

**Colborn, Paul P (OLC)**

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**From:** Colborn, Paul P (OLC)  
**Sent:** Friday, March 13, 2020 10:22 AM  
**To:** Engel, Steven A. (OLC); Gannon, Curtis E. (OLC)  
**Subject:** Fwd: New HJC Oversight Letters  
**Attachments:** 2020-03-12 JN Ltr to Barr and Dhillon.pdf; ATT00001.htm; 2020-03-12\_letter\_to\_ag\_barr\_re\_covid-19.pdf; ATT00002.htm

FYI

Sent from my iPhone

Begin forwarded message:

**From:** "Greer, Megan L. (OLA)" (b) (6) >  
**Date:** March 13, 2020 at 9:50:05 AM EDT  
**To:** "Colborn, Paul P (OLC)" (b) (6) "Davis, Patrick (OASG)" (b) (6) >, "Grieco, Christopher (ODAG)" (b) (6) >  
**Cc:** "Hankey, Mary Blanche (OLA)" (b) (6) >, "Reuss, Alexis (OLA)" (b) (6) >  
**Subject:** New HJC Oversight Letters

All,

For your awareness, the Department received two new oversight letters from HJC last night: 1) relating to COVID-19, USMS and BOP, and 2) relating to opioid manufacturers and DEA.

We are reviewing the requests and determining the best course of action. We will keep you in the loop.

Best,  
Megan

**Megan L. Greer**  
*Senior Counsel*  
Office of Legislative Affairs  
U.S. Department of Justice  
(b) (6) *direct*  
(b) (6) *mobile*

**U.S. House of Representatives**  
**Committee on the Judiciary**

Washington, DC 20515-6216

One Hundred Sixteenth Congress

March 12, 2020

The Honorable William Barr  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Mr. Uttam Dhillon  
Acting Administrator  
Drug Enforcement Administration  
8701 Morrisette Drive  
Springfield, VA 22152

Dear Attorney General Barr and Acting Administrator Dhillon:

I write to express my concern regarding the Department's inability to hold prescription opioid distributors and chain pharmacies accountable in the wake of the national opioid epidemic. The numbers released by the DEA show that just six companies—McKesson Corp, Cardinal Health, Walgreens, AmerisourceBergen, CVS, and Walmart—distributed 76 percent of the oxycodone and hydrocodone pills nationwide. States, counties, tribes, and cities on the front lines of the crisis are attempting to hold these companies accountable for their distribution and dispensing of billions of pain pills. The Committee, however, is concerned with the Department's lack of progress in actively pursuing civil enforcement actions or criminal investigations against the relevant corporate actors, as well as allegations of special access given by the Department to certain companies associated with the epidemic.

From 2006 through 2014, the country was flooded with over 100 billion oxycodone and hydrocodone pain pills.<sup>1</sup> Data released by the DEA's pain pill database show that "the epidemic surged, increasing 52 percent from 8.4 billion in 2006 to 12.8 billion in 2011. Pill distribution started to decline slightly in 2012, and the additional data shows that, by 2014, the number of pills distributed was 11.8 billion."<sup>2</sup> The flood of prescription pain pills has resulted in over 130,000 deaths from 2006 to 2014, with another 100,000 believed to have gone unreported.<sup>3</sup>

President Trump has publicly identified addressing the opioid epidemic as one of the five key priorities for his Administration—going so far as to declare it a national emergency.<sup>4</sup> Understanding the need for greater coordination, then Attorney General Sessions subsequently created the Prescription Interdiction and Litigation Task Force (PIL), with a focus on opioid

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<sup>1</sup> *Drilling into the DEA's pain pill database*, WASH. POST, Jan. 17, 2020.

<sup>2</sup> *Drilling into the DEA's pain pill database*, WASH. POST, Jan. 17, 2020.

<sup>3</sup> Jason Arunn Murugesu, *US opioid crisis: 100,000 overdose deaths may have gone uncounted*, NEW SCIENTIST, Feb. 27, 2020.

<sup>4</sup> White House, *President Donald J. Trump is taking action on drug addiction and the opioid crisis* (Oct. 26, 2017).

manufacturers and distributors.<sup>5</sup> The Department also filed a statement of interest<sup>6</sup> relating to multi-district litigation involving nearly 2,000 cases brought by cities, tribes, and counties nationwide that was consolidated in the Federal District Court of Northern Ohio.<sup>7</sup>

Unfortunately, despite these statements by the President and the Administration, the public has yet to see the Department of Justice take any meaningful action against the large-scale corporate distributors and chain pharmacies allegedly responsible for the opioid epidemic. These companies are responsible for acting as the middlemen who ensure there is a steady supply of prescription opioids available to hospital, clinics, and drugstores. Existing lawsuits filed by state attorneys general allege years-long efforts to circumvent the federal regulatory process meant to track suspicious opioid orders.<sup>8</sup>

The Department's inaction is especially concerning considering the it's well-publicized attempts to hold the executives of pharmaceutical companies,<sup>9</sup> lesser-known distributors,<sup>10</sup> manufacturers,<sup>11</sup> and doctors<sup>12</sup> responsible. Furthermore, there remains ongoing concerns of a revolving door that exists between the Department,<sup>13</sup> its enforcement arms such as the Drug Enforcement Agency (DEA),<sup>14</sup> and the companies at the heart of the crisis. As identified by the Inspector General in a 2019 report reviewing the DEA's efforts to control the diversion of opioids, the Department has the enforcement tools it needs to stem the tide of opioids across the country, but it "needs to more fully utilize its regulatory authorities and enforcement resources."<sup>15</sup> Finally, the Committee remains concerned about reports of senior Department

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<sup>5</sup> U.S. Dep't of Justice, Attorney General Sessions announces new Prescription Interdiction & Litigation Task Force (Feb. 27, 2018).

<sup>6</sup> Katie Benner & Jan Hoffman, *Justice Dept. backs high-stakes lawsuit against opioid makers*, N.Y. TIMES, Feb. 27, 2018.

<sup>7</sup> Jann Hoffman, Katie Thomas, and Danny Hakim, *3,271 Pill Bottles, a Town of 2,831: Court Filings Say Corporations Fed Opioid Epidemic*, N.Y. TIMES, July 20, 2019.

<sup>8</sup> Danny Hakim, William K. Rashbaum, & Roni Caryn Rabin, *The giants at the heart of the opioid crisis*, N.Y. TIMES, April 22, 2019 ("New civil suits from the attorneys general in New York, Vermont and Washington State accuse distributors of brazenly devising systems to evade regulators. They allege that the companies warned many pharmacies at risk of being reported to the Drug Enforcement Administration, helped others to increase and circumvent limits on how many opioids they were allowed to buy, and often gave advance notice on the rare occasions they performed audits.")

<sup>9</sup> See e.g., Sara Randazzo, *Purdue settlement hinges on deal with Justice Department, documents show*, WALL ST. J., Oct. 9, 2019.

<sup>10</sup> See e.g., Lenny Bernstein, *Prosecutors bring rare criminal charges against Ohio opioid distributor*, WASH. POST, July 18, 2019 (prosecution of pharmaceutical distributor Miami-Luken and its corporate executives).

<sup>11</sup> See e.g., Gabrielle Emanuel, *Opioid-maker Insys admits to bribing doctors, agrees to pay \$225 million settlement*, NPR, June 5, 2019 (civil and criminal investigation into manufacturer Insys Therapeutics)

<sup>12</sup> See e.g., *Texas Doctor Howard Gregg Diamond sentenced to 20 years in prison for overdose deaths*, CBS-DFW, May 9, 2019 (prosecution of Doctor Howard Gregg Diamond).

<sup>13</sup> *Justice Department's no. 3 official to take Walmart's top legal job*, ASSOCIATED PRESS, Feb. 10, 2018.

<sup>14</sup> Scott Higham & Lenny Bernstein, *The drug industry's triumph over the DEA*, WASH. POST, Oct. 15, 2017.

<sup>15</sup> U.S. DEP'T OF JUSTICE, OFFICE OF INSPECTOR GENERAL, REVIEW OF THE DRUG ENFORCEMENT ADMINISTRATION'S REGULATORY AND ENFORCEMENT EFFORTS TO CONTROL THE DIVERSION OF OPIOIDS (Sept.

leadership overruling the decisions of career prosecutors in other contexts, such as the financial crisis.<sup>16</sup> It goes without saying that personal relationships or political interests should not interfere with the Department's ability to fight the flood of prescription pain pills across the country.

The effort to hold corporations accountable for the opioid epidemic has been led by the states, counties, tribes, and cities hit hardest by the crisis. The multi-district litigation represents a significant step in potentially holding the largest distributors and chain pharmacies responsible. But the ongoing litigation should not prevent the Department from pursuing its own investigations, that may result in criminal prosecution or civil enforcement actions, to hold corporate actors accountable for the thousands of lives lost to prescription pain pills. In this regard, it is important that the nation's leading law enforcement body actually serves the interest of the American people, which does not appear to be happening in this case.

In light of these concerns, I request the following:

1. Documents and communications from May 1, 2017 to the present, between the Office of the Attorney General, Office of the Deputy Attorney General, or Office of the Associate Attorney General relating to any civil enforcement actions or criminal investigations of McKesson Corp., Walgreens, Cardinal Health, AmerisourceBergen, CVS, or Walmart Inc involving violations of the Controlled Substances Act or False Claims Act.
2. Documents and communications from May 1, 2017 to the present, between the Office of the Administrator of the DEA and the Office of the Attorney General, Office of the Deputy Attorney General, or Office of the Associate Attorney General relating to any civil enforcement actions or criminal investigations of McKesson Corp., Walgreens, Cardinal Health, AmerisourceBergen, CVS, or Walmart Inc involving violations of the Controlled Substances Act or False Claims Act.
3. Documents and communications from May 1, 2017 to the present, between the U.S. Attorney's Office for the Eastern District of Texas and the Office of the Attorney General, Office of the Deputy Attorney General, Office of the Associate Attorney General, or the Consumer Protection Branch relating to any civil enforcement actions or criminal investigations of Walmart Inc. involving violations of the Controlled Substances Act or False Claims Act.
4. Documents and communications from May 1, 2017 to the present, between the Office of the Attorney General, Office of the Deputy Attorney General, or Office of the Associate

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2019), ("We found that DEA was slow to respond to the significant increase in the use and diversion of opioids since 2000. We also found that DEA did not use its available resources, including its data systems and strongest administrative enforcement tools, to detect and regulate diversion effectively.). *See also id.* at 15 ("Finally, beginning in 2013, DEA rarely used its strongest enforcement tool, the Immediate Suspension Order (ISO), to stop registrants from diverting prescription drugs, and DEA continues to experience challenges in rendering final decisions on administrative actions in a timely manner.").

<sup>16</sup> *See e.g.*, Jesse Eisinger, How Trump's political appointees overruled tougher settlements with big banks, PROPUBLICA, Aug. 2, 2019.

Attorney General relating to any investigations involving Dr. Howard Gregg Diamond or Doctor Randall Wade.

5. Copies of any pharmaceutical memorandum of agreement between the DEA and McKesson Corp., Walgreens, Cardinal Health, AmerisourceBergen, CVS, or Walmart Inc. dating from January 1, 2010 to present.

To the extent you may have concerns regarding the sensitive or confidential nature of any of the requested materials, we stand ready to discuss a mutually acceptable accommodation. Your response to these concerns and cooperation with respect to these matters will assist the Committee as it fulfills its constitutional oversight responsibilities and as it considers legislation related to the opioid epidemic.

Thank you for your time and attention to this matter. Given the urgent and serious nature of these requests, I would ask that you provide the requested responses by no later than March 26, 2020.

Sincerely,



Jerrold Nadler  
Chairman

cc: The Honorable Jim Jordan, Ranking Member, House Committee on the Judiciary



# U.S. House of Representatives

## Committee on the Judiciary

Washington, DC 20515-6216

One Hundred Sixteenth Congress

March 12, 2020

The Honorable William P. Barr  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Dear Attorney General Barr:

This week, the World Health Organization declared the novel coronavirus (or COVID-19) a global pandemic. Reports indicate that the virus has infected at least 125,000 people worldwide and has led to over 4,300 deaths to date. I write to inquire about the measures taken by the Department of Justice to ensure the health and welfare of prisoners in the custody of the Bureau of Prisons (BOP) and the U.S. Marshals Service (USMS) during this crisis. I write also to inquire about measures taken to ensure the health and welfare of staff and correctional officers who assist in housing and transporting prisoners in the custody of the BOP and the USMS.

I am especially concerned because the incarcerated and justice-involved populations contain a number of groups that may be particularly vulnerable to COVID-19. In particular, health conditions that make respiratory diseases more dangerous are far more common in the incarcerated population than in the general U.S. population.

I also believe it would be important, at this time, for DOJ to consider measures that can be taken to reduce the number of prisoners in government custody. Specifically, I believe DOJ should consider directing U.S. Attorney's Offices, wherever possible, to not seek the detention of individuals at their initial appearance in court, decline prosecuting minor, non-violent offenses, and decline pursuing supervised release and probation revocations that involve technical and minor violations.

Because of my concerns about these serious issues, I ask the following:

1. Has the Justice Department given any direction or guidance to the BOP and the USMS for dealing with COVID-19? If so, please provide the specific text of the guidance provided.
2. Whether in response to direction or guidance from DOJ or not, have the BOP and the USMS developed their own policies and procedures regarding COVID-19? Please provide copies of any and all such policies and procedures.
  - a. If so, have these policies and procedures been distributed to each facility, including contract facilities?

b. What specific measures have been taken to ensure that these policies and procedures are being implemented in contract facilities that are not BOP-run?

i. If these policies and procedures are not being implemented in contract facilities, please explain why not and what, if any, alternative measures are being taken to ensure the health and welfare of inmates who are incarcerated in those contract facilities.

3. Have the BOP and the USMS, respectively, designated point persons within their agencies to address COVID-19? Please provide the name and title of each person so designated and their qualifications for the position.

4. Have additional precautionary measures been taken with respect to sanitation and hygiene, including frequent cleaning and ready availability of soap and tissues?

5. Is there a comprehensive testing protocol being implemented across the board in BOP facilities and contract facilities? If not, why not?

6. Are inmates entering BOP and contract facilities being tested at the time of intake? If not, why not? Conversely, are inmates being tested at the time of their release from BOP or contract facilities?

7. At this time, are any prisoners in the custody of BOP and the USMS being monitored for signs of infection?

8. Are testing kits being made available to the BOP and contract facilities? If so, how quickly are test results being released?

9. What measures have been taken to ensure that any prisoners testing positive for COVID-19 are isolated and treated? What about those who have exposed to those who test positive?

10. What protocols exist, once a positive case is discovered, to ensure that the rest of the prisoners in the facility are not exposed? Are any special measures being taken to ensure high-risk prisoners are not exposed?

11. What is the protocol for deciding when to transport a prisoner with COVID-19 for care at a hospital?

12. What protocols exist with regards to attorney and family visits? How are attorneys and family members being notified if a client or family member, respectively, tests positive for COVID-19?

13. What is the protocol for transporting inmates to court for hearings?

14. Are specific measures being taken to ensure staff at the facilities (whether BOP-run or contract facilities) have leave available if they develop symptoms of COVID-19? Are special measures being taken to ensure staffing levels are adequate at all times?

Because of the urgency of this matter, I ask that you respond in writing as soon as possible,

Sincerely,



Handwritten signature of Jerrold Nadler in blue ink.

Jerrold Nadler  
Chairman

cc: Jim Jordan  
Ranking Member



Colborn, Paul P (OLC)

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**From:** Colborn, Paul P (OLC)  
**Sent:** Friday, March 13, 2020 2:35 PM  
**To:** Engel, Steven A. (OLC); Gannon, Curtis E. (OLC)  
**Subject:** Fwd: New HJC Oversight Letters  
**Attachments:** Senator Grassley to DOJ and BOP on COVID-19.pdf; ATT00001.htm

FYI

Sent from my iPad

Begin forwarded message:

**From:** "Greer, Megan L. (OLA)" (b) (6) >  
**Date:** March 13, 2020 at 1:59:21 PM EDT  
**To:** "Colborn, Paul P (OLC)" (b) (6) "Davis, Patrick (OASG)" (b) (6) >, "Grieco, Christopher (ODAG)" (b) (6)  
**Cc:** "Hankey, Mary Blanche (OLA)" (b) (6) >, "Reuss, Alexis (OLA)" (b) (6) >  
**Subject:** RE: New HJC Oversight Letters

We have also received the attached letter from Senator Grassley on COVID-19/BOP.

Best,  
Megan

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**From:** Greer, Megan L. (OLA)  
**Sent:** Friday, March 13, 2020 9:50 AM

duplicate

REPLY TO:

- ☐ 135 HART SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-1501  
(202) 224-3744  
www.grassley.senate.gov
- ☐ 721 FEDERAL BUILDING  
210 WALNUT STREET  
DES MOINES, IA 50309-2106  
(515) 288-1145
- ☐ 111 7TH AVENUE, SE, Box 13  
SUITE 6800  
CEDAR RAPIDS, IA 52401-2101  
(319) 363-6832

## United States Senate

CHARLES E. GRASSLEY

PRESIDENT PRO TEMPORE

WASHINGTON, DC 20510-1501

March 13, 2020

REPLY TO:

- ☐ 120 FEDERAL BUILDING  
320 6TH STREET  
SIOUX CITY, IA 51101-1244  
(712) 233-1860
- ☐ 210 WATERLOO BUILDING  
531 COMMERCIAL STREET  
WATERLOO, IA 50701-5497  
(319) 232-6657
- ☐ 201 WEST 2ND STREET  
SUITE 720  
DAVENPORT, IA 52801-1817  
(563) 322-4331
- ☐ 307 FEDERAL BUILDING  
8 SOUTH 6TH STREET  
COUNCIL BLUFFS, IA 51501-4204  
(712) 322-7103

### VIA ELECTRONIC TRANSMISSION

The Honorable William P. Barr  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

Mr. Michael Carvajal  
Director  
Federal Bureau of Prisons  
320 First Street, NW  
Washington, D.C. 20534

Dear Attorney General Barr and Director Carvajal:

I write to you today about the ongoing crisis from the spread of COVID-19. Each day brings new updates on the impact of this virus. The Center for Disease Control (CDC) recommends a number of measures to stop the spread of COVID-19, including hand washing, covering coughs and sneezes, and avoiding close contact, particularly with those exhibiting symptoms. These preventative measures are essential for all populations, but I write to you today to highlight the necessity for diligence, accountability, and prevention as it pertains to the spread of this disease among the inmate population.

The Bureau of Prisons incarcerates thousands of individuals, many of which receive visitors. Given the nature of transmission of COVID-19, the spread of the virus could impact inmates in BOP custody. At this critical junction, it is essential that BOP, the Justice Department, and other branches of the Department of Corrections, band together to highlight their procedures if there is an outbreak, and what steps are actively being taken to mitigate this.

To that end, I urge BOP and the Department of Corrections to do the following:

- Make available online for the public the number of confirmed cases of COVID-19, and in which BOP or Department of Corrections facilities these cases have been found;
- Publicly post the proactive measures that BOP is considering or currently doing to prevent the spread of COVID-19; and

Committee Assignments:

CHAIRMAN,  
FINANCE

AGRICULTURE  
BUDGET  
JUDICIARY

INTERNATIONAL NARCOTICS  
CONTROL CAUCUS

- Provide clear information for all visitors to BOP facilities on measures to be taken to limit the spread of COVID-19.

Transparency and accountability is preeminent at this time. As of March 13, 2020, no information on COVID-19 is available on the BOP's home webpage. Incarcerated individuals and their families, as well as the public, require your assistance and diligence in containing the virus and mitigating risk.

I appreciate your prompt attention to this matter. For any further questions, please contact Rachel Wright of my staff at [Rachel\\_wright@judiciary-rep.senate.gov](mailto:Rachel_wright@judiciary-rep.senate.gov).

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is fluid and cursive, with a horizontal line drawn underneath the name.

Charles E. Grassley  
United States Senator

**Lofthus, Lee J (JMD)**

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**From:** Lofthus, Lee J (JMD)  
**Sent:** Sunday, March 15, 2020 8:29 PM  
**To:** Heads of Department Components (JMD); Exec/Admin Officers OBDs; Rosen, Jeffrey A. (ODAG); Levi, William (OAG); Murray, Claire M. (OASG); DuCharme, Seth (ODAG); Hovakimian, Patrick (ODAG); Kupec, Kerri (OPA); Woltornist, Alexei (PAO); Bissex, Rachel (OAG); Michalic, Mark (ODAG); Hughes, William C. (ODAG); Cox, Stephen (OASG); Abbate, Paul M. (DO) (FBI); JMD Senior Staff (JMD)  
**Subject:** Deputy Attorney General guidance on Maximum Telework in the National Capital Region  
**Attachments:** DAG MEMO final.pdf; ATT00001.htm

Component Heads: please see attached guidance from the Deputy Attorney General.

Please watch for immediately following email with the OMB guidance on this subject.

Thank you, Lee Lofthus AAG/A

cc Executive Officers

TO: HEADS OF DEPARTMENT COMPONENTS

FROM: THE DEPUTY ATTORNEY GENERAL

SUBJECT: Updated Guidance for the National Capital Region on Maximum Telework in Response to the Coronavirus

It is vital that we protect the health and safety of our workforce while continuing to operate and perform our necessary work for the nation.

There are reports of more instances of community spread of COVID-19, including in the National Capital Region (NCR). This evening, the Office of Management and Budget (OMB), in Memorandum M-20-15, has directed agencies within the National Capital Region (NCR) to leverage maximum telework flexibilities to all current telework eligible employees, and extend telework to additional employees wherever feasible.

**Therefore, I am directing Components to move to a posture of maximum telework in the NCR effective Monday, March 16, until further notice.** All telework-eligible employees within the NCR should begin teleworking to the maximum extent practical. In moving to maximum telework, components are to implement existing Department and Component eligibility policies as well as the additional flexibilities outlined in the March 13, 2020 memorandum from the Justice Management Division (JMD). JMD will also issue follow-on guidance very shortly that will assist in implementing the OMB guidance as well as other flexibilities, i.e. weather and safety leave, where applicable. Finally, while this directive pertains to the NCR, the previous guidance about enabling telework elsewhere in appropriate situations continues to apply, and if there are future directions received from OMB applicable outside the NCR, they will be provided to you promptly.

As the Department remains open for necessary business, we will continue to carry out our mission as efficiently and effectively as possible with our employees in multiple locations. I recognize that a very significant portion of our workforce, including most law enforcement agents, deputy marshals, correctional officers, national security and certain other positions are not telework-eligible. These employees must be in their workplace or the community to do their vital jobs. I urge you to remain vigilant to minimize the risk of exposure to COVID-19 for all our employees, no matter their work location.

Thank you for your patience and flexibility during this time. I want you to know how much I appreciate your ongoing leadership and commitment to our mission along with the safety and health of our employees. Please ensure that your employees are as fully informed as possible, both of this new telework posture and also our deep appreciation of their service to the Department and to the Nation.



**Burnham, James (OAG)**

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**From:** Burnham, James (OAG)  
**Sent:** Monday, March 16, 2020 1:19 PM  
**To:** Levi, William (OAG); Kupec, Kerri (OPA); Lofthus, Lee J (JMD); Woltornist, Alexei (PAO); Hovakimian, Patrick (ODAG); Sofer, Gregg (OAG)  
**Cc:** Willard, Lauren (OAG); Engel, Steven A. (OLC)  
**Subject:** RE: AG interviews - corona

Below is an excerpt from his remarks for tomorrow, which ODAG is working on converting into an AG memo to all the USAs that will go out by COB today (b) (5)

He could also say th (b) (5)

Adding Steve for that.

Finally, I think he could say th

Lauren might have more to add on this re ATR.

(b) (5)

**From:** Levi, William (OAG) (b) (6) >  
**Sent:** Monday, March 16, 2020 1:11 PM  
**To:** Kupec, Kerri (OPA) (b) (6) >; Lofthus, Lee J (JMD) (b) (6) >; Woltornist, Alexei (PAO) (b) (6) >; Hovakimian, Patrick (ODAG) (b) (6) >; Sofer, Gregg (OAG) (b) (6) >  
**Cc:** Burnham, James (OAG) (b) (6) >; Willard, Lauren (OAG) (b) (6) >  
**Subject:** RE: AG interviews - corona

Adding James and Lauren, too, to contribute re: coordination with judiciary and antitrust. Thanks.

**From:** Kupec, Kerri (OPA) (b) (6)  
**Sent:** Monday, March 16, 2020 1:05 PM  
**To:** Lofthus, Lee J (JMD) (b) (6) >; Woltornist, Alexei (PAO) (b) (6) >; Hovakimian, Patrick (ODAG) (b) (6) >; Sofer, Gregg (OA) (b) (6)

Cc: Levi, William (OAG) (b) (6)  
Subject: RE: AG interviews - corona

Adding Sofer in case there is anything he'd like to add re: BOP.

Need everyone's comments by 3 pm. Just looking for a few basic points.

From: Kupec, Kerri (OPA)  
Sent: Monday, March 16, 2020 1:02 PM  
To: Lofthus, Lee J (JMD) (b) (6); Woltornist, Alexei (PAO (b) (6);  
Hovakimian, Patrick (ODAG) (b) (6)  
Cc: Levi, William (OAG) (b) (6)  
Subject: AG interviews - corona  
Importance: High

Hi, all the AG is participating in some previously scheduled print interviews over the next couple of weeks (including later this afternoon). Do we have a few points for him on what he can say about the Department's response to corona? I realize our piece is very small, but undoubtedly, the reporter will ask.

Thanks,  
Kerri

**Kerri Kupec**  
Director  
Office of Public Affairs  
U.S. Department of Justice  
(b) (6)  
(b) (6)

**Escalona, Prim F. (OLA)**

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**From:** Escalona, Prim F. (OLA)  
**Sent:** Saturday, March 21, 2020 6:25 PM  
**To:** DuCharme, Seth (ODAG)  
**Cc:** Engel, Steven A. (OLC); Levi, William (OAG); Hovakimian, Patrick (ODAG)  
**Subject:** Re: Possible Covid-19 Emergency Legislation

Given the time crunch (we had an hour and a half to get the proposals and get them cleared by leadership (OASG, ODAG, OAG)), unfortunately we did not have time to do a cross-component review.

Sent from my iPhone

On Mar 21, 2020, at 6:04 PM, DuCharme, Seth (ODAG) (b) (6) wrote:

Adding Prim.

Prim do you know which components reviewed the draft language, per Steve's question below?

Sent from my iPhone

On Mar 21, 2020, at 6:01 PM, Engel, Steven A. (OLC) (b) (6) wrote:

I assume that is what they are talking about. But OLC has not been in the loop.

We don't *have* to be. But it probably is a good idea to make sure that someone at OLC reviews DOJ legislative proposals before we send them to the Hill. Did we run these proposals by OSG/CIV?

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**From:** DuCharme, Seth (ODAG) (b) (6)  
**Sent:** Saturday, March 21, 2020 5:58 PM  
**To:** Engel, Steven A. (OLC) (b) (6)  
**Cc:** Levi, William (OAG) (b) (6); Hovakimian, Patrick (ODAG) (b) (6)  
**Subject:** Fwd: Possible Covid-19 Emergency Legislation

Steve have you seen this language below yet? May be some of what they're talking about ...

Sent from my iPhone

Begin forwarded message:

**From:** "Hovakimian, Patrick (ODAG)"

(b) (6)

**Date:** March 21, 2020 at 12:43:26 PM EDT

**To:** "Goldsmith, Andrew (ODAG)" (b) (6) >

**Cc:** "DuCharme, Seth (ODAG)" (b) (6)

**Subject:** Re: Possible Covid-19 Emergency Legislation

Me. You're not working at cross-purposes. Please use your best judgment and work closely with OLA. Thanks.

Patrick Hovakimian

(b) (6)

On Mar 21, 2020, at 12:40 PM, Goldsmith, Andrew (ODAG) (b) (6) > wrote:

Seth/Patrick - do you know who has been working on this for ODAG (e.g., Prim mentions below that ODAG cleared certain language drafted by EOUSA). I want to make sure I'm not working at cross-purposes with him/her. Thanks - Andrew

Sent from my iPad

Begin forwarded message:

**From:** "Escalona, Prim F. (OLA)"

(b) (6)

**Date:** March 21, 2020 at 11:08:03 AM EDT

**To:** "Wroblewski, Jonathan (CRM)"

(b) (6) >

"Goldsmith, Andrew (ODAG)"

(b) (6) >

"Shapiro, Elizabeth (CIV)"

(b) (6)

**Subject:** RE: Possible Covid-19 Emergency Legislation

That is fine with me. I don't care who is the POC. Just tell me what to pass back to the Committee once it is cleared. I'm pasting below the language we sent over and the latest language I received from SJC. You should also know that Congress is leaning toward

narrowing the reach by changing all reference to a National Emergency under the NEA to the current coronavirus pandemic (b)(5)

Please let me know what I need to pass along as soon as you can. No one (including SJC) has a good grasp on timing, so it is hard to give an idea of when we would need any passbacks. Apologies for the undefined timeline!

Also, if helpful, Seth Wood was the POC for the EOUSA proposal.

Thanks!  
Prim

Here is the original language that EOUSA drafted and ODAG cleared for us to send to SJC (I was incorrect; EOUSA included the language about the Rules):

Subsection (f) of Title 18, United States Code, Section 3142, is amended by adding the following text at the end: “Video teleconferencing may be used to conduct a hearing pursuant to this section.”

Federal Rule of Criminal Procedure 5(f) is amended by striking “if the defendant consents.”

Federal Rule of Criminal Procedure 5.1 is amended by adding the following paragraph (i): “Video teleconferencing may be used to conduct a hearing pursuant to this section.”

Federal Rule of Criminal Procedure 10(c) is amended by striking “if the defendant consents.”

Subsection (a) of Federal Rule of Criminal Procedure 32.1 is amended:  
in subparagraph (1), by inserting after “magistrate judge” the following: “, except as provided in Rule 32.1(a)(7)”; and  
by adding the following subparagraph (7):



“Video teleconferencing may be used to conduct a hearing pursuant to Rule 32.1(a).”

Subsection (a) of Federal Rule of Criminal Procedure 43 is amended:

by inserting, after “Rule 5,” the following:

“Rule 5.1,”;

by striking “or”; and

“by inserting, after “Rule 10”, the following: “, or Rule 32.1”

Here is the latest language (to my knowledge) from SJC:

**SEC. 204. VIDEO TELECONFERENCING FOR PRELIMINARY PROCEEDINGS.**

(a) Detention Hearing. Section 3142(f) of title 18, United States Code, is amended by adding at the end the following: “Video teleconferencing may be used to conduct a hearing under this subsection during the period of a national emergency, as declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.), and upon a finding by the Chief Justice of the United States that emergency conditions will materially affect the functioning of the Federal courts.”.

(b) Initial Appearance. Rule 5(f) of the Federal Rules of Criminal Procedure is amended by striking “if the defendant consents.” adding at the end, “Video teleconferencing may also be used to conduct an appearance under this rule during the period of a national emergency, as declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.), and upon a finding by the Chief Justice of the United States that emergency conditions will materially affect the functioning of the Federal courts.

(c) Preliminary Hearing. Rule 5.1 of the Federal Rules of Criminal Procedure is amended by adding at the end the following:

“(i) Video Teleconferencing. Video teleconferencing may be used to conduct a hearing under this rule during the period of a national emergency, as declared by the President under the National Emergencies Act

(50 U.S.C. 1601 et seq.), and upon a finding by the Chief Justice of the United States that emergency conditions will materially affect the functioning of the Federal Courts.”.

(d) Arraignment. Rule 10(c) of the Federal Rules of Criminal Procedure is amended by striking “if the defendant consents.”.

(e) Revoking or Modifying Probation or Supervised Release. Rule 32.1(a) of the Federal Rules of Criminal Procedure is amended

(1) in paragraph (1), by inserting after “magistrate judge” the following: “, except as provided in Rule 32.1(a)(7)”;

(2) by adding at the end the following:

“(7) VIDEO TELECONFERENCING.

Video teleconferencing may be used to conduct an initial appearance under Rule 32.1(a) during the period of a national emergency, as declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.), and upon a finding by the Chief Justice of the United States that emergency conditions will materially affect the functioning of the Federal courts.”.

(f) Defendant’s Presence. Rule 43(a) of the Federal Rules of Criminal Procedure is amended by striking “or Rule 10” and inserting “Rule 5.1, Rule 10, or Rule 32.1”.

-----Original Message-----

From: Wroblewski, Jonathan (CRM)

(b) (6) >

Sent: Saturday, March 21, 2020 10:35 AM

To: Goldsmith, Andrew (ODAG)

(b) (6) >; Shapiro,  
Elizabeth (CIV)

(b) (6)

Cc: Escalona, Prim F. (OLA)

(b) (6)

Subject: RE: Possible Covid-19 Emergency

## Legislation

Prim -- Are you ok if Andrew is the POC with the judges (or let us know if you want to be)? I think it will be helpful to have someone in ODAG who can interface with Betsy and me and whomever else is working on this at EOUSA, ATR, etc. (FYI, we just received an email from SDNY about their struggles with their grand juries). If so, can you please forward to Andrew whatever the latest legislative language is on this.

Thanks,

-Jonathan

-----Original Message-----

From: Goldsmith, Andrew (ODAG)

(b) (6) >

Sent: Saturday, March 21, 2020 9:52 AM

To: Shapiro, Elizabeth (CIV)

(b) (6) >; Wroblewski,  
Jonathan (CRM)

(b) (6) >

Cc: Escalona, Prim F. (OLA)

(b) (6)

Subject: Re: Possible Covid-19 Emergency  
Legislation

Betsy/Jonathan - for sake of convenience, I'm forwarding the email below to jump-start this. If we can do this by email, great. If we need to talk by phone, let me know. In any event, please feel free to communicate directly with Prim (cc'ng me). Thank you everyone, and hope you're all doing okay. - Andrew

Sent from my iPad

On Mar 21, 2020, at 9:46 AM,  
Escalona, Prim F. (OLA)

(b) (6)  
wrote:

Andrew,

Please feel free to pass along my information. I will check but I believe that the language they are talking about was drafted by the Judiciary Committee, not the Department. I'm happy to help raise any concerns with the Committee.

Thanks,

Prim

Sent from my iPhone

On Mar 21, 2020, at  
9:31 AM,  
Hovakimian, Patrick  
(ODAG)

(b) (6)

wrote:

Thanks Andrew. Yes,  
Prim, copied here, is  
leading this effort.  
Please work with her.  
Thanks.

Patrick Hovakimian

(b) (6)

On Mar  
21, 2020,  
at 9:15  
AM,  
Goldsmit  
h,  
Andrew  
(ODAG)

(b) (6)

(b) (6) >

wrote:

Seth/Patri  
ck -

Good  
morning.  
I hope  
both of  
you and  
your  
families  
are safe  
and  
sound.

Yesterday  
evening, I  
was  
contacted  
by Betsy  
Shapiro  
and  
Jonathan  
Wroblews  
ki, our  
colleague  
s  
responsibl  
e for  
dealing  
with the  
federal  
rules  
committe  
es,  
regarding  
calls they  
received  
in  
connectio  
n with  
possible  
coved-19



emergenc  
y  
legislation.

Betsy had  
received a  
call from  
the Rules  
Counsel,  
on behalf  
of the  
Chair of  
the  
Standing  
Committee,  
Dave  
Campbell  
, asking  
who the  
right  
person is  
at DOJ to  
talk to  
about  
proposed  
rules  
amendments  
that  
were  
included  
in  
legislation  
being  
offered  
by the  
Senate  
Judiciary  
Committee.  
Betsy  
noted that  
while  
directly  
legislating  
rule  
changes  
is  
disfavored

d, if it  
was to  
happen  
here,  
Judge  
Campbell  
would be  
working  
with the  
Committee  
to  
ensure  
that the  
rule  
changes  
were as  
beneficial  
as  
possible  
while  
avoiding  
any  
unintended  
consequences.

Given  
that these  
changes  
deal with  
the  
constitutional  
rights of  
criminal  
defendants, Judge  
Campbell  
asked  
who was  
negotiating on  
behalf of  
the  
Department and  
with

whom he  
could  
confer on  
this  
subject.

Jonathan  
received a  
call a  
couple  
days ago  
from  
Judge  
Kethledg  
e (Chair  
of the  
Criminal  
Rules  
Committe  
e) on the  
same  
subject.

Jonathan  
had  
received  
from  
CRM's  
Chief of  
Staff a  
communi  
cation  
from  
Anne  
Pings in  
OLA.

Jonathan  
also  
learned  
that Prim  
Escalona  
has a lead  
role in  
interfacin  
g with the  
Hill on  
this topic.  
Yesterday

, Judge  
Kethledge  
called  
again,  
saying  
that they  
were  
indeed  
working  
on  
amendments;  
that  
the  
amendments  
would  
be  
specific to  
this  
particular  
COVID-19  
crisis; and  
that when  
this was  
over, the  
Rules  
Committees  
would  
take up  
rulemaking  
in the  
normal  
course to  
provide  
more  
generally  
for  
emergencies  
like  
this going  
forward.

Jonathan  
and Betsy  
presumed  
OLA  
would be  
communi

cating  
policy  
that  
would  
come  
from the  
leadership  
offices,  
such as  
ODAG  
or OAG.  
If so, they  
asked  
whether  
we could  
provide  
that name  
to Judge  
Campbell  
. Since  
the  
legislation  
appears to  
be  
moving  
very  
quickly, if  
we are  
able to  
identify  
the policy  
point  
person  
here and  
connect  
him/her to  
Judge  
Campbell  
, I support  
their view  
that this  
would be  
in the  
Departme  
nt's best  
long term  
interests.



If you  
would  
like me to  
reach out  
to Prim  
directly,  
I'll gladly  
do so as  
I've  
worked  
with her  
regularly  
over the  
past 3+  
years.

As you  
may  
know,  
Betsy and  
Jonathan  
have  
spent  
many  
years  
working  
on rules  
related  
issues,  
and they  
carry a  
wealth of  
institution  
al  
knowledg  
e. They  
stand  
ready and  
willing to  
assist  
whomeve  
r is taking  
the policy  
lead on  
this issue,

in  
whatever  
way is  
most  
helpful.

Thanks in  
advance.  
Please let  
me know  
if you'd  
like  
additional  
informati  
on, or  
wish to  
discuss  
this  
further  
(e.g., by  
telephone  
). -  
Andrew

Sent from  
my iPad

**Engel, Steven A. (OLC)**

---

**From:** Engel, Steven A. (OLC)  
**Sent:** Saturday, March 21, 2020 6:45 PM  
**To:** Mascott, Jennifer (OLC)  
**Cc:** Hardy, Liam P. (OLC); Forrester, Nate (OLC); Wallace, Benjamin (OLC); Gannon, Curtis E. (OLC)  
**Subject:** Re: Possible Covid-19 Emergency Legislation

Thanks. I confirmed. OLA and CRM moved this fast and did not consult with OLC. They sort of regret that now . . . But it's not the biggest deal.

Sent from my iPad

On Mar 21, 2020, at 6:41 PM, Mascott, Jennifer (OLC) (b) (6) > wrote:

?

Steve: I have not seen any email traffic about the video teleconferencing proposal below.

Although OLA forwards the bill comment team many requests for comment on draft bills, there's not necessarily a formal system for sending to the bill comment team every legislative proposal that DOJ's advising on. E.g., DOJ's CDA working group would not at this point be sending DOJ proposals through OLA's official bill-comment outreach process. So any internal DOJ group corresponding with the Hill on emergency changes to the Fed Rules of Crim Pro may just not have yet had occasion to reach out to OLC through OLA.

Sometimes Curtis has been contacted directly in the past by DOJ components working on legislative proposals. But nothing's come through the formal bill-comment process, to my knowledge.

---

**From:** Engel, Steven A. (OLC) (b) (6)  
**Sent:** Saturday, March 21, 2020 6:06 PM  
**To:** Hardy, Liam P. (OLC) (b) (6) >; Mascott, Jennifer (OLC) (b) (6) >; Forrester, Nate (OLC) (b) (6) >; Wallace, Benjamin (OLC) (b) (6) >  
**Cc:** Gannon, Curtis E. (OLC) (b) (6)  
**Subject:** FW: Possible Covid-19 Emergency Legislation

FYI. I'm assuming the bill comment team did not review this?

Sent from my iPhone

On Mar 21, 2020, at 6:01 PM, Engel, Steven A. (OLC) (b) (6) wrote:

duplicate

**Engel, Steven A. (OLC)**

---

**From:** Engel, Steven A. (OLC)  
**Sent:** Saturday, March 21, 2020 6:47 PM  
**To:** Gannon, Curtis E. (OLC); Mascott, Jennifer (OLC); Hardy, Liam P. (OLC); Forrester, Nate (OLC); Wallace, Benjamin (OLC)  
**Subject:** Fwd: DOJ leg proposal  
**Attachments:** Tab B - Criminal Proposals.docx; ATT00001.htm; OLL20247.docx; ATT00002.htm

Sent from my iPad

Begin forwarded message:

**From:** "Escalona, Prim F. (OLA)" (b) (6) >  
**Date:** March 21, 2020 at 6:38:42 PM EDT  
**To:** "Newman, Ryan D. (OAG)" (b) (6) >, "Boyd, Stephen E. (OLA)" (b) (6) >  
**Cc:** "Hovakimian, Patrick (ODAG)" (b) (6) >, "Levi, William (OAG)" (b) (6) >, "Engel, Steven A. (OLC)" (b) (6) >, "DuCharme, Seth (ODAG)" (b) (6) >, "Kupec, Kerri (OPA)" (b) (6) >, "Sofer, Gregg (OAG)" (b) (6) >  
**Subject:** RE: DOJ leg proposal

?

"Tab B" (attached) is what we sent over on the CRM provisions. The other document is what we received from SJC mid-week as the most recent draft. I thin (b) (5)

I don't thin (b) (5). My understanding (b) (5)

We did a briefing call with HJC and CRM on Friday. Below are the rough notes from the call (which is likely the source of the article):

HJC Staffer: The question has not been answered. You have not addressed concern that having the authority for blanket orders will just give courts the option not to move forward when people are in custody! There is no expiration and no reason for courts to not just keep people in custody and no motivation for them to move forward. Can't keep people in custody for 2 years with no trial.

CRM: custody is separate issue, detention orders can and will be reviewed anyway likely because of this virus.

(b) (5)

(b) (5)

---

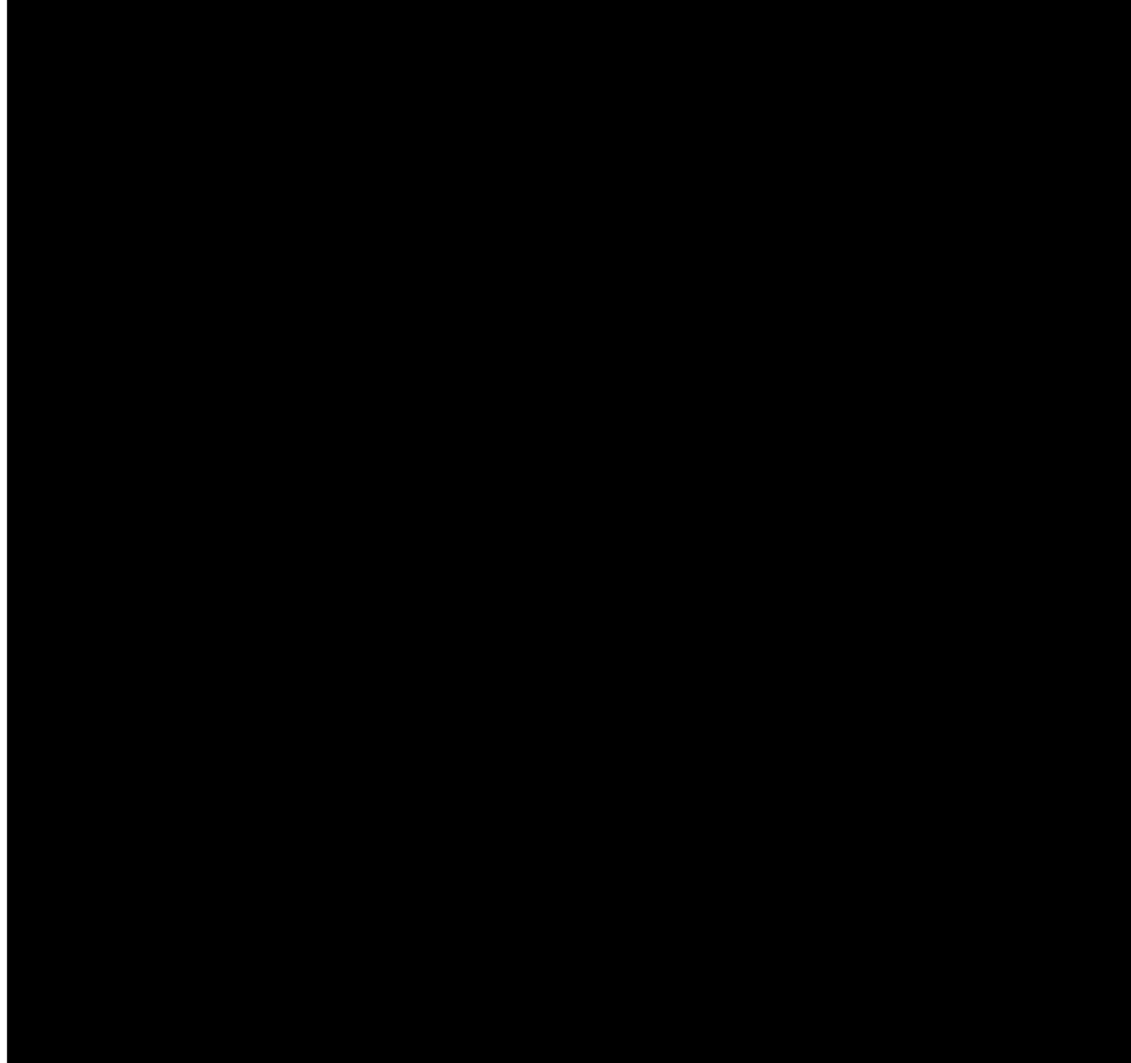
**From:** Newman, Ryan D. (OAG (b) (6))  
**Sent:** Saturday, March 21, 2020 6:28 PM  
**To:** Boyd, Stephen E. (OLA) (b) (6)  
**Cc:** Hovakimian, Patrick (ODAG) (b) (6); Levi, William (OAG) (b) (6); Engel, Steven A. (OLC) (b) (6); DuCharme, Seth (ODAG) (b) (6); Kupec, Kerri (OPA) (b) (6); Escalona, Prim F. (OLA) (b) (6); Sofer, Gregg (OAG) (b) (6)  
**Subject:** Re: DOJ leg proposal

Adding Sofer.

Sent from my iPhone

On Mar 21, 2020, at 6:25 PM, Boyd, Stephen E. (OLA) (b) (6) wrote:

**Duplicate of OLC release; document ID 0.7.3926.75129**



# TITLE I JUDICIAL EMERGENCY AUTHORITY IN ANTITRUST PROCEEDINGS

## SEC. 101. PURPOSE.

The purpose of this title is to limit the disruption that the coronavirus disease (COVID 19) pandemic response and other emergency measures have on the premerger notification regime of the antitrust laws.

## SEC. 102. PREMERGER NOTIFICATION.

Section 7A of the Clayton Act (15 U.S.C. 18a) is amended

(1) in subsection (b)(1)(B), by inserting “, (e)(3),” after “(e)(2)”; and

(2) in subsection (e), by adding at the end the following:

“(3)(A) The Assistant Attorney General and the Chairman of the Federal Trade Commission, upon a good faith belief that the functions of the Antitrust Division of the Department of Justice or the Federal Trade Commission may be significantly impaired from receiving or reviewing notifications required under subsection (a) due to a natural disaster, pandemic, lapse in appropriations, or other force majeure event, may jointly issue a tolling order.

“(B) A tolling order issued under subparagraph (A)

“(i) shall

“(I) be made available publicly and to the affected parties;

“(II) toll the waiting period required under subsection (b)(1) or paragraph (2) of this subsection by 15 days;

“(III) apply to

“(aa) all transactions for which a notification has been received and the waiting period has not expired; and

“(bb) all transactions for which a notification is received while the order, or any renewal of the order, is in effect;

“(cc) any notifications required under subsection (a), except that the Assistant Attorney General and the Federal Trade Commission may terminate the waiting period pursuant to subsection (b)(2); and

“(ii) may be revoked before the date on which the order expires, or renewed, by the Assistant Attorney General and the Chairman of the Federal Trade Commission, as many times as the Assistant Attorney General and Federal Trade Commission determine are necessary, if the criteria set forth under this paragraph are satisfied at the time of each renewal.”.

## SEC. 103. SUSPENSION OF ANTITRUST STATUTE OF LIMITATIONS.

(a) Findings. Congress finds the following:

(1) On March 13, 2020, the President declared a national emergency under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the coronavirus disease (COVID 19) (hereafter in this section referred to as “the national emergency”).

(2) The coronavirus disease (COVID 19) and measures taken to prevent its transmission risk disrupting effective criminal antitrust law enforcement by, among other things, hindering investigations, making witnesses unavailable, and delaying or suspending the operation of grand juries.

(b) Purpose. The purpose of this section to prevent the disruptions described in subsection (a)(2) from irreparably impairing the investigation and prosecution of criminal antitrust offenses by suspending the statute of limitations for offenses until that risk has passed.

(c) Suspension of Statute of Limitations. The running of the statute of limitations applicable to any offense arising under sections 1, 2, or 3 of the Sherman Act (15 U.S.C. 1, 2, 3) shall be suspended during the period beginning on the date of enactment of this Act until the later of

(1) the date that is 180 days after the date of enactment of this Act; or

(2) 60 days after the date on which the national emergency terminates under section 202 of the National Emergencies Act (50 U.S.C. 1621).

## TITLE II JUDICIAL EMERGENCY AUTHORITY IN CIVIL AND CRIMINAL PROCEEDINGS

### SEC. 201. EMERGENCY AUTHORITY TO DELAY OR TOLL JUDICIAL PROCEEDINGS.

(a) In General. Chapter 111 of title 28, United States Code, is amended by adding at the end the following:

#### “1660. Emergency authority to delay or toll judicial proceedings

“(a) In General. The chief judge of any district court of the United States that has been affected (or, if the chief judge is unavailable, the most senior available active judge of the court or the chief judge or circuit justice of the circuit that includes the district court), upon application of the Attorney General or the designee of the Attorney General, or on motion of the judge or justice, in the event of a national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.), and upon a finding by the Chief Justice of the United States or a designee of the Chief Justice that emergency conditions will materially affect the functioning of either the Federal courts generally or the district court in question, may enter any order that may be appropriate to delay, toll, or otherwise grant relief from time deadlines imposed by otherwise applicable statutes and rules of procedure for the district court in question for such period as may be appropriate, including

“(1) otherwise applicable periods of limitation;

“(2) chapter 208 of title 18 (commonly known as the ‘Speedy Trial Act’);

“(3) any statutes or rules of procedure otherwise affecting pre-arrest, post-arrest, pre-trial,

trial, and post-trial procedures in criminal and juvenile proceedings and all civil process and proceedings, including

“(A) the time for commencing actions brought by the United States under section 2415; and

“(B) the time for commencing proceedings under section 2462; and

“(4) statutes and rules of procedure governing the filing of notices of appeal.

“(b) Criminal Cases and Civil Enforcement Actions. In setting a new time limit under subsection (a) for a criminal case or civil enforcement action brought by the United States, the court shall consider the ability of the United States to investigate, litigate, and process defendants during and after the national emergency.

“(c) Appeals. The chief judge of a court of appeals that has been affected or the circuit of which includes any district court of the United States so affected (or, if the chief circuit judge is unavailable, the most senior available active circuit judge or the circuit justice), upon application of the Attorney General or the designee of the Attorney General or on motion of the judge or justice, in the event of a national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.), and upon a finding by the Chief Justice of the United States or a designee of the Chief Justice that emergency conditions will materially affect the functioning of either the Federal courts generally or the court of appeals in question, may enter any order that may be appropriate to delay, toll, or otherwise grant relief from time deadlines imposed by otherwise applicable statutes and rules of procedure governing appellate proceedings in the circuit for such period as may be appropriate.

“(d) Rule of Construction. Nothing in this section shall be construed to limit the inherent authority of a court of the United States to manage legal proceedings before it.”.

(b) Technical and Conforming Amendment. The table of sections for chapter 111 of title 28, United States Code, is amended by adding at the end the following:

“1660. Emergency authority to delay or toll judicial proceedings.”.

## SEC. 202. SUSPENSION OF STATUTES OF LIMITATIONS PURSUANT TO STATE OF EMERGENCY.

(a) Criminal Statutes of Limitations.

(1) IN GENERAL. Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

### “3302. Emergency suspension of limitations

“(a) In General. Notwithstanding any other provision of law, if the President declares a national emergency under the National Emergencies Act (50 U.S.C. 1601 et seq.) and the Chief Justice of the United States or a designee of the Chief Justice finds that emergency conditions will materially affect the functioning of the Federal courts, the period of limitations applicable to any offense of which the district courts of the United States have jurisdiction under section 3231 of this title shall be tolled during the period beginning on the first day of the national emergency and ending on the date that is 30 days after the date on which the national emergency terminates.



“(b) Relation to Other Laws. Nothing in this section shall be construed to limit the authority of a Federal court to further delay or toll a period of limitations under section 1660 of title 28.”.

(2) TECHNICAL AND CONFORMING AMENDMENT. The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

“3302. Emergency suspension of limitations.”.

(b) Civil Statutes of Limitations. Section 1658 of title 28, United States Code, is amended by adding at the end the following:

“(c) Emergency Suspension of Limitations.

“(1) IN GENERAL. Notwithstanding subsection (a) or (b) or any other provision of law, if the President declares a national emergency under the National Emergencies Act (50 U.S.C. 1601 et seq.) and the Chief Justice of the United States or a designee of the Chief Justice finds that emergency conditions will materially affect the functioning of the Federal courts, the period of limitations applicable to any civil action of which a court of the United States has jurisdiction shall be tolled during the period beginning on the first day of the national emergency and ending on the date that is 30 days after the date on which the national emergency terminates.

“(2) RELATION TO OTHER LAWS. Nothing in this section shall be construed to limit the authority of a Federal court to further delay or toll a period of limitations under section 1660.”.

## SEC. 203. SPEEDY TRIAL.

Section 3161(h) of title 18, United States Code, is amended by adding at the end the following:

“(9) Any period of delay attributable to a national emergency that results in the suspension of periods of limitation under section 3302.

“(10) Any period of delay authorized by a Federal court under section 1660 of title 28.”.

## SEC. 204. VIDEO TELECONFERENCING FOR PRELIMINARY PROCEEDINGS.

(a) Detention Hearing. Section 3142(f) of title 18, United States Code, is amended by adding at the end the following: “Video teleconferencing may be used to conduct a hearing under this subsection during a period during which a national emergency declaration by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) is in effect if the Chief Justice of the United States or a designee of the Chief Justice finds that emergency conditions will materially affect the functioning of the Federal courts.”.

(b) Initial Appearance. Rule 5(f) of the Federal Rules of Criminal Procedure is amended by adding at the end the following: “Video teleconferencing may also be used to conduct an appearance under this rule during a period during which a national emergency declaration by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) is in effect if the Chief Justice of the United States or a designee of the Chief Justice finds that emergency conditions will materially affect the functioning of the Federal courts.”.

(c) Preliminary Hearing. Rule 5.1 of the Federal Rules of Criminal Procedure is amended by adding at the end the following:

“(i) Video Teleconferencing. Video teleconferencing may be used to conduct a hearing under this rule during a period during which a national emergency declaration by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) is in effect if the Chief Justice of the United States or a designee of the Chief Justice finds that emergency conditions will materially affect the functioning of the Federal courts.”.

(d) Arraignment. Rule 10(c) of the Federal Rules of Criminal Procedure is amended by inserting at the end the following: “Video teleconferencing may also be used to arraign a defendant during a period during which a national emergency declaration by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) is in effect if the Chief Justice of the United States or a designee of the Chief Justice finds that emergency conditions will materially affect the functioning of the Federal courts.”.

(e) Revoking or Modifying Probation or Supervised Release. Rule 32.1(a) of the Federal Rules of Criminal Procedure is amended

(1) in paragraph (1), by inserting after “magistrate judge” the following: “, except as provided in Rule 32.1(a)(7)”; and

(2) by adding at the end the following:

“(7) VIDEO TELECONFERENCING. Video teleconferencing may be used to conduct an initial appearance under Rule 32.1(a) during a period during which a national emergency declaration by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) is in effect if the Chief Justice of the United States or a designee of the Chief Justice finds that emergency conditions will materially affect the functioning of the Federal courts.”.

(f) Defendant’s Presence. Rule 43(a) of the Federal Rules of Criminal Procedure is amended by striking “or Rule 10” and inserting “Rule 5.1, Rule 10, or Rule 32.1”.

### TITLE III BUREAU OF PRISONS

## SEC. 301. SUPPLY OF PERSONAL PROTECTIVE EQUIPMENT AND TEST KITS TO BUREAU OF PRISONS; HOME CONFINEMENT AUTHORITY.

(a) Personal Protective Equipment and Test Kits.

(1) DEFINITIONS. In this subsection

(A) the term “Bureau” means the Bureau of Prisons; and

(B) the term “Secretary” means the Secretary of Health and Human Services.

(2) FINDINGS. Congress finds the following:

(A) The Secretary should prioritize the provision of personal protective equipment and test kits to the Bureau based on the density of the inmate population, the high traffic, the high volume of inmates, the high rate of turnover of inmates and personnel, and the number of high-security areas, within the facilities of the Bureau.

(B) The inability of the Bureau to secure the purchase of infectious disease personal protective equipment and related supplies now and in the future is a vulnerability.

(C) The Bureau is currently competing in and engaging the same landscape of vendors as all other Federal agencies and private entities.

(D) The ability of the Bureau to purchase needed equipment and supplies is currently subject to an individual manufacturer's specific recognition of the Bureau as a priority and subsequent allocation of the inventory of the manufacturer to the Bureau.

(3) PRIORITIZATION. The Secretary shall prioritize the distribution of infectious disease personal protective equipment and COVID 19 test kits to the Bureau of Prisons.

(b) Home Confinement Authority. Section 3624(c)(2) of title 18, United States Code, is amended

(1) by striking "The authority" and inserting the following:

"(A) IN GENERAL. Except as provided in subparagraph (B), the authority";

(2) in the second sentence of subparagraph (A), as so designated, by striking "this paragraph" and inserting "this subparagraph"; and

(3) by adding at the end the following:

"(B) EXCEPTION. During a period during which a national emergency declaration by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) is in effect, if the Attorney General finds that emergency conditions will materially affect the functioning of the Bureau of Prisons, the Director of the Bureau may lengthen the maximum amount of time permitted under subparagraph (A) as the Director determines appropriate."

## SEC. 302. VIDEO VISITATION.

(a) In General. Chapter 303 of title 18, United States Code is amended by adding at the end the following:

### "4051. Video visitation

"The Director of the Bureau of Prisons shall promulgate rules regarding the ability of inmates to conduct visitation through video teleconferencing during a period during which a national emergency declaration by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) is in effect if the Attorney General finds that emergency conditions will materially affect the functioning of the Bureau of Prisons and the ability of inmates to conduct visitation during that period."

(b) Technical and Conforming Amendment. The table of sections for chapter 303 of title 18, United States Code, is amended by adding at the end the following:

"4051. Video visitation."

## TITLE IV COVERAGE OF TESTING FOR COVID 19 FOR ESSENTIAL FEDERAL LAW ENFORCEMENT

## PERSONNEL

### SEC. 401. TESTING ESSENTIAL FEDERAL LAW ENFORCEMENT PERSONNEL.

(a) Definitions. In this section

(1) the term “covered law enforcement officer” means an employee of a law enforcement component of the Department of Justice or the Department of Homeland Security who must respond to critical public safety incidents, including enforcement of quarantine orders issued by the Secretary;

(2) the term “law enforcement component of the Department of Justice or the Department of Homeland Security” means

(A) the Bureau of Alcohol, Tobacco, Firearms, and Explosive;

(B) the Drug Enforcement Administration;

(C) the Federal Bureau of Investigation;

(D) the United States Marshals Service;

(E) the Bureau of Prisons;

(F) U.S. Customs and Border Protection;

(G) the United States Secret Service; and

(H) U.S. Immigration and Customs Enforcement; and

(3) the term “Secretary” means the Secretary of Health and Human Services.

(b) Finding. Congress finds that law enforcement components of the Department of Justice and the Department of Homeland Security have an immediate, priority need to test covered law enforcement officers for COVID 19.

(c) Prioritization of Testing. The Secretary shall prioritize the distribution of COVID 19 test kits to covered law enforcement officers.

## TITLE V UNITED STATES MARSHALS SERVICE

### SEC. 501. UNITED STATES MARSHALS SERVICE EXCEPTION TO LIMITATION ON PREMIUM PAY.

(a) Definitions. In this section

(1) the term “covered employee” means any deputy marshal employed by the United States Marshals Service; and

(2) the term “covered service” means law enforcement duties performed by a covered employee for the United States Marshals Service during a period during which a national emergency declaration by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) is in effect.

(b) Exception to the Limitation on Premium Pay. Notwithstanding any other provision of law, section 5547(a) of title 5, United States Code, shall not apply to a covered employee to the extent that its application would prevent the covered employee from receiving premium pay for covered service.

(c) Treatment of Additional Pay. If subsection (b) results in the payment of additional premium pay to a covered employee of a type that is normally creditable as basic pay for retirement or any other purpose, that additional pay shall not

(1) be considered to be basic pay of the covered employee for any purpose; or

(2) be used in computing a lump-sum payment to the covered employee for accumulated and accrued annual leave under section 5551 or 5552 of title 5, United States Code.

(d) Aggregate Limit. With respect to the application of section 5307 of title 5, United States Code, the payment of any additional premium pay to a covered employee as a result of subsection (b) of this section shall not be counted as part of the aggregate compensation of the covered employee.

(e) Effective Date. This section shall take effect as if enacted on December 31, 2019.

## TITLE VI IMMIGRATION MATTERS RELATING TO PUBLIC HEALTH

### SEC. 601. INELIGIBILITY FOR ASYLUM FOR ALIENS SUBJECT TO CERTAIN PRESIDENTIAL PROCLAMATIONS.

Section 208(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) is amended by adding at the end the following:

“(F) Paragraph (1) shall not apply to an alien who is subject to a Presidential proclamation suspending or limiting the admission of aliens into the United States in effect during an emergency period (as defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b 5(g)).”.

### SEC. 602. TELEPHONIC REMOVAL PROCEEDINGS DURING EMERGENCY PERIODS.

Section 240(b)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1229a(b)(2)(B)) is amended

(1) by striking “An evidentiary hearing” and inserting the following:

“(i) IN GENERAL. An evidentiary hearing”; and

(2) by adding at the end the following:

“(ii) EMERGENCY PERIOD. Clause (i) shall not apply during an emergency period (as defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b 5(g)).”.

1 SEC. 603. INADMISSIBILITY FOR ALIENS WITH  
2 CORONAVIRUS INFECTIONS, COVID-19, OR SARS-COV-  
3 2.

4 Section 212(a)(1)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)(A)(i)) is  
5 amended by inserting “, including infection with coronavirus, COVID-19, SARS-CoV-2, or any  
6 disease associated with coronavirus, COVID-19, or SARS-CoV-2” before the semicolon.

7 TITLE VII CRIMES PROHIBITING FRAUD AND OTHER  
8 OFFENSES RELATING TO THE COVID 19 NATIONAL  
9 EMERGENCY

10 SEC. 701. FRAUD AND FALSE REPRESENTATIONS  
11 RELATING TO THE COVID 19 NATIONAL EMERGENCY.

12 (a) In General. Chapter 47 of title 18, United States Code, is amended by adding at the end  
13 the following:

14 “1041. Fraud and false representations relating to the COVID  
15 19 national emergency

16 “(a) Offense. It shall be unlawful to knowingly

17 “(1) with the intent to defraud the United States, or any agency, department, or  
18 instrumentality thereof, present or cause to be presented any false, altered, forged, or  
19 counterfeited writing or document for the purpose of obtaining, or enabling another to  
20 obtain, from the United States, or from any agency, officer, or agent thereof, any sum of  
21 money relating to the national emergency declared by the President under the National  
22 Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the Coronavirus Disease 2019  
23 (COVID-19); or

24 “(2) with the intent to deceive any person

25 “(A) make any materially false, fictitious, or fraudulent statement or representation,  
26 or make or use any false writing or document knowing the same to contain any  
27 materially false, fictitious, or fraudulent statement or representation, relating to the  
28 national emergency declared by the President under the National Emergencies Act (50  
29 U.S.C. 1601 et seq.) with respect to the Coronavirus Disease 2019 (COVID-19); and

30 “(B) cause the statement or representation described in subparagraph (A) to be  
31 transmitted by means of mail, wire, or television communication in interstate or  
32 foreign commerce.

33 “(b) Penalty. Any person who violates

34 “(1) subsection (a)(1) shall be fined under this title or imprisoned for not more than 15  
35 years, or both; and

36 “(2) subsection (a)(2) shall be fined under this title or imprisoned for not more than 20

- 1           years, or both.”.
- 2           (b) Technical and Conforming Amendment. The table of sections for chapter 47 of title 18,
- 3   United States Code, is amended by adding at the end the following:
- 4   “1041. Fraud and false representations relating to the COVID 19 national emergency.”.



## **Tab B – Criminal and Civil Provisions - Updated**

### **SEC. 1. EMERGENCY AUTHORITY TO DELAY OR TOLL JUDICIAL PROCEEDINGS.**

(a) IN GENERAL -- Chapter 111 of title 28, United States Code, is amended by adding at the end the following:

#### **§ 1660. Emergency Authority to Delay, or Toll Judicial Proceedings.**

“(a) IN GENERAL -- Upon application of the Attorney General or the Attorney General’s designee or on his own motion, the chief judge of any trial court of the United States that has been affected (or, if the chief judge is unavailable, the most senior available active judge of that court or the chief judge or circuit Justice of the court of appeals that includes that court) may, in the event of a natural disaster, civil disobedience, or other emergency situation requiring the full or partial closure of courts or other circumstances inhibiting the ability of litigants to comply with deadlines imposed by statutes or by the rules of procedure applicable in the courts of the United States, enter such order or orders as may be appropriate to delay, toll, or otherwise grant relief from time deadlines imposed by otherwise applicable statutes and rules of procedure for such period and in such judicial district as may be appropriate, including, without limitation: otherwise applicable statutes of limitation; the Speedy Trial Act, 18 U.S.C. 3161; any statutes or rules of procedure otherwise affecting pre-arrest, post-arrest, pre-trial, trial, and post-trial procedures in criminal and juvenile proceedings and all civil process and proceedings, including [the time for commencing actions brought by the United States pursuant to 28 USC 2415 and 28 USC 2462](#); and the filing of notices of appeal.

“(b) CRIMINAL CASES AND CIVIL ENFORCEMENT ACTIONS -- In setting new time limits under this section for criminal cases and civil enforcement actions brought by the government, the court shall consider the government’s ability to investigate, litigate and process defendants during and beyond the emergency situation.

“(c) APPEALS -- Upon application of the Attorney General or the Attorney General’s designee or on his own motion, the chief judge of a court of appeals that has been affected or that includes any trial court of the United States so affected (or, if the chief circuit judge is unavailable, the most senior available active circuit judge or the circuit Justice) may, in the event of a natural disaster, civil disobedience, or other emergency situation requiring the full or partial closure of courts or other circumstances inhibiting the ability of litigants to comply with deadlines imposed by statutes or by the rules of procedure applicable in the courts of the United States, enter such order or orders as may be appropriate to delay, toll, or otherwise grant relief from time deadlines imposed by otherwise applicable statutes and rules of procedure governing appellate proceedings in such circuit for such period as may be appropriate.

“(d) Nothing in this section shall be construed to limit the inherent authority of a federal court to manage legal proceedings before it.”



## **Tab B – Criminal and Civil Provisions - Updated**

(b) CLERICAL AMENDMENT.----The table of sections at the beginning of Chapter 111 of title 28, United States Code, is amended by adding at the end the following new item:

“§ 1660. Emergency Authority to Delay or Toll Judicial Proceedings.”.

### **EXPLANATION**

The new section 1660 of title 28 allows the chief judge of any district court (or, if the chief district judge is not available, the next most senior active district judge in the district or the chief judge or circuit Justice of the court of appeals for the circuit in which the district is located), either on motion of the Attorney General or his designee or on the court’s own motion, to enter an order or orders to delay or toll any and all deadlines imposed by statute or rules of procedure whenever the district court is fully or partially closed by virtue of any natural disaster, civil disobedience, or other emergency situation. While individual judges currently possess this authority, this provision would enable the chief judge of an affected district to ensure that all judges within that district address issues involving time limits in a consistent manner.

Subsection (b) of the new section 1660 would make clear that, in setting new time limits applicable in criminal cases, the court must consider the government’s ability to investigate, litigate and process defendants during and beyond the emergency situation. While the court can be expected to give consideration to the difficulties faced by all litigants in such cases, the law is designed to ensure that the court also give appropriate consideration to the unique needs that may be imposed on the federal government in responding to the types of emergencies that could result in the need to seek to invoke the authority provided in section 1660.

The new section would provide like authority to the chief judge of the court of appeals for the circuit when the court of appeals itself is so affected. Such authority may also be exercised by the chief judge of the court of appeals to delay or toll time limits for appellate litigants within specific districts in the circuit when emergency situations affect litigants in that district.

## **Tab B – Criminal and Civil Provisions - Updated**

### **SEC. 2. SUSPENSION OF STATUTE OF LIMITATIONS PURSUANT TO STATE OF EMERGENCY.**

Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

#### **§ 3302. Emergency Suspension of Limitations**

Notwithstanding any provision to the contrary, when the United States is in a state of national emergency, as described in 50 U.S.C. 1621, and upon a finding by the Chief Justice of the United States that emergency conditions will materially affect the functioning of the federal courts, the statute of limitations applicable to any offense over which federal district courts have jurisdiction pursuant to 18 U.S.C. 3231 or civil action over which any court of the United States has jurisdiction pursuant to 28 USC 2415 or 28 USC 2462 shall be tolled during the period of the national emergency and for one year following the end of the national emergency. Nothing in this section shall be construed to limit the authority of a federal court to further delay or toll statutes of limitation pursuant to 28 U.S.C. 1660.

#### **EXPLANATION**

The new section 3302 of title 18, United States Code, would suspend the statute of limitations for all federal offenses during a period of nationwide emergency if the Chief Justice determines that the emergency will materially affect the functioning of the federal courts.

This provision does not apply to any cases in which the statute of limitations expired prior to its enactment and cannot be relied upon to revive any such prosecution.

## **Tab B – Criminal and Civil Provisions - Updated**

### **SEC. 3. SPEEDY TRIAL**

Section 3161 of title 18, United States Code, is amended in subsection (h) by inserting after paragraph (8) the following:

- (9) Any period of delay attributable to a national emergency that results in the suspension of statutes of limitation pursuant to 18 U.S.C. 3302.
- (10) Any period of delay authorized by a federal court pursuant to 28 U.S.C. 1660.

### **EXPLANATION**

This amendment to Section 3161 of title 18, United States Code, would provide for automatic exclusions of time under the Speedy Trial Act for any period of delay attributable to a national emergency that results in a suspension of statutes of limitations under 18 U.S.C. § 3302 and for any period of delay that is attributable to an order issued pursuant to 28 U.S.C. § 1660(a).

**Engel, Steven A. (OLC)**

---

**From:** Engel, Steven A. (OLC)  
**Sent:** Saturday, March 21, 2020 6:57 PM  
**To:** Boyd, Stephen E. (OLA)  
**Subject:** Re: DOJ leg proposal

Sure. No worries. As you see below, I was just offering our services. Probably a good idea to include us on these things if they can be attributed to DOJ, but not something I'm personally worried about.

Sent from my iPhone

On Mar 21, 2020, at 6:55 PM, Boyd, Stephen E. (OLA) (b) (6) wrote:

Steve I'll call you in a minute to give you an opportunity to have a better understanding of the internal process. SB

---

**From:** Engel, Steven A. (OLC) (b) (6)  
**Sent:** Saturday, March 21, 2020 6:35 PM  
**To:** Boyd, Stephen E. (OLA) (b) (6) Hovakimian, Patrick (ODAG) (b) (6)  
**Cc:** Levi, William (OAG) (b) (6) DuCharme, Seth (ODAG) (b) (6) Newman, Ryan D. (OAG) (b) (6) Kupec, Kerri (OPA) (b) (6) Escalona, Prim F. (OLA) (b) (6) Gannon, Curtis E. (OLC) (b) (6)  
**Subject:** RE: DOJ leg proposal

I don't believe Curtis was looped in. But that's all water under the bridge now.

It would be useful to see what the statutory language looks like, although John C's summary below is helpful. I agree with Will that (assuming it is factually accurate), we shoul (b) (5)

(b) (5)

(b) (5)

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**From:** Boyd, Stephen E. (OLA) (b) (6)  
**Sent:** Saturday, March 21, 2020 6:26 PM

duplicate

**Engel, Steven A. (OLC)**

---

**From:** Engel, Steven A. (OLC)  
**Sent:** Saturday, March 21, 2020 6:58 PM  
**To:** Boyd, Stephen E. (OLA)  
**Cc:** Hovakimian, Patrick (ODAG); Levi, William (OAG); DuCharme, Seth (ODAG); Newman, Ryan D. (OAG); Kupec, Kerri (OPA); Escalona, Prim F. (OLA); Gannon, Curtis E. (OLC)  
**Subject:** Re: DOJ leg proposal

Sure. No problem.

Sent from my iPhone

On Mar 21, 2020, at 6:55 PM, Boyd, Stephen E. (OLA) (b) (6) wrote:

duplicate

**Engel, Steven A. (OLC)**

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**From:** Engel, Steven A. (OLC)  
**Sent:** Saturday, March 21, 2020 8:41 PM  
**To:** Levi, William (OAG)  
**Subject:** Re: DOJ leg proposal

Agreed. But it happens.

Sent from my iPhone

On Mar 21, 2020, at 8:37 PM, Levi, William (OAG) (b) (6) wrote:

Thanks for raising this. It's insane these didn't go to you.

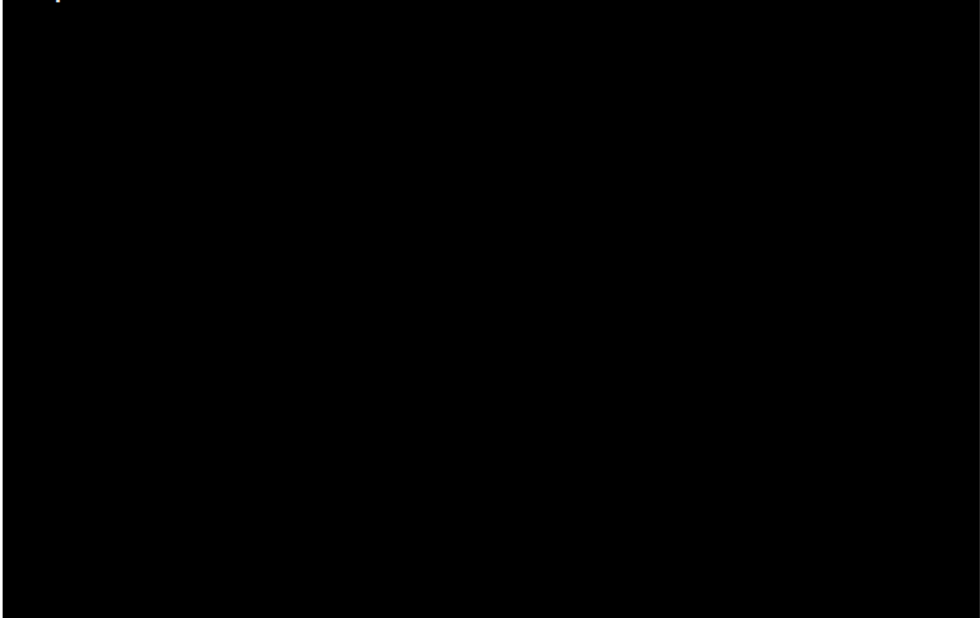
---

**From:** Kupec, Kerri (OPA) (b) (6)  
**Sent:** Saturday, March 21, 2020 5:38 PM  
**To:** Levi, William (OAG) (b) (6)  
**Cc:** Engel, Steven A. (OLC) (b) (6); Boyd, Stephen E. (OLA) (b) (6); Hovakimian, Patrick (ODAG) (b) (6); DuCharme, Seth (ODAG) (b) (6); Newman, Ryan D. (OAG) (b) (6)  
**Subject:** Re: DOJ leg proposal

Yeah, I knew nothing about this one either. (To be fair, someone on my team was handling and just brought me up to speed).

On Mar 21, 2020, at 5:07 PM, Levi, William (OAG) (b) (6) wrote:

Duplicate of OLC release; Document ID 0.7.3926.75129



**Engel, Steven A. (OLC)**

---

**From:** Engel, Steven A. (OLC)  
**Sent:** Sunday, March 22, 2020 10:20 AM  
**To:** Levi, William (OAG)  
**Subject:** RE: Response to Hill Inquiry

Will take a look.

---

**From:** Levi, William (OAG) (b) (6)  
**Sent:** Sunday, March 22, 2020 10:18 AM  
**To:** Engel, Steven A. (OLC) (b) (6)  
**Subject:** Fwd: Response to Hill Inquiry

This look right to you? I'll forward the actual draft text separately.

Begin forwarded message:

**From:** "Boyd, Stephen E. (OLA)" (b) (6)  
**Date:** March 21, 2020 at 8:09:02 PM EDT  
**To:** "Escalona, Prim F. (OLA)" (b) (6) "Levi, William (OAG)"  
(b) (6) "Kupec, Kerri (OPA)" (b) (6) "Lloyd, Matt (PAO)"  
(b) (6)  
**Subject:** Response to Hill Inquiry

All: Here's a draft that I am circulating now in case it is helpful tonight or tomorrow. If we have any additional edits or tweak we will include for the AG's review before Monday. SB

(b)(5)

(b)(5)

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**From:** Levi, William (OAG) (b) (6)



**Sent:** Saturday, March 21, 2020 7:37 PM

**To:** Boyd, Stephen E. (OLA) (b) (6) Kupec, Kerri (OPA) (b) (6)

Escalona, Prim F. (OLA) (b) (6) Lloyd, Matt (PAO) (b) (6)

**Subject:** RE: DOJ leg proposal

Awesome.

---

**From:** Boyd, Stephen E. (OLA) (b) (6)

**Sent:** Saturday, March 21, 2020 7:37 PM

**To:** Levi, William (OAG) (b) (6) Kupec, Kerri (OPA) (b) (6)

Escalona, Prim F. (OLA) (b) (6) Lloyd, Matt (PAO) (b) (6)

**Subject:** RE: DOJ leg proposal

Working that now and should have it to this group soon. SB

---

**From:** Levi, William (OAG) (b) (6)

**Sent:** Saturday, March 21, 2020 7:36 PM

**To:** Boyd, Stephen E. (OLA) (b) (6) Kupec, Kerri (OPA) (b) (6)

Escalona, Prim F. (OLA) (b) (6) Lloyd, Matt (PAO) (b) (6)

**Subject:** RE: DOJ leg proposal

Ok thanks. And thanks for putting together the TPs on this for Monday, appreciate it.

---

**From:** Boyd, Stephen E. (OLA) (b) (6)

**Sent:** Saturday, March 21, 2020 7:30 PM

**To:** Levi, William (OAG) (b) (6) Kupec, Kerri (OPA) (b) (6)

Escalona, Prim F. (OLA) (b) (6) Lloyd, Matt (PAO) (b) (6)

**Subject:** FW: DOJ leg proposal

---

**From:** Escalona, Prim F. (OLA) (b) (6)

**Sent:** Saturday, March 21, 2020 6:39 PM

**To:** Newman, Ryan D. (OAG) (b) (6) Boyd, Stephen E. (OLA)

(b) (6)

**Cc:** Hovakimian, Patrick (ODAG) (b) (6) Levi, William (OAG)

(b) (6) Engel, Steven A. (OLC) (b) (6) DuCharme, Seth (ODAG)

(b) (6) Kupec, Kerri (OPA) (b) (6) Sofer, Gregg (OAG)

(b) (6)

**Subject:** RE: DOJ leg proposal

duplicate

**Engel, Steven A. (OLC)**

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**From:** Engel, Steven A. (OLC)  
**Sent:** Sunday, March 22, 2020 11:05 AM  
**To:** Gannon, Curtis E. (OLC)  
**Subject:** FW: Response to Hill Inquiry

FYI.

---

**From:** Levi, William (OA ) (b) (6)  
**Sent:** Sunday, March 22, 2020 11:04 AM  
**To:** Engel, Steven A. (OLC) (b) (6)  
**Subject:** Re: Response to Hill Inquiry

Thanks so much. This is definitely not going anywhere at this point. I'll loop back if there's any movement so we can get these in better shape. Thanks again.

On Mar 22, 2020, at 10:50 AM, Engel, Steven A. (OLC) (b) (6) wrote:

I think it looks generally fine. I made a few tweaks and corrected a few nits, in the text below.

If we were going to continue to work on these proposals, I can see a few amendments to (b) (5)

(b) (5)  
(b) (5)  
(b) (5)  
(b) (5)

But if this is not going anywhere on the Hill, then there's probably not much point.

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**From:** Levi, William (OA ) (b) (6)  
**Sent:** Sunday, March 22, 2020 10:18 AM  
**To:** Engel, Steven A. (OLC) (b) (6)  
**Subject:** Fwd: Response to Hill Inquiry

This look right to you? I'll forward the actual draft text separately.

Begin forwarded message:

**From:** "Boyd, Stephen E. (OLA)" (b) (6) >  
**Date:** March 21, 2020 at 8:09:02 PM EDT  
**To:** "Escalona, Prim F. (OLA)" (b) (6) >, "Levi, William (OAG)" (b) (6) >, "Kupec, Kerri (OPA)" (b) (6) >, "Lloyd, Matt (PAO)" (b) (6) >  
**Subject:** Response to Hill Inquiry

All: Here's a draft that I am circulating now in case it is helpful tonight or tomorrow. If we have any additional edits or tweak we will include for the AG's review before Monday. SB

(b)(5)

(b)(5)

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**From:** Levi, William (OA ) (b) (6) >  
**Sent:** Saturday, March 21, 2020 7:37 PM  
**To:** Boyd, Stephen E. (OLA) (b) (6) >; Kupec, Kerri (OPA) (b) (6); Escalona, Prim F. (OLA) (b) (6) >; Lloyd, Matt (PAO) (b) (6) >  
**Subject:** RE: DOJ leg proposal

Awesome.

---

**From:** Boyd, Stephen E. (OLA (b) (6)

**Sent:** Saturday, March 21, 2020 7:37 PM

**To:** Levi, William (OA ) (b) (6) >; Kupec, Kerri (OPA)

(b) (6) >; Escalona, Prim F. (OLA) (b) (6) >; Lloyd,

Matt (PAO) (b) (6) >

**Subject:** RE: DOJ leg proposal

# duplicate

Engel, Steven A. (OLC)

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**From:** Engel, Steven A. (OLC)  
**Sent:** Monday, March 23, 2020 10:46 AM  
**To:** Gannon, Curtis E. (OLC); Hardy, Liam P. (OLC); Mascott, Jennifer (OLC)  
**Subject:** FW: DOJ leg proposal  
**Attachments:** Tab B - Criminal Proposals.docx; OLL20247.docx; Limitations language (v.2).docx

FYI, Tab B is what was sent over, and the second doc is the current proposal. And I've also attached some comments from federal judges on it.

---

**From:** Escalona, Prim F. (OLA) (b) (6)

**Sent:** Saturday, March 21, 2020 6:39 PM

duplicate

TO: Mike Fragoso  
FROM: Judge David G. Campbell, D. Ariz.  
DATE: March 20, 2020  
RE: Proposed Title II for COVID-19 legislation

I and a few other members of the rules committees have reviewed the language you sent me yesterday on Section 201-203 of proposed Title II of the COVID-19 legislation. We also solicited feedback from other Judicial Conference Committees.

Although some who reviewed the proposed language think that Sections 201-203 are unnecessary and would prefer to see federal courts work through issues presented by the COVID-19 emergency, others (I think the majority) believe that some relief from statutes of limitations and other time limits would be helpful. I of course do not speak on behalf of the Judicial Conference, but we have done our best to collect relevant views.

If Congress decides to proceed with Sections 201-203, I have included a marked-up version with some suggestions. Here is an explanation of the suggestions:

### **Section 201**

#### **§ 1660(a):**

We should give the chief district judge flexibility to either enter an across-the-board general order or to authorize individual judges to enter orders in individual cases if a blanket order is not needed. We also think the dramatic step of extending or tolling limitations periods and other deadlines should be taken only after considering whether other measures can solve problems, such as the video teleconferencing the legislation will authorize.

It seems the two actions necessary are either tolling limitations periods or extending deadlines, so the attached suggestions limit the language to those actions. The existing language “any order that may be appropriate to delay, toll, or otherwise grant relief from” seems quite broad and somewhat unclear. The language should specify exactly what can be done, to the extent possible.

Subsection (a)(2): We need to be careful with the Speedy Trial Act since it is such a crucial part of criminal procedure and is so carefully calibrated. We suggest that you take it out of this general provision and limit the change to § 203, as discussed below.

§ 1660(b): The amendment eliminates the implication that a judge can set a new time limit for a limitations period (normally those periods can only be tolled, not extended to

some new date chosen by the judge), but retains the considerations already identified. It also adds consideration of other parties' circumstances, which seems fair.

§ 1660(c): These changes correspond to the changes discussed above.

New § 1660(d): The time period for the authorized orders needs to be defined as clearly as possible. The new § (d) attempts to do that.

## **Section 202**

§ 3302(a): It appears that emergencies under the National Emergencies Act can be terminated either by the President or Congress (*see* 50 U.S.C. § 1622(a)), and the periods in this statute should reflect that fact. So I reworded the end-date language to cite 50 U.S.C. § 1622(a). Also, there seems no need to extend the time beyond the period of the Chief Justice's finding, if it ends earlier, so I've added that as well. Finally, we have added language requiring the Chief Justice to make this finding specifically with respect to § 3302 because it involves somewhat different considerations than § 1660.

§ 3302(b): This change corresponds to the changes in § 1660.

§ 3302(c)(1): Same point as § 3302(a).

§ 3302(c)(2): Same point as § 3302(c)(1).

## **Section 203**

The suggested new language in § 203 would be added to the Speedy Trial Act and would allow the period of the emergency plus 30 days to be excluded from the computation of time under the Act. I think we should be careful not to do more than that, as mentioned above. (I think, by the way, that the emergency time can already be excluded under § 3616(h)(7)(A), but this new language would remove all doubt.) Because it is also important to make clear that this more-specific provision does not trump the existing authority under § 3161(h)(7), we have added language to that effect.

The cross references to §§ 3302 and 1660 are deleted because everything necessary would be done by this new provision. I also think the cross references could create serious uncertainty as to what exactly can be excluded from time computation under the Speedy Trial Act.

There are a few other proposed changes in the draft for typos and wordsmithing.

*One final point.* We continue to feel that proposed Section 204 of Title II (permitting video teleconference during the emergency) is very important. I have attached a clean version of the suggestions we gave you yesterday, with two minor changes. First, it adds Rule 7(b) to the list for video teleconferences, something I did not include in our previous suggestions. Second, it includes some minor renumbering of sections to accommodate



the new language on felony pleas and sentencings I conveyed to you yesterday (which would now be section (2)).

Thank you for considering our comments.

Suggested Language Changes for Sections 201-203

TITLE II JUDICIAL EMERGENCY AUTHORITY IN CIVIL AND CRIMINAL PROCEEDINGS

SEC. 201. EMERGENCY AUTHORITY TO DELAY OR TOLL JUDICIAL PROCEEDINGS.

(a) In General. Chapter 111 of title 28, United States Code, is amended by adding at the end the following:

“1660. Emergency authority to delay or toll judicial proceedings

“(a) In General. The chief judge of any district court of the United States that has been affected (or, if the chief judge is unavailable, the most senior available active judge of the court or the chief judge or circuit justice of the circuit that includes the district court), upon application of the Attorney General or the designee of the Attorney General, or on motion of the judge or justice, during the ~~court~~ course of the COVID-19 national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.), and upon a finding by the Chief Justice of the United States or a designee of the Chief Justice that emergency conditions will materially affect the functioning of either the Federal courts generally or the district court in question, may, after considering whether other measures can mitigate problems presented by the COVID-19 national emergency, enter ~~any general order, or authorize judges in the district to enter case-specific orders, tolling or extending that may be appropriate to delay, toll, or otherwise grant relief from any~~ time deadlines imposed by ~~otherwise~~ applicable statutes and rules of procedure for the district court in question ~~for such period as may be appropriate,~~ including

“(1) ~~otherwise~~ applicable periods of limitation;

~~“(2) chapter 208 of title 18 (commonly known as the ‘Speedy Trial Act’);~~

~~“(23) any statutes or rules of procedure otherwise affecting pre-arrest, post-arrest, pre-trial, trial, and post-trial procedures in criminal and juvenile proceedings and all civil process and proceedings, including~~

~~“(A) the time for commencing actions brought by the United States under section 2415; and~~

~~“(B) the time for commencing proceedings under section 2462; and~~

~~“(34) statutes and rules of procedure governing the filing of notices of appeal.~~

~~“(b) Criminal Cases and Civil Enforcement Actions. In entering an order setting a new time limit under subsection (a) for a criminal case or civil enforcement action brought by the United States, the court shall consider the ability of the United States and other parties and their counsel to investigate, litigate, and process casesdefendants during and after the national emergency.~~

~~“(c) Appeals. The chief judge of a court of appeals that has been affected or the circuit of which includes any district court of the United States so affected (or, if the chief circuit judge is unavailable, the most senior available active circuit judge or the circuit justice), upon application of the Attorney General or the designee of the Attorney General or on motion of the judge or justice, during the course of the COVID-19 national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.), and upon a finding by the Chief Justice of the United States or a designee of the Chief Justice that emergency conditions will materially affect the functioning of either the Federal courts generally or the court of appeals in question, may, after considering whether other measures can mitigate problems presented by the COVID-19 national emergency, enter an order tolling or extending any time deadlines imposed by applicable statutes and rules of procedure enter any order that may be appropriate to delay, toll, or otherwise grant relief from time deadlines imposed by otherwise applicable statutes and rules of procedure governing appellate proceedings in the circuit ~~for such period as may be appropriate.~~~~

“(d) The authority to enter orders under subsections (a) and (c) shall terminate upon the earlier of: (1) termination of the COVID-19 national emergency under 50 U.S.C. § 1622(a) or (2) a finding by the Chief Justice of the United States or a designee of the Chief Justice that emergency conditions no longer materially affect the functioning of either the Federal courts generally or the district court or court of appeals in question. Any orders previously entered under subsections (a) or (c) shall remain in effect according to their terms, except that any tolling or extensions granted by such orders shall not extend more than 30 days beyond the termination of authority described in this subsection.”

(e) Rule of Construction. Nothing in this section shall be construed to limit the inherent authority of a court of the United States to manage legal proceedings before it.”.

(b) Technical and Conforming Amendment. The table of sections for chapter 111 of title 28, United States Code, is amended by adding at the end the following:

“1660. Emergency authority to delay or toll judicial proceedings.”.

## SEC. 202. SUSPENSION OF STATUTES OF LIMITATIONS PURSUANT TO STATE OF EMERGENCY.

(a) Criminal Statutes of Limitations.

(1) In general. Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

“3302. Emergency suspension of limitations

“(a) In General. Notwithstanding any other provision of law, during the course of the COVID-19 national emergency declared by the President under the National

Emergencies Act (50 U.S.C. 1601 et seq.), if the Chief Justice of the United States or a designee of the Chief Justice finds that emergency conditions will materially affect the functioning of the Federal courts, [specifically with respect to this Section 3302](#), the period of limitations applicable to any offense of which the district courts of the United States have jurisdiction under section 3231 of this title shall be tolled during the period beginning on March 13, 2020 and ending on the earlier of: (1) termination of the COVID-19 national emergency under 50 U.S.C. § 1622(a) or (2) a finding by the Chief Justice of the United States or a designee of the Chief Justice that emergency conditions no longer materially affect the functioning of the Federal courts, the date that is 30 days after the date on which the President terminates the COVID-19 national emergency.

“(b) Relation to Other Laws. Nothing in this section shall be construed to limit the authority of a Federal court to enter appropriate orders further delay or toll a period of limitations under section 1660 of title 28.”.

(2) Technical and conforming amendment. The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

“3302. Emergency suspension of limitations.”.

(b) Civil Statutes of Limitations. Section 1658 of title 28, United States Code, is amended by adding at the end the following:

“(c) Emergency Suspension of Limitations.

“(1) In general. Notwithstanding subsection (a) or (b) or any other provision of law, during the course of the COVID-19 national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.), if the Chief Justice of the United States or a designee of the Chief Justice finds that emergency conditions will materially affect the functioning of the Federal courts, [specifically with respect to this Section 3302](#), the period of limitations applicable to any civil action of which a court of the United States has jurisdiction shall be tolled during the period beginning on March 13, 2020 and ending on the earlier of: (1) termination of the COVID-19 national emergency under 50 U.S.C. § 1622(a) or (2) a finding by the Chief Justice of the United States or a designee

~~of the Chief Justice that emergency conditions no longer materially affect the functioning of the Federal courts, the date that is 30 days after the date on which the President terminates the COVID-19 national emergency.~~

“(2) Relation to other laws. Nothing in this section shall be construed to limit the authority of a Federal court to enter appropriate orders ~~further delay or toll a period of limitations~~ under section 1660 of Title 28.”.

#### SEC. 203. SPEEDY TRIAL.

Section 3161(h) of title 18, United States Code, is amended by adding at the end the following:

“(9) If a case is pending during the course of the COVID-19 national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.), and if the Chief Justice of the United States or a designee of the Chief Justice finds that emergency conditions will materially affect the functioning of the Federal courts, the period beginning on March 13, 2020 and ending on the date that is 30 days after the date on which the COVID-19 national emergency terminates under 50 U.S.C. § 1622(a). Nothing in this section shall be construed to limit the authority of a Federal court to enter appropriate orders under Section 3161(h)(7). ~~Any period of delay attributable to a national emergency that results in the suspension of periods of limitation under section 3302.~~

“(10) ~~Any period of delay authorized by a Federal court under section 1660 of title 28.~~”.

Suggested Alternative Language for Section 204

(1) The chief judge of any district court of the United States that has been affected (or, if the chief judge is unavailable, the most senior available active judge of the court or the chief judge or circuit justice of the circuit that includes the district court), upon application of the Attorney General or the designee of the Attorney General, or on motion of the judge or justice, during the course of the COVID-19 national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.), and upon a finding by the Chief Justice of the United States or a designee of the Chief Justice that emergency conditions will materially affect the functioning of either the Federal courts generally or the district court in question, may authorize the use of video teleconferencing, or telephone conferencing if video teleconferencing is not reasonably available, for the following events:

- (a) Detention hearings under 18 U.S.C. § 3142;
- (b) Initial appearances under Federal Rule of Criminal Procedure 5;
- (c) Preliminary hearings under Federal Rule of Criminal Procedure 5.1;
- (d) Waiver of indictment under Federal Rules of Criminal Procedure 7(b);
- (e) Arraignments under Federal Rule of Criminal Procedure 10;
- (f) Probation and supervised release revocation proceedings under Federal Rule of Criminal Procedure 32.1;
- (g) Appearances under Federal Rule of Criminal Procedure 40;
- (h) Misdemeanor pleas and sentencings as described in Federal Rule of Criminal Procedure 43(b)(2); and

(2) If the chief district judge (or other district judge as specified in Section 1) specifically finds that felony pleas under Federal Rule of Criminal Procedure 11 and felony sentencings under Federal Rule of Criminal Procedure 32 cannot be conducted in person without seriously jeopardizing public health and safety, and the district judge in a particular case finds for specific reasons that the plea or sentencing in that case cannot be further delayed without serious harm to the interests of justice, then the plea or sentencing in that case may be conducted by video conference.

(3) The emergency authority granted in Sections (1) and (2), and any authorizations previously issued under Sections (1) and (2), shall terminate when the COVID-19 national emergency declared by the President under the National Emergencies Act ends under 50 U.S.C. 1622(a), or when the Chief Justice or a designee of the Chief Justice finds that

COVID-19 emergency conditions no longer materially affect the functioning of either the Federal courts generally or the district court in question, whichever is earlier.

(4) The Judicial Conference of the United States and the Supreme Court shall consider rule amendments under the Rules Enabling Act that address emergency measures that may be taken by the federal courts when the President declares a national emergency under the National Emergencies Act (50 U.S.C. 1601 et seq.).

# TITLE I JUDICIAL EMERGENCY AUTHORITY IN ANTITRUST PROCEEDINGS

## SEC. 101. PURPOSE.

The purpose of this title is to limit the disruption that the coronavirus disease (COVID 19) pandemic response and other emergency measures have on the premerger notification regime of the antitrust laws.

## SEC. 102. PREMERGER NOTIFICATION.

Section 7A of the Clayton Act (15 U.S.C. 18a) is amended

(1) in subsection (b)(1)(B), by inserting “, (e)(3),” after “(e)(2)”; and

(2) in subsection (e), by adding at the end the following:

“(3)(A) The Assistant Attorney General and the Chairman of the Federal Trade Commission, upon a good faith belief that the functions of the Antitrust Division of the Department of Justice or the Federal Trade Commission may be significantly impaired from receiving or reviewing notifications required under subsection (a) due to a natural disaster, pandemic, lapse in appropriations, or other force majeure event, may jointly issue a tolling order.

“(B) A tolling order issued under subparagraph (A)

“(i) shall

“(I) be made available publicly and to the affected parties;

“(II) toll the waiting period required under subsection (b)(1) or paragraph (2) of this subsection by 15 days;

“(III) apply to

“(aa) all transactions for which a notification has been received and the waiting period has not expired; and

“(bb) all transactions for which a notification is received while the order, or any renewal of the order, is in effect;

“(cc) any notifications required under subsection (a), except that the Assistant Attorney General and the Federal Trade Commission may terminate the waiting period pursuant to subsection (b)(2); and

“(ii) may be revoked before the date on which the order expires, or renewed, by the Assistant Attorney General and the Chairman of the Federal Trade Commission, as many times as the Assistant Attorney General and Federal Trade Commission determine are necessary, if the criteria set forth under this paragraph are satisfied at the time of each renewal.”.

## SEC. 103. SUSPENSION OF ANTITRUST STATUTE OF LIMITATIONS.



(a) Findings. Congress finds the following:

(1) On March 13, 2020, the President declared a national emergency under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the coronavirus disease (COVID 19) (hereafter in this section referred to as “the national emergency”).

(2) The coronavirus disease (COVID 19) and measures taken to prevent its transmission risk disrupting effective criminal antitrust law enforcement by, among other things, hindering investigations, making witnesses unavailable, and delaying or suspending the operation of grand juries.

(b) Purpose. The purpose of this section to prevent the disruptions described in subsection (a)(2) from irreparably impairing the investigation and prosecution of criminal antitrust offenses by suspending the statute of limitations for offenses until that risk has passed.

(c) Suspension of Statute of Limitations. The running of the statute of limitations applicable to any offense arising under sections 1, 2, or 3 of the Sherman Act (15 U.S.C. 1, 2, 3) shall be suspended during the period beginning on the date of enactment of this Act until the later of

(1) the date that is 180 days after the date of enactment of this Act; or

(2) 60 days after the date on which the national emergency terminates under section 202 of the National Emergencies Act (50 U.S.C. 1621).

## TITLE II JUDICIAL EMERGENCY AUTHORITY IN CIVIL AND CRIMINAL PROCEEDINGS

### SEC. 201. EMERGENCY AUTHORITY TO DELAY OR TOLL JUDICIAL PROCEEDINGS.

(a) In General. Chapter 111 of title 28, United States Code, is amended by adding at the end the following:

#### “1660. Emergency authority to delay or toll judicial proceedings

“(a) In General. The chief judge of any district court of the United States that has been affected (or, if the chief judge is unavailable, the most senior available active judge of the court or the chief judge or circuit justice of the circuit that includes the district court), upon application of the Attorney General or the designee of the Attorney General, or on motion of the judge or justice, in the event of a national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.), and upon a finding by the Chief Justice of the United States or a designee of the Chief Justice that emergency conditions will materially affect the functioning of either the Federal courts generally or the district court in question, may enter any order that may be appropriate to delay, toll, or otherwise grant relief from time deadlines imposed by otherwise applicable statutes and rules of procedure for the district court in question for such period as may be appropriate, including

“(1) otherwise applicable periods of limitation;

“(2) chapter 208 of title 18 (commonly known as the ‘Speedy Trial Act’);

“(3) any statutes or rules of procedure otherwise affecting pre-arrest, post-arrest, pre-trial,

trial, and post-trial procedures in criminal and juvenile proceedings and all civil process and proceedings, including

“(A) the time for commencing actions brought by the United States under section 2415; and

“(B) the time for commencing proceedings under section 2462; and

“(4) statutes and rules of procedure governing the filing of notices of appeal.

“(b) Criminal Cases and Civil Enforcement Actions. In setting a new time limit under subsection (a) for a criminal case or civil enforcement action brought by the United States, the court shall consider the ability of the United States to investigate, litigate, and process defendants during and after the national emergency.

“(c) Appeals. The chief judge of a court of appeals that has been affected or the circuit of which includes any district court of the United States so affected (or, if the chief circuit judge is unavailable, the most senior available active circuit judge or the circuit justice), upon application of the Attorney General or the designee of the Attorney General or on motion of the judge or justice, in the event of a national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.), and upon a finding by the Chief Justice of the United States or a designee of the Chief Justice that emergency conditions will materially affect the functioning of either the Federal courts generally or the court of appeals in question, may enter any order that may be appropriate to delay, toll, or otherwise grant relief from time deadlines imposed by otherwise applicable statutes and rules of procedure governing appellate proceedings in the circuit for such period as may be appropriate.

“(d) Rule of Construction. Nothing in this section shall be construed to limit the inherent authority of a court of the United States to manage legal proceedings before it.”.

(b) Technical and Conforming Amendment. The table of sections for chapter 111 of title 28, United States Code, is amended by adding at the end the following:

“1660. Emergency authority to delay or toll judicial proceedings.”.

## SEC. 202. SUSPENSION OF STATUTES OF LIMITATIONS PURSUANT TO STATE OF EMERGENCY.

(a) Criminal Statutes of Limitations.

(1) IN GENERAL. Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

### “3302. Emergency suspension of limitations

“(a) In General. Notwithstanding any other provision of law, if the President declares a national emergency under the National Emergencies Act (50 U.S.C. 1601 et seq.) and the Chief Justice of the United States or a designee of the Chief Justice finds that emergency conditions will materially affect the functioning of the Federal courts, the period of limitations applicable to any offense of which the district courts of the United States have jurisdiction under section 3231 of this title shall be tolled during the period beginning on the first day of the national emergency and ending on the date that is 30 days after the date on which the national emergency terminates.

“(b) Relation to Other Laws. Nothing in this section shall be construed to limit the authority of a Federal court to further delay or toll a period of limitations under section 1660 of title 28.”.

(2) TECHNICAL AND CONFORMING AMENDMENT. The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

“3302. Emergency suspension of limitations.”.

(b) Civil Statutes of Limitations. Section 1658 of title 28, United States Code, is amended by adding at the end the following:

“(c) Emergency Suspension of Limitations.

“(1) IN GENERAL. Notwithstanding subsection (a) or (b) or any other provision of law, if the President declares a national emergency under the National Emergencies Act (50 U.S.C. 1601 et seq.) and the Chief Justice of the United States or a designee of the Chief Justice finds that emergency conditions will materially affect the functioning of the Federal courts, the period of limitations applicable to any civil action of which a court of the United States has jurisdiction shall be tolled during the period beginning on the first day of the national emergency and ending on the date that is 30 days after the date on which the national emergency terminates.

“(2) RELATION TO OTHER LAWS. Nothing in this section shall be construed to limit the authority of a Federal court to further delay or toll a period of limitations under section 1660.”.

## SEC. 203. SPEEDY TRIAL.

Section 3161(h) of title 18, United States Code, is amended by adding at the end the following:

“(9) Any period of delay attributable to a national emergency that results in the suspension of periods of limitation under section 3302.

“(10) Any period of delay authorized by a Federal court under section 1660 of title 28.”.

## SEC. 204. VIDEO TELECONFERENCING FOR PRELIMINARY PROCEEDINGS.

(a) Detention Hearing. Section 3142(f) of title 18, United States Code, is amended by adding at the end the following: “Video teleconferencing may be used to conduct a hearing under this subsection during a period during which a national emergency declaration by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) is in effect if the Chief Justice of the United States or a designee of the Chief Justice finds that emergency conditions will materially affect the functioning of the Federal courts.”.

(b) Initial Appearance. Rule 5(f) of the Federal Rules of Criminal Procedure is amended by adding at the end the following: “Video teleconferencing may also be used to conduct an appearance under this rule during a period during which a national emergency declaration by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) is in effect if the Chief Justice of the United States or a designee of the Chief Justice finds that emergency conditions will materially affect the functioning of the Federal courts.”.

(c) Preliminary Hearing. Rule 5.1 of the Federal Rules of Criminal Procedure is amended by adding at the end the following:

“(i) Video Teleconferencing. Video teleconferencing may be used to conduct a hearing under this rule during a period during which a national emergency declaration by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) is in effect if the Chief Justice of the United States or a designee of the Chief Justice finds that emergency conditions will materially affect the functioning of the Federal courts.”.

(d) Arraignment. Rule 10(c) of the Federal Rules of Criminal Procedure is amended by inserting at the end the following: “Video teleconferencing may also be used to arraign a defendant during a period during which a national emergency declaration by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) is in effect if the Chief Justice of the United States or a designee of the Chief Justice finds that emergency conditions will materially affect the functioning of the Federal courts.”.

(e) Revoking or Modifying Probation or Supervised Release. Rule 32.1(a) of the Federal Rules of Criminal Procedure is amended

(1) in paragraph (1), by inserting after “magistrate judge” the following: “, except as provided in Rule 32.1(a)(7)”; and

(2) by adding at the end the following:

“(7) VIDEO TELECONFERENCING. Video teleconferencing may be used to conduct an initial appearance under Rule 32.1(a) during a period during which a national emergency declaration by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) is in effect if the Chief Justice of the United States or a designee of the Chief Justice finds that emergency conditions will materially affect the functioning of the Federal courts.”.

(f) Defendant’s Presence. Rule 43(a) of the Federal Rules of Criminal Procedure is amended by striking “or Rule 10” and inserting “Rule 5.1, Rule 10, or Rule 32.1”.

### TITLE III BUREAU OF PRISONS

## SEC. 301. SUPPLY OF PERSONAL PROTECTIVE EQUIPMENT AND TEST KITS TO BUREAU OF PRISONS; HOME CONFINEMENT AUTHORITY.

(a) Personal Protective Equipment and Test Kits.

(1) DEFINITIONS. In this subsection

(A) the term “Bureau” means the Bureau of Prisons; and

(B) the term “Secretary” means the Secretary of Health and Human Services.

(2) FINDINGS. Congress finds the following:

(A) The Secretary should prioritize the provision of personal protective equipment and test kits to the Bureau based on the density of the inmate population, the high traffic, the high volume of inmates, the high rate of turnover of inmates and personnel, and the number of high-security areas, within the facilities of the Bureau.

(B) The inability of the Bureau to secure the purchase of infectious disease personal protective equipment and related supplies now and in the future is a vulnerability.

(C) The Bureau is currently competing in and engaging the same landscape of vendors as all other Federal agencies and private entities.

(D) The ability of the Bureau to purchase needed equipment and supplies is currently subject to an individual manufacturer's specific recognition of the Bureau as a priority and subsequent allocation of the inventory of the manufacturer to the Bureau.

(3) PRIORITIZATION. The Secretary shall prioritize the distribution of infectious disease personal protective equipment and COVID 19 test kits to the Bureau of Prisons.

(b) Home Confinement Authority. Section 3624(c)(2) of title 18, United States Code, is amended

(1) by striking "The authority" and inserting the following:

"(A) IN GENERAL. Except as provided in subparagraph (B), the authority";

(2) in the second sentence of subparagraph (A), as so designated, by striking "this paragraph" and inserting "this subparagraph"; and

(3) by adding at the end the following:

"(B) EXCEPTION. During a period during which a national emergency declaration by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) is in effect, if the Attorney General finds that emergency conditions will materially affect the functioning of the Bureau of Prisons, the Director of the Bureau may lengthen the maximum amount of time permitted under subparagraph (A) as the Director determines appropriate."

## SEC. 302. VIDEO VISITATION.

(a) In General. Chapter 303 of title 18, United States Code is amended by adding at the end the following:

### "4051. Video visitation

"The Director of the Bureau of Prisons shall promulgate rules regarding the ability of inmates to conduct visitation through video teleconferencing during a period during which a national emergency declaration by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) is in effect if the Attorney General finds that emergency conditions will materially affect the functioning of the Bureau of Prisons and the ability of inmates to conduct visitation during that period."

(b) Technical and Conforming Amendment. The table of sections for chapter 303 of title 18, United States Code, is amended by adding at the end the following:

"4051. Video visitation."

## TITLE IV COVERAGE OF TESTING FOR COVID 19 FOR ESSENTIAL FEDERAL LAW ENFORCEMENT

## PERSONNEL

### SEC. 401. TESTING ESSENTIAL FEDERAL LAW ENFORCEMENT PERSONNEL.

(a) Definitions. In this section

(1) the term “covered law enforcement officer” means an employee of a law enforcement component of the Department of Justice or the Department of Homeland Security who must respond to critical public safety incidents, including enforcement of quarantine orders issued by the Secretary;

(2) the term “law enforcement component of the Department of Justice or the Department of Homeland Security” means

(A) the Bureau of Alcohol, Tobacco, Firearms, and Explosive;

(B) the Drug Enforcement Administration;

(C) the Federal Bureau of Investigation;

(D) the United States Marshals Service;

(E) the Bureau of Prisons;

(F) U.S. Customs and Border Protection;

(G) the United States Secret Service; and

(H) U.S. Immigration and Customs Enforcement; and

(3) the term “Secretary” means the Secretary of Health and Human Services.

(b) Finding. Congress finds that law enforcement components of the Department of Justice and the Department of Homeland Security have an immediate, priority need to test covered law enforcement officers for COVID 19.

(c) Prioritization of Testing. The Secretary shall prioritize the distribution of COVID 19 test kits to covered law enforcement officers.

## TITLE V UNITED STATES MARSHALS SERVICE

### SEC. 501. UNITED STATES MARSHALS SERVICE EXCEPTION TO LIMITATION ON PREMIUM PAY.

(a) Definitions. In this section

(1) the term “covered employee” means any deputy marshal employed by the United States Marshals Service; and

(2) the term “covered service” means law enforcement duties performed by a covered employee for the United States Marshals Service during a period during which a national emergency declaration by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) is in effect.



(b) Exception to the Limitation on Premium Pay. Notwithstanding any other provision of law, section 5547(a) of title 5, United States Code, shall not apply to a covered employee to the extent that its application would prevent the covered employee from receiving premium pay for covered service.

(c) Treatment of Additional Pay. If subsection (b) results in the payment of additional premium pay to a covered employee of a type that is normally creditable as basic pay for retirement or any other purpose, that additional pay shall not

(1) be considered to be basic pay of the covered employee for any purpose; or

(2) be used in computing a lump-sum payment to the covered employee for accumulated and accrued annual leave under section 5551 or 5552 of title 5, United States Code.

(d) Aggregate Limit. With respect to the application of section 5307 of title 5, United States Code, the payment of any additional premium pay to a covered employee as a result of subsection (b) of this section shall not be counted as part of the aggregate compensation of the covered employee.

(e) Effective Date. This section shall take effect as if enacted on December 31, 2019.

## TITLE VI IMMIGRATION MATTERS RELATING TO PUBLIC HEALTH

### SEC. 601. INELIGIBILITY FOR ASYLUM FOR ALIENS SUBJECT TO CERTAIN PRESIDENTIAL PROCLAMATIONS.

Section 208(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) is amended by adding at the end the following:

“(F) Paragraph (1) shall not apply to an alien who is subject to a Presidential proclamation suspending or limiting the admission of aliens into the United States in effect during an emergency period (as defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b 5(g))).”.

### SEC. 602. TELEPHONIC REMOVAL PROCEEDINGS DURING EMERGENCY PERIODS.

Section 240(b)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1229a(b)(2)(B)) is amended

(1) by striking “An evidentiary hearing” and inserting the following:

“(i) IN GENERAL. An evidentiary hearing”; and

(2) by adding at the end the following:

“(ii) EMERGENCY PERIOD. Clause (i) shall not apply during an emergency period (as defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b 5(g))).”.

1 SEC. 603. INADMISSIBILITY FOR ALIENS WITH  
2 CORONAVIRUS INFECTIONS, COVID-19, OR SARS-COV-  
3 2.

4 Section 212(a)(1)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)(A)(i)) is  
5 amended by inserting “, including infection with coronavirus, COVID-19, SARS-CoV-2, or any  
6 disease associated with coronavirus, COVID-19, or SARS-CoV-2” before the semicolon.

7 TITLE VII CRIMES PROHIBITING FRAUD AND OTHER  
8 OFFENSES RELATING TO THE COVID 19 NATIONAL  
9 EMERGENCY

10 SEC. 701. FRAUD AND FALSE REPRESENTATIONS  
11 RELATING TO THE COVID 19 NATIONAL EMERGENCY.

12 (a) In General. Chapter 47 of title 18, United States Code, is amended by adding at the end  
13 the following:

14 “1041. Fraud and false representations relating to the COVID  
15 19 national emergency

16 “(a) Offense. It shall be unlawful to knowingly

17 “(1) with the intent to defraud the United States, or any agency, department, or  
18 instrumentality thereof, present or cause to be presented any false, altered, forged, or  
19 counterfeited writing or document for the purpose of obtaining, or enabling another to  
20 obtain, from the United States, or from any agency, officer, or agent thereof, any sum of  
21 money relating to the national emergency declared by the President under the National  
22 Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the Coronavirus Disease 2019  
23 (COVID-19); or

24 “(2) with the intent to deceive any person

25 “(A) make any materially false, fictitious, or fraudulent statement or representation,  
26 or make or use any false writing or document knowing the same to contain any  
27 materially false, fictitious, or fraudulent statement or representation, relating to the  
28 national emergency declared by the President under the National Emergencies Act (50  
29 U.S.C. 1601 et seq.) with respect to the Coronavirus Disease 2019 (COVID-19); and

30 “(B) cause the statement or representation described in subparagraph (A) to be  
31 transmitted by means of mail, wire, or television communication in interstate or  
32 foreign commerce.

33 “(b) Penalty. Any person who violates

34 “(1) subsection (a)(1) shall be fined under this title or imprisoned for not more than 15  
35 years, or both; and

36 “(2) subsection (a)(2) shall be fined under this title or imprisoned for not more than 20



- 1           years, or both.”.
- 2           (b) Technical and Conforming Amendment. The table of sections for chapter 47 of title 18,
- 3   United States Code, is amended by adding at the end the following:
- 4   “1041. Fraud and false representations relating to the COVID 19 national emergency.”.

## **Tab B – Criminal and Civil Provisions - Updated**

### **SEC. 1. EMERGENCY AUTHORITY TO DELAY OR TOLL JUDICIAL PROCEEDINGS.**

(a) IN GENERAL -- Chapter 111 of title 28, United States Code, is amended by adding at the end the following:

#### **§ 1660. Emergency Authority to Delay, or Toll Judicial Proceedings.**

“(a) IN GENERAL -- Upon application of the Attorney General or the Attorney General’s designee or on his own motion, the chief judge of any trial court of the United States that has been affected (or, if the chief judge is unavailable, the most senior available active judge of that court or the chief judge or circuit Justice of the court of appeals that includes that court) may, in the event of a natural disaster, civil disobedience, or other emergency situation requiring the full or partial closure of courts or other circumstances inhibiting the ability of litigants to comply with deadlines imposed by statutes or by the rules of procedure applicable in the courts of the United States, enter such order or orders as may be appropriate to delay, toll, or otherwise grant relief from time deadlines imposed by otherwise applicable statutes and rules of procedure for such period and in such judicial district as may be appropriate, including, without limitation: otherwise applicable statutes of limitation; the Speedy Trial Act, 18 U.S.C. 3161; any statutes or rules of procedure otherwise affecting pre-arrest, post-arrest, pre-trial, trial, and post-trial procedures in criminal and juvenile proceedings and all civil process and proceedings, including [the time for commencing actions brought by the United States pursuant to 28 USC 2415 and 28 USC 2462](#); and the filing of notices of appeal.

“(b) CRIMINAL CASES AND CIVIL ENFORCEMENT ACTIONS -- In setting new time limits under this section for criminal cases and civil enforcement actions brought by the government, the court shall consider the government’s ability to investigate, litigate and process defendants during and beyond the emergency situation.

“(c) APPEALS -- Upon application of the Attorney General or the Attorney General’s designee or on his own motion, the chief judge of a court of appeals that has been affected or that includes any trial court of the United States so affected (or, if the chief circuit judge is unavailable, the most senior available active circuit judge or the circuit Justice) may, in the event of a natural disaster, civil disobedience, or other emergency situation requiring the full or partial closure of courts or other circumstances inhibiting the ability of litigants to comply with deadlines imposed by statutes or by the rules of procedure applicable in the courts of the United States, enter such order or orders as may be appropriate to delay, toll, or otherwise grant relief from time deadlines imposed by otherwise applicable statutes and rules of procedure governing appellate proceedings in such circuit for such period as may be appropriate.

“(d) Nothing in this section shall be construed to limit the inherent authority of a federal court to manage legal proceedings before it.”

## **Tab B – Criminal and Civil Provisions - Updated**

(b) CLERICAL AMENDMENT.----The table of sections at the beginning of Chapter 111 of title 28, United States Code, is amended by adding at the end the following new item:

“§ 1660. Emergency Authority to Delay or Toll Judicial Proceedings.”.

### **EXPLANATION**

The new section 1660 of title 28 allows the chief judge of any district court (or, if the chief district judge is not available, the next most senior active district judge in the district or the chief judge or circuit Justice of the court of appeals for the circuit in which the district is located), either on motion of the Attorney General or his designee or on the court’s own motion, to enter an order or orders to delay or toll any and all deadlines imposed by statute or rules of procedure whenever the district court is fully or partially closed by virtue of any natural disaster, civil disobedience, or other emergency situation. While individual judges currently possess this authority, this provision would enable the chief judge of an affected district to ensure that all judges within that district address issues involving time limits in a consistent manner.

Subsection (b) of the new section 1660 would make clear that, in setting new time limits applicable in criminal cases, the court must consider the government’s ability to investigate, litigate and process defendants during and beyond the emergency situation. While the court can be expected to give consideration to the difficulties faced by all litigants in such cases, the law is designed to ensure that the court also give appropriate consideration to the unique needs that may be imposed on the federal government in responding to the types of emergencies that could result in the need to seek to invoke the authority provided in section 1660.

The new section would provide like authority to the chief judge of the court of appeals for the circuit when the court of appeals itself is so affected. Such authority may also be exercised by the chief judge of the court of appeals to delay or toll time limits for appellate litigants within specific districts in the circuit when emergency situations affect litigants in that district.

## **Tab B – Criminal and Civil Provisions - Updated**

### **SEC. 2. SUSPENSION OF STATUTE OF LIMITATIONS PURSUANT TO STATE OF EMERGENCY.**

Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

#### **§ 3302. Emergency Suspension of Limitations**

Notwithstanding any provision to the contrary, when the United States is in a state of national emergency, as described in 50 U.S.C. 1621, and upon a finding by the Chief Justice of the United States that emergency conditions will materially affect the functioning of the federal courts, the statute of limitations applicable to any offense over which federal district courts have jurisdiction pursuant to 18 U.S.C. 3231 or civil action over which any court of the United States has jurisdiction pursuant to 28 USC 2415 or 28 USC 2462 shall be tolled during the period of the national emergency and for one year following the end of the national emergency. Nothing in this section shall be construed to limit the authority of a federal court to further delay or toll statutes of limitation pursuant to 28 U.S.C. 1660.

#### **EXPLANATION**

The new section 3302 of title 18, United States Code, would suspend the statute of limitations for all federal offenses during a period of nationwide emergency if the Chief Justice determines that the emergency will materially affect the functioning of the federal courts.

This provision does not apply to any cases in which the statute of limitations expired prior to its enactment and cannot be relied upon to revive any such prosecution.

## **Tab B – Criminal and Civil Provisions - Updated**

### **SEC. 3. SPEEDY TRIAL**

Section 3161 of title 18, United States Code, is amended in subsection (h) by inserting after paragraph (8) the following:

(9) Any period of delay attributable to a national emergency that results in the suspension of statutes of limitation pursuant to 18 U.S.C. 3302.

(10) Any period of delay authorized by a federal court pursuant to 28 U.S.C. 1660.

### **EXPLANATION**

This amendment to Section 3161 of title 18, United States Code, would provide for automatic exclusions of time under the Speedy Trial Act for any period of delay attributable to a national emergency that results in a suspension of statutes of limitations under 18 U.S.C. § 3302 and for any period of delay that is attributable to an order issued pursuant to 28 U.S.C. § 1660(a).

**Engel, Steven A. (OLC)**

---

**From:** Engel, Steven A. (OLC)  
**Sent:** Monday, March 23, 2020 3:31 PM  
**To:** Gannon, Curtis E. (OLC); Mascott, Jennifer (OLC)  
**Subject:** Fwd: Coronavirus Package  
**Attachments:** Video + BOP.docx; ATT00001.htm

Sent from my iPhone

Begin forwarded message:

**From:** "Escalona, Prim F. (OLA)" (b) (6)  
**Date:** March 23, 2020 at 3:29:41 PM EDT  
**To:** "Engel, Steven A. (OLC)" (b) (6) "Cronan, John (CRM)"  
(b) (6) "Hankey, Mary Blanche (OLA)"  
(b) (6) "Hovakimian, Patrick (ODAG)" (b) (6)  
"DuCharme, Seth (ODAG)" (b) (6)  
**Cc:** "Boyd, Stephen E. (OLA)" (b) (6)  
**Subject:** Coronavirus Package

?

This is what MAY be going into the coronavirus package that affects DOJ equities. Please let me know ASAP if there are any fatal issues.

Thanks!  
Prim

Prim Escalona  
Principal Deputy Assistant Attorney General  
Office of Legislative Affairs  
(b) (6)

# TITLE XX VIDEO TELECONFERENCING FOR CRIMINAL PROCEEDINGS.

## Sec XX

In this title

(1) the term “Chief Justice” means the Chief Justice of the United States or a designee of the Chief Justice; and

(2) the term “covered emergency period” means the period beginning on the date on which the President declared a national emergency under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the Coronavirus Disease 2019 (COVID-19) and ending on the date that is 30 days after the date on which the national emergency declaration terminates.

## Sec XX

(a) In General. Subject to subsection (c), if the Chief Justice finds that emergency conditions due to the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the Coronavirus Disease 2019 (COVID-19) will materially affect the functioning of either the Federal courts generally or a particular district court of the United States, the chief judge of a district court covered by the finding (or, if the chief judge is unavailable, the most senior available active judge of the court or the chief judge or circuit justice of the circuit that includes the district court), upon application of the Attorney General or the designee of the Attorney General, or on motion of the judge or justice, may authorize the use of video teleconferencing, or telephone conferencing if video teleconferencing is not reasonably available, for the following events:

- (1) Detention hearings under section 3142 of title 18, United States Code.
- (2) Initial appearances under Rule 5 of the Federal Rules of Criminal Procedure.
- (3) Preliminary hearings under Rule 5.1 of the Federal Rules of Criminal Procedure.
- (4) Waivers of indictment under Rule 7(b) of the Federal Rules of Criminal Procedure.
- (5) Arraignments under Rule 10 of the Federal Rules of Criminal Procedure.
- (6) Probation and supervised release revocation proceedings under Rule 32.1 of the Federal Rules of Criminal Procedure.
- (7) Appearances under Rule 40 of the Federal Rules of Criminal Procedure.
- (8) Misdemeanor pleas and sentencings as described in Rule 43(b)(2) of the Federal Rules of Criminal Procedure.

(b) Felony Pleas and Sentencing. Subject to subsection (c), if the Chief Justice finds that emergency conditions due to the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the Coronavirus Disease 2019 (COVID-19) will materially affect the functioning of either the Federal courts generally or a

particular district court of the United States, the chief judge of a district court covered by the finding (or, if the chief judge is unavailable, the most senior available active judge of the court or the chief judge or circuit justice of the circuit that includes the district court) specifically finds, upon application of the Attorney General or the designee of the Attorney General, or on motion of the judge or justice, that felony pleas under Rule 11 of the Federal Rules of Criminal Procedure and felony sentencings under Rule 32 of the Federal Rule of Criminal Procedure cannot be conducted in person without seriously jeopardizing public health and safety, and the district judge in a particular case finds for specific reasons that the plea or sentencing in that case cannot be further delayed without serious harm to the interests of justice, the plea or sentencing in that case may be conducted by video teleconference.

(c) Termination of Emergency Authority. The authority provided under subsections (a) and (b), and any specific authorizations issued under those subsections, shall terminate on the earlier of

(1) the last day of the covered emergency period; or

(2) the date on which the Chief Justice finds that emergency conditions due to the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the Coronavirus Disease 2019 (COVID-19) no longer materially affect the functioning of either the Federal courts generally or the district court in question.

(d) National Emergencies Generally. The Judicial Conference of the United States and the Supreme Court of the United States shall consider rule amendments under chapter 131 of title 28, United States Code (commonly known as the “Rules Enabling Act”), that address emergency measures that may be taken by the Federal courts when the President declares a national emergency under the National Emergencies Act (50 U.S.C. 1601 et seq.).

## TITLE XX BUREAU OF PRISONS

### SEC. 301. DEFINITION.

In this title, the term “covered emergency period” means the period beginning on the date on which the President declared a national emergency under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the Coronavirus Disease 2019 (COVID-19) and ending on the date that is 30 days after the date on which the national emergency declaration terminates.

### SEC. 302. SUPPLY OF PERSONAL PROTECTIVE EQUIPMENT AND TEST KITS TO BUREAU OF PRISONS; HOME CONFINEMENT AUTHORITY.

(a) Personal Protective Equipment and Test Kits.

(1) DEFINITIONS. In this subsection

(A) the term “Bureau” means the Bureau of Prisons; and

(B) the term “Secretary” means the Secretary of Health and Human Services.

(2) FINDINGS. Congress finds the following:



(A) There is an urgent need for personal protective equipment and test kits to the Bureau based on the density of the inmate population, the high traffic, the high volume of inmates, the high rate of turnover of inmates and personnel, and the number of high-security areas, within the facilities of the Bureau.

(B) The inability of the Bureau to secure the purchase of infectious disease personal protective equipment and related supplies now and in the future is a vulnerability.

(C) The Bureau is currently competing in and engaging the same landscape of vendors as all other Federal agencies and private entities.

(D) The ability of the Bureau to purchase needed equipment and supplies is currently subject to an individual manufacturer's specific recognition of the Bureau as a priority and subsequent allocation of the inventory of the manufacturer to the Bureau.

(3) CONSIDERATION. The Secretary shall appropriately consider, relative to other Department of Health and Human Services priorities for high-risk and high-need populations, the distribution of infectious disease personal protective equipment and COVID 19 test kits to the Bureau of Prisons for use by Bureau personnel and inmates.

(b) Home Confinement Authority. During the covered emergency period, if the Attorney General finds that emergency conditions will materially affect the functioning of the Bureau of Prisons, the Director of the Bureau may lengthen the maximum amount of time for which the Director is authorized to place a prisoner in home confinement under the first sentence of section 3624(c)(2) of title 18, United States Code, as the Director determines appropriate.

## SEC. 303. VIDEO VISITATION.

(a) In General. During the covered emergency period, if the Attorney General finds that emergency conditions will materially affect the functioning of the Bureau of Prisons, the Director of the Bureau of Prisons shall promulgate rules regarding the ability of inmates to conduct visitation through video conferencing and telephonically, free of charge to inmates, during the covered emergency period.

(b) Exemption From Notice-and-comment Rulemaking Requirements. Section 553 of title 5, United States Code, shall not apply to the promulgation of rules under subsection (a) of this section.

## Kupec, Kerri (OPA)

---

**From:** Kupec, Kerri (OPA)  
**Sent:** Sunday, March 22, 2020 2:29 PM  
**To:** Hornbuckle, Wyn (OPA)  
**Cc:** Willard, Lauren (OAG); Levi, William (OAG); Grieco, Christopher (ODAG); Moran, John (OAG); Hughes, William C. (ODAG); Engel, Steven A. (OLC); Whitaker, Henry C. (OLC); Bissex, Rachel (OAG); Sofer, Gregg (OAG); Herlihy, Brianna (PAO)  
**Subject:** Re: WH Call Follow Up

And heads up: Nadler doing 4 pm press call on BOP. So may need to adjust a line or two to address.

On Mar 22, 2020, at 2:18 PM, Hornbuckle, Wyn (OPA) (b) (6) wrote:

Yes, will do

---

**From:** Willard, Lauren (OAG) (b) (6)  
**Sent:** Sunday, March 22, 2020 2:08 PM  
**To:** Levi, William (OAG) (b) (6) Hornbuckle, Wyn (OPA)  
(b) (6) Kupec, Kerri (OPA) (b) (6)  
**Cc:** Grieco, Christopher (ODAG) (b) (6) Moran, John (OAG)  
(b) (6) Hughes, William C. (ODAG) (b) (6) Engel, Steven A. (OLC) (b) (6) Whitaker, Henry C. (OLC) (b) (6) Bissex, Rachel (OAG) (b) (6) Sofer, Gregg (OAG) (b) (6) Herlihy, Brianna (PAO) (b) (6)  
**Subject:** RE: WH Call Follow Up

Great! Agree it would be good to put in a line for tomorrow's remarks. Wyn, can you take a first pass at a sentence or two to include in speech along with the BOP insert?

Best,  
Lauren

---

**From:** Levi, William (OAG) (b) (6)  
**Sent:** Sunday, March 22, 2020 1:56 PM  
**To:** Hornbuckle, Wyn (OPA) (b) (6) Kupec, Kerri (OPA)  
(b) (6)  
**Cc:** Willard, Lauren (OAG) (b) (6) Grieco, Christopher (ODAG)  
(b) (6) Moran, John (OAG) (b) (6) Hughes, William C. (ODAG)  
(b) (6) Engel, Steven A. (OLC) (b) (6) Whitaker, Henry C. (OLC) (b) (6) Bissex, Rachel (OAG) (b) (6) Sofer, Gregg (OAG) (b) (6) Herlihy, Brianna (PAO) (b) (6)  
**Subject:** RE: WH Call Follow Up

Nice!

---

**From:** Hornbuckle, Wyn (OPA) (b) (6)

**Sent:** Sunday, March 22, 2020 1:55 PM

**To:** Kupec, Kerri (OPA) (b) (6) Levi, William (OAG) (b) (6)

**Cc:** Willard, Lauren (OAG) (b) (6) Grieco, Christopher (ODAG)

(b) (6) Moran, John (OAG) (b) (6) Hughes, William C. (ODAG)

(b) (6) Engel, Steven A. (OLC) (b) (6) Whitaker, Henry C.

(OLC) (b) (6) Bissex, Rachel (OAG) (b) (6) Sofer, Gregg

(OAG) (b) (6) Herlihy, Brianna (PAO) (b) (6)

**Subject:** RE: WH Call Follow Up

[Here's the complaint](#)

---

**From:** Kupec, Kerri (OPA) (b) (6)

**Sent:** Sunday, March 22, 2020 1:54 PM

**To:** Levi, William (OAG) (b) (6)

**Cc:** Willard, Lauren (OAG) (b) (6) Grieco, Christopher (ODAG)

(b) (6) Moran, John (OAG) (b) (6) Hughes, William C. (ODAG)

(b) (6) Engel, Steven A. (OLC) (b) (6) Whitaker, Henry C.

(OLC) (b) (6) Bissex, Rachel (OAG) (b) (6) Sofer, Gregg

(OAG) (b) (6) Hornbuckle, Wyn (OPA) (b) (6) Herlihy,

Brianna (PAO) (b) (6)

**Subject:** Re: WH Call Follow Up

(b) (5)

On Mar 22, 2020, at 1:52 PM, Levi, William (OAG) (b) (6) wrote:

(b) (5)

---

**From:** Kupec, Kerri (OPA) (b) (6)

**Sent:** Sunday, March 22, 2020 1:47 PM

**To:** Willard, Lauren (OAG) (b) (6)

**Cc:** Grieco, Christopher (ODAG) (b) (6) Moran, John (OAG)

(b) (6) Levi, William (OAG) (b) (6) Hughes, William

C. (ODAG) (b) (6) Engel, Steven A. (OLC)

(b) (6) Whitaker, Henry C. (OLC) (b) (6)

Bissex, Rachel (OAG) (b) (6) Sofer, Gregg (OAG)

(b) (6) Hornbuckle, Wyn (OPA) (b) (6)

Herlihy, Brianna (PAO) (b) (6)

**Subject:** Re: WH Call Follow Up

If it's ready by tomorrow am, we should also consider incorporating a line about (b) (5) Wyn and Brianna have more details.

On Mar 22, 2020, at 10:45 AM, Willard, Lauren (OAG) (b) (6) wrote:

[Perfect thank you!](#)

---

**From:** Grieco, Christopher (ODAG) (b) (6)

**Sent:** Sunday, March 22, 2020 10:35 AM

**To:** Willard, Lauren (OAG) (b) (6) Kupec, Kerri (OPA)

(b) (6) Moran, John (OAG) (b) (6)

**Cc:** Levi, William (OAG) (b) (6) Hughes, William C. (ODAG)

(b) (6) Engel, Steven A. (OLC)  
(b) (6) Whitaker, Henry C. (OLC)  
(b) (6) Bissex, Rachel (OAG)  
(b) (6) Sofer, Gregg (OAG) (b) (6)  
Hornbuckle, Wyn (OPA) (b) (6)  
**Subject:** RE: WH Call Follow Up

Wynn, Gregg and I are working on a paragraph on BOP and TPs related to BOP.

---

**From:** Willard, Lauren (OAG) (b) (6)  
**Sent:** Sunday, March 22, 2020 10:30 AM  
**To:** Kupec, Kerri (OPA) (b) (6) Moran, John (OAG)  
(b) (6)  
**Cc:** Levi, William (OAG) (b) (6) Hughes, William C. (ODAG)  
(b) (6) Engel, Steven A. (OLC)  
(b) (6) Whitaker, Henry C. (OLC)  
(b) (6) Bissex, Rachel (OAG)  
(b) (6) Grieco, Christopher (ODAG)  
(b) (6) Sofer, Gregg (OAG) (b) (6)  
Hornbuckle, Wyn (OPA) (b) (6)  
**Subject:** RE: WH Call Follow Up

Hi all,

Just to confirm. Gregg/Wyn are you able to help on the TPs and potential insert for the AG's remarks on BOP? Using a draft of our HJC letter response, I started to put together a few paragraphs but am not the expert on this so please revise and correct as appropriate, and include any important points I missed.

Kerri/Will/John is something like the below draft what you were envisioning?

(b) (5)

(b) (5)

---

**From:** Kupec, Kerri (OPA) (b) (6)  
**Sent:** Sunday, March 22, 2020 12:02 AM  
**To:** Moran, John (OAG) (b) (6)  
**Cc:** Levi, William (OAG) (b) (6) Willard, Lauren (OAG)  
(b) (6) Hughes, William C. (ODAG)  
(b) (6) Engel, Steven A. (OLC)  
(b) (6) Whitaker, Henry C. (OLC)  
(b) (6) Bissex, Rachel (OAG)  
(b) (6) Grieco, Christopher (ODAG)  
(b) (6) Sofer, Gregg (OAG) (b) (6)  
Hornbuckle, Wyn (OPA) (b) (6)  
**Subject:** Re: WH Call Follow Up

Yes, we most definitely need to address what we are doing on BOP front for Monday's remarks.

On Mar 21, 2020, at 7:43 PM, Moran, John (OAG)  
(b) (6) wrote:

I think it is a good idea to add it since that is what the President and others at the WH are getting the most questions about.

John S. Moran  
Deputy Chief of Staff & Counselor to the Attorney General  
U.S. Department of Justice  
(b) (6) (W)  
(b) (6) (C)  
(b) (6)

On Mar 21, 2020, at 7:37 PM, Levi, William (OAG)  
(b) (6) wrote:

?

AG wants to include a short paragraph on BOP so after Gregg and Wyn have put together material on this let's try and work something in. Thanks all.

---

**From:** Willard, Lauren (OAG)  
(b) (6)  
**Sent:** Saturday, March 21, 2020 7:32 PM  
**To:** Levi, William (OAG) (b) (6)  
Moran, John (OAG) (b) (6)  
**Cc:** Hughes, William C. (ODAG)  
(b) (6) Engel, Steven A.  
(OLC) (b) (6) Whitaker, Henry  
C. (OLC) (b) (6) Bissex,  
Rachel (OAG) (b) (6) Grieco,  
Christopher (ODAG) (b) (6)  
Sofer, Gregg (OAG) (b) (6)  
Hornbuckle, Wyn (OPA)  
(b) (6) Kupec, Kerri  
(OPA) (b) (6)  
**Subject:** RE: WH Call Follow Up

And including earlier draft remarks for Gregg and Wyn's reference.

---

**From:** Willard, Lauren (OAG)  
**Sent:** Saturday, March 21, 2020 7:31 PM  
**To:** Levi, William (OAG) (b) (6)  
Moran, John (OAG) (b) (6)  
**Cc:** Hughes, William C. (ODAG)  
(b) (6) Engel, Steven A.  
(OLC) (b) (6) Whitaker, Henry  
C. (OLC) (b) (6) Bissex,  
Rachel (OAG) (b) (6) Grieco,  
Christopher (ODAG) (b) (6)  
Sofer, Gregg (OAG) (b) (6)  
Hornbuckle, Wyn (OPA)  
(b) (6) Kupec, Kerri  
(OPA) (b) (6)  
**Subject:** RE: WH Call Follow Up

Thanks Will, and thanks Gregg and Wyn for the help on the TPs. I'd be inclined to agree (b) (5)

Best,  
Lauren

---

**From:** Levi, William (OAG) (b) (6)  
**Sent:** Saturday, March 21, 2020 7:13 PM  
**To:** Willard, Lauren (OAG)  
(b) (6) Moran, John (OAG)  
(b) (6)

**Cc:** Hughes, William C. (ODAG)

(b) (6) Engel, Steven A.  
(OLC) (b) (6) Whitaker, Henry  
C. (OLC) (b) (6) Bissex,  
Rachel (OAG) (b) (6) Grieco,  
Christopher (ODAG) (b) (6)  
Sofer, Gregg (OAG) (b) (6)  
Hornbuckle, Wyn (OPA)  
(b) (6) Kupec, Kerri  
(OPA) (b) (6)  
**Subject:** RE: WH Call Follow Up

Thanks John. Adding Gregg and Wyn who are taking lead on BOP talking points. They can include answers to the points below. I don't think

(b) (5)  
(b) (5)

---

**From:** Willard, Lauren (OAG)

(b) (6)  
**Sent:** Saturday, March 21, 2020 7:10 PM  
**To:** Moran, John (OAG)  
(b) (6) Levi, William (OAG)  
(b) (6)  
**Cc:** Hughes, William C. (ODAG)  
(b) (6) Engel, Steven A.  
(OLC) (b) (6) Whitaker, Henry  
C. (OLC) (b) (6) Bissex,  
Rachel (OAG) (b) (6) Grieco,  
Christopher (ODAG) (b) (6)  
**Subject:** RE: WH Call Follow Up

Thanks John for the update.

The AG has the pen on the draft remarks at the moment, but attaching the most recent draft I have for Rachel and Chris' reference. I'm not up to speed on the prison issues, so I would welcome your thoughts on a sentence or two that we could put in about the topic if we wanted to. Similarly, if there are TPs or draft Q&As on the topic, that would be greatly appreciated.

John I think part of your first paragraph got cut off, let us know if there something else we should know. Also, if they had any further thoughts on the logistics and process for the event Monday, please feel free to share. I think we are all still a bit at sea on what this will look like.

Best,  
Lauren

---

**From:** Moran, John (OAG)

(b) (6)

**Sent:** Saturday, March 21, 2020 6:21 PM

**To:** Levi, William (OAG) (b) (6)

Willard, Lauren (OAG) (b) (6)

**Cc:** Hughes, William C. (ODAG)

(b) (6) Engel, Steven A.

(OLC) (b) (6) Whitaker, Henry

C. (OLC) (b) (6) Bissex,

Rachel (OAG) (b) (6) Grieco,

Christopher (ODAG) (b) (6)

**Subject:** WH Call Follow Up

Will and Lauren,

Bill, Henry, and I just got of the WH call. I don't think (b) (5)

(b) (5)

I think it would be best to

(b) (5)

(b) (5)

Separately, Grogan called me afterwards to ask whether the AG is prepared to address prison issues. He think (b) (5)

(b) (5)

The two main questions they are getting a lot of at the WH are (1) how are we working with States on this and (2) what are we doing ourselves. (Looping in Rachel and Chris, who have been working on that set of issues.)

John S. Moran

Deputy Chief of Staff & Counselor to the Attorney General

U.S. Department of Justice

(b) (6) (W)

(b) (6) (C)

(b) (6)



**Sofer, Gregg (OAG)**

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**From:** Sofer, Gregg (OAG)  
**Sent:** Sunday, March 22, 2020 3:15 PM  
**To:** Levi, William (OAG)  
**Cc:** Hornbuckle, Wyn (OPA); Willard, Lauren (OAG); Kupec, Kerri (OPA); Grieco, Christopher (ODAG); Moran, John (OAG); Hughes, William C. (ODAG); Engel, Steven A. (OLC); Whitaker, Henry C. (OLC); Bissex, Rachel (OAG); Herlihy, Brianna (PAO)  
**Subject:** Re: WH Call Follow Up

On it's way to me now.

Gregg

On Mar 22, 2020, at 3:12 PM, Levi, William (OAG) (b) (6) wrote:

?

Thanks. AG wants now so kick what you have to me. You can alert me later if there are issues.

On Mar 22, 2020, at 3:11 PM, Hornbuckle, Wyn (OPA)  
(b) (6) wrote:

? Hi Will

Gregg has the final, just ironing out last kinks with BOP

Sent from my iPhone

On Mar 22, 2020, at 3:06 PM, Levi, William (OAG)  
(b) (6) wrote:

?

Thank you Wyn. Please send me the BOP insert, as well, so I can pass to AG. Thanks for all the weekend work.

On Mar 22, 2020, at 2:47 PM, Hornbuckle, Wyn (OPA)  
(b) (6) wrote:

?

The court just granted the TRO, so we may need to move up timing on the press release. Here's a couple of sentences for the AG's remarks if it works.

[illegible]

**Sent:** Sunday, March 22, 2020 2:08 PM

# duplicate

## Hornbuckle, Wyn (OPA)

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**From:** Hornbuckle, Wyn (OPA)  
**Sent:** Sunday, March 22, 2020 4:18 PM  
**To:** Levi, William (OAG); Willard, Lauren (OAG)  
**Cc:** Kupec, Kerri (OPA); Grieco, Christopher (ODAG); Moran, John (OAG); Hughes, William C. (ODAG); Engel, Steven A. (OLC); Whitaker, Henry C. (OLC); Bissex, Rachel (OAG); Sofer, Gregg (OAG); Herlihy, Brianna (PAO)  
**Subject:** RE: WH Call Follow Up

Yes, cleaning it up now and will recirculate

---

**From:** Levi, William (OAG) (b) (6)  
**Sent:** Sunday, March 22, 2020 4:17 PM  
**To:** Willard, Lauren (OAG) (b) (6)  
**Cc:** Hornbuckle, Wyn (OPA) (b) (6); Kupec, Kerri (OPA) (b) (6); Grieco, Christopher (ODAG) (b) (6); Moran, John (OAG) (b) (6); Hughes, William C. (ODAG) (b) (6); Engel, Steven A. (OLC) (b) (6); Whitaker, Henry C. (OLC) (b) (6); Bissex, Rachel (OAG) (b) (6); Sofer, Gregg (OAG) (b) (6); Herlihy, Brianna (PAO) (b) (6)  
**Subject:** Re: WH Call Follow Up

Thank you Lauren

On Mar 22, 2020, at 4:13 PM, Willard, Lauren (OAG) (b) (6) wrote:

?

IF no one else has any edits, Wyn can you circulate a clean copy? Are the points I propose cutting from the remarks included in Q&A?

---

**From:** Hornbuckle, Wyn (OPA) (b) (6)  
**Sent:** Sunday, March 22, 2020 3:57 PM  
**To:** Willard, Lauren (OAG) (b) (6); Levi, William (OAG) (b) (6)  
**Cc:** Kupec, Kerri (OPA) (b) (6); Grieco, Christopher (ODAG) (b) (6); Moran, John (OAG) (b) (6); Hughes, William C. (ODAG) (b) (6); Engel, Steven A. (OLC) (b) (6); Whitaker, Henry C. (OLC) (b) (6); Bissex, Rachel (OAG) (b) (6); Sofer, Gregg (OAG) (b) (6); Herlihy, Brianna (PAO) (b) (6)  
**Subject:** RE: WH Call Follow Up

Caught a couple of typos

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**From:** Willard, Lauren (OAG) (b) (6)  
**Sent:** Sunday, March 22, 2020 3:54 PM  
**To:** Hornbuckle, Wyn (OPA) (b) (6); Levi, William (OAG) (b) (6)  
**Cc:** Kupec, Kerri (OPA) (b) (6); Grieco, Christopher (ODAG)

(b) (6) Moran, John (OAG) (b) (6) Hughes, William C. (ODAG)  
(b) (6) Engel, Steven A. (OLC) (b) (6) Whitaker, Henry C.  
(OLC) (b) (6) Bissex, Rachel (OAG) (b) (6) Sofer, Gregg  
(OAG) (b) (6) Herlihy, Brianna (PAO) (b) (6)  
**Subject:** RE: WH Call Follow Up

Some edits to the insert if we are trying to plug into the existing remarks. But please confirm that I didn't make any mistakes to the facts. I think we will need to trim further, but the AG can do that. I might also use generalities instead of specifics, unless asked in Q&A but defer to Kerri/Will.

Best,  
Lauren

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**From:** Hornbuckle, Wyn (OPA) (b) (6)  
**Sent:** Sunday, March 22, 2020 3:37 PM  
**To:** Levi, William (OAG) (b) (6)  
**Cc:** Willard, Lauren (OAG) (b) (6) Kupec, Kerri (OPA) (b) (6)  
Grieco, Christopher (ODAG) (b) (6) Moran, John (OAG)  
(b) (6) Hughes, William C. (ODAG) (b) (6) Engel, Steven A.  
(OLC) (b) (6) Whitaker, Henry C. (OLC) (b) (6) Bissex,  
Rachel (OAG) (b) (6) Sofer, Gregg (OAG) (b) (6) Herlihy, Brianna  
(PAO) (b) (6)  
**Subject:** RE: WH Call Follow Up

Please send any additional comments by 4 pm

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**From:** Levi, William (OAG) (b) (6)  
**Sent:** Sunday, March 22, 2020 3:12 PM

duplicate

## Hornbuckle, Wyn (OPA)

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**From:** Hornbuckle, Wyn (OPA)  
**Sent:** Sunday, March 22, 2020 4:31 PM  
**To:** Sofer, Gregg (OAG); Willard, Lauren (OAG)  
**Cc:** Levi, William (OAG); Kupec, Kerri (OPA); Grieco, Christopher (ODAG); Moran, John (OAG); Hughes, William C. (ODAG); Engel, Steven A. (OLC); Whitaker, Henry C. (OLC); Bissex, Rachel (OAG); Herlihy, Brianna (PAO)  
**Subject:** RE: WH Call Follow Up  
**Attachments:** BOP COVID19 REMARKS TPS 3-23-2020 V7.docx; BOP COVID19 REMARKS TPS 3-23-2020 V7redline.docx

Here's a clean version 7 and a redline. We will run down facts on inmate #4.

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**From:** Sofer, Gregg (OAG) (b) (6)  
**Sent:** Sunday, March 22, 2020 4:18 PM  
**To:** Willard, Lauren (OAG) (b) (6)  
**Cc:** Hornbuckle, Wyn (OPA) (b) (6); Levi, William (OAG) (b) (6); Kupec, Kerri (OPA) (b) (6); Grieco, Christopher (ODAG) (b) (6); Moran, John (OAG) (b) (6); Hughes, William C. (ODAG) (b) (6); Engel, Steven A. (OLC) (b) (6); Whitaker, Henry C. (OLC) (b) (6); Bissex, Rachel (OAG) (b) (6); Herlihy, Brianna (PAO) (b) (6)  
**Subject:** Re: WH Call Follow Up

They are in the TPs - but will need to be updated, along with the remarks to reflect the total number of those infected right up to the time the AG speaks. This is a moving target.

Gregg

On Mar 22, 2020, at 4:13 PM, Willard, Lauren (OAG) (b) (6) wrote:

duplicate

**Levi, William (OAG)**

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**From:** Levi, William (OAG)  
**Sent:** Monday, March 23, 2020 9:50 AM  
**To:** Engel, Steven A. (OLC)  
**Cc:** Willard, Lauren (OAG); Sofer, Gregg (OAG)  
**Attachments:** HEALTH TF REMARKS (wrl) CURRENT.docx

Steve This still look ok to you? Thanks for all you have done on this.

William R. Levi  
Chief of Staff & Sr. Counselor to the Attorney General  
U.S. Department of Justice

(b) (6)

M (b) (6)

(b) (6)

**Willard, Lauren (OAG)**

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**From:** Willard, Lauren (OAG)  
**Sent:** Monday, March 23, 2020 10:16 AM  
**To:** Kupec, Kerri (OPA); Hornbuckle, Wyn (OPA); Woltornist, Alexei (PAO)  
**Cc:** Levi, William (OAG); Engel, Steven A. (OLC); Sofer, Gregg (OAG)  
**Subject:** FW:  
**Attachments:** HEALTH TF REMARKS\_DRAFT 3.23 10am.docx

Flipping latest draft of AG's remarks with new change below per Will's request. Could you loop in anyone else from OPA who need it?

Wasn't sure if Steve or Gregg had any final edits, so CC'ing them as well.

---

**From:** Levi, William (OAG) (b) (6)  
**Sent:** Monday, March 23, 2020 10:10 AM  
**To:** Willard, Lauren (OAG) (b) (6)  
**Subject:** RE:

Great thanks. would you flip the draft to the OPA folks who have been involved in this please

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**From:** Willard, Lauren (OAG) (b) (6)  
**Sent:** Monday, March 23, 2020 10:03 AM  
**To:** Levi, William (OAG) (b) (6)  
**Subject:** RE:

We could change "Today, the President is issuing a second Executive Oder providing..." to "Earlier today, the President issued [or signed] a second Executive Order..."

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**From:** Levi, William (OAG) (b) (6)  
**Sent:** Monday, March 23, 2020 9:50 AM

duplicate