration's response to Russian aggression.

The Department of Justice welcomes the opportunity to work with the Committee on additional authorities, including conferring Federal criminal jurisdiction over certain crimes against humanity, increasing the range of assets that we can seize and transfer for the rebuilding of Ukraine, and expanding the Department's authority to prosecute acts of torture committed against U.S. nationals abroad. These additional tools will strengthen our response.

Before I begin, Mr. Chairman, I want to recognize that today marks the 28 years since the Oklahoma City bombing, 35 years since the deadly siege at Waco. And just earlier this week, we recognized the 10th anniversary of the Boston Marathon bombing. We remember and honor the innocent lives lost, and we also are reminded, when we think about these tragic events, of why each of us swore an oath to protect this country and the freedoms for which it stands. I'm mindful of that oath when I appear before this Committee.

Two years ago, as a nominee, I pledged to protect our national security and uphold the democratic and rule-of-law values that define us as Americans. Those values, and the Justice Department's mission to uphold them, are what bring me back before this Committee today.

For over a year now, Russia has deliberately and unilaterally inflicted horror upon Ukrainians. Its brutal, unprovoked, and unlawful invasion of Ukraine poses a serious threat to global peace and stability. Its forces have targeted and viciously attacked civilians by bombing hospitals and apartment buildings; by committing sexual violence against women, men, and children, including girls who the United Nations estimates could be as young as 4 years old; by carrying out execution-style murders, including of children; and by illegally removing thousands of Ukrainian children to Russia or Russian-occupied territory.

The facts, Mr. Chairman, are clear. Russia has committed war crimes and crimes against humanity in Ukraine. We cannot, we will not, let war criminals escape accountability for the aggression and atrocities they have committed.

The Justice Department has a clear message for those who have committed these crimes and who think they can get away with it: You will face justice. Our long history of holding Nazis and terrorists accountable shows that the women and men of the Justice Department never forget and never give up in the pursuit of justice.

I was reminded of this resolve in February when I traveled to Nuremberg, Germany, to visit the courtroom where the United States and Allied partners prosecuted Nazi leaders for the atroc-

ities they committed in World War II. Through principled adherence to the rule of law, former Attorney General Robert Jackson and other prosecutors sought justice and accountability on behalf of millions of victims.

Today, this Justice Department and our partners around the world are answering history's call. Using every tool at our disposal, we are committed to holding the perpetrators and enablers of these atrocities accountable, no matter how long it takes.

We're working closely with our Ukrainian partners, and on Monday, the Attorney General and I met with Ukrainian Prosecutor General Kostin to discuss our work together to investigate Russian aggression and war crimes and to hold accountable all those responsible.

Every day since February 24th, 2022, the men and women of the Justice Department have responded to Russian aggression by pursuing accountability for war crimes, striking back against malign cyber activity, and by using every available tool to limit Russia's access to the global financial system and degrade its ability to fuel its war machine.

In that time, we have restrained over \$500 million—that's half a billion dollars in assets of Russian oligarchs and others who unlawfully support the Russian regime and evade U.S. economic countermeasures.

We've indicted over 30 individuals accused of sanctions evasion, export control violations, money laundering, and other crimes. And we've arrested defendants in over half a dozen countries around the globe.

We are grateful for the tools that Congress—and this Committee, in particular—has provided to the Department to hold Russia accountable. And we look forward to working together to expand those tools to close loopholes and to stay one step ahead of those who would try to escape justice. Thank you, and I look forward to the Committee's questions.

[The prepared statement of Deputy Attorney General Monaco appears as a submission for the record.]

Chair DURBIN. Thank you very much.

In addition to the critical investigations and prosecutions that are ongoing in domestic courts, the International Criminal Court has a key role to play in ensuring accountability. The ICC has already issued an arrest warrant for Vladimir Putin for the war crime of forcibly transferring Ukrainian children into Russia. The Court continues to investigate other war crimes and crimes against humanity in Ukraine.

Senior administration officials, yourself, and the Attorney General have repeatedly expressed support for the ICC's Ukraine investigation.

Congress has made its support clear, as well, by passing provisions last Congress, that Senator Graham alluded to, on a bipartisan basis that provide the executive branch with greater flexibility to provide evidence and other forms of support to the Court in relation to Ukraine. Yet, I understand that the administration still has not provided this assistance because of objections by the Department of Defense.

As I hear the reports of Russian soldiers beheading Ukrainian prisoners, raping 4-year-old girls, I am stunned to hear that this is still being debated in Washington. There is simply no debate about the right and moral course of action at this moment. That is why Ranking Member Graham and I led a bipartisan letter to President Biden last month urging him to be on the right side of history.

I ask you this: Is the Biden administration and all the Departments of this Government united in this effort?

Deputy Attorney General MONACO. Senator, first of all, let me say we are absolutely united in ensuring there is accountability for the atrocities that you've laid out, that this video laid out, and I talked about in my opening statement. There must be accountability for all of those responsible.

And we are grateful for the work that this Congress did in passing the law that Ranking Member Graham and you have referenced, that provides a narrow ability and a clear ability for the United States to provide assistance to the ICC for investigations of foreign nationals arising from the situation in Ukraine.

The discussions about how to use that authority are, as you noted, ongoing. But there is absolute unanimity in ensuring accountability across this Government and using all of the tools that we can bring to bear, to bring about accountability.

Chair DURBIN. You know that the debate on the United States and its relationship with the International Court has been longstanding and heated and sometimes emotional. That's why we've tried to take steps to say that we can cooperate by providing evidence and support with the ICC without compromising our position as to membership. Do you have any doubt in your mind that we have sufficient legal protection to proceed with cooperating at this level?

Deputy Attorney General MONACO. I don't, Senator. And this is why we're very grateful for the work we were able to do with you and your staffs in formulating the statute that you've referenced, that the Congress passed late last year, to provide this cabined, narrow ability for us, as a Government, to provide assistance to the ICC in this limited circumstances where it's of investigations of foreign nationals arising from the situation in Ukraine. And we were grateful to be able to work with you to provide that narrow capability.

Chair DURBIN. So you have established, in your answers to these two questions: First, that this administration is bound and determined to help in any effort to prosecute war crimes against Vladimir Putin, and second, that doing so will not compromise our Government, or our military, or a branch of our Government and can be done under existing law. Is that a fair conclusion?

Deputy Attorney General MONACO. I think that's a fair conclusion, Senator. I know there's also some historical precedent for our being able to provide assistance to the ICC in very targeted ways with respect to prior proceedings. So, again, I think the statute and the way the Congress approached this—and again, we were grateful to be able to work with the staff on having this ability be cabined in the way that I've described.

Chair DURBIN. Well, I'm going to conclude by asking my colleague if we could join in another effort, perhaps a letter to the Department of Defense, specifically, and to the President, based on what the testimony has brought forth this morning. I now yield to Senator Graham.

Senator GRAHAM. Thank you. Just to put a fine point on this, is it DOD? Is it—are they the problem?

Deputy Attorney General MONACO. Well, Senator, as I indicated, I think the discussions about how to use the authority—

Senator GRAHAM. No.

Deputy Attorney General MONACO [continuing]. That Congress—

Senator GRAHAM. No.

Deputy Attorney General MONACO [continuing]. Has given—

Senator GRAHAM. Nope, nope, nope. You're going to answer this question. Is DOD the problem?

Deputy Attorney General MONACO. I really don't think, Senator, respectfully, it's appropriate for me to comment on internal discussions.

Senator GRAHAM. We have a law on the books. I've been told by people who care that the intel is not flowing, as Senator Durbin described, because of the Department of Defense. I think you need to answer that question.

Deputy Attorney General MONACO. Well, Senator, what I could tell you is I'm aware of long-standing concerns, based on prior positions that I've held, that the Department of Defense—

Senator GRAHAM. I share—

Deputy Attorney General MONACO [continuing]. Has raised.

Senator GRAHAM [continuing]. Senator Durbin's view that we've done this the right way. I understand his historical precedent. We're not jeopardizing any American soldier.

We're talking about evidence involving foreign nationals in a specific theater of operation. Every law we've passed has been completely bipartisan. We're 400 and some days into this war and I'm going to ask you again, is the Department of Defense the holdup?

Deputy Attorney General MONACO. Senator, I know the Department of Defense has had long-standing concerns about our engagement. The Department—

Senator GRAHAM. I don't care what their concerns are. They can share them with me. We've got a law on the books. Do you feel like you need to follow the law when you're told to do it?

Deputy Attorney General MONACO. Yes, Senator.

Senator GRAHAM. Okay, so we'll take this up with the Department of Defense. Do you believe that China is watching what's happening in Russia and Ukraine?

Deputy Attorney General MONACO. Yes, Senator. I do.

Senator GRAHAM. Okay. There's reports that China may be considering providing lethal aid to Russia. Have you seen those public reports?

Deputy Attorney General MONACO. I've seen public reports in that regard, Senator.

Senator GRAHAM. Don't you think we should do everything we can to deter China from helping Russia with their barbaric invasion of Ukraine?

Deputy Attorney General MONACO. There is no doubt that rogue nations of the world, including China, are watching and learning from what is going on.

And as I laid out in my opening comments, and as both the Chairman and you, Mr. Ranking Member, have laid out, what Russia is doing in Ukraine poses a threat to global peace, global stability, precisely because if it goes unchecked, if there is not accountability, there is no deterrent. There will not be—there will be license for that type of unlawful aggression. And—

Senator GRAHAM. Well—

Deputy Attorney General MONACO [continuing]. We have to make sure that that price is quite steep.

Senator GRAHAM. To those of us on this side who object to defunding the police, I think you're right to do so. When you give the streets to the crooks, you're going to get more crime.

So, I would say that when you allow Putin to get away with rape and murder and pillage, you're going to get more of the same. This is not a territorial dispute between Russia and Ukraine, is it?

Deputy Attorney General MONACO. I think this is Russia trying to project its power in a brutal way—

Senator GRAHAM. Are you aware that Putin has said he would like to reconstruct the former Russian empire or Soviet Union?

Deputy Attorney General MONACO. Absolutely, and we know—

Senator GRAHAM. Are you aware of the fact that the Ukrainians, in the mid-'90s, gave up 1,700 nuclear weapons as part of an agreement with Russia, the United States, and Great Britain that their sovereignty would be honored if they gave the nukes back to Russia?

Deputy Attorney General MONACO. Yes, Senator.

Senator GRAHAM. Is it fair to say that Putin has torn that agreement up, by his actions?

Deputy Attorney General MONACO. Putin is acting in a lawless way in violation of anything—

Senator GRAHAM. Is it fair to say that if you want people to have less nuclear weapons, you need to honor agreements when they give up the nuclear weapons they possess?

Deputy Attorney General MONACO. Absolutely. It's what the—our international order is—

Senator GRAHAM. Do you agree—

Deputy Attorney General MONACO [continuing]. Based on.

Senator GRAHAM [continuing]. With me? If Ukraine could go back in time, they would keep the nukes?

Deputy Attorney General MONACO. Can't speculate on that, Senator.

Senator GRAHAM. Yes, I think they would. So, to those who think—the border is broken, they ought to fix it.

To those who think what happens in Russia doesn't matter, regarding China, you're just—you've missed all of World War II.

To those who believe that if Putin gets away with this, it won't matter, you're going to get more of it from other people. The ICC has issued an arrest warrant for the president of Russia. Are you aware of that?

Deputy Attorney General MONACO. Yes, I am.

Senator GRAHAM. If Interpol would issue a Red Notice for the arrest of Putin, would we honor it?

Deputy Attorney General MONACO. Well, Senator, I think that presumes, which I think is a vanishingly slim possibility, that—

Senator GRAHAM. No, I got it, but—

Deputy Attorney General MONACO [continuing]. Putin would come here.

Senator GRAHAM [continuing]. The point is, would we consider him a criminal and honor the Red Notice, if issued?

Deputy Attorney General MONACO. Well, we certainly consider him a criminal. We consider him a war criminal. As you know, Senator, the arrest warrant—

Senator GRAHAM. Do you know what a Red Notice is?

Deputy Attorney General MONACO. Absolutely. Absolutely.

Senator GRAHAM. Okay. Do you think it would be justified for Interpol to issue a Red Notice against Putin?

Deputy Attorney General MONACO. I think it's certainly justified. I think what it would do is have to go through the process. The ICC, I think, as a practical matter, could ask for Interpol to issue that—

Senator GRAHAM. Would you—

Deputy Attorney General MONACO [continuing]. Red Notice.

Senator GRAHAM [continuing]. Support them asking for it?

Deputy Attorney General MONACO. I think they're a party to Interpol, and they can use the—they've got an agreement to—

Senator GRAHAM. Thank you.

Deputy Attorney General MONACO [continuing]. Use those mechanisms.

Senator GRAHAM. And thank you. The KleptoCapture Task Force has done an amazing job. Well done.

Deputy Attorney General MONACO. Thank you very much, Senator. They've been working very, very hard.

Chair DURBIN. Thanks, Senator Graham. Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Chairman.

Let me pick up where Senator Graham left off. I wholeheartedly endorse his pressure on you to try to sort out within the administration—whatever is blocking cooperation with the International Criminal Court needs to be corrected so that the administration is in compliance with the law that Congress passed.

To me, it's as simple as that. And the sooner we can get that sorted out, I think, the better.

With respect to forfeitures, the law that we passed regarding transfers to Ukraine is now starting to flow. You've had at least one transfer from KleptoCapture to Ukraine. I appreciate that and commend you on that success. If there is more support that KleptoCapture—and particularly the Marshals Service, that has to deal with these oligarch assets—needs, will you be sure to let us know, particularly the really big shots right here who are Appropriators, as well?

Dealing with a megayacht is not a simple task, and dealing with assets—

Deputy Attorney General MONACO. You're—

Senator WHITEHOUSE [continuing]. Of the magnitude that we are seizing, and frankly, with a good deal more to be seized, I think—

what do we need to do—question for the record: What do we need to do to step up and support the existing KleptoCapture effort, and with specific regard to one matter, administrative forfeiture proceedings against oligarch assets?

If you're an American citizen, the Department of Justice can seize an asset of yours in essentially an in rem proceeding, in which it's "United States v. Shoebox Full of \$450,000." But that is only up to \$500,000, and then that authority stops.

What we do not have is authority over \$500,000 for these foreign oligarchs. So that puts you in the difficult position of having to parse through all of the multiple screens that they've used, the Cypriot bank accounts, the Cayman Islands shell corporations, to try to figure out who owns what, whereas if you could proceed in rem and just have it be "United States v. Yacht—Megayacht," that cuts all that crap out and it reverses the polarity so it's now the true owner who has to show up and identify themselves.

And as you know, when you've done this with botnets and other things like that, the true crooked owner usually does not show up because they would leave the proceedings in handcuffs.

So, I think you need that authority. Please make sure that the Department of Justice is supporting the bipartisan bill that would give you that authority against these over-\$500,000 oligarch assets. Are you comfortable with that?

Deputy Attorney General MONACO. Well, first, Senator, let me thank you for your incredible leadership on this issue and making sure we got the transfer authority that we have now to use to transfer to Ukraine. We absolutely want to work with you on this in rem idea. I think it could help us streamline matters, as you suggest.

Senator WHITEHOUSE. Well, it's not just an idea. It's how you actually operate right now with—

Deputy Attorney General MONACO. That—

Senator WHITEHOUSE [continuing]. Respect to American citizens for property under half a million dollars in value. Correct?

Deputy Attorney General MONACO. That's exactly right. But one thing I want to make clear: Given the oligarchs that we are going after, given the byzantine financial structures they are able to create and the shell companies and the holding companies, and the—you know, putting—

Senator WHITEHOUSE. It becomes all the more important, I think, to have this capability.

Deputy Attorney General MONACO. It does; however, I would say these are folks who are litigating through any means possible. So, I think we will see litigation in these types of cases, no matter what. What—

Senator WHITEHOUSE. I get it.

Deputy Attorney General MONACO. And so we need to make sure we are producing a good factual record so we prevail in those proceedings.

Senator WHITEHOUSE. I get it.

Deputy Attorney General MONACO. I've got all the faith in the world in our prosecutors, so we could use more of those resources.

Senator WHITEHOUSE. Yes.

Deputy Attorney General MONACO. So, that's a plug right there.

Senator WHITEHOUSE. A tip, say, from the captain of the boat, could give you plenty of predication to proceed, so—well, my time is running out, so let me ask a couple more questions.

Deputy Attorney General MONACO. Sure.

Senator WHITEHOUSE. Again, given the little time, these will be questions for the record.

You are providing existing support to Prosecutor Kostin. Is there more that we should be doing to support his criminal prosecution efforts?

Deputy Attorney General MONACO. Yes. In fact, we are—we just met earlier this week, as I mentioned. We are adding more resources to our work with Prosecutor General Kostin. We're adding more FBI resources. We've just added—pledged a—

Senator WHITEHOUSE. Just keeping track of evidence is a pretty substantial proposition.

Deputy Attorney General MONACO. Absolutely, and helping prioritize which are going to be the most likely cases to move the most quickly.

Senator WHITEHOUSE. So, here's the last one I'll ask you. Again, question for the record—two questions for the record.

One, what is the Department's position on what an international aggression tribunal should look like? What are you arguing for, and why?

And second, the prosecutor general is going to have to deal with massive Ukrainian civil relief. And to accomplish that, I think he believes that he's going to have to set up a 9/11-type fund, that litigating one by one is just impossible, so you have to set up a fund and let people apply to it. The obvious place to fund that fund is with Russia's sovereign funds that we have now frozen.

I think it's important for the Department to let us, on this Committee, know what you think the avenues are to deploy those sovereign funds to Ukrainian relief, under what terms or through what devices or with what caveats.

And if we don't do that, how else does the relief fund for the Ukrainians who've lost their homes, lost their loved ones—for the civil damages that they're entitled to, how else does that get funded? And I've gone over, and I apologize to the Chairman, but I appreciate your work and your answer to those questions.

Deputy Attorney General MONACO. Thank you, Senator.

Chair DURBIN. Those are questions for the record?

Senator WHITEHOUSE. Yes, sir.

Chair DURBIN. Thank you, Senator. Senator Grassley.

Senator GRASSLEY. Thank you. Thank you for being here.

We learn a lot when we follow the money, and we're talking about money today. And I want to start with this fact that García Luna was convicted January the 17th. You know, he worked with the drug cartels in Mexico.

And I'm trying to get some information. I'm worried that U.S. funds are being misused to enable human rights violations. On February the 22nd, I sent a letter to DEA and FBI requesting documents about their relationships and knowledge of this corrupt Mexican official. When can I expect the documents that I requested from the Justice Department?

I did get a letter from Justice confirming receipt of my letter, but we want those discovery files, and we don't have any problems with the defense counsel for García Luna letting us have them. So, when may I receive those discovery files?

Deputy Attorney General MONACO. Senator, I'm not certain about when you'll be able to get those files, but I'm happy to go back and understand what we're doing to respond to that.

Senator GRASSLEY. Well, you understand it's pretty darned important for us to understand what's going on between the United States and all this money that we gave to the Mérida Initiative that we had there. Several million dollars went into it, and obviously he was connected with that $3\frac{3}{10}$ millions dollars.

But I'll take your good-faith effort to get us an answer when we'll get those discovery files. And it doesn't seem to me we should have any problems when we have the defense lawyer saying we can have them.

On another matter, the Justice Department can give Ukraine disgorged assets from the Russian criminal files under the December 2022 Omnibus Appropriations bill. In the past, the United States gave funds to foreign partners who supported major criminal cartels.

What is the Justice Department doing to ensure that these disgorged funds don't end up in the hands of bad actors like we had with the experience in Mexico under that Initiative I just mentioned?

Deputy Attorney General MONACO. Well, first, we are using, as the Chairman said, the authority that the Congress has provided us, when we are able to seize and forfeit the assets we get from these oligarchs, to transfer them to the benefit of Ukraine.

We frankly would like to be able to expand that authority, Senator. Right now, we're leaving a lot of money on the table for the benefit of Ukraine because we only have a limited ability to transfer assets that are attributable to sanctions evasion for a particular Executive order.

So, for instance, the millions we're seizing and forfeiting because of export control violations—we can't transfer those proceeds to Ukraine. And we would of course have—and there's measures for accountability to make sure that those assets that get transferred—and this is a State Department role, to make sure that they are going to the appropriate places in Ukraine that can be used for the benefit of Ukrainians.

Senator GRASSLEY. Okay. Well, what's the process, then, for providing that information to the State Department? And I assume you'd be willing to provide it to the Congress of the United States. What is that process?

Deputy Attorney General MONACO. I'm sorry, Senator. The process for ensuring controls on the money that goes to the benefit of Ukraine?

Senator GRASSLEY. Or if you find that bad actors are receiving the funds.

Deputy Attorney General MONACO. Well, certainly there's Inspectors General who would review that and also, ultimately, our own. We have a long history in the Justice Department for investigating—and prosecute fraud in Government programs, and fraud

for contractors abroad, and the like. So, our prosecutors would be looking at that. But I'm happy also to work with colleagues at State Department to get you a more precise answer.

Senator GRASSLEY. For my last question, and let me go to this—we have a lot of bad actors other than just Russia and Ukraine and the Mexican cartels.

So, I want to go to another bad actor, Venezuela. In 2009, then-Vice President Biden told Russia it's time to press the reset button. Given that we're having our second hearing on Russian war crimes in Ukraine, I think we can all agree that that was a big mistake.

Like Russia, the United Nations has accused acting Venezuelan government of crimes against humanity. President Biden has again, quote, unquote, "pressed the reset button" and unfrozen \$3 billion to Venezuelan assets and allowed Chevron to drill there.

Does the Justice Department still consider Nicolás Maduro a fugitive of U.S. justice? And if so, is the Justice Department still committing to pursuing his arrest?

Deputy Attorney General MONACO. Well, Senator, we're absolutely committed to pursuing justice in cases that we have indicted and brought. The Venezuela example is a very good example for why we need a crimes against humanity statute.

Right now, we cannot pursue the type of lawless activity that you've referenced that has gone on in Venezuela, the types of atrocities that have been committed by the Chinese against the Uyghurs—we can't pursue that type of justice here in U.S. courts without a crimes against humanity statute.

So, that's why, in my opening statement, in my statement for the record, I am urging this Committee and this Congress to fill the gap that the Chairman referenced, and giving us that authority.

Senator GRASSLEY. Okay. So, you do still consider Maduro a fugitive of U.S. justice?

Deputy Attorney General MONACO. Yes, Senator.

Senator GRASSLEY. Yes. Thank you, Mr. Chairman.

Chair DURBIN. Thanks, Senator Grassley. Senator Klobuchar.

Senator KLOBUCHAR. Thank you very much, Mr. Chairman, for holding this important hearing. Welcome, Deputy Attorney General Monaco.

I think I'll start with something that I'm not certain has been raised, and that is about what's happening to journalists right now. And I think one of the reasons that we know about these Russian atrocities in Ukraine is in large part because of the extensive reporting.

Many journalists who have worked to expose Putin's brutality have been killed, as we know, while covering the war, including American journalist Brent Renaud.

And now Russia has wrongfully detained Evan Gershkovich of The Wall Street Journal, an American reporter. I just saw that horrible vision of him in that glass box last night on the news.

Without getting into any specific case, can you speak to the Department's efforts to investigate the killing and wrongful detention of journalists by the Russian Federation?

Deputy Attorney General MONACO. Thank you, Senator. And let me say, my heart goes out to the Gershkovich family, and I want to echo Secretary Blinken's call for him to be immediately released.

It's outrageous what has happened to him and, of course, to Paul Whelan, who remains unjustly detained by the Russian government.

You are quite right, and as the video that the Chairman started this hearing with—the only reason we really are able to see the atrocities and the horror that is happening is in large part because of brave journalists who are going into harm's way to document what we are witnessing and are able to witness the horror that is happening.

And that's why we are so grateful for our ability to deploy what we have called the War Crimes Accountability Team. This is a group of prosecutors that Attorney General Garland designated last year, led by a seasoned prosecutor who was—built our capability to go after and hunt Nazi war criminals.

We're using all of that expertise now to investigate and prosecute the war crimes that are being documented by brave journalists, and the types of cases that we are investigating are exactly what you laid out, Senator—journalists, U.S. journalists who come into harm's way and are victims of Russian atrocities on the ground. And unfortunately, we have seen examples of that.

So, we have active investigations that are moving just as fast as we can possibly move them. And we've got prosecutors and investigators who are working day and night to bring about that accountability.

Senator KLOBUCHAR. Okay. Very good. Along those same lines, like many of my colleagues, I visited Ukraine right before the war started and then with Senator Portman last August, and I talked to President Zelensky directly about this. We went to the grave with Senator Portman—I did in Bucha. And it rang true to me when President Zelensky spoke about the importance of holding Russia accountable for its crimes and said revenge cannot do what justice can do.

And to me that's nowhere more apparent than the detention and forced reeducation of Ukrainian kids. Thousands of them have been separated from their families, held in camps where they are vulnerable to abuse and exploitation.

Senator Graham and I just introduced a resolution condemning Russia's kidnapping of Ukrainian children. Could you talk about what the Justice Department is doing to ensure that those responsible for the kidnapping and forced reeducation—I don't even like to use the word—of Ukrainian children are held accountable for their actions?

Deputy Attorney General MONACO. I've seen that resolution, Senator, and I commend you for putting it forward. What we are seeing is nothing less than Ukrainian children being disappeared by Russian actors and by the atrocities that Russia is perpetrating.

Our investigators and prosecutors are pursuing all avenues of war crimes investigations, including what is happening for the removal—the forcible removal—forced removal of children from Ukraine.

We are also working with our Ukrainian partners. I mentioned our work with the prosecutor general. This includes investigating what is happening to children, including the bombing of maternity

wards—is also what we have seen, again, documented by brave journalists.

So, all of our war crimes investigation activities encompasses the atrocities that are being perpetrated against——

Senator KLOBUCHAR. One——

Deputy Attorney General MONACO [continuing]. Children.

Senator KLOBUCHAR. One last question.

One of the things we've seen is that the Russian government denies any responsibility for actions in places like Bucha. Instead, they make false—completely false claims that the bodies and images were planted, that it's fake. How is the Justice Department working to counter Russian disinformation, both as it relates to hampering prosecutorial investigations and to distributing propaganda?

Deputy Attorney General MONACO. Senator, I put zero stock in what Russian propaganda arms and Russian officials are saying about what's happening in Ukraine. And we are working tirelessly to—and meticulously document and gather the evidence that can be put forward in these cases and that can be shared with our Ukrainian and other European partners to bring forward their cases to make sure there's accountability.

Senator KLOBUCHAR. Thank you. I think we kind of defied what people would expect, in the way that President Zelensky was able to harness social media and the internet to get his people with him and the world with him.

And part of that was our ingenuity. I know that, but we just have to—and I know you are doing this, but we have to just continue, also, the counteroffensive on the internet with what they're doing. And that's been the thing that's emerging now. So, thank you.

Chair DURBIN. Thanks, Senator Klobuchar. Senator Lee.

Senator LEE. Thank you, Mr. Chairman. Thank you, Deputy Monaco, for being here, and thanks for your service.

In early March, we had Attorney General Garland before this Committee, and I asked him a series of questions about 18 U.S.C. § 1507 and specifically why no arrests have been made at the homes of Supreme Court Justices in violation of that statute, which prohibits people from protesting or demonstrating outside the home of a Supreme Court Justice or a judge or a juror or other officer of the court with intent to influence any court proceeding.

His answer was succinct but amounted to the effect that the Marshals are on the ground and the Marshals have full authority to arrest under any Federal statute, including Section 1507.

About 3 weeks later, my friend and colleague from Alabama, Senator Katie Britt, before another Committee, asked Attorney General Garland about a slide deck that she had discovered that was being used to train the U.S. Marshals who were performing their protective detail duty at the homes of Supreme Court Justices.

These slides seemed to contradict what Attorney General Garland had told me 3 weeks earlier. They contradicted in several respects.

First of all, the slide number 4 says that in order to make an arrest there, they really need to be looking at something that dem-

onstrates, quote, “the intent of influencing any judge—language thus logically goes to criminal threats and intimidation, not First Amendment protest activities.”

Now, I personally—as I pored through that statute, I don’t see that as an element of the offense. It’s not an element of the offense. There’s nothing in there that requires it to have this separate, non-specified element within 1507 about the intent being something amounting to criminal threats and intimidation. That’s not in there.

Just as troubling, maybe even more so, is slide number 5, cited by Senator Britt at that same hearing, where it says that, quote, “Any contemplated U.S. Marshals Service enforcement action under 1507 should be coordinated in advance with the appropriate U.S. Attorney’s office.”

And as if that were not enough to discourage the Marshals from making arrests under Section 1507, in this circumstance, it goes on to say that it is counterproductive to make probable cause arrests on cases that the U.S. Attorney’s office will not charge and prosecute.

So, I’ve been wondering, how exactly is it considered to be the full authority to arrest people under Section 1507, as the Attorney General has described, if you have to get preclearance first to do it, and if you’re adding an additional element, one not found in the United States Code?

Deputy Attorney General MONACO. Well, Senator, I know the Attorney General has spoken quite directly to this about the direction that he has given and has repeatedly given to the Marshals Service, and the Marshals Service Director spoke very—

Senator LEE. When he was asked about these slides, by the way, he was not aware of them. Were you aware of them? Were you aware of them before they were given to the Marshals Service to train Marshals on how to protect the homes of Supreme Court Justices?

Deputy Attorney General MONACO. No, Senator, but I also know that the Marshals Service Director has been very clear that he is—will regularly review the training provided to the Deputy U.S. Marshals who continue, to this day, to provide 24/7 protection for the Justices, their homes, their property, at the unprecedented direction of Attorney General Garland last year. This has never happened before in the history of the Department—

Senator LEE. I—

Deputy Attorney General MONACO [continuing]. Where—

Senator LEE. I—

Deputy Attorney General MONACO [continuing]. These—

Senator LEE. I understand that, but I’m asking about the enforcement of Section 1507. Now, you’re the Deputy Attorney General. Under the organizational chart of the Department of Justice, you have supervisory authority, oversight over the U.S. Marshals Service. Is that right?

Deputy Attorney General MONACO. That’s correct.

Senator LEE. And so you’re saying you had not seen these slides before the Marshals were trained on it?

Deputy Attorney General MONACO. That’s correct.

Senator LEE. I assume you’ve reviewed them since then?

Deputy Attorney General MONACO. I've seen the slides that you referenced that Senator Britt showed to the Attorney General.

Senator LEE. And have you discussed them with Attorney General Garland?

Deputy Attorney General MONACO. I have not, Senator, but I would like to make very clear: The direction the Attorney General gave to the Director of the U.S. Marshals Service, who himself has indicated that he has been told repeatedly by the Attorney General that he has full authority to enforce all Federal laws, including 1507, as long as—and as long as he's prioritizing and the Deputy U.S. Marshals are prioritizing the life, the safety, the protection of the property of the Justices, which is——

Senator LEE. Under any of the other Federal statutes under which they're authorized to make an arrest on the ground, have they added an additional nonstatutory element to the offense, or have they required preclearance with the U.S. Attorney's office prior to making a probable cause arrest?

Deputy Attorney General MONACO. Well, Senator, without necessarily adopting your interpretation of the slides, the Director of the Marshals Service has been very clear he's going to regularly review that training. He's got all the authority repeatedly given to him and directed by the Attorney General to enforce Federal law.

His priority, however, and that of the Deputy U.S. Marshals who are providing that security and that protection, is for the property, the life, the safety of the Justices and their families——

Senator LEE. And yet, since this slide was revealed to the public, he hasn't either corrected his statement or gone back to the Marshals Service and asked that the additional nonstatutory element be removed or asked that the preclearance from the U.S. Attorney's office be approved prior to the making of a probable cause arrest under Section 1507.

Deputy Attorney General MONACO. The statement by the Attorney General was very clear and not in need of correction. He was very——

Senator LEE. No, it wasn't.

Deputy Attorney General MONACO [continuing]. Clear about the direction that he has given to the Marshals Service.

Senator LEE. He had no idea what direction had been given to the Marshals Service. No idea whatsoever. So, we can say a lot of things about it. It was not clear, and he hasn't cleared it up, and it's rather inconsistent with what he told us in front of this Committee.

Deputy Attorney General MONACO. Respectfully, Senator, the Attorney General was clear. His direction to the Marshals Service, to the Marshals Service Director, was to prioritize the life, safety, and protection of the property of the Justices, to have the full authority to enforce any Federal law——

Senator LEE. With preclearance——

Deputy Attorney General MONACO [continuing]. But to——

Senator LEE [continuing]. And with additional elements not found in the statute.

Deputy Attorney General MONACO. Respectfully, Senator, that was not the Attorney General's testimony. That was not his statement, his direction to the——

Senator LEE. Well, he wasn't aware of it.

Deputy Attorney General MONACO [continuing]. Director.

Senator LEE. It couldn't be in his statement. He didn't know about it. Not when he talked to me, not when he talked to my colleague, Katie Britt. I see my time has expired. Thank you, Mr. Chairman.

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

Senator BLUMENTHAL. Thanks, Mr. Chairman. Thank you very much for being here, Deputy Attorney General Monaco. And thank you for the work of the KleptoCapture Task Force and for Attorney General Garland's very clear, unequivocal commitment, as he expressed after signing a Memorandum of Understanding with Prosecutor General Kostin the other day. He was certainly very forceful in his commitment.

The KleptoCapture Task Force is pursuant to sanctions that have been imposed according to law. I want to join my colleagues in saying that, in a very bipartisan way, we want an all-of-Government commitment, including the Department of Defense, whatever obstacles there may be to its participating. I would like you to provide some briefing to us in another setting, if necessary. I understand your reluctance to do it here.

Let me ask you, is there any legal obstacle, in your view, to declaring Russia a state sponsor of terrorism? This body, after the Initiative that Senator Graham and I did, voted unanimously in favor of the United States declaring Russia a state sponsor of terrorism. I know the State Department has raised reservations. I don't believe they're legal in nature. Are there any legal obstacles?

Deputy Attorney General MONACO. Well, Senator, I'm not aware of legal obstacles. I do know, though, the first analysis that would be done in that regard would be by the State Department. But I also know that the President has indicated that he would disfavor such a move—

Senator BLUMENTHAL. But—

Deputy Attorney General MONACO [continuing]. For the—

Senator BLUMENTHAL. But there are no legal obstacles?

Deputy Attorney General MONACO. I haven't personally done the analysis, but I'm not aware of them.

Senator BLUMENTHAL. Let me ask you—you know, we're all focused on KleptoCapture. The real money is in the sovereign funds that have been frozen. But as to those funds, as well as the yachts and other assets that you have seized, do you need more authority to transfer the proceeds to the Ukrainian government so that it can use those moneys to rebuild the country?

Deputy Attorney General MONACO. So, the seizure of sovereign assets has now occurred in jurisdictions around the world, and we have come together, the United States, with the G7 to be very forceful, I think, in saying that those assets that are currently immobilized, both here and in multiple jurisdictions around the world, must be and remain immobilized. And we have a pledge amongst the G7 to do that. The question of how to then use those to the benefit of Ukraine and transfer them is, I think, a very complicated set of legal questions.

But we certainly need to make sure, Senator, that as we come together, and have—and the G7 has been forceful on this, as well,

that Russia must be the ones to pay for the rebuilding. They must be accountable for the rebuilding of Ukraine. We have to act collectively and in a united way to put those assets to use, because, frankly, if we don't act together as an international community on those assets, there will be seepage and there won't be——

Senator BLUMENTHAL. But to the——

Deputy Attorney General MONACO [continuing]. As much——

Senator BLUMENTHAL. To the extent——

Deputy Attorney General MONACO [continuing]. Force directed——

Senator BLUMENTHAL [continuing]. The United States has immobilized or frozen those assets—we have them?

Deputy Attorney General MONACO. Yes.

Senator BLUMENTHAL. We have a legal right to them, they're——

Deputy Attorney General MONACO. Yes.

Senator BLUMENTHAL [continuing]. Under both international and our national law? Do you need more authority, the Department of Justice, to transfer assets that we control to the Ukrainians so they can be used for humanitarian purposes and possibly also military purposes?

Deputy Attorney General MONACO. We may well—and I'd like to come back to you on the domestic legal authority issue, which is, of course, what this body can provide. I think there are other very complicated issues of international law——

Senator BLUMENTHAL. Well——

Deputy Attorney General MONACO [continuing]. And work——

Senator BLUMENTHAL [continuing]. International law has always been, in my view, complicated. Ever since I went to law school, I have never fully understood international law. It seems like a very kind of putty-like set of principles.

But what I'm interested in doing is making sure that you have the authority to transfer to Ukraine real money, because we have a lot of real money in those sovereign funds that can be used by Ukraine to rebuild.

And certainly everyone would agree with you that Russia ought to pay for the damage that it's done. I visited the mass grave sites in Bucha. I have been to Ukraine three times, twice with Senator Graham. The video that was played at the beginning of this session was graphic but failed to do justice to the incredibly horrific crimes against humanity that have been committed. And I think we all agree that, in principle, those assets should be going to Ukraine, to rebuild.

Deputy Attorney General MONACO. If I might, Mr. Chairman, just make one more response and put another plug in for authorities. I understand your point about our domestic law with respect to the sovereign assets. It is very important that we act as an international community because the vast majority of those sovereign assets are not within the United States.

And so I think we want to proceed in a way that makes sure that we bring everyone together, if we really want to have the impact—and I share your concern about having the impact—that we want to have with those sovereign assets.

Second, with respect to the KleptoCapture efforts, again, let me stress, we are leaving money on the table if we don't expand our

ability to use the forfeited assets that we gain from enforcement of our export control violations and expanding the sanctions regimes that that transfer authority is applicable to. So, I urge the Congress to give us that additional authority, so we can make the oligarchs pay for rebuilding Ukraine, as well. Thank you.

Senator BLUMENTHAL. Thanks. Thanks, Mr. Chairman.

Chair DURBIN. Senator Cotton.

Senator COTTON. Like the other Members of the Committee, I think there's little doubt that war crimes have been committed by Russians in Ukraine. I have to say, though, I think there's an element of putting the cart before the horse here.

Before there can be accountability for these crimes, there has to be victory in the war. And we're not on the verge of victory in the war because Joe Biden has been pussyfooting for the last year, not providing Ukraine with the weapons that they need to win this war.

In fact, not providing the weapons they need to defend the territory where some of these crimes have been committed before Ukraine took that territory back.

So, rather than continuing to say that we're going to support Ukraine for as long as it takes, we should be focused on helping them win as quick as we can.

Now, Ms. Monaco, I know you're not in charge of the conduct of our policy of the war but rather on the crimes itself. But I just want to make that point that until the war is won, there's very unlikely to be accountability for these crimes. I want to turn my attention to something for which you do have responsibility, though.

There's a statute, a criminal statute, Section 1512, entitled Tampering with a Witness, Victim, or Informant. Most of that statute focuses on the altering, destruction, or hiding of records to be used in an official proceeding. Ms. Monaco, are you aware of this statute?

Deputy Attorney General MONACO. Yes.

Senator COTTON. Do you know when it was adopted?

Deputy Attorney General MONACO. It was adopted, if memory serves, after the financial collapse of Enron and other corporate malfeasance.

Senator COTTON. In 2002, after the Enron scandal and a law called the Corporate Fraud Accountability Act of 2002. It also includes a catch-all phrase prohibiting not just the destruction and hiding of evidence, but also any acts that, quote, "otherwise obstruct, influence, or impede an official proceeding." The Department is currently using that catch-all provision to prosecute hundreds of Americans for their actions on January 6th, 2021, on the grounds of the United States Capitol.

I want to be clear, I'm not talking here about persons who committed violent acts against law enforcement officers or destroyed property—there's plenty of Federal crimes that cover their actions—but rather this catch-all phrase for people who, in some cases, were merely present on the Capitol grounds, maybe not even aware that that had been cordoned off earlier in the day. Are you aware of a case called *U.S. v. Fischer*, in the D.C. Circuit, Ms. Monaco?

Deputy Attorney General MONACO. I'm not specifically familiar with the facts of it, but I think it's one of the cases brought in relation to the events at the Capitol——

Senator COTTON. Yes, it was——

Deputy Attorney General MONACO [continuing]. On January 6th.

Senator COTTON [continuing]. Decided a couple weeks ago, on a sharply divided panel in which the Department almost lost, in which there was strong dispute on what that catch-all phrase meant—about otherwise obstructing or influencing an official proceeding——

Deputy Attorney General MONACO [continuing]. Mm-hmm.

Senator COTTON [continuing]. And it allowed the case to go forward but said that they have to prove corrupt intent.

There's a strong dissent that said clearly the items in that law that precede the catch-all phrase, like destroying or concealing documents, should limit the meaning of otherwise obstructing or influencing a proceeding.

I'm following the case closely. I wouldn't be surprised to see if the Supreme Court reverses it on review or if the Department can't prove the mental element of corrupt intent. Your Department of Justice argued, though, that corrupt, quote, "encompasses all forms of obstructive and influencing behavior." That's a pretty sweeping interpretation of the law.

Just this week, the House Judiciary Committee held a hearing in New York City, and it's been reported that a Democratic mob was in the hallway trying to get into the doors and stop that hearing from proceeding. Has your Department begun to investigate this effort to obstruct or influence the official proceeding of the House Judiciary Committee in New York City?

Deputy Attorney General MONACO. Senator, I'm not aware of those events, although I do know that that hearing took place. I'm not going to comment on—as you rightly pointed out, that statute and those cases, and indeed the *Fischer* case, is one that is moving through the courts. I'm not going to comment on the application of it to those particular facts or more broadly, precisely because those are cases that are moving through the courts and——

Senator COTTON. Well, let——

Deputy Attorney General MONACO [continuing]. Are important——

Senator COTTON. Let me ask you——

Deputy Attorney General MONACO [continuing]. Cases.

Senator COTTON. Well, there's no case in New York moving through, and I'm simply asking if the Southern District of New York has stood up a task force to investigate all these people who corruptly influenced and obstructed a proceeding of the House Judiciary Committee?

Deputy Attorney General MONACO. The men and women of the Justice Department that have been pursuing and bringing the cases of the events that occurred in the Capitol have been doing incredible work. This is the most far-reaching——

Senator COTTON. I didn't ask about——

Deputy Attorney General MONACO [continuing]. Wide-ranging——

Senator COTTON [continuing]. That task—I asked about a task force in New York.

Let me ask you about another one. What about in Tennessee? A Democratic mob obstructed the Tennessee Legislature recently to such a severe extent that the Legislature expelled two of its members. Is the Department of Justice investigating all those protesters who disrupted the official proceeding of the Tennessee Legislature?

Deputy Attorney General MONACO. I'm not aware of any such investigation, but I also wouldn't be able to comment on it if there was one.

Senator COTTON. Can you see where I'm—

Deputy Attorney General MONACO. Senator—

Senator COTTON [continuing]. Going with this? Like Senator Lee—

Deputy Attorney General MONACO. I do, Senator.

Senator COTTON. Like Senator Lee said, they're also—your Department directed Marshals not to arrest Democratic mobs outside the homes of conservative Supreme Court Justices, specifically—specifically directed them not to conduct any arrests, even though they were clearly violating the blackletter of the law. There's no dispute that they were clearly violating the blackletter of the law. In case after case after case, the Department enforces the law against its political opponents and does not enforce the law against favored political interest groups.

Deputy Attorney General MONACO. Respectfully, Senator, the Attorney General was very clear. He directed the Marshals Service—

Senator COTTON. The Attorney General—

Deputy Attorney General MONACO [continuing]. To—

Senator COTTON [continuing]. Very clearly lied, in that Committee, as Senator Britt demonstrated later by the slides that she produced.

Deputy Attorney General MONACO. Respectfully, Senator—

Senator COTTON. The—

Deputy Attorney General MONACO [continuing]. The—

Senator COTTON. The Marshals—

Deputy Attorney General MONACO [continuing]. Attorney General—

Senator COTTON. The Marshals were directed not to arrest protesters outside of the homes—

Deputy Attorney General MONACO. Respect—

Senator COTTON [continuing]. These were not criminal masterminds. They broadcast on social media when they are going to be violating the law, and there's not a single arrest, much less a prosecution. Meanwhile, you've stretched—you've stretched the meaning of a corporate document retention law to prosecute hundreds of people who were merely present on Capitol grounds on January 6th, 2021.

[Gavel is tapped.]

Deputy Attorney General MONACO. Senator—

Chair DURBIN. Senator Hirono—would you like to respond?

Deputy Attorney General MONACO. I would like to respond, Mr. Chairman. Thank you.

The Attorney General was forthright, was clear about the direction he gave to the U.S. Marshals Service. The Marshals Service Director was also clear that he received—has received that direction, repeatedly. So I wanted to put that on the record.

I also would like to point out that the men and women of the Justice Department who are investigating acts of violence, especially that occurred at the Capitol, are doing so at sometimes a great personal sacrifice and peril to themselves, and I'm proud to serve with them.

Chair DURBIN. Senator Hirono.

Senator HIRONO. Thank you, Mr. Chairman.

Because there are some concerns raised about the authority of the U.S. Marshal to do his job, I'd like to read into the record a statement from U.S. Marshals Director Ron Davis regarding what he was told by Attorney General, quote, "He"—the Attorney General—"has also, from the beginning, made clear that we"—the U.S. Marshals—"have the full authority to enforce any Federal statute, including 1507." I'm quoting the Director of the U.S. Marshals Office.

Thank you very much for coming to testify, Deputy Attorney General Monaco. My colleagues—I'm sorry, human trafficking is an issue that should be of concern to all of us, and I'd like to ask you about it in the context of Russia's invasion of Ukraine.

Since the invasion last year, over 8 million refugees have fled Ukraine. The vast majority of these refugees are women and children. Most have crossed the Ukrainian border without resources or a place to go.

We know that traffickers target women, children, and those without resources, so Ukrainian refugees are extremely vulnerable to trafficking. Can you review for us the general tools the Department uses to combat human trafficking and explain how those tools can be used to protect Ukrainian refugees?

Deputy Attorney General MONACO. Thank you, Senator Hirono. You're quite right. We have a number of statutes that our expert prosecutors and investigators who focus on human trafficking—and we have a dedicated group of prosecutors who focus on human trafficking crimes. And we have a set of statutes that they are putting to work every day, including on these issues that you so devastatingly recount.

The trafficking and the forcible removal of children from Ukraine are amongst the crimes that we ourselves are investigating as part of the war crimes investigations and human trafficking investigations that we're doing. And it's also what we are working alongside our Ukrainian partners to help them build and collect the evidence doing the painstaking work of gathering the forensic evidence and information to build these cases.

This is not easy, as you might imagine. These are not territories that it's easy to get into. But we are working with our Ukrainian partners to build their capacity, as well, to collect the evidence to both build their cases as well as ours.

Senator HIRONO. Do you have enough legal tools to pursue these prosecutions and investigations?

Deputy Attorney General MONACO. Well, particularly with respect to something like human trafficking or forced labor, when it

comes to children, this here, again, is an area that a crimes against humanity statute would be especially important to have.

We cannot get at, as I mentioned before, the types of crimes, widespread systematic crimes like forced labor of children, human trafficking and kidnapping of children in areas that aren't gripped by a wartime conflict but are nonetheless visiting horrors upon children in vulnerable populations. We need a crimes against humanity statute to be able to prosecute those crimes.

Senator HIRONO. Thank you. Russia has reportedly become the second largest miner of cryptocurrency in the world. We know that through techniques like chain hopping and tumbling—I know you know what those words mean—bad actors can launder cryptocurrency potentially to evade sanctions or move assets.

Indeed, when the Department announced the KleptoCapture Task Force last year, its mission included, quote, “targeting efforts to use cryptocurrency to evade U.S. sanctions, launder proceeds of foreign corruption, or evade U.S. responses to Russian military aggression,” end quote.

Can you give us an update on the efforts or the specifics—if the specifics would be too sensitive in this context, can you give us an overview of the Department's cryptocurrency successes and challenges, generally?

Deputy Attorney General MONACO. Thanks, Senator. We have stood up something we're calling the National Cryptocurrency Enforcement Team, precisely because we are seeing cryptocurrency being used in all manner of illicit ways, whether it's the facilitation of ransomware attacks and payments, whether it is the laundering of money when it comes to the oligarchs hiding their ill-gotten gains.

So—and we, of course, see it in the terrorism context.

So, increasingly, malicious actors are using cryptocurrency to both facilitate and hide their criminal activity. So, we set up a dedicated effort, the National Cryptocurrency Enforcement Team, and they are working alongside the Task Force KleptoCapture, to go after and literally use our old-school methods of following the money and doing it in this new way.

And one, I think, notable example of this is when, in the wake of the Colonial Pipeline attack, we were literally able to follow the ransomware payment because of, quite frankly, the cooperation of the victim company in that case, who courageously came forward and worked with us. We were able to follow the money and the cryptocurrency through the blockchain and seize it back for the benefit of the victim in that case.

So, we are doing more and more of that. And when it comes to the way illicit actors are using cryptocurrency, we are very much on our front feet to go after that.

Senator HIRONO. Thank you. Thank you, Mr. Chairman.

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

Senator CORNYN. Ms. Monaco, the—you've had a long and distinguished career in national security matters and at the Department of Justice, more generally.

I want to ask you about some of the authorities that are used to collect foreign intelligence, namely Section 702 of the Foreign Intelligence Surveillance Act. As you know, that authority is scheduled

to expire at the end of this year, and so we are undertaking some consideration of that reauthorization request and what changes, if any, are necessary to that in order to protect the privacy of American citizens who are not engaged in any sort of nefarious activity.

General Nakasone, head of the National Security Agency, has called Section 702 irreplaceable, and he has said that without Section 702 we lose critical insights into the most significant threats to our Nation. Can you tell us, for example, whether Section 702 of the Foreign Intelligence Surveillance Act has been productive in yielding valuable information related to the conflict in Ukraine?

Deputy Attorney General MONACO. Absolutely, Senator. First, let me agree wholeheartedly with General Nakasone—702 is an absolutely indispensable national security tool. I have seen the value of it in every job that I have had, and you mentioned my prior roles in national security.

I see it when I review the President's Daily Brief—a significant portion of that vital intelligence that we get is derived from 702. It gives us insights into cyber threats, helps us prevent ransomware attacks from foreign actors.

But when it comes to this conflict and what Russia is doing in Ukraine, it has proved vitally important. Indeed, 702 has helped us uncover gruesome atrocities committed by Russia in Ukraine, including the murder of noncombatants, the forced relocation of children from Russian-occupied Ukraine to Russia, and the detention of refugees fleeing violence by Russian personnel.

All of that we were able to see, thanks to 702, and that information and other information helped—has helped us as a country and as a national security community, galvanize accountability efforts regarding Ukraine by allowing us to confidently and accurately speak with the international community about Russian atrocities.

So, Senator, I think one of the most important things that this Committee and this Congress can do to help us push back against Russian aggression is reauthorize 702.

Senator CORNYN. Well, thank you. On a recent congressional delegation that I participated in when we traveled to Panama, Colombia, Argentina, and Brazil, we heard, time and time again, testimonials about how important that authority is for our Government representatives in those places, monitoring the activities of Russian and Chinese intelligence officers and other activities.

One question that came up is whether Executive Order 12333, which, as you know, is a broad long-standing Executive order authorizing a lot of our intelligence-gathering capabilities—whether that is an adequate substitute.

One of the things that occurred to me is that Section 702 is a law passed by Congress on a bipartisan basis and signed into law.

The Executive order obviously is a unilateral act by the Chief Executive of the United States. But is 12333, in your opinion, an adequate substitute?

Deputy Attorney General MONACO. I don't believe so, Senator. And I agree with the distinction you made. It is also—702 is an authority that is overseen by all three branches of Government. And I would also say that it has helped us really understand the strategic calculations of nations like Russia, like China, like Iran and

how they are approaching and evolving on major issues like the war in Ukraine.

So, again, it's an indispensable tool and one that I think is singular and irreplaceable.

Senator CORNYN. My last question has to do with the Foreign Agents Registration Act. As you know, this is a long-standing law, requirement that agents of foreign governments have to register under the law because, frankly, Congress needs to know whether the lobbyist that's coming in to talk to them is advocating on behalf of American citizens or on behalf of foreign interests. So, we're continuing to work on that. We're hopeful to be able to make some progress.

But in the interim, you know, there's been a lot of discussion about TikTok. And one of the pieces of legislation that I've introduced, called the PAID OFF Act, which required TikTok to register as a foreign agent.

As you know, Russia Today—RT—and Sputnik have both registered as foreign agents, and appropriately so, since they're the arm of the Russian Federation, the Russian Communist Party.

Do you think it would be appropriate for Congress to pass a law requiring TikTok, as a owned—Chinese-owned company, to register as a foreign agent—particularly in light of the fact that this is a very convenient vehicle for the Chinese Communist Party to engage in disinformation campaigns in pursuit of their agenda?

Deputy Attorney General MONACO. Well, Senator, I'd want to look at the legislation you referenced. I apologize, I haven't reviewed it. I am very concerned about foreign-sourced technology like TikTok, and I've spoken about this before, about the threat that it poses.

And I will put in a plug here for other legislation that I have also become familiar with and that I have issued statements in support of—and that's the RESTRICT Act, which I think would give us a rules-based approach to address foreign-sourced technology like TikTok—like the next TikTok, like Huawei, and the Kaspersky Lab, the increasing prevalence of foreign-sourced technology, and the threats that they pose by doing business here and having millions and millions of users. We need the type of approach that is put forward in the RESTRICT Act to address those.

Senator CORNYN. Thank you very much.

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

Senator WELCH. Thank you, Mr. Chairman.

Deputy Attorney General, I want to ask a couple of questions about war crimes and pursuing war criminals and the role that the United States can play in that—savage crimes, obviously, in Ukraine. At some point—hopefully soon, but no one's optimistic—that war will end, but the prosecution of those criminals must be continued.

We've played an active role, our country, in pursuing war crimes and the people who have perpetrated them, even decades after the violence has ended. Can you tell us how the DOJ has worked with the international partners in the past to pursue those who are responsible for crimes against humanity?

Deputy Attorney General MONACO. Well, we have a long history, and unfortunately, history has required us, on some of the atroc-

ities that have previously been committed—has required us to develop this expertise.

And we have a group of prosecutors in the Justice Department, the Human Rights and Special Prosecutions Section, who gained notoriety and expertise by literally hunting down Nazi war criminals for decades—dozens of them, for decades and decades.

And we have shown that our memory is very long and we will go wherever it takes to amass the evidence and to find these perpetrators.

Thankfully, because of the work this Committee and this Congress did, we now have the ability to ensure—and the tools that we need to ensure that war criminals, including those from the current atrocities being perpetrated in Ukraine, will not find safe haven here in the United States.

Senator WELCH. And you're talking now specifically, as well, about Russian nationals who are responsible for many of these war crimes?

Deputy Attorney General MONACO. Absolutely. So, thanks to the work of this Committee and this Congress, that gave us what's called "present in" jurisdiction, a war criminal likely after the conflict cannot find safe haven here in the United States.

A Russian war criminal will not be able to burrow in and find refuge here in the United States like some Nazi war criminals were able to do. So, thanks to that authority, we will be able to bring those prosecutions, and we've got dedicated investigators and prosecutors who are more than up to the task.

Senator WELCH. Thank you. I want to ask you a little bit about sharing highly sensitive and classified information with allies. That was very, very helpful at the beginning of the Ukraine war, when, in fact, our intelligence showed that there was going to be an effort on the part of Russia to do false flag propaganda. And by sharing it, it really busted that open.

I want to ask you, just in general, how you are working with the Intelligence Community and interagency partners to determine what information may be shared with coalition partners.

Deputy Attorney General MONACO. Well, Senator, as you point out, we really did, in the Intelligence Community and our national security community, really kind of change its orientation in the lead-up to the Russian aggression and continues to this day to be more transparent with our partners about what we're seeing.

I mentioned to Senator Cornyn what we were able to glean from Section 702 collection about atrocities happening in Ukraine and being able to then share that with our partners, to galvanize them to come together with us. We have changed our orientation and being more transparent with our partners. The Justice Department, with the FBI being part of the Intelligence Community, are part of those discussions.

Senator WELCH. So, you've always got to make a tradeoff—what's the gain, what's the loss—when it comes to some of the sensitive intelligence that you have to decide, share or not share? Can you just give us some indication of how you go through that calculation?

Deputy Attorney General MONACO. Well, this is obviously not in my current hat. In my prior roles as the President's Homeland Se-

curity and Counterterrorism advisor, I would be part of those discussions. And I think you want to weigh the ability to bring our partners along, share information with them so that they can take action, and also make sure that we are not jeopardizing sources and methods that could prove more helpful in the long run.

Senator WELCH. Okay. Thank you very much. I'll yield back—

Deputy Attorney General MONACO. Thank you.

Senator WELCH [continuing]. Mr. Chairman.

Chair DURBIN. Senator Blackburn.

Senator BLACKBURN. Thank you, Mr. Chairman. Thank you for being here with us today.

I want to talk with you just a little bit. Just looking at Vladimir Putin, Ukraine, what is going on there, I think we all know that he is a thug and a war criminal.

And you look at the atrocities that have been committed in Ukraine, and we also know that you've got other bad actors—China, North Korea, Iran—that are watching very closely.

And when you see this, when you see the genocide that China is carrying out against the Uyghurs, what they've done to the Hong Kong freedom fighters in brutalizing them, their history and continued brutalization of the Mongolians and the Tibetans, and now you look at the bullying they're doing to Taiwan, and to the island nations, and the Philippines, and—then what I would like to know is what your coordination is, what you're doing in conjunction with other agencies that are focused on these human rights abuses.

Deputy Attorney General MONACO. Senator, I quite agree with you that Russia—I'm sorry, China and Iran and other states—as I said to Senator Graham—I think are watching what Putin is doing in Ukraine. And that's why, of course, there must be accountability.

When it comes to China and other states who are projecting power and perpetrating human rights abuses, as you laid out, we are using our authorities to hold them to account, whether it's malicious cyber actors, whether it's—and I would point to a case that we just announced earlier this week, where we've indicted dozens of Chinese nationals for brazenly perpetrating a campaign of intimidation by setting up police stations in Downtown Manhattan.

Senator BLACKBURN. Yes. We've talked a lot about that lately. Are you focused on the Wagner Group—

Deputy Attorney General MONACO. Yes, Senator.

Senator BLACKBURN [continuing]. And what they're doing?

Deputy Attorney General MONACO. Absolutely.

Senator BLACKBURN. Okay. Because you continue to hear about—they're trying to branch out—

Deputy Attorney General MONACO. Mm-hmm.

Senator BLACKBURN [continuing]. And, of course, the abuse they're carrying out there—I think we want to know about that. Do you feel that the Biden family engagement with China has compromised the position that this administration is able to take against China, to really hold them to account?

Deputy Attorney General MONACO. Senator, this administration, this Justice Department is giving no quarter to China's—

Senator BLACKBURN. Okay.

Deputy Attorney General MONACO [continuing]. Malicious activities. We have brought cases against malicious cyber activities, including members of the PLA, the People's Liberation Army——

Senator BLACKBURN. Okay.

Deputy Attorney General MONACO [continuing]. Perpetrating aggressive acts in the cyber realm——

Senator BLACKBURN. Right.

Deputy Attorney General MONACO [continuing]. Those who are perpetrating human rights abuses.

Senator BLACKBURN. Okay. Let me ask you about Ukrainian children. I'm from Tennessee, and we have several churches in the Nashville area, my church being one of them, that have ministries in Ukraine. And I have a good friend who has a program for orphans there in Ukraine.

And, of course, we've heard just horrific stories about the Russians kidnapping children and taking them to reeducation camps in Russia.

Senator Peters and I introduced a resolution, actually reintroduced it, condemning this action, and I know that others are looking at this.

So, would you classify what they're doing to these children a war of genocide, the things that are being carried out against not only the Ukrainian people but also specifically against the children? How do you classify that?

Deputy Attorney General MONACO. Senator, I think the Russians and the Russian war machine is perpetrating war crimes, crimes of aggression, crimes against humanity, specifically when it comes——

Senator BLACKBURN. Genocide?

Deputy Attorney General MONACO [continuing]. To children. Genocide, Senator, requires a specific intent. I'm going to be a little lawyerly with you, I'm sorry. But to——

Senator BLACKBURN. I think this——

Deputy Attorney General MONACO [continuing]. Show that you're trying to——

Senator BLACKBURN [continuing]. Is a pretty specific intent, when you look at what they are doing and you look at the human rights abuses. And I do think it needs our attention——

Deputy Attorney General MONACO. If I may, Senator, I quite agree with you. We should leave—and we will leave nothing on the table. We've got a genocide statute. If we develop competent evidence to be able to pursue that, we certainly should do it.

Senator BLACKBURN. Are you putting the same attention to the kids that are being trafficked at the Southern Border?

Deputy Attorney General MONACO. Senator, we are putting our resources also on human trafficking, as I talked with Senator Hirono about. Indeed, we established a task force specifically about the human trafficking——

Senator BLACKBURN. Well, my——

Deputy Attorney General MONACO [continuing]. And smuggling.

Senator BLACKBURN [continuing]. Time has expired, and I have to tell you, people are getting so tired, they're exhausted, and just—their hearts break for what they see on news reports and footage, whether it is coming at the Southern Border, whether it's

what is happening in Ukraine, whether it's the stories about these reeducation camps and the way these children are being treated. And the fact that it is just something up for discussion is really disappointing. We need action.

Deputy Attorney General MONACO. I agree, Senator. I hope you'll support our request for a crimes against humanity statute, which would allow us to bring accountability for exactly the types of crimes you're talking about.

Chair DURBIN. Senator Tillis—

[Voice heard off microphone.]

Chair DURBIN. I'm sorry, Senator Padilla's returned. Senator Padilla, I'm not sorry you returned. I'm happy you returned.

Senator PADILLA. You sure about that? Thank you, Mr. Chair.

Deputy Attorney General Monaco, I want to join the chorus of my colleagues here, thanking you for joining us today to discuss efforts to hold Russian war criminals and kleptocrats accountable during this unlawful invasion of Ukraine.

I certainly appreciate your work and the work of the Department and look forward to assisting in any way possible to ensure that Ukrainian victims of war receive the justice they deserve.

Now, I understand—the KleptoCapture Task Force was brought up earlier in the hearing. I understand that it's responsible for assisting the enforcement of sanctions, export restrictions, and economic countermeasures that the U.S. imposed in response to Russia's invasion of Ukraine.

In February, the Task Force unsealed two cases charging various crimes involving counterintelligence operations and violations of U.S. export laws. Can you describe how the creation of the Task Force has improved the administration's abilities to enforce sanctions against Russia and hold bad actors accountable?

Deputy Attorney General MONACO. Well, the Task Force KleptoCapture—first of all, I appreciate the kind words for the leadership of the Justice Department, but it's the men and women who are doing the investigating and the prosecuting who really deserve the kudos. They have been working flat out since the brutal invasion over a year ago.

In fact, within 9 days of that invasion, we stood up Task Force KleptoCapture, bringing together expertise from across the Department and indeed across the Federal Government, including the Intelligence Community.

And this is something I've seen that I think is really a game changer. We—now I get, in my morning intelligence briefing, information from the Intelligence Community about where some of these Russian oligarch assets are, and that information is fed to the Task Force so they're able to go after it. So, it has really changed our orientation and how we're doing this type of work.

They have been unrelenting, but again I will say, we're leaving some money on the table. We want to expand our ability to go after and seize and forfeit, specifically, the proceeds from export control violations, for instance, that could go to the benefit of the Ukrainian people.

Senator PADILLA. Great. Now, in a hearing here last year, Director Adams spoke to the long-term goal of prosecuting those who provide aid to sanctioned entities, like Russia, seeking to evade ac-

countability. Can you give us an overview of how the Task Force will carry out this effort and describe how the Task Force collaborates with foreign allies in reaching its goals?

Deputy Attorney General MONACO. Sure. So, the Task Force—first, as you point out, we’ve been going after the oligarchs and their assets. But, importantly, we’re also going after their enablers: the accountants, the vendors, the lawyers, the folks who are helping them hide—the oligarchs, that is—helping the oligarchs hide their assets, you know, under very byzantine financial structures and to find any dark corner of the financial system.

So, for that, we need to work with our international allies, so we have joined forces with our European and other allies in something called the REPO Task Force—there’s a lot that goes into the naming of these task forces—the Russian Elites, Proxies, and Oligarchs Task Force.

That brings together all of the work and the expertise from our international partners who are vital to us being able to seize those private jets that Senator Graham mentioned—to seize and forfeit those luxury properties that we’re going after. In every one of these cases, we need and have gained vital international cooperation.

Senator PADILLA. Okay. Is there any additional support you need from the Committee or from Congress to address any issues you have with any data collection or enforcement?

Deputy Attorney General MONACO. Well, thank you for that offer to make my pitch, again, for ensuring that we expand our ability to forfeit. So, right now, we are seizing assets of named oligarchs, and if they are pursuant to the particular Executive order that this Congress passed, an authority for us to forfeit those assets to the benefit of Ukraine, that’s terrific.

But right now, the assets that we seize and forfeit as a result of, for instance, export control violations, we can’t transfer those proceeds to the benefit of Ukraine, and we’d really appreciate the broadened authority for us to be able to, again, make these oligarchs pay for the rebuilding of Ukraine.

Senator PADILLA. Okay. And in my time remaining, just one last question.

A recent ICC report found that Russia has committed war crimes and human rights violations, something that we’ve all recognized for some time now, including attacks on civilians and energy-related infrastructure, willful killings, unlawful confinement, torture, sexual violence, unlawful deportations of children. We’ve heard this from several Members of the Committee.

Now, following the report, the ICC issued arrest warrants for the Russian president and the Russian commissioner for children’s rights, for these abuses. Can you just spend a minute talking about the significance associated with this being the first time a global court has issued a warrant against a leader who’s also a member of the U.N. Security Council?

Deputy Attorney General MONACO. Well, it’s obviously a very significant step, and it’s certainly one that is justified, based on all of the recounting that you have done, and other Members of the Committee have recounted the atrocities being perpetrated in Ukraine by Russia. So, it is both justified and, I agree, a significant step.

Senator PADILLA. Thank you very much. Thank you, Mr. Chair.

Chair DURBIN. Senator Tillis.

Senator TILLIS. Thank you, Mr. Chair. Ms. Monaco, thank you for being here, and thank you for your responsiveness on a number of matters my office have reached out to.

I first want to start by thanking all the law enforcement officers in the DOJ. They're doing great work. The vast majority of them are fantastic. There may be a few that we need to hold accountable, but I'm wearing this shirt and this pin today to let them know that I back them.

Quick questions. I wouldn't ask you to say this, because you're more measured. You're an attorney. I'm a Senator. Is it fair to say that if we go dark with Section 7 of FISA—702, 703, 704—later this year, that Putin, Xi Jinping, North Korea, Iran are going to throw a party?

Deputy Attorney General MONACO. Yes, Senator, and on this—
Senator TILLIS. Yes.

Deputy Attorney General MONACO [continuing]. Matter, I will not be measured. It is an indispensable tool, and we—

Senator TILLIS. It would be devastating—

Deputy Attorney General MONACO [continuing]. Have to reauthorize.

Senator TILLIS [continuing]. To some of the most malign actors across the globe right now, if we go dark. So, that's why I want to talk about 702 and really follow onto some of what—

Deputy Attorney General MONACO. Okay.

Senator TILLIS [continuing]. Senator Cornyn talked about. Can you explain for the Committee and the public why the FBI conducts these searches? Why are you going into that data?

Deputy Attorney General MONACO. Absolutely, Senator.

First of all, the FBI is the single agency that is actually responsible for doing something about foreign threats that reach American soil. So—

Senator TILLIS. Yes.

Deputy Attorney General MONACO [continuing]. That's what people need to understand. They need to be able to act on the information that our Intelligence Community provides.

Senator TILLIS. You all have implemented a lot of—I've got limited time—

Deputy Attorney General MONACO. Yes.

Senator TILLIS [continuing]. And I'm not going to go to a 7-minute round so Mr. Ossoff can speak. But can you provide just more detail about the change I've seen—the demonstration of some of the controls you have in place?

I would take you to task if I thought we were surveilling American citizens. You don't want to do that.

Can you talk a little bit about the safeguards that you've implemented and why you feel like it addresses the majority, if not all, of the concerns expressed by Members of Congress?

Deputy Attorney General MONACO. Sure. Thank you, Senator, for taking the time to come down and see the changes that have been put in place. I would urge and invite—

Senator TILLIS. I recommend it to every Member.

Deputy Attorney General MONACO [continuing]. All Members to come, and we'd be happy to facilitate that. The compliance issues

that surfaced with regard to 702 are ones that the Attorney General and I took—and the FBI Director take very, very seriously, so we put in place a number of remedial measures, first and foremost, making sure that analysts and agents can't just query, as a matter of default, the 702 collection.

Senator TILLIS. I think thematically—because I do want to get to a couple of other questions, Ms. Monaco. I hate cutting people off. But I think thematically, every Member of Congress needs to go over there and see how the Department of Justice, the FBI, have been responsive to our concerns, that the checks in place are important.

I did ask a question about the demo, about what consequences are, with all those safeguards, for a trained person to make a mistake, there needs to be accountability there.

I'm going to talk a little bit about that later, but—

Deputy Attorney General MONACO. Mm-hmm.

Senator TILLIS [continuing]. We'll discuss that after this hearing. But I think it's critically important. I think you've been responsive, and I think our Members need to look at what we'd lose.

I think in response to one of Senator Welch's questions, you made reference to some of the authorities under the Justice for Victims of War Crimes Act, basically being after—to go after the bad actors, not provide safe haven in the United States.

If I had time, I'd talk about—if I were one of those people, if I were going to come to the United States, I'd pay 20—\$30,000 dollars to a cartel, get the camo outfit and the carpet booties that they put on their feet, and cross the Tucson sector. Because that's a way to get to this country with very low likelihood that you're going to get caught. Which is why Border—it came up when Senator Blackburn was asking her question.

We've got to understand there is a way for them to get here and we won't know who they are, so there is a nexus with Border Security. Has the Justice Department used the additional authority under the Victims of War Crimes Act to prosecute Russian criminals yet?

Deputy Attorney General MONACO. The—not for war crimes yet, Senator, but we are working day and night to make sure that we hold Russian war criminals accountable, and we're building those cases.

Senator TILLIS. I think for the purposes of following the implementation of that Act, it would be helpful to inform us, to the extent that you can, on any prosecutions, particularly for Russian criminals, that were enabled by any provisions that we have in that Act. I think that'd be very—

Deputy Attorney General MONACO. Be happy to—

Senator TILLIS [continuing]. Helpful.

Deputy Attorney General MONACO [continuing]. Do that. We have identified, I will say, a number of suspects in the investigations that we are pursuing.

Senator TILLIS. And, Mr. Chair, I have to ask this question. I'm willing to go—or stick for a second round if I must, just to ask a final question.

Okay. There are reports that the Department of Defense is blocking the sharing of information gathered by American Intelligence

agencies with the International Criminal Court, partly because they believe it could set a precedent that might pave the way to prosecute Americans.

In your mind, is there a way to afford—or a solution that could minimize the concerns raised by the DOD and the ICC, to have this information that could be used to prosecute Russian war criminals?

Deputy Attorney General MONACO. I think there's a way to do this without creating any negative precedent. And the narrow authority that the Congress gave us, I think, is—provides that basis.

Senator TILLIS. Okay. I've got follow-up questions on international tribunal, a number of other gears that I think we have to set in motion to make it very clear to Putin and any of his supporters that they're going to—they're going to ultimately answer for their horrific actions. Thank you, Mr. Chair.

Chair DURBIN. Thank you very much, Senator Tillis. Senator Ossoff.

Senator OSSOFF. Thank you, Mr. Chairman.

And, Deputy Attorney General, nice to see you again. Thank you for your presence today.

This was addressed in your opening remarks, and several other Senators have raised it, but I just want to return to, in a litany of grievous crimes and instances of brutality and atrocities, one that I think is particularly despicable, which is the forcible removal of Ukrainian children from their families, their apparent relocation to Russia or Russia-controlled territory.

And I'm sure that for everyone, and in particular for any parent in the room today, the theft of one's child by an invading foreign power is an unimaginable and horrific thing to contemplate, and there are thousands of Ukrainians, it appears, who are experiencing that. So, what more can the Department do to maximize the probability that there is personal accountability for anyone involved in the design or execution of that program?

Deputy Attorney General MONACO. So, Senator, it is unthinkable. It's almost unimaginable, but yet we know it's occurring—the forcible removal, the disappearing of children from Ukraine by Russian forces. We are doing everything we can within the tools that we have, the war crimes investigators that I've mentioned previously.

But the single thing I think that this Congress could do to help us more would be to pass a crimes against humanity statute. That would allow us to prosecute individuals—individual accountability for widespread, systematic acts of the type you're talking about, that we currently can't bring prosecutions for. Widespread, systematic attacks that are politically motivated against a population, a civilian population—in this case, children.

We need the capability and the authority to do—to bring those crimes against humanity, because that's what it is. It is a crime against humanity, the most atrocious and heinous type of crime that can be committed.

Senator OSSOFF. Well, I appreciate that response, and I know Chairman Durbin has particular interest in this matter. And Senator Blackburn and I, who jointly lead the Human Rights Subcommittee, have had discussions about how we can support efforts

to strengthen relevant U.S. statutes to ensure accountability for those who engage in war crimes. And so we will likely be, as we collaborate with the Chairman, seeking technical assistance from the Department, as well.

Deputy Attorney General MONACO. Be happy to provide that.

Senator OSSOFF. Thank you. What can you learn from the experience, thus far, operating in this environment, that might assist the Department in providing a similar service or embarking upon a similar project elsewhere in the world, where on any given day, tragically, there are many places where people are being subjected to horrific crimes?

Deputy Attorney General MONACO. A few things, Senator.

One, international unity and galvanized effort is indispensable to our ability to push back on the type of aggression and brutality that we're seeing from Russia.

So, that—that's true in our efforts to bring about accountability for war crimes, doing so hand in hand with our Ukrainian partners and our international partners.

That's true when it comes to trying to disrupt the whole ecosystem that is fueling the Russian war machine, so going after and isolating them from the global financial system, going after the enablers who are feeding the Russian war machine, closing off access to technology, to financial resources that help them retool and rearm.

All of that is what we are doing to push back against Russia, and that takes both an international effort and pooling all the expertise across our own Government. And that's what we've been able to do, I think quite effectively, with things like Task Force KleptoCapture and the REPO Task Force.

Senator OSSOFF. Thank you for your answer. And building on Senator Tillis' question, do I understand there's an interagency conversation ongoing about implementation of the statute that authorizes some intelligence sharing for purposes of supporting potential ICC prosecutions? Do you have a timeline for when that deliberation may be concluded, so we can move forward with implementation of the law?

Deputy Attorney General MONACO. I do not have a timeline, Senator.

Senator OSSOFF. But it's being worked through diligently?

Deputy Attorney General MONACO. It is, Senator.

Senator OSSOFF. Okay. Thank you very much.

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

Senator CRUZ. Thank you, Mr. Chairman. Ms. Monaco, welcome.

Deputy Attorney General MONACO. Thank you.

Senator CRUZ. You have a very important job. You're the number two person in the Department of Justice. Every U.S. Attorney reports to you. The U.S. Marshals report to you. You are responsible for day-to-day operations of the Department of Justice and, in particular, the criminal justice aspects of the Department of Justice. Is all of that correct?

Deputy Attorney General MONACO. That's correct.

Senator CRUZ. It is unfortunate, Ms. Monaco, that as you look back over the last 2½ years, this Department of Justice, I believe, has been the most partisan Department of Justice we've ever seen.

And that is directly contrary to the mission of DOJ. DOJ is meant to be nonpartisan. It is meant to enforce the law regardless of party.

I had hopes that Merrick Garland would actually do that, when he was confirmed. Those hopes have been shattered.

You have been a loyal deputy, standing alongside that partisan corruption of Department of Justice. You have been willing to devote massive resources to targeting individuals that are perceived to be political opponents of the White House. And you have been willing to devote zero resources to protecting individuals who are perceived to be political opponents of the White House.

I want to ask you about a statute you've been asked about already, 18 U.S.C. 1507. You're familiar with this statute?

Deputy Attorney General MONACO. Yes.

[Poster is displayed.]

Senator CRUZ. It's a criminal statute that says, "Whoever ... with the intent of influencing any judge ... pickets or parades ... in or near ... a building or residences occupied or used by such judge ... shall be fined"—or imprisoned—"under this title or imprisoned not more than one year, or both."

Now, the entire country has seen hundreds of protesters outside the homes of Supreme Court Justices, night after night after night. You turn on your TV and you see—

[Points to poster.]

Senator CRUZ [continuing]. Violations of this criminal statute over and over and over again. How many prosecutions has DOJ brought under 18 U.S.C. § 1507, under your leadership?

Deputy Attorney General MONACO. There are no—there have been no prosecutions under 1507. We are pursuing an attempted murder case against an individual who—

Senator CRUZ. Zero is—

Deputy Attorney General MONACO [continuing]. Threatened—

Senator CRUZ [continuing]. The answer.

Deputy Attorney General MONACO [continuing]. Justice Kavanaugh.

Senator CRUZ. If—I'm quite aware, and you're responsible for that, allowing these protests night after night after night. The violent threat of homicide of the individual who traveled across the country, attempting to murder a Supreme Court Justice—that was fueled by DOJ refusing to enforce this statute.

Now, it's not an accident that DOJ refused to enforce this statute. The U.S. Marshals put up—gave a presentation—the general counsel's office of the U.S. Marshals. If you look at one of the pages from that presentation, the general counsel's office—

[Poster is displayed.]

Senator CRUZ [continuing]. Stated the goals of the residential and personal protection mission: Keep SCOTUS Justices and their family free from physical harm; do not interfere with lawful First Amendment protected activity; avoid, unless absolutely necessary, criminal enforcement actions involving the protest or protesters, particularly on public space; and making arrests and initiating prosecutions is not the goal of the President's—of the Marshals' presence at SCOTUS residences.

Are you familiar with this presentation?

Deputy Attorney General MONACO. I am. I'm familiar with the fact that the U.S. Marshals Service Director has been explicit, has been clear that the Attorney General has repeatedly directed him to enforce all Federal laws, including 1507, and that his number one priority, and that of his many deputies assigned to a 24/7 security presence, is to protect the life, the safety, the property of the Justices and——

Senator CRUZ. Did you——

Deputy Attorney General MONACO [continuing]. Their——

Senator CRUZ [continuing]. Or anyone from the DAG's office meet with the U.S. Marshals Service and discuss Section 1507?

Deputy Attorney General MONACO. I regularly meet with the Director of the Marshals Service. The——

Senator CRUZ. And——

Deputy Attorney General MONACO [continuing]. Attorney General——

Senator CRUZ. Have you discussed 1507?

Deputy Attorney General MONACO. I discussed the—the Attorney General has been quite clear, and I have been quite clear with the Director of the Marshals Service. The——

Senator CRUZ. Are you——

Deputy Attorney General MONACO [continuing]. Attorney General's——

Senator CRUZ [continuing]. Familiar with this presentation?

Deputy Attorney General MONACO. I've seen those slides, if they are the ones that Senator Britt presented to the Attorney General.

But I want to be quite clear, Senator, about the direction given to the Marshals Service through the Director of the Marshals Service. He has been clear that the Attorney General directed him repeatedly to enforce all Federal laws, to make——

Senator CRUZ. With respect, Ms. Monaco——

Deputy Attorney General MONACO [continuing]. His number one priority——

Senator CRUZ [continuing]. That is demonstrably false because this is written instruction—making arrests and initiating prosecution is not the goal.

That's not an instruction to enforce the law. That is exactly the opposite. It is 180 degrees. It is instructing them it is not the goal to arrest anybody despite the fact that the criminal statute said they shall be imprisoned.

You made a political decision. Merrick Garland made a political decision that, because you agree with the protesters, you don't like the decision the Supreme Court Justices made, the Marshals were instructed don't arrest anyone and don't enforce Federal law. Isn't that correct?

Deputy Attorney General MONACO. That is not correct because the Attorney General and I and the Marshals Service Director are so concerned about potential threats to the Justices, the Attorney General directed, in an unprecedented step, 24/7——

Senator CRUZ. But what this says in writing——

Deputy Attorney General MONACO [continuing]. 24/7——

Senator CRUZ. What does this say in writing?

Deputy Attorney General MONACO. I don't have the right glasses on for that.

But, Senator, the Attorney General was very clear with the Director of the Marshals Service, and the Marshals Service Director has said the same thing——

Senator CRUZ. The word “not”——

Deputy Attorney General MONACO [continuing]. That the number——

Senator CRUZ [continuing]. Is even underlined.

Deputy Attorney General MONACO [continuing]. The number one priority——

[Gavel is tapped.]

Deputy Attorney General MONACO [continuing]. Given to the Marshals Service for their unprecedented protection detail for the Supreme Court Justices is to protect their life, their——

Senator CRUZ. But——

Deputy Attorney General MONACO [continuing]. Safety, and——

Senator CRUZ [continuing]. To ignore——

Deputy Attorney General MONACO [continuing]. Their property.

Senator CRUZ [continuing]. 1507.

Deputy Attorney General MONACO [continuing]. To protect their life, their safety——

Senator CRUZ [continuing]. To ignore Federal criminal law.

Deputy Attorney General MONACO. Respectfully disagree with that characterization, sir.

Senator CRUZ. That’s what the written instruction says—“not” is underlined—do not make arrests, do not initiate prosecutions. Up is not down.

Deputy Attorney General MONACO. The Director of the Marshals Service has been very clear. The Attorney General directed him to enforce all Federal laws, but that his number one priority is to ensure the safety——

Senator CRUZ. Ms. Monaco——

Deputy Attorney General MONACO [continuing]. And the protection——

Senator CRUZ [continuing]. What you are saying is objectively false.

[Gavel is tapped.]

Chair DURBIN. The time of the Senator has expired.

There are no further Members to ask in the 5-minute round, and we’re going to conclude the hearing. I want to thank the Deputy Attorney General for being present.

I would like to make a couple of points, as Chair.

First, the safety and security of all, including elected officials, is the highest priority. There is never an excuse for violence nor destruction of property in the pursuit of any perceived constitutional right. I think that should be agreed on by everyone here.

We have passed legislation in this Committee specifically to protect Federal judges and their families. The reason is, there’ve been some horrible tragedies—one occurred in Chicago, another one occurred in New Jersey, and led us to put new—establish new standards in place for the protection of the men and women who serve in the judiciary.

I might say that the one bill that we passed from the Committee and sent to the floor—the Anderl Judicial Security and Privacy Act,

was held up on the floor for almost a year by the junior Senator from Kentucky. One year.

When protection should have been issued, it was not, because of one Senator's decision. But finally it was allowed to move forward, and it now is the law. I'm sure—I hope I can say that we're doing everything we can to enforce it.

Let me also say that it is interesting to listen to the debate about exercise of First Amendment rights. It appears that when the Department of Justice issued a memorandum relative to school board meetings and safety at those meetings, it became extremely controversial because some said it was dampening or hindering parents to express themselves at school board meetings if they disagreed with school policy. I read it: To protect the members of the school board who, in my State and others, have been threatened with their lives, intimidated to the point where they resigned from the school boards because of the coercion that was being extended toward them.

Also, I can't understand this theory that what happened in the Capitol building on January 6th was so innocent. It was far from innocent. I believe some 800 have been prosecuted. Does the Deputy know the number?

Deputy Attorney General MONACO. Over a thousand, Senator.

Chair DURBIN. Over a thousand have been prosecuted.

Deputy Attorney General MONACO. Charges brought. Excuse me, Chairman—over a thousand charges brought.

Chair DURBIN. Over a thousand charges brought. It is hard to imagine that anyone could keep a straight face and say they stepped in through a broken window for a sightseeing tour of the Capitol. That is incredible. What happened that day: 150 members of law enforcement were assaulted, some very seriously, suffering injuries they're still trying to recover from. And there was also the reality that a number of people died as a result of that insurrection.

The fact that it happened January 6th was no coincidence. January 6th, 2021, if I'm not mistaken—I know I'm not mistaken—was the day chosen when we counted electoral votes to establish who would be the President of the United States. There was an effort by those who denied the results of that election to question its results.

And I can tell you that that was even witnessed yesterday by the compromise—or settlement that resulted in Fox News paying close to \$800 million as a fine to Dominion corporation that manufactures election machinery, on the premise that there were misstatements made on the air about what happened that day.

I hope that this has been brought to rest, this whole question of the legitimacy of the election in 2020, but it still is being played out.

I'd like to say a word, if I can, about Section 702. Section 702 is a device, or procedure used by our Government to keep us safe. I believe that is the premise of it, to make sure that if we suspect that someone overseas wishes us ill or is going to do something in a negative way, we learn that ahead of time and stop it from happening. That is a noble and proper goal for it to pursue.

The reality is, though, in the process of intercepting messages from foreigners, we often involve Americans in the same conversation—millions of them. And the question is, are they losing—are those Americans losing their constitutional rights for due process by the 702 procedure?

I have voted against 702 consistently in the past, but I've been assured there will be efforts made by this administration to put in safeguards so that innocent civilians will be protected from losing their constitutional rights in this process. I hope we can work together on that goal ultimately to be achieved.

So, there are many issues before us. I thank you for your patience—

Senator CRUZ. Mr. Chairman? Mr. Chairman, you have taken a second round of questioning.

Chair DURBIN. No, that wasn't a second—

Senator CRUZ. I would ask for one—

Chair DURBIN [continuing]. Round of questions. That was a Chairman's statement.

Senator CRUZ. Well, you also asked questions, and you offered a moment ago an opportunity for a second round.

Chair DURBIN. No, I didn't.

Senator CRUZ. I would certainly—

Chair DURBIN. No, I didn't.

Senator CRUZ [continuing]. Appreciate that.

Chair DURBIN. I did not offer for a second round.

Senator CRUZ. Okay. So, your rules are you get a second round of questioning and no one else does?

Chair DURBIN. No, the rules are you don't make them up. I'm the Chairman.

Senator CRUZ. You make them up.

Chair DURBIN. I appreciate the Deputy Attorney General appearing before the Committee. I'd like to—

Senator CRUZ. You're continuing your pattern, Mr. Chairman.

Chair DURBIN. Well, you're continuing your deportment.

I'd like to conclude today's hearing by sharing the words of a leader I deeply admire. I had a chance to meet with him last year. Sadly, I fear I may not have that privilege again.

His name is Vladimir Kara-Murza, a fearless Russian dissident and a champion for democracy. On Monday, Mr. Kara-Murza was sentenced to 25 years in prison by Russia for speaking out against Russia's invasion of Ukraine.

Last week, The Washington Post published his final testimony in the sham trial. Mr. Kara-Murza said, and I quote, "I know that the day will come when the darkness over our country will dissipate ... when a war will be called a war and a usurper a usurper; and when those who kindled and unleashed this war, rather than those who tried to stop it, will be recognized as criminals. This day will come as inevitably as spring follows even the coldest winter."

Mr. Kara-Murza may not live to see justice for Russia's crimes against Ukraine, but he is absolutely right. That day will come. It's only a question of when.

And we in the Senate have the power to ensure that that day comes sooner rather than later. The people of Ukraine are counting on us.

Again, Deputy Attorney General, thank you for being with us today.

Deputy Attorney General MONACO. Thank you, Mr. Chairman.

[Gavel is tapped.]

[Whereupon, at 12:10 p.m., the hearing was adjourned.]

[Additional material submitted for the record follows.]



Department of Justice

STATEMENT OF

**LISA O. MONACO
DEPUTY ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

BEFORE THE

**COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE**

AT A HEARING ENTITLED

**"HOLDING RUSSIAN KLEPTOCRATS AND HUMAN RIGHTS VIOLATORS
ACCOUNTABLE FOR THEIR CRIMES AGAINST UKRAINE"**

PRESENTED

APRIL 19, 2023

**STATEMENT OF
LISA O. MONACO
DEPUTY ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

**BEFORE THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE**

**AT A HEARING ENTITLED
“HOLDING RUSSIAN KLEPTOCRATS AND HUMAN RIGHTS VIOLATORS ACCOUNTABLE
FOR THEIR CRIMES AGAINST UKRAINE”**

**PRESENTED
APRIL 19, 2023**

I. Introduction

Chairman Durbin, Ranking Member Graham, and members of the Committee, I am honored to testify about the Department of Justice’s tireless efforts to respond to Russia’s brutal and unprovoked invasion of Ukraine. Ensuring accountability for Russia’s aggression upholds core responsibilities of the Department of Justice: promoting the rule of law and keeping the American people safe. I am incredibly proud of our work to ensure that justice is done for the Ukrainian people, and that war criminals, their enablers, and others who would threaten global security know that they cannot act with impunity, because we will use every tool we have to hold them accountable.

It has been just over a year since Russia launched its full-scale invasion of Ukraine. The atrocities committed by Russia’s forces are shocking. Thousands of civilians have been killed over the past 14 months, in addition to the numerous lives previously lost in the conflict in eastern Ukraine. Civilians have been kidnapped, detained, and tortured. Health facilities—including maternity hospitals and children’s hospitals—have been bombed. Men, women, and children have been murdered in execution-style killings and their bodies found dumped in mass graves. Thousands of children have been ripped from their families and homes and forcibly and illegally transported to Russia from Russia-occupied territory. Some 14 million people have been displaced from their homes. As the war has entered its second year, the UN also reports that amid electricity and water shortages during the cold months of winter and early spring, nearly 18 million people have been put in dire need of humanitarian assistance. And, as is tragically common in war zones around the world, sexual violence has been deployed as a devastating weapon of war. The damage is growing every day that Russia continues its war of aggression.

I therefore want to express the Department’s deep gratitude for the new legal authorities that Congress has provided to push back on Russia’s aggression against Ukraine. This Committee’s bipartisan support for these new measures demonstrates that protecting the rule of law and national security are not just the Department’s values, but shared American values that

should unite us all in opposition to this illegal war. But additional tools are needed. As the Secretary of State recently explained, these barbaric acts of murder, torture, rape, and deportation are not random or spontaneous; they are part of the Kremlin's widespread and systematic attack against Ukraine's civilian population. Members of Russia's forces have committed crimes against humanity as defined under international law; however, the United States does not currently have a statute defining crimes against humanity under U.S. law that would enable us to bring our own investigations and prosecutions for these horrific acts.

Therefore, I am also here today to urge you to expand our toolset by granting federal courts jurisdiction over crimes against humanity, expanding jurisdiction to prosecute crimes of torture committed against Americans abroad under the color of law, and expanding our authorities to disrupt illicit finance.

Accountability for the perpetrators and decisionmakers behind these crimes—and their funders, proxies, profiteers, and other enablers—honors their victims. Accountability is also essential to international efforts to impede Russia's aggression in the present and to deter would-be war criminals in the future. As the Attorney General has said, "America, and the world, are watching very closely what is happening in Ukraine."¹ Russia's unlawful behavior in Ukraine is thus a test – not just for Ukraine, but for the United States and the rules-based system that we helped build over the last century and upon which the security and prosperity of countries worldwide depends. Failure to hold war criminals accountable will cheapen the price of unlawful war.

Since Russia's full-scale invasion of Ukraine, the Department has deployed every tool at its disposal to impose accountability and serious costs on Russia and its enablers. Although some of these tools are new, the principles behind them are longstanding. The Department of Justice is proud of its long history of holding war criminals accountable. That legacy can be traced in part to President Truman's appointment of former Attorney General Robert Jackson as U.S. Representative and Chief Counsel to bring Nazi leaders to justice at Nuremberg after World War II.² As the chief architect of the Allied prosecution effort at Nuremberg, Jackson served in a novel role that required pathbreaking innovation. He could not rely upon an extensive body of formal precedents. Nor did he have established institutional structures or processes for the historic task before him. But he had the backing of his government and the conviction that while summary punishment of Nazi leaders would be an unacceptable victor's vengeance, failing to hold them accountable would "mock the dead and make cynics of the living."³ So Jackson's team and its international partners drew upon longstanding principles of justice and due process

¹Remarks of Attorney General Merrick Garland in Meeting with Ukraine Prosecutor General Venediktova (May 4, 2022).

²Executive Order 9547, Providing for Representation of the United States in Preparing and Prosecuting Charges of Atrocities and War Crimes Against the Leaders of the European Axis Powers and Their Principal Agents and Accessories (May 2, 1945).

³Report to the President from Justice Robert H. Jackson, Chief of Counsel for the United States in the Prosecution of Axis War Criminals (June 7, 1945).

to develop innovative legal and institutional tools—such as crimes against peace, which included waging a war of aggression—to ensure that the Nuremberg defendants faced justice consistent with the rights and rule-of-law protections that the Nazi regime denied its victims.

The Department’s work to hold Russia accountable draws upon these principles and tools, refined by experience and supplemented by authorities from Congress. In providing new authorities for prosecuting war crimes and contributing to the reconstruction of Ukraine through the transfer of forfeited Russian assets, this Congress has honored and continued Jackson’s legacy of finding innovative ways to combat the deepest evils with our highest values.

America, our people, and the rule of law are safer and more secure as a result of our work to hold Russia and its enablers accountable. For example, in coordination with our international partners, we have used export controls and sanctions to restrict Russia’s access to advanced technology, impeding Russia’s ability to replace its equipment and munitions. These sanctions have also made it difficult for Russia to resupply its army and air force. Together with our international Allies and partners, we have isolated Russia from commodities, technologies, and software that Russia needs to carry out its war of aggression. Every day, Russia and its enablers awaken knowing the Department’s prosecutors and investigators, and our partners across the United States government as well as counterparts in other countries are tirelessly pursuing them and their finances. Their freedom of movement is constrained. Their access to the backbone of the global economy is constricted. We are striking blows to Russia’s effectiveness and to its confidence. And we are laying down precedents that will serve as deterrents long into the future.

II. Actions we are taking to hold Russia accountable for war crimes in Ukraine

The Department of Justice is actively incorporating these new tools into our ongoing work to uphold the rule of law and mitigate threats here and abroad, including by pushing back on, and providing justice for, Russia’s war crimes in Ukraine.

Upholding the Rule of Law Through Investigation and Prosecution of War Crimes.

Last June, the Attorney General created the War Crimes Accountability Team (“Team”), based in the Criminal Division’s Human Rights and Special Prosecutions Section (“HRSP”), to centralize and strengthen the Department’s accountability efforts in the wake of Russia’s full-scale and unprovoked invasion of Ukraine. As the Attorney General has stated, this initiative reflects the Department’s deep commitment to “working alongside our domestic and international partners . . . to hold accountable every person complicit in the commission of war crimes, torture, and other grave violations during the unprovoked conflict in Ukraine.”⁴

The Team brings together the Justice Department’s leading experts in investigations involving human rights abuses and plays an integral role in the Department’s ongoing investigations of potential offenses under the U.S. law, particularly where U.S. nationals have

⁴Remarks of Attorney General Merrick Garland Upon Meeting with Ukrainian Prosecutor General Iryna Venediktova (June 21, 2022).

potentially been victims of war crimes. As the Attorney General has stated, “[a]lthough we are still building our cases, interviewing witnesses, and collecting evidence, we have already identified specific suspects.”⁵ Where there may not be U.S. jurisdiction, the Team provides Ukraine’s authorities with wide-ranging assistance, including by helping Ukraine’s Prosecutor General’s Office to develop war crimes cases that may be brought in Ukraine. The Team also provides advice to Ukraine’s authorities on evidence collection, forensics, relevant legal analysis, development of a modern electronic case management and analysis system, and more.

Our mutual assistance builds on our highly effective partnership with Ukraine’s Prosecutor General’s Office, dating back to 1993, that helped enable the Department to repeatedly prove in U.S. courts atrocity crimes that were committed in Ukraine during a previous full-scale invasion of that country – the one perpetrated by Nazi Germany during World War II. Our assistance also builds off the extensive work done by the Criminal Division’s International Criminal Investigative Training Assistance Program (“ICITAP”), which, since 2005, has maintained a full-time police assistance mission in Kyiv and since the Revolution of Dignity in 2014, has been instrumental in the assistance, development, and training of the National Police of Ukraine and the State Border Guard Service using funds provided by the State Department. We are also working shoulder to shoulder with Allies and other partners abroad, such as the countries of the Joint Investigative Team (“the JIT”), created last year by Ukraine and European partners. On March 3, in Lviv, Ukraine, Attorney General Garland signed a landmark Memorandum of Understanding with the JIT countries, to “formalize and facilitate coordination between the United States and JIT member countries on our respective investigations and prosecutions.”⁶

The Team will have the benefit of the Department’s collective expertise across many components to hold Russia and its enablers accountable. I am deeply proud of the contributions from components across the Department to this critical work.

Expanded Jurisdiction for the Prosecution of War Crimes. Congress—and specifically this Committee—recently expanded tools available to the Department’s investigators and prosecutors, making our work more formidable and effective. Previously, the federal war crimes statute only provided for U.S. jurisdiction over war crimes if the victim or offender was a member of the U.S. Armed Forces or a U.S. citizen. In effect, that meant war criminals could come to the United States with minimal fear of accountability for their horrific actions. Those days are over. Thanks to the work of this Committee and Congress in passing the Justice for Victims of War Crimes Act, we now can prosecute foreign nationals who commit war crimes – no matter where they occurred – and are subsequently present in the United States. We can also

⁵Remarks of Attorney General Garland at the United for Justice Conference, Lviv, Ukraine, March 3, 2023. <https://www.justice.gov/opa/speech/attorney-general-merrick-b-garland-delivers-remarks-lviv-ukraine>

⁶Remarks of Attorney General Garland at the JIT MOU Signing Ceremony, March 3, 2023, Lviv, Ukraine. <https://www.justice.gov/opa/speech/attorney-general-merrick-b-garland-delivers-remarks-lviv-ukraine>

continue to prosecute war crimes offenders wherever they may be located if the offense occurred in whole or in part in the United States. In this way, we've made our resolve explicit to the world: war criminals cannot run, and they cannot hide.

III. Actions targeting the larger criminal ecosystem that enables Russia's perpetrators to evade our laws, act with impunity, and threaten global peace and stability

In addition to holding Russia to account for war crimes, the Department has sought to disrupt the complex ecosystem – involving companies, networks, and individuals across the globe – that has enabled Russia's illegal actions and has threatened our national security.

Task Force KleptoCapture and the REPO Task Force. As the Committee knows, in March of last year we launched Task Force KleptoCapture ("Task Force"). The Task Force brings together law enforcement personnel from across the U.S. government to enforce sweeping sanctions, export restrictions, and economic countermeasures in response to Russia's aggression. In March 2022, together with the Treasury Department, we helped launch the Russian Elites, Proxies, and Oligarchs ("REPO") Task Force, an international collaboration of representatives from the United States, Australia, Canada, the European Commission, France, Germany, Japan, Italy, and from the United Kingdom who work together to hunt down the assets of the Kremlin's key elites and proxies and to act against their enablers and facilitators.

Coordination of priorities and marshalling of relevant law enforcement authorities through the REPO Task Force, coupled with a sea change in our Allies and partners' local sanctions regimes, has enabled the Department to extend the reach of Task Force KleptoCapture's investigations around the world. Thanks to the work of the Task Force and our close collaboration with international Allies and partners, we have successfully seized, forfeited, or otherwise restrained over \$500 million in assets belonging to Russia's oligarchs and others who unlawfully supported the Kremlin's war machine—from luxury yachts in Spain and Fiji to deluxe penthouses across the continental United States. We have indicted more than thirty individuals and two corporate entities accused of sanctions evasion, export control violations, money laundering, and other crimes. And we have arrested defendants in over a half-dozen countries in 2022.

In every one of Task Force KleptoCapture's cases, we have benefited substantially from the assistance of foreign and interagency partners. The REPO Task Force has also leveraged extensive multilateral coordination to exert unprecedented pressure on sanctioned individuals and entities. The members of the REPO Task Force have successfully blocked or frozen more than \$58 billion worth of sanctioned assets, tracked sanctioned assets across the globe, and heavily restricted sanctioned Russian Federation nationals and entities from the international financial system.

Export Controls. In addition to using its important new authorities, the Department of Justice is rigorously enforcing existing authorities, including export-control laws, in new ways. Enforcement of U.S. export controls has been a key priority for the KleptoCapture Task Force,

and the Department's National Security Division is surging resources into export control enforcement more broadly. The Task Force's efforts have resulted in seizure warrants for multiple luxury aircraft, the seizure of dual-use technology and munitions, and the arrests of members of transnational procurement networks engaged in the smuggling of sensitive technology.

These efforts are just some of the recent successes of the Department in this space. The National Security Division, in collaboration with the Department of Commerce's Bureau of Industry and Security ("BIS"), launched the Disruptive Technology Strike Force ("Strike Force"), focusing on technologies such as advanced semiconductors, supercomputer hardware, quantum technologies, hypersonics, military bioscience, and advanced avionics. The Strike Force will investigate and prosecute criminal violations of U.S. export control laws, using intelligence and data analytics to develop leads. The Strike Force will also foster partnerships with the private sector and leverage international partnerships to coordinate law enforcement actions. The goal is to protect critical technological assets from being acquired or used by nation-state adversaries. Already, the National Security Division has coordinated in the creation of 14 local units in 12 metropolitan regions across the country, with each cell consisting of DOJ prosecutors and law enforcement agents from the FBI, BIS, and Homeland Security Investigations.

New Forfeited Asset Transfer Authority. Last year, with bipartisan support and tremendous cooperation between this Committee and the Department, Congress passed, and the President signed into law, critical, ground-breaking legislation allowing for the transfer of certain forfeited assets for the benefit of Ukraine. That legislation is important in several respects, foremost because it provides additional assistance to our Ukrainian partners and makes clear that Russia's oligarchs who enable the war effort should pay for the costs of its unprovoked war. But it also demonstrates to our Allies and partners that it is possible to devise mechanisms to divest ill-gotten assets for the benefit of Ukraine while respecting core principles of due process and respect for property rights. Through that legislation, the Attorney General has already authorized the first transfer of assets to the State Department for the aid of Ukraine, and we expect to continue using that power in the weeks and months ahead.

Our first use of the new legislation relates to a \$5.4 million forfeiture of funds belonging to sanctioned oligarch Konstantin Malofeyev, a Kremlin propagandist who has provided support to Russia's aggression in Ukraine since 2014. Malofeyev is an oligarch sanctioned under one of the specific executive orders listed in the new legislation as a predicate for these transfers.

Earlier this year, our prosecutors in New York filed another civil forfeiture complaint against six real properties located across New York and Florida. These properties, belonging to the oligarch Viktor Vekselberg, are worth approximately \$75 million. Should that litigation conclude in our favor, we intend to authorize transfer of forfeited funds to the State Department to support reconstruction efforts in Ukraine.

We also anticipate that the beneficial-ownership provisions of the Corporate Transparency Act, currently being implemented by our colleagues at the Department of the

Treasury, will be a critical resource for unmasking and dismantling the illicit-finance ecosystem that enables wrongdoers to abuse corporate entities to hide from justice and profit from their crimes. But we could do much more to assist the Ukrainian people and other victims of kleptocracy if the transfer authority were expanded to include additional predicates and other asset recovery actions. The Department stands ready to discuss with the Committee the utility of expanding the list of offenses and applicable executive orders that allow for transfers of forfeited property for Ukraine's benefit, including through the addition of forfeitures arising from criminal violations of our export controls targeting Russia, and, where we recover assets in other foreign corruption cases, to allow similar transfers to remedy some of the devastating harms of kleptocracy in other parts of the world.

IV. Actions to promote democracy and harden our defenses at home and abroad

In addition to holding perpetrators accountable for Russia's war crimes and seeking to disrupt the complex ecosystems that enable the Kremlin's war of aggression to continue, we've been highly focused on shoring up our nation's defenses—from countering insidious efforts to undermine the integrity of our democratic institutions to preventing cyberattacks on our critical infrastructure that could have far-reaching real-world consequences.

Combatting Corruption and Promoting Democracy. As Robert Jackson acknowledged at Nuremberg, “[t]he common sense of mankind demands that law shall not stop with the punishment of petty crimes by little people.”⁷ For decades, the Justice Department has worked to hold accountable both bad actors who use bribes to undermine the rule of law and corrupt officials who abuse positions of public trust for private gain. But corruption is not limited to the pursuit of wealth. Some governments, like Russia's, use corruption as a malicious tool of statecraft – hollowing out institutions in other countries to extend their own anti-democratic influence. In line with the whole-of-government U.S. Strategy on Countering Corruption, the Department of Justice is using every tool at its disposal to increase the resilience of democratic institutions by strengthening anti-corruption and anti-money laundering measures across the world. With funding from the Department of State, our Criminal Division's Office of Overseas Prosecutorial Development, Assistance and Training (“OPDAT”) has experienced prosecutors in approximately 50 countries, including many threatened by Russia's malign influence. We will also continue to enforce U.S. anti-bribery laws, including the Foreign Corrupt Practices Act and related money laundering statutes.

Combatting Cybersecurity Threats. The Russian government also threatens U.S. national security, European security, and individual victims by providing a safe harbor for ransomware groups. This Administration has made targeting ransomware a priority, and the Department is leading the government's work in disrupting and deterring ransomware actors. We organized the Department's efforts in this area by assigning DOJ's Computer Crimes & Intellectual Property Section (“CCIPS”) a lead role in the campaign to disrupt ransomware and

⁷Robert Jackson, Opening Statement Before the International Military Tribunal (Nov. 21, 1945).

empowering it with additional resources. The Department's prosecutors and trial attorneys have been directed to deploy not only arrests and prosecutions, but also disruptive actions to deter ransomware actors' activities and their attempts to monetize or otherwise leverage their criminal acts. I instructed Department prosecutors to use every legal authority at their disposal proactively and go on offense: to seize criminal infrastructure, such as servers or domain names; to use court orders to remove or disrupt malicious software to prevent additional attacks and harm to victims; and to freeze, seize, and forfeit property derived from or involved in criminal activity.

We will work with our partners here and abroad to go after cybercriminals, wherever they may be. CCIPS has assigned nearly all of its litigators to ransomware cases, and they are handling cases involving some 40 known ransomware groups. This strategy has yielded significant successes, such as the seizure of the Colonial Pipeline ransomware payment in June 2021, the extradition of Sodinokibi/REvil ransomware group actors Yaroslav Vasinskyi and Sebastien Vachon-Desjardins in March 2022, and the undercover operation announced in January 2023 against the Hive ransomware gang that led to the decryption of over a thousand victim computers without their having to pay ransom, thwarting over \$130 million in ransomware demands.

I am proud of how our efforts have saved thousands of companies from damage and blocked millions of dollars from reaching criminals. We have repeatedly identified and dismantled Russian botnets before they could strike. For example, in March 2022, the FBI and the National Security Division collaborated with international and interagency partners to disrupt a two-tiered global botnet of thousands of infected network hardware devices under the control of a threat actor known as Sandworm, attributed to the Main Intelligence Directorate of the General Staff of the Armed Forces of the Russian Federation "the 'GRU'"). Last year, working with partners in Germany, the Netherlands, and the United Kingdom, we dismantled the infrastructure of a Russian botnet known as RSOCKS, which had compromised millions of devices around the world.

As described in the National Cybersecurity Strategy, the United States is employing all aspects of the government's power to counter the ransomware threat through four paths: leveraging international relationships; investigating ransomware crimes and using law enforcement authorities to disrupt ransomware infrastructure and actors; bolstering critical infrastructure resilience to withstand ransomware attacks; and addressing the abuse of virtual currency to launder ransom payments. We will continue to work tirelessly on all these fronts.

V. Moving Forward to Ensure Accountability

The Department is proud of these efforts and will continue to deploy all of its existing resources and authorities forcefully and creatively to respond to Russia's aggression, war crimes, and crimes against humanity in Ukraine, as well as related threats to the rule of law and U.S. national security. But, as this Committee knows, there is more work to do.

Conferring Jurisdiction to Prosecute Crimes Against Humanity and Torture of Americans Abroad. In the last Congress, the Biden Administration supported a package of new measures championed by Members of this Committee to support justice for Ukraine. As I have discussed, we are grateful that Congress enacted the forfeited asset transfer authority and expanded federal court jurisdiction for the prosecution of war crimes. However, we were disappointed that other proposals, including conferring federal court jurisdiction over certain crimes against humanity and enabling the Department to prosecute acts of torture committed abroad against U.S. nationals “under the color of law”, did not also make it through to the President’s desk.

The Administration continues to support expansion of federal court jurisdiction to encompass prosecutions for crimes against humanity. The current statutory landscape contains a particularly large gap in our ability to pursue justice and to deter the commission of atrocities. War crimes and genocide statutes alone simply are not sufficient to address the full and tragic array of large-scale atrocity crimes that continue to occur. Crimes against humanity laws, which have been adopted by many other countries, among them Canada, the United Kingdom, South Africa, France, and Australia, enable prosecutions of certain criminal acts when committed as part of a widespread and systematic attack directed against a civilian population even if they occur outside the context of an armed conflict. The United States played a key role, at the postwar Nuremberg and Tokyo trials, in introducing this crime to world jurisprudence.

Enactment of a crimes against humanity statute would bring us into alignment with the laws of many of our NATO Allies and would strengthen the United States’ ability to hold accountable perpetrators of atrocities. Enactment would also increase deterrence by warning prospective offenders of the possibility of prosecution by the Department of Justice. Criminally prosecuting perpetrators who are within the reach of U.S. laws also ensures that our country does not become a safe haven for those who have committed the most serious crimes known to humanity. And it would strengthen our whole-of-government approach—along with our international partners—in promoting accountability for the perpetrators of the most horrific crimes, including those committed by members of Russia’s forces in Ukraine. As part of the productive partnership between the Department and Members of this Committee to continue holding Russia accountable, we respectfully urge your support for the measure and look forward to engaging with you on this important proposal.

Furthermore, the federal torture statute currently does not allow for prosecution of cases involving torture of U.S. victims abroad unless the offender is a U.S. national or is present in the United States after commission of the crime. The Administration proposed amending the statute to add jurisdiction over those cases in which a U.S. national (including a dual national) is tortured abroad under the color of law. Thus, for example, if a U.S. national is tortured outside the United States by a foreign authority, the United States could secure federal charges made possible by the proposed amendment, then seek extradition of the suspected offender if he travels to a country with which the United States has an extradition treaty in force. Filling this gap would serve to provide justice for U.S. victims and warn prospective offenders that the United States will seek to prosecute torturers of U.S. nationals no matter where this heinous crime is

committed. The amendment would also bolster prospects for achieving accountability for egregious human rights abuses. The proposed amendment effects a simple three-word revision of the current statutory language to add the words “or a victim” after the words “the alleged offender” in the statutory text “the alleged offender is a national of the United States.”

Providing New Tools to Dismantle the Illicit-Finance Ecosystem. As I have noted, we are grateful to this Committee for our new forfeited asset transfer authorities. However, there is more that can be done. For example, expanding the United States’ ability to pursue money laundering charges based on foreign offenses and extending the statute of limitations for certain violations of the federal money laundering statutes and sanctions evasion to ten years. We also seek to add criminal violations of the International Emergency Economic Powers Act and the Export Control Reform Act as Racketeer Influenced and Corrupt Organizations Act predicate offenses, which would provide powerful new tools against sanctions evaders, including the enablers of Russia’s aggression. As previously noted by Ukraine’s Prosecutor General, with whom we are meeting again this week at the Department of Justice, the tools of justice must be as strong as the tools of war.⁸

Authorizing Assistance to the International Criminal Court. In the last Congress, Members of this Committee further demonstrated your bipartisan commitment to the rule of law by supporting, via the Fiscal Year 2023 Appropriations Act, broadened authority for the United States to render assistance to the International Criminal Court (“ICC”) to assist with investigations and prosecutions of foreign nationals related to the situation in Ukraine. The legislation also removes certain legal impediments to the provision of such assistance in the form of funding. Further, the legislation allows, with the concurrence of the Attorney General, agents of the ICC to conduct investigative activities in the United States of crimes by foreign persons within the jurisdiction of the ICC related to Russia’s invasion of Ukraine.

This legislation is an important accomplishment. In his opening statement at the international Nuremberg trial of Nazi leaders, Jackson described the victorious Allies’ choice to “submit their captive enemies to the judgment of the law” as one of the “most significant tributes that Power has ever paid to Reason.”⁹ By passing this legislation, Congress has continued to show the world, as we did at Nuremberg, that the United States can protect its values and its people not only through the force of arms but also the rule of law. As the Committee knows, implementation of these new legislative amendments is under review.

Supporting an Internationalized Tribunal on Aggression. As recently noted by Ambassador-at-Large for Global Criminal Justice Beth Van Schaack, the Administration supports an internationalized tribunal, rooted in Ukraine’s judicial system with international

⁸Andriy Kostin, Prosecutor General of Ukraine, cited in Attorney General Merrick B. Garland’s Remarks at the JIT MOU Signing Ceremony, March 3, 2023, Lviv, Ukraine. <https://www.justice.gov/opa/speech/attorney-general-merrick-b-garland-delivers-remarks-lviv-ukraine>

⁹*Id.*

elements, to address Russia's war of aggression. We believe this option is the most likely to secure widespread international support and begin work now on investigating the crime of aggression, including for Russia's leaders. The exact modalities of any such court are still the subject of ongoing discussions with the government of Ukraine and with our international partners.

VI. Conclusion

Thank you again for the opportunity to testify today. I am deeply proud of the Department's commitment to upholding the rule of law—in Ukraine and around the world—in a way that both demonstrates American moral leadership and protects our national security. I am grateful for this Committee's bipartisan commitment to these values and for the steadfast support you have provided for the Department's efforts to ensure justice for Ukraine. I look forward to answering your questions.

Hearing before the Senate Committee on the Judiciary

“Holding Russian Kleptocrats and Human Rights Violators Accountable for their Crimes Against Ukraine”

April 19, 2023

SENATOR CRUZ

- 1. Does the Department of Justice have any concerns that 18 U.S.C. § 1507 is, in any way, unconstitutional?**

Response: The Department of Justice (Department) has not determined that §1507 is unconstitutional.

- 2. Does 18 U.S.C. § 1507 require that an individual must commit an act of violence to violate the statute?**

Response: 18 U.S.C. § 1507 provides as follows:

“Whoever, with the intent of interfering with, obstructing, or impeding the administration of justice, or with the intent of influencing any judge, juror, witness, or court officer, in the discharge of his duty, pickets or parades in or near a building housing a court of the United States, or in or near a building or residence occupied or used by such judge, juror, witness, or court officer, or with such intent uses any sound-truck or similar device or resorts to any other demonstration in or near any such building or residence, shall be fined under this title or imprisoned not more than one year, or both.

Nothing in this section shall interfere with or prevent the exercise by any court of the United States of its power to punish for contempt.”¹

- 3. Did the Deputy Marshals at the homes of Supreme Court Justices have full discretion to make arrests for § 1507 violations?**

Response: In May 2022, the Attorney General took the unprecedented step of directing the U.S. Marshals Service (USMS) to provide 24/7 protection at the residences of Supreme Court Justices. This is the first time in history the Department has provided 24/7 protection for Justices at their homes. That protective mission continues today.

The USMS reports as follows:

During the first year and a half of the mission, from May 2022 through December 30, 2023, the USMS mobilized 1,577 operational and administrative personnel, for at least one rotation, to execute the residential protection mission, drawing from 93 of the 94 federal judicial districts. USMS personnel from across the nation continue to be mobilized for the mission. Their first

¹ 18 U.S.C. § 1507 (2018).

priority is to protect the life and safety of the Justices and their families. As the USMS Director has said, “The Attorney General has been clear from the very beginning and on repeated occasions that the Marshals’ number one priority is to protect the Justices, their families and their property. He has also from the beginning made clear that we have the full authority to enforce any federal statute, including 1507, to the extent doing so doesn’t compromise the lives and safety of the Justices.” In February 2024, the Director further testified that “The Attorney General’s order was very clear, actually, crystal clear. Protect the lives of the Justices. He made sure that we still had full authority to make arrest, but not to engage in any activity that would compromise their safety.” In 2022, a federal grand jury returned an indictment charging a man who allegedly traveled from California to Maryland with the intent to kill a Justice of the United States Supreme Court.

4. Do federal law enforcement agencies have the authority to reinterpret a statute without Main Justice approval?

- a. What is the process for a law enforcement agency to reinterpret a statute?**
- b. Does the Attorney General permit federal law enforcement agencies to conduct statutory interpretation without his approval?**

Response to 4a-b: All Department components, including law enforcement components, interpret statutes and apply the law to the facts consistent with their duties and Department policies.

5. Did the Attorney General, anyone in his office, you, or anyone in your office, assist in developing the training materials that explicitly instructed the U.S. Marshal Service not to arrest protestors outside Supreme Court Justice’s homes without observing violence?

Response: To the extent your question relates to a slide deck raised to the Attorney General at a March 28, 2023, hearing of the Senate Committee on Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies, the Attorney General stated that he had “never seen those slides before.”

As the USMS Director has said, “The Attorney General has been clear from the very beginning and on repeated occasions that the Marshals’ number one priority is to protect the Justices, their families and their property. He has also from the beginning made clear that we have the full authority to enforce any federal statute, including 1507, to the extent doing so doesn’t compromise the lives and safety of the Justices.” The Director has said USMS would review USMS training materials on an ongoing basis to ensure they remain consistent with this directive.

6. During your hearing, I asked you if you or anyone from your office had met with the Marshal Service to discuss § 1507. You replied, “I regularly meet with the Director of the Marshal Service.”
 - a. Did you, your office, the Attorney General, or his office provide the Director of the Marshal Service or any employee of the Marshal Service with guidance, instruction, or advice on enforcement of §1507?
7. Did you, your office, the Attorney General, or his office discuss how to prosecute violations of §1507 with the Director of the Marshal Service or any employee of the Marshal Service?

Response to 6-7: In May 2022, the Attorney General took the unprecedented step of directing the USMS to provide 24/7 protection at the residences of Supreme Court Justices. This is the first time in history the Department has provided 24/7 protection for the Justices at their homes. That protective mission continues today. During regular meetings with the USMS, Department leadership appropriately reviews USMS priorities, including the protection for Supreme Court Justices.

The USMS reports as follows:

During the first year and a half of the mission, from May 2022 through December 30, 2023, the USMS mobilized 1,577 operational and administrative personnel, for at least one rotation during one of the last three fiscal years, to execute the residential protection mission, drawing from 93 of the 94 federal judicial districts. USMS personnel from across the nation continue to be mobilized for the mission. Their first priority is to protect the life and safety of the Justices and their families. As the USMS Director has said, “The Attorney General has been clear from the very beginning and on repeated occasions that the Marshals’ number one priority is to protect the Justices, their families and their property. He has also from the beginning made clear that we have the full authority to enforce any federal statute, including 1507, to the extent doing so doesn’t compromise the lives and safety of the Justices.” In February 2024, the Director further testified that “The Attorney General’s order was very clear, actually, crystal clear. Protect the lives of the Justices. He made sure that we still had full authority to make arrest, but not to engage in any activity that would compromise their safety.” In 2022, a federal grand jury returned an indictment charging a man who allegedly traveled from California to Maryland with the intent to kill a Justice of the United States Supreme Court. EOUSA has not identified any prosecutions brought under § 1507 during this timeframe.

8. Are you aware that U.S. Marshal Service’s Office of General Counsel told Deputy Marshals guarding Supreme Court Justice’s homes that arresting protestors, while consistent with the law, could nevertheless be “not in the interest of the government,” and result in the Deputy being denied legal representation if sued?

Response: No. The Department evaluates representation and indemnification requests on a case-by-case basis pursuant to the procedures and standards outlined in 28 C.F.R. §§ 50.15 and 50.16.

- a. **If a Deputy Marshal made a non-violent arrest under §1507 for the protests at the Justices homes, would the DOJ indemnify that officer if they were subsequently sued for violating the protestor's civil rights?**
- b. **Is there a blanket policy against indemnifying Deputy Marshals who make an arrest under §1507?**

Response to 8a-b: The Department evaluates individual representation and indemnification requests pursuant to the procedures and standards outlined in 28 C.F.R. §§ 50.15 and 50.16. Under 28 C.F.R. § 50.15(a), legal representation is available for federal officials and employees when actions for which representation is requested reasonably appear to have been performed within the scope of the employee's employment and the Attorney General or his designee determines that providing representation would otherwise be "in the interests of the United States."² As the USMS Director has said, "The Attorney General has been clear from the very beginning and on repeated occasions that the Marshals' number one priority is to protect the Justices, their families and their property. He has also from the beginning made clear that we have the full authority to enforce any federal statute, including 1507, to the extent doing so doesn't compromise the lives and safety of the Justices." Both representation and indemnification decisions are therefore made on a case-by-case basis with consideration of the specific facts and circumstances.

- 9. **Did anyone from your office, the Office of the Attorney General, or any other DOJ component, provide the Marshal Service with indemnification guidance surrounding Supreme Court Justice protection?**

Response: The Department evaluates individual representation and indemnification requests pursuant to the procedures and standards outlined in 28 C.F.R. §§ 50.15 and 50.16. Under 28 C.F.R. § 50.15(a), legal representation is available for federal officials and employees when actions for which representation is requested reasonably appear to have been performed within the scope of the employee's employment and the Attorney General or his designee determines that providing representation would otherwise be "in the interests of the United States."³ As the USMS Director has said, "The Attorney General has been clear from the very beginning and on repeated occasions that the Marshals' number one priority is to protect the Justices, their families and their property. He has also from the beginning made clear that we have the full authority to enforce any federal statute, including 1507, to the extent doing so doesn't compromise the lives and safety of the Justices." Both representation and indemnification decisions are therefore made on a case-by-case basis with consideration of the specific facts and circumstances.

- 10. **During Attorney General Garland's March 1, 2023 testimony before this Committee, Senator Hawley asked what actions he took after discovering the Richmond FBI Memorandum targeting Catholics. Attorney General Garland's response did not squarely address this question, so I will ask you: What actions did the Department of Justice take after discovering this memorandum?**

² See 28 C.F.R. § 50.15(a).

³ See 28 C.F.R. § 50.15(a).

Response: Attorney General Garland and FBI Director Wray have publicly and strongly rejected the intelligence product. I reject it, as well.

The FBI advises as follows: As previously explained, the January 2023 Domain Perspective failed to meet FBI standards, and the FBI took steps to immediately remove it from their official system of record upon learning of the document. The FBI also has provided legal, intelligence tradecraft, and domestic terrorism terminology refresher training for relevant personnel, and reminded personnel to follow existing standards and guidance on working domestic terrorism matters and appropriate tradecraft when producing intelligence products. The FBI also conducted a review of the process preceding the creation of the January 2023 intelligence product. In April 2024, the Department's Office of Inspector General (OIG) released the results of a congressionally required 120-day review of the "creation and content of the FBI Richmond Field Office's internal intelligence product."

11. Is Stanley Meador, the Special Agent in Charge of the Richmond Field Office, still running that office, or has he been demoted?

a. Has he been disciplined in any way?

Response to 11 and 11(a): Attorney General Garland and FBI Director Wray have publicly and strongly rejected the intelligence product. I reject it, as well.

Stanley Meador is currently the Special Agent in Charge of the Richmond Field Office. The FBI Director has stated that the individuals involved in that product were admonished, which goes into annual performance reviews, but that these individuals were not found to have engaged in any bad faith conduct.

According to the FBI, the January 2023 Domain Perspective failed to meet FBI standards, and the FBI took steps to immediately remove it from their official system of record upon learning of the document. The FBI also has provided legal, intelligence tradecraft, and domestic terrorism terminology refresher training for relevant personnel, and reminded personnel to follow existing standards and guidance on working domestic terrorism matters and appropriate tradecraft when producing intelligence products. The FBI also conducted a review of the process preceding the creation of the January 2023 intelligence product.

In April 2024, the Department's Office of Inspector General (OIG) released the results of a congressionally required 120-day review of the "creation and content of the FBI Richmond Field Office's internal intelligence product." OIG stated that they "did not assess, and therefore do not comment on, the corrective actions taken by the FBI."

12. DEA Director Anne Milgram, DHS Secretary Alejandro Mayorkas, and Dr. Rahul Gupta, the Director of National Drug Control Policy claimed that the majority of fentanyl comes into the United States through ports of entry. Do you agree with their assertions?

- a. **If so, how do you and others make this claim when it is widely known that more than one million illegal aliens, referred to as “gotaways” have entered into the United States in the past 18 months and many are likely carrying narcotics?**

Response: The fentanyl crisis in America threatens our public health, our public safety, and our national security, and Secretary Mayorkas testified earlier this year that “approximately 90% if not more of the drugs entering the country through the border arrived through points of entry.”⁴ The DEA Administrator also testified that “the vast majority of fentanyl is coming across the southwest border,” “mostly through ports of entry right now in California and Arizona.”⁵

The Department is combating the cartels and the fentanyl epidemic by targeting every aspect of their networks and by using all tools of federal authority to dismantle them. In May of 2024, Néstor Isidro Pérez Salas, also known as ‘El Nini,’ was extradited to the United States. El Nini allegedly was one of the Sinaloa Cartel’s lead sicarios, or assassins, and allegedly was responsible for the murder, torture, and kidnapping of rivals and witnesses who threatened the cartel’s criminal drug trafficking enterprise.

The Department’s work is part of a whole-of-government effort to combat deadly fentanyl. In pursuing a number of cases regarding the cartels, the United States has taken aggressive steps against the cartels and their networks, including requesting the provisional arrests—and successfully securing the custody—of the following high priority overseas defendants, among others.

- On July 25, 2024, the Department took into custody two alleged leaders of the Sinaloa cartel: Ismael Zambada Garcia, or “El Mayo,” cofounder of the cartel, and Joaquin Guzman Lopez, a son of Joaquin Guzman Loera, or “El Chapo,” the cartel’s other cofounder. Both men are facing multiple charges in the United States for leading the cartel’s criminal operations, including its deadly fentanyl manufacturing and trafficking networks. A provisional arrest request for Joaquin Guzman Lopez had been in place since 2019.
- In July 2024, Rodrigo Paez-Quintero, a Mexican national and lead defendant in an alleged long running drug trafficking conspiracy, was extradited from Mexico to the United States to face charges related to drug trafficking. This successful extradition demonstrates the ongoing cooperation between the United States and Mexico to combat the influx of dangerous drugs, including fentanyl, into the United States.
- In June 2024, the Department announced a superseding indictment charging Los Angeles-based associates of the Sinaloa Cartel with conspiring with money-laundering

⁴ House Appropriations Subcommittee on Homeland Security, Hearing on the Fiscal Year 2025 Department of Homeland Security Budget Request (Apr. 10, 2024).

⁵ House Judiciary Subcommittee on Crime and Federal Government Surveillance, Hearing on Drug Enforcement Administration (July 27, 2023).

groups linked to Chinese underground banking to launder more than \$50 million in drug trafficking proceeds. Following close coordination with the Justice Department, Chinese and Mexican law enforcement informed United States authorities that those countries recently arrested fugitives named in the superseding indictment who fled the United States after they were initially charged last year.

- In June 2024, 47 alleged members of an Imperial Valley, California-based, Sinaloa Cartel-linked fentanyl-and-methamphetamine distribution network with drug trafficking, firearms, and money laundering offenses were charged. The crimes in the indictment include drug trafficking, money laundering, and gun-related offenses.
- In May 2024, alleged Sinaloa Cartel leader and lead sicario, or assassin, Néstor Isidro Pérez Salas, also known as El Nini, was extradited from Mexico to face charges contained in two indictments in the United States. The indictments allege that Pérez Salas was responsible for the murder, torture, and kidnapping of rivals and witnesses who threatened the cartel's criminal drug trafficking enterprise. This includes killing a DEA confidential source and killing others in retaliation for the confidential source's cooperation. The indictments also allege Pérez Salas was a part of the Sinaloa Cartel's production and sale of fentanyl, including in the United States.
- In May 2024, seven members and associates of the Sinaloa Cartel were sentenced to prison for their role in a drug trafficking conspiracy involving fentanyl, methamphetamine, and cocaine. The significant sentences imposed by the court reflect the deadly nature of the crimes committed by Mexican cartel members in flooding our communities with fentanyl and other lethal drugs.
- In April 2024, 23 people—all alleged to have operated under the overall control of the Jalisco New Generation Cartel—were taken into custody following the return of a 50-count indictment alleging cocaine, fentanyl, heroin, and meth trafficking and related crimes in the Houston and Galveston areas. The law enforcement operation spanned multiple jurisdictions to include the Houston, Arlington, Corpus Christi, Brownsville and McAllen areas in Texas as well as Louisiana, Colorado, Washington, and California.
- In February 2024, in Washington, D.C., a precursor chemical broker of fentanyl and methamphetamine, who provided chemicals to several cartels, including the Jalisco Cartel, was sentenced to 18 years and eight months in prison. In January 2024, an associate of the Sinaloa Cartel was sentenced to over 21 years in prison for trafficking deadly drugs into the United States.
- In October 2023, the Department announced the unsealing of eight indictments in the Middle and Southern Districts of Florida charging China-based companies and their employees with crimes relating to fentanyl and methamphetamine production, distribution of synthetic opioids, and sales resulting from precursor chemicals. The indictments, which marked the second set of prosecutions to charge China-based chemical manufacturing companies and nationals of the People's Republic of China for trafficking fentanyl precursor chemicals into the United States, complemented actions

taken by the Department of the Treasury's Office of Foreign Assets Control to designate 28 individuals and entities involved with the international proliferation of illicit drugs. The effort involved cooperation and collaboration between interagency partners, including DEA, Homeland Security Investigations, U.S. Customs and Border Protection, and the U.S. Postal Inspection Service.

- In September 2023, Ovidio Guzman Lopez was extradited from Mexico to face justice in American courtrooms, first on charges filed in the Northern District of Illinois. One of El Chapo's four sons and an alleged leader of the Chapitos' global fentanyl supply chain, Guzman Lopez was arrested in Mexico pursuant to a provisional arrest request first presented to Mexico in September 2019. Mexico released Ovidio, but he was later rearrested under the same provisional arrest request.
- In April 2023, the Department announced the unsealing of an indictment charging 28 members of the Chapitos network. Nine individuals are in U.S. custody including seven who were previously extradited. An additional defendant is pending extradition from Greece. In addition to Ovidio Guzman Lopez, the following individuals were arrested in Guatemala, Colombia, and Greece pursuant to provisional arrest requests based on a criminal complaint or indictment arising out of the Chapitos' network investigation: Ana Gabriela Rubio-Zea, Carlos Omar Felix-Gutierrez, Silvano Francisco Mariano, Humberto Beltran Cuen, Anastacio Soto-Vega, and Sergio Duarte-Frias. Julio Marin-Gonzalez and Juan Pablo-Lozano were arrested in the United States based on a criminal complaint or indictment arising out of the Chapitos network investigation.

According to the Department's Organized Crime Drug Enforcement Task Forces (OCDETF), since January 2021, over two thousand individuals have been federally prosecuted in connection with the Sinaloa cartel, and many investigations remain ongoing.

- In 2023, DEA seized more than 80 million fentanyl-laced fake pills and nearly 12,000 pounds of fentanyl powder. The 2023 seizures are equivalent to more than 381 million lethal doses of fentanyl. As of July 2024, DEA had seized 27.9 million fentanyl-laced pills this year.

13. DHS and the Department of Labor recently announced a partnership to combat exploitation of unaccompanied alien children (UAC). Why isn't the Department of Justice taking the lead to combat UAC exploitation?

Response: The Department of Justice leads an interagency Child Forced Labor Initiative that convenes key federal investigation and prosecution partners from the Department, the Department of Homeland Security, and the Department of Labor, to analyze forced labor threats and advance criminal forced labor investigations and prosecutions. Prosecuting criminal offenses involving exploitation of unaccompanied children are among the highest priorities of this Department-led Forced Labor Initiative.

The Department also participates in the Interagency Task Force to Combat Child Labor Exploitation, an interagency task force led by the Department of Labor.

The Department's efforts to address exploitation of unaccompanied children also include victim identification, assistance, and protection programs aimed at identifying exploited children in the context of immigration proceedings, affording them enhanced procedural protections, and providing specialized services to potential victims of crime.

In June 2021, Attorney General Garland announced the establishment of Joint Task Force Alpha, a law enforcement task force that marshals the investigative and prosecutorial resources of the Department of Justice, in partnership with the Department of Homeland Security (DHS), to enhance U.S. enforcement efforts against the most prolific and dangerous human smuggling and trafficking groups operating in Mexico and the Northern Triangle countries of Guatemala, El Salvador, and Honduras. As of July 2024, Joint Task Force Alpha's work has led to over 250 U.S. convictions of members of human trafficking organizations; more than 310 arrests, including against leaders, organizers, and significant facilitators; more than 185 U.S. defendants sentenced, including significant jail sentences imposed; substantial seizures and forfeiture of assets and contraband including hundreds of thousands of dollars in cash, real property, vehicles, firearms and ammunition, and drugs; multiple indictments and successful extradition requests against foreign leadership targets; as well as numerous indictments, arrests, and convictions in El Salvador, Guatemala, and Honduras.⁶

a. Isn't this also a criminal issue, and simply not a labor issue?

Response: An effective federal response to the exploitation of unaccompanied children must include vigorous criminal enforcement and enhanced child protection, labor regulation, and prevention measures designed to reduce the vulnerabilities that place unaccompanied children at heightened risks of exploitation.

The Department is committed to vigorously enforcing applicable criminal statutes and is currently leading interagency efforts to detect, investigate, and prosecute criminal violations involving the exploitation of unaccompanied children.

⁶ U.S. Mission Tegucigalpa, *FACT SHEET: Update on the U.S. Strategy for Addressing The Root Causes of Migration in Central America*, U.S. Embassy in Honduras (Mar. 25, 2024), <https://hn.usembassy.gov/fact-sheet-update-on-the-u-s-strategy-for-addressing-the-root-causes-of-migration-in-central-america-2/>.

SENATOR FEINSTEIN

1. **The Russian war on Ukraine continues to result in extraordinary costs. Recent reports have indicated that thousands of Ukrainians have been subjected to forced deportation, torture, and sexual violence.**
 - a. **The Department of Justice (DOJ) recently announced that it will send a resident Legal Advisor to the U.S. Embassy in Ukraine this summer to work with our Ukrainian partners on complex justice sector issues. Can you please explain how the resident legal advisor will help address the issues of forced deportation, torture, and sexual violence against Ukrainians?**

Response: As the Attorney General announced on April 17, 2023, alongside the Ukrainian Prosecutor General, our countries and respective agencies share a commitment to protecting democracy and upholding the rule of law—two critical pillars that underpin our efforts to hold the perpetrators of atrocities responsible for their behavior. The Department is committed to meaningful accountability efforts in Ukraine and internationally—including on issues such as forced deportation, torture, and sexual violence.

The Department has deployed a Resident Legal Advisor (RLA) to Kyiv, who arrived on June 16, 2023. He is working with Ukrainian counterparts on a variety of complex justice-sector issues targeted at countering corruption and strengthening the rule of law in Ukraine.

The efforts of the RLA, in conjunction with the Department's other significant lines of effort, demonstrate a forceful and thorough approach to hold the Russian regime accountable for its atrocities. Specifically, prosecutors and other professionals in the Department's War Crimes Accountability Team are working closely with foreign partners such as the Ukrainian Prosecutor General's Office and with domestic law enforcement partners to investigate specific crimes committed by Russian forces, including unlawful attacks directed at civilians. Task Force KleptoCapture—a team of prosecutors, agents, analysts, translators, and other personnel—continues to bring prosecutions and effect seizures against sanctioned enablers of the Kremlin and Russian military. The Department is working closely with the Ukraine Joint Investigative Team (JIT), including through the U.S. Special Prosecutor for the Crime of Aggression appointed by the Department.

Since the onset of Russia's brutal and unprovoked invasion of Ukraine, the Department has used every tool in our arsenal—including our international partnerships—to target the criminal actors and activity propping up Vladimir Putin, his henchmen, and his illegal war. In its first two years, our Task Force KleptoCapture has restrained, seized, and obtained judgments to forfeit nearly \$700 million in assets from Russian enablers and charged more than 70 individuals for violating international sanctions and export controls levied against Russia. And, in December 2023, the Department filed the first-ever charges under the U.S. war crimes statute against four Russians or Russia-affiliated military personnel for heinous crimes against an American citizen.⁷

⁷ See U.S. DEP'T OF JUST., *Fact Sheet: Supporting Ukraine and Imposing Accountability for Russia's Invasion*, https://www.justice.gov/opa/media/1339326/dl?inline=&utm_medium=email&utm_source=govdelivery.

Through these lines of effort, and others that may be necessary to meet the justice sector needs of the Ukrainian people, the Department will work for as long as it takes to hold accountable under law those who bear responsibility for the Russian regime's brutal crimes and to support our Ukrainian partners in doing the same.

2. **Last year, researchers discovered and this Committee examined evidence that Russia has been identifying and detaining Ukrainian citizens who are considered threats to Russian occupation of Ukraine. It has been widely reported that these Russian forces have been arresting Ukrainian civilians and holding these civilians in inhumane conditions, with a lack of proper medical care, inadequate sanitation, and the use of isolation.**

- a. **Can you provide an update on what we know currently about Ukrainian civilians being held in these detention programs?**

Response: In February 2023, Secretary of State Antony Blinken stated that the United States has determined that members of Russia's forces and other Russian officials had committed crimes against humanity (CAH) in Ukraine, including execution-style killings of Ukrainian men, women, and children; torture of civilians in detention through beatings, electrocution, and mock executions; rape; and forced deportation of thousands of Ukrainian civilians to Russia, including children who have been forcibly separated from their families.

In the last Congress, the Biden Administration supported a package of new measures championed by Members of this Committee to support justice for Ukraine. We are grateful that Congress enacted the forfeited asset transfer authority and expanded federal court jurisdiction for the prosecution of war crimes. However, we were disappointed that other proposals, including conferring federal court jurisdiction over certain crimes against humanity and enabling the Department to prosecute acts of torture committed abroad against U.S. nationals "under the color of law," did not also make it through to the President's desk.

The Administration continues to support expansion of federal court jurisdiction to encompass prosecutions for crimes against humanity. The current statutory landscape contains a particularly large gap in our ability to pursue justice and to deter the commission of atrocities. War crimes and genocide statutes alone are simply not sufficient to address the full and tragic array of large-scale atrocity crimes that continue to occur. Crimes against humanity laws, which have been adopted by many other countries, among them Canada, the United Kingdom, South Africa, France, and Australia, enable prosecutions of certain criminal acts when committed as part of a widespread and systematic attack directed against a civilian population even if they occur outside the context of an armed conflict. The United States played a key role, at the postwar Nuremberg and Tokyo trials, in introducing this crime to world jurisprudence. Enactment of a crimes against humanity statute would bring us into alignment with the laws of many of our NATO Allies and would strengthen the United States' ability to hold accountable perpetrators of atrocities.

Enacting CAH legislation would facilitate the prosecution of a range of criminal activity, including acts of sexual violence, forced labor, and crimes committed against Ukrainian civilians outside of occupied territory. Depending on the circumstances, such conduct may not be covered by the War Crimes Act, even though Ukraine is in armed conflict, but could be covered by CAH legislation.

b. How has the DOJ coordinated with local law enforcement in Ukraine to prosecute those responsible for these programs?

Response: Pursuant to a Memorandum of Understanding (MOU) signed in September 2022, American and Ukrainian prosecutors are now working closely together to bring the perpetrators of atrocities to justice. Together, we have zeroed in on specific crimes that members of Russian forces have committed, including attacks on civilian targets. We are working to identify not only the individuals who carried out these attacks, but also those who ordered them. Our multilateral coordination efforts amplify our bilateral engagement with Ukrainian authorities. For example, we became the first country in the world to sign an MOU with the national members of the Ukraine Joint Investigation Team, which includes Ukraine, Poland, Latvia, Lithuania, Estonia, the Slovak Republic, and Romania. The MOU formalizes and facilitates our coordination with these countries, who have collectively processed large amounts of evidence, including witness and victim testimonies from Ukrainian refugees.

In addition, the Department is also providing wide-ranging assistance, including operational assistance and advice regarding criminal prosecutions, evidence collection, forensics, and victim-witness issues to the Ukrainian Prosecutor General's Office (PGO), the National Police of Ukraine, and other law enforcement authorities in Ukraine. For example, the War Crimes Accountability Team has assigned a senior Department prosecutor to work directly with the PGO to provide advice and assistance to the PGO on specific cases. In addition, multiple Department components are advising the PGO on the design and deployment of a state-of-the-art electronic case management system. The Department's Environment and Natural Resources Division (ENRD) has provided training and other important assistance to Ukrainian environmental prosecutors as they work to build cases for possible prosecution of war crimes involving damage to the environment. As of February 2024, the PGO reported that it has identified more than 122,000 possible war crimes since the start of the war, so the needs of the PGO will clearly continue over time. The Department will continue seeking ways to provide practical assistance to support their efforts.

3. The Russian war on Ukraine has triggered an unprecedented refugee crisis, with over 8 million refugees from Ukraine recorded across Europe. This refugee crisis has left many Ukrainians, mainly women and children, vulnerable to exploitation and human trafficking, including sex trafficking.

a. What is the DOJ doing to address this rise in human trafficking targeting vulnerable Ukrainian women and children?

Response: The United States has extraterritorial jurisdiction over sex trafficking, forced labor, and other Chapter 77 crimes committed against non-U.S. nationals outside the United States and the U.S. Special Maritime and Territorial Jurisdiction where one of three conditions is met: (1) the alleged perpetrator is a U.S. person; (2) the alleged perpetrator is employed by or accompanying the U.S. Government abroad; or (3) the alleged perpetrator is found in the United States. Accordingly, the Department would not have criminal jurisdiction over most Chapter 77 human trafficking crimes committed outside the United States perpetrated against Ukrainian nationals, unless it could be shown that the perpetrator was a U.S. person or acting on behalf of the United States or the alleged perpetrator was found in the United States.

To the extent that human trafficking is underway pursuant to a widespread or systematic attack, by the Russian government, CAH legislation would help ensure the United States has jurisdiction over such a crime.

Ukrainian refugees who have arrived in the United States, like other vulnerable people, face heightened risk of human trafficking or other forms of exploitation within the United States. The Department will continue to work with a wide range of law enforcement, governmental, and non-governmental partners to detect, investigate, and prosecute human trafficking within the United States and to assist and protect victims and survivors.

4. **Last year, Congress passed and President Biden signed into law the *Justice for Victims of War Crimes Act*, which gave the United States jurisdiction over war crimes committed abroad when the perpetrator is present in the United States. However, U.S. courts remain limited in their jurisdiction over crimes against humanity, which can occur outside the context of a war or active armed conflict. At the hearing, you testified that the DOJ needs additional authorities, including new legislation regarding crimes against humanity, in order to successfully prosecute Russian atrocities.**

- a. **Can you please explain the limits of the DOJ's current authorities to prosecute crimes against humanity?**

Response: The 2022 amendments to the War Crimes Act will make it easier to prosecute any perpetrators who travel to the United States. Since Russia's unprovoked, full-scale invasion of Ukraine on February 24, 2022, the Department of Justice has used all tools at its disposal to impose accountability and serious costs on Russia and its enablers. Dozens of prosecutors, agents, analysts, and other personnel from across the Department are working tirelessly, joined by partners in Ukraine and across the globe. The Department is leveraging the entirety of its expertise through new initiatives to disrupt criminal networks that support the Russian war effort. In April 2023 the Department's War Crimes Accountability Team Director and U.S. Special Prosecutor for the Crime of Aggression traveled to Kyiv, Ukraine, to reaffirm the Department's commitment in advancing accountability for atrocity crimes and Russian aggression against Ukraine. While in Kyiv, the delegation met with key Ukrainian counterparts and their staff on operational matters including ongoing investigations, information-sharing, and technical cooperation, as well as the various legislative, procedural, and technical challenges associated with such investigations and potential solutions.

The War Crimes Act does not cover all the crimes currently occurring in Ukraine. Enacting CAH legislation would facilitate the prosecution of a broader range of criminal activity, including acts of sexual violence, forced labor, and crimes committed against Ukrainian civilians. Depending on the circumstances, such conduct may not be covered by the War Crimes Act but could be covered by CAH legislation. As the Department works with the Congress to fill this gap in U.S. law, the United States will continue to investigate any alleged war criminals over whom it has jurisdiction regardless of the nationality of the perpetrators.

b. What additional authorities does the DOJ need and are there any legislative proposals that would adequately provide these authorities?

Response: Adopting a CAH statute would give U.S. prosecutors jurisdiction to pursue perpetrators of CAH, including those who committed crimes against U.S. persons or who are present in, or travel to, the United States. The Department is interested in working with Congress to support a CAH bill. The Administration has also recommended amendments to the Torture Statute to ensure that the Department has jurisdiction over the torture of Americans. For war crimes committed during the first year after the invasion of Ukraine, the Department may not be able to prosecute the perpetrators even if they come to the United States, unless the offender or victim was a U.S. national or member of the U.S. armed forces. This is because the recent amendment to the War Crimes Act did not expressly provide for retroactive application.

SENATOR MIKE LEE

1. **Please share anything in writing that shows the U.S. Marshals were given charging authority from either you or Attorney General Garland for protesters in front of the United States Supreme Court Justices' homes.**
2. **Explain what specifically has been done to protect family members of the Justices since that was added to the responsibility of U.S. Marshals Service.**

Response to 1-2: In May 2022, the Attorney General took the unprecedented step of directing the U.S. Marshals Service (USMS) to provide 24/7 protection at the residences of Supreme Court Justices. This is the first time in history the Department has provided 24/7 protection for them at their homes. That protective mission continues today.

The USMS reports as follows:

During the first year and a half of the mission, from May 2022 through December 30, 2023, the USMS mobilized 1,577 operational and administrative personnel, for at least one rotation during one of the last three fiscal years, to execute the residential protection mission, drawing from 93 of the 94 federal judicial districts. USMS personnel from across the nation continue to be mobilized for the mission. Their first priority is to protect the life and safety of the Justices and their families.

Pursuant to 28 U.S.C. § 566, U.S. Marshals, Deputy U.S. Marshals, and any other USMS officials designated by the Director may "make arrests without warrant for any offense against the United States committed in his or her presence, or for any felony cognizable under the laws of the United States if he or she has reasonable grounds to believe that the person to be arrested has committed or is committing such felony." As the USMS Director has said, "The Attorney General has been clear from the very beginning and on repeated occasions that the Marshals' number one priority is to protect the Justices, their families and their property. He has also from the beginning made clear that we have the full authority to enforce any federal statute, including 1507, to the extent doing so doesn't compromise the lives and safety of the Justices." In February 2024, the Director further testified that "The Attorney General's order was very clear, actually, crystal clear. Protect the lives of the Justices. He made sure that we still had full authority to make arrest, but not to engage in any activity that would compromise their safety."

3. **Similar to January 6th, has the FBI interviewed protestors based on their appearance in video footage from the Justices' homes? If no, why?**

Response: It is longstanding and standard Department policy not to confirm or deny the initiation or existence of any investigation.

4. **Does DOJ brief the Justices and family members on threats that they are tracking against each Justice? Will you brief the Judiciary Committee on the number and intensity of threats on all nine Justices quarterly? If certain Justices are not being**

threatened, are they so advised and is the level of protection provided altered?

Response: The USMS advises as follows: The USMS and the Supreme Court Marshal have committed to ensure that each Justice has appropriate protection. The USMS does not comment on the process of threat notifications or the methods by which protectees are provided briefings. For any additional information on this topic, the Department defers to the Marshal of the Supreme Court.

5. Are threat mitigation steps provided to each Justice and their family members? If tangible expenses are prescribed, does DOJ cover the cost of enhanced security, if necessary?

Response: The USMS has stated that it does not comment on the process of threat notifications and the methods by which protectees are provided briefings. The FY 2025 budget request for USMS includes \$28.1 million and 53 positions to provide protective services personnel and equipment for residential security of the Justices.

6. What recommendations does the U.S. Marshals Service have to enhance security for Justices and their families?

Response: The Department believes strongly that the Marshal of the Supreme Court, who is responsible for providing security for the Justices and other Court employees, is significantly underresourced for that mission. The Supreme Court has sought \$5.81 million in support of judicial security in its fiscal year 2025 budget request. We support additional funding for this mission and urge Congress to fully fund this request.

7. Explain the roles of security for Justices including Supreme Court police, all federal, state, local police involved in protests and threats to a Justice or their family members. What are each of the roles? Do you believe the roles are clear to stakeholders right now?

8. You mentioned a certain number of U.S. Marshals who are tasked with protecting Supreme Court Justices. Is it the same group of professionals or do they rotate? Do these U.S. Marshals conduct field operations to find those threatening the Justices or are they only stationed to wait for threats?

Response to 7-8: The USMS advises as follows: The Supreme Court Police have historically taken responsibility for the Justices within the National Capital Region and the security of the Supreme Court building. USMS has, upon request, provided security to the Justices outside the National Capital Region.

In May 2022, the Attorney General took the unprecedented step of directing the USMS to provide 24/7 protection at the residences of Supreme Court Justices. This is the first time in history the Department has provided 24/7 protection for them at their homes. That protective mission continues today.

During the first year and a half of the mission, from May 2022 through December 30, 2023, the USMS mobilized 1,577 operational and administrative personnel, for at least one rotation during one of the last three fiscal years, to execute the residential protection mission, drawing from 93 of the 94 federal judicial districts. USMS personnel from across the nation continue to be mobilized for the mission. As the USMS Director has said, “The Attorney General has been clear from the very beginning and on repeated occasions that the Marshals’ number one priority is to protect the Justices, their families and their property. He has also from the beginning made clear that we have the full authority to enforce any federal statute, including 1507, to the extent doing so doesn’t compromise the lives and safety of the Justices.” In February 2024, the Director further testified that “The Attorney General’s order was very clear, actually, crystal clear. Protect the lives of the Justices. He made sure that we still had full authority to make arrests, but not to engage in any activity that would compromise their safety.”

USMS works in partnership with state and local law enforcement every day in cases that involve both federal and state/local crimes.

The USMS continues to staff this detail with resources from Districts and Divisions throughout the country. Since May of 2022, USMS has deployed over 1,200 U.S. Deputy Marshals to Supreme Court protection details on varying rotations. USMS has also increased the number of intelligence analysts supporting protective intelligence/investigations. Open-source intelligence screening and other analyses are applied to all Justices, and each is assigned to a specific analyst for this enhanced screening. Additionally, USMS maintains a 24/7 Command Center for communications directly related to Supreme Court protective operations and also coordinates information sharing and communication through this Command Center and USMS’s Office of Protective Intelligence to the Supreme Court Police. USMS has provided protective risk and residential vulnerability assessments to the Supreme Court. USMS has also provided Supreme Court Police with strategic knowledge regarding planning and executing protective operations both domestic and international.

9. Are the U.S. Marshals authorized to protect the immediate family of the U.S. Supreme Court Justice to which they are assigned when the Justice is not home?

Response: The USMS has stated that it provides a 24/7 protective detail for each of the Justices’ residences, and that protection extends to the family members living inside the residence.

10. At the hearing you testified that the Attorney General’s testimony to this committee that he had given “full authority” to the Director of the U.S. Marshals Service to arrest protestors under all federal statutes, including Title 18, Section 1507, was accurate. If that is true, why do the slides used by the U.S. Marshals Service to brief Marshals providing protective services to Supreme Court Justices discourage arrests under Section 1507 unless additional non-statutory elements of “criminal threats and intimidation” are present and arrests are “coordinated in advance with the appropriate USAO?”

11. Have the training slides provided to U.S. Marshals providing protective services to Supreme Court Justices changed since March 28, 2023? Has any disciplinary or

corrective action been taken with regard to the U.S. Marshals Service Director or General Counsel for providing training that conflicts with the direction the Attorney General claimed to have given in testimony before this Committee and the Senate Appropriations Committee that he provided to the U.S. Marshals Service?

Response to 10-11: To the extent your question relates to a slide deck raised to the Attorney General at a March 28, 2023 hearing of the Senate Committee on Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies, the Attorney General stated that he had “never seen those slides before.” These slides were developed and provided to USMS personnel by the USMS.

As the USMS Director has said, “The Attorney General has been clear from the very beginning and on repeated occasions that the Marshals’ number one priority is to protect the Justices, their families and their property. He has also from the beginning made clear that we have the full authority to enforce any federal statute, including 1507, to the extent doing so doesn’t compromise the lives and safety of the Justices.” The Director has said USMS would review USMS training materials on an ongoing basis to ensure they remain consistent with this directive.

12. Are you aware of any other guidance given to U.S. Marshals under any other criminal statute that requires the Marshals to first check with the relevant U.S. Attorney’s office to ensure they plan to prosecute before making an arrest?

Response: The USMS, like the Department’s other law enforcement components, routinely coordinates with U.S. Attorneys’ offices around the country on charging decisions.

13. A few weeks ago, the Senate Judiciary Committee invited the Department of Justice to brief staff on protests at the Justices’ homes and any arrests or prosecutions under 18 U.S.C. §1507. Senator Cruz’s staff made clear that they wanted to discuss Section 1507. The briefers came to the briefing claiming not to have read Section 1507. Why would the Department of Justice schedule a briefing on a statute but fail to read the statute?

Response: Consistent with parameters negotiated with staff, the Department agreed to provide a bipartisan briefing on February 16, 2023, regarding the security of Supreme Court Justices, along with the attendant threat landscape.

14. I previously asked Attorney General Garland about the overly aggressive arrest and prosecution of Mark Houck, a pro-life protestor in Philadelphia, for FACE Act violations because he pushed a Planned Parenthood escort who was verbally harassing his 12-year old son. According to Mr. Houck’s wife, around 7 am on a Friday morning “a SWAT team of about twenty-five came to my house with about fifteen vehicles and started pounding on our door.... And then they had about five guns pointed at my husband, myself, and basically at my kids.” How can you justify using this much force when Mr. Houck’s attorney both called and emailed an assistant U.S. Attorney saying Mr. Houck would accept a summons and surrender himself?

15. It has been reported that the FBI disputes Mrs. Houck's claims that the FBI used a SWAT team consisting of twenty-five agents to arrest Mr. Houck. If yes, please provide details on the number of agents and the tactics used to arrest Mark Houck on September 23, 2022.

16. Regarding the FACE Act charges against Mr. Houck, Judge Gerald Pappert said "doesn't the statute seem to be a little stretched here." Not surprisingly, the jury acquitted Mr. Houck of all charges. Why did the Department of Justice pursue this prosecution?

Response to 14-15: Mr. Houck has filed a Federal Tort Claims Act claim against the United States. As a result, consistent with longstanding Department practice, the Department cannot comment further at this time.

17. The current standard for warrantless, backdoor searches of U.S. persons' communications by the FBI is "reasonably likely to return evidence of a crime." Do you believe the standard should be heightened to protect the civil liberties of Americans?

Response: The Department is grateful for Congress's reauthorization of expiring provisions of the Foreign Intelligence Surveillance Act in April 2024, and we are now working to implement its bipartisan reforms. Among other reforms, the reauthorization prohibits "evidence of a crime" queries, subject to certain limited exceptions.

Section 702 of the Foreign Intelligence Surveillance Act is indispensable to the Justice Department's work to protect the American people from terrorist, nation-state, cyber, and other threats. However, there have been significant querying errors by FBI in recent years, which the Department and the FBI find unacceptable and have worked to correct. To that end, the FBI has implemented multiple remedial measures to address these query compliance issues.

As the Attorney General said, this reauthorization of Section 702 gave the United States the authority to continue to collect foreign intelligence information about non-U.S. persons located outside the United States, while at the same time codifying important reforms, which the Justice Department has adopted, to ensure the protection of Americans' privacy and civil liberties.

18. How is a warrantless search of Americans' communications consistent with the Fourth Amendment?

Response: The National Security Division states as follows:

Section 702 targeting is only permitted for non-U.S. persons outside of the United States to acquire foreign intelligence information. All courts to have considered the issue of 702 targeting, including the FISC, FISC-R, and three courts of appeals, have found Section 702 targeting to be reasonable under the Fourth Amendment because of the targeting, minimization, and querying procedures.

With respect to U.S. person queries, the FISC has said no warrant is required. A query involves using a term to retrieve specific information from a database of information that has been lawfully collected by the government pursuant to FISA. A query of Section 702 acquired information is not a “search” within the meaning of the Fourth Amendment, and the law does not require the government to obtain a warrant to query communications lawfully collected under section 702.

In particular, the FISC has explained that, while it considers the reasonableness of the government’s procedures (including query procedures) “as a whole” in considering the compliance of Section 702 collection with the Fourth Amendment, the “querying of information lawfully acquired under section 702” is not “a distinct Fourth Amendment event requiring a reasonableness determination independent of the other circumstances of acquisition.” Outside the context of FISA and national security investigations, querying lawfully collected information is a common practice for investigators, and courts have not required that the government obtain a warrant to conduct database checks of such information. In multiple criminal cases in which Section 702 information has been affirmatively used against a defendant, federal courts other than the FISC have upheld the program’s constitutionality and declined to state that the Fourth Amendment requires a warrant to conduct U.S. person queries of section 702 data.

19. The ODNI’s recently declassified (December 21, 2022) semiannual report on compliance with Section 702, lists multiple concerning incidents of noncompliance with the “evidence of a crime” standard by the FBI. The report lists multiple issues of noncompliant 702 searches involving U.S. persons including searches of prospective FBI employees, members of a local political party, individuals recommended to participate in the FBI Citizens Academy, journalists, and a Congressman. And, this isn’t the first year this has happened. What disciplinary action has been taken with regard to employees who conducted noncompliant backdoor searches of the Section 702 database?

Response: The National Security Division states as follows:

The declassified SAR—the 24th “Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, submitted by the Attorney General and the Director of National Intelligence” (24th Joint Assessment)—covered the reporting period timeframe of December 1, 2019, through May 31, 2020. Accordingly, it reflects compliance data that predates the reforms that the Department and FBI have since put into place to improve compliance—including new accountability and field office health measures—described below.

When the FBI has detected intentional misuse of the authority for improper purposes, it has taken appropriate action to address that misuse. For example, in 2017, when the Department oversight identified that an FBI contractor was conducting improper queries for personal reasons, the contractor had their security clearance revoked and was terminated from their position with the FBI. When compliance incidents are unknowing or unintentional, the FBI has retrained employees and issued supplemental guidance to address noncompliant queries.

20. What action has the Department of Justice taken to eliminate these noncompliance issues plaguing the Section 702 program and protect the civil liberties of U.S. persons?

Response: The National Security Division advises as follows:

Between the summer of 2021 and throughout 2023, the Department and the FBI implemented significant remedial measures that would address Section 702 compliance incidents identified in historical Section 702 Joint Assessments, had they been in place at the time. These remedial measures also promote the protection of civil liberties and ensure accountability.⁸ For example:

1. **Opt-in settings:** In June 2021, the FBI changed the default settings in the systems where it stores unminimized Section 702 information so that FBI personnel with access to unminimized FISA Section 702 information need to affirmatively “opt-in” to querying such information, reducing the risk of inadvertent queries (i.e., those queries users did not intend to run against Section 702 information).
2. **Batch query approval requirements:** Also in June 2021, FBI instituted a policy requiring prior FBI attorney approval before FBI personnel can conduct a “batch job” that would result in 100 or more queries. In June 2023, FBI leadership expanded this remedial measure to require attorney pre-approval for all batch job queries.
3. **Sensitive query approval:** FBI personnel must now obtain attorney pre-approval to conduct queries that present certain investigative sensitivities. In addition, the

⁸ See U.S. JUSTICE DEP’T, *Recent Efforts to Strengthen FISA Compliance* (Feb. 28, 2023), [recent_efforts_to_strengthen_fisa_compliance_02.28.23.pdf \(justice.gov\)](https://www.justice.gov/press-releases/fbi-releases-fisa-query-guidance); see Press Releases, FEDERAL BUREAU OF INVESTIGATION, *FBI Releases FISA Query Guidance* (Apr. 24, 2023), <https://www.fbi.gov/news/press-releases/fbi-releases-fisa-query-guidance>.

FBI's Deputy Director must also personally approve certain types of sensitive queries—such as those involving domestic public officials—before they may be conducted.

4. **Case-specific justification requirements:** In the Fall of 2021, FBI systems were re-designed to require agents and analysts to enter a case-specific justification for every Section 702 query using a U.S. person query term before accessing any content retrieved by such a query. In June 2023, Director Wray directed his leadership team to go beyond that recommendation and to record the justification for all U.S. person Section 702 queries at the time the queries are performed, rather than at the time that an FBI user seeks to view the content of any Section 702 information retrieved using a U.S. person query term. That change was implemented in September 2023.
5. **New training requirements:** In November 2021, the Department, ODNI, and the FBI issued new comprehensive guidance to all FBI FISA users on the proper application of the query rules, and in December 2021, the FBI instituted new mandatory training on that guidance, which personnel were required to complete by the end of January 2022. The FBI expanded and updated this training at the end of 2022. On an annual basis, all FBI personnel with access to unminimized FISA information are required to complete the expanded and updated query training or lose access to FISA systems. The guidance and mandatory training directly address misunderstandings about the rules applicable to queries of unminimized FISA information and instruct personnel on how to properly apply the query rules. In addition, the text of FBI's Section 702 querying procedures was revised to more clearly spell out the query standard to FBI personnel. The results of those interagency efforts were two documents: the "FBI FISA Query Guidance" and a two-page desk reference companion document entitled "FBI FISA Query Guidance Nutshell." Both documents were issued to all FBI national security personnel in November 2021 and made available to the public on April 24, 2023.⁹

In addition to these new remedial measures, the FBI announced in June 2023 that they would establish a new policy with escalating consequences for performance incidents involving negligence, including centralized tracking of individual employee performance incidents over time. They also announced new Field Office Health Measures (FOHM). The Department's National Security Division (NSD) continues to conduct audits of FBI's queries of unminimized Section 702 information. Based on the results of these ongoing reviews, NSD has provided supplemental guidance on compliance trends to FBI, and FBI has updated its mandatory query-related training.

⁹ FEDERAL BUREAU OF INVESTIGATION, *FBI Releases FISA Query Guidance* (Apr. 24, 2023), <https://www.fbi.gov/news/press-releases/fbi-releases-fisa-query-guidance>.

Compliance and oversight are an ongoing process, and FBI and NSD continue to assess the efficacy of existing remedial measures to address the query compliance issues and determine additional remedial measures that are needed to improve compliance.

In July 2023, ODNI publicly released the FISC's April 2023 Section 702 opinion, which noted the FISC found a 1.7% noncompliance rate with the query standard for 702 information. In March 2024, the Department issued a paper describing the findings of NSD's 2023 query audits of FBI, which found that approximately 98% of FBI's Section 702 queries were compliant with the querying requirements and that compliance with the query standard exceeded 99% in CY2023.¹⁰

Additional measures have been put in place to address query compliance as a result of the recent reforms included in the Reforming Intelligence and Securing America Act (RISAA). For example, RISAA requires that an FBI attorney or supervisor pre-approve every U.S. person query of Section 702 information. RISAA also requires that FBI's Section 702 query procedures incorporate certain requirements, such as prior approvals for sensitive queries, written justifications prior to a U.S. person query being conducted, and mandatory annual training on the query requirements. RISAA includes notification requirements to Congress regarding queries involving members of Congress. In addition, RISAA prohibits the FBI from conducting queries of Section 702 information that are solely designed to find and extract evidence of a crime. Finally, RISAA requires that NSD audit every Section 702 U.S. person query, which NSD has been doing since the enactment of RISAA.

21. In January of this year, the Bureau of Prisons released the "Transgender Offender Manual." Section 2 of this manual is a list of definitions, including this definition of gender: "a construct used to classify a person as male, female, both, or neither. Gender encompasses aspects of social identity, psychological identity, and human behavior." The manual also defines "gender identity as "a person's sense of their own gender." Is the Bureau housing inmates based on these definitions of gender and gender identity, instead of their biological sex?
22. Section 6 of the Transgender Offender Manual, "Housing and Programming Assignments", states "a transgender or intersex inmate's own views with respect to his/her own safety must be given serious consideration." Are the views of non-transgender inmates regarding their safety given equally serious consideration when potentially being housed with transgender inmates?

Response to 21-22: BOP has stated the following: All requests for gender-affirming placement are evaluated by the BOP. The BOP assesses each request on a case-by-case basis to protect the safety of the individual being considered for transfer as well as the safety of others at the potential location of transfer. The BOP will consider factors including, but not limited to, an

¹⁰ See U.S. JUSTICE DEP'T NAT'L SEC. DIV., *FBI Remedial Measures Produce ~ 98% Query Compliance Rate*, <https://www.justice.gov/nsd/media/1344761/dl?inline=>.

inmate's security level, criminal and behavioral/disciplinary history, current gender expression, programming, medical, and mental health needs/information, vulnerability to sexual victimization, and likelihood of perpetrating abuse. This review therefore takes into account the offender's prior convictions, including for sex offenses, when making a placement assessment.

23. My office has heard from conservative organizations that their Freedom of Information Act requests are being universally declined by the Department of Justice. Is this the case? For example, Advancing American Freedom has submitted the following FOIA requests to investigate what they believe is a pattern of selective investigation and prosecution by the Department of Justice and received no response. Please provide an explanation for the Department of Justice's failure to respond to each individual request.

- a. **On September 21, 2022, Advancing American Freedom filed a FOIA request seeking production of records and external communications related to the DOJ's subpoena of Eagle Forum of Alabama.**
- b. **On September 30, 2022, Advancing American Freedom and fifteen other organizations filed a FOIA request for DOJ information related to its failure to investigate or prosecute attacks on pro-life organizations.**
- c. **On February 23, 2023, Advancing American Freedom filed a FOIA request regarding the FBI Richmond Field Office's leaked Intelligence Note pertaining to "radical-traditionalist Catholics" and any external communications related to Christian beliefs, the FBI's investigation of those beliefs, an unredacted and unedited version of the leaked memorandum, and other relevant records.**

Response a-c: As of July 2024, the Department has issued final responses and has completed production of all nonexempt records regarding the request referenced in question (b).

The Office of Information Policy, which administers FOIA policy, advises as follows:

The request in question (a) is addressed to EOUSA and OIP, however, OIP has no record of receiving this request. EOUSA received this request on June 6, 2023 and issued its final response on September 13, 2023, accounting for 511 pages. Advancing American Freedom (AAF) has not submitted a FOIA administrative appeal to OIP. Finally, OIP has no knowledge of any litigation related to this request.

On October 11, 2022, OIP received AAF's request, dated September 30, 2022, referenced in question (b). In March 2023, AAF filed suit. The parties subsequently worked together to clarify the scope of the request and to agree upon search terms, which they did at the end of May 2023. OIP proposed a processing schedule whereby OIP would endeavor to issue a final response in early December 2023, with rolling interim responses in between. Plaintiff agreed to this schedule. OIP issued its first interim response on October 6, 2023, accounting for 181 pages. OIP would note that EOUSA and the FBI previously responded to AAF's request and

neither response is at issue in the pending lawsuit.

The request in question (c) was addressed to the FBI and OIP. OIP received this request on March 8, 2023. A search for responsive electronic records is currently in process. The FBI received this request on August 28, 2023. On September 1, 2023, the FBI issued a response to parts 1-6 of the request indicating these parts were overbroad. For part 7, a search for records has been completed and responsive records have been assigned for processing.

24. Please provide the status of the FBI investigation of the shooting of two individuals in a Utility Task Vehicle by a Ute Tribe Fish and Wildlife Officer that occurred in Duchesne County, Utah on July 17, 2022. If the FBI investigation is complete, please provide information on any further action anticipated by the Department of Justice.

Response: Standard Department policy is not to comment on or confirm or deny the existence of any pending investigations.

25. Is it corrupt for a judge or justice to have rich friends who occasionally furnish lavish trips or other personal gifts?

26. Doesn't the answer to the previous question depend wholly on whether that rich friend has business before the court?

27. Can you point to any case where a U.S. Supreme Court Justice voted contrary to what you would expect his or her view of the law might be? Some have pointed to Chief Justice Roberts in the Obamacare case, *NFIB v. Sebelius*. Is that the sort of alleged "corruption" a "judicial ethics" code applied to the Supreme Court would, could, or should address?

28. Abe Fortas advised the White House on assorted matters and, as well as advising a convicted felon during the pendency of his case in the federal judiciary. He also was paid handsomely (about half his judicial salary) by former clients with business before the court to give a series of lectures. He eventually resigned after all this came to light. Have any claims of ethical violations by current justices risen anywhere near that level of impropriety?

Response 25-28: The ethical obligations that govern the Judicial Branch are set forth in a variety of sources, including statutes, court rules, and codes of conduct, and those are applied on a case-by-case basis.

29. Do you share the view held by left-wing activist groups that every or any current Republican-appointed Supreme Court Justice is illegitimate?

Response: No.

SENATOR WELCH

1. Following the leak of classified documents related to the war in Ukraine on the platform Discord, reporting suggests that the Administration plans to increase surveillance of social media sites. Please provide an overview of the Administration's current ability to monitor the social media activity of current government employees who hold an active security clearance.
 - a. Does the Administration plan to expand or alter these programs to increase security?
 - b. Does the Administration plan to increase surveillance of government employees or contractor clearance holders in response to the recent leak?
 - c. Does the Administration plan to increase surveillance of other users on social media sites in response to the recent leak?
 - d. What restrictions are in place to protect First Amendment protected speech, and what other limits restrict a potential expansion of government monitoring?
 - e. Given that physical documents were smuggled out of a government facility before they were leaked online, how does the Administration plan to balance any plans to increase surveillance of social media sites with the demonstrated need to improve physical security of these facilities and prevent document theft?

Response a-e: The Department applies appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records and information.¹¹ The Department also complies with the Privacy Act's restrictions regarding on maintaining records that describe how an individual exercises First Amendment rights.¹²

Further, principles codified in the Attorney General's Guidelines for Domestic FBI Activities, or AGG-Dom, include protecting the public's rights and liberties and employing the least intrusive means that do not otherwise compromise FBI operations. The Guidelines do not authorize investigating, collecting, or maintaining information on United States persons solely for the purpose of monitoring activities protected by the First Amendment or the lawful exercise of other rights secured by the Constitution or laws of the United States. The FBI's Domestic Investigations and Operations Guide (DIOG) also implements Constitutional protections for rights such as free speech, religion, and equal protection, including Chapter 4 entitled, "Protection of First Amendment Rights." The DIOG also prohibits taking any investigative steps based solely on First Amendment protected activity.

¹¹ See Privacy Act 5 U.S.C. § 552a(e)(10).

¹² See *id.* § 552a(e)(7).

2. The last decade has seen a series of unauthorized classified information leaks. Security clearance process reform has struggled to keep pace and solve this illegal handling of classified material.

a. Would the continuous vetting, continuous evaluation within Trusted Workforce 2.0 have prevented the Teixeira leak?

b. When will Trusted Workforce 2.0 be fully implemented?

Response to 2a-b:

In March 2024, the defendant in this matter agreed to plead guilty to retaining and transmitting classified National Defense Information on a social media platform beginning in or around 2022 and continuing until his arrest in April 2023. Specifically, Teixeira agreed to plead guilty to six counts of willful retention and transmission of classified information relating to the national defense (National Defense Information). In November of this year, Teixeira was sentenced by a federal judge to 15 years in prison pursuant to his plea of guilty.

As guided by the Performance Accountability Council (PAC) Principal agencies, to include the Office of Management and Budget, the Office of the Director of National Intelligence, Office of Personnel Management, and Department of Defense, Trusted Workforce 2.0 is anticipated to be fully implemented in Fiscal Year 2025. The Department expects that implementation of Trusted Workforce 2.0 will improve our capacity to monitor for and mitigate potential security threats through reforms like continuous vetting.

c. Does the FY24 Budget Request fully support this implementation schedule, or are there aspects of risk?

Response: As part of its submission to the Fiscal Year 2025 President's budget, the Department included projected costs to implement Trusted Workforce 2.0.

3. The 2017 Intelligence Community Assessment found, "Russian leadership invests significant resources in both foreign and domestic propaganda." However, the Russian playbook is not limited to the United States. Please provide the most recent assessment and/or written products regarding Russian disinformation efforts in Ukraine and US actions to counter them, as applicable and unclassified.

Response: The Department defers to the Intelligence Community for the most recent assessment and/or written products regarding Russian information operations in Ukraine and to the Department of State and Department of Defense regarding U.S. actions to counter them. As an example of the Department's work in this area, in April 2023, a federal grand jury in Tampa, Florida, returned a superseding indictment charging four U.S. citizens and three Russian nationals with working on behalf of the Russian government and in conjunction with the Russian Federal Security Service (FSB) to conduct a multi-year foreign malign influence campaign in the United States. Among other conduct, the superseding indictment alleges that the Russian defendants recruited, funded, and directed U.S. political groups to act as unregistered illegal

agents of the Russian government and sow discord and spread pro-Russian propaganda; the indicted intelligence officers, in particular, are alleged to have participated in covertly funding and directing candidates for local office within the United States. One focus of alleged influence operation subject to the indictment in Florida was to create the appearance of American popular support for Russia's annexation of territories in Ukraine.

SENATOR WHITEHOUSE

1. **What more can the United States Congress do to support Task Force KleptoCapture? During your testimony, you affirmed that Congress should amend the statute that authorizes the Department to transfer forfeited oligarch assets to Ukraine in the form of foreign assistance. You specified that the statute could be expanded to account for violations of export control laws in addition to sanctions evasion. Will your office provide draft statutory language to our office, and—in addition to export violations—are there other criminal violations the Department would find useful to include in such a revision?**

Response: The Department is rigorously enforcing existing authorities, including export-control laws, in new ways. Enforcement of U.S. export controls has been a key priority for Task Force KleptoCapture (TFKC), and the Department's National Security Division is surging resources into export control enforcement more broadly. TFKC efforts have resulted in seizure warrants for multiple luxury aircraft, the seizure of dual-use technology and munitions, and the arrests of members of transnational procurement networks engaged in the smuggling of sensitive technology. In December 2023, the Department filed the first-ever charges under the U.S. war crimes statute against four Russia-affiliated military personnel for heinous crimes against an American citizen. TFKC has restrained, seized, and obtained judgments to forfeit nearly \$700 million in assets from Russian enablers and charged more than 70 individuals for violating international sanctions and export controls levied against Russia. We were happy to provide technical assistance for your bill, the Asset Seizure for Ukraine Reconstruction Act, and would be happy to provide additional information in the future.

The enactment of the Additional Ukraine Supplemental Appropriations Act of 2023 authorized the Department to transfer certain forfeited property to the Department of State to remediate the harms of Russia's invasion of Ukraine. In February 2023, the Attorney General authorized the first-ever transfer under this new authority. The Department has initiated other forfeiture actions that, if ultimately successful, would make additional assets available to assist in rebuilding Ukraine. However, the transfer authority granted to the Department by Congress does not cover the full scope of the TFKC's work. In particular, it does not cover assets forfeited in connection with the 2014 sanctions imposed in response to Russia's earlier invasion of Ukraine, and it does not cover assets forfeited pursuant to violations of the Export Control Reform Act of 2018 or the Export Administration Regulations. The Department would welcome an opportunity to discuss with the Committee the benefits of expanding the list of offenses and applicable executive orders that allow for transfer of forfeited assets for Ukraine's benefit. Secondly, the authorization to do this work is set to expire May 1, 2025, and respectfully we would request consideration be given to extending the authority a minimum of two years. We are also seeking ways to add criminal violations of the International Emergency Economic Powers Act and the Export Control Reform Act as Racketeer Influenced and Corrupt Organizations Act predicate offenses, which would provide powerful new tools against sanctions evaders, including the enablers of Russia's aggression. In addition, we continue to fully support CAH legislation that would fill an important statutory gap in holding perpetrators accountable for atrocities committed in Ukraine.

- 2. Last Congress, I introduced legislation that would allow the United States to seize, forfeit, and sell for the benefit of Ukraine high-value assets owned by Russian oligarchs. The bill would grant the Department of Justice additional *in rem* administrative forfeiture authorities for certain oligarch assets valued over \$500,000. How would such additional authorities bolster the Department of Justice's current efforts?**

Response: As to the forfeiture-related amendments, as the Attorney General indicated, the Department is happy to work with you on this proposal. The Department greatly appreciates your efforts to strengthen the Department's ability to pursue and forfeit criminal assets to benefit Ukraine effectively and quickly. When unchallenged, assets subject to administrative forfeiture may move relatively quickly toward that goal, and the proposal to expand the class of assets subject to administrative forfeiture is warranted and useful for that reason. But additional assistance is needed to address the bulk of cases, where the Department encounters vigorous, well-financed litigation by strawmen and facilitators that challenge our forfeiture actions. Resources – in the form of Assistant U.S. Attorneys trained in forfeiture, Department trial attorneys dedicated to those litigations, and funds to build and charge strong cases swiftly—are the fundamental requirements for effective and efficient casework. The Department further seeks legislative changes to expand its authority to transfer forfeited assets to assist Ukraine, by including more specific export control sanctions-related executive orders that can form the basis for these transfers.

- 3. What support is the administration currently providing to the Office of the Prosecutor General of Ukraine (OPG), and what more can Congress do to support the Department of Justice's efforts to enhance OPG's criminal prosecution efforts?**

Response: The United States and Ukraine are parties to a bilateral mutual legal assistance treaty (MLAT). The MLAT is utilized by the Prosecutor General's Office to gather information and evidence for use in criminal investigations and prosecutions. The Department's Resident Legal Advisor, deployed to Kyiv, arrived on June 16, 2024, and is working with Ukrainian counterparts on a variety of complex justice-sector issues targeted at strengthening the rule of law. Pursuant to a MOU signed in September 2022, American and Ukrainian prosecutors are working together closely to bring the perpetrators of these atrocities to justice. Together, we have focused on specific crimes committed by Russian forces, including attacks on civilian targets. And we are working to identify not only the individuals who carried out these attacks, but also those who ordered them to do so.

In addition, under the War Crimes Accountability Team umbrella, the Department is providing wide-ranging assistance, including operational assistance and advice regarding criminal prosecutions, evidence collection, forensics, and victim-witness issues to the Ukrainian Prosecutor General's Office, the National Police of Ukraine, and other law enforcement authorities in Ukraine. For example, the War Crimes Accountability Team has assigned a senior Department prosecutor to work directly with the PGO to provide advice and assistance on specific cases. In addition, multiple Department components are assisting the PGO's effort to design and deploy a state-of-the-art electronic case management system. ENRD has provided training and other important assistance to Ukrainian environmental prosecutors.

As of February 2024, the PGO reported it has identified more than 122,000 possible war crimes since the start of the war, so the needs of the PGO will clearly continue for many years. The Department will continue seeking ways to provide practical assistance to support those efforts. If Congress appropriated additional funds, the Department could accelerate investigations and prosecutions of atrocities over which there is U.S. jurisdiction, and could also provide technical assistance to support the PGO's efforts, including through enhanced training and case-related mentoring by ICITAP and OPDAT, the Department's offices dedicated to building the capacity of our Ukrainian partners to investigate (ICITAP) and prosecute (OPDAT) criminal activity, including atrocities.

4. What is the Department of Justice's position on the preferred structure for an international tribunal on the crime of aggression?

Response: The United States strongly supports a mechanism to address the war of aggression that Russia launched against Ukraine. Because the International Criminal Court does not have jurisdiction over the crime of aggression against Ukraine, another mechanism will need to be established. A special tribunal for the crime of aggression with international elements is the option most likely to be on sound legal footing and secure widespread international support. However, the exact modalities of any such mechanism are still the subject of ongoing discussions with the government of Ukraine and with our international partners. The Ukrainian government has indicated that it considers accountability for all core international crimes committed by Russian officials and forces, including the crime of aggression, to be a priority.

As a demonstration of the Department's support for pursuing accountability for the crimes of aggression against Ukraine, in July 2023, the Department announced the appointment of a new U.S. Special Prosecutor for the Prosecution of the Crime of Aggression. This Special Prosecutor is working closely with our Ukrainian and international partners at the newly launched International Centre for the Prosecution of the Crime of Aggression Against Ukraine (ICPA) located in The Hague.

5. The Ukrainian government faces the daunting task of establishing a civil relief mechanism to make whole Ukrainians who have suffered at the hands of the Russian military. Some have proposed using frozen Russian central bank assets to fund such a relief mechanism. What is the Department's position on how a prospective Ukrainian civil relief fund should be funded, and if we do not use Russian sovereign assets, how else could the United States help fund this effort? What is the administration's position regarding Russian frozen sovereign assets?

Response: While the precise funding approach raises complicated legal questions, the United States and its G7 partners have consistently recognized the need for the establishment of an international mechanism for reparation of damages, loss or injury caused by Russian aggression and have expressed our readiness to explore options for the development of an appropriate mechanism.¹³

¹³ Preamble, THE WHITE HOUSE, G7 Leaders' Statement on Ukraine (May 19, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/19/g7-leaders-statement-on-ukraine>.

A P P E N D I X

The following submissions are available at:

<https://www.govinfo.gov/content/pkg/CHRG-118shrg60848/pdf/CHRG-118shrg60848-add1.pdf>

Submitted by Chair Durbin:

American Bar Association (ABA), statement	2
Human Rights Watch, statement	7
Scheffer, David J., statement	11
United States Department of State, Office of Global Criminal Justice, statement	18

