

**DOMESTIC VIOLENT EXTREMISM IN AMERICA**

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**HEARING**

BEFORE THE

**COMMITTEE ON APPROPRIATIONS**

**UNITED STATES SENATE**

**ONE HUNDRED SEVENTEENTH CONGRESS**

**FIRST SESSION**

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**SPECIAL HEARING**

**MAY 12, 2021—WASHINGTON, DC**

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## DOMESTIC VIOLENT EXTREMISM IN AMERICA

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WEDNESDAY, MAY 12, 2021

U.S. SENATE,  
COMMITTEE ON APPROPRIATIONS,  
*Washington, DC.*

The committee met at 10:08 a.m. in room SH-216, Hart Senate Office Building, Hon. Patrick Leahy (chairman) presiding.

Present: Senators Leahy, Durbin, Reed, Shaheen, Coons, Murphy, Van Hollen, Shelby, Collins, Murkowski, Hoeven, Kennedy, Braun, and Hagerty.

### OPENING STATEMENT OF CHAIRMAN PATRICK LEAHY

Chairman LEAHY. Good morning. Good morning, everybody. Appreciate being here, all of you. This is somewhat an unusual way to meet, and I would mention this to our two distinguished witnesses. It is a little bit more difficult to keep the distances we want, but I think it is important for the Appropriations Committee to have this meeting.

The January 6th images—all of us remember that—of insurrectionists flying Confederate flags as they stormed the U.S. Capitol are stark reminders that domestic violence extremism in America is hardly a new threat. The Nation's history has been marred by the violent deadly acts of extremists pushing a range of hateful white supremacist ideologies.

From the Ku Klux Klan to Timothy McVeigh, we have witnessed and we have suffered through as a people extremists killing innocent people in the name of usually morally, always morally bankrupt causes.

The violence on January 6th was simply the latest chapter in this long history of domestic extremism in America. Attacks and plots by domestic extremists are at historic highs, the majority of them being planned by those in the far right espousing White supremacist and related ideologies.

In 2020 alone, White nationalists and like-minded extremists conducted 66 percent of terrorist plots and attacks in the United States. It appears we are facing a class of criminals who feel more emboldened than ever, and in asking why, we cannot ignore a simple fact.

Over the last 4 years, extremists who were once relegated to the fringes of our society, uniformly condemned by our Nation's leaders, both parties, suddenly felt they had support at the highest level of the United States Government, and indeed in the Oval Office.

We had a President who, instead of simply condemning the violence in Charlottesville, where a woman was killed during a White nationalist rally, said to the Nation, “There are very fine people on both sides.” When asked if he denounced White supremacy during an election debate, doing so without equivocation, he told the right-wing Proud Boys, “Stand back and stand by.” He urged the crowd to fight like hell moments before they did just that, storming the U.S. Capitol.

We cannot strike a match near gas and then act surprised when it catches fire. We need moral clarity in leadership in these troubled times. I am hopeful this Administration, the two witnesses before us, can bring that to the difficult task before them.

I believe it is critical for us to confront domestic violent extremism in all forms. As Chairman of the Senate Appropriations Committee, I am firmly committed to doing just that. But let us not ignore the plain fact repeatedly asserted by the Department of Homeland Security, FBI Director Wray, and others, that White supremacists and extremists are the most persistent and lethal threat in the homeland.

Now violent extremism in any form is wrong, but drawing false equivalence between this form of violent extremism and others only detracts from our shared goal of focusing our resources on the greatest threat we face as Americans. We have to confront this threat to the American way. That means protecting the constitutional right and civil liberties that define our way of life.

In the wake of September 11th, we let our deep wounds occasionally blind us to the rights and liberties we sacrificed in the name of security. I steadfastly defended those liberties and rights then, even when it was highly unpopular to do so. I will not hesitate to do so again now.

If we secure our Nation at the expense of our precious liberties, then we could hardly claim victory at all. We expect to see the President’s budget by the end of May. It is my understanding the President will seek significant resources to address the threat of domestic extremism.

So let us come together, not as Republicans or Democrats, but as Americans to confront this threat to our society. I am under no illusion that we are going to eliminate the threat of domestic violent extremism overnight. I am hopeful if we work together, again both parties, we can force it into retreat.

I think we should be able to also do what we have done in the past: show the world that America is capable of confronting its greatest challenges while living up to its highest ideals.

[The statement follows:]

PREPARED STATEMENT OF CHAIRMAN PATRICK LEAHY

The January 6th images of insurrectionists flying confederate flags as they stormed the U.S. Capitol are stark reminders that domestic violent extremism in America is hardly a new threat. Our nation’s history has been marred by the violent, deadly acts of extremists pushing a range of hateful white supremacist ideologies. From the Ku Klux Klan to Timothy McVeigh, we have witnessed—and suffered through—extremists killing innocent people in the name of their morally bankrupt causes. The violence on January 6th was simply the latest chapter in this long history of domestic extremism in America.

But the threat we face today is uniquely dangerous. Attacks and plots by domestic extremists are at historic highs, with the majority of them being planned by those

on the far right espousing white supremacist and related ideologies. In 2020 alone, white nationalists and like-minded extremists conducted 67% of terrorist plots and attacks in the United States. We cannot deny we are facing a class of criminals who feel more emboldened than ever.

In asking why, we cannot ignore a simple fact. Over the last four years, extremists who were once relegated to the fringes of our society and uniformly condemned by our nation's leaders suddenly felt they had support at the highest levels of the United States government—indeed, from within the Oval Office itself. We had a President who instead of simply condemning the violence in Charlottesville where a woman was killed during a white nationalist rally, he said to a nation there were “very fine people on both sides.” When asked to denounce white supremacy during an election debate, instead of doing so without equivocation, he told the right-wing Proud Boys to “stand back and *stand by*.” And he urged the crowd to “fight like hell” moments before they did just that, storming the Capitol. You cannot strike a match near gas and act surprised when it catches fire.

We need moral clarity and leadership in these troubled times, and I am hopeful that this Administration and the two witnesses before us can bring that to the difficult task before them.

Now, I believe it is critical for us to confront domestic violent extremism in all its forms. And as Chairman of the Senate Appropriations Committee, I am firmly committed to doing just that. But let's not ignore the plain fact—as repeatedly asserted by the Department of Homeland Security, FBI Director Wray, and others—that white supremacist extremists are the “most persistent and lethal threat in the homeland.” Violent extremism in any form is wrong; however, drawing false equivalence between this form of violent extremism and others only detracts from our shared goal of focusing our resources on the greatest threats we face as Americans.

But we must confront this threat the American way. That means protecting the constitutional rights and civil liberties that define our way of life. In the wake of September 11th, we let our deep wounds occasionally blind us to the rights and liberties we sacrificed in the name of security. I steadfastly defended those liberties and rights then, even when it was highly unpopular to do so. I won't hesitate to do so again now. If we secure our nation at the expense of our precious liberties, then we can hardly claim victory at all.

We expect to receive the President's budget by the end of May. It is my understanding that the President will seek significant resources to address the threat of domestic extremism. So let us come together—not as Republicans or Democrats, but as *Americans*—and confront this existential threat to our society. I am under no illusions that we will eliminate the threat of domestic violent extremism. But I am hopeful that, if we work together, we can force it into retreat. Let us show the world that America is capable of confronting its greatest challenges while living up to its highest ideals.

Chairman LEAHY. We are joined by the Vice Chairman of the committee, Senator Shelby, and I will yield to him.

#### STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you, Mr. Chairman, for calling today's hearing.

I also want to welcome our distinguished witnesses to the committee.

Mr. Chairman, the Rule of Law, the very foundation upon which America was built, is paramount to our future as Americans and the future of our democracy. Selective enforcement of our Nation's laws erodes that foundation.

Today, we have before the committee two of our Nation's top law enforcement officials, the two individuals most directly responsible for faithfully and fairly upholding the Rule of Law, the Attorney General and the Secretary.

You both know, as we do, that our country cannot afford to pick and choose the laws we enforce and yet we watch that happen every day. Domestic violent extremists threaten the Rule of Law but so, too, does turning a blind eye to the flood of illegal immigration at our southern border.

I'll address each of these issues in turn from this perspective. First, violent extremism is a very serious topic. Unfortunately, many of my Democratic colleagues have sought to make it about politics and race. They would have the American people believe that all domestic violent extremists are far right-wing White supremacists and that all Republicans are complicit in their actions. Of course both are false.

I believe the overwhelming majority of Americans watched the events of January 6th with shock and horror. I also believe that just as many watched the endless string of riots in cities across America last summer with the same emotions. They saw Antifa thugs beat and intimidate innocent people. They saw violent anarchists burn police cars and precincts and attack law enforcement officers. They also saw far-left extremists hijack Seattle and destroy the livelihoods of so many small business owners there. Yes, and they saw Black Lives Matter activists trash cities and loot businesses from coast to coast night after night.

None of these actions is excusable, not those of January 6th and not those of last summer. They're all wrong. They all violate the Rule of Law. Yet in the face of this utter contempt for the Rule of Law, so many have chosen to stand idly by excusing one while condemning another. Such rationalization of inappropriate and even illegal behavior, I think, is dangerous and I believe the American people see right through it. Moreover, it's dangerous for our leaders and law enforcement to focus on one threat to our Nation while ignoring the other. Such behavior raises questions as to whether justice is still blind and whether the Rule of Law still has meaning and force in America.

Let me be clear. This isn't about taking up for one side or the other or about advocating for the enforcement of one law over another. I believe the vast majority of the American people believe in the Rule of Law and they see it under attack. I also believe that they want to see anyone who transgresses it to be held to account, regardless of race, political dogma, or other motivation.

FBI Director Christopher Wray recently testified before the Senate Judiciary Committee and he said, "We at the FBI don't tend to think of violent extremism in terms of right, left. That's not a spectrum that we look at." I wonder if that will be clear to those who watch today's hearing. I hope so. I hope we hear from each of our witnesses about their efforts to combat domestic violent extremism, no matter where it falls on the political spectrum.

I also hope that we will hear that there is a uniform approach to enforcing all the laws that are on the books. That includes our immigration laws. Illegal immigration has long plagued this country. It undermines American sovereignty and makes a mockery of our immigration laws.

The failure to secure our border has for decades has allowed the cartels, the drug smugglers, and human traffickers to continue their practices largely unabated.

The Trump Administration made a strong commitment to border security and achieved significant gains in restoring the Rule of Law along the southern border. Yet President Biden, in one of his first acts in office, halted construction of the border wall that was ongoing and announced plans to unwind the immigration policies put

in place by our previous Administration. Sections of border wall literally lay on the ground next to gaping holes in the existing barrier system. Gaps in the wall that need repair remain wide open and require Border Patrol officers to stand guard while they're needed in other hot spots along the border. Essential technologies, such as sensors and cameras embedded in the border wall, system, have not been activated. All of this while record numbers of individuals pour across the southern border.

The impact of these actions is not theoretical or abstract. Our border officials and facilities are over-whelmed. Tens of thousands, yes, tens of thousands of migrant children are in U.S. custody as we speak.

This Administration has restored catch and release, setting thousands of illegal crossers free in cities and towns across America without consequence for breaking the law, and inexplicably amid the ongoing crisis, the Justice Department recently rescinded restrictions on Federal funding for sanctuary cities which themselves embody contempt for the Rule of Law. This action can have no other effect than further fueling the crisis by enticing those who seek to come here illegally. More parents in desperate circumstances in Central American countries will pay human smugglers to drop their children off at the border because the prospect and promise of sanctuary just got brighter.

The ultimate source of laws in America, the Constitution, provides Congress with the power of the purse. Congress over the past few years has provided billions of dollars to the Department of Homeland Security for further construction of a border wall system which includes functional gates and essential technology. Yet this Administration has blatantly ignored the will of the people to secure the border as expressed in duly-enacted laws.

I believe that the Rule of Law must be restored for the good of this country. It must govern whether we are talking about domestic violent extremism or illegal immigration. It cannot come down in full force on one group of bad actors while giving a pass to the others and officials tasked with enforcing it cannot pick and choose which laws they will follow based on political considerations. If those things happen, the Rule of Law will lose its meaning and its force in America and we as a nation will be in serious, serious trouble.

I hope that our witnesses today, two of our top law enforcement officials in this country, will make a serious and credible effort to restore the American people's faith in the Rule of Law, and I look forward, Mr. Chairman, to the question and answer period.

Thank you for the hearing.

Chairman LEAHY. Thank you very much.

Before I introduce the witnesses, this hearing is a hybrid hearing. We have some members attending virtually and some in person. I thank the two witnesses for being here in person. We will have 5-minute question rounds when we get to the questions. Members will be called upon in order of their seniority in the Full Committee. If they are not available at the time they are called upon, we will go to the next person in seniority. If they rejoin the committee later, we will try to put them back in order. I would ask the Senators to mute themselves when not speaking. For those joining

virtually, I would ask you to not log out of the meeting before asking your questions. If you need to step away, just turn off your cameras.

I am glad to see the two witnesses are here and I know you have had to juggle your schedule to make it possible. I am glad to have the Attorney General with us today. I have known him for years. I have followed his career ever since he led the prosecution of Timothy McVeigh after the bombing of the Murrah Federal Building in Oklahoma City 26 years ago. The Attorney General brings with him a heightened understanding of the threat domestic violent extremism brings to our Nation just from the deaths that resulted from that.

I want to welcome Secretary Mayorkas to the panel. We have known each other for a long time. We look forward to hearing from you, Mr. Secretary, about the work the Department of Homeland Security is doing on this important issue. We will take your opening statement.

I did note—for the committee, before you came in, I raised a question with Secretary Mayorkas. I am concerned about the number of attacks, cyber attacks, most recently on the oil pipeline. I think we are going to want to have a briefing for members at some point. What are we doing to increase security in these companies? To what extent should it be the responsibility of the companies if hundreds of millions of dollars are being stolen? Can they take it as a way of doing business, and just pass the cost on to the consumers, when they fail to put in the kind of security, cybersecurity, that they should have in the first place?

But I will yield now for the opening statement of Attorney General Garland. Would you please start? And then Secretary Mayorkas.

**STATEMENT OF HON. MERRICK B. GARLAND, ATTORNEY GENERAL,  
U.S. DEPARTMENT OF JUSTICE**

Hon. GARLAND. Good morning, Chairman Leahy, Vice Chairman Shelby, and distinguished members of the committee.

Thank you for the opportunity to testify on behalf of the Department of Justice, and it's nice to see you here, Secretary Mayorkas.

Combating domestic violent extremism and domestic terrorism has long been a core part of the Justice Department's mission. Immediately upon its founding more than a 150 years ago, the Department pursued White supremacists who sought to deny newly-freed slaves their rights under the Constitution, including the right to vote. Members of the first incarnation of the Ku Klux Klan attacked and murdered Black people, assassinated Black political leaders, drove Black farmers off their land, and burned their houses and their churches. The Department poured its resources into combating the Klan, successfully prosecuting hundreds of Klansmen.

Twenty-six years ago in 1995, the perpetrators of the bombing of the Oklahoma City Federal Building sought to spark a revolution that would topple the Federal Government. One hundred sixty-eight people died, including 19 children. Hundreds of others were seriously injured.

The efforts to successfully prosecute the perpetrators, which I supervised, required unprecedented interagency cooperation at all levels of Government and a major commitment of the Department's resources and personnel.

Unfortunately, the horror of domestic violent extremism is still with us. Indeed, the FBI (Federal Bureau of Investigation) assessed that 2019 was the deadliest year for violent domestic extremism since 1995. In March of this year, the intelligence community in a report drafted by DHS (Department of Homeland Security), the FBI, and the National Counter-terrorism Center, under the auspices of the Director of National Intelligence, assessed that domestic violent extremists pose an elevated threat in 2021. In the FBI's view, the top domestic violent extremist threat we face comes from racially or ethnically motivated violent extremists, specifically those who advocate for the superiority of the White race.

Many communities have experienced this horror over the past several years. In El Paso, 23 people, most of whom are Latino, were gunned down while shopping at a Walmart. In Pittsburgh, 11 Jewish worshippers were shot and killed at their synagogue. In Charleston, a White supremacist shot and killed nine Black men and women who were praying at their church. And many acts of hate-fueled violence don't make the national news but they still terrorize entire communities.

The FBI has also highlighted a recent increase in attacks perpetrated by those that categorize this as anti-government or anti-authority violent extremists. The Unabomber, whom I investigated and prosecuted in the mid-1990s, is by some measures the most high-profile example of the latter.

As with the Ku Klux Klan, Oklahoma City, and Unabomber investigations, the Justice Department is once again engaged in a complex nationwide resource-intensive investigation: the investigation of the heinous attack on the U.S. Capitol on January 6th.

In just under a 130 days, the Justice Department has made more than 430 arrests. The prosecution efforts, which are being led by the United States Attorney's Office for the District of Columbia, remain ongoing.

In all of our efforts to combat domestic violent extremism and domestic terrorism, the Justice Department is guided by our commitment to protecting civil liberties. In our country, espousing an extremist ideology is not a crime nor is expressing hateful views or associating with hateful groups, but when someone tries to promote or impose an ideology through acts of violence, those acts can be the most dangerous crimes we confront as a society.

Regardless of the motivating ideology, we will use every appropriate tool at our disposal to deter and disrupt such criminal acts and to bring their perpetrators to justice. My written statement for the record describes those efforts in detail.

In the past year, the Justice Department has shifted significant resources to focus on this area. The President's discretionary budget request for fiscal year 2022 seeks over \$100 million in additional funds to address the rising threat of domestic violent extremism and domestic terrorism. It includes additional funding for the FBI, the U.S. Attorney's Offices, the Marshall Services, and other components.

The Department is equally committed to fighting violence and terrorism that is directed or inspired by foreign actors, but I recognize that is not the topic of today's hearing.

As to both, we will pursue justice in a manner that honors the civil liberties guaranteed by the Constitution and laws of the United States.

Thank you for inviting me to testify at this important hearing, and thank you for your support in ensuring that we have the resources necessary to carry out this vital mission.

[The statement follows:]

PREPARED STATEMENT OF HON. MERRICK B. GARLAND

Good morning Chairman Leahy, Vice Chairman Shelby, and distinguished Members of the Committee. Thank you for the opportunity to testify today on behalf of the Department of Justice.

Combatting domestic violent extremism and domestic terrorism has long been a core part of the Justice Department's mission. Immediately upon its founding 150 years ago, the Department pursued white supremacists who sought to deny newly freed slaves their rights under the Constitution, including the right to vote. Members of the first incarnation of the Ku Klux Klan attacked and murdered Black people, assassinated Black political leaders, drove Black farmers off their land, and burned their houses and churches. The Department put its energies into combatting the Klan, successfully prosecuting hundreds of Klansmen.

Twenty-six years ago, Timothy McVeigh bombed the Alfred P. Murrah Federal Building in Oklahoma City, killing 168 people, including 19 children. Hundreds of others were seriously injured. Last month, I travelled to Oklahoma to speak at the annual memorial ceremony. My trip brought back vivid memories of what I saw when I first arrived on the scene 26 years ago to lead the Justice Department's prosecution: It looked like a war zone. The front of the Murrah Building, which had housed a children's center, was gone. The parking lot across the street still held cars that had been flattened by the blast. And an army of first responders, from across Oklahoma and across the nation, was crawling over the wreckage, sifting through the rubble for survivors and the dead.

We promised then that we would find the perpetrators, that we would bring them to justice, and that we would do so in a way that honored the Constitution. The effort required unprecedented interagency cooperation at all levels of government, careful management of the evidence, and scrupulous adherence to the Constitution and the law. It also required a major commitment of the Department's resources and personnel to see that justice was done.

Investigators conducted 28,000 interviews, collected nearly 3.5 tons of evidence, and searched through more than one billion pieces of information. Juries ultimately convicted both McVeigh and his co-conspirator, Terry Nichols.

The horror of domestic violent extremism is still with us. Indeed, the Federal Bureau of Investigation (FBI) assesses that "2019 was the deadliest year for domestic violent extremism" since 1995.<sup>1</sup> And in March, the Intelligence Community (IC), in a report drafted by the Department of Homeland Security, the FBI, and the National Counterterrorism Center under the auspices of the Office of the Director of National Intelligence, assessed that domestic violent extremists "pose an elevated threat" in 2021.<sup>2</sup> The IC assessed that "racially or ethnically motivated violent extremists and militia violent extremists present the most lethal [domestic violent extremist] threats."<sup>3</sup> In the FBI's view, the top domestic violent extremist threat we face comes from "racially or ethnically motivated violent extremists, specifically those who advocate for the superiority of the white race."<sup>4</sup> The IC assessed that the

<sup>1</sup> Christopher Wray, Director, Federal Bureau of Investigation, Statement Before the Senate Homeland Security and Governmental Affairs Committee (Sept. 24, 2020), <https://www.fbi.gov/news/testimony/worldwide-threats-to-the-homeland-092420>.

<sup>2</sup> Office of the Director of National Intelligence, Domestic Violent Extremism Poses Heightened Threat in 2021 (March 1, 2021), <https://www.dni.gov/files/ODNI/documents/assessments/UnclassSummaryofDVEAssessment-17MAR21.pdf> [hereinafter IC Report].

<sup>3</sup> Id.

<sup>4</sup> Christopher Wray, Director, Federal Bureau of Investigation, Statement Before the Senate Judiciary Committee (March 2, 2021), <https://www.fbi.gov/news/testimony/oversight-of-the-federal-bureau-of-investigation-the-january-6-insurrection-domestic-terrorism-and-other-threats>.

militia violent extremist threat also “increased last year and that it will almost certainly continue to be elevated throughout 2021.”<sup>5</sup>

Many communities have experienced the horror inflicted by this threat over the past several years. In El Paso, 23 people, most of whom were Latino, were gunned down while shopping at a Walmart. In Pittsburgh, eleven Jewish worshippers were shot and killed at their synagogue. In Charleston, nine Black men and women were shot and killed while praying at their church.

We have also seen the burning and bombing of places of worship throughout the country, as well as other acts of hate-fueled violence that are less likely to make national news but that still terrorize entire communities. In addition to the threat of racially or ethnically motivated violent extremism—and sometimes in conjunction with it—the FBI has highlighted a recent increase in attacks perpetrated by those it categorizes as “Anti-Government or Anti-Authority Violent Extremists.”<sup>6</sup> The Unabomber, whom I also investigated and prosecuted in the mid-1990s, is perhaps by some measures the most high-profile example of the latter, although (as is not infrequently the case) his writings and ideology defy straightforward classification.

And as with the Oklahoma City and Unabomber investigations, the Justice Department is once again engaged in a complex and resource-intensive investigation—one of the largest in our history—the investigation of the heinous attack on the United States Capitol on January 6th.

While much has changed at the Department of Justice since my last tour of duty, the professionalism, commitment, and dedication of the Department’s workforce have remained constant. Every day, Department employees enforce and uphold the rule of law. Many risk their own safety to protect the American public from violent crime or other threats, including those perpetrated by domestic violent extremists. Unfortunately, as the attack on the U.S. Capitol underscores, there is still much work to do.

At the Justice Department, we are committed to using every appropriate tool at our disposal to deter, disrupt, and punish acts of domestic violent extremism and domestic terrorism. This whole-of-Department commitment includes the FBI, the Department’s other law enforcement agencies, the U.S. Attorneys’ Offices, the National Security Division, the Civil Rights Division, the Criminal Division, the Tax Division, our grant-making offices, and our other components:

- The FBI is the lead federal law enforcement agency for investigating and preventing acts of domestic and international terrorism. As part of the FBI’s efforts to counter terrorism and violent extremism, the FBI has established nearly 200 Joint Terrorism Task Forces (JTTFs) across its 56 field offices nationwide. The JTTFs combine specialists from the law enforcement and intelligence communities into a single team that can pursue leads, gather evidence, make arrests, and quickly respond to terrorist threats and incidents.
- The Department prosecutes violent extremism and terrorism by drawing on the capabilities and expertise of our 94 U.S. Attorneys’ Offices, the National Security Division, the Civil Rights Division, the Criminal Division, and other attorneys across the Department. Each U.S. Attorney’s Office has an Anti-Terrorism Advisory Council (ATAC) to coordinate federal, state, local, Tribal, and territorial law enforcement efforts in its district.
- Through the ATACs and JTTFs, the Department promotes information sharing among federal, state, local, Tribal and territorial law enforcement entities. This information sharing is critical because local law enforcement officers may be the first to identify individuals planning violent extremist and terrorist acts in their communities. Close cooperation with private-sector partners also provides an essential avenue for detecting specific threats that may develop. Just as important, we depend on private citizens to report threats they see around them.
- Through our grant-making components, the Department has funding available to address domestic violent extremism and domestic terrorism. The Department’s Bureau of Justice Assistance (BJA) administers an anti-terrorism program that provides technical assistance and training to state, local, Tribal, and territorial law enforcement partners. In addition, BJA supports the investigation and prosecution of cold case homicide investigations and prosecutions in which the race of the victim may have been a factor under the Emmett Till Unsolved Civil Rights Crime Act and provides funding to law enforcement for outreach, education, investigation, and prosecution of hate crimes.

<sup>5</sup> IC Report.

<sup>6</sup> Jill Sanborn, Executive Assistant Director National Security Branch, FBI, Statement Before the House Committee on Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies 3 (Apr. 29, 2021), <https://docs.house.gov/meetings/AP/AP19/20210429/112510/HHRG-117-AP19-Wstate-SanbornJ-20210429.pdf>.

- The Department’s Office of Community Oriented Policing Services (COPS) also funds efforts aimed at preventing domestic violent extremism and domestic terrorism. The COPS Office is including combatting hate crimes and domestic extremism as an area of special consideration in the 2021 Community Policing Development (CPD) Microgrants Program solicitation. CPD Microgrants Program funds are used to develop the capacity of law enforcement to implement community policing strategies.
- The Department is also improving the state of research and analysis in this area. For nearly a decade, the Department’s National Institute of Justice (NIJ) has administered a domestic violent extremism and domestic terrorism research program. Last year, NIJ published *Understanding Domestic Radicalization and Terrorism: A National Issue Within a Global Context*, a review of the most up-to-date research and an analysis that highlighted areas where more work is needed. In FY 2021, NIJ will fund research that focuses on the radicalization process, reintegration of offenders incarcerated for terrorism-related offenses, and terrorism prevention programs. The President’s FY 2022 discretionary request includes a \$4 million increase for NIJ to further research on the root causes of radicalization.
- The Justice Department must also confront the distinct challenges federal prisons face. The Bureau of Prisons (BOP) guards against the spread of violent extremist ideologies within federal prisons through a variety of management controls, task force collaboration, and staff training. Appreciating the evolving nature of the threat, BOP is currently undertaking a review of its risk-assessment tools, placing renewed focus on available programming, and formulating proposals for increased staffing and other resources.
- The United States Marshals Service (USMS) also contributes in critical ways to these efforts. As part of its judicial security mission, USMS conducts threat investigations and, in appropriate cases, provides protective details for the federal judiciary against violent extremist and terrorist threats. The USMS Investigative Operations Division and Special Operations Group work to support USMS’s fugitive apprehension mission.
- Another key component within the Department is the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), which investigates violations of the federal firearms laws, investigates the origin and cause of explosions, and provides support for explosives, fire, canine, and response operations through its National Center for Explosives Training and Research. Together with the FBI, ATF jointly manages the Terrorist Explosive Device Analytical Center, the interagency organization that analyzes all terrorist improvised explosive devices of interest to the United States.
- The Department’s efforts include supporting an interagency, whole-of-government approach to these threats. Department of Justice personnel collaborate on this mission on a daily basis with the Department of Homeland Security—working closely on everything from aviation and border security, to sharing intelligence on emerging threats, to training and engagement with state, local, Tribal, and territorial law enforcement.
- Finally, the Department also coordinates the Domestic Terrorism Executive Committee (DTEC), a group that provides a forum for information sharing among federal agencies at a leadership level. The DTEC was originally established following the Oklahoma City bombing, and its mission and role remain important today.

Although this general structure within the Department has long been in place, we are now reassessing our existing activities and authorities to ensure that we have the right posture to confront the threat of domestic violent extremism and domestic terrorism, are devoting appropriate resources to the task, and are nimble enough to make any changes that may be necessary to bolster our efforts and adapt as the threat evolves. This includes dedicating more resources as needed; ensuring that we are sharing as much information as we can with federal, state, local, Tribal, and territorial partners; deepening collaboration with foreign partners to explore any links to the international counterparts of domestic violent extremists; sharing information as appropriate with technology companies to help them address the spread of domestic violent extremist activity online; and ensuring that we have sufficient training at the federal, state, and local levels. Collaboration within the Department and with our colleagues in federal government, the private sector, our foreign partners, and civil society is critical to our approach.

The Department of Justice recently issued guidance to all federal prosecutors emphasizing the need for coordination and consistency in prosecutions involving domestic violent extremism and imposing new requirements for identifying and tracking such matters. That guidance and other efforts will strengthen coordination with-

in the Department. We have also been actively engaged with our partners at DHS, in the IC, and throughout relevant parts of the federal government, in a 100-day interagency assessment of our whole-of-government efforts to counter domestic terrorism, as called for by President Biden.

In the past year, the Justice Department has shifted significant discretionary resources to focus on this area. The President's discretionary request for FY 2022 seeks to provide over \$100 million in additional funds to address the rising threat of domestic violent extremism and domestic terrorism, including funding for the FBI, the U.S. Attorneys' Offices, the U.S. Marshals Service, and other components of the Department.

The Department's strong commitment and resolve in this effort has been evident in the unprecedented speed and scale of our response to the January 6th attack on the Capitol. The violence we witnessed that day was an intolerable assault not only on the Capitol building and the brave law enforcement personnel who sought to protect it, but also on a fundamental aspect of our democracy—the peaceful transfer of power.

In response to that attack, the Department has undertaken an extraordinary effort to hold accountable those who engaged in criminal acts that day. In just under 130 days, the Department has made more than 430 arrests, and that number continues to grow. The FBI's investigations span almost the entire country. The prosecution efforts, which are being led by the U.S. Attorney's Office for the District of Columbia, remain ongoing.

The Justice Department has also focused on countering federal hate crimes. To address the recent rise in hate crimes and hate incidents—particularly the disturbing trend in violence against members of the Asian American and Pacific Islander community since the start of the pandemic—my first directive as Attorney General was to launch an accelerated review of the ways in which the Department can enhance its efforts to deter and combat such crimes. Hate crimes have no place in our society, and the Department, led by our Civil Rights Division, is committed to prosecuting those who commit them.

In all our efforts to combat these domestic threats, the Justice Department is guided by our commitment to protecting civil liberties. In our country, espousing an extremist ideology is not a crime. Nor is expressing hateful views or associating with hateful groups.

But when someone tries to promote or impose an ideology through acts of violence, those acts can be among the most dangerous crimes we confront as a society. My experience in Oklahoma City has seared that point into my mind. Regardless of the motivating ideology, we will use every appropriate tool at our disposal to deter and disrupt such acts and to bring their perpetrators to justice.

The Department of Justice is deeply committed to combatting domestic violent extremism and domestic terrorism. We are equally committed to fighting violence and terrorism that is directed or inspired by foreign actors—but I recognize that is not the focus of this hearing. As to both, we will pursue justice in a manner that honors the civil liberties guaranteed by the Constitution and laws of the United States.

Thank you for inviting me to testify at this important hearing. And thank you for your partnership with the Justice Department in ensuring that we have the resources we need to carry out this vital mission.

Chairman LEAHY. Thank you very much, Mr. Attorney General. Secretary Mayorkas, glad to have you here. Please go ahead, sir.

**STATEMENT OF HON. ALEJANDRO N. MAYORKAS, SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY**

Hon. MAYORKAS. Good morning, Chairman Leahy, Vice Chairman Shelby, and distinguished members of the committee. I am honored to appear before you today. Attorney General Garland.

Every day, the Department of Homeland Security's more than 240,000 dedicated public servants work tirelessly to keep our communities safe and secure. Today, I will highlight the work our Department is undertaking to combat the most significant and immediate terrorism-related threat to our homeland, which is the threat posed by domestic violent extremism.

The terrorism-related threats we face as a nation have significantly evolved since the Department's creation in the wake of the

September 11th terrorist attacks. The threat landscape is now more complex, more dynamic, and more diversified.

Today, racially or ethnically motivated violent extremists are the most likely to conduct mass casualty attacks against civilians and anti-government or anti-authority violent extremists, specifically militia violent extremists, are the most likely to target law enforcement, government personnel, and government facilities.

The threats posed by domestic violent extremism are often fueled by false narratives, conspiracy theories, and extremist rhetoric spread throughout social media and other online platforms. Further, domestic violent extremists who act alone continue to pose significant detection and disruption challenges because of their capacity for independent radicalization to violence, their ability to mobilize discreetly, and their access to weapons. As a result, the Department is redoubling its efforts to detect and disrupt all forms of foreign and domestic terrorism and targeted violence while safeguarding privacy protections, civil rights, and civil liberties.

The Department is taking a new approach to addressing domestic violent extremism, both internally and externally. In January, DHS released the National Terrorism Advisory System or NTAS Bulletin highlighting the threat posed by domestic violent extremists. It was the first NTAS issued in over a year and also the first solely focused on a domestic threat.

In addition, this year I designated for the first time domestic violent extremism as a national priority area within the Department's Homeland Security Grant Program. This means that State and urban areas across the Nation will spend at least \$77 million to prevent, prepare for, protect against, and respond to acts of domestic violent extremism.

The Department is currently expanding its analytic focus to more comprehensively review how extremists exploit and leverage social media and other online platforms and how online activities are linked to real-world violence. We are also enhancing our ability to analyze, produce, and disseminate products that address the full range of terrorism and targeted violence. We recently established a dedicated Domestic Terrorism Branch within our Office of Intelligence and Analysis to ensure the Department develops the expertise necessary to combat this threat using sound, timely intelligence.

One of the Department's most important missions is to provide actionable intelligence to the broadest audience at the lowest classification level possible. As a result, DHS is working closely with its partners to augment its intelligence and information capabilities to inform public safety and security planning efforts across the country.

In the coming months, the Department will increase training options and other support to help identify individuals at risk of radicalization.

Among my top priorities is to ensure that our personnel can perform their critical missions, that they feel safe and secure at work, and that the fabric of our Department is not penetrated by hate or violent extremism. In light of this commitment, I announced last month an internal review to address potential threats related to

domestic violent extremism within DHS and ensure we are not compromised in our ability to protect our country.

As I have said before, the Department of Homeland Security is fundamentally a department of partnerships. Our success depends on the strength of these partnerships as we cannot accomplish our mission alone.

DHS will remain focused on strengthening its partnerships across every level of government, the private sector, and the diverse communities we serve to enhance together our collective prevention capabilities nationwide.

We recently established a new Center for Prevention Programs and Partnerships, or CP3, to improve the Department's ability to combat terrorism and targeted violence by leveraging behavioral threat assessment and management tools capable of identifying early risk factors that can lead to violence in communities across the country. Individuals who may be radicalizing or have radicalized to violence typically exhibit behaviors that are recognizable to many but are best understood by those closest to them, such as friends, family, and classmates. CP3 will help build local prevention frameworks to provide communities with the tools they need to combat terrorism and targeted violence consistent with privacy protections, civil rights and civil liberties, and our laws.

Further, the Department will continue working closely with its partners to build greater public awareness of and resilience to disinformation.

Thank you again for the opportunity to appear before you today and for your continued support of our Department. I look forward to working closely with this committee and with other members of Congress on our shared priorities and I look forward to answering your questions.

Thank you.

[The statement follows:]

#### PREPARED STATEMENT OF HON. ALEJANDRO N. MAYORKAS

##### INTRODUCTION

Chairman Leahy, Vice Chairman Shelby, and distinguished Members of the Committee,

Thank you very much for the opportunity to join you here today for this important and timely hearing. Every day, the Department of Homeland Security confronts grave challenges, both seen and unseen, that threaten to harm our communities and our way of life. Since the Department was created in the wake of the terrorist attacks on September 11, 2001, terrorist threats to our Nation have evolved and diversified. DHS remains committed to preventing, detecting, and disrupting all forms of foreign and domestic terrorism and targeted violence, consistent with privacy protections, civil rights and civil liberties, and other laws.

##### THE CURRENT THREAT LANDSCAPE

Foreign terrorist organizations still seek to attack the United States and we remain vigilant in addressing that threat. While doing so, we recognize that the most significant and immediate terrorism-related threat currently facing our Nation is domestic violent extremism.

Domestic violent extremists pose a grave threat to our homeland. They are individuals or groups based and operating primarily within the United States or its territories who seek to further political or social goals through acts dangerous to human life that are in violation of criminal law. These extremists are distinguished from foreign terrorists and homegrown violent extremists in that they are not receiving direction or inspiration from a foreign terrorist group or other foreign power,

although foreign actors may amplify or attempt to show support for certain threats. Domestic violent extremists can fit within one or multiple categories of ideological motivation or grievances aligned with a broad range of groups or movements. They often exploit popular social media platforms, smaller websites with targeted audiences, and encrypted chat applications to recruit new adherents to violent causes, plan and rally support for in-person violent or otherwise criminal actions, and disseminate materials that contribute to radicalization and mobilization to violence.

Domestic violent extremists who are motivated by a range of ideologies and galvanized by recent political and societal events in our country pose an elevated threat to our country, as stated in the recent joint report drafted by DHS, the Federal Bureau of Investigation, and the National Counterterrorism Center—under the auspices of the Office of the Director of National Intelligence—entitled, *Domestic Violent Extremism Poses Heightened Threat in 2021*. Racially or Ethnically Motivated Violent Extremists (RMVEs) and Anti-Government or Anti-Authority Violent Extremists, specifically Militia Violent Extremists (MVEs), present the most lethal domestic violent extremism threats, with RMVEs most likely to conduct mass-casualty attacks against civilians and MVEs most likely to target law enforcement, government personnel, and government facilities.

Let me be clear: the mere advocacy of political or social positions, political activism, and use of strong rhetoric is constitutionally-protected speech and does not constitute domestic violent extremism. DHS's efforts to combat domestic violent extremism focus on preventing acts of violence.

The danger and lethality of the threat posed by domestic violent extremism is evidenced by the January 6, 2021 attack on the U.S. Capitol and other recent attacks across our country, including against government buildings, federal personnel, and communities of color. Addressing this type of violence therefore requires a whole-of-society approach. Domestic violent extremists who act alone continue to pose significant detection and disruption challenges because of their capacity for independent radicalization to violence, their ability to mobilize discreetly, and their access to weapons.

#### ADDRESSING DOMESTIC VIOLENT EXTREMISM

Enhancing our collective ability to prevent all forms of terrorism and targeted violence is a top priority for the Biden-Harris Administration and for DHS specifically. We must make it harder to carry out an attack and we must reduce the potential for loss of life by preventing radicalization and mobilization to violence. The federal government cannot do this alone. As a result, I have directed DHS to embrace a whole-of-society approach to combatting domestic terrorism and targeted violence by building trust, partnerships, and collaboration across every level of government, the private sector, non-governmental organizations, and the communities we serve. We can only combat domestic terrorism and targeted violence if we work together.

In January, we designated a senior official to organize, plan, and oversee the Department's operational coordination and response to all terrorism-related threats, including those posed by domestic violent extremists. That same month, DHS released a National Terrorism Advisory System (NTAS) Bulletin highlighting the threat posed by domestic violent extremists. It was the first NTAS issued in over a year and also the first NTAS to focus solely on a domestic threat. Further, I designated domestic violent extremism as a "National Priority Area" within the Department's Homeland Security Grant Program for the first time.

This means that in Fiscal Year 2021, state, local, tribal, and territorial (SLTT) governments will spend at least \$77 million to prevent, protect against, and respond to domestic violent extremism.

Objective and timely intelligence is the foundation for so much of what we do. That is why DHS's Office of Intelligence & Analysis (I&A) is enhancing its ability to analyze, produce, and disseminate products that address the full spectrum of terrorism and targeted violence. We have established a dedicated domestic terrorism branch within I&A to ensure we develop the expertise necessary to combat this threat by using sound, timely intelligence. I&A will also continue leveraging the National Network of Fusion Centers and our more than 120 deployed intelligence professionals who collect and analyze threat information alongside SLTT and private sector partners to increase timely information-sharing in accordance with applicable law and DHS privacy, civil rights, and civil liberties policies.

One of the Department's most important missions is to provide actionable intelligence to the broadest audience at the lowest classification level possible. As a result, DHS is redoubling its efforts to augment its intelligence and information-sharing capabilities in collaboration with SLTT and private sector partners. This includes publishing and disseminating intelligence bulletins that provide our partners

with greater insight into evolving threats, and situational awareness notifications that inform public safety and security planning efforts to prevent violence.

More than 240,000 dedicated DHS employees carry out our Department's mission to safeguard the American people, our homeland, and our values every day. It is among my top priorities to ensure our personnel feel safe and secure at work, and the fabric of our Department is not penetrated by hateful acts or violent extremism. In light of the dynamic threat environment and my commitment to protecting our workforce and the people we serve, I announced last month an internal review to address potential threats related to domestic violent extremism within DHS. As we work to safeguard our Nation, we must be vigilant in our efforts to identify and combat domestic violent extremism within both the broader community and our own organization. This review will help ensure that domestic violent extremism does not compromise our ability to keep our communities safe and secure.

We also are increasing our efforts to more comprehensively assess how domestic violent extremists exploit and leverage social media and other online platforms, and how those online activities are linked to real-world violence. I have directed our experts to enhance the Department's ability to assess and respond to the risk of violence posed by those who are inspired by domestic violent extremist narratives. DHS is also executing a Department-wide effort to ensure operational coordination and establish common standards and processes so that we are able to fully integrate information in the public domain into our aggregate threat analysis in a manner consistent with the law.

In the coming months, the Department will increase training options and other support to help identify individuals at risk of radicalizing to violence. DHS's Federal Emergency Management Agency, U.S. Secret Service, and Federal Law Enforcement Training Centers will provide training to SLTT law enforcement partners on topics such as the use of crisis intervention teams and multidisciplinary threat assessment and management teams to prevent terrorism and targeted violence. I&A's National Threat Evaluation and Reporting program will also continue providing our partners with training and enhanced information sharing capabilities through the Nationwide Suspicious Activity Reporting Initiative and other behavioral threat assessment training, which is designed to assist in the identification and evaluation of potential threats.

#### EXPANDING OUR PARTNERSHIPS

As I have said before, the Department of Homeland Security is fundamentally a department of partnerships. DHS will remain focused on strengthening its partnerships with the communities we serve to enhance our targeted violence and terrorism prevention capabilities nationwide. A core component of this effort is empowering our partners to identify and build resilience to the false and harmful narratives that can incite violence and are often spread through social media and other online platforms.

We have increased our collaboration with the FBI, Intelligence Community, and Department of State to more comprehensively understand and assess the extent of operational collaboration between violent extremists in the United States and those operating in other parts of the world. This increased collaboration will improve our watchlisting process, screening and vetting protocols, and travel pattern analyses to detect and assess travel by known or suspected terrorists.

The Department is also working closely with industry partners, academia, and faith-based and non-governmental organizations to better understand online narratives associated with domestic terrorism and targeted violence, including to solicit input on how best to address this threat. We are working with technology companies to help inform their development of voluntary, innovative approaches to identify and mitigate violent extremist content under their terms of service and community standards, and to identify effective ways to share generalized threat information, consistent with the law, privacy protections, and civil rights and civil liberties. We are also working to build greater public awareness and resilience to disinformation by developing, evaluating, and sharing digital media literacy tools and critical thinking resources.

Preventing potential violence requires DHS to work closely with every local community across our country. That is why we are engaged in multiple, complimentary efforts to raise public awareness about both the indicators of terrorism and how to report related activities. We are updating existing programs like the "If You See Something, Say Something®" campaign and Nationwide Suspicious Activity Reporting (SAR) Initiative to ensure they are appropriately designed and implemented in a dynamic threat environment.

We are also elevating our main effort to prevent domestic terrorism and targeted violence through community partnerships. The new Center for Prevention Programs and Partnerships, or CP3, will replace the Office for Targeted Violence and Terrorism Prevention, while ensuring our prevention efforts are grounded in an approach to violence prevention that leverages behavioral threat assessment and management tools and addresses early-risk factors that can lead to radicalization to violence. CP3 will continue to expand financial, educational, and technical assistance to SLTT partners to build local prevention frameworks tailored to each community's unique needs and challenges. These frameworks will provide concerned community members and organizations with the tools they need to help individuals who may be radicalizing, or have radicalized, to violence as these individuals typically exhibit behaviors that are recognizable to many, but are best understood by those closest to them, such as classmates, friends, and family.

The Department's CP3 will work closely with federal partners such as the Departments of Education and Health and Human Services to drive a whole-of-society approach to building trusted partnerships across all levels of government, the private sector, non-governmental organizations, and the communities we serve. In the coming months, CP3 will also launch a nationwide public outreach campaign designed to provide practical information on how to participate in local prevention efforts. This campaign will be similar to DHS's Blue Campaign, which has successfully raised public awareness about and driven action toward combatting human trafficking.

#### CONCLUSION

Thank you for the opportunity to appear before you today and for this Committee's continued support of our Department. I look forward to continuing to work closely with you and other Members of Congress to keep our communities safe and secure.

Chairman LEAHY. Thank you. Thank you.

We are going to try to stay on schedule because I know we have votes coming up. Secretary Mayorkas, you talked about this internal review. We have to detect and respond to domestic violence extremism within the Department of Homeland Security. That sends chills down my spine that we have to even be doing that.

Will you commit to making the results of that review available to Congress and the American public?

Hon. MAYORKAS. Mr. Chairman, I certainly will. It is vitally important that our Department reflects the Nation that we seek to achieve, protect, and keep secure.

Chairman LEAHY. Thank you.

Attorney General Garland, I mentioned earlier you were the lead prosecutor in the Oklahoma City bombing case. In some ways I feel like that was yesterday, but I am sure even more so to you. You had a pretty unique perspective into our country's efforts to counter domestic violent extremism.

When you commemorated the 26th Anniversary of the Oklahoma City bombing last month, you noted that "the terror we faced then is still with us." It appears to me that the threat has evolved in part because of violent extremist groups.

So my question to you, Attorney General: how will the Justice Department adapt its approach at combating domestic violent extremism to address how the threat has evolved over the past few years?

#### DEPARTMENT OF JUSTICE APPROACH TO COMBATTING DOMESTIC VIOLENT EXTREMISM

Hon. GARLAND. Thank you, Mr. Chairman, and that is an excellent question. That's what we've been working on for several

months and which is something that the Department has been working on over the years.

That threat has changed. There are a lot of different factors that have made it change, but, of course, the most significant is the ability to communicate over the Internet at high speed and to be able to communicate in secret through encrypted and other channels.

In the days of Oklahoma City, the co-conspirators had to meet together and it took a considerable amount of time. In addition, the degree of lethal weaponry available now is substantially higher than it was then. Then it took 2,000 pounds of ammonium nitrate to bring down that building. It would take considerably less of modern explosives to do the same. So that threat is considerably with respect to its risk of lethality higher than it ever was.

We are using all the lessons that were learned over the past decades, including those involved in fighting foreign terrorists in the United States. We have a much more robust intelligence situation than we had then. We have much more joint sharing of information between state and local agencies and the Federal Government. The FBI has joint task forces across the country of about a hundred or so covering every field office and many more.

The U.S. Attorney's Offices likewise have joint anti-terrorism task forces that work with State and local law enforcement sharing information all the time, and we're giving out considerable amounts of grants to help the State and local and territorial and Tribal law enforcement to up their game in recognizing these kind of threats, as well.

Chairman LEAHY. I am going to give you a question which you can then answer if you want for the record. Think seriously on this.

What more do your Departments need from Congress, and particularly this committee, to root our violent extremism so we are not faced with this discussion again 26 years from now?

I would hope you would be very specific in answering that question and answer it directly. You know, we hear so much about domestic violent extremism in all its manifestations. I think it is safe to say that your Departments are committed to fighting extremism in whatever form it exists.

We have to start with some common facts. In October of last year, the Department of Homeland Security concluded that white supremacist extremists remain the most persistent and lethal threat in the homeland. That was what the Department of Homeland Security said during the last Administration.

So let me ask first Secretary Mayorkas. Is it still your assessment that White supremacist extremists are the most lethal threat we face in the homeland today?

Hon. MAYORKAS. Mr. Chairman, I do believe that the intelligence reflects the fact that indeed that is the case, and I very much appreciate your question with respect to the resources that we could utilize to enhance our efforts to combat domestic violent extremism and three lines of work come immediately to mind.

Of course, as I mentioned earlier, we have created a branch to focus exclusively on this particular threat stream and that branch can use additional resources so that we have the analytic capabilities to best assess the threat and provide information to our State,

local, Tribal, and territorial partners to equip and empower them to address it in their communities.

Chairman LEAHY. But you do agree with your predecessors that White supremacist extremists remain the most persistent lethal threat in the homeland?

Hon. MAYORKAS. I do believe they do at this time, Mr. Chairman.

Chairman LEAHY. And, Attorney General Garland, do you agree?

Hon. GARLAND. I do, and that's the most recent assessment of the FBI.

Chairman LEAHY. Thank you. I will have further questions which I will submit for the record. Again, I thank you both for being here.

I yield to the Vice Chairman.

Senator SHELBY. Thank you. Thank you, Mr. Chairman.

It's my understanding that the latest operational statistics provided by DHS that this year in the Rio Grande Valley sector alone, more than 19,000 persons apprehended by the Border Patrol were released into the interior of the country without a court date to adjudicate their illegal entry. Even under the Obama Administration's catch and release policy, illegal crossers were given a notice to appear before a judge.

My question to both of you is this. What is the plan for these 19,000 illegal immigrants and how are you planning to track them once they've been let into the country, and are you in essence conceding that these people will be allowed to stay in the country indefinitely? In other words, what's going on here? Mr. Attorney General, I'll start with you.

Hon. GARLAND. Well, the specific program you're talking about, I'm going to have to defer to the Secretary of DHS.

I know that the Secretary is trying to prioritize his enforcement efforts. The resources are limited and the most important thing is to remove those who are a danger to national security and a danger to the public safety, and I understand those to be his enforcement priorities.

Senator SHELBY. Okay. Mr. Attorney General, Federal law defines domestic terrorism as a violation of the criminal laws of the U.S. or any State that appears intended to intimidate or coerce. As I said in my opening statement, that was the case with the events of January 6th and the individuals who committed those acts should be punished to the fullest extent of the law. I believe that.

At the same time, sir, I'm trying to understand the difference between those acts and the ones perpetuated last summer by groups like Antifa and others that rioted, vandalized, and, frankly, terrorized cities, like Portland, Minneapolis, and Washington, DC, all in an effort to deliver, as they say, a message.

My question is this. Sir, what is the actual difference between these acts, besides the groups carrying them out, and if there is not one, how can you assure this committee and the American people that the Department of Justice under your leadership is pursuing all who commit such acts with equal vigor?

In other words, you're not selectively prosecuting but you're going after all lawbreakers?

## FEDERAL PROSECUTION OF DOMESTIC VIOLENT EXTREMISM

Hon. GARLAND. Senator, as I said in my opening statement and as you said in your statement, the role of the Justice Department is to investigate and prosecute violations of the criminal law, regardless of ideology.

Your quotation from Director Wray is one I would join myself that we don't care what the ideology is. Violations of law are pursued and are prosecuted.

I think it is fair to say that in my career as a judge and in law enforcement, I have not seen a more dangerous threat to democracy than the invasion of the Capitol. This was an attempt by some, and I want to be very careful to not ascribe it to all because every case is individually decided, but there was an attempt to interfere with the fundamental passing element of our democracy, the peaceful transfer of power, and there has to be a hierarchy of things that we prioritize. This would be the one we prioritize because it is the most dangerous threat to our democracy.

But that does not mean that we don't focus on other threats and that we don't focus on other crimes. We do, and we don't care about the ideology behind them.

Senator SHELBY. Is rioting and pilfering and all of this in our cities where it breaks the law, is that subject to prosecution?

Hon. GARLAND. Of course. Anything that breaks the law—

Senator SHELBY. Just like any other breaking—

Hon. GARLAND. Anything that breaks the law is subject to prosecution, may not be subject to Federal prosecution. There has to be a Federal crime involved, but if it breaks the law, of course it's subject to prosecution.

Senator SHELBY. A lot of it could be subject to Federal prosecution.

Hon. GARLAND. It could, yes, absolutely, it could, and the Justice Department looks for where there are violations of Federal crimes.

Senator SHELBY. Mr. Secretary, in the past 5 years Congress has directly provided the Department of Homeland Security with billions of dollars for the construction of a border wall and we know where it is today.

I think it's an affront to this committee and to a lot of us for Congress and to Congress's power of the purse, but, worse, it makes the work of our dedicated Border Patrol agents more difficult and more dangerous on what's been going on there.

I think these agents must stand constant guard by incomplete sections of the border wall which now serves as funnels for illegal immigrants, human trafficking, and drug smuggling. You know, I think the dynamics there are straining the resources of our Border Patrol under your leadership.

Mr. Secretary, what is your plan, if you have one, to relieve Border Patrol agents from guarding gaps that remain in the wall due to this Administration's refusal to finish construction that was near completion and abruptly halted in January, and are you planning to turn on the gates in complete sections of the border wall that's finished so your agents can safely patrol the other areas of responsibility? In other words, what's going on there?

Hon. MAYORKAS. Vice Chairman Shelby, we are dedicated to securing our border. That is one of our most significant priorities, and we have a multifaceted approach to that critical mission.

Let me say, if I can, for just one moment. You mentioned traffickers and human smuggling organizations. We are very focused on combating their efforts to cause damage in our country and, in fact, just over the past few weeks, we launched Operation Sentinel to increase our resources and dedication of efforts to combat human smugglers and traffickers in every way possible.

The border is most secure when we take a multifaceted approach where we not only rely exclusively on the physical barrier but we have physical barriers, the use of technology, and a focus on innovation to make sure that we're harnessing the most recent technological innovations to secure our border and, of course, the brave men and women of the United States Border Patrol.

It's that multifaceted approach that delivers the greatest security to our border.

Chairman LEAHY. Thank you.

And we will turn to Senator Durbin, who is also the Chair of the Senate Judiciary Committee and is deeply involved in these issues.

Senator DURBIN. Thanks, Mr. Chairman.

Attorney General, you've identified the dilemma of democracy where we state unequivocally you can believe what you care to believe. That's your right in this country, this free country, but when you take action in pursuance of your beliefs, the new have to take a critical eye toward that action to determine whether or not it has broken the law and endangers the rights of others.

During the January 6th insurrection, New York Police Department Officer Thomas Webster has been charged with assaulting a DC Metropolitan Police Department officer during the attack. Body camera footage shows Webster attacking the Metropolitan Police Department officer with a metal flag pole, tackling him and trying to rip off his face shield and gas mask.

This raises a question which is painful to consider but we have to consider it and that is whether or not in the ranks of law enforcement, either at the Federal level or State and local level, there are those who would use their political beliefs in a manner which is inconsistent with your earlier statement.

What are your thoughts about how we can deal with this?

#### DOMESTIC VIOLENT EXTREMISM WITHIN LAW ENFORCEMENT

Hon. GARLAND. Well, you put your finger on the most difficult problem we have, which is balancing First Amendment, free association, free speech rights, with protection of our communities against criminal acts.

Within the Justice Department itself, we are beginning our own review of our procedures. Over the last couple of weeks, we've been discussing how to go about this. Deputy Attorney General has met with the heads of all of our law enforcement agencies to determine how we can carefully vet our own employees, again always being mindful of First Amendment and free associational rights, but at the same time being careful that we don't have people in our ranks who would commit criminal acts or who are not able to carry on their duties. So that's one set of things, looking within ourselves.

The second one we have with respect to our Joint Terrorism Task Forces, we have a vetting procedure, like we have for our own agents, with respect to careful backgrounds, but with respect to law enforcement of the local and State level, this would require using some of our grant money for the purpose of incentivizing anti-domestic extremist training of people so that law enforcement is aware of what to look for and of how to go about the kind of training necessary to make sure that people who are involved in it are excluded from the ranks.

Senator DURBIN. Thank you.

Secretary Mayorkas, Senator Shelby raised a question earlier about 19,000 people who were caught and released by your agency at the southern border, and I want to give you a chance to respond to that, and would you also comment on the chart that says there are thousands of migrant children in U.S. custody, so that the record can be clear as to whether that is accurate?

Hon. MAYORKAS. Thank you, Senator Durbin.

As I mentioned earlier, our priorities to secure the border in a time of pandemic, we are employing the Department of Health and Human Services, specifically the Center for Disease Control's Title 42 authority, to expel families and single adults.

We made a decision because the President and this Administration is dedicated not only to a safe and orderly immigration system but one that is humane, as well, to not expel children.

Families who are not able to be expelled are placed in immigration proceedings pursuant to the law.

Senator DURBIN. Does that mean they have a court date?

Hon. MAYORKAS. That is indeed the case. They do have a court date and if we are not able to identify a court date at the time that they are apprehended in a Customs and Border Protection facility, a Border Patrol station, they are issued a Notice to Appear at an Immigration and Customs Enforcement facility.

With respect to the photograph that I have trouble seeing but I do again discern what it is, we have focused our efforts on ensuring that children are moved as quickly as possible from a Border Patrol station to a shelter and care of the Department of Health and Human Services (HHS). I have repeatedly stated that a Border Patrol station is no place for a child.

We have made dramatic improvement in the movement of those unaccompanied children to the Department of Health and Human Services. We've reduced the time in Border Patrol custody from a height of a 133 hours on average on March 28th to an average below 30 hours as I sit here and testify today, and those facilities are far better than a Border Patrol station and we are likewise reducing the time that a child spends in an HHS facility, so that we can unite that child with a parent, legal guardian, or family relative, qualified foster here in the United States.

Senator DURBIN. But you do not forcibly remove children from their families, do you?

Hon. MAYORKAS. We absolutely do not continue the cruel and extraordinarily inhumane policy of the past.

Senator DURBIN. And you do make every effort to establish reunification possibility?

Hon. MAYORKAS. We are dedicated to that. We are very proud of the fact that we reunited four families last week, and I want to acknowledge that that is only the beginning, Senator.

Senator DURBIN. Thank you.

Chairman LEAHY. Thank you very much.

Senator COLLINS.

Senator COLLINS. Thank you, Mr. Chairman.

Mr. Attorney General, welcome. I commend you and the Department of Justice for seeking to identify and prosecute those responsible for the terrible riots and attack on our Capitol on January 6th.

As the Chairman mentioned, starting last summer, our country also experienced attacks threatening other significant government institutions, such as a courthouse, police stations. That occurred in Minneapolis and what we in Maine call the other Portland.

You have made very clear that the ideological outlook of the individuals committing these alleged crimes is not important to the Department of Justice, but what resources has the Department dedicated to identifying and prosecuting the individuals responsible for the violent acts last summer that were aimed at institutions like courthouses and police stations?

FEDERAL PROSECUTION OF DOMESTIC VIOLENT EXTREMIST CRIMINAL  
ACTIVITY

Hon. GARLAND. Thank you, Senator, for the question.

As you might expect, I know more about the resources we're putting into January 6th because most of those resources have been put in on my watch during the time I've been here. I wasn't the Attorney General nor in the Department of Justice in the summer. So I'm not completely familiar with the resources that were put in during that period.

But the U.S. Attorney's Offices in both the other Portland and in Minneapolis are continuing to work those cases as is the FBI field offices in both of those cases, and I have not heard any suggestion that insufficient resources are available for those continuing prosecutions.

Senator COLLINS. If you could get back to me with more specifics on that, I'd really appreciate it.

Hon. GARLAND. I'll ask my staff to contact yours. Thank you.

Senator COLLINS. Thank you.

Secretary Mayorkas, first of all, let me say that I very much appreciate the work of the Department of Homeland Security and I personally learned a lot from a recent trip, my second, to the border, to Texas, where I went with Border Patrol agents on a mid-night tour of the Rio Grande, and across the river we could see the bright lights of the Mexican cartels and hear them taunting the border agents as they were controlling completely the flow of migrants across the river.

I know that you visited the Donna facility in Texas last week. When I was there, the conditions were dire. This looks great compared to what I saw. What I saw were children in pens, on floors, with no spaces between them, with just mylar blankets, and those conditions were truly dire.

We are, however, despite the improvements that you're working hard to make, we're seeing decades-high numbers of encounters at the border, and I asked the Border Patrol agents and also the migrants through a translator why the migrants were coming now, and they pointed to changes in policies that have been made by the Biden Administration, particularly with regard to the migrant protection protocols, and one woman, very young women with a young child told me that she was here to escape the violence and because President Biden told her to come.

You had said that we will build the legal processes for migrants to come to the U.S. when they are qualified to do so under the laws that Congress passed and that is exactly right.

So how can we now reform or amend our practices and our laws to end the various incentives that spur this flood of illegal migration which has led to very vulnerable people being exploited by smugglers, human traffickers, the cartels? What should we do now?

Hon. MAYORKAS. Senator, thank you very much. I have a three-part answer, but before I provide the three-part answer, let me say two important things, if I may.

First of all, I want to articulate my extraordinary pride in working alongside and supporting the men and women of the United States Border Patrol. Truly, their efforts are heroic.

Secondly, the Donna facility I visited twice, once in March and once last week, and the change in the conditions there is extraordinary and that is because of the men and women of the Border Patrol as well as the men and women throughout the Department of Homeland Security who have dedicated their resources and talents to the effort.

It's really a three-part solution. It is investing in the countries of origin, Guatemala, Honduras, and El Salvador, and tackling the root causes that cause the regular migration, that caused loving parents to actually send their children alone and sometimes in the hands of human smugglers to traverse Mexico to reach our southern border.

Secondly, it's to construct lawful pathways so that individuals, such as those loving parents, don't feel they have to rely on those irregular and dangerous pathways, but a safe and orderly process when they qualify under United States law for them to travel here safely.

And third, Senator, is immigration reform. There is unanimity that our current immigration system is broken. We have bills pending before Congress and it is time for that reform to be enacted.

Chairman LEAHY. Thank you.

Senator COLLINS. Thank you.

Chairman LEAHY. Thank you.

I agree with that last comment. Several members here are also members of the Judiciary Committee and a few years ago, we spent months putting together a comprehensive immigration bill. It passed the U.S. Senate in a bipartisan 65 or 63 vote, Republicans and Democrats for it. The then Speaker of the House, even though there were votes that would have passed it, refused to bring it up because it would have violated a rule that he considered sacred, the Dennis Hastert Rule. I think they call it something different now that former Speaker Hastert went to prison.

Senator Reed.

Senator REED. Thank you, Mr. Chairman.

Attorney General, welcome. Mr. Secretary, welcome. You have described misinformation and disinformation as fueling a great deal of this violent extremism activity. In your view, would a commission to provide information literacy tools that people can use to make sounder judgments about what they're seeing on social media and this would apply to all communities, but there's a particular concern with veterans and service members, would such a commission be useful, Mr. General, please?

#### COMMISSION ON INFORMATION LITERACY

Hon. GARLAND. I think all forms of civics education that help provide education about misinformation that lead to radicalization or misinformation in general would be helpful.

Senator REED. Mr. Secretary.

Hon. MAYORKAS. Senator Reed, I would welcome the opportunity to learn the specifics. We're eager to have additional resources and additional vehicles to address misinformation and disinformation.

I should say that our Department is partnering with the Department of Education to develop a program in the K through 12 arena and so to amplify that effort, we would welcome the opportunity to study the commission of which you speak.

Senator REED. Thank you, Mr. Secretary.

Mr. Secretary, we have also seen increasing evidence that Russia is using this type of misinformation and disinformation to support and amplify a message of violence that we saw in Charlottesville and the killing of George Floyd designed to disunite this country, inflame racial tensions, and to undermine in many respects our democracy.

A recent joint assessment indicates that they're using the January 6th assault on the Capitol in such a manner to amplify narratives in furtherance of their policy which is to disrupt and disunite and to indeed destroy, if they could, our democracy.

So are you concerned about this nexus between Russia and these domestic terrorists?

Hon. MAYORKAS. Very much so, Senator. We are intensely focused on the information with respect to Russia's effort to sow discord and disunity in our country and, of course, we are bringing an all of government effort to respond to that, and I would welcome the opportunity to brief you in a more appropriate forum to address the information we have in that regard.

Senator REED. In this forum, can you give an indication of what you think the best way might be to do that?

Hon. MAYORKAS. Senator, some of the actions that we have taken certainly are public. We have imposed sanctions. We have attributed to Russia publicly the actions that we have learned they have committed. Those are two examples that I certainly can speak of in a public forum.

Senator REED. Thank you. One of my impressions from being on the Armed Services Committee is that there is a disconnect between our defense-related intelligence services, the Cybercom, NAS, CIA, et cetera, many because of constitutional issues of the inability of these agencies to operate in the United States.

Has that left a seam in which it's being exploited and are we making efforts to sort of close that seam constitutionally?

Hon. MAYORKAS. Senator, you are correct in addressing the fact that some authorities are domestic in nature, others are not. The issue of seams, of course, is a longstanding one. We are very, very focused on closing any seams that remain or any residual of past issues. We're very, very focused on and developing resources to address that.

Senator REED. Well, Mr. Secretary and Mr. Attorney General, if there are legislative initiatives that are required to close these seams or to disrupt the flow of disinformation, please forward those to not just this committee but to other committees that have jurisdiction and interest, and thank you all for your service, gentlemen.

Hon. MAYORKAS. Thank you.

Senator DURBIN. Senator Shelby, Senator Leahy, oh, he's back now. I'm sorry.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Mr. Attorney General, Mr. Secretary, welcome, and thank you for all you do.

Attorney General Garland, I would like to ask a question regarding the ongoing investigations following the events of January 6th. A couple weeks ago, the FBI executed a search warrant on a couple living in Homer, Alaska, related to the investigation surrounding the events of January 6th. The search warrant was unsealed just last week.

We had opportunity to take a look at it. We now understand that the wife was or has been identified as a person that the FBI believes may have been connected to the laptop of Speaker Pelosi based on a picture and at least two tips. The couple in Homer adamantly assert that this is a case of mistaken identity. Certainly a lot of back and forth going on as to whether or not that is the case, but understanding that this investigation is ongoing, how are the Department of Justice and Homeland Security working with the FBI and others to ensure that while we have a thorough investigation that is ongoing, that it respects the constitutional rights of all Alaskans in this case but all Americans?

But part of this is just to ensure that public trust in law enforcement is maintained during the course of this investigation. There's a lot of discussion about how long is it going to take until this investigation is concluded.

You have a small town in a state with a small population and there's a lot of discussion about the merits of this going forward. So if you can address that, please?

#### PROTECTING CONSTITUTIONAL RIGHTS DURING CRIMINAL INVESTIGATIONS

Hon. GARLAND. I think this is a central question for all of law enforcement to always be careful to balance. Balance isn't even the right word. The right word is to pursue law enforcement objectives consistent with the statutes of the United States and the Constitution. This is exactly what we endeavored to do in Oklahoma City, facing enormous number of deaths and injuries, but we took care at each step to make sure that the law was followed.

We are doing the same with respect to the January 6th investigation. The U.S. Attorney's Office in the District of Columbia is the lead force on the prosecution side and the FBI on the law enforcement side. Both are subject to ongoing supervision by the National Security Division in the Justice Department, by the Deputy Attorney General, and myself.

So we take your point completely. I know I can't talk, as you obviously recognize, about a particular case, but we look carefully and we will revise our perceptions as new facts arise.

I can't tell you how long this will take. This is only at this point around a 130, I guess a 145 days or so. It's relatively short in the lifetime of an investigation, particularly one that has required such a large number of separate investigations in different places as far-flung as Alaska, and the huge amount of data to be examined in video that's been made available.

So the investigation is not over and we will pursue each lead till we're confident that we have reached the end.

Senator MURKOWSKI. Thank you for that.

Mr. Secretary, a lot of focus this week in the news about the shutdown of the Colonial pipeline due to the series of cyber attacks.

When you think about what we are discussing here in this committee right now, you've got the issues of immigration, you've got violent extremism, and certainly cyber in the news today. How is DHS balancing all of these very significant but clearly competing priorities, and if you can quickly describe how DHS is working with the Department of Energy and FERC, the Federal Energy Regulatory Commission, to help the industry counter these attacks to ensure that our critical energy infrastructure is secure?

Hon. MAYORKAS. Senator, thank you very much. Intensely proud of the men and women of the Department of Homeland Security in addressing the urgent threats that we face across the homeland security enterprise.

You correctly note cybersecurity as one of those urgent threats and just last week, I spoke to the chamber of Commerce and thousands of people across the country, representatives of small businesses, about ransomware, the very type of attack that Colonial Pipeline has experienced and that has galvanized correctly our attention.

More than \$350 million in losses that are attributable to ransomware just this year and over a 300 percent increase over the last year.

We have the capability to address and the dedication to address border security, cybersecurity threats, the security of our homeland in all dimensions. We are working at the direction of the President in an all of government way to address the cybersecurity threat that Colonial Pipeline suffered and that other businesses and institutions across our country are vulnerable to.

We are looking at the Jones Act and the need to exercise our waiver authority to ensure that fuel carried by vessels can actually reach the impacted areas. We're working very closely with the Department of Transportation, the Department of Energy, the Environmental Protection Agency, all across the government, including the Department of Defense and its logistics agency, to bring all of the resources and capabilities to bear to ensure the well-being of

the American people and those impacted in the regions within Colonial Pipeline's jurisdiction.

Senator MURKOWSKI. Thank you.

Chairman LEAHY. Thank you, Senator Murkowski.

We will take a 5-minute break now and then come back.

[Recess.]

Chairman LEAHY. Who is next? Senator Shaheen? Where is she? Let us see. Senator Shaheen is not here. So we will go to Senator Coons.

Senator COONS. Thank you, Mr. Chairman.

Thank you to our two distinguished witnesses. You are the right leaders for this difficult moment, and I am grateful for your service and for the agencies which you lead.

Two weeks ago, Senator Sasse and I held a hearing of the Subcommittee on Privacy and Technology where we focused on the role that social media platforms' algorithms play in amplifying misinformation and extremist content.

Secretary Mayorkas, you note in your testimony that you're increasing your Department's efforts to assess how domestic extremists are leveraging social media and other online platforms. Can you tell us more about those efforts?

Hon. MAYORKAS. Thank you very much, Senator.

The challenge really is, number one, the anonymity with which people are able to navigate through social media and really exploit the medium for improper and unlawful purposes, and two, the speed with which they can do so, and so what we are doing is dedicating analysts to understanding the narratives that are being communicated on the social media platforms and identifying linkages between those narratives and indicators of intention to commit violent acts.

Right now we are doing that through the human resource, not yet leveraging algorithms, but we are, of course, planning different methodologies as we proceed in this endeavor.

Senator COONS. Attorney General Garland, you and other leaders, in fact Chris Wray at the FBI has also spoken about self-radicalization, and I assume that what that really means is folks who are largely sitting at home and consuming hours and hours of extremist content through YouTube and Facebook and other social media platforms.

Would you agree that if platforms have algorithms that are actually designed to hold the attention of viewers and to engage them by delivering more and more extremist content to people who start going down these so-called rabbit holes then they perhaps unintentionally are fueling some of this problem and we should take some actions to help address that challenge?

#### SOCIAL MEDIA AND SELF-RADICALIZATION

Hon. GARLAND. Well, I agree with Secretary Mayorkas that what's happening on our social media platforms certainly can lead to self-radicalization. The precise mechanism, I'm no expert on and I wouldn't want to pretend to be, but self-radicalization does—we've seen it most dangerously with respect to those who are influenced by Jihadist websites, who watch those websites over and

over again and become persuaded and then self-radicalize, and this accelerates very quickly.

Somebody can go from a circumstance where no one around them thinks that they are likely to be a violent extremist to one who then acts out. And I think that this is the way in modern society people get disinformation is through the Internet.

Senator COONS. And I notice an increase in budgetary requests in both of your Departments to fund grant programs that build State and local capacity and to increase funding for U.S. Attorney's Offices.

Will any of that go towards further research on this exact point and will any of that go to help focus on what the mental health issues are that might make people more vulnerable to recruitment or radicalization and what the local initiatives might be that could help tamp down or deter radicalization?

Hon. MAYORKAS. If I may—

Senator COONS. Secretary Mayorkas.

Hon. MAYORKAS. If I may take that, Senator coons, a few efforts, if I may. Number one, we help resource centers of excellence to conduct research in precisely the area that you have identified. We have grant programs to equip and enable local communities to conduct research and also to develop programs that are in fact focused on mental health issues and a holistic approach to the challenge that we face.

That is precisely one of the reasons why we actually changed the office's name to become the Center for Prevention Programs and Partnerships. It's about prevention, first and foremost, which does include mental health efforts, and partnership, working with our State, local, Tribal, territorial partners to equip them in the communities to develop these programs, to develop educational efforts as well as response and resilience programs.

Senator COONS. Thank you. Anything you wanted to add?

#### STUDYING DOMESTIC RADICALIZATION

Hon. GARLAND. Yes, and the same for us. So the National Institute of Justice did a study on just this topic, understanding domestic radicalization and terrorism, which came out last year, which I mentioned in my written statements. We have \$4 million in our budget request for them to continue and to do further analysis of root causes of radicalization.

Senator COONS. Well, thank you. Thank you both. Thank you for your testimony.

Thank you, Mr. Chairman.

Chairman LEAHY. Thank you.

Senator Kennedy.

Senator KENNEDY. Thank you, Mr. Chairman.

Mr. Secretary, I've read that police officers have encounters every year with about 60 million Americans and in 10 million of those encounters, the person has an encounter with the copy is arrested, and in 2 million of those encounters, the police officer either has to use force or threaten to use force.

Now every case is different and needs to be investigated when force is used or threatened to be used. We had a very unfortunate event happen, as you know, in Columbus, Ohio, last month. A po-

lice officer, who happens to be White, shot a young woman who happened to be an African American and she, at least according to the video, was about to stab another young woman who happened to be African American.

All we had at the time was this video. We had nothing else, nothing else, and I think it's still being investigated. Put this up for me right quick. We have an NBA, a National Basketball Association athlete immediately after this happened put out an Instagram post identifying the police officer. Here's his face, and this is what the NBA player said. "You're next."

Do you think that contributes to domestic violence in America?

Hon. MAYORKAS. Senator, I can't comment on a particular case that is under investigation nor can I comment on a case when I don't know all of the facts and I hope you do understand that.

I served 12 years as a Federal prosecutor—

Senator KENNEDY. Yes, sir.

Hon. MAYORKAS [continuing]. And I understand—

Senator KENNEDY. Let me put it another way. I understand you—

Hon. MAYORKAS. Please, if you would frame it more generally, perhaps—

Senator KENNEDY. Sure. Would you have sent out an Instagram like this?

Hon. MAYORKAS. Senator, I think you know the answer to that question.

Senator KENNEDY. Is it no? It the answer no?

Hon. MAYORKAS. That is correct, and I'd like to, if I can, amplify something very important that my colleague, the Attorney General, articulated.

Senator KENNEDY. Okay. Before you do, if you could, before you do, my time is so limited, and I want to ask the General a question because I'm going to run out of time, and then if it's okay, Mr. Secretary, I'll come back to you.

Hon. MAYORKAS. I'd welcome that.

Senator KENNEDY. Thank you, sir.

General, I appreciate all your efforts.

Hon. GARLAND. Thank you.

Senator KENNEDY. I think it's fair to say that Chicago has become unfortunately the world's largest outdoor shooting range.

What's the Department of Justice doing to help remedy this problem in Chicago?

#### VIOLENT CRIME IN CHICAGO

Hon. GARLAND. Well, violent crime has been a priority of the Justice Department since I was last in the Department. That may have been the first time the Department actually created an anti-violent crime initiative, which has now over the years had different names.

We are going to put a large amount of money into grants with respect to violent crimes, gang violence, BJA, Bureau of Justice Assistance, grants. We spent \$8.6 billion in fiscal year 2021 on violent crime, both on prevention—

Senator KENNEDY. What about Chicago?

Hon. GARLAND. Yeah. On the specifics of Chicago, I don't know, but we will provide the resources that the city needs to assist it in its efforts against violent crime. I don't know specifically, although having been born and raised in Chicago, I'm at least as concerned as you are about violent crime in that city.

Senator KENNEDY. Yeah. So you're giving them money?

Hon. GARLAND. We're giving them money and we have law enforcement. We have a United States Attorney's Office. We have the FBI. We have the DEA. We have ATF. We have the U.S. Marshals. All are focused on many different areas, but one of which is violent crime and, in particular, gang violence.

Senator KENNEDY. Okay. Let me get back to the Secretary. I think he had something he wanted to say.

Hon. MAYORKAS. Oh, thank you so much for the opportunity.

Senator KENNEDY. Yes, sir.

Hon. MAYORKAS. We take great pride in the fact that as a Department we have statutorily created the Offices of Privacy and Civil Rights and Civil Liberties, and it is very, very important constitutionally, as a matter of constitutional law, that we both protect and safeguard individuals' right of speech and right of assembly, yet we address with all our law enforcement capabilities those who really predicate acts of violence on false narratives and dangerous ideologies, and it's the acts of violence that we are focused upon, but I wanted to draw a clear line which is not always easy to draw, but we're very focused on it because it speaks to the principles and values that guide everything that we do.

Senator KENNEDY. Thank you, Mr. Chairman.

Chairman LEAHY. Thank you very much.

Senator MURPHY.

Senator MURPHY. Thank you, Mr. Chairman.

Good to see you both. Secretary Mayorkas, we look forward to seeing you before the subcommittee later this year to talk about the Department's budget request. Thank you both for your service to protect the country.

I have two questions, three if I have time. The first is with respect to comments that you both made regarding the access that domestic extremist groups have to weapons and bomb-making materials.

I would note the incredibly disturbing story of the 13 individuals in Michigan, who were very far along in a plot to kidnap and try for treason the Governor of Michigan, had in their possession upwards of 70 firearms, an arsenal that included many AR-15-style rifles, ghost guns, guns that are designed by their nature to be untraceable, and 2,000 rounds of ammunition.

I'll direct this to you, Attorney General Garland, because you are undergoing right now a review about the ways in which we can make sure that firearms are traceable for law enforcement purposes.

You volunteered this in your testimony, as I think Secretary Mayorkas did. What are your concerns regarding the ability of these groups to arm themselves with significant weaponry and weaponry that increasingly is very difficult, if not impossible, to trace?

## DOMESTIC VIOLENT EXTREMIST ACCESS TO WEAPONRY

Hon. GARLAND. So I appreciate your picking up on the point that I was making and I think the increased availability of extraordinarily lethal weaponry is what makes domestic violent extremism and domestic terrorism such a serious priority for the Justice Department and DHS and of concern to the country.

We are putting a significant amount of money into our investigations of domestic violent extremism terrorist groups. We have a budget request of \$1.6 billion for ATF for the work that it does on this and another request for \$401 million for State and local grants.

On the specific question you asked about traceability, we have just issued a Notice of Proposed Rulemaking with respect to ghost guns, which, as you point out, do not have serial numbers but equally important because they are sold as kits, it's not necessarily clear that they were subject to background checks when they were sold.

So under the rule, they would both be subject to background checks and the manufacturers would be required to put serial numbers on them and a licensed firearms dealer who comes in to possession of one without a serial number would be required to put one on it.

Senator MURPHY. I will remind the committee on this general topic that right now, individuals that are on what we would commonly refer to as the Terrorist Watch List are able to buy weapons in gun stores today. They are not automatically added to the list of those that are prohibited to purchase weapons.

It's inconceivable to me that at least on that topic we cannot find common ground.

Turning to the question of the border, Secretary Mayorkas, Senator Shelby raised the question of border security at a hearing about domestic violence, domestic extremism, and I wanted to sort of ask you to give an assessment of the risk of terrorists entering this country through the southern border.

It's important to remember that undocumented immigrants in this country have a lower arrest rate than U.S. citizens and from what I can understand, there's fairly scant evidence that international extremist groups are using the southwest border as a mechanism to bring their members into the country.

What evidence do we have that the southwest border is being used by international extremist groups or domestic extremist groups to try to bring individuals into this country to do harm to American citizens?

Hon. MAYORKAS. Senator, we don't have any evidence that suggests that the threat on the border with respect to foreign terrorists is any greater today than it was last year, the year prior, or the years over the past decade.

The fact of the matter is that we are vigilant in guarding against foreign terrorist influences through all avenues, not just, of course, our land borders, but air and maritime. That is what we do, and, fortunately, we have extraordinary capabilities to address it.

Senator MURPHY. Great. Thank you very much.

Thank you, Mr. Chairman.

Chairman LEAHY. Thank you, and by early agreement, Senator Braun.

Senator BRAUN. Thank you, Mr. Chairman.

So in listening to the tone and direction of the conversation today that idea of hierarchy and priority between domestic terrorism and threats from afar, to me, it is easy to get into a false equivalency there.

I'm going to use my reason for discussion of the visit I made down to the border a little over a month ago and I think also it's kind of tricky when you generalize on something like January 6th with all of us acknowledge as being a horrific occurrence here in the Capitol.

I want to cite a couple things that really stood out when I was there and this would be kind of the rule of numbers being something that we should be most concerned about.

A 150,000 illegal crossings in March, just saw it on the tube today, a 178,000 in April, 14,000 of whom would have been unaccompanied minors. When I was down there, that was the part that looked most tragic from a humanity point of view, but the thing that caught me more than anything and it sticks in my mind like it was yesterday, we get down to the border at the Rio Grande and, of course, nothing was happening as we arrived and then the heckling that floated across the river from smugglers and coyotes. I asked what were they saying—"We're going to keep doing it regardless of what you try to do to stop it."

Now that might be an idle threat, other than I think it's arrived now close to \$1.5 to \$2 billion business where you've got a logistics enterprise in the country, and I think the tragic thing is so much of it is about people trying to escape a life that forces them on that journey.

Here's the point that stuck in my mind and this wasn't in the RGV, it was in the Del Rio District, and this was the Border Patrol telling me everything I'm telling you, that 54 different nationalities crossed the border in the 3 months prior to our visit.

Now questions of do we have more threat of terrorists from afar that come across or I don't even think it makes sense domestic folks or people on domestic terrorism crossing the border, I guess I wouldn't rule that out, but just by that volume, it would seem to me that we need to be more worried about what could happen again, based upon 9/11, then maybe something that happened here on January 6th, horrific, but might have been more to do with lack of security and having a place that was easy to breach and not saying that that was the reason that we shouldn't look at all angles.

I just wonder because I also heard you say, and my question is going to be for you, Secretary Mayorkas, multifaceted. I agree with we need to do something. I heard you say earlier about addressing the smugglers, the coyotes, the operation that is benefiting from it, but here is what the Border Patrol told us, as well.

The two most effective things by far, this is the Border Patrol, would have been the wall in high traffic places now that has gaps in it and maybe just out of politics we're refusing to complete it to make it easy for them. They say that was number one.

Number two was a stay in Mexico policy because at least we don't have what we've got now and at the Donna facility that I wit-

nessed, it was worse than it had ever been and now we've spread that out among other locations maybe to take that kind of bad look away.

Two questions. It was working. We were at a 45-year low. Will you try to complete the border wall, even if you don't do any more where you've got gaps in it, gates not working, and will you try to reinstitute the stay in Mexico policy at least until we get this thing down to a manageable level and that's not trying to spread out all the people that come across the border currently, 150–178, is it 200,000 in May? Just would love to know what you're intending to do.

Hon. MAYORKAS. Senator, thank you. There's a lot packed in there. So I'm going to try to be concise.

We are indeed focused on smugglers and traffickers, as I mentioned earlier. That has been a many-years problem. We do in fact take a multifaceted approach to securing our border. I remember my conversation with Senator McCain about the fact that we need to use physical borders, technology, and personnel.

The border is very dynamic. It is changing, and when we speak of physical barriers, the ability to be mobile is critically important.

I think there's something very important to articulate in response to your point about the foreign threats and the domestic threats. The foreign threats persist. It's not as though they have disappeared, but the threat landscape is always evolving.

We have collectively, the Attorney General and I and our partners across the Federal Government enterprise, have our eye on the foreign threat as well as the domestic threat. We don't take our eye off one and focus on the other.

Chairman LEAHY. Thank you.

Hon. MAYORKAS. We are reviewing the gaps in the gates and seeing what is the best response to achieve our security while upholding our values and principles as a country.

Senator BRAUN. What about the stay in Mexico policy, just very quickly, because I know we're out of time?

Hon. MAYORKAS. That is not something that we as an Administration have continued.

Senator BRAUN. Thank you.

Chairman LEAHY. And thank you.

We are going to have votes soon.

Senator Shaheen, you are next.

Senator SHAHEEN. Thank you very much, Mr. Chairman, and thank you to both of you for being here today and for your testimony.

I want to go back to the domestic extremist versus national organizations and one of the concerns that I have, which I'm sure you share, is the one that Senator Reed referenced about the connections between some of our domestic violent extremist organizations and international terrorist groups.

There's been reporting of Americans involved with those right-wing extremist groups in the U.S. communicating online and sometimes traveling overseas for training with other extremist groups and not just in Russia, although we know of at least one leader of the base who has resettled to St. Petersburg, Russia.

So can you talk about the extent to which you're seeing an increase or if you are seeing an increase in those connections and what we're doing to try and address that? For either of you.

DOMESTIC VIOLENT EXTREMIST LINKS TO INTERNATIONAL TERRORIST GROUPS

Hon. GARLAND. Yes, Senator. Well, you are right to be concerned. I can't give a sense of the magnitude of the problem, but I do think that we have to worry about interactions between domestic violent extremists, particularly racially motivated and ethnically motivated ones, where there are similar groups, particularly in Europe, with similar ideological bends, sharing information, and we have the benefit in that respect of being able to coordinate with our national intelligence partners and the Director of National Intelligence is very seized with this problem.

The seam that was talked about before in one of the other questions is one that we have worked very hard to eliminate where there is a foreign aspect of the risk and our intelligence agency partners whose eyes are abroad are being very cooperative in that respect.

But we are looking at this problem and it is very much on our mind.

Hon. MAYORKAS. If I could add one point, Senator, if I may, the Attorney General and I participated in a multi-nation ministerial and, of course, the issue of violent extremism was uppermost in our minds and it's something that we share with our partners and are working very closely together with them to address.

Senator SHAHEEN. One of the potential sources—this is not specifically on domestic terrorism, but one of the potential sources of international terrorist activity are the detainee camps that have resulted from the crisis in Syria and Iraq with ISIS and there are now tens of thousands of people in those detainee camps that are really serving as a incubator for further terrorist activity.

I, along with my colleagues on the Armed Services Committee, put in language in, I believe, 2 years ago to create a detainee coordinator to work with not only our Government but other governments that were the home of some of those detainees who have been in custody as the result of the military activities in Syria and Iraq, and no one has yet been appointed to that position.

I don't know if either of you were aware that that had even passed and exists, but it seems to me that that would be an opportunity for us as we're thinking about future international terrorist activities to begin to have a way to address what's happening in those detainee camps and to try and get some of those foreign detainees repatriated into the countries where they came from.

Hon. MAYORKAS. Senator, that's something certainly we'll commit to looking into. I'm not expert in that area. I will stay in the area where I am expert, in the refugee camps with individuals who have fled persecution by reason of their membership in particular social groups, we are aware of influences potentially in those camps and, of course, we modify our screening and vetting of those individuals accordingly and that's based on the expertise and qualifications of our refugee officers.

But I will look at the issue of the detainee coordinator and follow up. We look forward to following up with you.

Senator SHAHEEN. Thank you. I appreciate that. I just have one final question and that is, I'm a little troubled by the suggestion of some at the hearing that this is a question of should we focus on the southern border and illegal immigration or should we focus on domestic violent extremism, and I'm sure you both would agree that we've got to do both and that none of us want to see more illegal immigration any more than we want to see domestic terrorists increase.

But, Secretary Mayorkas, do you think that statements made by public officials claiming that the 2020 presidential election was stolen or the result of fraud increased the threat of violence by domestic extremists? Have we seen that as we're pursuing—also for the Attorney General—as we're pursuing the cases against those people involved on January 6th? Has that been something that we've heard from the defendants?

Hon. MAYORKAS. Senator, first, yes, we can do both. We can secure our border and we can effectively combat the rise of domestic violent extremism and I want to make sure that we draw a clear line between those two. Even though we can address both, those are two very, very different challenges.

Senator, false narratives, the spread of false narratives are used to fuel extremist ideologies and we are focused on the connection between extremist ideologies and the threat or intention to commit acts of violence.

Senator SHAHEEN. And is there any evidence that elected officials' statements have contributed to that?

Hon. MAYORKAS. We do see in the narratives that we have studied the fact that false narratives attributed to public officials gained traction in social media.

Senator SHAHEEN. Thank you. Thank you, Mr. Chairman.

Chairman LEAHY. Senator Hoeven.

Senator HOEVEN. Thank you, Mr. Chairman.

I was recently down at the border with fellow Senators. Actually Senator Shaheen and I toured the border together a number of years back when we chaired and were ranking member on DHS Appropriations Subcommittee. So I've been down there before previously, as well.

When I talk to the Border Patrol agents, they tell me they need barriers, technology, and people to address the situation. Do you agree with that?

Hon. MAYORKAS. I do, Senator, and it's something I've spoken of in this hearing.

Senator HOEVEN. So then what about continuing completion of the wall, particularly where it's already been contracted for construction? That's something they said they want and need to control the border.

Hon. MAYORKAS. Senator, not all physical barriers are the same and one of the things that we've learned in our multiyear study of the border is the fact that the challenges at the border are quite dynamic not only because of variables in topography but variables month to month and sometimes year to year with respect to the movement of people and the methodologies they employ.

Senator HOEVEN. Would you agree with me when you talk to your Border Patrol agents, they tell you they need barriers, physical barriers, technology, and people?

Right now the situation where there are almost 180,000 migrants coming across the border illegally just in the month of April, that'd be almost two million annualized, almost 18,000 unaccompanied minors. They're saying they don't have time to do their job securing the border because they need the three things I just mentioned: barriers, technology, and people.

Do you agree with the professionals down there that say they need those things or disagree with them and are you getting them those things?

Hon. MAYORKAS. Senator, if I can just complete the thought that I was about to complete, if I may, that I remember when I was the Deputy Secretary and we were analyzing the utility and effectiveness of fixed towers and then we said, you know what, we can actually move more effectively from fixed towers to mobile towers because of the dynamism of which I spoke a minute ago.

I have spoken with the Border Patrol. I've been down to the border multiple times and on each visit spoken with the men and women who secure our border and one will discern different approaches and different opinions with respect to the challenges of the border.

It is ultimately my responsibility to pursue those instruments and tools that I consider most effective in the service of American people.

Senator HOEVEN. I appreciate that, Mr. Secretary. I only have 5 minutes for questions. So I'm trying to get my questions in.

So towers are technology. I asked you about a barrier, and the Border Patrol says they need all three and so, yes, whether you have mobile or fixed tower, that's technology.

I'm asking you barriers, technology, and people, and on the people question, if you don't change the protocols, the third safe country and the remain in Mexico, how are you going to—your people down there are overwhelmed. They're overwhelmed, these professionals.

How are they going to be able to do their job so that they can handle what's going on on the southern border? I live on the northern border. People from the northern border are at about the normal staffing level because they're going down to help on the southern border.

What are you doing to get on top of the flow so that we cannot only manage our southern border but I'm also asking for your help on the northern border to get our people back and get staffed at the level on the northern border?

Hon. MAYORKAS. Senator, we are vigilant in securing all of the borders and all of the avenues. We have a three-part plan or I should say three pillars to our plan.

One is to address the root causes and to deter individuals from seeking the dangerous and perilous journey by addressing the reasons why they feel forced to flee the countries in which they live and in which they want to raise their children.

We are also building legal pathways so that there are avenues of relief under the laws that the United States Congress has passed

and they don't feel compelled by dint of the tragic circumstances in their countries of origin to take the perilous journey.

And lastly is our dedication and commitment and our prioritization of achieving immigration reform because we are all in agreement, regardless of party, that the current immigration system is fundamentally broken.

Senator HOEVEN. But your metric, based on what you're doing right now, is that in April almost 180,000 migrants crossed illegally and it doesn't seem to be slowing down. It seems to be increasing.

So again back to doing what the professionals are asking for, I asked you that question. I didn't get an answer in terms of specifics. I guess it's also now affecting the northern border.

Are you willing to help us with the issues on the northern border? That's a simple yes or no.

Hon. MAYORKAS. Senator, the answer is yes, and the Department of Homeland Security's obligation is to secure all of our borders and the challenge of migration is not—

Senator HOEVEN. Would you say that's happening now, based on what's going on at the border? Do you feel—

Hon. MAYORKAS. I do.

Senator HOEVEN [continuing]. That's a secure border?

Hon. MAYORKAS. Yes, Senator, I do, and let me just say that the challenge of migration is not a new phenomenon in 2021. We experienced a tremendous surge in migration in 2019, in 2016, in 2014, and many years prior.

Senator HOEVEN. How does it compare to last year with the policies that were in place last year?

Hon. MAYORKAS. Senator, the surge in migration is greater this year thus far than we observed and experienced in 2020.

Chairman LEAHY. Thank you.

Senator HOEVEN. And—

Hon. MAYORKAS. 2020 was less than what it was—

Senator HOEVEN [continuing]. Are you willing to—

Hon. MAYORKAS [continuing]. In 2019.

Senator HOEVEN [continuing]. Make changes to the current policy to address that?

Hon. MAYORKAS. Senator, yes, I am, and I will—

Senator HOEVEN. Okay. Thank you, Mr. Secretary.

Secretary Garland—

Chairman LEAHY. I try to be flexible but a vote has started and the Senator is over his time. We have one more Senator.

Senator HOEVEN. All right, Mr. Chairman.

Chairman LEAHY. If he could be heard, then the witnesses will be able to go on.

Senator HOEVEN. I'll submit my other questions for the record.

Chairman LEAHY. All right. And I would urge that his questions as submitted be answered.

Senator HOEVEN. Thank you.

Chairman LEAHY. Thank you.

Senator Van Hollen.

Senator VAN HOLLEN. Thank you, Mr. Chairman, and thank both of you for your service and for your testimony today.

Both of you referenced in your testimony the March intelligence community report on domestic violent extremism poses heightened threat and both of you and your Departments had input into that report.

The very first finding in the executive summary of that report includes the following statement: “Newer socio-political developments, such as narratives of fraud, in the recent general election, and the emboldening impact of the violent breach of the U.S. Capitol will almost certainly spur some domestic violent extremists to try to engage in violence this year.”

Mr. Attorney General, do you agree with that finding?

MISINFORMATION DRIVING DOMESTIC VIOLENT EXTREMISM

Hon. GARLAND. I do. That’s a finding of all three of the entities that wrote the report and of the intelligence community as a whole.

Senator VAN HOLLEN. And, Mr. Secretary, do you concur?

Hon. MAYORKAS. I do, as well, Senator.

Senator VAN HOLLEN. Well, Senator Shaheen raised this issue, and I really don’t think we can just gloss over it. It’s not just a question of a lie about the elections. It’s not only a question of deception. That’s bad enough.

As this intelligence community report points out, it can have lethal consequences. In fact, they predict that it will almost certainly spur some domestic violent extremists.

Gentlemen, yesterday on the Floor of the House, Congresswoman Liz Cheney said the following, and I’m quoting, “Today we face a threat America has never seen before. A former president who provoked a violent attack on this Capitol in an effort to steal the election has resumed his aggressive effort to convince Americans that the election was stolen from him. He risks inciting further violence.”

Do you agree with that statement, which is consistent with the finding in the intelligence community report?

Hon. MAYORKAS. Senator, let me say this, that false narratives create a lack of confidence in our democratic institutions and sometimes worse and those false narratives can lead people who are predisposed to violence to commit acts of violence against our institutions and tragically we saw that on January 6th.

Senator VAN HOLLEN. Thank you.

Mr. Attorney General, you’re doing the investigations into what happened here at the Capitol on January 6th, and is it a fact that many of the people that you’ve talked to and are pursuing have said they were inspired to commit the violence because of President Trump’s claims that the election was stolen? Isn’t that a fact?

Hon. GARLAND. Because this is an ongoing investigation, the Department’s longstanding principle is to not talk about what we’ve learned in the investigation, other than through the filings that we make in the court.

We have in each of the cases of arrests and also search warrants reproduced some elements of what people have told us and I think that’s the place to look, but I don’t think it’s an appropriate thing for me as supervising those prosecutions to make in the comments outside of court record.

Senator VAN HOLLEN. Well, much of this is in the public domain. I'm not asking you for the internal findings of your investigation at this point in time.

I understood the response to Senator Shaheen's question and certainly this intelligence community report indicates that those kind of false narratives have dangerous consequences, is that not true?

Hon. MAYORKAS. Most certainly, and it's something that we're very focused on addressing. False narratives, as I mentioned, create strands of dialogue that we see propagated on social media and then we see those strands picked up on and we are detecting connectivity between those strands and an intention to commit violent acts and that is what we are focused on.

Senator VAN HOLLEN. Mr. Attorney General.

Hon. GARLAND. So if you put it at that level of generality rather than the specific questions about people being investigated in a particular circumstance, it is right as the intelligence community has reported that particularly those who end up committing acts of domestic violence get ideas from the Internet and from statements and where there are false narratives and false statements, those are the kind of things that can, depending upon the person in the end who acts out, lead to violence.

Senator VAN HOLLEN. Look, I disagree with Congresswoman Liz Cheney on a lot of things, but I think everybody needs to stand with her regardless of political party when she stands up to talk about the truth and what she is saying in her Floor remarks squares fully with the finding from this intelligence community report that both your Departments participated in.

The report is not ambiguous here. It says these kind of false narratives will almost certainly spur domestic extremists to try to engage in violence this year.

So, Mr. Chairman, I would just encourage all of our colleagues to recognize that words matter. I mean, people have a First Amendment right and they can say what they want, but they should also recognize the very dangerous consequences of the false narratives that continue to be peddled around this place and coming from the former president.

Thank you.

Chairman LEAHY. Thank you, and I thank all the witnesses that were here today and our committee members who are here.

We will keep the hearing record open for a week. If Senators have written questions to submit, please do so by 5 p.m. next Wednesday, May 19th.

We have two more Full Committee hearings scheduled in the coming months. The next will be on May 25th on Global Leadership and the State Department Budget with Secretary of State Antony Blinken, the other Full Committee hearing will be in mid-June with Defense Secretary Austin and Chairman of the Joint Chiefs Milley.

As I said, I gaveled closed, but as a courtesy to Senator Hagerty, who just came in, the vote has started, but we will limit it to the 5 minutes.

Senator Hagerty.

Senator HAGERTY. Thank you, Chairman Leahy. I appreciate that.

Secretary Mayorkas, welcome. I just checked your Department's website this morning and according to the data on your website, 92 percent of the people—of the illegal aliens that ICE deported have been convicted or charged with crimes here, 92 percent. Yet the ICE deportations under your Administration have plummeted dramatically.

Now we know the surge is occurring at the border. We know many more people are arriving here illegally. Yet the deportations have gone down. That means that we have more criminals being deposited into our Nation every day.

I want to talk with you about the resources that we've committed to this problem and how law-abiding Americans can feel more comfortable knowing that this increase in criminal elements is occurring in their communities. It's occurring in my State of Tennessee.

Isn't it correct that you're choosing not to deport these people, that ICE is not deporting these people and increasing the risk to American citizens?

Hon. MAYORKAS. Senator, that is actually not correct, and if I may, I served for 12 years as a Federal prosecutor and some of those years I was privileged to have our current Attorney General in the Department of Justice Headquarters here in Washington, DC.

The criminal justice system is based on qualitative outcomes, not quantitative, and we are focused on the greatest threats to public safety because we do not have limited resources and so our focus is on three priorities: national security, public safety, and border security. And we're delivering consequences, as well we should, to most effectively serve those priorities. It's qualitative, not quantitative.

Senator HAGERTY. From the quantitative perspective, what we've seen is a massive drop in deportations. Last year between 10 and 20,000 deportations per month, under your Administration that number's dropped to 2,500–3,000 per month. You've got 2,500 agents, 2,500 ICE agents. They're down to deporting one criminal per month versus five per month last year.

Hon. MAYORKAS. And—

Senator HAGERTY. Have the number of criminals dropped that much?

Hon. MAYORKAS. I didn't mean to interrupt. Senator, let me put this in context because there is one data point that we shouldn't take off the table and neglect to consider, which is the fact that for a good deal of the year thus far and certainly with respect to the fiscal year, our agents, our brave men and women on the frontlines were addressing the COVID-19 pandemic and for a period of that time, they were not fully deployed for reasons that we can all agree upon.

And so we have to remember to consider that and the constrains on our facilities and our resources in a time of extraordinary pandemic, but be that as it may, the fundamental point is key that it's qualitative, and I would rather as an individual supervising law enforcement and as a former Assistant United States Attorney prosecuting crimes, I would rather dedicate resources to an individual who poses the greatest public safety threat and the apprehension and removal of which may take a greater amount of time

and a greater amount of resources than someone who has been here for 25 years, who has not committed an offense, and yet can swallow up resources that we can best otherwise use.

Senator HAGERTY. I'm talking about the people that have committed crimes and been charged with crimes. Last year during the pandemic, you mentioned the pandemic as an excuse, last year even during the pandemic, we were deporting 6,000 per month. Now those numbers have dropped to less than half of that.

Hon. MAYORKAS. Senator, we have, if I may, we have defined our public safety, national security and border security threats to most effectively address them and combat them so that our consequence regime is brought to bear on the greatest threats that we confront.

Senator HAGERTY. So we see a dramatic decrease in the number of criminals being deported as a result.

Secretary, isn't it true that you've received more funding from this committee on a bipartisan basis for your Criminal Alien Program, more funding than you had last year?

Hon. MAYORKAS. I believe that is correct.

Senator HAGERTY. That is correct. Isn't it true that you got more funding for Fugitive Operations than you had last year?

Hon. MAYORKAS. That is correct, as well, Senator.

Senator HAGERTY. And isn't it true that you've got capacity to house between 18 and 20,000 deportation prospects that is going unused right now?

Hon. MAYORKAS. That is correct, as well.

Senator HAGERTY. How is it then that with more resources, you're accomplishing such fewer number of deportations? How is it that the results could have plummeted so much with more money from this Appropriations Committee?

Hon. MAYORKAS. Senator, if I may repeat an answer I provided, which is our focus is on quality, not quantity, and sometimes achieving qualitative results can consume considerable resources.

Senator HAGERTY. Well, I think going beyond axe murderers to people that have committed other grave crimes should be your focus, as well, to utilize this capacity and utilize the funds we've provided you more effectively.

#### ADDITIONAL COMMITTEE QUESTIONS

Chairman LEAHY. The Senator—

Senator HAGERTY. Thank you.

Chairman LEAHY [continuing]. From Tennessee, who was not here for all of the hearing, but we reopened the hearing to enable him to have his 5 minutes and he will be able to submit questions.

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

#### QUESTIONS SUBMITTED TO ATTORNEY GENERAL MERRICK B. GARLAND

##### QUESTIONS SUBMITTED BY CHAIRMAN PATRICK LEAHY

*Question.* What more does the Department of Justice need from Congress—and in particular, the Appropriations Committee—to root out violent extremism? Please be specific about what particular Justice Department programs, accounts, and initiatives require additional resources from Congress in order to comprehensively address the threat of domestic violent extremism.

*Answer.* Combating the threat of domestic terrorism and domestic violent extremism is a core priority of the Justice Department. The President's request for FY 2022 seeks an additional \$101 million for the Justice Department to address the rising threat of domestic terrorism, while protecting civil rights and civil liberties. This requested increase includes:

- \$45 million for the Federal Bureau of Investigation (FBI) for domestic terrorism investigations.
- \$40 million for the U.S. Attorneys to manage increasing domestic terrorism caseloads.
- \$12 million for additional response capabilities at the U.S. Marshals Service.
- \$4 million to the National Institute of Justice to support research on domestic terrorism threats.

*Question.* When FBI Director Wray came before the Senate Judiciary Committee in March of this year, I asked him about the role that white supremacist extremists played in the January 6th attack on our Capitol. He noted that racially-motivated extremists, specifically those advocating for white supremacy, represent the largest subsection of racially-motivated extremism cases investigated by FBI. Now that over two months have passed since that hearing, and you've had to time to step into your new role, I would like to ask you about the prosecutions pursued by your Department related to the January 6th Capitol attack.

Approximately how many rioters charged in connection with the January 6th attack are affiliated with extremist groups? Of those groups, how many would you classify as racially-motivated and, more specifically, those advocating white supremacist ideologies?

*Answer.* As of June 22, 2021, the FBI has arrested more than 490 individuals on charges related to the events of January 6, 2021. These investigations are ongoing, and we continue to review information, including video footage, photos, and other tips and information, to identify and hold accountable those who violated the law.

Several of the individuals arrested to date for involvement of the Capitol attack self-identify with various organizations as described in the charging documents. Additionally, as has been stated in publicly available court documents, the Department of Justice has charged a number of defendants involved in the attack on the U.S. Capitol with conspiracy charges.

In order to protect the integrity of all investigations, as a general practice, the Department does not comment on the details of particular ongoing investigations beyond the charging and other public documents, and does not comment on the existence or status of any potential investigative matter.

*Question.* There is no criminal offense expressly prohibiting "domestic terrorism." In what ways, if any, has that impacted the Justice Department's ability to investigate and prosecute these cases against the January 6th rioters?

*Answer.* The Department has long used existing criminal laws to successfully disrupt and prosecute domestic terrorists. The Department has brought a wide range of charges against those involved in the January 6 attack, including assaulting federal officers, destruction of government property, conspiracy, civil disorder and obstruction of official proceedings.

We are currently considering whether there are any gaps in our capabilities that should, consistent with the civil rights and civil liberties of the American people, be addressed through legislation. If we determine that new authorities are needed to address the threat, we will advise the Congress and would welcome working with you on these issues.

*Question.* After the attack on the Capitol on January 6th, what is the Department of Justice doing to improve intelligence sharing and communications with its federal, state, and local law enforcement partners?

*Answer.* Earlier this month, I announced the release of the Biden Administration's *National Strategy for Countering Domestic Terrorism*, which is designed to coordinate and provide a principled path for the federal government's efforts to counter the heightened domestic terrorism threat, using all available tools. The strategy makes clear that Department of Justice and the federal government more broadly are committed to enhancing the government's domestic terrorism research and analysis.

The FBI is increasing the domestic terrorism threat information it provides to our state, local, Tribal, and territorial partners; enhancing training provided to these important partners; continuing to work closely with those partners in our Joint Terrorism Task Forces across the country on enhancing critical information sharing.

We are also reinvigorating the Department's Domestic Terrorism Executive Committee, an interagency group that Attorney General Janet Reno established in the wake of the Oklahoma City bombing.

In addition, for nearly a decade, the Department's National Institute of Justice (NIJ) has administered a domestic violent extremism and domestic terrorism research program. In FY 2021, NIJ will fund research that focuses on the radicalization process, reintegration of offenders incarcerated for terrorism-related offenses, and terrorism prevention programs. The President's FY 2022 Budget request includes a \$4 million increase for NIJ to further research on the root causes of radicalization.

*Question.* Lieutenant General Honoré was tasked by House leadership to conduct an after-action review of the Capitol attack on January 6th and provide recommendations to improve security of the Capitol. One of the suggestions in his report was the establishment of a "quick-reaction force" to rapidly respond to any future events.

Will the Justice Department participate in this type of task force? Should it have dedicated funding from Congress? Or would DHS be better positioned to participate in a law enforcement-based task force that is activated when called upon, were the Department provided resources to do so?

*Answer.* The Departments of Justice and Homeland Security have a range of authorities and resources available to them to enforce the law and support other law enforcement entities. The Justice Department is committed to working with Congress regarding its ongoing reviews of the events of January 6th and identifying areas for improvement and greater cooperation in law enforcement responses.

As the Department of Justice Inspector General announced on January 15, 2021, the Office of the Inspector General (OIG) has initiated a comprehensive review to examine the role and activity of the Department and its components in preparing for and responding to the events at the U.S. Capitol on January 6, 2021. The review will be coordinated with reviews also being conducted by the Offices of Inspector General of the Department of Defense, the Department of Homeland Security, and the Department of the Interior. The Department of Justice OIG review will include examining information relevant to the January 6th events that was available to the Department in advance of January 6th; the extent to which such information was shared by the Department with the U.S. Capitol Police and other federal, state, and local agencies; and the role of Department personnel in responding to the events at the Capitol. The OIG also will assess whether there are any weaknesses in Department protocols, policies, or procedures that adversely affected the Department's ability to prepare effectively for and respond to the events at the Capitol on January 6th.

In addition, the Department of Justice is considering whether there are any gaps in our capabilities that should, consistent with our needs and shared values, be addressed through legislation. If we determine that new authorities are needed to address the threat, we will advise the Congress and would welcome working with you on these issues.

*Question.* With the prevalence of militia, white supremacist, and other far-right extremist activities, we increasingly see that extremists motivated by hate are using high-powered firearms in their attacks.

What more can the Justice Department do to keep firearms out of the hands of violent extremists?

*Answer.* Combating the threat of domestic terrorism and domestic violent extremism is a core priority of the Justice Department. And a key element of our fight against domestic violent extremism involves preventing firearms from falling into the wrong hands.

Alongside the \$1.5 billion that the Justice Department is seeking for our counterterrorism efforts, our FY 2022 budget request includes a total of nearly \$1.6 billion in base funding for the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), an increase of \$70 million or nearly 5% over FY 2021, to support the Agency's work to fight violent crime and oversee the safe sale, storage, and ownership of firearms. A portion of this increase would both expand ATF's Crime Gun Intelligence through the National Integrated Ballistic Information Network (NIBN) and would nearly double ATF's capacity to investigate theft from Federal Firearms Licensees (FFLs). Every firearm stolen from an FFL poses a threat to community safety, as well as to our law enforcement partners.

In addition, the Department's budget request would allow us to continue the critical work of the FBI's National Instant Criminal Background Check System (NICS) to prevent prohibited persons from unlawfully acquiring firearms. And it would enable the Office of Justice Programs to distribute more than \$1 billion in grants to support local, State, and Tribal law enforcement agencies in their efforts to improve criminal history record information and ensure effective nationwide implementation of background check systems.

The Justice Department is also undertaking a comprehensive new study of firearm trafficking that will help agents, prosecutors, and policymakers tackle criminal gun trafficking enterprises. And the Department recently announced a proposed rule to curb the proliferation of untraceable ghost guns that are increasingly recovered from crime scenes and often assembled from kits that are sold without background checks. The rule will not fully solve the problem, but it will help prevent some guns from ending up in the wrong hands and help law enforcement apprehend criminals who use them.

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QUESTIONS SUBMITTED BY SENATOR BRIAN SCHATZ

*Question.* Deradicalization and diversion programs can prevent domestic violent extremism from happening in the first place. Are there programs or initiatives at the Justice Department that have been effective in identifying at-risk individuals and steering them away from domestic violent extremism? Are there efforts to prevent radicalization in prisons, or among justice-involved people broadly?

*Answer.* The Justice Department is dedicated to countering domestic violent extremist and domestic and foreign terrorist threats in all their forms, consistent with our values and the protection of civil rights and civil liberties. On June 15, I announced the release of the Biden Administration's *National Strategy for Countering Domestic Terrorism*, which is designed to coordinate and provide a principled path for the federal government's efforts to counter the heightened domestic terrorism threat, using all available tools.

Many of the Department's components are engaged in efforts aimed at preventing and deterring domestic terrorism. For instance, the Department's grant-making and research-based work can help us understand and counter these threats. The Department's National Institute of Justice (NIJ) will fund research that focuses on the radicalization process, reintegration of offenders incarcerated for terrorism-related offenses, and terrorism prevention programs. And the President's FY 2022 Budget request seeks a \$4 million increase for NIJ to further research on the root causes of radicalization.

Working with local communities and local law enforcement, disruption and early engagement programs in our U.S. Attorney's Offices provide options for intervention and counseling where an individual is radicalizing to violence but federal prosecution is inappropriate or unavailable. These interventions may draw on the resources of federal law enforcement, local law enforcement, mental health professionals, schools, and community-based groups.

The Bureau of Prisons (BOP) guards against the spread of violent extremist ideologies within federal prisons through a variety of management controls, task force collaboration, and staff training. Appreciating the evolving nature of the threat, BOP is currently undertaking a review of its risk-assessment tools, placing renewed focus on available programming, and formulating proposals for increased staffing and other resources. BOP is committed to ensuring that its approach remains effective and grounded in research.

*Question.* The Justice Department should work to reduce domestic extremist radicalization among people leaving prisons. Individuals who were radicalized prior to prison or radicalized in prison should return to their communities with reentry support aimed at preventing further radicalization. Does the Federal Bureau of Prisons have programs in federal prisons, as well as reentry programs, that target people who are or were radicalized toward domestic extremism? And if not, do I have your commitment that this will be a priority for the Justice Department?

*Answer.* If history is any indication, we should be concerned about this problem, and I am fully committed to addressing it. The Bureau of Prisons (BOP) is currently undertaking a full review that is aimed at developing a more robust understanding of risk factors and will make recommendations about more targeted programming to counter radicalization in U.S. prisons, including reentry programming. In addition, the Department's FY 2022 budget request seeks additional resources to support research on the root causes of domestic radicalization, which would help inform BOP's evaluation of additional programs on specific treatment interventions.

*Question.* Prison rape continues to be a problem in our country. Will you make Prison Rape Elimination Act enforcement a priority for the Justice Department? I also introduced bipartisan legislation with Senator Cornyn—the *Sexual Abuse Services in Detention Act*—to make sexual abuse services more available in prisons and jails. Do I have your commitment to work with us on that bill?

*Answer.* Yes. The Justice Department strongly supports the goals of the *Sexual Abuse Services in Detention Act*, which would establish a national hotline for sexual abuse victims and abuse settings. Preventing, detecting, and responding to the

scourge of prison rape remains a priority of the Justice Department. The Department continues to work hard to ensure the full implementation of Prison Rape Elimination Act (PREA) through our PREA Management Office, including by overseeing audits, administering a robust grant program, and providing training and technical assistance to support PREA implementation efforts in State, local, and Tribal correctional agencies across the country.

In addition, as a reflection of the Department's support for and commitment to the *Sexual Abuse Services in Detention Act*, in FY 2021, the Department is funding a strategic planning process to determine how best to create and implement a national service line for incarcerated victims of sexual abuse so that state, local, and tribal correctional agencies can respond effectively to the needs of victims and achieve and maintain compliance with the related PREA standards. The Department anticipates this work will help advance the successful implementing a national service line for incarcerated victims.

*Question.* Will you support domestic extremism prevention efforts through the Justice Department's state and local law enforcement grants, community-oriented policing grants, or victims of crime grants?

*Answer.* A variety of the Justice Department's grant programs are available to help counter domestic violent extremism and domestic terrorism. For instance, the Department's Bureau of Justice Assistance administers an anti-terrorism program that provides technical assistance and training to state, local, Tribal, and territorial law enforcement partners. The Office of Community Oriented Policing Services (COPS) has also started prioritizing grants to local law enforcement agencies committed to community-based approaches to combating racially motivated violence and domestic terrorism. Domestic violent extremism prevention efforts are also an allowable use of funds under the Byrne/JAG formula grant program.

*Question.* The Justice Department's budget proposal includes funding for research on domestic terrorism threats. In addition to looking at the causes of domestic extremist radicalization, this research should also evaluate effective deradicalization efforts. Do I have your commitment that the Justice Department will support deradicalization research—such as research on effective domestic terrorism prevention and diversion programs? Will you also support research on resiliency efforts—such as programs that help to maintain social cohesion in communities following domestic terrorist attacks?

*Answer.* The National Institute of Justice (NIJ) has funded research that explores the dynamics surrounding deradicalization and disengagement. Much of that research focuses on how law enforcement can use semantics and language in online arenas to identify potentially radicalized content and speech. NIJ-funded evaluation research has not yet identified programs that are effective at steering individuals away from domestic violent extremism (DVE), and none of these evaluations were of DOJ-sponsored programs. Nevertheless, this research has produced guidelines and handbooks on what a successful extremism prevention program might look like, based on the lessons learned from the research. NIJ has funded ongoing research, assessing the needs of extremist offenders as they reenter communities across the U.S. This research is being carried out in conjunction with probation and parole offices across the U.S., as well as the Administrative Office of U.S. Courts.

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#### QUESTIONS SUBMITTED BY SENATOR JOE MANCHIN, III

*Question.* Like many of my colleagues on the Committee, I am aware of a number of my constituents who took it upon themselves to participate in the events that occurred on January 6th here at the Capitol complex. While private West Virginian citizens engaged in the insurrection, our state also saw two public servants, one a former state delegate and the other a former town councilman, charged due to their actions. Fortunately, both men no longer serve in their respective posts. I believe, as many of my colleagues do, that we need individuals serving in public office that respect the rule of law and our institutions, not those that actively seeking to disrupt our governmental functions and duties. Unfortunately, it feels like now, 4 months removed from that tragic day, the only time the public hears of arrests being made or charges being brought against people is when it involves higher profile individuals like the two elected leaders from my state. I feel like it is imperative that the public have access to the most up to date information so they can best be informed about how our government is dealing with the aftermath of the insurrection. While I am appreciative of the efforts that the Department of Justice has made in making the public aware of those individuals who have participated in the January 6th insurrection through their website currently, I am concerned that the information is available is not as comprehensive as it could be.

Does the Department of Justice plan to make any alterations to their current online database of Capitol Breach Cases?

*Answer.* The Justice Department provides the public with frequent updates about new charges and updates to pending criminal actions in connection with the events of January 6, 2021. For each charged case involving the events at the U.S. Capitol on January 6th, the U.S. Attorney's Office for the District of Columbia posts publicly available information on a searchable webpage (<https://www.justice.gov/usao-dc/capitol-breach-cases>). While laws and regulations, court orders, Department policies, and our professional obligations limit our ability to provide some information concerning the events of January 6th, each posting includes the name of the defendant, the charges filed, links to any court-filed documents, an updated case status, and a notation of when the entry was last updated.

The FBI also maintains a database of individuals for about whom it seeks information in connection with violent acts committed on January 6, 2021. That chart is available at <https://www.fbi.gov/wanted/capitol-violence>.

*Question.* While I understand that arrests and ultimate charging of individuals is ongoing, does the DOJ anticipate releasing a comprehensive report examining and studying the events of January 6th and the actions being taken by DOJ?

*Answer.* On January 15, 2021, the Department of Justice (DOJ) Office of the Inspector General (OIG) announced that it was initiating a comprehensive review to examine the role and activity of DOJ and its components in preparing for and responding to the events at the U.S. Capitol on January 6, 2021. The DOJ OIG will coordinate its review with reviews also being conducted by the Offices of Inspector General of the Department of Defense, the Department of Homeland Security, and the Department of the Interior.

The DOJ OIG review will include examining information relevant to the January 6th events that was available to DOJ and its components in advance of January 6; the extent to which such information was shared by DOJ and its components with the U.S. Capitol Police and other federal, state, and local agencies; and the role of DOJ personnel in responding to the events at the U.S. Capitol on January 6th. The DOJ OIG also will assess whether there are any weaknesses in DOJ protocols, policies, or procedures that adversely affected the ability of DOJ or its components to prepare effectively for and respond to the events at the U.S. Capitol on January 6th. If circumstances warrant, the DOJ OIG will consider examining other issues that may arise during the review.

*Question.* The behavior we witnessed on January 6th in the U.S. Capitol was un-American. The individuals that participated in this insurrection—including those from my own state—should be prosecuted to the fullest extent of the law. It is time now to move forward as one nation to focus on helping Americans suffering from the pandemic. Now more than ever, it is on each of us to seek unity over division and put partisanship aside for the good of our country. Bipartisanship and compromise are not always easy, but they are essential. The issues facing our democracy today are not insurmountable if we choose to tackle them together. We all must commit to restoring decency and civility to our politics and being that shining city upon a hill whose beacon light guides freedom-loving people everywhere. That is what American people deserve and the world expects. As members of Congress, we have a responsibility to be the example for our constituents and for the American people. This Administration, and this President, has the same responsibility.

What can we all do to show Americans that we can work together, even if we strongly disagree on some issues?

*Answer.* The Department of Justice works tirelessly to keep Americans safe from violent crime, including international and domestic terrorism, no matter the underlying ideology. By holding accountable those who commit federal crimes, while protecting individuals' civil liberties, the Department can help deter such behavior and promote peaceful, civil discourse as a means of resolving disputes.

*Question.* Intelligence reports prior to the January 6th riot warned Capitol Police that supporters of President Trump were actively promoting violence and targeting Congress itself. The Department of Homeland Security specifically notified Capitol Police that they had identified a map of the Capitol's tunnel system in online messages between "Stop the Steal" supporters, and the FBI field office in Norfolk also warned the Capitol Police. However, the Capitol Police Inspector General also found a lack of consensus among key officials about whether these reports indicated specific known threats. Facebook employs more than 15,000 content moderators across the globe, and other platforms like Twitter and Google have their own teams of moderators that enforce their policies and take down illegal or offensive content on their sites. My bipartisan bill with Senator Cornyn would require these companies to proactively flag major crimes, including drug trafficking and terrorism, to law enforcement.

Did any of these companies proactively reach out to law enforcement with reports of illegal activity?

*Answer.* The FBI works with the private sector to share information and better prepare them to detect illegal conduct on their sites and platforms. We encourage companies to share information for the FBI to investigate; and conversely, the FBI may share information, as appropriate, with the private sector. In order to protect the integrity of ongoing investigations, the FBI is not in a position to provide further details at this time regarding information that may have been received from social media companies prior to the January 6th attacks.

*Question.* What more could social media companies have done to alert law enforcement prior to the January 6th riots?

*Answer.* The FBI welcomes tips and information to support its federal law enforcement efforts, be it from social media companies or the general public. As I have noted previously, I am struck by the frequency with which a critical tip or lead in an investigation comes from law enforcement partners or from a member of the public. The FBI reports that roughly 50 percent of our cases originate from tips and leads from law enforcement or private sector partners and private citizens, who identify potential threats and report them to the FBI or our partners.

*Question.* Do you believe that we need to update Section 230 to address illegal activity, including how groups like “Stop the Steal” can use these platforms for illegal activities?

*Answer.* The scope of immunity for communications services providers under Section 230 of the Communications Decency Act raises important questions of law and policy, and I know that you and other Members of the Committee have ideas about how the statute should be amended. I look forward to talking with you and others about those ideas.

*Question.* As you both know it’s impossible to prepare or respond to a threat without as much reliable information as possible, and we certainly saw what happens when threat information isn’t handled effectively on January 6th. This brings up a larger issue that I’ve grown more concerned about during my time on the Cyber Subcommittee for Armed Services. Which is how potential threats, both physical and cyber, are shared within the federal government.

In your positions so far, do you feel both your departments have been sufficiently receiving and relaying threat information with each of the other federal departments, and are you aware if that information can then be shared with a specific private industry partner if we identify a specific threat toward them?

*Answer.* The Department of Justice supports continuous information sharing within the government and with the private sector, whether the threat is national security, cybersecurity, or criminal in nature.

In the cybersecurity context in particular, the partnerships between the Departments of Justice and Homeland Security, and their component agencies, are critical. For instance, coordination between the FBI and DHS’s Cybersecurity and Infrastructure Security Agency occurs daily and is critical in helping the private sector protect itself from cyber attacks. Both agencies work with each other and with private sector partners to share information about threats, investigate attacks, and provide mitigation in the event of a cyber incident. Among other things, the Department of Justice participates in the Cyber Response Group that is hosted by the National Security Council and that facilitates information sharing across agencies.

The Department of Justice also encourages strong partnerships with private industry. In 2020, FBI Cyber Division representatives were a part of approximately 450 external engagements and provided briefings to approximately 1,700 private sector and non-federal law enforcement individuals. The FBI also regularly disseminates information and reporting to help inform the private sector and the public about what the FBI is seeing in its cyber investigations.

*Question.* In your own opinions how do we increase the coordination within the federal government to respond more quickly and in a uniformed way no matter the threat?

*Answer.* The Department of Justice is continually looking at ways to increase coordination and information sharing within the federal government to respond more quickly and in a uniform way no matter the threat. In order to meet this priority and facilitate such ongoing coordination, the Department, through the FBI, established the National Cyber Investigative Joint Task Force (NCIJTF) in 2008 to address this evolving cyber challenge. Through the coordination, collaboration, and sharing that occurs at the NCIJTF, members across the U.S. Government work to place cyber criminals behind bars and to remove them from the nation’s networks.

In addition, earlier this year, the Justice Department established a dedicated Ransomware and Digital Extortion Task Force to combat the growing number of ransomware and digital extortion attacks. The Task Force’s focus is on tackling this

threat strategically by cooperating with domestic and foreign partners as well as private sector partners to combat this significant criminal threat. The Task Force prioritizes the disruption, investigation, and prosecution of ransomware and digital extortion activity by tracking and dismantling the development and deployment of malware, identifying the cybercriminals responsible, and holding those individuals accountable for their crimes. And earlier this month, the Department announced that the Task Force coordinated our efforts to seize 63.7 bitcoins—currently valued at approximately \$2.3 million—in proceeds paid to individuals in the group known as Darkside, which had targeted Colonial Pipeline.

The President's FY 2022 budget requests a total of \$1.1 billion to enhance cybersecurity and fight cybercrime, including by addressing data breach issues. This request would be the largest increase in cyber resources for the Justice Department in more than a decade and includes more than \$150 million in cyber program enhancements to help us to meet these threats by drawing upon partnerships across all levels of government and with private sector partners to identify actors and their supporting infrastructure; arrest, prosecute, and incarcerate them; seize their ill-gotten assets; and require them to pay restitution to their victims.

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QUESTIONS SUBMITTED BY SENATOR SUSAN M. COLLINS

During the May 12, 2021 hearing, I commended you and the Department of Justice for seeking to identify and prosecute the individuals responsible for the events of January 6, 2021. I also asked you about the Department of Justice resources being committed to identify and prosecute the individuals responsible for the violence last summer that was aimed at government institutions like courthouses and police stations, including in Minneapolis, MN and Portland, OR. You agreed to provide me with additional information on this topic. To assist in that effort, I have the following questions:

*Question.* What resources has the Department of Justice dedicated to identifying and prosecuting the individuals who were involved in this violent activity?

*Answer.* The Justice Department has dedicated substantial investigative and prosecutorial resources from components across the Department and in dozens of jurisdictions nationwide to bring charges in numerous cases in connection with violence during the summer and fall of 2020 that was aimed at government institutions. In particular, the Department's Justice Management Division advises that Investigative resources totaling more than \$48 million, including thousands of DOJ personnel, have been deployed from the Department's law enforcement components, including the Federal Bureau of Investigation (FBI), the United States Marshals Service (USMS), the Bureau of Prisons (BOP), the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), and the Drug Enforcement Administration (DEA).

The Justice Department has and will continue to aggressively pursue those who engage in violent criminal activity such as the destruction of property and violent assaults on law enforcement. The Department is committed to working with Congress regarding its ongoing reviews of these events and identifying areas for improvement and greater cooperation in law enforcement responses.

*Question.* What is the status of the Department of Justice's efforts to identify and prosecute these individuals?

*Answer.* Justice Department investigations and cases to identify and prosecute individuals in connection with violence aimed at government institutions during the summer and fall of 2020 are ongoing. The Department continues to review information and hold accountable those who violated the law.

In order to protect the integrity of all investigations, as a general practice, the Department does not comment on the details of particular investigations beyond the charging and other public documents, and does not comment on the existence or status of any potential investigative matter.

*Question.* How many Department of Justice personnel are involved in those efforts, and how has that number changed over time?

*Answer.* The Department's Justice Management Division advises that thousands of Justice Department personnel from the FBI, USMS, BOP, ATF, and DEA across more than three dozen jurisdictions nationwide have been involved in efforts to investigate and prosecute violence during the summer and fall of 2020 that was aimed at government institutions. In addition, prosecutors U.S. Attorneys' Offices across the country and attorneys from the Criminal Division and the National Security Division have been involved in these efforts.

*Question.* Has the Department of Justice's approach to investigating and prosecuting crimes associated with this violent activity changed in any way since last summer? If so, please describe the nature of those changes and identify the date(s)

on which those changes were made. Information responsive to this question includes, but is not limited to, any changes in staffing levels, resource allocations, and/or guidance regarding charges, dismissals, and/or plea bargains.

*Answer.* I am not aware of any Departmental guidance that has been issued since I became Attorney General on March 11, 2021 addressing the Justice Department's approach to investigations and prosecutions stemming from violence that occurred during the summer and fall of 2020.

On January 29, 2021, on the subject of the Justice Department's general charging and sentencing policy, the Department rescinded a directive entitled *Department Charging and Sentencing Policy* (May 10, 2017) and reinstated the guidance articulated in *Department Policy on Charging and Sentencing* (May 19, 2010) to ensure that decisions about charging, plea agreements, and advocacy at sentencing are based on the merits of each case and reflect an individualized assessment of relevant facts.

In addition, as I testified before the Committee last month, the Department issued guidance to all federal prosecutors on March 8, 2021 emphasizing the need for coordination and consistency in prosecutions involving domestic violent extremism and imposing new requirements for identifying and tracking such matters.

*Question.* How has the Department of Justice worked to support state and local law enforcement agencies in connection with their efforts to identify and prosecute the individuals responsible for this violent activity?

*Answer.* The Justice Department has provided investigative and prosecutorial support to State and local law enforcement partners through the Department's law enforcement components, U.S. Attorneys' offices, litigating components, and grant programs administered by the Office of Community Oriented Policing Services (COPS), the Office of Justice Programs (OJP), and the Office of Victims of Crime (OVC). Among other critical programs, Project Safe Neighborhood remains the Justice Department's unified violent crime reduction initiative within each of our federal districts.

This critical support to State and local law enforcement partners will expand under the Department's recently announced Comprehensive Strategy for Reducing Violent Crime. The Department has directed each United States Attorneys' Office to work with its State, local, Tribal, and community partners to establish an immediate plan to address spikes in violent crime that are typically seen during the summer. In particular, the FBI will make available cutting-edge analytical resources to support state and local law enforcement efforts to identify the most violent and dangerous threats and deploy agents to assist with enforcement operations targeting these entities. The ATF will embed with local homicide units and expand the availability of its National Integrated Ballistic Information Network (NIBN) Correlation Center. And the United States Marshals Service, in coordination with State and local authorities, will conduct fugitive sweeps throughout the country focused on individuals subject to state or local warrants for violent crimes.

The President's FY 2022 budget requests a total of \$9.4 billion for the Justice Department to address violent crime across the country, including grants totaling more than \$1 billion to support State and local partners.

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#### QUESTIONS SUBMITTED BY SENATOR ROY BLUNT

*Question.* Operation Legend was a violent crime interdiction initiative to fight the sudden surge in violent crime (narcotics and firearms-related offenses, homicide, rape, and theft) last summer in 9 cities across the country. It began in Kansas City, MO, following the death of 4-year-old LeGend Taliferro, who survived open-heart surgery only to later die by bullets fired into the apartment where he was sleeping. While Operation LeGend was meant to be targeted to a specific time period, I believe we must stay focused on violent crime interdiction initiatives. In 2020, there were almost 700 homicides in Missouri, and of those homicides, there were 250 in St. Louis and over 150 in Kansas City. Violent crime should have no place in Missourians' expectations for their everyday lives. Do you plan to reassign any agents in the FBI or in the U.S. Attorney's Office from their work in violent crime? How will you ensure that violent crime prevention and prosecution remain a priority for the U.S. Department of Justice (DOJ)?

*Answer.* I share your concern about the increase in violent crime in Missouri and across the country. As I testified before the Committee, protecting our communities from the recent increase in major violent crimes is among the most pressing challenges facing the Department of Justice and a top Justice Department priority. The Department's recently announced violent crime reduction strategy harnesses all our relevant components to that end, including the Department's U.S. Attorneys' offices,

litigating divisions (including the Criminal Division), law enforcement agencies, and grantmaking offices. The FY 2022 budget request includes \$9.4 billion, an increase of more than 8% above the 2021 enacted level, to support both the Justice Department's law enforcement resources and State and local law enforcement agencies in their efforts to achieve safer communities.

*Question.* Your budget calls for a \$12 million program increase for the U.S. Marshals Service to support additional response capabilities. I support more resources to the Marshals, particularly to establish a regional fugitive task force that covers Missouri, Kansas, and the surrounding area. Currently, no fugitive task force covers Missouri, and my state relies on locally recruited task forces between the major metro areas to catch fugitives. While I value those efforts, there are over 10,000 fugitives, and the support of a regional task force is necessary to take down fugitives and minimize their criminal activity. Would you commit to establishing a regional fugitive task force that covers Missouri and the surrounding area even while DOJ pursues your goals for domestic terrorism?

*Answer.* The United States Marshals Service (USMS) is working to increase the size and effectiveness of its regional and district-based fugitive apprehension task forces to reduce violent crime across the nation. The President's FY 2022 budget request seeks program increases for the USMS totaling \$173.2 million, which will, among other things, enable the USMS to scale up efforts to work with State and local partners to more rapidly and safely arrest violent fugitives. The USMS is currently developing a comprehensive expansion plan to ensure the coverage of regional task force networks across all 94 federal judicial districts, including those in Missouri.

*Question.* I have worked across the aisle with my colleagues to address data breach issues. The ransomware attack on Colonial Pipeline, a Georgia-based pipeline operator, is a stark reminder that breaches in data security can constitute a major national security threat. A thoughtful threat assessment demands that DOJ focus on cybersecurity and the impact that data breaches have on the average citizen. Will you commit to dedicating the resources needed to maintain or reinforce DOJ's response to cyber intrusions by criminal actors? What tools do you think DOJ needs to better attribute and pursue persistent threat actors?

*Answer.* As I testified before the Committee, protecting our national security requires countering cyber threats from foreign and domestic actors—whether nation states, terrorists, or criminals—who seek to conduct espionage, invade our privacy, steal our intellectual property, damage our critical financial and physical infrastructure, or extort ransom payments.

These threats are grave and escalating. That is why the Justice Department established a dedicated Ransomware and Digital Extortion Task Force to combat the growing number of ransomware and digital extortion attacks. Our focus is on tackling this threat strategically by cooperating with domestic and foreign partners as well as private sector partners to combat this significant criminal threat. The Task Force prioritizes the disruption, investigation, and prosecution of ransomware and digital extortion activity by tracking and dismantling the development and deployment of malware, identifying the cybercriminals responsible, and holding those individuals accountable for their crimes. And earlier this month, the Department announced that the Task Force coordinated our efforts to seize 63.7 bitcoins—currently valued at approximately \$2.3 million—in proceeds paid to individuals in the group known as Darkside, which had targeted Colonial Pipeline.

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We look forward to working with Congress to support law enforcement's efforts to better identify and pursue these threat actors, and on ways to give the Department greater visibility into ransomware incidents and data breaches.

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#### QUESTIONS SUBMITTED BY SENATOR JOHN HOEVEN

*Questions.* What is the Department of Justice's role in addressing drug trafficking and human trafficking, particularly along the southern border? What is the Department of Justice witnessing when it comes to drug trafficking at our southern border? What is the Department of Justice witnessing when it comes to human traf-

ficking at our southern border? When it comes to the crisis at our southern border, as Border Patrol agents work diligently to address the humanitarian needs present with the high flow of migrants and are unable to devote the entirety of their time to securing the border, what challenges does that present to our national security?

*Answer. Drug Trafficking.* The Justice Department's role in addressing drug trafficking is multi-dimensional and includes the interdiction of drugs; the investigation and prosecution of a wide variety of drug offenses; and the seizure of proceeds of the drug trade. By prosecuting the leaders and members of drug trafficking organizations at home and abroad, the Department strives to curtail the availability of potentially deadly and harmful drugs that impact the public health, public safety, and national security of the United States. The Justice Department's FY 2022 budget request seeks a total of \$2.4 billion for the Drug Enforcement Administration (DEA), including \$690 million to support the fight against violent drug gangs and cartels that continue to use the southwest border as an entry point for bringing fentanyl, methamphetamine, and cocaine into the United States. DEA is currently coordinating and supporting operations to combat transnational criminal organizations operating along our southwest border that involve more than 35 federal and international law enforcement partners as well as the Justice Department's drug prosecutors from our U.S. Attorneys Offices, Criminal Division, Organized Crime and Drug Enforcement Task Forces (OCDETF), and High Intensity Drug Trafficking Area Task Forces (HIDTA).

*Human Trafficking & Smuggling.* Transnational human trafficking and smuggling networks pose serious criminal threats and pose a significant risk to many innocent people who are trafficked or smuggled. Last month, I announced the establishment of Joint Task Force Alpha, a joint law enforcement effort that will marshal the investigative and prosecutorial resources of the Department of Justice, in partnership with DHS, to disrupt and dismantle human smuggling and trafficking networks that pose national security threats, have links to transnational organized crime, or exploit and endanger migrants. The Joint Task Force brings Justice Department prosecutors from the Criminal Division, U.S. Attorneys' Offices along the southwest border, and the Civil Rights Division to investigate and prosecute those who are criminally smuggling and trafficking individuals into the United States. Together with DHS partners, the Task Force will engage and utilize each of the Department's law enforcement components, including from the FBI and DEA. In addition to the work of the Joint Task Force, I have also directed the Office of Prosecutorial Development, Assistance, and Training (OPDAT) and the International Criminal Investigative Training Assistance Program (ICITAP), in coordination with the State Department, to enhance the assistance provided to counterparts in the Northern Triangle countries and Mexico to support their efforts to prosecute trafficking and smuggling networks in their own courts.

*Protecting National Security.* The Justice Department is committed to protecting national security while also building a safe, orderly and humane immigration system. The Justice Department supports the Department of Homeland Security in its efforts to take appropriate steps to fulfill those commitments, including effectively deploying its existing resources and obtaining additional support and resources for the border as needed to prioritize national security and public safety.

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#### QUESTIONS SUBMITTED BY SENATOR CINDY HYDE-SMITH

*Question.* One of the outcomes of the COVID pandemic has been a desire from citizens and enforcement personnel to use more contactless technologies. We understand that the TSA has yet to receive approval from the FBI to deploy mobile biometric capture technologies that will enable travelers to submit fingerprints to the TSA as part of their application for PreCheck even though that was mandated three years ago in the TSA Modernization Act. Law enforcement officials have stressed they could use contactless technology at the roadside and in investigations. When will the FBI be prepared to accept mobile fingerprints from law enforcement and partner agencies like the TSA to check criminal records?

*Answer.* The FBI advises that it does not currently accept contactless fingerprints for non-criminal justice background check purposes, such as the Transportation Security Administration's (TSA) Pre-Check Program, for two primary reasons.

First, the National Crime Prevention and Privacy Compact Act of 1998 (Compact) established the Compact Council (Council) which governs the use of criminal history record information (CHRI) for non-criminal justice purposes. The Compact, to which the federal government is a party, requires that positive identification be established to receive FBI CHRI for non-criminal justice purposes. Further, the Council has purview over any biometric approved for positive identification pertaining to the

exchange of FBI CHRI for noncriminal justice purposes. As in the past, the Council will consider any proposals and supporting studies validating positive identification before determining if the proposal is approved. Under current regulations, any proposal approved by the Council must be published in the *Federal Register*. Currently, ten rolled or ten flat fingerprints are the only forms of positive identification that have been approved by the Council. See 70 Fed. Reg. 36209. Therefore, to ensure positive identification, any background check for non-criminal justice purposes that obtains FBI CHRI must be conducted through the submission of ten rolled or ten flat fingerprints to the FBI.

Second, the FBI advises that the technology has not reached the necessary level of accuracy to be deemed sufficient for positive identification purposes. The National Institute of Standards and Technology (NIST) is currently conducting studies pertaining to contactless fingerprinting. The timetable will be based on NIST studies pertaining to contactless fingerprinting. However, it may be some years before the accuracy is sufficient to be utilized for purposes of positive identification. Thus, the FBI cannot accept contactless fingerprints unless approved by the Council as positive identification for non-criminal justice purposes.

*Question.* What is the TSA doing to accelerate approval of mobile biometric technologies through the FBI's advisory processes?

*Answer.* The TSA initiated conversations with the FBI regarding mobile contactless fingerprint technology in October 2020. A working group was established to discuss the efficacy of mobile contactless fingerprint technology for the TSA PreCheck program. Members of the working group include representatives from the FBI, TSA, other Department of Homeland Security components, and NIST. As a result of the working group's collaboration as well as the Council's purview over any biometric approved as positive identification for non-criminal justice purposes, the TSA requested the opportunity to present its mobile contactless fingerprint initiative to the Council in May 2021 to receive initial feedback. The FBI understands that TSA intends to conduct a pilot project to further evaluate mobile contactless fingerprint technology for the TSA PreCheck application. While the Council did not provide any formal recommendations at the May 2021 meeting, once the studies are complete, the information may be presented to the Council for consideration.

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#### QUESTIONS SUBMITTED TO SECRETARY ALEJANDRO N. MAYORKAS

##### QUESTIONS SUBMITTED BY CHAIRMAN PATRICK LEAHY

In live testimony, you committed to making the results of your internal review to prevent, detect, and respond to domestic violent extremism within the Department of Homeland Security available to the public. I appreciate that commitment.

*Question.* Can you specify the full range facts and factors that prompted the internal review in the first place? When can we expect the review to be completed?

*Answer.* The Intelligence Community assesses that domestic violent extremists who are motivated by a range of ideologies and galvanized by recent political and societal events in the United States continue to pose one of the most significant terrorist-related threats to the homeland. To ensure we can continue executing our critical mission with honor and integrity, we will not tolerate hateful acts or violent extremist activity within our Department. DHS will implement the report's recommendations with urgency and will share the report with Congress and the public once finalized.

*Question.* Can DHS commit to giving the Appropriations Committee a briefing within the next 30 days about the status of this internal review?

*Answer.* DHS is committed to transparency and will provide the Appropriations Committee with the review's analysis and recommendations.

*Question.* What more does the Department of Homeland Security need from Congress—and, the Appropriations Committee—to root out violent extremism? Please be specific about what DHS programs, accounts, and initiatives require additional resources from Congress in order to comprehensively address the threat of domestic violent extremism.

*Answer.* The Department is focused on increasing its partnerships with local communities to provide them with enhanced tools and resources to prevent individuals from radicalizing to violence. The Center for Prevention Programs and Partnerships (CP3) provides financial, educational, and technical assistance to state and local partners to empower them to lead and maintain prevention programs that reduce the number of people susceptible to radicalization to violence and that help individuals on a pathway to violence to disengage before violence occurs.

Two specific programs at CP3 require additional resources from Congress to comprehensively address the threat of domestic violent extremism. First, CP3 seeks to expand its Regional Prevention Coordinators (RPCs) to provide training and technical assistance to jurisdictions across the country. RPCs convene and engage local stakeholders, share information, provide trainings, host prevention-related exercises, and provide support to grantees and stakeholders. Currently, CP3 faces a limit on the number of RPCs it can hire and deploy, and requests from state and local partners far exceed the capacity of these limited number of RPCs. The result is limited coverage across the United States for technical support for local prevention efforts.

Technical assistance and engagement are not the only mechanisms CP3 uses to build local prevention frameworks. The Targeted Violence and Terrorism Prevention (TVTP) Grant Program, managed by CP3 and the Federal Emergency Management Agency (FEMA), invests in developing local violence prevention frameworks. Financial assistance for this program was doubled from \$10 million in FY 2020 to \$20 million in FY 2021. Applications to the TVTP grant program continue to outpace the increased amount of funds available. As such, CP3 continues to seek greater funding to support this grant program.

In order for DHS to continue its long-term efforts to identify and combat any potential DVE-related threats within the Department, it is imperative that Congress prioritize and fully fund Trusted Workforce 2.0 initiatives and the modernization of DHS information technology systems that directly support personnel background investigations and continuous vetting.

In order to detect, deter, and mitigate insider threats, the DHS Insider Threat Program (ITP) requires funding to expand protection and monitoring capabilities across the DHS Operational Components' Sensitive But Unclassified networks. The user activity monitoring tools utilized by DHS ITP are vital to reducing the Department's exposure to these threats and mitigating the risk of DVE within its ranks.

*Question.* In the wake of September 11, 2001, the National Security Agency began indiscriminately collecting vast amounts of Americans' internet and phone records, seriously encroaching on their civil liberties and privacy. Eventually, Congress had to step in and reform our surveillance laws to balance the need to protect our homeland and the need to preserve our most precious rights and liberties. I was concerned by recent reporting that DHS plans to "expand its relationships with companies that scour public data for intelligence." Reports also indicate this partnership with private third-party entities would allow DHS to evade legal restrictions on the government's surveillance of U.S. persons.

Please describe all plans to work or contract with third party entities in order to collect data on or otherwise surveil Americans.

*Answer.* This response contains FOUO/Classified information and can be provided under separate cover upon request.

*Question.* Please explain what efforts are being made to ensure that all laws regarding government surveillance of U.S. persons are complied with, and what safeguards are in place to ensure that Americans' privacy and civil liberties are not infringed upon.

*Answer.* The Office for Civil Rights and Civil Liberties, Privacy Office, and Office of the General Counsel regularly provide advice, guidance, and oversight to ensure DHS programs, policies, and operations—including those related to counterterrorism and DVE-prevention activities—protect privacy, civil rights, and civil liberties. Further, DHS is committed to providing transparency and engaging with key stakeholders, including the diverse communities it serves, to inform its programs, policies, and operations.

DHS policy prohibits profiling, targeting, or discriminating against any individual for exercising First Amendment rights. DHS policy directs that "DHS personnel shall not collect, maintain in DHS systems, or use information protected by the First Amendment unless: (a) an individual has expressly granted their consent for DHS to collect, maintain and use that information; (b) maintaining the record is expressly authorized by a Federal statute; or (c) that information is relevant to a criminal, civil, or administrative activity relating to a law DHS enforces or administers. In addition, DHS personnel should not pursue by questioning, research or other means, information relating to how an individual exercises [their] First Amendment rights unless one or more of the same conditions applies."<sup>1</sup>

*Question.* Lieutenant General Honoré was tasked by House leadership to conduct an after-action review of the Capitol attack on January 6th and provide recommendations to improve security of the Capitol. One of the suggestions in his re-

<sup>1</sup>Policy Statement 140–12, Information Regarding First Amendment Protected Activities (May 2019).

port was the establishment of a “quick-reaction force” to rapidly respond to any future events.

Will the Department of Homeland Security participate in this type of task force? Should it have dedicated funding from Congress? Or would DHS be better positioned to participate in a law enforcement-based task force that is activated when called upon, were the Department provided resources to do so?

*Answer.* DHS is actively involved in several discussions to improve the security of the U.S. Capitol and the wider National Capital Region (NCR). This includes reviewing how we can best support our partners, including the U.S. Capitol Police, when responding to short or no-notice events in the NCR such as the January 6th attack. In those conversations, we are considering numerous ways to improve efficiency and communications, bolster intelligence and information sharing, and evaluate the efficacy of immediate response capabilities.

DHS is working closely with the Metropolitan Washington Council of Governments (MWCOC) on this issue. The MWCOC’s Mutual Assistance Operational Plan currently provides an effective structure to address most NCR security incidents, using a fabric of mutual assistance agreements with regional partners. When an incident exceeds state and local response capability, DHS can offer limited law enforcement support, including through the cross-designation and/or deputation of federal law enforcement officers consistent with the Department’s applicable legal authorities and implementing policies.

*Question.* How does DHS define targeted violence and domestic violent extremists? Is there a meaningful distinction between the DHS definitions and those used by the Justice Department?

*Answer.* In recent technical drafting assistance, DHS proposed to define targeted violence as “a premeditated act of violence directed at a specific individual, group, or location, regardless of motivation, that violates the criminal laws of the United States or of any State or subdivision of the United States.”

DHS defines a domestic violent extremist (DVE) as an individual based and operating primarily within the United States or its territories without direction or inspiration from a foreign terrorist group or other foreign power who seeks to further political or social goals, wholly or in part, through unlawful acts of force or violence. The mere advocacy of political or social positions, political activism, use of strong rhetoric, or generalized philosophic embrace of violent tactics does not constitute extremism, and may be constitutionally protected. DVEs can fit within one or multiple categories of ideological motivation and can span a broad range of groups or movements.

DHS would be supportive of a process to develop Federal Government-wide definitions of these terms and defers to the Department of Justice on their current definitions.

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#### QUESTIONS SUBMITTED BY SENATOR BRIAN SCHATZ

*Question.* The Department of Homeland Security plays an integral role in preventing violent extremism. However, that has previously focused on foreign threats, leaving domestic extremism prevention efforts underfunded in comparison. How will the Department increase its support for domestic extremism prevention efforts—for example, by awarding Targeted Violence and Terrorism Prevention Grants to combat domestic violent extremism?

*Answer.* The Department is redoubling its efforts to provide timely and actionable intelligence and information to the broadest audience at the lowest classification level possible. As a result, DHS is augmenting its intelligence and information-sharing capabilities in collaboration with other government agencies; state, local, tribal, territorial, and campus law enforcement partners; and private sector partners. This includes publishing and disseminating intelligence bulletins that provide our partners with greater insight into evolving threats, and situational awareness notifications that inform public safety and security planning efforts to prevent terrorism and targeted violence. We are also reviewing how we can better access and use publicly available information to inform our analysis. DHS’s Office of Intelligence and Analysis has enhanced its ability to analyze, produce, and disseminate products that address DVE threats, including violent extremist narratives shared via social media and other online platforms. Further, the Department is continuing to enhance the financial, educational, and technical assistance it provides to local communities to prevent radicalization to violence. This includes ensuring equitable access to related grant programs.

*Question.* The Department of Homeland Security recently announced an effort to monitor and analyze public social media posts to detect extremist activity and pre-

vent violent attacks. This builds on the Department's previous collection of social media information of both foreign and U.S. travelers. Please provide a detailed explanation of this effort, including considerations of civil liberties protections for monitored individuals.

*Answer.* DHS's Office of Intelligence and Analysis (I&A) leverages its longstanding open source collection capabilities to inform its assessment of homeland security-related threats, consistent with applicable law and in a manner that protects individuals' privacy, civil rights, and civil liberties. All I&A collection activities are conducted consistent with its Intelligence Oversight Guidelines and subject to oversight by the DHS Privacy Office, Office for Civil Rights and Civil Liberties, and Office of the General Counsel. DHS continuously reviews its activities to ensure they are lawful and in alignment with best practice.

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QUESTIONS SUBMITTED BY SENATOR JOE MANCHIN, III

Recently, a cybersecurity attack forced the closure of the largest fuel pipeline in the United States. Colonial Pipeline Company closed its entire 5500-mile conduit carrying gasoline and other fuels from the Gulf Coast to New York after it was the target of a ransomware attack on its network. This is deeply troubling. I am glad that the White House announced that it was forming an interagency task force in response to the Colonial ransomware attack, but I couldn't help but notice that the press briefing didn't even mention the Transportation Security Administration (TSA), which has oversight over pipeline cybersecurity. This shouldn't be surprising, since a 2019 Government Accountability Office (GAO) report noted that only 6 staff at TSA were responsible for reviewing the cybersecurity performed by approximately 2.5 million miles of pipeline and 3000 pipeline companies across the U.S. These same weaknesses were documented by the Congressional Research Service in 2012, and yet nothing has been done. So, I'll ask the same question I asked this time last year.

*Question.* What percentage of the nearly 3000 pipeline companies are complying with TSA's voluntary cybersecurity guidelines? How is TSA in a position to evaluate compliance if they have never performed any assessments?

*Answer.* TSA has developed and implemented a plan for reviewing pipeline security plans and administering assessments of the most critical pipeline owners and operators, as determined by the Pipeline Relative Risk Ranking Tool (PRRRRT). Of the 3,000 pipeline companies nationwide, TSA conducts voluntary assessments with the top 100 critical pipeline owner and operators, which represent approximately 85 percent of all throughput.

TSA assesses that critical pipeline owner and operators' current adherence to these measures is over 80 percent. TSA is conducting assessments and providing guidance to owners and operators on how to implement related recommended or necessary improvements.

In addition, TSA conducts Critical Facility Security Reviews, which are on-site evaluations of the physical security of key critical pipeline facilities. In addition to the assessment of newly listed sites, TSA follows up with operators to evaluate the implementation status of previous critical facility security recommendations.

Through the recent issuance of the *Enhancing Pipeline Cybersecurity* Security Directive, the measures outlined in the aforementioned Guidelines and additional Information Technology (IT) security requirements are now required to be assessed and mitigated if any gaps are identified.

Per the requirements of the Security Directive, TSA has received or authorized extensions for all required cybersecurity vulnerability self-assessments from applicable critical pipeline owner and operators.

Since 2001, TSA has engaged extensively with the pipeline industry, including taking clear and specific actions to address the industry's cybersecurity gaps and vulnerabilities. Prior to the issuance of the May 28, 2021 *Enhancing Pipeline Cybersecurity* Security Directive, TSA conducted security assessments of the pipeline industry, which continue today. This approach lends itself to a very close review and evaluation of pipeline cybersecurity standards and practices. These programs include, but are not limited to, the Corporate Security Review, Critical Facility Security Review, and Validated Architecture Design Reviews (VADR). VADRs are conducted with the Department's Cybersecurity and Infrastructure Security Agency (CISA).

To date, TSA has conducted over 730 assessments to assess physical and cybersecurity measures of critical pipeline owner and operators, including to ensure cybersecurity measures are compliant with TSA Pipeline Security Guidelines, other standards identified through the VADR review process, and other related best prac-

tices. TSA and CISA continue to evaluate and improve their cybersecurity assessment capabilities.

*Question.* I'll be even more blunt this year. If TSA can't do its job, and it isn't even included in the interagency task force on this issue, why is it even in charge of pipeline cybersecurity?

*Answer.* TSA has statutory authority over transportation security, including over the pipeline sector under (49 U.S.C. § 114 (d), (f)), and the progress made to date to advance security in the pipeline sector is noteworthy.

Since the passage of the TSA Modernization Act of 2018, TSA has expanded the number of personnel dedicated to pipeline security and collaborates closely with CISA on related work. TSA currently has 54 full-time employees supporting this mission and receives additional support from other offices. The TSA team includes 20 Surface Transportation Security Inspectors who serve on the field-based Pipeline Security Assessment Team (PSAT). PSAT members are located throughout the country, have received specialized training, and conduct critically needed pipeline security assessments. A subset of these members have received additional comprehensive cybersecurity training in partnership with CISA and the Idaho National Laboratory to provide long-term cybersecurity support to the sector.

In the immediate wake of the Colonial pipeline ransomware attack, TSA took steps to further strengthen pipeline cybersecurity by issuing a Security Directive on May 27, 2021 mandating that owners and operators of critical hazardous liquid and natural gas pipelines and liquefied natural gas facilities report to CISA within 12 hours of any cybersecurity incident. It further requires that owners and operators of critical pipelines designate a Cybersecurity Coordinator that is available 24 hours a day, 7 days a week to coordinate with TSA and CISA in response to any incident. Finally, critical pipeline owners and operators must review their current activities to assess cyber risk, identify needed remediation measures, and establish a timeline for achieving them. TSA continues to work closely with CISA on developing additional cybersecurity mitigation measures.

These actions supplement TSA's efforts over the past two years to improve pipeline security, and particularly pipeline cybersecurity, despite challenges created by the COVID-19 pandemic. With an appropriation of \$8.4 million received in Fiscal Year (FY) 2020, and support from pipeline cybersecurity experts at CISA and the Idaho National Laboratory, TSA and CISA completed 51 in-depth cybersecurity assessments in FY 2021. In FY 2021, Congress appropriated approximately \$4.5 million to TSA to continue cybersecurity assessments. TSA also received about \$3 million in support of surface-related cybersecurity activities, such as additional cybersecurity assessment tools and workshops. These are critically important investments that will help ensure a stronger cybersecurity posture amongst our Nation's most critical pipelines going forward.

TSA has addressed many of the issues raised in the GAO Report 19-48: *Actions Needed to Address Significant Weaknesses in TSA's Pipeline Security Program Management* (December 2018). Of GAO's 10 recommendations, seven have been closed. The open recommendation regarding the Strategic Workforce Plan, was submitted to GAO for review on June 26, 2021. Among other changes, TSA conducted extensive coordination with the pipeline industry to update the criteria for the identification of critical facilities, which was recently published as Change 1 to the *TSA Pipeline Security Guidelines*. TSA is continuing to work on the two remaining recommendations: (1) to incorporate additional factors into TSA's PRRRT; and (2) to coordinate an external, independent peer review of the PRRRT.

*Question.* While I understand the primary purpose of the hearing was to discuss the events of January 6th, no discussion of domestic extremism can take place without discussing the opioid epidemic. The opioid epidemic has been devastating to many American communities, especially in West Virginia, which has had to deal with the consequences of the epidemic longer and more directly than nearly any other state. China and India have been cited as the primary source countries for illicitly produced fentanyl and carfentanil in the United States. Companies based in these and other foreign countries take advantage of weaknesses in international mail security standards to break U.S. customs laws and regulations by shipping drugs directly through the U.S. postal system. CBP, ICE, and DHS play critical roles in seizing these illegal substances, and last year during the COVID-19 pandemic, their jobs were as important as ever. I'm supportive of these efforts as they play a critical role in stopping the opioid crisis.

About how many opioids has TSA seized in the last year? Are there any resources we can provide you with to assist in accurately identifying and confiscating opioids?

*Answer.* TSA screening is designed to detect items and persons who may pose a threat to transportation security and prevent them from entering the transportation system. TSA Officers are trained to detect prohibited items through computed to-

mography, x-ray, and other screening technology. If evidence of narcotics trafficking is discovered during screening processes, TSA reports the situation to on-site local law enforcement to investigate any suspected violations of federal, state, or laws. TSA has appropriate procedures in place for contacting law enforcement if criminal activity is suspected during passenger and/or baggage screening.

TSA is not always informed of the outcome of the referral to law enforcement, including the amount or type of contraband, including illegal opioids, discovered. However, a review of TSA's incident database revealed two confirmed incidents within the past year during which opioids were discovered during the screening process.

*Question.* Do you believe more can be done to prevent these drugs from coming into our country? How can we empower DHS to do this?

*Answer.* The Biden-Harris Administration and DHS are prioritizing combatting the opioid epidemic. Transnational criminal organizations (TCOs) play a major role in facilitating the entry of illicit drugs and precursor chemicals into the United States, which further fuels this epidemic. The Biden-Harris Administration has taken decisive action to address this issue. On December 15, 2021, President Biden signed an executive order establishing the U.S. Council on Transnational Organized Crime, an interagency organization whose purpose is to ensure that the U.S. Government effectively leverages all appropriate tools to counter the threats posed by transnational organized crime (TOC). On that date, the President also signed an executive order on imposing sanctions on foreign persons involved in the global illicit drug trade. Pursuant to that executive order, Treasury's Office of Foreign Assets Control immediately announced the designation of 25 targets, including 10 individuals and 15 entities. The Treasury designation targets an array of illicit actors involved in the international proliferation of illicit drugs or their means of production. Five of these actors are based in China and are engaged in either trafficking fentanyl or other synthetic drugs to the United States or in the export of various precursor chemicals essential to the production of fentanyl. Seven targets designated are Mexican nationals, all of whom are directly or indirectly linked to the trafficking of deadly drugs, including fentanyl, methamphetamine, and cocaine to the United States. Additionally, Treasury designated all nine Mexican drug trafficking organizations identified by the Drug Enforcement Administration as having the greatest drug trafficking impact on the United States.

DHS, as the largest law enforcement organization in the Federal Government, is uniquely positioned to lead whole-of-government efforts to address TOC. In recent years, DHS has taken important steps to optimize our counter-TOC activities. Through intelligence-based operations, the United States Coast Guard (USCG) has interdicted record amounts of cocaine and other drugs destined for the United States, leading to the disruption and dismantlement of TCOs. U.S. Customs and Border Protection (CBP) has reported record fentanyl seizures at the southwest border. Further, U.S. Immigration and Customs Enforcement (ICE) and CBP have interdicted major drug loads and built major cases against TCOs, while adjusting to counter a new and dangerous drug trend—the production and trafficking of opioids and other synthetic narcotics. USCG, ICE, and CBP efforts are enhanced by the intelligence provided by the Office of Intelligence and Analysis and the advanced technological capabilities provided by the Department's Science and Technology Directorate.

The Biden-Harris Administration's Statement on Drug Policy Priorities sets forth six specific actions to reduce the supply of illicit substances, including fentanyl, in the United States. These actions, all of which bolster DHS's counternarcotics efforts include: (1) working with key partners in the Western Hemisphere to address production, trafficking, and public health facets of the illicit drug problem; (2) exercising leadership in regional and multilateral forums to advance and shape collective and comprehensive approaches; (3) engaging with China, India, and other source countries to disrupt the global flow of synthetic drugs and their precursor chemicals; (4) strengthening the U.S. Government's capacity to comprehensively disrupt the production and supply chain of synthetic drugs; (5) supporting enforcement efforts through the High Intensity Drug Trafficking Areas (HIDTA) program to disrupt and dismantle domestic drug trafficking networks; and (6) supporting multi-jurisdictional task forces and other law enforcement efforts.

With the changing tactics of TCOs, we are continually adjusting our enforcement activities to include not only the interdiction of illicit narcotics, but also precursors that are used to make synthetic drugs such as fentanyl.

In the context of the current TOC threat, however, DHS will continue to optimize its capabilities in this mission area, including by enhancing ICE's investigative capabilities, USCG and CBP's enforcement capabilities, and the counter-TOC coordination responsibilities of the Office of Strategy, Policy, and Plans. The criticality of the threat further requires that we devote renewed attention to DHS's counter-TOC

mission in several areas, including: (1) operational planning and coordination; (2) adequacy of operational force levels; (3) intelligence and information-sharing; (4) partner nation capacity-building; (5) integration with state, local tribal, and territorial partners; and (6) employment of advanced technologies. We must also identify and employ new management and funding tools that will enable our Department to remain sufficiently agile to address evolving TOC-related threats.

DHS is assessing requirements in this area and looks forward to working with Congress to ensure appropriate related resourcing.

*Question.* The behavior we witnessed on January 6, 2021 in the U.S. Capitol was un-American. The individuals that participated in this insurrection—including those from my own state—should fully be prosecuted to the full extent of the law. It is time now to move forward as one nation to focus on helping Americans suffering from the pandemic. Now more than ever, it is on each of us to seek unity over division and put partisanship aside for the good of our country. Bipartisanship and compromise are not always easy, but they are essential. The issues facing our democracy today are not insurmountable if we choose to tackle them together. We all must commit to restoring decency and civility to our politics and being that shining city upon a hill whose beacon light guides freedom-loving people everywhere. That is what American people deserve and the world expects. As members of Congress, we have a responsibility to be the example for our constituents and for the American people. This Administration, and this President, has the same responsibility.

What can we all do to show Americans that we can work together, even if we strongly disagree on some issues?

*Answer.* DHS remains committed to ensuring the safety and security of communities across our country, while safeguarding First Amendment-protected activities, privacy, civil rights, and civil liberties.

The attack on the U.S. Capitol on January 6, 2021 was a violent assault on our democracy. Since January 2021, DHS has strengthened intelligence analysis, information sharing, and operational preparedness to help prevent acts of violence and keep our communities safe.

DHS is prioritizing combating all forms of terrorism and targeted violence, including through its efforts to support the first-ever *National Strategy for Countering Domestic Terrorism*. Since January 2021, DHS has taken several steps in this regard, including:

- established a new domestic terrorism branch within I&A dedicated to producing sound, timely intelligence needed to counter domestic terrorism-related threats;
- launched the Center for Prevention Programs and Partnerships (CP3) to provide communities with resources and tools to help prevent individuals from radicalizing to violence;
- designated domestic violent extremism as a “National Priority Area” within DHS’s Homeland Security Grant Program for the first time, resulting in at least \$77 million being spent on preventing, preparing for, protecting against, and responding to related threats nationwide;
- provided \$180 million in funding to support target hardening and other physical security enhancements to non-profit organizations at high risk of terrorist attack through DHS’s Nonprofit Security Grant Program (NSGP);
- increased efforts to identify and evaluate mis- dis- and mal-information (MDM), including false or misleading conspiracy theories spread on social media and other online platforms, that endorse violence; and,
- enhanced collaboration with public and private sector partners—including U.S. critical infrastructure owners and operators—to better protect our cyber and physical infrastructure and increase nationwide cybersecurity resilience through CISA.

Further, DHS has renewed its commitment to share timely and actionable information and intelligence to the broadest audience possible, including through regular briefings for public and private sector partners and National Terrorism Advisory System (NTAS) bulletins to contextualize the threat environment for the public and provide resources for how to stay safe. All of the Department’s efforts to combat all forms of terrorism and targeted violence are conducted in ways that protect privacy, civil rights, and civil liberties, and adhere to applicable laws.

*Question.* Intelligence reports prior to the January 6th riot warned Capitol Police that supporters of President Trump were actively promoting violence and targeting Congress itself. The Department of Homeland Security specifically notified Capitol Police that they had identified a map of the Capitol’s tunnel system in online messages between “Stop the Steal” supporters, and the FBI field office in Norfolk also warned the Capitol Police. However, the Capitol Police Inspector General also found a lack of consensus among key officials about whether these reports indicated specific known threats. Facebook employs more than 15,000 content moderators across the

globe, and other platforms like Twitter and Google have their own teams of moderators that enforce their policies and take down illegal or offensive content on their sites. My bipartisan bill with Senator Cornyn would require these companies to proactively flag major crimes, including drug trafficking and terrorism, to law enforcement.

Did any of these companies proactively reach out to law enforcement with reports of illegal activity?

*Answer.* DHS is continuing to work with technology companies to develop innovative approaches to combat online incitement and radicalization to violence and other criminal activity, while maintaining a two-way dialogue and sharing materials related to emerging, online narratives and mitigating the risk of radicalization to violence.

*Question.* What more could social media companies have done to alert law enforcement prior to the January 6th riots?

*Answer.* Combatting all forms of terrorism and targeted violence requires a whole-of-society effort that includes collaboration with social media and technology companies. DHS collaboration with these companies includes (1) information sharing; (2) informing the work of the Global Internet Forum to Counter Terrorism; and (3) exploring how to expand partnerships social media and other online platform to lawfully share relevant information, while protecting privacy, civil rights, and civil liberties.

*Question.* Do you believe that we need to update Section 230 to address illegal activity, including how groups like “Stop the Steal” can use these platforms for illegal activities?

*Answer.* We can and must take action to stop unlawful activity online. Section 230 does not stop that from occurring. Separately, we can and should continue the ongoing conversation as to whether and how to update Section 230, consistent with the need to safeguard First Amendment-protected activity.

*Question.* As you both know it’s impossible to prepare or respond to a threat without as much reliable information as possible, and we certainly saw what happens when threat information isn’t handled effectively on January 6th. This brings up a larger issue that I’ve grown more concerned about during my time on the Cyber Subcommittee for Armed Services. Which is how potential threats, both physical and cyber, are shared within the federal government.

In your positions so far, do you feel both your departments have been sufficiently receiving and relaying threat information with each of the other federal departments, and are you aware if that information can then be shared with a specific private industry partner if we identify a specific threat toward them?

*Answer.* DHS has renewed its commitment to share timely and actionable information and intelligence to the broadest audience possible, including through regular briefings for public and private sector partners and NTAS bulletins to contextualize the threat environment for the public and provide resources for how to stay safe. All of the Department’s efforts to combat all forms of terrorism and targeted violence are conducted in ways that protect privacy, civil rights, and civil liberties, and adhere to applicable laws.

DHS continues to strengthen the mechanisms it leverages to share information and intelligence with key partners and the public.

*Question.* In your own opinions how do we increase the coordination within the federal government to respond more quickly and in a uniformed way no matter the threat?

*Answer.* To continue combatting the evolving threat environment through increased federal coordination, DHS seeks to enhance information and intelligence sharing capabilities and expand its participation in the FBI’s Joint Terrorism Task Force (JTTFs). JTTFs investigate and respond to threats and incidents as they occur. DHS is currently identifying priority locations for increased DHS participation in JTTFs. To ensure that we are making contributions to the JTTF in the most meaningful and uniformed way possible, the Department recently developed and approved a new management directive that facilitates organizational direction for how DHS will participate and work within JTTFs. Further, DHS and the FBI are working to update a Memorandum of Understanding to modernize our approaches to investigating and mitigating emerging threat trends.

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QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

Secretary Mayorkas, in the last five fiscal years, Congress has, on a bipartisan basis, directly provided the Department of Homeland Security with billions of dollars for the construction of a border wall system. That system is a critical border

security tool, which helps our Border Patrol agents safely and effectively maintain operational control of our southern border. Since President Biden took office, your Department has impounded these funds, in direct violation of federal law. It is an affront to this Committee and to Congress's power of the purse, but worse: it makes the work of our dedicated Border Patrol agents more difficult and more dangerous.

Those agents must stand constant guard by incomplete sections of border wall, which now serve as funnels for illegal immigration, human trafficking, and drug smuggling. Gates that are not operational compromise agents' ability to apprehend illegal traffic. And by not allowing them to operationalize available technology and sensors leaves, Border Patrol agents are left blind in trying to do their job. These dynamics are straining resources across the southwest border.

*Question.* What is your plan to relieve Border Patrol agents from guarding gaps that remain in the wall due to this administration's refusal to finish construction that was near completion and abruptly halted in January?

*Answer.* On June 11, 2021, DHS released its *Border Wall Plan Pursuant to Presidential Proclamation 10142* (the Plan).<sup>2</sup> This Plan outlines the Department's approach to the border barrier construction projects, which include prioritizing the use of appropriated funds for urgent life, safety, environmental, or other remediation requirements resulting from previous border wall construction. On July 27, 2021 DHS approved additional work in the Rio Grande Valley (RGV), San Diego and El Centro Sectors needed to address life, safety, environmental, and operational considerations. This work includes make safe activities on paused construction, such as completing make safe and punch list items in the RGV Sector, repairing and reinforcing a small gap in the border barrier, powering secondary gates, and replacing drainage grates in the San Diego Sector as well as completing a utility relocation project in El Centro Sector to ensure power is fully restored to local municipalities. These projects are reflective of the commitment of DHS to ensure the health, safety, and welfare of communities along the border, individuals encountered there, and our Border Patrol Agents who patrol these areas. DHS continues to review other paused border barrier projects presenting life, safety, environmental, or other remediation needs consistent with the Border Wall Plan.

While completing the border security mission, the U.S. Border Patrol (USBP) relies upon a combination of personnel, technology, and infrastructure. This approach requires adaptability and flexibility in a constantly changing work environment. As technology continues to improve, the Border Patrol makes use of enhanced technology to augment manpower and increase mission effectiveness. In the FY 2022 President's Budget, CBP requested funding for border security technology, including for Common Operating Picture, Small Unmanned Aircraft System, and Team Awareness Kit, which integrates surveillance devices used by Border Patrol and other CBP components. Agents will continue to use all available tools to secure our border.

*Question.* When are you planning to turn on the gates in completed sections of the border wall so your agents can safely and efficiently patrol their areas of responsibility?

*Answer.* The DHS *Border Wall Plan Pursuant to Presidential Proclamation 10142* sets forth guiding principles for barrier system construction. For instance, the Plan permits DHS to prioritize projects for completion if they are needed to address life, safety, environmental, or other remediation requirements. In addition, for projects that do involve life, safety, environmental, or other remediation requirements, prior to further construction, the Department will undertake a thorough review and planning process. On July 27, 2021, DHS approved additional work in the RGV, San Diego, and El Centro Sectors that is needed to address life, safety, environmental, remediation, and operational considerations. This work includes powering secondary gates in the San Diego Sector. DHS continues to review other paused border barrier projects presenting life, safety, environmental, or other remediation needs.

*Question.* At what point will you allow Border Patrol to install or activate the border wall technology and sensors Congress funded to make their incredibly difficult job more manageable?

*Answer.* As of June 23, 2021, approximately 50 miles of detection technology has been installed, using funds appropriated by Congress in FYs 2017 and 2018. DHS is working to develop a path forward for border barrier projects consistent with the guiding principles outlined in DHS's *Border Wall Plan Pursuant to Presidential Proclamation 10142*. Prior to the installation of additional border system attributes, DHS will undertake a thorough review and planning process as called for by the Plan.

<sup>2</sup> <https://www.dhs.gov/publication/department-homeland-security-border-wall-plan-pursuant-presidential-proclamation-10142>

*Question.* Secretary Mayorkas, you are no doubt aware of the threat posed by “fake families” presenting themselves at the border—that is, single adults who cross the border illegally with children not their own and claim to be family units in order to avoid detention or deportation. These children are at the greatest risk of being victims of human trafficking, or worse yet, victims of sex trafficking, especially given recent reports about an increase in apprehensions of convicted sex offenders crossing the border. In one area of Texas, for example, the Border Patrol’s arrest of sex offenders is reportedly up 2,500% this year.

Current statistics indicate that groups claiming to be family units make up about one quarter of the apprehensions at the border. Under your leadership, however, the Department has significantly reduced its reliance on DNA testing as a means of determining whether children are truly related to the adults that accompany them across the border. Moreover, the Department recently announced that it will not collect biometric data from those apprehended while crossing illegally or from those looking to sponsor children crossing the border alone.

Why have you curtailed the Department’s use of these extremely important tools, which are ultimately intended to protect children?

*Answer.* Protecting children and others who are vulnerable remains a top priority for DHS and its partners. The reduction in the use of DNA testing is not a reflection of a change to that priority, but more an indication of the evolution in the type of fraud being encountered at the border. During FY 2020, CBP and the Department of Health and Human Services (HHS) referrals to ICE Homeland Security Investigations (HSI) for testing significantly decreased from the previous fiscal year. For this reason, Rapid DNA testing has been utilized less frequently than in prior years.

HSI initiated Rapid DNA testing in May 2019 as a pilot at two locations. In July 2019, it was expanded to 10 locations along the Southwest Border. Procedurally, HSI only conducted DNA testing based on referrals from CBP or HHS. HSI administered Rapid DNA tests as an investigative tool and with consent of the individuals. The suspected fraudulent family remained in CBP custody pending the results of the test. If the test resulted in a negative parent-child relationship match, the case was turned over to HSI, and, in coordination with the U.S. Attorney, considered for prosecution.

During FY 2019 and FY 2020, based on referrals from CBP and HHS, HSI tested approximately 3,300 family units, with nearly 300 returning negative parent-child relationship matches. Approximately 230 of these cases were accepted for Federal prosecution. In FY 2021 (through September 12, 2021), HSI conducted over 130 Rapid DNA tests, finding only 12 instances negative for parentage, six of which have been accepted for prosecution.

On September 12, 2021, HSI concluded the Rapid DNA program as the number of CBP and HHS referrals, investigative leads, and overall benefits of the program as an effective investigative tool declined. An analysis of Rapid DNA testing revealed a steep reduction in negative parent-child relationship matches and subsequent prosecutions over the last year that, when combined with the relatively high cost of the program, no longer support its continuance.

However, DHS continues to meet the need to identify fraudulent families through a different process. As of September 12, 2021, USBP started their own DNA testing program, using the United States Postal Service to send and receive results and findings.

*Question.* Is it not important to ensure that we know that the children crossing the border are in a safe and secure environment with individuals that we are certain will not do them harm?

*Answer.* Protecting children and other vulnerable individuals is a top priority for DHS. In accordance with the Trafficking Victims Protection Reauthorization Act (TVPRA), CBP screens all undocumented unaccompanied children (UCs) for signs or indications of trafficking. In September 2019, CBP implemented a revised screening form (CBP Form 93) to improve and assist in identifying UCs who may be victims of trafficking. CBP also revised mandatory annual training for law enforcement personnel.

When minors are encountered, their safety and security is always of paramount importance to CBP. Consistent with the TVPRA, UCs from non-contiguous countries are transferred to the custody of the Department of Health and Human Services (HHS). All minors (accompanied and unaccompanied) are prioritized for processing and transferred out of USBP custody as expeditiously as possible. Additionally, all minors in USBP custody are afforded the amenities and treatment required by the Flores Settlement Agreement, the CBP’s National Standards on Transport, Escort, Detention, and Search (TEDS) policy, and the CBP Medical Directive.

I understand from the latest operational statistics provided by DHS that this year, in the Rio Grande Valley sector alone, more than 19,000 persons apprehended

by the Border Patrol were released into the interior of the country without a court date to adjudicate their illegal entry. Instead, these illegal immigrants were requested to report to an Immigration and Customs Enforcement office at some undetermined future date.

Even under the Obama Administration's catch and release policy, illegal crossers were given a notice to appear before a federal judge.

*Question.* What is the plan for these 19,000 illegal immigrants?

*Answer.* CBP is releasing certain family units via an exercise of prosecutorial discretion to relieve processing bottlenecks and to avoid unsafe overcrowding of CBP facilities due to the large number of individuals encountered in locations such as the RGV. Many of these family units have been released from CBP custody without issuance of charging documents, such as a Notice to Appear (NTA). When CBP apprehends certain family units along the Southwest Border, the agency releases them via prosecutorial discretion and they are issued a Form G-56, Interview Notice, or Form I-385, Request to Report, and instructed to report to an ICE field office at their final destination. When those individuals report to an ICE field office, ICE will enter their information into an ICE database, provide them with updated reporting requirements, and, for those who qualify, enroll them into ICE's Alternatives to Detention (ATD) program. Family units will report to ICE field offices for issuance of appropriate charging documents if they were released from CBP custody without one, thus beginning the process of formal removal proceedings in accordance with Section 240 of the Immigration and Nationality Act (INA).

ICE works hand-in-hand with interagency partners to identify opportunities for process improvements, including to increase operational efficiency, and improved communications and coordination.

*Question.* Do you know how many of these 19,000 illegal immigrants have previously tried to enter the country illegally? Do you know whether any of them have criminal records?

*Answer.* USBP conducts checks on subjects in custody prior to making a processing disposition. Dispositions are made on a case-by-case basis. Upon encounter at the border, CBP collects each migrant's biographic and biometric information (fingerprints, photographs, telephone numbers, and an address in the United States), creating a record of apprehension, and runs their information against CBP databases. When determining the appropriate processing pathway, agents assess whether the noncitizen poses a threat to national security, border security, or a public safety. From January through June 2021, 9.4 percent of family unit apprehensions by the U.S. Border Patrol were repeat encounters with a previous encounter in the preceding 12 months under Title 42 or Title 8 of the U.S. Code.

*Question.* If persons in this group of illegal immigrants do not report to an Immigration and Customs Enforcement office, as requested, how does your Department track them to ensure they do not escape the lawful immigration process?

*Answer.* Most of the individuals who are released at the border with instructions to report to an ICE field office check in within their reporting window. ICE has an online appointment system to facilitate the scheduling of check-in appointments at ICE field offices around the country. Community partners play an important role in helping communicate to these individuals and their families the requirement to report to ICE and ultimately the immigration court. Those who do not report are subject to enforcement action by ICE based on current enforcement priorities.

*Question.* Are you in essence conceding that these people will be allowed to stay in the country indefinitely?

*Answer.* When individuals report to an ICE field office pursuant to a Notice to Report, ICE will enter their information into an ICE database, provide them with updated reporting requirements, and, for those, who qualify, enroll them into ICE's ATD program. They will be issued charging documents (i.e., a NTA) to initiate removal proceedings in accordance with Section 240 of the INA. The noncitizen appears before an immigration judge from the Executive Office for Immigration Review (EOIR) within the Department of Justice for their removal proceedings. The immigration judge then determines if the noncitizen is eligible to remain in the United States through a form of relief or protection from removal or issues the noncitizen a final order of removal, after which the noncitizen is subject to removal from the United States.

Individuals who do not report to an ICE field office within their reporting window are subject to enforcement action by ICE based on current enforcement priorities.

## QUESTIONS SUBMITTED BY SENATOR ROY BLUNT

*Question.* I am a longtime supporter of the Nonprofit Security Grant and Urban Area Security Initiative (NPSG/UASI) programs, which provide financial support to nonprofits at high risk of a terrorist attack, such as religious and cultural centers, for physical security enhancements. In late March, after an unprovoked attack on a Roman Catholic abbey in Gower, MO, the nuns at the abbey expressed that they had “long desired more privacy and protection.” In 2014, three people were murdered in front of Overland Park’s Jewish Community Center in the Kansas City metro area. The perpetrator was motivated by a white supremacist ideology. Recent news reports of his death are a reminder of the suffering wrought by the attack. It is my understanding that Missouri historically receives only a sliver of funding from the NPSG/UASI programs. How would the U.S. Department of Homeland Security (DHS) use the money it requests and ensure that it appropriately allocates resources from the NPSG/UASI programs to Missouri law enforcement departments both large and small?

*Answer.* Law Enforcement departments are not eligible subrecipients of the Nonprofit Security Grant Program (NSGP). In order to be eligible to receive NSGP funds through the State Administrative Agencies (SAAs), an organization must be exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 based on meeting the description in section 501(c)(3) of the Code. Law enforcement departments are not nonprofit entities under section 501(c)(3) of the code, as such they are not eligible NSGP subrecipients. *See, e.g., Department of Homeland Security Appropriations Act, 2021*, Pub. L. No. 116–260. However, law enforcement departments are eligible subrecipients of the State Homeland Security Program (SHSP), as well as the Urban Area Security Initiative (UASI) program.

As required under sections 2003 and 2004 the *Homeland Security Act of 2002*, as amended by the *Implementing Recommendations of the 9/11 Commission Act of 2007*, the eligibility and allocations for the SHSP and UASI program are informed by a relative risk methodology based on threat, vulnerability, and consequence from terrorism. Under the FY 2021 SHSP program, the state of Missouri will be awarded \$4,602,500. Under the FY 2021 UASI program, the St. Louis, Missouri urban area will be awarded \$3,800,000. This funding is available for the implementation of risk-driven, capabilities-based homeland security strategies to address capability targets and to enhance regional preparedness and capabilities in designated high-threat, high-density areas. For both SHSP and UASI funding, all projects must have a nexus to terrorism preparedness and align to closing capability gaps or sustaining capabilities identified in the state’s Threat and Hazard Identification and Risk Assessment/Stakeholder Preparedness Review.

The SAA is the only eligible recipient of SHSP and UASI funds, and they are required to pass-through at least 80 percent of SHSP and UASI funding to local and tribal units of government, including law enforcement entities. Additionally, at least 25 percent of SHSP and UASI funding must be dedicated to law enforcement terrorism prevention activities. In that vein, UASI funding would be appropriate for law enforcement departments, regardless of size, in St. Louis, while SHSP funding would be appropriate for law enforcement departments, regardless of size, anywhere in the state outside of the St. Louis area. While FEMA does not dictate how the SAAs must sub allocate their SHSP and UASI funds, FEMA does require that the SAA establish and consult with a Senior Advisory Committee (for SHSP funding) and an Urban Area Working Group (for UASI funding) to ensure that funds are sub allocated to areas within the state and urban area that best address the regional and local threats and risk in preparing for and responding to potential terrorist attacks. FEMA’s Preparedness Grants Manual<sup>3</sup> outlines the composition and consultation requirements between the SAA, Senior Advisory Committee, and Urban Area Working Group.

The state of Missouri also receives funding through the NSGP, which is dedicated funding for nonprofit organizations to secure their infrastructure against potential acts of terrorism. Similar to SHSP and UASI, the SAA is the only eligible recipient, and passes through 100% of NSGP funding to eligible nonprofit organizations that have been approved for NSGP funding through a competitive review process. In FY 2021, Missouri will receive \$320,400 in NSGP-Urban Area funds for nonprofit organizations within the St. Louis area, and \$1,304,263 in NSGP-State funds for nonprofit organizations within Missouri that are outside the St. Louis area.

*Question.* President Biden has ended many effective border policies, such as suspending funding for the border wall, eliminating the Migrant Protection Protocols, ending asylum agreements, and placing restrictions on U.S. Immigration and Cus-

<sup>3</sup> <https://www.fema.gov/grants/preparedness/manual>

toms Enforcement. Following these actions, have any agents within the relevant DHS components been reassigned from their work at the border to other initiatives like domestic terrorism? If so, which ones? Do you plan to reassign any agents within the relevant DHS components currently working at the border to efforts to combat domestic terrorism?

*Answer.* DHS personnel on the border have not been reassigned to focus on non-border related mission areas.

*Question.* Your budget provides \$131 million for domestic terrorism prevention programs for research on the root causes of radicalization and for enhanced community outreach. Program grantees under the now-obsolete Targeted Violence and Terrorism Prevention Grant Program have said they would promote collaboration between law enforcement and mental health professionals, promote resilience, and pursue a number of other measures in order to achieve the goal of addressing the root causes of radicalization. Would DHS request that all \$131 million go to the newly established Center for Prevention Programs and Partnerships and Office of Intelligence & Analysis? How would DHS allocate the money between the two new initiatives, if so? Has DHS identified any effective evidence-based programs that measurably prevent domestic terrorism, particularly in programs that involve mitigating the impact of mental health problems on people who would be subject to the program?

*Answer.* Currently, the \$131 million budget for targeted violence and terrorism prevention supports several DHS offices and components supporting this mission. While CP3 and I&A have significant equities, the Federal Law Enforcement Training Center, Office for Civil Rights and Civil Liberties, Privacy Office, CISA, FEMA, and Secret Service, among others, also meaningfully contribute to the prevention mission. DHS would welcome the opportunity to work with your office and the Committee to ensure that these resources are appropriately allocated, including as it relates to supporting CP3's continued growth and enhancing the Department's prevention mission.

CP3's violence prevention framework is informed by an evidence-based public health model that recognizes that individuals on a pathway to violence typically experience a variety of social and psychological factors that increase their probability of engaging in terrorism ("risk factors") or decrease their probability of engaging in terrorism ("protective factors"). By supporting local communities to develop their own, locally informed prevention framework, these communities can address risk factors, build protective factors, and help prevent individuals from radicalizing to violence. These frameworks build on and enhance existing local resources, and provide the opportunity to develop new tools.

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#### QUESTIONS SUBMITTED BY SENATOR JOHN HOEVEN

*Question.* As Secretary, what do you see as the Department's role in helping to solve the ongoing crisis at the southern border?

*Answer.* DHS continues to use all relevant resources to secure the southwest border, while building an immigration system that upholds our nation's laws.

*Question.* How will the Department of Homeland Security tackle the pressing issues that continue to drive migration and enrich human traffickers?

*Answer.* DHS and other federal agencies, including the Department of State, are coordinating a whole-of-government approach to regional migration management. The Administration's root causes strategy addresses the lack of economic opportunity and inequality, weak governance and corruption, and violence and insecurity that compel people to flee their homes. For DHS, this includes expanding the work of the ICE Transnational Criminal Investigative Unit, partnering with the inter-agency to strengthen economic security in the region, and assisting in investigations to prosecute human smugglers.<sup>4</sup> The strategy aims to address urgent humanitarian needs in the Northern Triangle, promote greater access to protection through legal pathways, improve secure and humane border management through CBP capacity building initiatives, provide support for returnees through ICE Enforcement and Removal Operations, and enhance access to legal pathways for migration through a temporary worker program.

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<sup>4</sup>For contextual clarity, human trafficking involves exploiting men, women, or children for the purposes of forced labor or commercial sexual exploitation. Conversely, human smuggling involves the provision of a service-typically, transportation or fraudulent documents-to an individual who voluntarily seeks to gain illegal entry into a foreign country.

*Question.* Of the 178,622 persons that attempted to enter the U.S. via the southwest border in April 2020, how many have remained in the United States and how many have been returned to their home countries?

*Answer.* As of July 31, 2021, there have been 9,205 individuals removed<sup>5</sup> who previously had been apprehended by CBP<sup>6</sup> after April 1, 2020.

*Question.* When it comes to the crisis at our southern border, as Border Patrol agents work diligently to address the humanitarian needs present with the high flow of migrants and are unable to devote the entirety of their time to securing the border, what challenges does that present to our national security?

*Answer.* Increased irregular migration at our southwest border can present operational challenges. From a border security perspective, transnational criminal organizations may capitalize on areas that have reduced situational awareness and response capability due to the shift in resources to assist with increased detention, transportation, and processing requirements.

To assist USBP with these increasing operational demands, in March 2021, OFO began deploying CBP officers from interior airports and seaports to support the USBP with the rise of migrants encountered at the southern border. Over 250 CBP officers were deployed for up to 60 days at USBP soft-sided facilities to assist with intake, custody, processing, and safeguarding undocumented noncitizens.

In addition to the CBP officers that were temporarily detailed to assist USBP, USBP agents from northern and coastal border sectors were also deployed to the southern border to maintain a secure border and provide humanitarian care for those in custody. Currently USBP has 445 agents temporarily detailed to assist with processing, transportation, escort, and detention duties due to the unprecedented non-citizen migrant surge.

Also, in March 2021, DHS activated the DHS Volunteer Force to support USBP and the U.S. Department of Health and Human Services to address the needs of unaccompanied children arriving at the southwest border. This support has increased the number of USBP agents available for patrol and related border security and law enforcement operations. Additionally, as traffic waxes and wanes by location, CBP utilizes short term duty assignments that bring agents and officers from lower traffic locations the areas of greatest need.

With funding appropriated by Congress, CBP recently created the Border Patrol Processing Coordinator. The Border Patrol Processing Coordinator position will focus solely on post-apprehension processing tasks, which enables frontline agents to return to interdiction postures more quickly. Additionally, Border Patrol Processing Coordinators will be assisting with transport, hospital watch and other non-law enforcement functions. CBP recently graduated the first five classes of Border Patrol Processing Coordinators and is working to hire and on-board additional Processing Coordinator staff as quickly as possible, with two more classes set to graduate by the end of November. The first five classes are currently working across the southwest border.

*Question.* I represent a state that shares its northern border with Canada. Recently, I met with sheriffs and local law enforcement in our state's northern counties who are assisting Customs and Border Protection because of personnel shortages in part due to resources being shifted to the southern border.

As Secretary, what are you doing to address this crisis and ensure your agents and officers are well-staffed at our country's borders, including at the northern border?

*Answer.* CBP continually evaluates conditions on the ground. When conditions change, CBP reevaluates its personnel posture to best address mission requirements across the United States within the resources provided to perform its missions. As the threat to one area or sector increases, CBP adjusts resources accordingly from other lesser affected areas.

*Question.* When do you anticipate being able to send agents and officers back to the northern border so that the northern border is sufficiently staffed?

*Answer.* CBP continually evaluates conditions on the ground. When conditions change, CBP reevaluates its personnel posture to best address mission requirements across the United States within the resources provided to perform its missions. As the threat to one area or sector increases, CBP adjusts resources accordingly from other lesser affected areas.

<sup>5</sup> ICE Removals include non-citizens processed for Expedited Removal (ER) or Voluntary Return (VR) that are turned over to ERO for detention. Non-citizens processed for ER and not detained by ERO or VR after June 1st, 2013 and not detained by ERO are primarily processed by Border Patrol. CBP should be contacted for those statistics.

<sup>6</sup> USBP data were received on 08/02/2021 and are through 07/31/2021.

*Question.* How will the Department ensure that the northern border has the personnel it needs?

*Answer.* CBP continually evaluates conditions on the ground. When conditions change, CBP reevaluates its personnel posture to best address mission requirements across the United States within the resources provided to perform its missions. As the threat to one area or sector increases, CBP adjusts resources accordingly from other lesser affected areas. Further, with the use of recruitment incentives, CBP has closed, or is closing, the staffing gaps in many of its critical POEs and several its remote northern border POEs.

*Question.* Do you believe that the northern border currently has the personnel it needs?

*Answer.* CBP continually evaluates conditions on the ground. When conditions change, CBP reevaluates its personnel posture to best address mission requirements across the United States within the resources provided to perform its missions. As the threat to one area or sector increases, CBP adjusts resources accordingly from other lesser affected areas. Further, with the use of recruitment incentives, CBP has closed, or is closing, the staffing gaps in many of its critical POEs and several its remote northern border POEs.

*Question.* Not only is the northern border experiencing staffing shortages, but the northern border also faces technological shortages.

What is the Department's plan to ensure that there is adequate technology available to secure our northern border?

*Answer.* CBP continues to work to ensure the latest technology is available on the northern border, especially as gaps in functionality are identified and new technology emerges. In those cases, additional funding may be warranted to close such capability discrepancies.

CBP continuously assesses the threat to border security to allocate vital resources to higher risk areas. Complexities associated with patrolling the northern border align with traditional border enforcement challenges—including inadequate technology to support operations. The agency would like to meet all operational requirements with adequate technological assets to address the operational need. In the interim, we will continue to mitigate the greatest risk areas through the deployment of available resources. In the President's FY 2022 Budget, CBP requested funding for border security technology, including the Common Operating Picture, Small Unmanned Aircraft System, and the Team Awareness Kit, which integrates surveillance devices used by Border Patrol and other CBP components. Agents will continue to use all available tools to protect the American people.

At the POEs, CBP is actively planning to refresh legacy systems and applications, replacing current technology with new major system software and hardware at both northern and southern border locations. CBP needs to refresh aging technology for privately-owned vehicle lanes and Free and Secure Trade (FAST) cargo lanes, including license plate readers (LPRs), laser trigger systems, cameras, radio frequency identification (RFID) document readers, lane computers, touch screens, dynamic signage, processing software, non-intrusive inspection (NII) systems, and other infrastructure to enable the timely movement of trade and travelers.

Specifically, the existing applications CBP officers use to interview travelers seeking admission at the U.S. POEs have been replaced at most pedestrian locations with new, streamlined software; software and hardware for vehicle crossings is being finalized for pilot testing. Further, the I-94 process required for some travelers has also been modernized, including transitioning to paperless operations in many cases. CBP is making advances in cargo screening technology, and work is underway integrating both immigration and cargo data information to present pertinent crossing data to CBP officers in the most timely and useful format possible.

CBP continues to work with the General Services Administration and the Office of Management and Budget on its annual five-year plan for Land Port of Entry Modernization, promoting security, travel, and trade. The plan is based on CBP's operational priorities and should include plans to complete the modernization of pre-9/11 POEs along the northern border.

The President's FY 2022 Budget includes \$32 million to fund up to six NII systems for cargo processing on the northern border at the Peace Bridge in Buffalo, New York, and Gordie Howe International Bridge in Detroit, Michigan. CBP continues progressing through the acquisition decision process for the emerging NII Integration Program.

To increase scanning rates, CBP will implement a drive-through NII Concept of Operations (CONOP) in pre-primary inspection, where feasible. The CONOP requires system integration to securely and quickly transmit NII data to the CBP network. The NII-Integration Program will effectively integrate NII systems with other CBP trade and travel operations technology and tools, and secure data transmission

to the CBP network. These improvements increase the effectiveness and efficiency of CBP's inspection process at POEs.

Planned activities include continued deployment of large-scale (LS) NII systems, including 12 replacement systems located at rail border crossings on the northern border (six systems) and southern border (six systems), and initiating deployment and integration of drive-through LS NII systems at Southwest border LPOEs with a goal of increasing vehicle scanning, while enhancing facilitation of trade and travel.

CBP's Air and Marine Operations (AMO) provides air and maritime technology capabilities from airborne platforms as well as land-based air and maritime domain sensors. AMO is actively exploring technologies to reduce gaps in coverage and capabilities from a localized capability to a persistent wide-area surveillance footprint. Through strong congressional support over the past two years, CBP has acquired and deployed 11 new H-125 Light Enforcement Helicopters to northern border air branches. In addition, CBP has completed the deployment of four Multi-Role Enforcement Aircraft to the Bellingham and Great Lakes Air Branches. Both modern platforms are equipped with sensor and communications systems to provide greater domain awareness across the northern approaches to the United States.

*Question.* Do you believe that the northern border currently has the technology it needs? If not, how will the Department ensure that the northern border has the technology it needs?

*Answer.* CBP has invested significant resources to advance national security while facilitating lawful trade and travel along our northern border. Technology is an invaluable force multiplier that enhances our situational awareness and improves our ability to detect, deter, and respond to all kinds of threats. CBP embraces technology to efficiently screen both people and cargo to secure our borders. Deployment of emerging technology applications, mobile screening capabilities, and innovative enhancements to lane structures have significantly expedited the screening process for both goods and people. However, much of the infrastructure on the northern border is nearing or beyond its designated life cycle and lacks the structural or technological capacity to fully maximize these innovations. The Department must continue to support infrastructure and lane technology enhancements as well as maintenance, repair, and modernization to ensure it is operating at the required capacity.

The CBP and USBP Innovation Teams currently have three Autonomous Surveillance Towers deployed across Montana and New York under a developmental work program focused on maturing a tower-based system capable of operation in the remote, cold weather environments encountered along the Northern Border. Like the southwest border variant, this system autonomously monitors the border area and alerts agents and officers to potential illicit activity.

AMO acknowledges there are surveillance, detection, and tracking gaps in the current sensor suites AMO can access. AMO is working with the DHS Science and Technology to identify the gaps, develop a plan to reduce the gaps, and acquire existing and new technologies to address these breaches in surveillance coverage.

In the President's FY 2022 Budget, CBP requested funding for border security technology, including the Common Operating Picture, Small Unmanned Aircraft System, and the Team Awareness Kit, which integrates surveillance devices used by Border Patrol and other CBP components. Additionally, CBP requested funding for the Border Enforcement Coordination Network, which modernizes IT systems that support the planning, detection, classification, and analysis of illegal border activity. Agents and officers will continue to use all available tools to protect the American people. Additionally, the President's FY 2022 Budget includes \$32 million to fund up to six NII systems for cargo processing on the northern border at the Peace Bridge in Buffalo, New York, and Gordie Howe International Bridge in Detroit, Michigan.

*Question.* Many areas along the northern border, including in North Dakota, are in remote areas, where installing sensors and cameras would be beneficial to securing the border and assisting Border Patrol in monitoring our northern border. One of the challenges I have heard about is the lack of reliable broadband access in these remote areas that make live footage of the border impossible.

Is this something you are aware of?

*Answer.* Communications and sensor connectivity remain priority areas for CBP and the CBP Innovation Team. Environments with little communication capability or facilities with bandwidth constraints require a communication network that can integrate with various sensors to improve operational awareness, officer safety, and resource allocation decision-making processes.

The CBP and USBP Innovation Teams are actively pursuing cutting-edge technology to enable data connectivity through low- and high-bandwidth satellite communications, tethered small Unmanned Aircraft Systems with LTE cellular nodes,

and hybrid communication infrastructures that combine different communications modalities forming an integrated network in austere and remote border environments. These capabilities can extend the communication range and capacity of front-line personnel both in the field and at CBP facilities, and support sensor and technology connectivity to monitor vast border areas.

To provide analysis of Air Domain Awareness on the northern border, CBP AMO is characterizing existing/emerging Air Domain Awareness technologies through the Northern Border Test Bed established by Domain Awareness Standards and Analysis. This provides analysis building seamless coverage along the border region out to 20 nautical miles from 500–8,000 feet above ground level to detect low altitude and slow-moving threats.

*Question.* How can Congress work with the Department to address this challenge?

*Answer.* CBP appreciates continued support from Congress and seeks its support of the requests put forward in the FY 2022 Presidential Budget.

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QUESTIONS SUBMITTED BY SENATOR CINDY HYDE-SMITH

*Question.* One of the outcomes of the COVID pandemic has been a desire from citizens and enforcement personnel to use more contactless technologies. We understand that the TSA has yet to receive approval from the FBI to deploy mobile biometric capture technologies that will enable travelers to submit fingerprints to the TSA as part of their application for PreCheck even though that was mandated three years ago in the TSA Modernization Act. Law enforcement officials have stressed they could use contactless technology at the roadside and in investigations. When will the FBI be prepared to accept mobile fingerprints from law enforcement and partner agencies like the TSA to check criminal records?

*Answer.* TSA, the Federal Bureau of Investigation (FBI), and the National Institute of Standards and Technology (NIST) have met regularly since October 2020 to determine how to advance mobile phone-based contactless fingerprint capture technology. While the FBI and NIST support TSA's efforts to evaluate contactless fingerprint capture technology, they estimate it will be at least two years until mobile phone-based contactless technology has sufficiently advanced to meet the required level of accuracy (determined by the ability to accurately match mobile phone-based contactless fingerprint to existing contact fingerprints that make up the FBI's criminal history database). This timeline is largely based on the gap between the quality of the existing mobile-phone based fingerprint capture technology and the quality of traditional, contact fingerprint capture technology. Until this quality gap is closed, the FBI and NIST will not accept lower quality fingerprints for use in criminal history records checks. In addition, the FBI has raised significant concerns about remote fingerprint capture, as this will negatively impact fingerprint quality and accuracy.

While the FBI has the authority to determine when it will accept remote, mobile phone-based contactless fingerprints when used for law enforcement purposes, TSA and other agencies conducting criminal history records check for non-criminal justice purposes must receive approval from the Compact Council before using contactless fingerprints. The Compact Council, which was created as part of the National Crime Prevention and Privacy Compact Act of 1998 and includes state law enforcement representatives, establishes policy, in partnership with the FBI, on Federal/State cooperation on use of criminal history information, including biometrics. See 34 U.S.C. §40316. As TSA is using the fingerprints for non-criminal justice purposes, contactless fingerprints must be approved by the Compact Council as well as the FBI.

*Question.* What is the TSA doing to accelerate approval of mobile biometric technologies through the FBI's advisory processes?

*Answer.* TSA, supported by the FBI and NIST, is working to sponsor a pilot with the current TSA PreCheck® enrollment provider to collect data and test the accuracy of mobile phone-based contactless fingerprint technology. Participants in this pilot would submit fingerprints using both a contactless mobile phone device and the traditional contact fingerprints method, both under the oversight of a contracted enrollment agent. The FBI and NIST will evaluate the quality and matching accuracy of these contactless fingerprints.

Beyond the technology requirements and FBI approval of that technology, TSA must also receive approval from the Compact Council, to capture mobile phone-based contactless fingerprints "remotely" and not during an in-person enrollment. The Compact Council is the entity responsible for overseeing the sharing of state criminal history record information for noncriminal justice purposes, which includes TSA PreCheck. On May 12, 2021, TSA provided the Compact Council, a presen-

tation on its planned mobile phone-based contactless fingerprint pilot and long-term use case to allow individuals to remotely enroll in TSA PreCheck® using contactless fingerprint capture technology. The Compact Council was supportive of TSA's proposed pilot, as they see broader use for mobile phone-based contactless fingerprint capture, but expressed significant concerns with allowing individuals to provide fingerprints remotely without in-person oversight by an approved agent. The FBI has expressed similar concerns regarding capturing fingerprints remotely without in-person oversight by an approved agent.

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QUESTIONS SUBMITTED BY SENATOR MIKE BRAUN

In your testimony you note that the department will be analyzing social media information to identify potential sources of domestic extremism.

*Question.* What protections are you implementing at DHS to ensure that the constitutional rights, including our fourth Amendment protections against unreasonable search and seizure are protected?

*Answer.* All I&A intelligence activities are conducted in accordance with Intelligence Oversight guidelines approved by the Attorney General. I&A collection requirements are vetted by our Office for Civil Rights and Civil Liberties, Office of the General Counsel, Privacy Office, and Intelligence Oversight Officer. Further, I&A continuously reviews its procedures and guidelines to ensure they align with best practices and are consistent with applicable laws. I&A also ensures its personnel receive relevant training, including on how to safeguard privacy, civil rights, and civil liberties.

*Question.* Just two weeks ago, the White House rejected a DHS proposal to collect social media information of foreign migrants when processing immigration forms.

What is the justification for reviewing the social media activity of American citizens, but not foreign nationals trying to enter our country?

*Answer.* I&A is authorized to collect information overtly or from publicly available sources per Executive Order 12333. I&A can and does engage in open source collection activities involving both U.S. and foreign nationals. I&A's collection and reporting of threats occurs when I&A personnel have reasonable belief that the collection and reporting furthers one of I&A's enumerated missions.

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QUESTIONS SUBMITTED BY SENATOR BILL HAGERTY

*Question.* Do you agree with me that the United States of America is the most exceptional nation in the history of the world?

*Answer.* Our country's values make America exceptional.

*Question.* What percentage of migrants that have arrived at our southern border during the Biden Administration have been required to remain in Mexico pending adjudication of their immigration claims?

*Answer.* There have been no new enrollments in the Migrant Protection protocols (MPP) since its suspension on January 21, 2021. MPP was terminated on June 1, 2021 via memorandum. CBP continued to process at land ports of entry (POE) those individuals previously enrolled in MPP who had pending cases before EOIR as part of an established MPP Wind Down Plan. Those migrants found not eligible for return to the United States through the established MPP Wind Down Plan were processed under Title 8 or Title 42 authorities, as appropriate. Processing under the MPP Wind Down was suspended on August 21, 2021 when the Federal Government was enjoined by the U.S. District Court for the Northern District of Texas from implementing or enforcing the June 1, 2021 memorandum terminating MPP. The Federal Government was further ordered to "enforce and implement MPP in good faith until such time as it has lawfully been rescinded in compliance with the APA."

*Question.* How many migrants encountered by CBP or ICE during the Biden Administration—which does not include those who have evaded law enforcement—have been released into the United States with the instruction to return for a hearing sometime in the future?

*Answer.* From January 20, 2021 through July 31, 2021, CBP issued 146,751 NTAs/Orders of Recognizance (OR). As noted above, the NTA initiates removal proceedings before an immigration judge. CBP's website provides data regarding the issuance of Notices to Appear/Orders of Recognizance and I-385s (Notices to Report) by month.<sup>7</sup>

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<sup>7</sup> <https://www.cbp.gov/newsroom/stats/custody-and-transfer-statistics>.

*Question.* Have any migrants have been released without a specific instruction to return for a hearing?

*Answer.* From January 20, 2021, through July 31, 2021 CBP issued 67,997 (NTRs (Form I-385). The NTR instructs the migrant to report to a local ICE field office when they arrive at their destination to be placed into proceedings. When they report to a field office, the migrant receives an NTA that places them into removal proceedings and provides instructions regarding how to report for an immigration proceeding hearing.

*Question.* What percentage of migrants currently enrolled in Alternatives to Detention are you actively tracking day-to-day?

*Answer.* As of June 21, 2021, there were 104,373 active participants enrolled in the ATD program.

*Question.* According to your Department's website, in fiscal year 2020, 92 percent of illegal aliens deported by ICE were convicted of or charged with crimes. However, under the Biden administration, ICE deportations have plummeted by approximately 60 percent—in fact, the lowest one-month deportation total on record occurred last month—while apprehensions at the border are at an all-time high. Based on fiscal year 2020 data, it is self-evident that many the illegal aliens your department is choosing not to deport have been convicted of or charged with crimes. How does it benefit the law-abiding American public to allow thousands of criminal aliens every month—who are already here illegally—to remain in American communities?

*Answer.* The Department's primary responsibility is to keep the homeland and the American people safe while ensuring DHS policies are consistent with American values and U.S. immigration laws and regulations. In this vein, on January 20, 2021, then Acting Secretary Pekoske issued a memorandum entitled, *Review of and Interim Revision to Civil Immigration Enforcement and Removal Policies and Priorities*, which, established interim civil immigration enforcement priorities. On February 18, 2021, ICE Acting Director Johnson issued interim guidance entitled, *Interim Guidance: Civil Immigration Enforcement and Removal Priorities*, in support of the interim civil immigration enforcement and removal priorities in accordance with the DHS memorandum. This interim guidance, which applies to all civil immigration enforcement and removal actions, directs ICE to focus its limited enforcement and removal resources on cases presumed to be national security, border security, or public safety priorities. By focusing its limited law enforcement resources on these priorities, ICE can ensure its arrests and removals are consistent with its important national security and public safety mission, thus protecting and ensuring the safety of U.S. communities.

*Question.* Given that ICE arrests have dropped by approximately 60 percent during the Biden Administration, for which types of criminal charges or convictions is ICE no longer arresting illegal immigrants under the Biden Administration, despite having done so under the previous administration?

*Answer.* The Department's enforcement priorities do not prohibit the arrest, detention, and removal of any noncitizen. Instead, ICE officers and agents are expected to exercise their discretion on a case-by-case basis to focus the Department's limited resources on the apprehension and removal of noncitizens who pose a threat to our national security, border security, and public safety.

*Question.* How many migrants have been admitted into the interior of the United States during the Biden Administration who would not have been admitted under Title 42 pandemic prevention policies that were in effect when the Biden administration began?

*Answer.* The Centers for Disease Control and Prevention has excepted unaccompanied children from this authority. This does not represent a significant operational change as the previous administration was enjoined from expelling unaccompanied children under *PJES v. Wolf*. The Biden Administration is still expelling under Title 42 all amenable single adults and family units across the Southwest Border.

Recent policy changes in the Mexican State of Tamaulipas have significantly complicated efforts to utilize Title 42 in South Texas, which experiences the highest levels of irregular migrant encounters along the Southwest Border. Specifically, officials in Tamaulipas do not accept Title 42 expulsions of family units with children aged six or younger DHS has started daily lateral flights, transporting Northern Triangle family units from the RGV to both San Diego and El Paso, in order to expel them where Mexican officials have reception capacity; and additional flights to the interior of Mexico and Guatemala to effectuate these expulsions.

*Question.* Under the Biden Administration, what percentage of migrants claiming to be family units received DNA tests to confirm those claims? Of those who have received DNA tests, what percentage were actual family units?

*Answer.* Since January 20, 2021, approximately 91 percent of the family units tested by ICE were positive for parentage. A total of 134 family units were tested across 10 individual sites with 122 family units testing positive for parentage (all members in family were related by parentage DNA), and 12 family units testing negative for parentage (the accompanying child was not related to parent/s by parentage DNA, although they may have a different type of family relationship such as a sibling, grandparent, aunt/uncle, or cousin). Note that DNA testing is only used when there is reason to question parentage.

There were 312,341 family unit/family group encounters along the Southwest Border between January 20, 2021 and July 31, 2021. Encounters include USBP Apprehensions and Expulsions and Office of Field Operations Inadmissible Noncitizens and Expulsions.

*Question.* Please provide the number of minors of each age 14–17 encountered by CBP, by age, and the number of single adults of each age 18–21 encountered by CBP, by age, during the Biden administration.

*Answer.* This response contains FOUO/Classified information and can be provided under separate cover upon request.

*Question.* Is the situation on the border an emergency?

*Answer.* After inheriting a broken and dismantled immigration system, since January 2021 DHS has effectively managed an historically high numbers of noncitizens seeking to enter the United States and interdicted more drugs and disrupted more smuggling operations than ever before. We have been able to manage increased encounters because of prudent planning and execution, and the talent and unwavering dedication of the DHS workforce and our state, local, and community partners. To continue addressing this challenge successfully, we need the partnership of Congress, state and local officials, NGOs, and communities. We are operating within a fundamentally broken immigration system that only Congress can fix.

*Question.* Should President Biden issue an emergency declaration for the southwest border pursuant to the Stafford Act given that the Biden Administration is deploying Federal Emergency Management Agency personnel there to respond to the ongoing crisis?

*Answer.* DHS continuously reviews the situation at the Southwest Border as we respond to current conditions. Alongside our interagency partners, DHS is focused on building a safe, orderly, and humane immigration system that upholds our nation's laws and keeps our borders secure and well managed.

*Question.* Would an emergency declaration pursuant to the Stafford Act harm your efforts to respond to the crisis at the southwest border?

*Answer.* DHS is leveraging all relevant resources to appropriately address the situation on the southwest border.

*Question.* Do you plan to reinstate any of the policies implemented by the previous administration that alleviated the 2019 border crisis? If so, which policies do you plan to reinstate?

*Answer.* DHS constantly reviews current and past practices to apply lessons from previous efforts to better accomplish our mission. President Biden has laid out a comprehensive strategy to ensure a safe, orderly, and humane process.

*Question.* Are the migrants being released into the interior of the United States pending adjudication of their immigration proceedings being granted permits to work in the U.S.? If not, how do they support themselves in the interior of the United States for the months or years while they await their immigration proceeding?

*Answer.* Employment authorization adjudications are made on a case-by-case basis. Individuals released from the border and placed into removal proceedings are generally not immediately eligible for employment authorization on that basis. Individuals may become eligible to request employment authorization at a later date based on the individual circumstances of their case.

*Question.* According to the latest data from your Department, in April 2021, CBP had the most border encounters of any month in the last 20 years. In response, are you planning to request, hire, or deploy more CBP or other border security or immigration-enforcement personnel in order to ensure that core CBP functions—such as its capacity to screen and prevent sex trafficking, contraband and drug trafficking, and human trafficking—are not compromised as personnel surge to process asylum claims?

*Answer.* CBP is working diligently to fill critical frontline positions. CBP's ability to hire agents and officers has never been stronger. With critical resources and support from Congress, CBP has enhanced its hiring system and built the capability to provide dedicated support to applicants throughout every step of the process. The new hiring system recruits qualified candidates as efficiently as possible. CBP will

continue to use its resources to build on this momentum and ensure that our workforce can keep pace with an increasingly demanding mission.

In March 2021, OFO began deploying CBP officers from interior airports and seaports to support the USBP with the rise of migrants encountered at the southern border. Over 250 CBP officers were deployed for up to 60 days at USBP soft-sided facilities to assist with intake, custody, processing, and safeguarding undocumented noncitizens. These deployments did not compromise operations at the interior airports or seaports.

In addition to the CBP officers that were temporarily detailed to assist USBP, USBP agents from northern border stations were also deployed to the southern border to maintain a secure border and provide humanitarian care for those in custody. These deployments did not compromise operations at the interior airports, seaports, or northern border.

Also, in March 2021, DHS activated the DHS Volunteer Force to support USBP and the U.S. Department of Health and Human Services to address the needs of unaccompanied children arriving at the southwest border. This support has increased the number of USBP agents available for patrol and related border security and law enforcement operations. Additionally, as traffic waxes and wanes by location, CBP utilizes short term duty assignments that bring agents and officers from lower traffic locations to areas of greatest need.

With funding appropriated by Congress, CBP recently created the position of Border Patrol Processing Coordinator. The Border Patrol Processing Coordinator position will focus solely on post-apprehension processing tasks, which enables frontline agents to return to interdiction postures more quickly. Additionally, Border Patrol Processing Coordinators assist with transport, hospital watch and other non-law enforcement functions. CBP recently graduated the first two classes of Border Patrol Processing Coordinators and is working to hire and on-board additional Processing Coordinator staff as quickly as possible, with two more classes set to graduate by the end of November. The first five classes are currently working across the southwest border.

*Question.* I have heard from law enforcement officials in Tennessee that the number of fentanyl-related deaths and incidents is on the rise in recent months, which results from China working with drug cartels to ship more fentanyl across our southwest border, leading to more American deaths. How do you plan to combat this deadly practice?

*Answer.* CBP collaborates with both domestic and foreign investigative and intelligence partners to strategically target key transnational criminal organizations that procure, produce, and traffic fentanyl and/or heroin.

CBP's National Targeting Center hosts liaisons from key agencies and international partners to actively share critical information. Agencies represented include ICE Homeland Security Investigations (HSI), the U.S. Drug Enforcement Administration's (DEA) Diversion Control Division, U.S. Coast Guard, TSA, Department of State's Bureau of Consular Affairs, the U.S. Postal Inspection Service, New York Police Department, Border 5, (Australian Department of Home Affairs, Canada Border Services Agency, New Zealand Customs Service, and the United Kingdom Border Force), Mexican Customs, French Customs, and the national police from Brazil, France, Germany, and Spain.

CBP partners with HSI at the national and field level, which is critical in driving investigations, collecting intelligence, and disrupting TCO efforts through real time communication and information sharing.

CBP liaison placement at DEA's Special Operations Division enables CBP's direct case coordination, operations support, and deconfliction. Through this liaison arrangement, CBP also supports DEA's Pharmaceutical, Chemical and Internet Section on both domestic and foreign investigations involving cyber trafficking organizations, precursor chemicals, and pharmaceuticals.

Through collaboration and information sharing, CBP exploits communications, logistic capabilities, and financial transactions to illuminate criminal networks. This critical identification of criminal entities enables investigative partners to obtain warrants for electronic interceptions, orchestrate significant seizures, make arrests, and present findings for prosecution and ultimately dismantle these networks.

CBP seeks opportunities to work collaboratively with the Government of Mexico (GOM) and other international partners to intercept fentanyl and prevent its production.

CBP leverages its global operations, including Preclearance, Joint Security and Immigration Advisory Programs, Police Liaisons, Container Security and Secure Freight initiatives, and CBP attachés at U.S. embassies. CBP's international footprint and layered resources allow the agency to mitigate nefarious activities beyond

U.S. borders and operationalize multiple data streams to disrupt and dismantle criminal networks.

*Question.* In terms of how to stop drug cartels from shipping more fentanyl across our southwest border, isn't the obvious answer securing that southwest border and preventing persons from moving across it?

*Answer.* CBP uses all available resources to secure the border.

CBP leverages a layered enforcement approach at and between POEs to detect and intercept fentanyl crossing our borders. CBP Office of Field Operations uses intelligence, targeting, officers, canine detection, and non-intrusive technology to screen and intercept fentanyl shipments. Through June 2021, fentanyl seizures by weight were 93 percent higher than the FY 2020 total across southwest border POEs.

#### CONCLUSION OF HEARING

Chairman LEAHY. On behalf of myself and Senator Shelby, we thank the witnesses. Thank you for this hearing.

We stand adjourned.

[Whereupon, at 12:16 p.m., Wednesday, May 12, the hearing was concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

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