



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)

SUBJECT: Background information for Senator Dick Durbin and Chicago Mayor Lori Lightfoot.

DATE: Thursday, July 22, 2021

On Thursday, July 22, you are scheduled to fly to Chicago with Senate Judiciary Chairman Dick Durbin. After arriving, you will meet with Chicago Mayor Lori Lightfoot at the 11th Police Precinct. You will have five minutes at the beginning of the 11th Precinct meeting to speak privately with Mayor Lightfoot. Senator Durbin is expected to accompany you at other events in Chicago on Thursday.

Non-Department Attendees (Flight to Chicago)

- Senator Dick Durbin (D-IL)

Attachments:

- **Attachment A: Senator Durbin Biography**
- **Attachment B: Mayor Lightfoot Biography**
- **Attachment C: AG Asks for Chairman Durbin**
- **Attachment D: Topics Senator Durbin May Raise**
- **Attachment E: Additional Background on OLC CARES Act Opinion**
- **Attachment F: Mayor Lightfoot Additional Information**

Attachment A

Senator Durbin Biography



Senator Dick Durbin, a Democrat from Springfield, is the 47th U.S. Senator from the State of Illinois, the state's senior senator, and the convener of Illinois' bipartisan congressional delegation.

Durbin also serves as the Senate Majority Whip, the second highest ranking position among the Senate Democrats. Senator Durbin has been elected to this leadership post by his Democratic colleagues every two years since 2005.

Durbin serves as Chair of the Senate Judiciary Committee and sits on the Appropriations and Agriculture Committees.

Elected to the U.S. Senate on November 5, 1996, and re-elected in 2002, 2008, 2014, and 2020, Durbin fills the seat left vacant by the retirement of his long-time friend and mentor, U.S. Senator Paul Simon.

Senator Durbin makes approximately 50 round trips a year between Washington and Illinois. He is married to Loretta Schaefer Durbin. Their family consists of three children-- Christine (deceased), Paul, and Jennifer--as well as six grandchildren. They reside in Springfield.

Attachment B

Lori Lightfoot Biography



Following her historic election in 2019, Chicago Mayor Lori E. Lightfoot has undertaken an ambitious agenda of expanding opportunity and inclusive economic growth across Chicago's neighborhoods, with accomplishments including landmark ethics and good governance reforms, worker protection legislation, and closing a record \$1.2 billion budget gap.

In response to the COVID-19 pandemic, Mayor Lightfoot has led coordinated, citywide efforts to effectively address its impact, including the Racial Equity Rapid Response Team, the COVID-19 Recovery Task Force, among other initiatives.

Previously, Mayor Lightfoot served as a senior equity partner in the Litigation and Conflict Resolution Group at Mayer Brown, President of the Chicago Police Board, Chair of the Police Accountability Task Force, Chief of Staff and General Counsel of the Chicago Office of Emergency Management and Communications, interim First Deputy of the Chicago Department of Procurement Services, Chief Administrator of the Office of Professional Standards, and an Assistant United States Attorney.

A native of Massillon, Ohio, Mayor Lightfoot has been a resident of Chicago since 1986 and lives on the Near Northwest Side with her wife Amy Eshleman and their daughter.

Attachment C

AG Asks for Chairman Durbin

Chairman Durbin can be most helpful with the Department's interests by helping to move our pending nominees. Below are the Department's top priorities in this area.

(b)(5)

Reference Note: Unrelated to subject of request

Attachment D: Topics Sen. Durbin May Raise

The main topic we expect Senator Durbin to raise is the OLC opinion on BOP's home confinement authorities under the CARES Act. A briefing memo on that issue only is Attachment E.

(b)(5)

Reference Note: Unrelated to subject of request

(b)(5)

Reference Note: Unrelated to subject of request

(b)(5)

Reference Note: Unrelated to subject of request

(b)(5)

Reference Note: Unrelated to subject of request

Attachment E

OLC CARES Act Opinion Issue

Background

- As you know, 18 U.S.C. §3624(c)(2) directs BOP to permit inmates with fewer than six months and 10% of their sentences left to serve to serve the remainder of their sentence on home confinement to the extent practicable. In light of the COVID-19 pandemic, the CARES Act permitted the BOP director to place federal prisoners in home confinement earlier than otherwise permitted. As of early July 2021, approximately 4,500 inmates were on home confinement under the CARES Act.
- On January 15, 2021, the Office of Legal Counsel issued an opinion finding that once the national emergency period ends and the CARES Act authority terminates, BOP must recall federal inmates to prison unless they qualify for home confinement under some other provision of law.
- On April 23, 2021, Senator Durbin and Senator Booker wrote to you urging you to rescind OLC's opinion, which they believe was wrongly decided.
- The Senators' letter argues that the CARES Act gives BOP the authority to lengthen the amount of time that a prisoner may serve in home confinement. According to the Senators, BOP exercised this authority in April 2020 after Attorney General Barr found that the pandemic was materially affected the functioning of BOP, and "the consequences of [BOP's decision] – prisoners serving time in home confinement – continues beyond" the pandemic emergency, and "recalling prisoners who are successfully transitioning to the community through home confinement is contrary to the requirements and purpose of" the CARES Act.

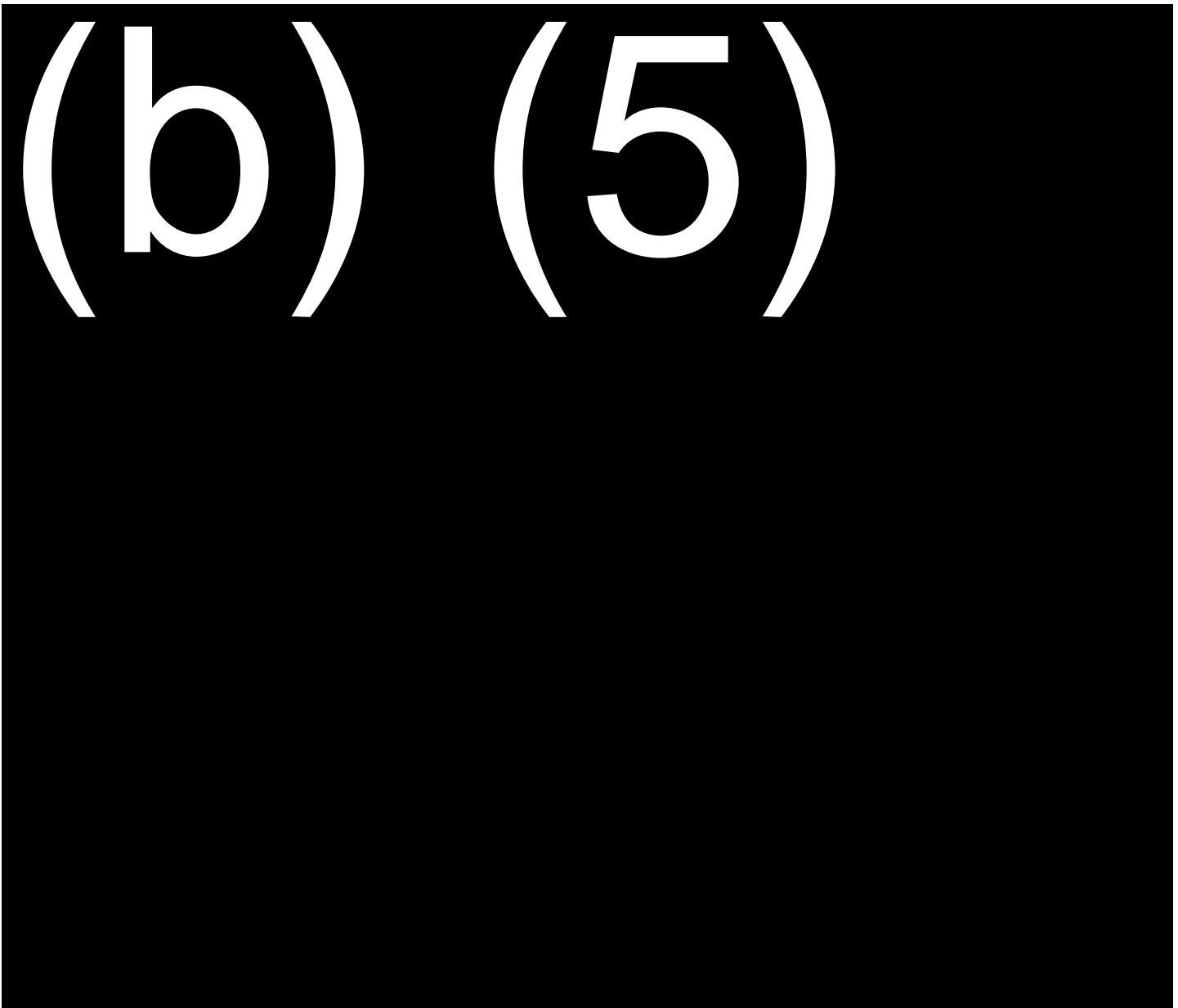
Recent reporting

- On Monday, July 19, 2021, the *New York Times* reported that the "Biden administration legal team has decided that thousands of federal convicts who were released to home confinement to reduce the risk of spreading Covid-19 will be required by law to return to prison a month after the official state of emergency for the pandemic ends." On Tuesday, OLA staff orally informed Sen. Durbin's staff that this report is not accurate and that a decision on the issue had not yet been made.
- Senators Durbin and Booker released the following statement on July 20:

"Individuals on CARES Act home confinement have posed no threat, and are already reintegrating into society, reconnecting with their families, and contributing to our economy," said Durbin. "I have repeatedly urged the Department of Justice to rescind a Trump-era legal opinion that would needlessly force thousands to return to prison. If this

opinion is not withdrawn, the Biden Administration must use other legal tools – like compassionate release and clemency – to ensure that no inmate who has successfully transitioned to home confinement is returned to prison. The Trump-era’s Office of Legal Counsel opinion that will require incarcerated individuals return to prison once the public health emergency ends serves no public health purpose and only works to unnecessarily incarcerate people who have succeeded in re-entering society,” said Booker. “I am deeply troubled that the Department of Justice has not rescinded this opinion as we previously requested and urge the Department to reconsider our request. If the Biden Department of Justice feels this is not possible, then other legal means must be considered to ensure that these individuals are not sent back to federal prison.”

Department Position



(b) (5)

Attachment F

Mayor Lightfoot Additional Information

(b)(5)

Reference Note: Unrelated to subject of request

Attachment F: Q&A

BOP Home Confinement

(b) (5)

(b) (5)

Reference Note: Unrelated to subject of request

(b) (5)

Reference Note: Unrelated to subject of request

ODAG UPDATE MEMORANDUM

FROM: Eric Nguyen
SUBJECT: Updates on Priority Workstreams
DATE: June 4, 2021

1. Status of Priority Initiatives

- Gun Violence
 - Status on four actions announced by the Attorney General on April 8, 2021 (and also see report from Robyn Thiemann):
 - We are finalizing the proposed rule on stabilizing braces (making clear that pistols equipped with certain stabilizing braces become short-barreled rifles subject to heightened regulations under the National Firearms Act). All relevant components have cleared, including FPB and Civil Appellate. We are working with OPA and OLA on rollout. This will be announced on June 7.
 - We are finalizing the model “extreme risk protection order” law and accompanying commentary that will also be published on June 7. We incorporated component feedback (all relevant components cleared) and held positive listening sessions with mental health, domestic violence, and gun safety organizations and with Hill staff.
 - ATF has begun work on an updated firearms trafficking report (a major long-term undertaking). ATF expects to complete an initial phase of the study for public release by April 2022.
 - The 90-day public comment period on its proposed rule on ghost guns will close on August 19. We will set up some early meeting with OIRA and ATF to make sure the comments can be processed efficiently and the final rule drafted on the right timeline.
 - Other steps:
 - We are working with ATF on a package of further actions that could be announced later this month and that are focused on (1) enhanced enforcement efforts against federally licensed firearms dealers that willfully or repeatedly violate the law, and (2) sharing more information about enforcement and crime guns with the public or with state/local partners. (b)(5); Reference Note: Unrelated to subject of request

(b)(5); Reference Note: Unrelated to subject of request

[REDACTED]. We have also been working with OAG, as the AG would likely announce these steps at a WH event later this month.

- ATF continues to finalize numerous pamphlets and guidance documents that cover issues like the penalties on dealers who sell guns after license revocation, the restrictions on activities at gun shows, best practices for retailers who sell guns, and steps for local police to follow after recovering firearms.
 - ATF also plans to finalize a long-pending proposed rule on gun safety devices later this year. Although a statute already requires dealers to offer these devices, the rule would require that the devices being offered actually match the firearms being sold.
- BOP Reforms
 - Status: Matt Axelrod, Apiyo Oloya, Kathleen Toomey, and I met with BOP leadership again this past week and identified lead (b)(5); Reference Note: Unrelated to subject of request
(b)(5); Reference Note: Unrelated to subject of request
[REDACTED]
[REDACTED]
[REDACTED]
 - (b)(5); Reference Note: Unrelated to subject of request
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

2. Interagency Engagements

- White House Covid Team: Next meeting on June 9. This is a regular, largely technical meeting about BOP's largely positive mitigation/vaccine efforts. The Covid Team is tracking these efforts across the federal government.
- Biweekly COVID-19 AOUSC Meeting with Judiciary, DOJ, BOP: Last met on May 17 (CRM is the Department's main representative). This is a standing meeting that has been an opportunity for DOJ/BOP to provide updates to the AO and a group of judges on COVID-related issues (e.g., status of grand juries or vaccine distribution).
- White House Meeting on Implementing Executive Order Promoting Access to Voting: Last met on June 2 (also with Myesha Braden and Adam Braverman). This is also a standing biweekly meeting. BOP and USMS are implementing changes based

on the EO (to get more information about voting rights to detainees). We are trying to encourage (b)(5); Reference Note: Unrelated to subject of request

[Redacted]

3. Other Recommendations, Action Items, or Requests (if any)

- (b)(5); Reference Note: Unrelated to subject of request
[Redacted]
- Tracking BOP’s transition away from private prison contracts (see Adam Braverman’s report for USMS-related steps). Note: BOP’s remaining seven contracts with private facilities are all scheduled to expire before November 2022.
- (b) (5) [Redacted] the OLC opinion concluding that BOP will have to recall some people on home confinement back to prison when the pandemic ends (with Matt Axelrod, Jeremy Maltby, Karl Thompson).

AODAG UPDATE MEMORANDUM

FROM: Eric Nguyen
SUBJECT: Updates on Priority Workstreams
DATE: June 11, 2021

1. Status of Priority Initiatives

- Gun Violence
 - Status on four actions announced by the Attorney General on April 8, 2021 (and also see report from Robyn Thiemann):
 - The NPRM on stabilizing braces was formally published in the Federal Register on June 10. The comment period will close on September 10.
 - The ERPO model law was published on the Department website on June 7. We participated in a background call with a reporter and in a White House IGA call with interested state legislators.
 - ATF has begun work on an updated firearms trafficking report (a major long-term undertaking). ATF expects to complete an initial phase of the study for public release by April 2022.
 - The comment period for the ghost guns NPRM closes on August 19. We are setting up a meeting with OIRA and ATF in July to make sure the comments can be processed efficiently and the final rule drafted on the right timeline.
 - Other steps:
 - We are working with ATF on a package of further actions that could be announced ahead of a WH event the week of June 21 that are focused on (1) enhanced enforcement efforts against federally licensed firearms dealers that willfully or repeatedly violate the law, and (2) coordinated law enforcement efforts to crack down on the sources of crime guns. We are working with OAG on the event.
 - S
- BOP Reforms / Updates
 - (b)(5); Reference Note: Unrelated to subject of request
[REDACTED]

(b)(5); Reference Note: Unrelated to subject of request

- Walk-aways. BOP is also addressing concerns raised by the IG about insufficient security measures at low-security camps where some inmates have walked away (e.g., non-functional cameras and alarms). We have asked for updates on this too.
- Vaccinations. BOP continues to use all of its allotted doses of the COVID vaccine, and it is doubling down on efforts to address vaccine hesitancy (consulting with CDC, conducting inmate surveys, exploring incentives for getting vaccinated, etc.). We are getting an update later today and will have a call with the WH COVID Team likely next week.
- Press coordination. OPA is also working with BOP to ensure it is appropriately informed about upcoming major news stories to try to help make sure the reporting is accurate and that both BOP and the Department are in a position to respond.
- Broader reforms. Matt Axelrod, Apiyo Oloya, Kathleen Toomey, and I met with BOP leadership again this past week. Next week, leads for each of the individual workstreams will identify specific tasks and timelines and begin executing on changes. These cover (b)(5); Reference Note: Unrelated to subject of request
- FSA rules. OLP has outlined a timeline for resolving open policy issues on the two pending proposed rules on awarding time credits under the First Step Act. It will be coordinating with affected components with the goal of having draft final rules completed over the next four weeks. We will set up a briefing for you on these rules and the key policy decisions before they are finalized within the Department.

2. Interagency Engagements

- White House Covid Team: Last meeting on June 9. This is a regular, largely technical meeting about BOP's largely positive mitigation/vaccine efforts. The Covid Team is tracking these efforts across the federal government. It has recently turned its focus to addressing vaccine hesitancy and building vaccine confidence.
- Biweekly COVID-19 AOUSC Meeting with Judiciary, DOJ, BOP: Last met on May 17 (CRM is the Department's main representative). This is a standing meeting that

has been an opportunity for DOJ/BOP to provide updates to the AO and a group of judges on COVID-related issues (e.g., status of grand juries or vaccine distribution).

- White House Meeting on Implementing Executive Order Promoting Access to Voting: Last met on June 2 (also with Myesha Braden and Adam Braverman). This is also a standing biweekly meeting. BOP and USMS are implementing changes based on the EO (to get more information about voting rights to detainees). We are trying to encourage (b)(5); Reference Note: Unrelated to subject of request

3. Other Recommendations, Action Items, or Requests (if any)

- (b)(5); Reference Note: Unrelated to subject of request
- Tracking BOP's transition away from private prison contracts (see Adam Braverman's report for USMS-related steps). Note: BOP's remaining seven contracts with private facilities are all scheduled to expire before November 2022.
- (b) (5) the OLC opinion concluding that BOP will have to recall some people on home confinement back to prison when the pandemic ends (with Matt Axelrod, Jeremy Maltby, Karl Thompson).

ODAG UPDATE MEMORANDUM

FROM: Eric Nguyen
SUBJECT: Updates on Priority Workstreams
DATE: June 17, 2021

1. Status of Priority Initiatives

- Gun Violence (and see report from Robyn Thiemann)
 - The AG will give remarks on violent crime at a White House event next Tuesday or Wednesday. We expect that he will announce a package of new steps on:
 - Enhanced enforcement efforts against federally licensed firearms dealers that willfully violate the law. For example, ATF is developing a list of willful violations for which, absent extraordinary circumstances, the agency will initiate proceedings to revoke a dealer's license (like failing to run a required background check or failing to allow ATF to conduct an inspection). ATF will also name dedicated points of contact for local officials with concerns about potentially problematic dealers and will share inspection information with state agencies with their own enforcement mechanisms.
 - Coordinated law enforcement efforts to crack down on the sources of crime guns. The AG will announce the formation of five firearms trafficking strike forces led by U.S. Attorneys in New York, Chicago, Los Angeles, the Bay Area, and Washington, D.C., to coordinate on disrupting firearms trafficking networks that facilitate violent crime in those areas. We are also exploring whether ATF can announce that it will invest \$30m over the next three years to modernize its firearms tracing system to facilitate nationwide sharing of crime gun information among law enforcement agencies.

We are working with OAG on the event and coordinating with OPA.

- Status on four actions announced by the Attorney General on April 8, 2021:
 - The NPRM on stabilizing braces was formally published in the Federal Register on June 10. The comment period will close on September 10.

- The ERPO model law was published on the Department website on June 7. We participated in a background call with a reporter and in a White House IGA call with interested state legislators.
- ATF has begun work on an updated firearms trafficking report (a major long-term undertaking). ATF expects to complete an initial phase of the study for public release by April 2022.
- The comment period for the ghost guns NPRM closes on August 19. We are setting up a meeting with OIRA and ATF in July to make sure the comments can be processed efficiently and the final rule drafted on the right timeline.
- Other steps: (b)(5); Reference Note: Unrelated to subject of request
[Redacted]
- BOP Reforms / Updates
 - (b)(5); Reference Note: Unrelated to subject of request
[Redacted]
 - Vaccinations. BOP continues to use all of its allotted doses of the COVID vaccine, and it is doubling down on efforts to address vaccine hesitancy. Next week it will be meeting with DOD to discuss incentives it has found successful in increasing vaccination rates. BOP's senior executives will also be discussing concrete proposals (b)(5); Reference Note: Unrelated to subject of request [Redacted]) early next week. It has also consulted with CDC on a survey that will go out to inmates next week (with a very fast turnaround) to get information on what kind of messaging would help drive up vaccination rates among the inmate population.
 - Broader reforms. Matt Axelrod, Apiyo Oloya, Kathleen Toomey, and I met with BOP leadership again this past week. The priority workstreams include the following (each with more discrete tasks and timelines):

(b)(5); Reference Note: Unrelated to subject of request
[Redacted]

(b)(5); Reference Note: Unrelated to subject of request



2. Interagency Engagements

- White House Covid Team: Last meeting on June 16. This is a regular, largely technical meeting about BOP's largely positive mitigation/vaccine efforts. The Covid Team is tracking these efforts across the federal government. It has recently turned its focus to addressing vaccine hesitancy and building vaccine confidence.
- Biweekly COVID-19 AOUSC Meeting with Judiciary, DOJ, BOP: Last met on May 17 (CRM is the Department's main representative). This is a standing meeting that has been an opportunity for DOJ/BOP to provide updates to the AO and a group of judges on COVID-related issues (e.g., status of grand juries or vaccine distribution).
- White House Meeting on Implementing Executive Order Promoting Access to Voting: Last met on June 14 (also with Myesha Braden and Adam Braverman). This is also a standing biweekly meeting. BOP and USMS are implementing changes based on the EO (to get more information about voting rights to detainees). We are trying to encourag (b)(5); Reference Note: Unrelated to subject of request

3. Other Recommendations, Action Items, or Requests (if any)

- (b)(5); Reference Note: Unrelated to subject of request [REDACTED]
- Tracking BOP's transition away from private prison contracts (see Adam Braverman's report for USMS-related steps). Note: BOP's remaining seven contracts with private facilities are all scheduled to expire before November 2022.
- (b) (5) [REDACTED] the OLC opinion concluding that BOP will have to recall some people on home confinement back to prison when the pandemic ends (with Matt Axelrod, Jeremy Maltby, Karl Thompson).

ODAG UPDATE MEMORANDUM

FROM: Eric Nguyen
SUBJECT: Updates on Priority Workstreams
DATE: June 23, 2021

1. Status of Priority Initiatives

- Gun Violence (and see report from Robyn Thiemann)
 - We will be working with EOUSA and ATF to stand up the five firearms trafficking task forces announced this week (and to make sure this work is connected with implementation of the broader violent-crime reduction strategy). The Violent Crime Reduction Steering Committee will meet again this week, following up on the initial meeting that you chaired last week.
 - Status on three in-process actions announced by the Attorney General on April 8, 2021 (the ERPO model law has already been published):
 - The comment period for the NPRM on stabilizing braces will close on September 10.
 - The comment period for the ghost guns NPRM closes on August 19. Looking ahead, we are connecting ATF and OIRA to make sure comments can be processed efficiently.
 - ATF has begun work on an updated firearms trafficking report (a major long-term undertaking). ATF expects to complete an initial phase of the study for public release by April 2022.

Other steps: (b)(5); Reference Note: Unrelated to subject of request

[REDACTED]

- BOP Reforms / Updates

- (b)(5); Reference Note: Unrelated to subject of request

[REDACTED]

(b)(5); Reference Note: Unrelated to subject of request

- Vaccinations. We continue to push BOP on creating incentives for vaccination (on top of its ongoing efforts with CDC and others to develop effective messaging). BOP leadership has been developing options and, as part of that process, asked for information about what's being done by other components. We plan to meet with BOP next week to discuss.
- Broader reforms. Matt Axelrod, Apiyo Oloya, Kathleen Toomey, and I met with BOP leadership again this past week. By the end of this week, the DOJ leads for every individual workstream will have met with their BOP counterparts and discussed the next step of identifying a detailed set of tasks and timelines by which to mark consistent progress.
- FSA implementation (with Kevin Chambers and Sara Solow).
 - IRC. We have begun meeting regularly with the Independent Review Committee (a body created by statute to review FSA implementation and to provide input to DOJ). It is developing some short- and long-term recommendations and planning some visits to evaluate implementation at particular BOP facilities. (b)(5); Reference Note: Unrelated to subject of request
 - the IRC will write a report on DOJ's efforts at the end of the year. We will also participate in stakeholder listening sessions scheduled for mid-July (b)(5); Reference Note: Unrelated to subject of request
 - (b)(5); Reference Note: Unrelated to subject of request
- Contraband issues. OIG hosted a meeting with the public corruption chiefs from SDNY, EDNY, and NDGA along with BOP and FBI to begin discussing the best way to address the potentially significant contraband/corruption issues that BOP has identified at particular facilities. I reached out to the USAOs to underscore the importance of the work and also participated in this initial coordination meeting to say the same.

2. Interagency Engagements

- White House Covid Team: Next meeting on July 7. No significant updates.
- Biweekly COVID-19 AOUSC Meeting with Judiciary, DOJ, BOP: Next meeting on June 28 (CRM is the Department's main representative). No significant updates.
- White House Meeting on Implementing Executive Order Promoting Access to Voting: Next meeting on June 28 (also with Myesha Braden and Adam Braverman). We continue to brainstorm way (b)(5); Reference Note: Unrelated to subject of request [REDACTED].

3. Other Recommendations, Action Items, or Requests (if any)

- (b)(5); Reference Note: Unrelated to subject of request [REDACTED].
- Tracking BOP's transition away from private prison contracts (see Adam Braverman's report for USMS-related steps). Note: BOP's remaining seven contracts with private facilities are all scheduled to expire before November 2022.
- (b) (5) [REDACTED] the OLC opinion concluding that BOP will have to recall some people on home confinement back to prison when the pandemic ends (with Matt Axelrod, Jeremy Maltby, Karl Thompson). The draft is with OAG.