

From: Freeman, Lindsey \ (OLP\
Subject: RE: Cover transmittal letter to Congress re AG Fix NICS report
To: Crytzer, Katherine \ (OLP\); Helmers, Jessica \ (OLP\
Cc: Pazur, Shannon \ (OLP\
Sent: November 13, 2019 5:51 PM (UTC-05:00)
Attached: Transmittal Letter for OLA.CSS Report.For Exec. SEc..docx, DAG Action Memo on CSS Report.For Exec. Sec..docx

Thanks, Katie. I don't think this ever went out, but this is the best I have from the CSS report.

From: Crytzer, Katherine (OLP) <(b) (6)>
Sent: Wednesday, November 13, 2019 4:16 PM
To: Helmers, Jessica (OLP) <(b) (6)>
Cc: Pazur, Shannon (OLP) <(b) (6)>; Freeman, Lindsey (OLP) <(b) (6)>
Subject: RE: Cover transmittal letter to Congress re AG Fix NICS report

Jessica,

This is not something that we did for the First Step Act report. For PSN, I was able to find the originating documents and several reports that went to POTUS but no report that went to Congress. I can't think of another OLP cognate that might be useful (but I am copying in Lindsey to see if anything comes to her mind). For now, I would ask OLA for samples.

Katie Crytzer
Acting Deputy Assistant Attorney General
Office of Legal Policy
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530
Office: (b) (6)
Cell: (b) (6)
(b) (6)

From: Helmers, Jessica (OLP) <(b) (6)>
Sent: Wednesday, November 13, 2019 3:49 PM
To: Crytzer, Katherine (OLP) <(b) (6)>
Cc: Pazur, Shannon (OLP) <(b) (6)>
Subject: Cover transmittal letter to Congress re AG Fix NICS report

Hi Katie,

We are publishing the AG's Fix NICS Act Report tomorrow and were told this afternoon by OLA that we will also need to send a hard copy of the report to Congress accompanied by a transmittal letter. We will also need a cover memo for the transmittal letter to get it through the Exec Sec clearance process.

Shannon and I have never seen examples of these transmittal letters or accompanying Exec Sec cover memos, but OLA said that OLP has done these in the past for other reports. If this was something that you or someone else did for the PSN report, do you mind sending me the drafts so we could use as a template?

I can ask OLA to send examples as well, but I wanted to check internally first before reaching out.

Thanks,

Jessica

Jessica Helmers

Counsel

Office of Legal Policy

U.S. Department of Justice

950 Pennsylvania Ave., NW

Washington, DC 20530

Office: (b) (6)

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Email: (b) (6)

From: Bacon, Antoinette T. \ (ODAG\
Subject: FW: ES #4227764 Response to Sen. Wyden
To: Raman, Sujit \ (ODAG\
Sent: January 6, 2020 7:14 PM (UTC-05:00)
Attached: Response to Wyden re Carpenter (NSD FINAL 02 DEC 2019).docx, ES #4227764 Incoming Letter - Ltr to DOJ Metadata post-Carpenter.pdf

From: Groves, Brendan M. (ODAG) <(b) (6)>
Sent: Monday, January 6, 2020 7:03 PM
To: Johnson, Joanne E. (OLA) <(b) (6)>; Sherwin, Michael R. (ODAG) <(b) (6)>; Levi, William (OAG) <(b) (6)>; Bacon, Antoinette T. (ODAG) <(b) (6)>
Cc: Rubens, William B. (OLA) <(b) (6)>; Riley, Patrick W. (ODAG) <(b) (6)>; Metcalf, David (ODAG) <(b) (6)>
Subject: RE: ES #4227764 Response to Sen. Wyden

Thanks, Joanne. I don't have any issues, but I'm adding Toni Bacon to clear for CRM and Will Levi for OAG.

I've also added David and Patrick for awareness.

From: Johnson, Joanne E. (OLA) <(b) (6)>
Sent: Monday, January 6, 2020 5:39 PM
To: Sherwin, Michael R. (ODAG) <(b) (6)>; Groves, Brendan M. (ODAG) <(b) (6)>
Cc: Rubens, William B. (OLA) <(b) (6)>
Subject: ES #4227764 Response to Sen. Wyden

Please see attached for your review. NSD and CRM have cleared. I am pinch-hitting for Will while he is out. I do not believe this has been forwarded to ODAG for review. Thank you, Joanne

United States Senate

WASHINGTON, DC 20510

March 21, 2019

The Honorable William Barr
Attorney General
Department of Justice
950 Pennsylvania Avenue Northwest
Washington, D.C. 20530

Dear Attorney General Barr:

We are writing to determine how the government's treatment of metadata in national security cases has changed in light of the Supreme Court's decision in *Carpenter v. United States*.

The Fourth Amendment's prohibition against unreasonable searches and seizures is often implicated during the course of the government's duty to ensure the country's national security. Courts have long wrestled with applying the Fourth Amendment in light of innovations in surveillance tools and our ever-increasing reliance on digital technologies that store and track detailed information about all aspects of a person's life.

In its decision in *Carpenter* last year, the Supreme Court addressed the application of the Fourth Amendment to cell-site location information (CSLI)—the location records created and stored by wireless providers as a result of a user's cell phone interacting with cell towers. In *Carpenter*, the Court recognized that because CSLI “provides an intimate window into a person's life, revealing not only his particular movements, but through them his ‘familial, political, professional, religious, and sexual associations,’” the collection of these records of Americans' movements is a search under the Fourth Amendment, and thus is subject to constitutional scrutiny.

During your confirmation hearing, and later in written questions for the record, Senator Leahy asked you about your views on the *Carpenter* decision. You stated that it represented a narrow carve out to the longstanding third-party doctrine for cell-site location information, but did not speculate as to whether the broad collection of metadata might require a search warrant. Now that you have been confirmed as Attorney General, it is important to understand not only your views, but also how the Justice Department's policies have changed in response to the outcome of the case.

Last year, Glenn Gerstell, General Counsel for the NSA similarly echoed the Court's finding that such information, when aggregated may “provide a composite picture of that person that is qualitatively deeper and more insightful than any individual piece of information.” In light of the *Carpenter* decision and the recognition of Americans' legitimate interest in privacy around CSLI, the American public deserves to know how the intelligence community treats these records and other sensitive metadata in national security cases. We therefore request that you provide us with responses to the following questions by March 30, 2019:

1. Intelligence community officials have previously stated publicly that the government does not collect CSLI as part of the call detail record program conducted under Section 215. Are there any other legal authorities under which the intelligence community collects CSLI or other data revealing the location of Americans or their phones? If yes, please describe which type of court order or other legal process the intelligence community uses to obtain the following types of location data:
 - a. Historical CSLI for targets in the United States.
 - b. Real-time or prospective CSLI for targets in the United States.
 - c. Real-time or prospective GPS “pings” for targets in the United States.

- d. Real-time location data collected with a cell-site simulator or "Stingray."
 - e. Cell tower dumps, revealing every subscriber in the vicinity of one or more cell sites for a given period of time, for targets in the United States.
 - f. CSLI or other location data associated with U.S. persons located outside the United States.
2. Intelligence community leaders previously stated publicly that NSA has not collected bulk location data using Section 215. Has the intelligence community engaged in the bulk, domestic collection of CSLI or other data revealing the location of Americans or their phones, using any other legal authority? If yes, please describe the type of court order or other legal process that authorized such bulk collection.
 3. Has the Department of Justice (DOJ) promulgated guidance regarding how the Carpenter decision should be interpreted? If so, please provide us with any relevant memorandums or guidance, including any relevant changes made to the Federal Bureau of Investigation's Domestic Investigations and Operations Guide.
 4. Has the intelligence community altered any aspect of its collection of call detail records (which do not include CSLI) under Section 215, in light of the Supreme Court's recognition in Carpenter that certain records held by third party companies deserve 4th amendment protection? If so, please provide a description with how such collection was altered.
 5. Has the intelligence community altered any other collection programs or its use of any type of data, including collection pursuant to the Patriot Act, FISA, or under Executive Order 12333, in light of the Carpenter decision? If so, please provide a description with how such collection or use was altered.
 6. Has DOJ determined whether or not Carpenter should be applied only in criminal investigations as opposed to in national security or foreign surveillance cases? If so, what is the basis for that conclusion? Please provide all relevant memoranda, legal analysis, or guidance related to how the DOJ reached this interpretation.
 7. Has DOJ interpreted Carpenter to mean that it is not a Fourth Amendment search for the government to obtain large quantities of call detail records (rather than CSLI)?

We appreciate your attention to this important matter.

Sincerely,


Ron Wyden
United States Senator


Rand Paul
United States Senator


Patrick Leahy
United States Senator


Steve Daines
United States Senator

From: Goldsmith, Andrew \ (ODAG)\
Subject: FW: Stingray Brady/Giglio Guidance
To: Downing, Richard \ (CRM); Hodge, Jennifer \ (CRM)
Sent: June 24, 2020 2:48 PM (UTC-04:00)
Attached: B&G Cell-site Simulator Memo.pdf

As discussed.

From: Goldsmith, Andrew (ODAG)
Sent: Wednesday, November 25, 2015 2:24 PM
To: Gillogly, Dan (USAILN) <(b)(6), (7)(C) per EOUSA>; Malis, Jonathan M. (USADC) <(b)(6), (7)(C) per EOUSA>; McEnany, John (USANYS) <(b)(6), (7)(C) per EOUSA>; Walz, Stewart (USAUT) <(b)(6), (7)(C) per EOUSA>; Young, Cynthia (USAMA) <(b)(6), (7)(C) per EOUSA>; Hartunian, Richard (USANYN) <(b)(6), (7)(C) per EOUSA>; Cardona, George S. (USACAC) <(b)(6), (7)(C) per EOUSA>; Weinsheimer, Bradley (OPR) <(b)(6)>; Sale, Barbara (USAMD) <(b)(6), (7)(C) per EOUSA>; Levy, Michael L. (USAPAE) <(b)(6), (7)(C) per EOUSA>; Eicher, Thomas (USANJ) <(b)(6), (7)(C) per EOUSA>; Fietkiewicz, John (USANJ) <(b)(6), (7)(C) per EOUSA>; Childs, Heather G. (ODAG) <(b)(6)>; John Walsh (USACO) <(b)(6), (7)(C) per EOUSA>; Wilkinson, Monty (USAE0) <(b)(6), (7)(C) per EOUSA>; Bentley, Lee (USAFILM) <(b)(6), (7)(C) per EOUSA>; Haried, John (USAE0) <(b)(6), (7)(C) per EOUSA>; Farmer, James (USAMA) <(b)(6), (7)(C) per EOUSA>; Dugdale, Robert (USACAC) <(b)(6), (7)(C) per EOUSA>; Meacham, Chad (USATXN) <(b)(6), (7)(C) per EOUSA>; Alexander, Charysse (USAGAN) <(b)(6), (7)(C) per EOUSA>; Ramsaur, Jimmie Lynn (USATNM) <(b)(6), (7)(C) per EOUSA>; Zusman, Kelly (USAOR) <(b)(6), (7)(C) per EOUSA>; Smith, David L. (USAE0) <(b)(6), (7)(C) per EOUSA>; Wroblewski, Jonathan <(b)(6)>; Ludwig, Stacy (PRAO) <(b)(6)>; <(b)(6) per NSD (NSD) <(b)(6)>; Vance, Joyce (USAAIN) <(b)(6), (7)(C) per EOUSA>; Klinefeldt, Nick (USAIAS) <(b)(6), (7)(C) per EOUSA>; Bruck, Andrew J. (ODAG) <(b)(6)>; Stemler, Patty <(b)(6)>; Dreeben, Michael R (OSG) <(b)(6)>
Cc: Walsh, John (USACO) <(b)(6), (7)(C) per EOUSA>; Jain, Samir (ODAG) <(b)(6)>; Tyrangiel, Elana (OLP) <(b)(6)>; Fried, Hannah (OLP) <(b)(6)>; OBrien, Paul <(b)(6)>; Pazur, Shannon (OLP) <(b)(6)>
Subject: RE: Stingray Brady/Giglio Guidance

Attached is the final version of the guidance memorandum that was distributed a few minutes ago. Many thanks to those of you who provided input.

Hope everyone has a safe and enjoyable Thanksgiving! – Andrew

From: Goldsmith, Andrew (ODAG)
Sent: Wednesday, September 16, 2015 6:46 PM
To: Gillogly, Dan (USAILN); Malis, Jonathan M. (USADC); McEnany, John (USANYS); Walz, Stewart (USAUT); Young, Cynthia (USAMA); Hartunian, Richard (USANYN); Cardona, George S. (USACAC); Weinsheimer, Bradley (OPR); Sale, Barbara (USAMD); Levy, Michael L. (USAPAE); Eicher, Thomas (USANJ); Fietkiewicz, John (USANJ); Childs, Heather G. (ODAG); John Walsh (USACO); Wilkinson, Monty (USAE0); Bentley, Lee (USAFILM); Haried, John (USAE0); Farmer, James (USAMA); Dugdale, Robert (USACAC); Meacham, Chad (USATXN); Alexander, Charysse (USAGAN); Ramsaur, Jimmie Lynn (USATNM); Zusman, Kelly (USAOR); Smith, David L. (USAE0); Wroblewski, Jonathan; Ludwig, Stacy (PRAO); <(b)(6) per NSD (NSD); Vance, Joyce (USAAIN); Klinefeldt, Nick (USAIAS); Bruck, Andrew J. (ODAG); Stemler, Patty; Dreeben, Michael R (OSG)
Cc: Walsh, John (USACO); Jain, Samir (ODAG); Tyrangiel, Elana (OLP); Fried, Hannah (OLP); OBrien, Paul
Subject: Stingray Brady/Giglio Guidance

Most of you are familiar with the DOJ Guidance recently issued concerning cell-site simulator technology, also known as “Stingray.” It is attached.
A small working group has developed a short guidance document relating to potential *Brady* and *Giglio* obligations for these devices, a draft of which is also attached. I know this is a short

turnaround, but if people can take a quick look at this and share your thoughts with John Walsh, Paul O'Brien, Elana Tyrangiel, Hannah Fried, Samir Jain (all on the cc line), and me by **COB tomorrow** that would be greatly appreciated. This guidance document, which will be distributed to Department attorneys (and possibly agents) and is not intended to be made available to the public.

Department of Justice Policy Guidance: Use of Cell-Site Simulator Technology

Cell-site simulator technology provides valuable assistance in support of important public safety objectives. Whether deployed as part of a fugitive apprehension effort, a complex narcotics investigation, or to locate or rescue a kidnapped child, cell-site simulators fulfill critical operational needs.

As with any law enforcement capability, the Department must use cell-site simulators in a manner that is consistent with the requirements and protections of the Constitution, including the Fourth Amendment, and applicable statutory authorities, including the Pen Register Statute. Moreover, any information resulting from the use of cell-site simulators must be handled in a way that is consistent with the array of applicable statutes, regulations, and policies that guide law enforcement in how it may and may not collect, retain, and disclose data.

As technology evolves, the Department must continue to assess its tools to ensure that practice and applicable policies reflect the Department's law enforcement and national security missions, as well as the Department's commitments to accord appropriate respect for individuals' privacy and civil liberties. This policy provides additional guidance and establishes common principles for the use of cell-site simulators across the Department.¹ The Department's individual law enforcement components may issue additional specific guidance consistent with this policy.

BACKGROUND

Cell-site simulators, on occasion, have been the subject of misperception and confusion. To avoid any confusion here, this section provides information about the use of the equipment and defines the capabilities that are the subject of this policy.

Basic Uses

Law enforcement agents can use cell-site simulators to help locate cellular devices whose unique identifiers are already known to law enforcement, or to determine the unique identifiers of an unknown device by collecting limited signaling information from devices in the simulator user's vicinity. This technology is one tool among many traditional law enforcement techniques, and is deployed only in the fraction of cases in which the capability is best suited to achieve specific public safety objectives.

¹ This policy applies to the use of cell-site simulator technology inside the United States in furtherance of criminal investigations. When acting pursuant to the Foreign Intelligence Surveillance Act, Department of Justice components will make a probable-cause based showing and appropriate disclosures to the court in a manner that is consistent with the guidance set forth in this policy.

How They Function

Cell-site simulators, as governed by this policy, function by transmitting as a cell tower. In response to the signals emitted by the simulator, cellular devices in the proximity of the device identify the simulator as the most attractive cell tower in the area and thus transmit signals to the simulator that identify the device in the same way that they would with a networked tower.

A cell-site simulator receives and uses an industry standard unique identifying number assigned by a device manufacturer or cellular network provider. When used to locate a known cellular device, a cell-site simulator initially receives the unique identifying number from multiple devices in the vicinity of the simulator. Once the cell-site simulator identifies the specific cellular device for which it is looking, it will obtain the signaling information relating only to that particular phone. When used to identify an unknown device, the cell-site simulator obtains signaling information from non-target devices in the target's vicinity for the limited purpose of distinguishing the target device.

What They Do and Do Not Obtain

By transmitting as a cell tower, cell-site simulators acquire the identifying information from cellular devices. This identifying information is limited, however. Cell-site simulators provide only the relative signal strength and general direction of a subject cellular telephone; they do not function as a GPS locator, as they do not obtain or download any location information from the device or its applications. Moreover, cell-site simulators used by the Department must be configured as pen registers, and may not be used to collect the contents of any communication, in accordance with 18 U.S.C. § 3127(3). This includes any data contained on the phone itself: the simulator does not remotely capture emails, texts, contact lists, images or any other data from the phone. In addition, Department cell-site simulators do not provide subscriber account information (for example, an account holder's name, address, or telephone number).

MANAGEMENT CONTROLS AND ACCOUNTABILITY²

Cell-site simulators require training and practice to operate correctly. To that end, the following management controls and approval processes will help ensure that only knowledgeable and accountable personnel will use the technology.

1. Department personnel must be trained and supervised appropriately. Cell-site simulators may be operated only by trained personnel who have been authorized by their agency to use the technology and whose training has been administered by a qualified agency component or expert.

² This policy guidance is intended only to improve the internal management of the Department of Justice. It is not intended to and does not create any right, benefit, trust, or responsibility, whether substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities, entities, officers, employees, or agents, or any person, nor does it create any right of review in an administrative, judicial, or any other proceeding.

2. Within 30 days, agencies shall designate an executive-level point of contact at each division or district office responsible for the implementation of this policy, and for promoting compliance with its provisions, within his or her jurisdiction.
3. Prior to deployment of the technology, use of a cell-site simulator by the agency must be approved by an appropriate individual who has attained the grade of a first-level supervisor. Any emergency use of a cell-site simulator must be approved by an appropriate second-level supervisor. Any use of a cell-site simulator on an aircraft must be approved either by the executive-level point of contact for the jurisdiction, as described in paragraph 2 of this section, or by a branch or unit chief at the agency's headquarters.

Each agency shall identify training protocols. These protocols must include training on privacy and civil liberties developed in consultation with the Department's Chief Privacy and Civil Liberties Officer.

LEGAL PROCESS AND COURT ORDERS

The use of cell-site simulators is permitted only as authorized by law and policy. While the Department has, in the past, appropriately obtained authorization to use a cell-site simulator by seeking an order pursuant to the Pen Register Statute, as a matter of policy, law enforcement agencies must now obtain a search warrant supported by probable cause and issued pursuant to Rule 41 of the Federal Rules of Criminal Procedure (or the applicable state equivalent), except as provided below.

As a practical matter, because prosecutors will need to seek authority pursuant to Rule 41 and the Pen Register Statute, prosecutors should, depending on the rules in their jurisdiction, either (1) obtain a warrant that contains all information required to be included in a pen register order pursuant to 18 U.S.C. § 3123 (or the state equivalent), or (2) seek a warrant and a pen register order concurrently. The search warrant affidavit also must reflect the information noted in the immediately following section of this policy ("Applications for Use of Cell-Site Simulators").

There are two circumstances in which this policy does not require a warrant prior to the use of a cell-site simulator.

1. Exigent Circumstances under the Fourth Amendment

Exigent circumstances can vitiate a Fourth Amendment warrant requirement, but cell-site simulators still require court approval in order to be lawfully deployed. An exigency that excuses the need to obtain a warrant may arise when the needs of law enforcement are so compelling that they render a warrantless search objectively reasonable. When an officer has the requisite probable cause, a variety of types of exigent circumstances may justify dispensing with a warrant. These include the need to protect human life or avert serious injury; the prevention of the imminent destruction of evidence; the hot pursuit of a fleeing felon; or the prevention of escape by a suspect or convicted fugitive from justice.

In this circumstance, the use of a cell-site simulator still must comply with the Pen Register Statute, 18 U.S.C. § 3121, *et seq.*, which ordinarily requires judicial authorization before use of the cell-site simulator, based on the government's certification that the information sought is relevant to an ongoing criminal investigation. In addition, in the subset of exigent situations where circumstances necessitate emergency pen register authority pursuant to 18 U.S.C. § 3125 (or the state equivalent), the emergency must be among those listed in Section 3125: immediate danger of death or serious bodily injury to any person; conspiratorial activities characteristic of organized crime; an immediate threat to a national security interest; or an ongoing attack on a protected computer (as defined in 18 U.S.C. § 1030) that constitutes a crime punishable by a term of imprisonment greater than one year. In addition, the operator must obtain the requisite internal approval to use a pen register before using a cell-site simulator. In order to comply with the terms of this policy and with 18 U.S.C. § 3125,³ the operator must contact the duty AUSA in the local U.S. Attorney's Office, who will then call the DOJ Command Center to reach a supervisory attorney in the Electronic Surveillance Unit (ESU) of the Office of Enforcement Operations.⁴ Assuming the parameters of the statute are met, the ESU attorney will contact a DAAG in the Criminal Division⁵ and provide a short briefing. If the DAAG approves, the ESU attorney will relay the verbal authorization to the AUSA, who must also apply for a court order within 48 hours as required by 18 U.S.C. § 3125. Under the provisions of the Pen Register Statute, use under emergency pen-trap authority must end when the information sought is obtained, an application for an order is denied, or 48 hours has passed, whichever comes first.

2. Exceptional Circumstances Where the Law Does Not Require a Warrant

There may also be other circumstances in which, although exigent circumstances do not exist, the law does not require a search warrant and circumstances make obtaining a search warrant impracticable. In such cases, which we expect to be very limited, agents must first obtain approval from executive-level personnel at the agency's headquarters and the relevant U.S. Attorney, and then from a Criminal Division DAAG. The Criminal Division shall keep track of the number of times the use of a cell-site simulator is approved under this subsection, as well as the circumstances underlying each such use.

In this circumstance, the use of a cell-site simulator still must comply with the Pen Register Statute, 18 U.S.C. § 3121, *et seq.*, which ordinarily requires judicial authorization before use of the cell-site simulator, based on the government's certification that the information sought is relevant to an ongoing criminal investigation. In addition,

³ Knowing use of a pen register under emergency authorization without applying for a court order within 48 hours is a criminal violation of the Pen Register Statute, pursuant to 18 U.S.C. § 3125(c).

⁴ In non-federal cases, the operator must contact the prosecutor and any other applicable points of contact for the state or local jurisdiction.

⁵ In requests for emergency pen authority, and for relief under the exceptional circumstances provision, the Criminal Division DAAG will consult as appropriate with a National Security Division DAAG on matters within the National Security Division's purview.

if circumstances necessitate emergency pen register authority, compliance with the provisions outlined in 18 U.S.C. § 3125 is required (see provisions in section 1 directly above).

APPLICATIONS FOR USE OF CELL-SITE SIMULATORS

When making any application to a court, the Department's lawyers and law enforcement officers must, as always, disclose appropriately and accurately the underlying purpose and activities for which an order or authorization is sought. Law enforcement agents must consult with prosecutors⁶ in advance of using a cell-site simulator, and applications for the use of a cell-site simulator must include sufficient information to ensure that the courts are aware that the technology may be used.⁷

1. Regardless of the legal authority relied upon, at the time of making an application for use of a cell-site simulator, the application or supporting affidavit should describe in general terms the technique to be employed. The description should indicate that investigators plan to send signals to the cellular phone that will cause it, and non-target phones on the same provider network in close physical proximity, to emit unique identifiers, which will be obtained by the technology, and that investigators will use the information collected to determine information pertaining to the physical location of the target cellular device or to determine the currently unknown identifiers of the target device. If investigators will use the equipment to determine unique identifiers at multiple locations and/or multiple times at the same location, the application should indicate this also.
2. An application or supporting affidavit should inform the court that the target cellular device (e.g., cell phone) and other cellular devices in the area might experience a temporary disruption of service from the service provider. The application may also note, if accurate, that any potential service disruption to non-target devices would be temporary and all operations will be conducted to ensure the minimal amount of interference to non-target devices.
3. An application for the use of a cell-site simulator should inform the court about how law enforcement intends to address deletion of data not associated with the target phone. The application should also indicate that law enforcement will make no affirmative investigative use of any non-target data absent further order of the court, except to identify and distinguish the target device from other devices.

⁶ While this provision typically will implicate notification to Assistant United States Attorneys, it also extends to state and local prosecutors, where such personnel are engaged in operations involving cell-site simulators.

⁷ Courts in certain jurisdictions may require additional technical information regarding the cell-site simulator's operation (e.g., tradeecraft, capabilities, limitations or specifications). Sample applications containing such technical information are available from the Computer Crime and Intellectual Property Section (CCIPS) of the Criminal Division. To ensure courts receive appropriate and accurate information regarding the technical information described above, prior to filing an application that deviates from the sample filings, agents or prosecutors must contact CCIPS, which will coordinate with appropriate Department components.

DATA COLLECTION AND DISPOSAL

The Department is committed to ensuring that law enforcement practices concerning the collection or retention⁸ of data are lawful, and appropriately respect the important privacy interests of individuals. As part of this commitment, the Department's law enforcement agencies operate in accordance with rules, policies, and laws that control the collection, retention, dissemination, and disposition of records that contain personal identifying information. As with data collected in the course of any investigation, these authorities apply to information collected through the use of a cell-site simulator. Consistent with applicable existing laws and requirements, including any duty to preserve exculpatory evidence,⁹ the Department's use of cell-site simulators shall include the following practices:

1. When the equipment is used to locate a known cellular device, all data must be deleted as soon as that device is located, and no less than once daily.
2. When the equipment is used to identify an unknown cellular device, all data must be deleted as soon as the target cellular device is identified, and in any event no less than once every 30 days.
3. Prior to deploying equipment for another mission, the operator must verify that the equipment has been cleared of any previous operational data.

Agencies shall implement an auditing program to ensure that the data is deleted in the manner described above.

STATE AND LOCAL PARTNERS

The Department often works closely with its State and Local law enforcement partners and provides technological assistance under a variety of circumstances. This policy applies to all instances in which Department components use cell-site simulators in support of other Federal agencies and/or State and Local law enforcement agencies.

TRAINING AND COORDINATION, AND ONGOING MANAGEMENT

Accountability is an essential element in maintaining the integrity of our Federal law enforcement agencies. Each law enforcement agency shall provide this policy, and training as appropriate, to all relevant employees. Periodic review of this policy and training shall be the

⁸ In the context of this policy, the terms "collection" and "retention" are used to address only the unique technical process of identifying dialing, routing, addressing, or signaling information, as described by 18 U.S.C. § 3127(3), emitted by cellular devices. "Collection" means the process by which unique identifier signals are obtained; "retention" refers to the period during which the dialing, routing, addressing, or signaling information is utilized to locate or identify a target device, continuing until the point at which such information is deleted.

⁹ It is not likely, given the limited type of data cell-site simulators collect (as discussed above), that exculpatory evidence would be obtained by a cell-site simulator in the course of criminal law enforcement investigations. As in other circumstances, however, to the extent investigators know or have reason to believe that information is exculpatory or impeaching they have a duty to memorialize that information.

responsibility of each agency with respect to the way the equipment is being used (*e.g.*, significant advances in technological capabilities, the kind of data collected, or the manner in which it is collected). We expect that agents will familiarize themselves with this policy and comply with all agency orders concerning the use of this technology.

Each division or district office shall report to its agency headquarters annual records reflecting the total number of times a cell-site simulator is deployed in the jurisdiction; the number of deployments at the request of other agencies, including State or Local law enforcement; and the number of times the technology is deployed in emergency circumstances.

Similarly, it is vital that all appropriate Department attorneys familiarize themselves with the contents of this policy, so that their court filings and disclosures are appropriate and consistent. Model materials will be provided to all United States Attorneys' Offices and litigating components, each of which shall conduct training for their attorneys.

* * *

Cell-site simulator technology significantly enhances the Department's efforts to achieve its public safety and law enforcement objectives. As with other capabilities, the Department must always use the technology in a manner that is consistent with the Constitution and all other legal authorities. This policy provides additional common principles designed to ensure that the Department continues to deploy cell-site simulators in an effective, appropriate, and consistent way.

**House Judiciary Committee Holds Hearing on Justice Department Oversight
July 28, 2020**

WITNESSES:

- ATTORNEY GENERAL WILLIAM P. BARR

NADLER:

The House Committee on the Judiciary will come to order. Without objection, the chair is authorized to declare recesses of the committee at any time. We welcome--we welcome everyone to this morning's hearing on oversight of the Department of Justice.

I apologize for beginning the hearing late, as many of you know I was in a minor car accident on the way in this morning. Everyone is fine except perhaps the car, but it did cause a significant delay. I thank the attorney general and the members for their patience and their flexibility, and we will now begin. But before we begin, I want to acknowledge--I want to note that we are joined this morning by the distinguished majority leader the gentleman from Maryland, Mr. Hoyer.

Leader Hoyer has long recognized the need for vigorous congressional oversight of the executive branch under both parties, and we appreciate his presence today as we question the attorney general.

Before we begin, I would like to remind members that we've established an email address and distribution list dedicated to circulating exhibits, motions, or other written materials that members might want to offer as part of our hearing today. If you would like to submit materials, please send them to the email address that has been previously distributed to your offices, and we will circulate the materials to members and staff as quickly as we can.

I would also remind all members that guidance from the office of attending physician states that face coverings are required for all meetings in an enclosed space such as this committee hearing. I expect all members on both sides of the aisle to wear a mask except when you are speaking. I will now recognize myself for an opening statement.

Thank you for being here, Mr. Barr. According to the Congressional Research Service, this is the first time you have appeared before the House Judiciary Committee both during your first tenure as attorney general 30 years ago and during your current service in the Trump administration. Welcome.

One-hundred and fifty years ago last month, in the aftermath of the Civil War, Congress created the Department of Justice. We did so with two missions in mind. First, we wanted to replace a system of parties spoils with a core of professional government attorneys.

Yes, these attorneys would be supervised by the attorney general, and yes the attorney general would remain a political appointee, but at its heart the department would rely on a foundation of professionals dedicated to the impartial administration of the law and an unbiased system of justice.

Second, Congress established the Department of Justice to enforce the nation's first civil rights laws after the Civil War. From that moment on, it became the department's responsibility to ensure the right to vote and to stem the tide of systemic racism.

Now not every Attorney General in the intervening 150 years has given full expression to these two goals. I am certain that every administration has fallen short of those promises in some way over time, but today under your leadership, sir, these two objectives are more at risk than at any time in modern history.

Your tenure has been marked by a persistent war against the department's professional core in an apparent attempt to secure favors for the president. Others have lost sight of the importance of civil rights laws, but now we see the full force of the federal government brought to bear against citizens demonstrating for the advancement of their own civil rights. There is no precedent for the Department of Justice to actively seek out conflict with American citizens under such flimsy pretext or for such petty purposes. 150 years later, we are again at a pivotal moment in our nation's history Mr. Barr.

We are confronted with a global pandemic that has killed 150,000 Americans and infected more than 16 million worldwide. We are coming to grips with the civil rights struggle long swept under the rug if not outright ignored by our government. We are as a nation witnessing the federal government turn violently on its own people, and although the responsibility for the government's failure to protect the health, safety, and constitutional rights of the American people belong squarely to President Trump, he could not have done this alone. He needed help, and after he finished utterly humiliating his first attorney general, he found you.

In your time at the department, you have aided and abetted the worst failings of the president. Let us recount just some of the decisions that has left--that have us deeply concerned about the Department of Justice.

First, under your leadership, the department has endangered Americans and violated their constitutional rights by flooding federal law enforcement into the streets of American cities against the wishes of the state and local leaders of those cities to forcefully and unconstitutionally suppress dissent.

Second, at your direction, department officials have downplayed the effects of systemic racism and abandoned the victims of police brutality, refused to hold abusive police departments accountable for their actions and expressed open hostility to the Black Lives Matter movement.

Third, in connection with the White--in coordination with the White House, the department has spread disinformation about voter fraud, failed to enforce voting rights laws, and attempted to change the census roles to flaunt the plain text of the Constitution and even defied court orders on the subject all in the apparent attempt to assist the president's reelection.

Fourth, at the president's request, the department has amplified the president's conspiracy theories and shielded him from responsibility by blatantly misrepresenting the Mueller report and failing to hold foreign actors accountable for their attacks on our elections undermining both national security and the department's professional staff in the process.

Fifth, again and again, you personally have interfered with ongoing criminal investigations to protect the president and his allies from the consequences of their actions. When career investigators and prosecutors resisted these brazen unprecedented actions, you replace them with less qualified staff who appear to be singularly beholden to you.

The message these actions send is clear in this Justice Department the president's enemies will be punished, and his friends will be protected no matter the cost, no matter the cost of liberty, no matter the cost of justice.

Finally and perhaps most perniciously, the department has placed the president's political needs over the public health by challenging stay-at-home orders in the states hit hardest by the pandemic. The department's persistent efforts to gut the Affordable Care Act will make recovery that much harder.

These actions come at a price. Real damage to our democratic norms, the erosion of the separation of powers and a loss of faith in the equal administration of justice. In the hands of President Trump, a Department of Justice that adopts a dangerously expansive view of executive power and demonstrates a willingness to shield him from accountability represents a direct threat to the liberty and safety of the country, and we were warned.

At your confirmation hearing, Professor (INAUDIBLE) testified and I quote public confidence in the rule of law depends on there being an Attorney General who will not allow the President to do whatever he wants with the Justice Department. William Barr's views of presidential power are so radically mistaken that he is simply the wrong man at the wrong time to be Attorney General of the United States closed quote. Again this failure of leadership comes at great cost.

This administration has twisted the Department of Justice into a shadow of its former self capable of serving most Americans only after it has first served those in power. This committee has responsibility to protect Americans from that kind of corruption. Mr. Barr. We have responsibility to ensure that the Justice Department and its Attorney General administer justice equally and fairly. And this is what has brought us to this hearing room today.

We want to give you a chance to respond to our questions to these and other matters, and we hope and expect that you will do so in a clear and forthright manner. Our members expect sincere answers today and our country deserves no less.

I now recognize the Ranking Member of the Judiciary Committee, the gentleman from Ohio Mr. Jordan for his opening statement.

JORDAN:

Spying, that one word, that's why they're after you, Mr. Attorney General. Fifteen months ago April 10, 2019, at a Senate hearing, you said the sentence quote I think spying on a political campaign is a big deal--spying on a political campaign is a big deal. It sure is and since that day, since that day when you had the courage to state the truth they attack you they have been attacking you ever since, every day every week for simply stating the truth that the Obama Biden administration spied on the Trump campaign.

JORDAN:

One year ago, New York Times headline said this one year ago, quote FBI sent investigator posing as assistant to meet with Trump aid in 2016. The FBI sent a young lady who used the name Azra Turk to meet Papadopoulos in September 2016.

They sent someone pretending to be someone else to meet in person associated with the Trump campaign. Do you know what they call that? Do you know what they call that? Spying.

One month later, October 2016, they used the dossier to spy on Carter Page. The salacious, unverified dossier, Jim Comey's words, not mine, they took it to the FISA court, until the courts that the Clintons paid for it, didn't tell the court that the guy who wrote the document, Christopher Steele had already communicated to the Justice Department that he was "desperate to stop Trump from getting elected."

And guess what? There were 15 more lies they told the court. Seventeen in total. They were outlined by the Inspector General, each and every one of them in his 400-page report. But guess what? Chairman Nadler refuses to allow Mr. Horwitz to come here and testify and answer our questions about the 17 lies the Obama-Biden administration told to the secret court.

The Obama-Biden DOJ open the investigation in July. They used a secret agent lady to spy on Papadopoulos in August. They lined up to the FISA court in September and they did all this without any basis for launching the investigation to begin with.

How do we know that? How do we know there was no basis? They told us. Now, they didn't want to tell us, but thanks to Rick Grenell who released the transcripts of their testimony, we now know there was no basis for them to start the investigation in the first place. Sally Yates, Rhodes, Samantha Power. Susan Rice.

Here's what Susan Rice says. "I don't recall intelligence I would consider evidence of a conspiracy." How about James Clapper? "I never saw any direct evidence that the Trump campaign or someone in it was conspiring with the Russians to meddle with the election." Say that again. "I never saw evidence that the Trump campaign was conspiring." And yet, they investigate him. There was never a proper predicate.

So why they do it? If there was no reason to do it, why did they do it? They told us that too. Peter Strzok, August 2016 asked is Trump going to win? What's his response? Remember, this is Peter Strzok, this is the guy who ran the investigation. "No. No, he's not. We'll stop it." August, Peter Strzok says we'll stop Trump. In September, the spy on Papadopoulos. October, they use the fake dossier to lie to the court.

But guess what happens in November? Guess what happens in November? November 8, 2016, the American people get in their way. Sixty-three million of them to be exact. Not--now everything changes. Now the real focus is well, wait a minute. We didn't stop them. He won.

Now what they have to do? They have to do the cover-up. And who do they have to go after? Who's target number one in their cover up? The former head of the Defense Intelligence Agency, the guy who's about to become national security advisor to the president of the United States, Michael Flynn. They can't have him hanging around because he'll figure it out, so they decided to go after Michael Flynn, three-star general served upon country for over three decades. And we know they went after him because they told us that to.

Bill Priestap, head of Counterintelligence at the FBI the day they interviewed Flynn. January 24, 2017, his notes say what? What's our goal? To get Flynn to lie so we can prosecute him or to get him fired. Think about what the Obama-Biden DOJ, what their administration did in the last month, the last month they were in power.

January 4, the agents investigating Flynn wanted to drop the case. Comey tells them no. January 5, they have the now famous meeting in the Oval Office. Obama, Biden, Rice, Comey, all of them are in there. They're plotting plotting their strategy how they're going to get Flynn. January 6, Comey goes up to Trump Tower, briefs President elect Trump on the dossier that they already know is false just so they can leak it to the press and the press will write the story that they briefed the president on the dossier.

And then, of course, January 24, the day they go set up Michael Flynn, set up Michael Flynn in his interview. Guess what else they did? Guess what else they did between Election Day and Inauguration Day? That in that two months' time, guess what else they did? 38 people, 49 times unmask Michael Flynn's name. Comey, Clapper, Brennan, Biden, seven people at the Treasury Department unmasked Michael Flynn's name, for goodness sake. And of course, Flynn resigns on February 13. Flynn resigns on February 13. Now the cover-up is complete.

Flynn is gone. Everything's fine, they think, until May 9, 2017 when President Trump fires Jim Comey. Now they've got a problem again. The guy who's going to keep it all quiet, he's been fired. Now how do they continue the cover up? Real simple. Jim Comey leaks his memos with the express purpose of getting a special counsel appointed to investigate something they already know is not true, and that's exactly what happened.

We get 2 years, 19 lawyers, 40 agents, 500 witnesses, 2800 subpoenas and a \$30 million cost to the taxpayer and they come back with nothing, absolutely nothing. And so all they got left is to attack the Attorney General who had the courage to state that truth right from the get-go. The first time he testifies after he's confirmed and you guys attack every day, every week, and now you filed articles of impeachment against him. It's ridiculous.

He had the courage to do what no one else would do at the Justice Department. Sally Yates wouldn't call it spying, Jeff Sessions wouldn't do it, Rod Rosenstein wouldn't do it, Chris Wray--Wray sure as heck isn't going to do it.

So Mr. Attorney General, I want to thank you for having the courage to call it what it was, spying. I wanted to thank you for having the courage to say we are going to get the politics out of the Department of Justice that was there in the previous administration and maybe most importantly, we're going to talk about this in our sidewalk questioning.

I want to thank you for defending law enforcement, for pointing out where crazy idea this defund the police policy, whatever you want to call it is in standing up for the rule of law. And frankly, we have a video we want to show kids right to this point. Can we play that video, please?

(BEGIN VIDEOTAPE)

UNKNOWN:

Let me be clear and how I characterize this. This is mostly a protest. It is not--it is not, generally speaking unruly.

UNKNOWN:

Peaceful protest.

UNKNOWN:
Peaceful protesters.

UNKNOWN:
Peaceful protest.

UNKNOWN:
Peaceful protest.

UNKNOWN:
Peaceful protest.

UNKNOWN:
Peaceful protest.

UNKNOWN:
Peaceful protest.

UNKNOWN:
Peaceful protest.

UNKNOWN:
Peaceful protest.

UNKNOWN:
Peaceful protest.

UNKNOWN:
Peaceful protest.

UNKNOWN:
Peaceful protest.

UNKNOWN:
Peaceful protest.

UNKNOWN:
Peaceful protest.

UNKNOWN:
Peaceful protest.

OBAMA:
Peaceful protest.

BIDEN:
Peaceful protesters.

UNKNOWN:
On behalf of myself, my children and the family of David Dorn, we'd like to thank friends, neighbors, coworkers and the community for showing all the love and support we've suffered through the tragic loss of my husband, my beloved husband David Dorn. We'd also like to thank St. Louis Metropolitan Police Department for their work and perseverance to this investigation as well as the secretary attorney's office.

He dedicated his life to the city of St. Louis retiring at the rank of Captain after three years of justiciable service. Then as the chief of Moline Acres (SP) for almost six years. During those years, he's touched so many lives as a friend, mentor, coworker and guardian. His life was senselessly taken from me, from us by an opportunist who had no regard for human life or the law.

This didn't have to happen, but it must have been God's plan for David. We need to come together as a community and do better. We need to do teach our young people that life is very precious.

We as the family are going to be taking some time to focus our attention on healing, which is a very important as we move forward. We would like David's legacy to be remembered as a loving husband, father, grandfather, brother, uncle, friend, colleague, and most importantly, a child of God. I want to thank you all for coming and God bless you all.

UNKNOWN:
(INAUDIBLE)

UNKNOWN:
(INAUDIBLE)

UNKNOWN:

Oh, yes. Oh, yes. Oh, yes.

UNKNOWN:

Turn the sound down.

UNKNOWN:

Please don't tell me what do to.

(CHEERING)

UNKNOWN:

Hold your fire. Hold your fire. Who do you protect? Who do you protect? Who do you protect? Hold your fire.

(END VIDEOTAPE)

NADLER:

Well, I hope that Mr. Jordan will never complain about the length of my opening statement.

Without objection, I'm going to insert the committee's audiovisual policy into the record of this hearing, and note that the minority did not give the committee the 48 hour notice required by the policy. Without objection, all other opening statements will be included in the record.

I will now introduce today's witnesses. William Barr has served as the Attorney General of the United States since February 14th, 2019, having previously served in the same position from 1991 to 1993 under President George H.W. Bush. He also served as Deputy Attorney General and the Assistant Attorney General of the Office of Legal Counsel under the Bush administration, was a member of the domestic policy staff of President Reagan, served in the Central Intelligence Agency, and was a law clerk for Judge Malcolm Wilkie of the U.S. Court of Appeals for the DC Circuit.

In addition to his significant public service, he also has extensive experience in practicing law in the private sector. Attorney General Barr received his AB and MA from Columbia University and a JD from George Washington University School of Law. We welcome the Attorney General and we thank you for participating today.

And if you'd please rise, I would begin by swearing you in. If you'd raise your right hand, please, or left hand? Do you swear or affirm under penalty of perjury that the testimony you're about to give is true and correct to the best of your knowledge, information, and belief, so help you God?

BARR:

(OFF-MIC)

NADLER:

Let the record show the witness has answered in the affirmative. Thank you and please be seated.

Please note that your written statement will be entered into the record in its entirety. Accordingly, I asked that you summarize your testimony in five minutes. To help you stay within that time, there is a timing light on your table. When the light switches from green to yellow, you have one minute to conclude your testimony. When the light turns red, it signals your five minutes have expired. Mr. Barr, you may begin.

BARR:

Mr. Chairman, good morning, Mr. Chairman Nadler, Ranking Member Jordan, I'm pleased to be here this morning. On behalf of the Department of Justice, I want to pay my respects to your colleague, Congressman John Lewis, an indomitable champion of civil rights and the rule of law. I think it is especially important to remember today that he pursued his cause passionately and successfully with unwavering commitment to nonviolence.

As I said in my confirmation hearing, the attorney general has a unique obligation. He holds in trust the fair and impartial administration of justice. He must ensure that there is one standard of justice that applies to everyone equally and that criminal cases are handled evenhandedly based on the law and the facts and with art--and without regard to political or personal considerations.

And I can tell you that I have handled criminal matters that have come to me for decision in this way. The president has not attempted to interfere in these decisions. On the contrary, he has told me from the start that he expects me to exercise my independent judgment to make whatever call I think is right, and that is precisely what I've done. And indeed, it's precisely because I feel complete freedom to do what I think is right that induce me to serve once again as Attorney General.

As you just said, Mr. Chairman, I served as Attorney General under President George H.W. Bush, and after that I spent many years in the corporate world. I'm almost 70 years old--I was almost 70 years old and slipping happily into retirement. I had nothing to prove and I had no desire to return to government. I had no prior relationship with President Trump.

Let me turn briefly to several pressing issues of the day. The horrible killing of George Floyd in Minneapolis understandably jarred the whole country and forced us to reflect on longstanding issues in the nation. Those issues obviously relate to the relationship between law enforcement and the African American community.

Given our history, it's understandable that among Black Americans there is at least some ambivalence, and often distrust, toward the police.

Until just last 50 years ago--or so, our laws were instant--and institutions were explicitly racist, explicitly discriminatory. It was not until the '60's that the civil rights movement finally succeeded in tearing down the Jim Crow edifice. Our laws finally came to formally embody the guarantee of equal protection.

And since then, the work of securing civil rights has rightly focused on reforming institutions to ensure they better conform to our laws and to our aspirations. That work, it's important to acknowledge, has

been increasingly successful. Police forces today are far more diverse than they've ever been and there are both more black police chiefs and more black officers in the ranks.

Although the death of George Floyd at the hands of the police was a shocking event, the fact is that these events are fortunately quite rare. According to statistics compiled by the Washington Post, the number of unarmed black men killed by police so far this year is eight. The number of unarmed white men killed by police over the same time period is 11.

And the overall numbers of police shootings has been decreasing. Nevertheless, every instance of excessive force is unacceptable and must be addressed appropriately through legal process, as is happening now in Minneapolis.

BARR:

But apart from the numbers I think these events strike a deep chord in the black community because they are (INAUDIBLE) perceived as manifestations of a deeper lingering concern that encounters with police. Blacks will not be treated evenhandedly, they will not be given the benefit of a doubt, they will be treated with greater suspicion.

Senator Tim Scott has recounted the numerous times he has been unjustifiably pulled over on Capitol Hill and as one prominent black professional in Washington said to me African-Americans often feel treated as suspects first and citizens second and I think these concerns are legitimate.

At the same time I think it would be an oversimplification to treat the problem as rooted in some deep-seated racism generally infecting our police departments. It seems far more likely that the problem stems from a complex mix of factors which can be addressed with focused attention over time and we and law enforcement must be conscious of the concerns and ensure that we do not have two systems of justice.

Unfortunately, some have chosen to respond to George Floyd's death in a far less productive way by demonizing the police, promoting slogans like "all cops are bastards" and making grossly irresponsible proposals that defund the police. The demonization of the police is not only unfair and inconsistent with principles all people should be treated as individuals but gravely injurious to the intercity communities.

When communities turn on and pillory the police officers naturally become more risk averse and crime rates soar. Unfortunately, we are seeing that now in many of our cities. The threat to black lives posed by crime on the streets is massively greater than any threat posed by police misconduct. The leading cause of death for young Black males is homicide. Every year approximately 7500 Black Americans are victims of homicide. The vast majority of them around 90 percent are killed by other Blacks mainly by gunfire. Each of those lives matter.

It is for this reason that in selected cities where there has been an upsurge in violent crime we are stepping up and bolstering the activities of our joint anticrime taskforces. Finally, I want to address a different breakdown in the rule of law that we have witnessed over the past two months.

In the wake of George Floyd's death violent rioters and anarchist have hijacked legitimate protest to wreak senseless havoc and destruction on innocent victims. The current situation in Portland is a telling example. Every night for the past two months hundreds of rioters have laid siege to the federal courthouse and other nearby federal property.

The rioters have come equipped for fight armed with powerful slingshots, tasers, sledgehammers, saws, knives, rifles, and explosives devices. Inside the courthouse are relatively small number of federal law enforcement personnel charged with the defense of mission to protect the courthouse. What unfolds nightly are round the courthouse cannot reasonably be called protest. It is by any objective measure and assault on the government of the United States.

As elected officials of the federal government every member of this committee regardless of your political views or your feelings about the Trump administration--administration should condemn violence against federal officers and the disruption of federal property. Thank you Mr. Chairman and I appreciate your listing for me the areas of concern in your opening statement and I am looking forward to addressing them all.

NADLER:

Thank you for your testimony. We will now proceed under the five-minute rule with questions and I will recognize myself for five minutes.

On July 22 you joined the president as he announced the expansion of Operation Legend, an initiative--let me start that again. On July 22 you joined the president as he announced the expansion of operation legend, and initiative to combat violent crime in Kansas City with approximately \$61 million in DOJ grants. I am confused however as to the purpose of launching operation legend at this point in time.

In the December of last year you announced that the department would divert over \$70 million in grants to seven U.S. cities under an initiative called operation relentless pursuit, correct?

BARR:

That is right.

NADLER:

And operation relentless pursuit targeted a familiar list of cities, places like Albuquerque, Baltimore, and Kansas City, correct?

BARR:

Correct.

NADLER:

At the same July 22 press conference you initially claimed that over 200 arrest have been made under Operation Legend, correct?

BARR:
Correct.

NADLER:
At that--but you misspoke--

BARR:
Correct.

NADLER:
The U.S. attorney's office for the Western District of Missouri later confirmed that only a single arrest had been made under the auspices of Operation Legend, correct?

BARR:
I--I don't know.

NADLER:
And the other--and the 199 other arrest were made under relentless pursuit or other programs. That was correct. I think you can be forgiven for being confused. Operation Legend appears to be little more than a repackaging of the existing operations in the cities so why all of the drama?

Why join the president at the White House to announce able to operation that appears to be neither bold nor new? Understandably of Americans are very suspicious of your motives here. There are those that believe you are sending federal law enforcement into the cities not to come back violent crime but to help with the president's reelection efforts.

The president has made clear that he wants con--that he wants conflict between protesters and police to be a central claim--a central theme of his campaign. So let me ask you directly Mr. bar yes or no--yes or no, did you rebrand the existing projects under (INAUDIBLE) legend in order to assess the president in an election year?

BARR:
I wouldn't call it--

NADLER:
Mr.--

BARR:
I wouldn't call it--

NADLER:

Mr. Attorney General would you agree with me at least on principle that it is improper for the Department of Justice to divert resources and law enforcement personnel in an effort to assist the president's reelection campaign?

BARR:

No, Mr. Chairman. In the fall we did inaugurate an anticrime initiative because we were concerned about increasing violent crime in a number of cities and we call that relentless pursuit.

Unfortunately, COVID intervened and our agents who were detailed for these assignments could not perform the operation so the operation was squelched by COVID so we can complete or make much progress on relentless pursuit.

However in the intervening time we saw violent crime continuing to rise and a lot of that was triggered by the events after the death of George Floyd so we did reboot the program after COVID started breaking and we could commit to law enforcement resources to actually accomplish the mission which is to reduce violent crime.

Now I regret that COVID interrupted our law enforcement activities, but it doesn't obviate the fact that there is serious violent crime in these cities. These police (INAUDIBLE) and mayors from--have--have been asking us from help and we have put in an additional federal agents and investigators to help deal with it.

NADLER:

Have you--now yes or no, have you discussed the president's reelection campaign with the president or within a White House official or any surrogate of the president?

BARR:

Well, I'm not going to get into my discussions with the president.

NADLER:

Well, have you discussed that topic with him, yes or no?

BARR:

Not--not in relation to this program.

NADLER:

I didn't ask that. I ask if you discussed that--

BARR:

I am a member of the cabinet and there's an election going on. Obviously, the topic comes up.

NADLER:

So the answer is yes.

BARR:

Well, the topic comes up in cabinet meetings and other things. It shouldn't be--it shouldn't be--

NADLER:

Okay.

BARR:

--a surprise that the topic of the election (INAUDIBLE).

NADLER:

I didn't say I was surprised. I just ask if you had done that. So as part of those conversations with the president or his people about the reelection campaign have you ever discussed the current or future deployment of federal law enforcement?

BARR:

In--in connection with what?

NADLER:

In connection with what you just said, in connection with the--with your discussions with the president or with other people around him of his reelection campaign have you discussed the current or future deployment of federal law enforcement?

BARR:

Well, as I say I am not going to get into my discussions with the president but I have made it clear that I would like to pick the cities based on law enforcement needs and based on neutral criteria.

NADLER:

You--you can't tell me whether you discussed--

BARR:

No, I'm not going to discuss what I discussed with the president.

NADLER:

Can you commit today that the department will not use federal law enforcement as a prop in the president's reelection campaign?

BARR:

We are not using--

NADLER:

I just want to close with this thought. You really can't hide behind legal fictions this time Mr. bar. It is all out in the open where the people can see what you are doing for themselves.

The president wants footage for his campaign ads and you appear to be serving it up to him as orders. In most of these cities the protest had begun to wind down before you marched in and confronted the protesters. And the protesters aren't mobs, they are mothers and veterans and mayors. In this moment real leadership would entail de-escalation--

NADLER:

--looking for ways to peaceably resolve our differences. Instead, you use pepper spray and truncheons on American citizens. You did it here in Washington, he did it in Lafayette Square, you expanded to Portland and now you are projecting fear and violence nationwide in pursuit of obvious political objectives. Shame on you, Mr. Barr.

BARR:

Can I just say--

NADLER:

--Shame on you--

BARR:

--Can I just say--

NADLER:

--My time is expired for purpose does Mr. Jordan seek recognition?

JORDAN:

Mr. Johnson

NADLER:
Mr.--excuse me--

BARR:
--can I just have a moment--

NADLER:
--For what purpose does Mr.--my time is expired. For what purpose does Mr.--

JORDAN:
--Johnson--

NADLER:
--Johnson seek recognition?

MIKE JOHNSON:
--Questions for the witness and I will yield the store to him to respond.

BARR:
Mr. Chairman, you conflated two different things. The--the effort like legend is to deal with violent crime, crime is committed on the streets of the city. Again, predatory violence like murder, shootings, which are soaring in some cities right now. That does not involve encountering protesters, as you refer to it.

Civil disturbance is a different set of issues and I--I just reject the idea that the department has flooded anywhere and attempted to suppress demonstrators. We make a clear distinction between demonstrated--

NADLER:
--The facts speak for themselves--

BARR:
--Well, I'm--

MIKE JOHNSON:
--This is my time, Mr. Chairman--

BARR:

--I'm answering. And, you know, the fact of the matter is if you take Portland--Portland, the courthouse is under attack. The federal resources for inside the perimeter around the courthouse defending it from almost two months of daily attacks were people marching to the court, trying to gain entrance and have set fires, throwing things, used explosives and injured police, including just this past weekend perhaps permanently blinding three federal officers with lasers.

We are on the defense. It's--were not held looking for trouble. And if the state and the city would provide the law enforcement services that other jurisdictions do, we would have no need to have additional martial in the courthouse.

MIKE JOHNSON:

On behalf of hundreds of millions of Americans, thank you for that clarification and thank you for being here and thank you for your service today and your willingness to do this in very challenging times. Mr. Attorney General, we are very appreciative. It's not an easy job. It's a vitally important one.

I so appreciated what you said in your opening statement today, which is what you said in your confirmation hearing, the attorney general has a unique obligation. He must--he holds in trust the fair and impartial administration of justice.

We appreciate that so much. The Democrats have asserted here this morning and they continue to say in the media that under your leadership the Justice Department has become highly politicized. Why is that a totally unfounded allegation?

BARR:

Because actually what I--we have been trying to do is restore the rule of law. And the rule of law is, at essence, that we have one rule for everybody. If you apply one rule to A, the same rule applies to B. And I felt we didn't have that previously at the department. We had strayed.

And I would just ask people to--I'm supposedly punishing the president's enemies and helping his friends. What enemies have I indicted? Who--who--could you point to one indictment that has been under the department that is--is unmerited, that you feel violates the rule of law? One indictment.

Now, you say I hope the president's friends. The cases that are cited, the Stone case and the Flynn case are both cases where I determined that some intervention was necessary to rectify the rule of law, to make sure people are treated the same. I said all--Stone was prosecuted under me and I said all along I thought that was a righteous prosecution, I thought he should go to jail and affect the judge's sentence was correct.

But the line prosecutors were trying to advocate for a sentence that was more than twice what anyone else in a similar position had ever served. And this is a 67-year-old man. First-time offender, no violence and they were trying to put him in jail for seven to nine years and I wasn't going to advocate that because that is not the rule of law.

I agree that the president's friends don't deserve special breaks, but they also don't deserve to be treated more closely than other people. And sometimes, that's a difficult decision to make, especially

when you know you're going to be intact castigated for it. But that is what the rule of law is in us with fairness to the individual ultimately comes to, being--being willing to do what's fair to the individual.

MIKE JOHNSON:

Amen, and thank you for that. And by contrast, the previous DOJ did under the previous administration was politicizing law enforcement. The Obama-Biden administration sabotaged the Trump transition, the illegally spied on the Trump campaign, they unmasked members of the Trump campaign, they are employed aggressive tactics on their--on their campaign officials.

Senior FBI officials we all know in this committee carried over from the Obama administration carried on their abuses into the Trump administration and into the whole impeachment scam and all the rest.

Let me ask you just one question because my time is running out. President Obama's Attorney General Eric Holder famously referred to himself as President Obama's wing man. He said in an interview, "I'm still enjoying what I'm doing. There's still work to be done. I'm still the president's wingman, so I'm there with my boy." That's what he said, famously. Is it the duty of the attorney general to be the president wingman(PH)?

BARR:

No. I've already described what I think the duty of the attorney general is.

MIKE JOHNSON:

And in your office, you are then free to act independently of the president. Isn't that true?

BARR:

That is true, particularly on criminal cases. That's required.

MIKE JOHNSON:

And that's exactly what he has asked you to do, isn't that right?

BARR:

Yes.

MIKE JOHNSON:

I have no further questions--

NADLER:

--The time of the--

MIKE JOHNSON:

--An I yield back. Thank you.

NADLER:

It's well you have no further questions. Your time is expired. Ms. Lofgren.

LOFGREN:

Thank you, Mr. Chairman. Mr. Attorney General, it's obvious what is happening here from the video played during the ranking member's opening remarks. It's clear that the president's playbook is divert attention from his catastrophic failure in dealing with the COVID-19 situation.

In Canada, our neighbor to the north, in Europe, the virus has been reduced to such a level that people can safely go out and not worry about being infected. But here in the United States, millions of Americans have been infected. Tens of thousands are dying, and the president needs to divert from that failure.

And what is the playbook? The playbook is to create the impression that there is a violence that he must send in federal troops and the--that the American people should be afraid of other Americans and to trust the president because he's going to send in (OFF-MIC) troops to American cities, and that's how he hopes to win the election.

You know, it's one thing to fight crime with joint task forces. That involves the cooperation of state and local officials. The governor of Oregon and the mayor of Portland has asked the that that federal troops leave because the reaction has actually been in--in reverse proportion. People are showing up because the troops are they are.

And I'd like to say that so many of them, I would say most of them are nonviolent. We've all heard about the wall of moms. The wall of moms who show up to make sure that people are safe. Here's what they say. They say they've been teargassed night after night left vomiting, that they've been shot at with rubber bullets, beanbags, pepper spray. So this brutality has created even more demonstrators.

I'd just like to ask you this. When the president gives you his executive order, the indicated your department should prioritize investigations. Has your department started any investigations, sir, to the executive order that the president issued?

BARR:

Which executive order, congresswoman?

LOFGREN:

The executive order that asked for the deployment of troops to protect the monuments in the federal facilities.

BARR:

Yes, the--

LOFGREN:

--On June 26.

BARR:

Yeah, I wouldn't say it was troops, but they--the--we have initiated investigations, yes. We've made arrests. Of people who've--

LOFGREN:

--Let me ask--

BARR:

--People who have--who have been rioting and taking down statues. But I think you've missed--your characterization of Portland is completely false. We--

LOFGREN:

--I would like to--I would like to--we can get into that, but I'd like to ask you a question about surveillance, if I may. We heard reports that cell site stimulators notice stingrays or dirt (SP) boxes are being used to create frugal locations and even content of phone calls. (INAUDIBLE) are being used and they have facial recognition for cell phone interception technology and that there is mold collection of Internet browsing histories. What specifically specific authority is the department using for its surveillance tools?

BARR:

I really can't speak to--to those instances, if they have in fact occurred. I'm glad to go and try to determine what you're talking about--

LOFGREN:

Actually, I'm asking you about authority, not the--the details (AUDIO GAP).

BARR:

Well, the--you know, the--I think the--most of our cyber activities are conducted by the FBI under their law enforcement hours to detect and prevent crime, federal crime.

LOFGREN:

I think the American public should know that this surveillance technique isn't just about the people in--you know, in front of the courthouse. If a husband and wife call each other, and one of the spouses has

a cell phone that's within range of one of these technologies, not only the location but the actual content of that couple's conversation can be scooped up using this knowledge.

And so, this really isn't just about the demonstrator. This is about the privacy of all Americans, and it's all being violated for the president's political purposes of trying to create a scene, create a reason, divert attention from the COVID failure. I think it's really very unfortunate and a disservice to the American people. Mr. Chairman, my time is expired so I yield.

NADLER:
The gentle--

MIKE JOHNSON:
--point of order, Mr. Chairman--

NADLER:
--The gentlelady yields back.

MIKE JOHNSON:
Mr. Chairman, point of order.

NADLER:
For what purpose does--

MIKE JOHNSON:
--Real quick.

NADLER:
The gentleman will state his point of order.

MIKE JOHNSON:
Could you ask those members who choose not to come to work to silence their cell phones on the video because it's distracting to what we're doing here today?

NADLER:
That is not a point of order. The--the--I--I now recognize Mr. Chabot.

CHABOT:

Mr. Attorney General, would it be accurate to say that it's this administration's responsibility, and of course you're part of the administration, to see that federal laws are upheld and that the federal property is secure and safe and protected? Is that correct?

BARR:

That's right, congressman. There are sort of distinct missions. One mission is to enforce federal law. And by the way, the federal government is the sovereign of the United States. We have two sovereigns here in the United States. And we enforce the federal law all over the country. Every square foot of the country we enforce federal law.

The other is protecting federal property and specifically U.S. courthouses, which are the heart of federal property in all 93 jurisdictions in the United States. And we have the obligation to pro--to--to protect federal courts and the U.S. Marshals specifically have been given that obligation.

Federal courts are under attack. Since when it is okay to try to burn down a federal court? If someone went down the street to the Prettyman Court here, that beautiful courthouse we have right at the bottom of the hill, and started breaking windows and firing industrial grade fireworks in to start a fire, throw kerosene balloons in and--and start fires in the court, is that okay? Is that okay now? No, the U.S. marshals have a duty to stop that and defend the courthouse, and that's what we are doing in Portland. We are at the courthouse defending the courthouse. We're not out looking for trouble.

CHABOT:

Thank you, general. And--and far as weapons and devices that were utilized by the group of people--and--and you mentioned trying to destroy the courthouse. I mean, they were literally trying to burn it down and apparently didn't give a hoot about the people that were occupied in the building as well. So, people were in danger.

BARR:

That is absolutely right.

CHABOT:

So, as far as the--the weapons that you mentioned, let me get this straight. My understanding is that the--the people attacking the building had, among other things, rifles, explosives, knives, saws, sledgehammers, tasers, slingshots, rocks, bricks, lasers. Have I missed anything or does that about cover it?

BARR:

You have missed some things, but that's a--that's a good list.

CHABOT:

Well--

BARR:

--But, you know, they have these powerful slingshots with ball bearings that they shoot. They've used pellet guns, we believe. We have found those projectiles at--have penetrated marshals to the bone. And they use the--the lasers to blind the--to blind the marshals. They do start fires. They start fires if they can get in--the fire inside or through the windows, and they start fires along the outside of the--the pris--of the--the courthouse. When the marshals come out to try to deal with the fire, they're assaulted.

CHABOT:

General, if--if local elected officials, mayors and city councils and the governors, did their jobs and kept the peace, would it even be necessary for federal law enforcement personnel to be there in the first place?

BARR:

No, and that's exactly the point. Look around the country. Even where there are these kinds of riots occurring, we don't--we haven't had to put in the kind of reinforcements that we have in Portland because the state and local law enforcement does their job and won't allow rioters to come and just physically assault the courthouse. In Portland, that's not the case.

CHABOT:

General, some have derisively referred to these law enforcement personnel as storm troopers and worse. Does that accurately describe them? Would you like to set the record straight?

BARR:

No, they're obviously not storm troopers. You know, normally we would have a group of deputy marshals in a court that would be, you know, in business suits and ties or regular civilian dress. Those would be the deputy marshals as the protective force for the court.

But after almost a month of writing in Portland, you know, we sent in--I think it was around Fourth of July timeframe, we sent in about 20 special operations marshals. And those are tactical teams that are able--you know, are--are padded and protected so they could deal with this kind of thing. Up until last week, I was told, we had our--our storm trooper from the Department of Justice amounted to 29 marshals in the courthouse, 29 marshals. As of--until recently increase, I think there were 95--I was told 95 DHS federal protective service and other DHS officers trying to protect the courthouse and three other buildings.

That's what we're trying to do. We're trying to protect federal functions and federal buildings, which are very small part of the city, but the writers go at them and--and we have gradually increased our numbers there to try to protect those--those facilities.

CHABOT:

Thank--

BARR:

--If the state would come in and--and keep peace on the streets in front of the courthouse, we wouldn't need additional people at the courthouse.

CHABOT:

Thank you, General. My time's expired.

NADLER:

The gentlemen's time is expired. Ms. Jackson Lee?

JACKSON LEE:

Mr. Chairman, before I begin, I'd like to admit into the record a picture of Lewis and Clark History Department Chair shot at protests in Portland. Ask unanimous consent to place that into the record.

John Lewis, in 1963, said we are tired about being beat by police. We're tired of being put in jail. We won our freedom now. Mr. Attorney General, in your remarks you indicated that we've made great progress since that time, and you indicated that the killing of George Floyd was shocking. I disagree. It was outright cold-blooded murder on the streets of America, unfortunately by police misconduct.

You seem to have a difficult time understanding systemic racism and institutional racism that has plagued so many. Mr. Attorney General, do you understand a black mother's or parents' talk to their child, to their son? Do you know what that is?

BARR:

I think I do.

JACKSON LEE:

I don't know if you do. But Trayvon Martin, Ahmaud Arbery, Tamir Rice, Michael Brown, Sean Bell, and George Floyd, black mothers and fathers have had to talk to their sons about police violence. I take no backseat to the history of this committee that has stood for good policing, not misconduct.

And so, I ask you this question. Does the Trump Justice Department seek to end a systemic racism and racism in law enforcement? I just need a yes or no answer.

BARR:

To the extent there is racism in any of our institutions in this country and the police, then obviously this administration is--will--will fully enforce the--

JACKSON LEE:

--So, you agree that there may be systemic racism?

BARR:
But to the extent--in--in--in--where?

JACKSON LEE:
Let me continue my line of questioning.

BARR:
I--I don't agree that there's systemic racism in the police department--

JACKSON LEE:
--Specifically--

BARR:
--generally in this country.

JACKSON LEE:
I'm reclaiming my time, Mr. General. Specifically, do you understand the violent impact of racial profiling, do you support the end racial profiling--racial and religious profiling in the George Floyd bill, including the removal of the strict interpretation qualified immunity, which would leave individuals like Breonna Taylor and George Floyd without any relief at all?

BARR:
No, I'm opposed to eliminating qualified immunity, and I don't agree that it would leave the victims of police misconduct--

JACKSON LEE:
--Well, let me share with you some aspects--

BARR:
--With--without--without any remedy at all.

JACKSON LEE:
I'm reclaiming my time. Let me share with you some aspects of profiling. After the death of George Floyd found that while black people make up 19 percent of the Minneapolis population and 9 percent of its police, they were on the receiving end of 58 percent of the city's police use of force incidents. In addition, we have seen that black men are twice as likely to be stopped and searched, Hispanic driver 65

percent to receive a ticket, and Native Americans in Arizona three times more likely to search and be stopped.

Let me ask you the questions of how we respond to that. The Justice Department has many tools at its disposal to reduce police violence, the pattern or practice investigations, a practice to--

JACKSON LEE:

--(INAUDIBLE) in bad policing and police violence. It addresses police violence at an institution level rather than just focuses on acute cases. If you understand that then why has your department only pursued one pattern or practice investigation since President Trump took office that could stop systemic racism?

BARR:

If--if you read my statement or listen to my statement I did specifically acknowledge that there was a difficulty in this country with the African-American community.

JACKSON LEE:

Mr. Attorney General, I have short time. Can you just tell me--

BARR:

Well, I--I--

JACKSON LEE:

--why you have not--

BARR:

--answered (INAUDIBLE)--

JACKSON LEE:

--done a pattern in practice? What will was the reason?

BARR:

And you ask me what I thought the response was and I thought the response to this is in fact training of police and I think the police believe that that is the response. I was talking to a black--

JACKSON LEE:

Then let me continue--

BARR:
--chief of police--

JACKSON LEE:

Mr. Attorney General, I--I want to respect to you but I have a short time. You--you for example 18 USC section 242 which makes unlawful the denial of rights under the (INAUDIBLE) of law.

Can you defend the fact that in the first seven months of FY 2020 federal prosecutors filed only 242 charges, 242 charges in just 27 cases in the Trump DOJ? And were you aware that in FY 2019 federal prosecutors brought to section 242 charges in just 49 cases in the United States and are you aware of how many cases we have had, 184,274 which means that in FY 2019 only about 27 out of every 100,000 prosecutions was related to section 242 charges? Do you have a reason for that?

BARR:

Yeah, yes, I do. I will get you the numbers on that I don't know them off the top of my head but actually our criminal prosecutions under 241 and 242 are extremely strong and are comparable to if not exceed prior administrations but at the beginning of this year very few jurisdictions had grand juries that were open. No grand juries--

JACKSON LEE:

I think the reason is because it was skinny, it was not your focus. Your focus was more to let out friends like Roger Stone, and Paul Manafort while Tamir Rice's case has not been taken up he was playing with a toy gun, was killed by police at the age of 12. Breonna Taylor was sleeping in her apartment when she was killed by police at age 26 and Rayshard Brooks, 27 was killed just for sleeping in his car in a Wendy's parking lot and George Floyd from Houston, Texas known as a humble man was murdered in the streets of Minneapolis crying I can't breathe.

I would hope that the DOJ would focus on systemic institutional racism because there is good policing, that is what we are trying to do in the justice and the Judiciary Committee and that is what we need you to join us on Mr. Attorney General and to recognize that institutional racism does exist and until we accept that we will not finish our job and reach the goals and aspirations of our late iconic John Lewis. With that I yield back.

NADLER:

The gentle lady yields back. Mr. Gohmert?

GOHMERT:

Attorney General Barr, we have been hearing about these peaceful protest in major cities around the country controlled by Democratic mayors and city councils. You have had a lot of experience have you ever seen so many people hurt, injured, and killed at peaceful protest in your life?

BARR:

I--I haven't seen it no, not at a peaceful protest. Obviously as I have said from the beginning these peaceful protest in many places are being hijacked by a very hard corps(PH) of instigators, violent instigators and they become violent and their primary direction of violence is to injure police, police casualties far exceed anything you know on the civilian side.

GOHMERT:

Weren't there over 50 police injured in Chicago just in recent days? And now I am hearing this allegation that this administration is helping spread coronavirus, COVID-19 and yet these are some of the same people that just castigated the president for shutting down travel from the location where the virus was coming from man now some seem more interested in defending the Chinese Communist Party than they are our own country.

But what occurred to me hearing this allegation about this administration helping spread COVID would it be a good idea then perhaps if that is the big concern here that maybe the federal government should shut down the protest during this COVID-19 spread so that we can satisfy our colleagues that you are doing more to stop it West and Mark has that ever been a consideration?

BARR:

No, I--I have never considered that.

GOHMERT:

Well, it would apparently stop some of the allegations thrown here. Now I know you know history, going back to 1917 the Bolshevik Revolution, the (INAUDIBLE) revolution some of these tactics we are seeing are not new trying to get even David Horowitz I introduced one time as a former Socialist he said no, I was a full-blown communist but he has pointed out that he started looking away from the group he was in because he saw they were interested in trying to provoke the police to kill somebody is so that they could really create mayhem. You are familiar with that tactic by Marxists, are you not?

BARR:

Yes.

GOHMERT:

It is a dangerous time. Let me ask you I know you know that U.S. attorneys are supposed to serve at the pleasure of the president. You know Bill Clinton fired 93 U.S. attorneys on the same day. Do you know what made U.S. Attorney Berman think that he was the exception who did not serve at the pleasure of the president? What caused him to think he owned that position?

BARR:

I think part of it was he seems to have had the view that because he was court appointed and there is a prohibition in law for court appointment of a U.S. attorney as essentially a placeholder until the

administration gets somebody that he felt he could not be removed by the president because he was court appointed and that is not correct.

GOHMERT:

Yeah, in some judges failed to know what my constitutional law professor new and that is that all courts accept federal courts except for 10 their existence and continuation and jurisdiction to the U.S. Congress. Hopefully, Mr. Berman will figure that out at some point. Now is Bruce Ohr still working for the FBI?

BARR:

He works for the Department of Justice.

GOHMERT:

Well, we have heard so much information about his basically being the go-between between the DNC, the Clinton campaign, fusion GPS, Christopher Steele, the Russian propaganda that were incorporated into his dossier and I know Kleinsmith, Christopher Wray indicated he had been given the chance to resign, go get a better job I am wondering how long Bruce Ohr is going to be staying where he is. It is incredible to me that he is still there.

BARR:

Well, I can't talk about you know individual personnel matters.

GOHMERT:

Thank you for your service. I am sorry for the abuse you have taken when you are just trying to do your job. I appreciate it very much. Yield back.

SCANLON:

The gentlemen's time is expired. The chair recognizes the gentleman from Tennessee for five minutes.

COHEN:

Thank you, Madam Chair. Mr. Barr, I am the chairman of the Subcommittee on the Constitution, Civil Rights, and Civil Liberties so this is most pertinent hearing to me.

Firstly I would like to ask you if you will work with us and allow the head of the civil rights division, assistant attorney general Eric Dreiband to testify before the--this committee this fall.

BARR:

I will talk to him about it.

COHEN:

Will you encourage him?

BARR:

I will talk to him about it.

COHEN:

All right. I have closely watched actions taken by the federal government Lafayette Park in June and currently in Portland, Oregon. According to a DOJ document dated June 4 received by this committee 1500 federal agents from 10 different agencies were deployed to confront protesters in Washington DC.

At Lafayette Park which has long been honored and accepted as a place of protest in our nation's capital on the first day of June the world watched in horror on live television as federal agents deployed by the administration and with you present and telling them to get it done used force to clear Lafayette Park said that the President with you and others at your side could walk across the park and have a photo op in front of St. John's Church.

This was anathema to the Bishop of the diocese and director of the church. It was also an affront to the Constitution into the American people. Given the timing and the coordinated attack against the peaceful demonstrators it is strange (INAUDIBLE) that this was not planned for use of political purposes.

And just yesterday Major DiMarco testified to another committee of Congress--

COHEN:

--that the protesters were peaceful and that's what the most--the majority of people have said and in the response was excessive. When did you first learn that the president planned to walk through the park and go to St. John's Church?

BARR:

First, I'd like to respond to what you--

COHEN:

--would you please answer my question? My time is limited.

BARR:

I learned some time in the afternoon that the president might come out of the White House and then later in the afternoon, I heard that he might go over to the church.

COHEN:

So was absolutely necessary the park be cleared for his--for his walk?

BARR:

No that's--that had nothing to do with that. The plan to move--

COHEN:

--Mr.--Mr. Attorney General--

BARR:

--The plan to move the perimeter--

COHEN:

--It was necessary to be saved and it was done and you said get it done.

BARR:

Well--

COHEN:

--I--I have the time. Thank you. In Portland, we seen mothers and leasing veterans who were peacefully protesting, not threatening the federal courthouse beaten and gassed. Unidentified armed federal agents violently attack demonstrators in a violation of the First Amendment's freedom of assembly and arrested citizens without individualized suspicion and a violation of the fourth amendment's protection against unreasonable searches and seizures in a warrant requirement.

You've gone through the Fifth Amendment in due process and just negated it. And the 10th amendment, which includes internal policing to the law enforcement to the states has been forgotten. Maybe what happened was your secret police were poorly trained just like your Bureau of Prisons' guards were poorly trained and allowed the most notorious inmate in our nation's last several years, Jeffrey Epstein, to conveniently commit suicide. Sad.

You misled Congress and the American people about Special Counsel Mueller's findings with your "summary" of his report. It was issued about a month before you released the redacted portion of the Mueller report. You set the stage. He set the stage such that the special counsel objected to the accuracy of how it was reported by the press and what you said.

And federal judge, Reggie Walton, appointed by George W. Bush declared in a ruling that your summary was "distorted" and "misleading" and that the court could not trust you. Further, Judge Walton stated your report was "A calculated attempt to influence public disclosure about the molar report in favor of President Trump."

This committee still does not have the unreacted Mueller report. America has still not seen the unreacted Mueller report. Your excuses for not releasing it because it had to do with ongoing cases no longer exist because those ongoing cases have been completed or commuted or finished. Other

attorney generals work with this judiciary committee to see that the American public and the Judiciary Committee had unreacted copies of that report. You have not. You've gone to court to stall it.

This report needs to be given to this committee. And Michael Cohen, you've treated him differently than Michael Flynn and Roger Stone. And Michael Flynn, you've attempted to dismiss the charges even after he twice pled guilty. And Roger Stone, he went further.

Mr. Barr, John Lewis said to us if not me, who? If not now, when? That's why I introduced H.Res. 1032, which would require this committee to investigate you will conduct as attorney general and determine whether you should be impeached. That is my constitutional duty. I yield back the balance of my time.

BARR:
May I respond to these?

COHEN:
May I seek recognition?

SCANLON:
I'm sorry, what did you--

COHEN:
I would like to--

SCANLON:
--The chair recognizes Mr. Cohen--

COHEN:
--I would like to seek recognition for unanimous consent requests.

SCANLON:
Yes.

COHEN:
Thank you.

SCANLON:
You're recognized.

COHEN:

I'd like to introduce for the record a Slate article entitled Why Trump Chose Portland, which describes the racial history of the state in the Portland police Bureau. I'd also like to introduce an op-ed from Mary McCord who writes her words were twisted to justify the department's disingenuous position to drop charges against Michael Flynn after he had already pled guilty.

I'd like to introduce an op-ed from Jonathan--Jonathan Crevas (SP) describing the political interference in the Roger Stone case and why he resigned from the Department of Justice and I'd like to introduce a statement from over 2600 former DOJ officials calling for Attorney General Barr's resignation because of his assault on the rule of law and a letter from the New York City bar urging Congress to commence formal inquiries into pattern of conduct by Attorney General Barr that threatens public confidence in the fair and impartial administration of justice.

And finally, a letter from 27 of the district of Columbia's most prominent attorneys of law professors, including through past presidents of DC bar calling for an ethics investigation into Mr. Barr's conduct.

SCANLON:

Without objection--

COHEN:

--Last but not least, a letter from over 80 percent of the George Washington University Law school faculty, your alma mater saying his actions have closed and continue to create a clear and present danger to the evenhanded administration of justice civil liberties into the constitutional order.

SCANLON:

Okay, without objection.

MIKE JOHNSON:

Madam chair, one more unanimous consent request on this side.

SCANLON:

Go ahead.

MIKE JOHNSON:

This is the article that says representative Jerry Nadler says Antifa violence in Portland is a myth. That's from Politico and a number of other journals. I put that in the record.

SCANLON:

Without objection.

MIKE JOHNSON:

Thank you.

SCANLON:

Mr. Collins is recognized for five minutes.

COLLINS:

Thank you, Madam Chair. Welcome, Attorney General Barr. Wow. I'm beginning to believe, frankly, they should probably the--it just hasn't come out yet, probably will in a little bit, you're(PH) probably the cause of the common cold and, you know, and possibly even the COVID-19. I'm not sure at this point because everything is being thrown at you, including now, undoubtedly, your alma mater doesn't like you anymore.

Where--where have we come? The chairman said something earlier today that really made me think. He said why all the drama? That's the most ironic statement coming from this committee in the last 18 months that I've ever heard of the drama that we're bringing up today. We're--we're continuing to just contort ourselves to get to some way to show that you have nefarious motive.

I believe like some on our side here, I believe the biggest problem you have is telling the truth. I believe that's the problem that they have with you. You'll tell the truth and you'll take it responsibly for your actions, and I think that's why you were being attacked. But I want to continue just on this "peaceful protest" for second.

You made a comment just a second ago on these riots. Talking about the courthouses just down the street, what if they decided--do you think that this body right here will rise up if they decided to go tonight and feed the capital building?

BARR:

This body, I'm not sure.

COLLINS:

I think this side would, I'm not sure--

(LAUGHTER)

Yeah, this other side, I'm not so sure. Maybe the peaceful protester burned down the capital. Maybe we back to 1812 again. But also, the other question I have is, and you heard earlier today, the storm trooper comments by the speaker of the House, and we know that that is a direct reference to the paramilitary wing of the Nazi Party. Storm troopers going at it.

Do you believe that that actually puts our law enforcement community as a whole--as the son of a state trooper, I--I want to know your opinion. Does it--don't you think it encourages the violence that we are seeing and encourages the participation against the police?

BARR:

I think that's possible and I think it's irresponsible to call these federal law enforcement officers storm troopers.

COLLINS:

Yeah, and we're seeing that thing played out over and over. Let's switch back to something else about that is--as I think more appealing here. We talked about the investigations--especially going with Flynn. Do you believe that there was actually a basis to go after General Flynn, I mean, what we've seen so far, what's been released, especially keeping an investigation open, Peter Strzok kept it open. Do you believe that he actually have basis for the beginning of this investigation distort with or continuing it?

BARR:

Well, I would just say I asked another U.S. attorney in St. Louis who had 10 years in the FBI and 10 years in the Department of Justice as a career prosecutor to take a look at and he determined based on documents that had not been provided to Flynn's side and not been provided to the court that in fact there was no basis to investigate Flynn.

COLLINS:

Okay, well--

BARR:

--And furthermore, it was clearly established by the documents that the FBI agents who interviewed him did not believe that he thought he was lying.

COLLINS:

Right. Well, there's another part of this as well that concerns what has been, you know, given to the courts in the interviews, and that is that the facts were not disclosed to Flynn prior to the interview. Do you--that seems like a Brady violation to me. Do you believe that that was a--there's a Brady violation there in this case?

BARR:

No, there wasn't a Brady violation there, but I think with the counsel concluded was that the only purpose of the interview, the only purpose was to try to catch them in saying something that they could then say it was a lie.

COLLINS:

So was it entrapment?

BARR:

Therefore--and therefore, there was not a legit--the--the interview was untethered to any legitimate investigation.

COLLINS:

So as the law enforcement officer in this country, it is your responsibility to provide justice for both sides, not, you know, and just call it as it should be. And I think that's what you've done there. Continuing on Durham case, and I know we're not talking specifically about the Durham investigation, which we're hopeful of, but to your knowledge, and we're seeing some released documents on the last week or two that has said to her knowledge, has Kevin Clinesmith, or anyone else at any FBI or DOJ attempted--it was previously or attempted to redeem themselves by cooperating with the investigations? It's been slow and I'm just wondering.

BARR:

I can't get into that.

COLLINS:

Okay. I understand that. Well, I have another issue as we finish up in looking at this between the rhetoric, between the investigation I think Durham investigation is something most of us are waiting for because we can't seem to get this committee to actually believe that the IG's report is worth having something about this committee and there's not a Democrat or Republican this side that can make a legitimate claim why the inspector general has not been called before this committee to actually explained his report except politics, and that's what this committee has become all along.

But I have another problem and I talk to you--I've written to you about this. And that's down with the district attorney down in Fulton County, Georgia actually charging--making felony murder charges on an officer.

And the interesting part about this is what we do is--as prosecutors too, but the--were you aware that the district attorney failed to seek an indictment from the grand jury or even waited for a GBI investigation to finish before bringing those charges. Were you aware of that?

BARR:

Yes, I was.

COLLINS:

Okay. As an attorney, and again, looking at this with the--the environment we have right now, with police officers constantly under attack from--from this committee and from others and all over the country, and especially from the speaker of the House, as an attorney, and especially as a prosecutor, do you think it's appropriate to charge a law enforcement officer with the crime as severe as a felony murder without giving the investigation more than a mere days and without obtaining an indictment from the grand jury and, while you announce the charges, lay out a case that is full of falsehoods.

BARR:

I've said that I--I would have preferred that he had used the grand jury and had waited until the Georgia bureau had completed its investigation.

COLLINS:

Well, I appreciate your help in that. And with that, I yield back.

SCANLON:

Thank you. With that, the chair recognizes Mr. Johnson from Georgia.

HANK JOHNSON:

Thank you. General Barr, your opening statement reads like it was written by Alex Jones or Roger Stone. Do you stand by that statement?

BARR:

Yes.

HANK JOHNSON:

Now, I'm sure that we can agree on some things. We disagree on a whole lot, but I'm sure we can agree on the fact that President Trump is just a prolific tweeter. Is that correct?

BARR:

He seems to be.

HANK JOHNSON:

And he tweeted many times about the Roger Stone sentencing, didn't he?

BARR:

I don't know how many times he tweeted about it.

HANK JOHNSON:

Well, many times. You--and you are aware of them because you said it would--it's--it hurts you from doing your job. And isn't it true that, when prosecutors in the Roger Stone case filed a memo with the court recommending a sentence of 7 to 9 years in prison, a few hours later President Trump tweeted that the sentence recommendation was "a disgrace?" You're aware of that?

BARR:

Yes.

HANK JOHNSON:

And General Barr, several hours after that, you filed a pleading with the court stating that the sentence recommendation would be changed and that you would be asking for a lighter sentence for Roger Stone. Isn't that correct?

BARR:

No, what--no, what is correct is that--

HANK JOHNSON:

--Well, I mean--

BARR:

--What is correct, that on February 10th, Monday--

HANK JOHNSON:

--No, no--

BARR:

--I gave instructions as to what the--

HANK JOHNSON:

--Reclaiming my time--

BARR:

--Yeah--

HANK JOHNSON:

--Reclaiming my time--

BARR:

--I'm answer your question.

JORDAN:

Well, you've got to let him answer.

HANK JOHNSON:

Reclaiming my time, you filed a sentencing recommendation hours after President Trump tweeted his dissatisfaction with the Stone recommendation, and you change that recommendation--

BARR:

--No, I--the night before--

HANK JOHNSON:

--That was after the Trump tweet.

BARR:

--The night before, that is Monday night--

HANK JOHNSON:

--Well, I know your story, but I'm asking--

BARR:

--Well, I'm telling my story. That's what I'm here to do.

HANK JOHNSON:

Well, I don't want you to tell your story.

BARR:

Well, I do. That's why I'm--

HANK JOHNSON:

--I want you to answer my question.

BARR:

Well, I'm here to tell my story.

HANK JOHNSON:

Well--

BARR:

--And on the night before--

HANK JOHNSON:

--You're here to answer my questions--

BARR:

--The night before on February 10th--

HANK JOHNSON:

--No, sir--

BARR:

--On February 10th, I directed--

HANK JOHNSON:

--Reclaim--reclaiming my time, sir, reclaiming my time. And I know you don't want to answer, but the facts are clear. Sentencing recommendation made in the morning, tweet in the afternoon, you changed the sentencing recommendation that--after the tweet.

BARR:

--No, tweet--tweet was not in the afternoon. The tweet was made at I think 1:30 or 2:00 in the morning.

HANK JOHNSON:

Well, the tweet was made before and after, tweet--tweeted about that relentlessly. You've agreed to that. Now, when you filed your sentencing recommendation asking for a lower sentence--

BARR:

--I didn't ask for a lower sentence.

HANK JOHNSON:

Well, you said that you were going to recommend a lower sentence, and you--

BARR:

--No, I let--we--

HANK JOHNSON:

--Wasn't the sentence that was recommended by the line prosecutors according to the sentencing guideline calculations?

BARR:

It was within--it was within the guidelines, but it was not within Justice Department--

HANK JOHNSON:

--So--

BARR:

--policy--

HANK JOHNSON:

--But now--

BARR:

--In my view--

HANK JOHNSON:

--General Barr, you're expecting the American people to believe that you did not do what Trump wanted you to do when you change that sentencing recommendation and lowered it for Roger Stone? You think the American people don't understand that you were carrying out Trump's will?

BARR:

I was not--I--I had not discussed my sentencing recommendation with anyone at the White House or anyone that--

HANK JOHNSON:

--But doing what the president--exactly--

BARR:

--Or anyone outside the department--

HANK JOHNSON:

--What the president wanted you to do. And that's what you did.

BARR:

No.

HANK JOHNSON:
Attorney General Barr--

BARR:
--Just--well, no. Let me ask you. Do you think it's fair--

HANK JOHNSON:
--Attorney General--

BARR:
--Do you think it is fair--

HANK JOHNSON:
--Reclaiming my time, sir--

BARR:
--for a 67 year old man--

HANK JOHNSON:
--Reclaiming my time--

BARR:
--to be sent to prison for 7 to 9 years?

HANK JOHNSON:
It was in accordance with the sentencing recommendation.

BARR:
No, it was not.

HANK JOHNSON:
You just said that it was, and your line prosecutors--

BARR:
--I--

HANK JOHNSON:

--Will testify that it was also. Now, I'm going to move on from that.

BARR:

The department--

HANK JOHNSON:

--during your time as attorney general--

BARR:

--It was not the department--

HANK JOHNSON:

--For Herbert Walker Bush, you never changed a sentencing recommendation for a friend of Herbert Walker Bush, did you?

BARR:

No, I--as I recall.

HANK JOHNSON:

--All right. That's all I'm asking.

BARR:

--It's--

HANK JOHNSON:

--No. And over the course of your time as Trump--

BARR:

--It--nothing was never elevated to me--

HANK JOHNSON:

--Over the course of your tenure with Trump, you've changed to sentencing recommendations, not one but two, correct?

BARR:

Which were they?

HANK JOHNSON:
Yeah, Michael Flynn.

BARR:
I didn't change it.

HANK JOHNSON:
Well, you said--are you indicated that you--yeah, you changed it because the original plan sentencing recommendation was for Flynn to serve 0 to 6 months. But under your authority, the Justice Department supplemented that recommendation with a pleading that stated the Department of Justice's agreement with Flynn's lawyers that probation would be a reasonable sentence, and that the DOJ would not be seeking prison time for Michael Flynn. Isn't that correct?

BARR:
I don't think that's what it said.

HANK JOHNSON:
Well, that's what it said, sir. You go back and read it.

BARR:
I--I think both--

HANK JOHNSON:
--Now, prior--

BARR:
--I think both pleadings said that--

HANK JOHNSON:
--Sir, reclaiming my time, prior to you becoming--

SCANLON:
--The gentlemen's time is expired.

JORDAN:

Madam Chair? Madam Chair? You--you can give a speech or you can ask questions. If you do the latter, you need to let the witness answer questions. And that's the chair's obligation--

SCANLON:
--I believe--

JORDAN:
--The chair's responsibility to allow that to happen.

SCANLON:
Mr. Buck is recognized for five minutes.

BUCK:
(OFF-MIC) appearing before the committee today. General Barr, there is a disturbing pattern we have seen throughout history with totalitarian systems of government. The leaders first seek to disarm the population. Then they encourage good squads to suppress opposing voices. And finally, once they have disarmed and silenced the opposition, these authoritarian leaders institute policies that root out and crush freedom in every form.

Unfortunately, the American left has been infected with this same totalitarian desire to remove firearms and silence opposing views as part of a campaign to achieve its political ends. We've seen this scenario play out in every major Democrat city in America. Progressive leaders push to disarm law-abiding Americans to further their influence while watching his crime rates soar. We even saw a failed presidential and Senate candidate, Beto O'Rourke, proudly tell Americans, hell, yes, we're going to take your AR-15 and your AR--or your AK-47.

Now the American left is actively cheering as this fascist militia, Antifa, rages in the streets. Antifa is a domestic terrorist organization that hijacks peaceful rallies, organizes armed riots, attacks peaceful protesters, burns buildings, loot stores, and spread hate. Reports of Antifa linked attacks began circulating in 2017. These thugs, often armed with sticks and pepper spray and other--other instruments, showed up to silence college Republican groups at Berkeley. The left was silent.

Then in June, 2019, Antifa jumped into the national conversation after journalist Andy Knowles was brutally attacked in Portland. No arrests were made. The left again was silent. Almost exactly one year ago today, the Wall Street Journal ran an op-ed stating Portland has to do something to deter political violence or the city will get more of it. Of course, the city's feckless leadership has only further encouraged Antifa's violent antics. As a result, we have seen 61 straight nights of violence in Portland.

Antifa's fascist totalitarian activities are now oozing into other Democrat run cities. Last Sunday, Antifa launched a violent assault on a peaceful pro police demonstration in Denver, Colorado. Conservative leaders in Colorado, including Randy Corcoran, a Denver area lawyer and radio talk show host, organized a family-friendly event in honor of law-enforcement appreciation day. The atmosphere was peaceful and the counter protesters were given plenty of space to advocate their message.

But as the afternoon wore on, a swarm of violent Antifa thugs infiltrated the peaceful Black Lives Matter counter protesters and began assaulting pro police Americans. These are 20 and 30-year-old thugs assaulting 50, 60, 70, and even 80-year-old Americans who only wanted to show their support for law enforcement. What's worse, Denver's cowardly liberal leadership ordered police to retreat once they saw members of Antifa entering the fray. A Denver Police Detective Nick Rogers, apologized for this terrible decision.

Detective Rogers summed it up best in a recent radio interview, "I'm sorry on behalf of the rank and file. That's not us. That's not who we are. It just kills me that we let good people down." He continued, "I found out that a retreat order was given by the incident commander, and we had one lieutenant step up and say we aren't leaving. This lieutenant said these people are going to get killed if we don't stay, so he kept his people there. That's the reason this thing didn't get worse."

These are sad times in America. Free speech and the right to keep and bear arms are both being threatened my violent anarchists, and the best our chairman can do is call Antifa a myth. General Barr, this has to stop. We can't let Antifa continue terrorizing our country. Can you please tell us about the appropriate use of civil and criminal RICO statutes to address violent criminal groups? Like Antifa?

BARR:

In the--in the wake of the beginning of these riots I ask our Joint Terrorism Task Force as the FBI's Joint Terrorism Task Forces around the country to be our principal means of developing evidence and prosecuting violent extremist terrorist who were involved in these activities and one of the tools obviously we would use is (INAUDIBLE) which can be used against an organization but that doesn't mean that we currently have a (INAUDIBLE) case pending.

BUCK:

Okay. I--I thank the gentleman, and do you have anything you want to say in response to the speeches that have been given by the other side and then you have been cut off?

BARR:

Yeah, well let's--on Lafayette--on Lafayette--

SCANLON:

The gentleman's time has expired.

BARR:

Can I ask for a brief recess?

JORDAN:

Yes, Madam Chair, the witness would like (INAUDIBLE).

SCANLON:
Mr. Barr? Mr. Barr, 10 minutes?

BARR:
Five.

SCANLON:
Okay. We--the committee will stand in recess for five minutes.

SCANLON:
The committee is in session. The chair recognizes Mr. Deutch for five minutes.

DEUTCH:
And I thank you Madam Chair. Attorney General Barr you just told us that nothing was ever elevated to me. You had said in an interview recently that there is a process in place, an escalation system, it is the AG's responsibility to resolve it. How was this elevated to you, the case of Roger Stone?

BARR:
On Monday, February 10 the U.S. attorney was with me and he raised the issue with me.

DEUTCH:
So it was elevated by Timothy Shea?

BARR:
Yes.

DEUTCH:
And had it been elevated during the two months between the time the conviction came in under the former U.S. attorney and the time that Timothy Shea started?

BARR:
I--I think Shea may have had conversations with people (INAUDIBLE).

DEUTCH:
Did you ever have conversations with the former U.S. attorney about this case, about the sentencing?

BARR:
Stone I--I don't recall any discussion about stone with--with--

DEUTCH:
Right. So Timothy Shea you said in the interview that he was new, he had just started he--he was new, but he worked for you for a long time, didn't he?

BARR:
Yes.

DEUTCH:
And what was his job for you?

BARR:
Well when I was attorney general 30 years ago he worked--

DEUTCH:
No, no, now, just now.

BARR:
He--he was on my staff.

DEUTCH:
He advised you on--on criminal justice policy and law enforcement, right?

BARR:
Correct.

DEUTCH:
And you act--you named him acting U.S. attorney--had viewed discuss the stone case with him before you named him acting U.S. attorney?

BARR:
No.

DEUTCH:

Did you discuss sentencing with him--not be for--the first time was when he came in. It wasn't Monday actually (INAUDIBLE) just to refresh your recollection in a prior interview you said he came in the week the four he came in to see some senior staff that's what you--

BARR:

No, that is what I said he may have--he may have had discussions with people in the deputy's office. I was not involved in those discussions. Basically I didn't as far as I can recall I had no substantive involvement in stone until that Monday when he came in in the morning.

DEUTCH:

Well, I'm sorry Mr. Attorney General the week before when he came in to see the senior staff that he had worked with the week before when he was working--

BARR:

I said I think he had raised it with people in the deputy's office that is senior staff too.

DEUTCH:

Right, I understand.

BARR:

But I was not involved.

DEUTCH:

--on--he started on July 31, the first week he was there he came to raise this issue.

BARR:

I think he started February 1.

DEUTCH:

Right. The first week he was there he came into your office to raise the issue of sentencing. In the interview you did with ABC you said--

BARR:

No, I don't think he came--

DEUTCH:

That is what you--that is what you told ABC news. You said that he has talked to senior staff, not you perhaps, but he talked to senior staff. (INAUDIBLE)

BARR:

I don't know what--you know I think I speak English. I said that before he came in to see me I believe he had some conversations--

DEUTCH:

Conversations with senior staff. Right, that's right before he came to see you. We are saying the same thing I am just asking--

BARR:

But the first it was raised with me--

DEUTCH:

Was on Monday.

BARR:

Was on Monday.

DEUTCH:

Did you talk to the senior staff after they spoke with him?

BARR:

I think at a 9 o'clock meeting they said that he was trying to work something out on sentencing and he was actually optimistic that something could be worked out so I didn't think of it as an issue until that Monday when he told me that--

DEUTCH:

Right so then he--so then he filed--so then they filed, he filed the sentencing memo and the sentencing memo called for 7 to 9 years. It is the policy of U.S. attorney's office to suggest a specific guideline range which--which they did and then you overruled the line prosecutor ask for a lower sentence and you gave some reasons.

You talked about health. Health is to be considered only for an extraordinary physical impairment. Did that apply to Roger Stone Mr. Attorney General? That is what they guidelines said.

BARR:

Well actually I--I can't you know I can't reveal all of the information.

DEUTCH:

Just I am not asking what his health was, but did that apply?

BARR:

No.

DEUTCH:

Okay and did--

BARR:

I'm sorry did want to apply?

DEUTCH:

His health. Was there a health reason?

BARR:

Health is a reason to--

DEUTCH:

I know is that the reason for Roger Stone for your asking for a lower sentence? Let me go on. It says age-

-

BARR:

I stated (INAUDIBLE)--

DEUTCH:

Let me go on--

BARR:

I stated why I--

DEUTCH:

Hold on one second. Age can be consideration it says only if it creates conditions that are of an unusual degree and distinguish the case from typical cases. He was 67 did that--

BARR:

The judge agreed with me congressman.

DEUTCH:

No, that's not what I'm--

BARR:

The judge agreed with me.

DEUTCH:

I am not asking you that.

BARR:

The judge agreed with me.

DEUTCH:

I am not asking whether the--

BARR:

I know you are not (INAUDIBLE) and I am--

DEUTCH:

I am not asking you that and the issue here is--the issue here is whether Roger Stone was treated differently because he was friends with the precedent. When you ask--when you ask to reduce the sentence you said enhancements were technically applicable.

Mr. Attorney General can you think of any other cases where the defendant threatened to kill a witness, threatened to--threatened a judge, lied to a judge where the Department of Justice claimed that those were mere technicalities? Can you think of even one?

BARR:

The judge agreed with our (INAUDIBLE)--

DEUTCH:

Can you think of even one--I am not asking about the judge, I am asking him about what you did to reduce the sentence of Roger Stone.

BARR:

Yes--

DEUTCH:

Can you think--Mr. Attorney General he threatened the life of a witness--

BARR:

And the witness did and--

DEUTCH:

And you viewed that as a technicality Mr. Attorney General. Is there another time--

BARR:

Can I answer the question? Can I have just a few seconds to answer the question?

DEUTCH:

Sure, I am asking if there's another time--

BARR:

In this case--

DEUTCH:

--in all of the time of the Justice Department--

BARR:

They judge--the judge agreed with our--

DEUTCH:

You won't answer my question Mr. Attorney General and it is unfortunate and the appearance is that as you said earlier this is exactly what you want, the essence of rule of law is that we have one rule for everybody and we don't in this case because he's a friend of the President. I yield back.

NADLER:

Gentleman yields back. Mr.--Ms. Roby?

ROBY:

Mr. Attorney General, thank you so much for being here with us today. I am a member of both this committee as well as the Appropriations Committee and I have been able to see firsthand both the funding and the operation of the department. Additionally before I was elected to Congress I served on the City Council in my hometown of Montgomery, Alabama and I have witnessed the importance and

the value of various Justice Department grant programs and the resources to state and local governments.

For example of the Alabama Fusion Center which is designed to combine information between federal, state, and local government, private sector entities and the intelligence community has been a recipient of these federal grants.

The Alabama Fusion Center is also responsible for the Alabama Center for missing and exploited children and has done a great job in work in combating child exploitation. Do you believe that Congress is adequately funding programs that provides state and local agencies with the tools that they need to be effective in preventing and pursuing crimes such as child exploitation and human trafficking particularly over the Internet?

BARR:

I think we can always use more--more resources for that congresswoman but--but if I could just have a moment of your time to respond to these questions here--

ROBY:

Sure.

BARR:

That were being ask about the Roger Stone sentencing the U.S. attorney came to me and said that the four of line prosecutors were threatening to re-sign unless they could recommend 7 to 9 years but there was no comparable case to support that. It would have been very disparate sentence.

All of the cases were clustered around three year sentence for a bad and the way they had gotten to the 7 to 9 was by applying and enhancements and there are debates all of the time within the Department of Justice about the proper calculations under the guidelines and whether a particular enhancement apply or doesn't apply and those are usually worked out and re-solved.

But here they were saying that they were taking and enhancement that has traditionally been applied to mafioso(SP) and things like that threatening a witness and they were applying it to him because he had a phone call at night where he told a witness that if you wanted to get it on let's get it on and I will take your dog and we felt that that technically could apply but in this case it really didn't reflect the underlying conduct and the overarching requirement at the Department of Justice is that we do not presume and automatically apply the guidelines.

We make individual assessments of the defendant and what is really just under the case and nothing that is excessive and these individuals were trying to force the U.S. attorney who was new in the office to adopt seven, nine and I made the decision know we are going to leave it up to the judge and that later when that was not done that evening I told people we had to go back and correct that the next morning so that--that is the sequence of events but at the end of the day the proof of the pudding is in the--in the eating.

The judge said she would not have gone along she didn't think with the first recommendation because the enhancement artificially inflated the exposure of the defendant and she came out exactly where I had come out so that the end of the day the question is fairness to the individual and even though I was going to get a lot of criticism for--for doing that I think at the end of the day my obligation is to be fair to the individual. Thank you for permitting me--

ROBY:

I am happy to have yielded new time to respond. That being said Mr. Attorney General am I as a departing member of Congress and have just a few short moments left I just want to express to you and the department how important this issue that value originally ask you about is to me both as a member of Congress representing my constituents in Alabama but also as a mother--

ROBY:

--of two beautiful children and I am increasingly alarmed about the way that children are interested one click away from being on a website, a forum, or a chatroom or social media site where bad actors may be lurking. And whereas I only have a few short seconds left, I would just ask you in the time that I have left in Congress that we could continue to work together to combat child exploitation and human trafficking. And I appreciate all the work that you're doing on this.

BARR:

Absolutely, congresswoman. And as you know, one of the most difficult issues coming up is encryption. Because as this material gets encrypted in the chat rooms and the areas where they claim these young children, once it becomes encrypted, it will be very hard for us to police it.

ROBY:

Right. Thank you so much. I yield back. Thank you.

NADLER:

The gentlelady yields back. Ms. Bass.

BASS:

Attorney General Barr, when it comes to police engagement, last August when speaking to the National Fraternal Order of Police, you shared your views on police engagement with the public. You stated, and I quote, "Underscore the need to comply first and, if warranted, complain later. This will make everyone safe. The police subject--the police, suspects, and the community at large, and those who resist must be prosecuted." I repeat, "Zero tolerance for resisting police. This will save lives." Do you stand by that statement?

BARR:

Yes, I think it's very important that we--

BASS:

--A zero tolerance attitude is costing the lives, not saving them, especially in communities of color--

BARR:

--Well, I'm not--I'm not saying that--

BASS:

--I reclaim my time. A movement in protests have arisen in response to police brutality. Who are here are a few examples of whom bears the cost of zero tolerance. Elijah McClain was walking home from a convenience store when he was approached by police.

He had not committed a crime. Police held him in a choke hold for 15 minutes. Then injected him with ketamine--ketamine not under a doctor's supervision, but at the direction of non-medically trained and unlicensed police officers. Are you familiar with that case?

BARR:

No.

BASS:

Do you know how frequently ketamine is used by law enforcement to subdue civilians, especially people of color?

BARR:

No.

BASS:

Did you know if police departments have been documented as directing paramedics and EMTs to inject ketamine during arrests?

BARR:

No.

BASS:

Have you--well then, I guess you haven't evaluated the use of force tactics by--since becoming AG and especially this particular tactic of subduing suspects with ketamine.

BARR:

Not with respect to ketamine, no.

BASS:

Will you commit to directing the department to evaluate the protocols around the use of ketamine, truckloads, and other methods used by federal law enforcement officials when making arrests or detaining subjects?

BARR:

Well absolutely, under the president's executive order, we are reviewing--

BASS:

--Thank you, and especially--

BARR:

--use of force in working with police--

BASS:

--Good--

BARR:

--In working with police departments--

BASS:

--Especially the ketamine. That's pretty outrageous.

BARR:

I look at the ketamine.

BASS:

George Floyd was killed by a police officer via chokehold. For 8 minutes and 46 seconds, a police officer knelt on his neck as he begged for his life. He was suspected of using a counterfeit \$20 bill. That's how zero-tolerance can amount to a death sentence for black men when used in communities of color with George Floyd screaming, as we all know, he couldn't breathe.

Now consider James Holmes who murdered 12 people and injured 70 others in a movie theater and over a Colorado, that same town as Elijah McClain where he was arrested. James wore body armor, had a knife, semiautomatic weapons, and an AR-15. Yet, he was calmly arrested by the same Police Department as Elijah McClain without a chokehold or an injection of ketamine.

Dylann Roof used a gun to murder nine people and injured another at an annual African Methodist Episcopal Church in South Carolina. When he was arrested, no chokeholds, no injections. He was treated so that officers brought Dylann Roof Burger King after arresting him. Are you familiar with that case?

BARR:

Yes.

BASS:

I raise those two examples to follow up on what my colleague from Texas highlighted earlier, that the department is not doing enough to address issues of racism, bias, and brutality in law enforcement. When someone who commits mass murder is calmly arrested and served Burger King while a young man walking down the street is placed in a chokehold and injected with ketamine then dies. You said that under the executive order the administration is looking at chokeholds. What have you determined so far?

BARR:

Well, we are setting up the system of certification of police departments. And part of what our charter is is to come up with criteria that will be used for certification, including limitations on the use of force, specifically including chokeholds.

BASS:

So in the George Floyd Justice in Policing Act, part of it called for a national registry of law enforcement officers as a resource for police chiefs to determine who are the best candidates for jobs, as you made poor may not be aware, Tamir Rice might be alive today if police--if the police chief who hired him had known that that police officer had been fired from another department. What is your view of a national registry of law enforcement officers?

BARR:

This--the second aspect of the president's executive order is to set up a database like that so that all determinations of excessive force around the country go into that database. And if police departments aren't reporting that information, they wouldn't be certified. So we do believe in one national point where you can go in and get determinations of excessive force on law enforcement candidates for jobs.

BASS:

Good, thank you. And I do want to comment on part of your opening statement when you were saying that after the Jim Crow. That our justice system is equal. And I don't believe that that's the case.

BARR:

I said the law--I said the laws were made equal.

BASS:

The laws were made equal. They are certainly not applied equally. We do have systemic problems in our law enforcement system, our criminal justice system on every level. The fact of the matter is 2.3 million people in the United States are incarcerated. We incarcerate 24 percent of the world's prisoners. Thirty-four percent are black while African-Americans are just 13 percent of the--of the U.S. population.

So justice is still not equal, nor are our laws. And I think when we look at how many people are incarcerated how many people are killed, it is not the numbers, it is the percentage to the percentage of that group in the U.S. population. I yield back my time.

NADLER:

The gentlelady--the gentlelady yields back. Mr. Gaetz.

GAETZ:

Thank you, Mr. Chairman. Mr. Attorney General, you've described the prosecution of Roger Stone as righteous. That's clearly something that the president and I disagree with you on. I would suggest that perhaps the prosecution of Andrew McCabe who lied four times, thrice under the penalty of perjury would be more righteous. I would suggest to you that uncovering the criminal conspiracy that existed where people in our own government trying to convince intelligence agents and operatives around the world to destabilize our elections and to discredit our president perhaps be more righteous.

But as we sit here today, I don't think that Mr. Stone or Mr. McCabe or any of those other folks are killing anyone burning down our buildings. And so I'd like to focus our effort on the most acute need I believe our country has. You've recently said that you believe Antifa to be a terrorist organization. As your basis for that belief?

BARR:

I'm not sure I said terrorist organization. I said were investigating it as domestic terrorism. But Antifa, there are a number of violent extreme groups in the United States and the other across the spectrum. Antifa is heavily represented in the recent riots. That's not to say they're the only group involved. And they have been identified as involved in a number of the--of the violent mob actions that have taken place around the country.

GAETZ:

And Mr. Attorney General, I saw the chairman of the Judiciary Committee recently say that Antifa is a myth, that their involvement in this violence isn't something that--that is real. What's your reaction to the chairman?

BARR:

I don't think it's a myth. Antifa is a--is--can be best thought of I think as a--as an umbrella term for what is essentially a movement comprised of loosely organized groups around the country. And some of these--in some areas of the country, there are a number of groups and there are supportive centers of activity.

The groups, as I say, are loosely organized, but they are definitely organized. But as--since they have an anarchic temperament, they don't get along very well with each other. So I'm not suggesting it's a national organization that moves nationally. They tend to--to get organized for an event and there's a lot of organization right before an event occurs, but we see a lot of the organization during the mob violence.

GAETZ:

And that is a really important distinction when determining how to apply particularly our RICO (SP) laws to an organization like this. If Antifa is merely something that inspires people to go out and commit violence, that strikes me as legally distinct from Antifa of being an organizing influence to assist people in committing crimes.

One question I get from my constituents as they watch the death and violence and disruption and chaos in Seattle and in Portland and in other places is whether or not there's a risk that that could metastasize to other areas of the country. Have you given consideration to the risk that might befall other American communities if the Department of Justice were not to take action to protect and preserve federal property in places like Portland?

BARR:

Yes, absolutely. You know, we are concerned about this problem metastasizing around the country. And--and so, we feel that we have to--in a place like Portland or even where we don't have the support of the--the state govern--the local government, we have to take a stand and defend this federal property. We can't get to a level where we're--we're going to accept these kind of violent attacks on federal courts.

GAETZ:

And if you did what my Democratic colleagues were asking, if you merely abandoned that federal property, allotted to be overrun, let the people inside to be harmed, is a your view then that Antifa and other violent people engaged in these acts would simply stop, would simply accept that as their sole victory, or is it your expert opinion, having dealt with a number of law enforcement criminal cases in your legal career, that--that they wouldn't stop, that they would go to the next town, to the next community and potentially inspire more violence?

BARR:

Yeah, there's no doubt in my mind that it would spread.

GAETZ:

And--and what comfort can you give Americans in my district and around the country that--that you will stop this, that you will stop the burning and destruction of federal property, and that you will--that you will give confidence to regular Americans that they can go out in the streets without the risk of this terrorism?

BARR:

Well, as you can see in--in Portland, we have a relatively small number of--of federal officers who have been withstanding this for almost 2 months. It's a great strain, but we--we cannot just stand aside and allow the federal court to be destroyed.

GAETZ:

Thank you for your service and for your great work. I yield back.

NADLER:

The gentleman yields back. Mr. Richmond?

RICHMOND:

Thank you, Mr. Chairman. Attorney General Barr, you started your testimony with eloquent words about the life and legacy of John Lewis fighting systematic racism, voter intimidation, civil rights.

The one thing that you have in common with your two predecessors, both Attorney General Sessions and Attorney General Whitaker, is that when you all came here and brought your top staff, you brought no black people. That, sir, is systematic racism. That is exactly what John Lewis spent his life fighting. And so, I would just suggest that actions speak louder than words, and you should--really should keep the name of the Honorable John Lewis out of the Department of Justice's mouth.

Let me also say you mentioned bogus Russiagate. In your opinion, as the attorney general of the United States of America, did Russia interfere or attempt to interfere in the 2016 election?

BARR:

Yes.

RICHMOND:

In your position as attorney general of the United States, is Russia attempting to interfere in the 2020 presidential election?

BARR:

I think--I think we have to assume that they are.

RICHMOND:

Thank you, sir. Now, let's talk about the integrity of the election, which is also something Congressman Lewis fought for. Jared Kushner implied that the president could move the election date. Can a sitting U.S. president move in election date?

BARR:

Actually, I haven't looked into that question under the Constitution.

RICHMOND:

Well, 2 U.S. Code Section 7 says federal Election Day is the Tuesday after the first Monday in November. So, if you take that as the correct statute, is there any executive action by a president to override it?

BARR:

I've never been asked the question before. I've never looked into it.

RICHMOND:

As attorney general of the United States, do you believe that this 2020 presidential election will be rigged?

BARR:

I have no reason to think it will be.

RICHMOND:

President Trump tweeted that the election will be rigged. But he also tweeted that when he was losing to Hillary Clinton and he tweeted that the day after it was--Fox showed that he was losing to Trump. But I don't want to be too political. Do you believe, as the Attorney General of the United States, that mail-in voting will lead to massive voter fraud?

BARR:

I think there's a high-risk that it will.

RICHMOND:

Do you ever boat--vote by mail-in ballot?

BARR:

Currently, I did once at least.

RICHMOND:

But you believe that other people voting by mail could lead to massive fraud?

BARR:

No. What I've talked about, made very clear, is that I'm not talking about accommodations to people who have to be out of the state or have some particular need not to--inability to go and vote. What I'm talking about is the wholesale conversion of election to mail-in voting.

RICHMOND:

You--you do understand that African Americans disproportionately do not survive COVID-19 coronavirus? You are aware of that?

BARR:

I didn't hear the question.

RICHMOND:

You are aware that African Americans, black people, disproportionately die from COVID-19 coronavirus, correct?

BARR:

I--yes, I think that's right.

RICHMOND:

And not that it would be the first time that African Americans would risk their lives to vote in this country to preserve its democracy, but the suggestion is that them having the ability to vote by mail would somehow lead to massive voter fraud. But I won't stick to that.

BARR:

No, I--I didn't say that. I just state I think what is a reality, which is that if you have wholesale mail-in voting, it substantially increases the risk of fraud.

RICHMOND:

But it doesn't make it likely?

BARR:

That's all I said.

RICHMOND:

Now, I also saw on TV that the president said he's not sure that he'll accept the election results. Can a president just protest because he lost that election?

BARR:

Protest in what sense?

RICHMOND:

Well, can he can contest an election just because he simply loses?

BARR:

Gore versus--you know, Bush v. Gore was a--

RICHMOND:

--Well, I think that that was over a slim voter margin. I'm talking about if it is very clear that the president has lost an election, does he have a remedy to contest the election?

BARR:

Not that I'm aware of.

RICHMOND:

Let me go back to what Representative Bass mentioned. You mentioned a number, that there were eight African-Americans killed by the police and 11 white people killed by the police.

BARR:

So far this year.

RICHMOND:

If you--if--if you use those numbers, that's 85 percent of the population is white, 15 percent of the population is black. But if you actually look at the deaths according to the numbers you just gave, 42 percent of the deaths are African American and 58 percent are white. That is a glaring disparity in terms of population. And I just give you those numbers--

BARR:

--Well, not--not necessarily--

RICHMOND:

--Because--because I--

BARR:

--You have to adjust it by who--by the--you know, the--the race of the criminal.

RICHMOND:

No, I just did that for you. I'm using your numbers. And according to your numbers, African Americans are four or five times more likely than their percentage of the population to be killed by police than their white counterparts.

BARR:

Yeah. Well, the--the actual--

RICHMOND:

--So, I just wanted to give you that based on your numbers.

BARR:

Actually, the studies I have seen have suggested two things. One, that in fact police are less likely to shoot a black suspect, a little bit more likely to shoot at white, however that--that police are--are more inclined to use non-lethal force in a contact with an African-American suspect. So, those of the--those--in terms of the statistics, that's what it looks like to me.

RICHMOND:

Any data that you have that shows that African-Americans are less likely to die at the hands of police or be shot or shot at to me as a--a incorrect analysis, but I am interested in seeing it. So if you have it, please see it. I won't call it any names. But if that data exists, I would be more than happy to see it. And since you're sending me that data, can you send me the data of African-Americans within the Department of Justice, how many you have in leadership ranks--

BARR:

--Sure--

RICHMOND:

--All the way down? Thank you.

BARR:

Sure.

RICHMOND:

And I yield back.

NADLER:

The gentleman yields back. I would remind Mr. Jordan, Mr. Biggs, and Mr. Johnson to stop violating the rules of the committee, to stop violating the safety of the members of the committee, to stop holding themselves out as not caring by refusing to wear their masks.

MIKE JOHNSON:

Is it permissible to drink a sip of coffee?

NADLER:

It is not permissible.

BIGGS:

Not--not to drink?

MIKE JOHNSON:

We can drink coffee in the room?

JORDAN:

I'm getting ready to ask questions now. I'm getting ready to ask questions.

NADLER:

Mr.--

JORDAN:

--Then I will--

NADLER:

--Mr. Gaetz is recognized.

JORDAN:

No, no, no, he went.

BIGGS:

He--he went, and that's why I took off my mask, Mr. Chairman.

JORDAN:

I'm going to go. I'm going to go.

BIGGS:
Okay.

NADLER:
Mr. Jordan is recognized.

JORDAN:
Mr. Attorney General, let's clear up a few things. Judge Berman Jackson agreed with your--with your Stone sentencing recommendation. Is that right?

BARR:
That's right.

JORDAN:
Yeah. And she said I am concerned 7 to 9 years would be greater than necessary. I agree with the defense and with the government's second memorandum. So, it couldn't be more clear they agreed with you.

BARR:
That's right.

JORDAN:
Lafayette Square, with St. John's Church be standing today if you had not taken action?

BARR:
Well, I think that was on Sunday--that was on Sunday night, and I think law enforcement did use teargas, my understanding is, that night to clear the way so that the fire trucks could get into--to save St. John's Church.

JORDAN:
The church, historical church--

BARR:
--That was on Sunday night though.

JORDAN:

I understand. I understand the timeframe. But it would--would you--would it be stating if there had not been action taken by federal law enforcement and local law enforcement?

BARR:
Right.

JORDAN:
Thirty-eight people unmasked Michael Flynn's name 49 times in a two month timeframe, seven people at the Treasury Department unmasked Michael Flynn's name. Is this an issue that Mr. Durham is looking into?

BARR:
I have asked another U.S. attorney to look into the issue of unmasking because, as you know, the high number of unmasking's and some that do not readily appear to have been in the line of normal business.

JORDAN:
Wait a minute, I want to be clear. So there is--there is another investigation on that issue specifically going on at the Justice Department right now?

BARR:
Yes.

JORDAN:
Wow, that's great. So Mr. Durham is looking at how the whole Trump Russia things started. You have another U.S. attorney, can you give us that U.S. attorney's name or is that something you are comfortable doing?

BARR:
John Bash of Texas.

JORDAN:
John Bash of Texas is looking specifically at the fact--

BARR:
Add unmasking.

JORDAN:

Thirty-eight people 49 times on mass Michael Flynn's name and probably other unmasking's that took place in the final days of the Obama-Biden administration is that accurate?

BARR:

Actually a much longer period of time.

JORDAN:

Even before that?

BARR:

Yes.

JORDAN:

Thank you Mr. (INAUDIBLE) I--I appreciate that. That is information that the committee did not--did not know. Our peaceful protest violent Mr. Attorney General?

BARR:

No.

JORDAN:

Do peaceful protest destroy businesses?

BARR:

No.

JORDAN:

Do peaceful protest injure officers?

BARR:

No.

JORDAN:

Do peaceful protest attack civilians?

BARR:

No.

JORDAN:

Do peaceful protest burned down buildings?

BARR:

No.

JORDAN:

I was--you know, the video we played, it is hard to watch, it is really hard to watch to see that happening in our great country, but there was one--the start of it was almost laughable where you have the reporters saying as a building is burning behind him it's not generally speaking and unruly protest it is mostly just a protest.

I mean it's almost laughable when you have the reporters saying I guess--I guess he is saying it's not a fire it's just a burning building. I guess he is saying it is a peaceful burning building.

A few weeks ago--well, let me ask you this I--I want to go right to this, is defunding the police a rational policy?

BARR:

No, I--I think if anything I am more concerned that the police be adequately funded today and get more resources. A lot of the things we need to do to address some of the concerns people have about what they saw in Minneapolis are going to take some resources, some of the training that we have to do and one of the difficulties in our country, it's not a difficulty, it's a fact we have 18,000 law enforcement agencies some--most are very, very small and so we have to find a way of training you know making sure the training is pushed out.

JORDAN:

Is it dangerous--dangerous to defund the police?

BARR:

Extremely dangerous.

JORDAN:

Extremely dangerous and some of the ordinances you are seeing cities pass are also dangerous. Are you familiar with the letter that chief of police of Seattle Carmen Best sent to business owners and residents in that city?

BARR:

Yes, I am, saying that you know she cannot protect--she can't do her job, her police force cannot do the job because--

JORDAN:

That is exactly what she said, gives officers the policy they are trying to pass, thank goodness a court stopped at the policy they are trying to pass gives officers no ability and she emphasized not us, not you Mr. Attorney, not me gives officers no ability to safely intercede to preserve property in the midst of large violent crowds.

She also said in that letter and again she has taken the leadership and responsibility to tell the business owners the citizens that she is supposed to serve. She also tells them in that letter I have done my due diligence on informing the council numerous times so she is saying I tried to tell them these people won't listen to me and then finally she says this and this is the scary part, this is why it's so dangerous she says this in her letter, Seattle police will have an adjusted deployment.

That is a nice way of saying you are on your own we can't help you. That is how scary this defund the police and here's the kicker, here's the kicker, these same cities sent you a letter last week the same week Chief of Police Best does this to the residents and citizens of her city her Mayor sends you a letter blaming you, blaming the federal government for the violence that is happening in these cities. That-- that is how ridiculous the left's position has become. I appreciate the work you are doing Mr. Attorney General. I--I am over time, I yield back.

BARR:

Thank you.

NADLER:

The gentleman yields. Mr. Jeffries?

JEFFRIES:

Mr. Barr, the job of the attorney general is to defend the best interest of the people and serve as the people's lawyer but during your time as attorney general you have consistently undermined democracy, undermine the Constitution and undermine the health, safety and well-being of the American people all to personally benefit Donald Trump.

Now you just testified that there is no mechanism for a president to contest the election that has clearly been one by the opponent. Mr. Attorney General what will you do if Donald Trump loses the election on November 3 but refuses to leave office on January 20?

BARR:

Well if the results are clear I would leave office.

JEFFRIES:

Do you believe that there is any basis or legitimacy to Donald Trump's recent claim that he can't provide an answer as to whether he would leave office?

BARR:

I really am not familiar with these comments or the context in which they occurred, so I am not going to give commentary on them.

JEFFRIES:

Okay, thank you. He just stated that publicly about a week ago to Fox News.

Mr. Barr during a radio interview this spring with Hugh Hewitt you praised President Trump's coronavirus response as superb, correct?

BARR:

Who did?

JEFFRIES:

You did.

BARR:

Okay.

JEFFRIES:

Over 150,000 Americans have died, more than 4 million Americans have been infected, more than 5 million Americans have lost their healthcare, over 100,000 small businesses have permanently closed, more than 50 million Americans are out of work. This is not the outcome of superb leadership. What we have gotten from Donald Trump is exactly the opposite.

BARR:

(INAUDIBLE)

JEFFRIES:

Let's explore.

BARR:

I disagree with that.

JEFFRIES:

That--that was not a question, that was a statement. Let's explore. In February President Trump falsely claimed that the number of coronavirus cases would go from 15 to 0 in a few days. Was that superb yes or no?

BARR:

I would have to see the context in which it was said.

JEFFRIES:

Here is the context, the number of cases today and go down to zero, it is over 4 million. Let's go to March. In that month President Trump said I take no responsibility at all for the failure in testing. Was that superb yes or no?

BARR:

It was accurate. The--the problem with the testing system was a function of President Obama's mishandling of the CDC and his efforts to centralize everything in the CDC when (INAUDIBLE)--

JEFFRIES:

Thank you--thank you, Mr. Barr. That is then accurate, that is a myth--that is a lie.

BARR:

It wasn't until this administration--

JEFFRIES:

Reclaiming my time. In April President Trump irresponsibly suggested that the American people inject themselves with bleach. Was that superb yes or no?

BARR:

That is not what I heard.

JEFFRIES:

That is exactly what he said, that is what the American people heard, and you know it, and you can't defend it. Let's move on to May. In that month on National Nurses Day, President Trump falsely called PPE shortages fake news while nurses and other healthcare professionals resorted to wearing trash bags and ski goggles to protect themselves, fake news. Was that superb? Yes or no?

BARR:

I think the administration did a good job of mustering PPE and--and the national supply of PPE was run down during the Obama administration and never replaced.

JEFFRIES:

Thank you, Mr. Barr. The answer is no, it was not superb. By June President Trump irresponsibly continued to refuse to wear a mask despite the public health guidance from his own experts. Was that superb yes or no?

BARR:

Which guidance? The earlier guidance that the mask wouldn't work?

JEFFRIES:

You know exactly the guidance that we are talking about. The CDC and Dr. Fauci in April recommended that the American people wear a mask, but Donald Trump has become the poster boy for the anti-mask movement.

BARR:

Donald--Donald Trump is probably tested more than any other human being on the face of the earth--

JEFFRIES:

Yeah, Mr. Barr, the answer is the refusal to wear a mask is not superb. Last question. In July President Trump falsely claimed that 99 percent of COVID-19 cases are quote totally harmless. Was that superb yes or no?

BARR:

I think essentially what he was saying is that the fatality rate relatively is very low, very low.

JEFFRIES:

The answer is 150,000 Americans are dead. It has been a failure of epic proportions, in fact Donald Trump's response to the coronavirus pandemic has been the worst failure of any President in American history and the American people have paid the price. I yield back.

NADLER:

The gentleman yields back. Who seeks recognition?

BIGGS:

I guess I do. I think it is my turn to speak can ask questions. Is that correct, Mr. Chairman? Then I seek recognition, sir.

NADLER:

The gentleman is recognized.

BIGGS:

Bless your heart, thank you. Attorney General Barr, Chairman Nadler opened up his statement by saying you can no longer hide behind a legal fiction. That--that caused me some consternation. I had no idea what he was talking about. Do you have any idea what he's talking about?

BARR:

I don't recall that phrase and it--and what context.

BIGGS:

Well, who knows what context question mark I mean, it would just kind of kind of rattling on there. He was--he was attacking you and your performance in virtually everything he could and said you can no longer hide behind a legal fiction. I didn't see any connection with anything else he had been saying. So I wondered if you had seen anything. Apparently you didn't see anything either.

The next person to ask questions is the gentlelady from California who consistently referred to civilian federal agencies as federal troops and intimating, if you will, that Portland was peaceable until federal civilian agents arrived on the scene. Essentially, it's kind of analogous to blaming a fire department for showing up to put out a fire and then being blamed for starting the fire.

Attorney General Barr, let's just have it on the record. Was there violence and attempts to burn down, vandalize the building and attack civilian employees at the federal government prior to any other federal agents or the reinforcements being sent in, federal agents?

BARR:

Yeah, my recollection is our main effort to reinforce was around the Fourth of July period and it had been going on for quite a while before that.

BIGGS:

Let's talk about Lafayette Square for a second. The--leading up to June 1, you had violent mobs disobeying the 11:00 p.m. curfew. They set fire to parked cars, demolished coffee shops and banks, burned American flags and even intentionally set fire to St. John's Episcopal church near Lafayette Square. Secret Service and police appropriate use of safe, restorative force actually cleared that up.

In total, however, 51 U.S. Park police officers were injured during the weekend leading up to the perimeter expansion. Can you--do you want to expand on--on the actions regarding with what that Lafayette Park?

BARR:

Right. So for the 29th, 30th and 31st, there was unprecedented rioting white around the White House. Very violent. During that time, as you say, about 50 park police and a comparable number, is my

recollection, the Secret Service so we had about I think about 90 officers injured. I'm talking about things like concussions. One was operated on and so forth.

We had the--it was so bad that, as it's been reported, the Secret Service recommended the president go down to the shelter. We had a breach of the Treasury Department. The historical building on Lafayette Park was burned down, the (INAUDIBLE).

St. John's was--was set on fire. Bricks were thrown at the police repeatedly. They took crowbars and pried up the pavers on Lafayette Park through those at the police. Balloons of caustic liquid were thrown on the police.

And it was clear when I arrived at the White House on Monday there was total consensus that the--we couldn't allow that to happen so close to the White House, that kind of rioting. And therefore, we had to move the perimeter out one block and push it up toward I Street and there was already a plan in being at that point that the park police and the Secret Service had worked out the night before, which was to the perimeter further away and give them time to put a non-scalable fence across the northern part of the park.

During the day--or during Monday, the--the factors that led to the timing of it were that that movement was going to be made as soon as there were enough units in place to actually perform it. And the units were very slow in getting into place throughout the day. Much to my frustration because I wanted it moved before there was a big buildup of demonstrators. And also, the fencing had to be delivered. And when those things were accomplished, the tactical commander in charge of the park police proceeded with the--with the movement of pushing out the perimeter.

So this was--this is something conceived of long before and it didn't turn on the nature of the crowd, although I would say the club was a very unruly end--and while that tactical considerations were made by the Park Police, you know, they tried to respond to the situation. To say that this had to do with a photo op is, you know, and I don't to analogize this military operation, but it's akin to saying that we invaded the Philippines in World War II so Douglas MacArthur could walk through the surf on the beach. One follows the other, but we did not invade the Philippines so that Douglas MacArthur could walk to the beach.

BIGGS:

Thank you. I yield.

NADLER:

The gentleman yields back. Mr. Swalwell.

SWALWELL:

Mr. Barr, have you ever intervened other than to help the president's friend get a reduced prison sentence for any other case where a prosecutor had filed a sentencing recommendation with the court?

BARR:

A sentencing recommendation?

SWALWELL:

Yeah, have you ever intervened other than that case for the presidents friend?

BARR:

Not that I recall. If you're talking--

SWALWELL:

--Does that seem like something you would recall would you would recall where you would--

BARR:

--Well, I'm saying I can't really remember my first--if you'd let me finish the question, I can't remember--

SWALWELL:

--That's okay, you--

BARR:

--Thirty years ago I was attorney general--

SWALWELL:

--As attorney general now.

BARR:

But no, I didn't that's because issues come up to the attorney general within the dispute and I have never heard of the dispute--I've never heard of a dispute in the department--

SWALWELL:

--Mr. Barr--

BARR:

--Where line prosecutors threatened to quit because--

SWALWELL:

--Well it's a pretty big deal--

BARR:

--Because--

SWALWELL:

--And today--they withdrew--

BARR:

--Because of the--because of the discussion--

SWALWELL:

Mr. Barr, Americans--

BARR:

--Over sentencing akin to this--

SWALWELL:

--From both parties are concerned that in Donald Trump's America, those two systems of justice. One for Mr. Trump and his cronies and another for the rest of us. But that can only happen if you enable it.

At your confirmation hearing, you were asked do you believe a president could lawfully issue a pardon in exchange for the recipients promise to not incriminate them. You said--

BARR:

--Not to what--

SWALWELL:

--That would be a crime. You were asked could president issue a pardon in exchange for the recipients promise to not incriminate him and he responded no, that would be a crime. Is that right?

BARR:

Yes. I said that.

SWALWELL:

You said a crime. You didn't say it would be wrong. You didn't say it would be unlawful. You said it would be a crime. And when you said that, that a president swapping a pardon to silence a witness would be a crime, you are promising the American people that if you saw that, he would do something about it. Is that right?

BARR:
That's right.

SWALWELL:
Now Mr. Barr, are you investigating Donald Trump for commuting the prison sentence of his long time friend and political advisor Roger Stone?

BARR:
No.

SWALWELL:
Why not?

BARR:
Why should I?

SWALWELL:
Well, let's talk about that. Mr. Stone was convicted by a jury on seven counts of lying in the Russia investigation. He bragged that he lied to save Trump's butt. But why would he lie?

Your prosecutors, Mr. Barr, told the jury that Stone lied because the truth looks bad for Donald Trump. And what truth is that? Well, Donald Trump denied in written answers to the Russia investigation investigators that he talked to Roger Stone during the time Roger Stone was in contact with agents of a Russian influence operation. There's evidence that Trump and Stone indeed did talk during that time. You would agree that it's a federal crime to lie under oath, is that right?

BARR:
Yes.

SWALWELL:
It's a crime for you. It's a crime for me. It certainly a crime for the president of the United States. Is that right?

BARR:
Yes.

SWALWELL:

So with Donald Trump lied to the Mueller investigators, which you agree will be a crime, then Roger Stone was in a position to expose Donald Trump's lies. Are you familiar with the December 3, 2018 tweet where Donald Trump said Waterstone had shown guts by not testifying against him?

BARR:

No, I'm not familiar with that.

SWALWELL:

You don't read to the presidents tweets?

BARR:

No.

SWALWELL:

Well, there's a lot of evidence in the presidents tweets, Mr. Attorney General. I think you should start reading them because he said, Mr. Stone showed guts. But in July 10 of this year, Roger Stone declared to a reporter, "I had 29 or 30 conversations with Trump during the campaign period. Trump knows I was under enormous pressure to turn on him. It would have eased my situation considerably, but I didn't. The prosecutors wanted me to play Judas. I refused." Are you familiar with that Stone statement?

BARR:

Actually, I'm not.

SWALWELL:

So how can you sit here and tell us why should I investigate the president of the United States if you are not even aware of the facts concerning the president using the pardon or commutation power to stop the silence of a witness?

BARR:

Because we--we require, you know, a reliable predicate before we open a criminal investigation.

SWALWELL:

And I just gave to you, sir--

BARR:

--Well, I don't consider it. I considered a very Rube Goldberg theory that you have.

SWALWELL:

Well it sounds like you're hearing this information for the first time today--

BARR:

--And by the way, if I--if I--

SWALWELL:

--And what concerns me, Mr. Attorney General--

BARR:

--If I applied this standard, there will be a lot--

SWALWELL:

--Mr. Attorney General--

BARR:

--There will be a lot--there will be a lot more people under investigation.

SWALWELL:

Mr. Attorney General, the very same date that Roger Stone said that, Donald Trump--

BARR:

--That's one of the--

SWALWELL:

--No surprise (INAUDIBLE)--

BARR:

--The true standards of justice were really doing the tail end of the Obama administration--

SWALWELL:

--So Mr. Attorney General, let's turn to the Michael Cohen case. Are you aware, sir, that Michael Cohen, after being released from prison was asked to not engage with the media, including to write a book? Were you aware that that was going to be asked of him?

BARR:

Was I aware?

SWALWELL:
Yes.

BARR:
No.

SWALWELL:
Do you have any anyone else in your department was aware?

BARR:
Maybe I should tell you what happened.

SWALWELL:
Why don't you tell us what happened.

BARR:
Okay, he was furloughed from the Bureau of prisons--

SWALWELL:
--No, no, why don't you tell us why he was asked--

BARR:
--I will tell you--

SWALWELL:
--To sign an agreement not to write a book--

BARR:
--Because it's something that people don't seem to understand is that his home confinement was not being supervised by the Bureau of prisons--

SWALWELL:
--Now the Bureau of prisons--

BARR:
--It was being supervised by the probation office, which is part of the U.S. court system--

SWALWELL:

--Were you aware--

BARR:

--And it was the U.S. Court System that had the requirements about not writing.

SWALWELL:

And yes, the U.S. Court System called your actions retaliatory. Do you agree with that?

BARR:

So, all I know is what I--what has been said in court before the judge and in the record--

SWALWELL:

--Mr. Barr--

BARR:

--Which is that the individual was then called by the U.S. Court System, saying that this guy Cohen is uncooperative. He's not agreeing to the conditions. And at that point, a Bureau of Prisons person made the decision that he was no longer eligible for home confinement.

SWALWELL:

Conditions that a federal judge said no other inmate had ever been asked of in his experience.

Mr. Barr, you told ABC News that the president's tweets sometimes make your job impossible. But sir, your job is only impossible if you enable the president's corrupt schemes. And I yield back.

NADLER:

The gentleman yields back. (OFF-MIC)

MCCLINTOCK:

Thank you, Mr. Chairman. The--Mr. Attorney General, the Constitution says shall have the power to grant reprieves and pardons for offenses against the United States except in cases of impeachment. Do you note any other limitations in the Constitution of the president's power to pardon?

BARR:

No.

MCCLINTOCK:

Has the president exceeded that power?

BARR:

No.

MCCLINTOCK:

My colleague from Georgia, Mr. Johnson, implied that in challenging the sentencing recommendation of Roger Stone you were doing the bidding of the president. He--he didn't want to hear your response. I--I would.

BARR:

Well, no, I was--Roger Stone, I never discussed our sentencing recommendation with anyone outside the Department of Justice. That was a very condensed period of time. I first heard--I made the decision that we shouldn't take a position as to the precise sentence but should leave it up to the judge, and we should not affirmatively advocate for 7 to 9 years.

And I made that on Monday the 10th, and that--that night we filed--the department filed and it didn't reflect what I had decided. So, that night I told people we had to fix it first thing in the morning. So, we did. As soon as I got in, we--we--we went--we went forward with the plan to file. At that point, I learned about the president's tweet because I don't monitor the president's tweets.

And I hesitated because I knew that I would be attacked for doing it and people would make the--you know, argue that I did it because of the tweet. But I felt at the end of the day that I really had to go forward with our filing because it was the right thing to do. And I'm glad the judge agreed with it.

MCCLINTOCK:

We're learning more and more about the targeting and prosecution and--and extortion of Michael Flynn bipartisan officials at the FBI. No one has been held accountable for this protests abuse of power. Knowing that agents with a political agenda can take anything that someone says, edit it, misrepresented, prosecute it, and then extort confessions by threatening family members and to do so with impunity, why would anyone in his right mind ever want to talk to an FBI agent again?

BARR:

Well, I--I don't--you know, I haven't reached judgments and I'm not suggesting that all those facts you set forth are--are true. And I--and we have not at this point challenge the actions of--I've defended the actions of the prosecutors in this case in court.

My--my--the order of business right now is, knowing what we know now, we don't think any of the U.S. attorneys and the department would have prosecuted this case, partly because of the behavior of the FBI but also because the evidence is not there to prove it beyond a reasonable doubt. And part of what I'm trying to establish is that we will use the same standards for everybody before we indict anybody,

and this goes for every--both sides. We won't prosecute anyone--anybody unless there's proof beyond a reasonable doubt that they committed a crime, not some kind of esoteric, made up crime, but a meat and potatoes crime.

MCCLINTOCK:

For more than three years, the most powerful agencies in our government took information that was fabricated by agents of a political campaign that they knew was fraudulent, used it as justification to launch an investigation alleging treason against a presidential candidate, then leaked the existence of that investigation in a manner that was clearly calculated to affect the outcome of the election and, then failing that, used it in a largely successful attempt to obstruct the duly elected president. Are you going to be able to--to right this wrong before becomes a precedent for future election interference by corrupt officials in our justice and intelligence agencies?

BARR:

You know, I--I really can't predict that. I think, as you know, John Durham is looking at all these matters. COVID did delay that action for a while, but he's working very diligently. And, you know, justice is not something your order up on a--a schedule like you're ordering a pizza.

MCCLINTOCK:

Well, there are many of us who are concerned that if you are succeeded by someone like Keith Ellison as attorney general of--that this will become an institutionalized practice and the investigation of Mr. Durham simply go away.

BARR:

I understand your concern.

MCCLINTOCK:

One more thing. The term we keep hearing from the left is, oh, these are mostly peaceful protests, mostly peaceful. It seems to me that you either are or you're not. Calling what's happening in our cities mostly peaceful cross--protests is a--is a lot like calling Scott Peterson a mostly faithful husband, or Al Capone a mostly law-abiding businessman. There is a constitutional right to peaceably assemble. Where does that right stop?

BARR:

When it becomes violence, criminal activity, you know, and that's the challenge here. I mean, you have a lot of people who were out protesting and demonstrating, and that's an important First Amendment activity that we believe strongly in and try to protect. And the particular violent opportunists that are involved here get into those crowds and then start engaging in very violent activity--

MCCLINTOCK:

--Would--

BARR:

--And--and hijack it. And a lot of protesters have been telling law enforcement and providing information to us about these people who are not with them, they're not demonstrators but they're coming in. And a lot of the demonstrators leave when that happens because they see what's happening themselves.

MCCLINTOCK:

Would you call that violence a myth?

NADLER:

The gentlemen's time--

BARR:

--No--

NADLER:

--The gentlemen's time is expired. Mr. Lieu?

LIEU:

Thank you, Mr. Chair. Thank you, Mr. Barr, for being here today. I'd like to ask you some questions about the legal standard for seizing interesting protesters.

Under the fourth amendment, it requires probable cause before you can seize and arrest a protester, correct?

BARR:

Yes. Yes.

LIEU:

Okay. And the probable cause has to be particularized to a particular person. So, if a protester was merely standing around a crowd in the vicinity of someone else suspected of criminal activity, you cannot arrest that peaceful protester. In other words, there's no such thing as probable cause by mere association, correct?

BARR:

Well, not strictly, but I--I'll--I'll say that, you know, you do need particularized probable cause.

LIEU:

Okay. And if there's no probable cause, then you can't arrest a protestor, correct?

BARR:

If someone jumps into a getaway car, and there are three or four people in there, that might be enough to give you probable cause, just the circumstances. You--you don't need it on each individual.

LIEU:

Re--reclaiming my time, Mr. Attorney General. If there is no probable cause, you can't arrest a protestor, correct?

BARR:

I said at the beginning arrest has to be predicated on probable cause.

LIEU:

All right. Now, an arrest can also occur whether or not the federal official says it's an arrest. So, for example, if a federal officer takes a protestor into custody, transport that protestor, let's say, to a federal building, detained a person for questioning, that would constitute an arrest whether or not the federal official says the person is under arrest, correct?

BARR:

Well, that would require very intensive and--review of all the specifics involved.

LIEU:

Actually, it wouldn't. In the case of *Dunaway versus New York*, which is black letter law for over 40 years, the question was whether the police violated the fourth and 15th amendments when, without probable cause to arrest, they took petitioners into custody, transported him to a police station and detain him for questioning. So, the answer is yes, that would constitute an arrest.

BARR:

No, the answer is its--you know, fourth amendment is ultimately governed by reasonableness, and there can be circumstances. The--the question sometimes is when does something actually become custody.

LIEU:

Reclaiming my time, I'm cite--this is not a trick question, Mr. Barr. I'm just citing you what the Supreme Court said.

So, here's the problem. Under this is standard black letter law, which has been in effect for over 40 years, what the federal forces in Portland in was unconstitutional. Federal forces in full combat gear in the dark of night grabbed a protestor who was peacefully standing there, forced him into an unmarked

van, drove him to a separate location, searched him, detained him, and question him. That is what police states do. That's what authoritarian regimes do.

BARR:

Yeah, but I don't think those were the facts.

LIEU:

That's not--I have asked you a question yet, Mr. Barr.

BARR:

Okay.

LIEU:

What the official--federal officials did was illegal because they didn't have probable cause. How do we know that? Because Deputy Director of the Federal Protective Service, Kris Cline, admitted it on national TV. Deputy Director Cline said that the individual that they were questioning was in a crowd and in an area where another individual was aiming a laser at the eyes of officers. That's guilt by association. That's what the fourth amendment--

LIEU:

Prohibits Deputy Director Cline further stated that the protester was released after federal (INAUDIBLE) concluded quote they did not have what they needed unquote which again shows there is no probable cause and it appears that federal--Deputy Director Cline appears to understand there was no probable cause because he essentially justifies that action as saying it was Santana arrest, he calls it quote a simple engagement unquote.

I am a former prosecutor I have never heard that term a simple engagement because it's a made-up excuse. What these federal officials did was and her wrist, they grabbed a peaceful protester, they forced him into a van and drove to another location, questioned him. That is exactly what the Supreme Court prohibited over 40 years ago.

BARR:

So obviously--

LIEU:

And that's not an isolated incident.

BARR:

I obviously don't know--

LIEU:

I haven't asked you a question yet. In a Washington Post article on July 24 entitled operation diligent valor federal agents told reporters that there is no basis for these arrest. They said quote at times they have grabbed an individual and taken them inside the courthouse for questioning before determining that they had no probable cause to charge them with any crime unquote.

Deputy Director Cline said that they coordinate with the U.S. attorney's office on all of these are wrist. I urge you to instruct your federal officials to comply with the Constitution and I ask you to investigate these are rest because many of them are in violation of the Fourth Amendment. We do not believe in a police state. We are better than that I yield back.

NADLER:

The gentleman yields back. Ms. Lesko?

LESKO:

Thank you, Mr. Chair. Since Representative Lieu that and allow you any time to answer his allegations would you care to answer any of his allegations?

BARR:

Yes, I mean, obviously, I don't know all of the particulars of any individual case out there but based on my general understanding what had happened was that when they tried to effectuate are rest of the ringleaders or the people who were engaged in violence or that they saw with lasers and so forth and they went out they were either immediately swarmed by people in black and there was a lot of violence. They couldn't effectuate the arrest, so the modus operandi was changed and based on specific information as individuals who were seen doing things and identified they later tried to pick them up when there was less of a risk of this kind of mob response.

The fact that if you have information that someone has a laser and is using it and later pick them up and he doesn't have it, it doesn't mean that there wasn't probable cause. It means he doesn't have the laser. The question is you know was it reasonable for you to rely on the information that you had in the identification of that individual.

In some cases it could be a misidentification. In other cases it could be the person you know ditch the laser. So there is a distinction between whether the person ultimately can be shown to have violated the law and whether there was probable cause for the police to make the inquiry and take them and interrogate them or ask them questions at least.

LESKO:

Thank you, Mr. Attorney General. You know, I think I have to tell you--you probably know this--my constituents are scared, Americans are scared I mean they watch the TV, they see all of this rioting, looting going on, statues being torn down. In Arizona where I am from where guns are being sold than ever.

I think there is more new gunowners than ever and this has to stop and I think that it's really important as the saying goes that in order to solve a problem the first step is to realize there is a problem and so now is I find it very disturbing should I say that Chairman Nadler denies that Antifa even exist.

He said it to a reporter. He said it on the floor of the United States House of Representatives that it was a fantasy, a made-up fantasy and then in this very room just recently Congresswoman Jayapal who represents the Seattle area said when I was talking about the autonomous zone in the takeovers she said the area is just a you miles from where I sit right now and there is no takeover, there is no takeover.

She also said lies are being spread by my colleagues in this committee. This area is perfectly peaceful. She also said my Republican colleagues keeps saying the Seattle police precinct was taken over by protesters this is incorrect, incorrect. No one has taken over that building. Mr. Attorney General is that your understanding of what happened there? Do--do you agree with Ms. Jayapal that there was no takeover it was--

JAYAPAL:

Jayapal if you're going to say my name please say it right, it is Jayapal.

LESKO:

Jayapal. Would you agree with that? And also in answer why do you think these autonomous zones in Democrat led cities are dangerous to America?

BARR:

Well, starting with the--they are dangerous because they are purporting to keep on the outside duly constituted authority of the government.

They are also to me outrageous because the people who are living now under this autonomous zone haven't selected the government, they have selected the duly authorized government of the city in the state so it's quiet and outrage that people would--would take--would use force to take over an area but what makes me concern for the country is this is the first time in my memory that the leaders of one of our great two political parties they Democratic Party are not coming out and condemning mob violence and the attack on federal court. Why can't we just say violence against federal courts has to stop? Could we hear something like that?

LESKO:

Mr. Attorney General, I totally agree. I support what you are doing, and I support what President Trump is doing for law and order in our country and I yield back.

NADLER:

The gentlelady yields back. The committee will stand in recess for five minutes.

NADLER:

The committee will resume. Mr. Cicilline.

CICILLINE:

Sir, in your opening statement, you continue with your sustained effort to undermine the finding of Russian interference in our election. In March 20--2019, you sent a letter to the committee mischaracterizing Special Counsel Robert Mueller's finding that Vladimir Putin interfered in the 2016 presidential election in sweeping and systematic fashion to benefit Donald Trump.

Mr. Mueller promptly sent you a letter calling you out for your miscalculation mischaracterization and you'd never collected it. You then delayed the release of the full report leaving the American people stewing with your misleading summary in support of President Trump's bogus claims there was no collusion, no obstruction.

You repeat these claims today that there was no basis for this investigation, and it was politically motivated by calling it the Russiagate scandal. But of course, in December 2019, the Justice Department's own inspector general, your department's Michael Horwitz found that the investigation had been initiated properly and without political bias. Isn't that correct?

BARR:

No.

CICILLINE:

It's not--that was not Mr. Horwitz is finding?

BARR:

--No, he--he said--

CICILLINE:

--You are--you are wrong, Mr. Attorney General--

BARR:

--No--

CICILLINE:

--He's found--

BARR:

--He said that he had no evidence--

CICILLINE:

--The investigation had been initiated properly--

BARR:

--He said he found no --

CICILLINE:

--Reclaiming my time--without political bias--

BARR:

--He said he found no evidence--

CICILLINE:

--And in April--reclaiming my time, Mr. Attorney. In April of this year, the second led Senate Intelligence Committee unanimously found that Russia interfered with our elections and attempted to undermine American democracy, correct?

BARR:

And I said so too.

CICILLINE:

Is it ever appropriate, sir, for the president to solicit or accept foreign assistance in an election?

BARR:

It depends what kind of assistance.

CICILLINE:

Is it ever appropriate for the president presidential candidate to accept or solicit for one assistance of any kind in his or her election?

BARR:

No, it's not appropriate.

CICILLINE:

Okay. Sorry you had to struggle without one, Mr. Attorney General. Now let's turn to the first amendment. Americans all across this country have been exercising their First Amendment's rights to peacefully protest police brutality against black people. I've read your statement. I listened to you this

morning and I am--were certainly aware of certain individuals who've engaged in violent acts. And we all agree that's wrong. But there is a lot missing from your statement.

For example, as I'm sure you've also seen, the vast majority of protesters are peaceful and that despite that, unidentified federal agents have attempted to prevent these mothers, veterans, and peaceful Americans from exercising their first amendment rights.

Even using unmarked vehicles to grab the protesters off the street and using teargas and munitions against them. You forcefully condemned protesters this morning, but let me ask you, sir, why have you not condemned the federal officers you are sending into cities without proper training or attempting to take over the constitutional--constitutional rights of Americans peacefully protesting?

BARR:

I haven't condemned protesters. Protesters are good. Demonstrations are good. They're part of the First Amendment--

CICILLINE:

So, let me ask you--

BARR:

--What I'm condemning his people who commit crimes.

CICILLINE:

We agree. Do you think it's ever appropriate, Mr. Barr, for officers to use force against peaceful protesters, yes or no?

BARR:

Not against peaceful protesters.

CICILLINE:

So you also don't mention in your statement today or your testimony that federal officers have even tiered asked elected representatives, County Commissioner Sharon Meieran confirmed firsthand last night I was teargas by a federal occupying force. I sold through canisters of poison without warning into a non-violent crowd, including elders and the vulnerable. And on July 23, the mayor's, Ted Wheeler was tiered asked. He called the tactics of the officers abhorrent.

These are elected representatives with grave concerns that officers are using abhorrent tactics, including to addressing elderly nonviolent Americans. So let me ask you, sir, do you think it's ever appropriate to use tear gas on peaceful protesters, yes or no?

BARR:

Well, the problem in these things sometimes occur because it's hard to separate people who may--

CICILLINE:

--Mr. Barr, my question is very specific. Do you think it is ever appropriate to use tear gas on peaceful protesters--

BARR:

--It is--

CICILLINE:

--Yes or no?

BARR:

It is--it is appropriate to use to desk when it's indicated to disperse--

CICILLINE:

--On peaceful protesters--

BARR:

--To disperse an unlawful assembly and sometimes, unfortunately--

CICILLINE:

--Sir--

BARR:

--Peaceful protesters are affected by this.

CICILLINE:

Okay. Now I'm going to show you there's the evidence as well. I'm going to ask you to look at this video. Just so you know this is the video capturing the nation's attention this weekend shot by Tribune report--

That video is of Christopher David, a Navy veteran being beaten entered asked by the officers. Do think that was appropriate?

BARR:

Well, I didn't see him teargas. I--there seems to be gas in the area. I don't know what kind of guess it was and I don't know it was directed at him.

CICILLINE:
Do you think what happened--

BARR:
--The inspector general--

CICILLINE:
--to Mr. David was appropriate, Mr. Barr--

BARR:
--The inspector general's reviewing that particular instance.

CICILLINE:
Well, do you think he deserved to get pepper sprayed and beaten to the point of broken bones?

BARR:
As I say, the Inspector General is going to review the incident.

CICILLINE:
So as the top law enforcement official in our country, you think Americans who show up to peacefully protest should expect to be beaten and pepper sprayed and have their bones broken by federal officers?

BARR:
Well, I don't think what was happening immediately around the courthouse was a peaceful protest.

CICILLINE:
That's not my question, Mr. Barr.

BARR:
Well, that's where that--

CICILLINE:
--My question is do you--

BARR:
--That is where that--

CICILLINE:

--Do you think as the chief--reclaiming my time--

BARR:

--That's where the video is from--

CICILLINE:

--Reclaiming my time--

BARR:

--That's where the video is from.

CICILLINE:

Reclaiming my time, Mr. Barr. My question is do you think at the top law enforcement official in this country that Americans who show up to peacefully protest should expect to be beaten, pepper sprayed, and have their bones broken by federal officials, yes or no?

BARR:

I don't think peaceful protesters should--should face that

CICILLINE:

That's correct--

BARR:

--Which (INAUDIBLE)

CICILLINE:

--And isn't protecting the First Amendment freedom of American at least as important as protecting a building from vandalism--

BARR:

--I think that--

CICILLINE:

--we fought for--I'm--I'm not posed a question. We fought for a democracy for the right to speak freely and you are attempting to take that away. And what's worse, you're doing it for the sole purpose of

furthering the president's political agenda and generating footage for Trump campaign commercials. The Justice Department is responsible for protecting the constitutional rights of Americans, not to serve as the president's personal bully or political director.

And speaking of protesters, it's worth remembering every suffragette, every person who marched the-- to end child labor, every abolitionist who demanded an end to slavery was a protester. The revolutionaries who transformed us from colonists into a nation were protesters. Protesters aren't chaos. Their deeply American examples of values, a desire for this country to be at its best self. They are righteous. Sometimes they are necessary.

One of America's most beloved and effective protesters John Lewis lies in state 1000 feet from here in a deserved place of honor. Answer, your failure to respect the will of peaceful protests in this country is a disgrace. It is un-American, and it's important to remember when these protests are about. Black lives matter. Abuse at the hands of police by black Americans and I want to let you see now a video that fairly represents peaceful protest that is happening all across America that you conveniently omitted from your testimony and your statement.

(BEGIN VIDEOTAPE)

UNKNOWN:
(OFF-MIC)

UNKNOWN:
--Not all nine. Only part of it.

UNKNOWN:
Hands up. Please don't shoot me. Hands up. Please don't shoot me. Hands up. Please don't shoot me.

(END VIDEOTAPE)

CICILLINE:
yeah, there was a nine minute video shown by the other side, so I--

With that, I yield back.

JORDAN:
Mr. Chairman--

NADLER:
--The gentleman yields back--

JORDAN:

--Mr. Chairman, just real quick, I don't think we better--I don't think we've ever had a hearing where the witness wasn't allowed to respond to points made, questions asked and attacks--attacks made. Every--not just in this hearing, not just in this committee, but every committee I've been on--

NADLER:

--The gentleman--the gentleman--

JORDAN:

--Particularly--particularly when you think about the fact that we got the Attorney General of the United States here.

NADLER:

The gentleman does not have the time

JORDAN:

I don't want the time--

NADLER:

--I now recognize--

JORDAN:

--I just want the attorney general to be able to have enough time to respond to accusations and questions asked him and you guys not cut him off.

NADLER:

What you want is irrelevant--irrelevant to the rules. Mr. Steube is recognized.

STEUBE:

Mr. Chairman, am I going to get an additional two and a half minutes that Mr. Cicilline had?

NADLER:

The gentleman is recognized.

STEUBE:

General Barr, thank you for your service to our country and your continued service to ensure that our country is safe. I encourage you to ignore the mob, these attacks from Democrats, and the left-wing bias mainstream media. Be strong and courageous for the mass majority of the country supports you and

supports you rooting out corruption in the FBI and keeping our country safe from rioters, looters, and anarchists.

I'm very happy that you're at the helm of the DOJ and actually supporting the rule of law and fighting for justice. I want to touch on something that Mr. Jordan spoke about in his opening remarks. I want to focus on the inspector general's December 9th FISA report on the FBI's unlawful surveillance of Trump campaign associate Carter Page.

Isn't it true the inspector general found the FBI under the Obama-Biden administration made 17 significant errors in FISA applications to surveilled candidate Trump's campaign associate Carter Page?

BARR:

I think that's right.

STEUBE:

How many errors are acceptable when the FBI is targeting Americans?

BARR:

Well, none are acceptable.

STEUBE:

Then there was the complete Woods' files failures the FBI operated under during the Obama and Biden administration. The inspector general found that 51 factual assertions in the FISA applications to surveilled Page, one, lacked supporting documentation; two, the supporting document did not support the FBI's factual assertions; or three, the supporting document show the FBI's factual assertion was inaccurate.

The inspector general testified there should not have even been one error, yet he found 51 errors. Why is it so important for surveillance targeting Americans to be error-free?

BARR:

Well, especially under--under FISA, which, you know, is the counterintelligence tool and doesn't have the same built-in protections that the criminal justice process would have, it's very important because you're going to be spying on Americans that you have an--you know, you've demonstrated an appropriate basis for doing that. And therefore, there's a special burden on the investigative agency, in this case the FBI, to have accurate information as to the basis of their surveillance.

And, you know, I think the bureau is--has been working very hard to correct those problems and to put in place a much more effective system of guaranteeing that the information is accurate.

STEUBE:

Isn't it true the FBI under the Obama-Biden administration cherry picked favorable evidence to obtain a FISA warrant to surveilled Carter Page and ignored the facts that cut against probable cause?

BARR:

Well, I don't want to characterize. I mean, this--this is part of what's under review. Some exculpatory information was not passed along to the port, let me just put it that way. That's evident in the inspector general's report.

STEUBE:

I will yield the remainder of my time to Mr. Jordan.

JORDAN:

I thank the gentleman for--for yielding. Mr. Attorney General, do you--do you deploy federal law enforcement to enforce federal law?

BARR:

Yes.

JORDAN:

Do you deploy federal law enforcement to protect federal property?

BARR:

Yes.

JORDAN:

Would the federal building in Portland be standing today if you had not deployed federal law enforcement?

BARR:

I don't think so. There had been multiple attempts to set it afire.

JORDAN:

Yeah, for--

BARR:

--And I--I--you know, I have to say, I don't understand why a small contingent of marshals inside the court poses a threat to anybody's First Amendment rights. They set up a fence on federal property, I am told, around the court. And when people are arrested, it's because they're trying to come into the fence.

These are peaceful protesters. They bring power tools to cut through the wire and so forth to get in. This is a very strange occupation of a state--

JORDAN:

--Yeah--

BARR:

--When you have, you know, 100, 120 federal people behind a fence trying to protect the building and all these people are trying to cut their way in. That is the occupation of a city?

JORDAN:

Thank you. Did the Chicago Fraternal Order of Police--Fraternal Order of Police chief--or president ask for your help?

BARR:

I'm--did who ask for my help?

JORDAN:

The head of the FOP in Chicago, did they ask for your help?

BARR:

I--I think they did. I think they did.

JORDAN:

A previous exchange, they talked about Mr. Horowitz's report, is there anything you'd like to add? You didn't get a chance to respond to that.

BARR:

Yeah, my understanding of the--of my recollection of the report is that it didn't find there was no bias. It--and he made that clear in subsequent testimony. What he said was he couldn't find no documentary or other evidence demonstrating bias.

JORDAN:

Yeah, it would be helpful if maybe Mr. Horowitz could come in front of this committee and the individual who is raising the concern with you, Mr. Attorney General, with you, could ask Mr. Horowitz itself about what he found in that report and subsequent reports that we have not yet--

NADLER:

--The gentlemen's time--

JORDAN:

--had a hearing on.

NADLER:

The gentlemen's time is expired. Mr. Raskin.

RASKIN:

Thank you. Sir, did I hear you correctly to say that the purpose of unleashing this federal agent assault with tear gas and rubber bullets and pepper spray on 2,000 nonviolent protesters in Lafayette Square was to secure and defend the St. John's Episcopal Church? Was that the purpose of it?

BARR:

No, I didn't say that. I made very clear that the purpose was to move the perimeter to I Street, which had been the plan, as far as I'm aware, all day (AUDIO GAP) before.

RASKIN:

So, it was legitimate in that case.

BARR:

I'm talking about the June 1st--

RASKIN:

--Yeah, the June 1st assault on a lot of--

BARR:

--It wasn't--it wasn't--

RASKIN:

--People, including my constituents, including my constituents. And I'd be happy to--

BARR:

--Well, it wasn't a--I don't--

RASKIN:

--Bring them to your office to talk about it.

BARR:

Okay. Well, I don't think it was an assault. They were told by loudspeaker that the Park Police were preparing to clear H Street and could they move off H Street.

RASKIN:

Well, reclaiming my time, I think you said something to the effect of the St. John's Episcopal Church would have been overrun.

BARR:

Yeah, that was on Sun--on Sunday night, I believe. And I hope--

RASKIN:

--Okay--

BARR:

--I get this right.

RASKIN:

Are you aware that the rector of the church, the Episcopal Archbishop of Washington and the presiding Bishop of the Episcopal Church nationally, along with the Catholic Bishop of the Archdiocese of Washington all denounced this police assault on the civil rights and civil liberties of the people?

BARR:

Did they do that before or after the fire was put out?

RASKIN:

Well, all that--all that I know is that they denounced what you did. And if you read what the archbishop--the Episcopal Archbishop of Washington wrote, said that using police force to clear nonviolent protesters without notice in order to conduct this grotesque photo opportunity was antithetical--antithetical to the principles of Christianity.

But what I want to ask you about was COVID-19, because we know lead the world in COVID-19 case count and death count. President Trump, of course, promised to the disease would magically disappear. He advertised quack medical cures like injecting people with disinfectant. He told his people to slow down all the testing and refuse for months to wear a mask.

Last night, he retweeted a number of messages claiming that Dr. Fauci misled the American people by dismissing hydroxychloroquine as a cure for the disease. So, now we have 150,000 dead Americans, 4 million infected, 40 million jobless. We lose more than 1,000 people every day, one American every 90

seconds. But you called his public health leadership superb, and you threw the weight of the Justice Department behind his campaign to shut down state public health orders in March and April.

Now, if you look at the screen, you will see two tweets from the president of the United States, liberate Michigan, liberate Virginia. On April 17th, he retweeted the slogans of right-wing protesters that are blocking access to hospitals and trying to overthrow public health orders in the states. And you snapped to attention. On April 27th, you designated a prosecutor to try to bring down those very public health orders in Michigan and Virginia.

Two days later, armed right-wing protesters and white supremacists disrupted the Michigan legislature, leveling death threats against Governor Whitmer, confronting police, taunting lawmakers and forcing the legislature to shut down as they brandish their long guns and shouted in the faces of police officers.

But you didn't send in a secret paramilitary police force on horseback to unleash tear gas, pepper spray, Billy clubs, and rubber bullets against these protesters storming the state capital in Michigan. No, you embraced their cause by joining litigation against the governors of Michigan and Virginia.

Now, of course, your side lost your motions for emergency injunctions, but you got to spread Trump's message that it was time to call off the stay-at-home orders, the masking, and social distancing. Here's what you said on national TV, echoing the claim in April that the cure was worse than the disease. "You can't just keep on feeding the patient chemotherapy and say, well, we're killing the cancer, because we were getting to the point where we're killing the patient." You remember saying that?

BARR:
Yeah.

RASKIN:
Yeah. Well, what'd you mean by that?

BARR:
Exactly what it says. You have to balance the cure with--with the danger, which we leave to governors. You know, and I know everyone likes to--

RASKIN:
--Well, no, you--

BARR:
--I--I know everyone likes to lay everything at the feet of the president--

RASKIN:
--Your point was made against the governors--

BARR:

--But this is a federal republic, and the president respected that. And our response--

RASKIN:

--Okay. Reclaiming my time--

BARR:

--And our response has been largely--

RASKIN:

--Excuse me--

BARR:

--run by governors. Now, for someone who claims to be so concerned about executive overreach, I haven't heard anyone talk about just keeping an eye on what the governor is doing.

RASKIN:

Mr. Barr, with no vaccine--

BARR:

--And that--and that's all the Department of Justice is doing--

RASKIN:

--Excuse me. The time is mine--

JORDAN:

--Well said--

RASKIN:

--With no vaccine--

BARR:

--Especially in the area of religious liberty.

JORDAN:

Well said.

RASKIN:

With--with no--the Supreme Court rejected your position on religious liberty 5 to 4 and said there was nothing wrong with applying public health orders to churches.

BARR:

That was on an injunction.

RASKIN:

Do--do you accept that or do you not accept it? Well, no, we'll talk about it later.

RASKIN:

Mr. Barr, with no vaccine, no treatment, no cure in sight, you worked to disarm the states of the only weapon we have against this disease. (INAUDIBLE) measures and now we pay the price of this policy in overrun intensive care units and morgues, a shortage of coffins and refrigerated trucks and then out of control pandemic which makes us a global pariah state who citizens cannot enter dozens of foreign countries including Canada. Do you know what Dr. Fauci was saying at the same time that you were moving to take down those public health orders? Here is what Dr. Fauci was warning us about three months ago about the premature abandonment of health orders if only you had listened. He said I feel if that occurs there is a real risk you will trigger an outbreak in you may not be able to control it which in fact (INAUDIBLE)--

BARR:

We were not taking down public health orders, we were making narrow--

NADLER:

The gentlemen's time is--the gentlemen's time has expired.

BARR:

We were calling attention to the fact--

RASKIN:

Mr. Chair, will you restore my time because this witnesses speaking over my time?

JORDAN:

You went over time let the witness respond.

NADLER:

The gentlemen's time is expired. Who seeks recognition?

CLINE:

Mr. Chairman.

NADLER:

The gentleman is recognized.

CLINE:

Thank you, Mr. Chairman. We do have a governor in Virginia who is engaged in overreach particularly regarding the civil rights of Virginians and the expression of their religious faith, so I want to give the attorney general the opportunity to respond to the--

BARR:

Right.

CLINE:

--gentleman from Maryland.

BARR:

We--we--we adopted a very narrow approach of calling to the attention usually by letter not by lawsuit of situations where they were treating religion worse than they were other kinds of organizations and gatherings and the Constitution requires that it be treated the same and we were calling those to the attention of the governors and most of the governors that we called attention to voluntarily change their own orders. There are a few occasions where we pointed out anomalies in the regulation, differential regulation of business and again mostly they were voluntarily changed by the governors so this was not a wholesale attack on stay-at-home orders, it was just that these are very broad powers that have been seated you know basically telling everyone to stay at home and only work if you are an essential business and so forth and therefore someone has to keep an eye on that and make sure there's no overreach and as time went by there were times where you know that you have these crazy rules in effect that were overly burdensome and raised constitutional problems.

CLINE:

I want to thank you for raising those points early and particularly with regard to Virginia and the church out on the Eastern Shore. I want to thank you also for being here and for returning to lead the department of justice and right the ship and root out the rank partisanship and bias that had corrupted the administration of justice for many years. The Democrats allege that Attorney General Barr has politicized the Justice Department doing the personal bidding of President Trump but it is not only unfounded it is especially hypocritical in light of the politicization that occurred during the Obama-Biden administration and led by President Obama's self-described wing man Attorney General Eric Holder. The

Obama-Biden Justice Department investigated journalist, shut out career prosecutors and flouted congressional oversight. I want to ask particularly even after President Trump assumed office FBI lawyers exhibited bias against Trump all working for both Mueller and the FBI's Russia investigation and the inspector general couldn't rule out political animus against candidate Trump as influencing FBI abuse, correct?

BARR:

That is my understanding.

CLINE:

The inspector general found that an FBI lawyer altered evidence to support a FISA application to survey Carter Page and criminally referred this lawyer to Durham for federal prosecution, these same lawyer who also worked on the investigations into Clinton's misuse of classified information in Russia collusion expressed bias against President Trump and the inspector general testified back in December that he can't rule out bias. Mr. Attorney General, I would ask what would the consequences be to one of your Justice Department lawyers if they doctored underlying documents so they could support evidence submitted to a federal court?

BARR:

You know in--in the abstract talking generally that lawyer would be fired.

CLINE:

What they likely be disbarred as well?

BARR:

Yes.

CLINE:

And isn't it true that the IG found that in FBI lawyer doctored an email to support probable cause against candidate Trump's campaign aide?

BARR:

I think that is right.

CLINE:

And this same FBI lawyer worked on the Russia investigation targeting candidate Trump's campaign and was on the special counsel or Mueller team investigating President Trump, correct?

BARR:

I am not sure about that.

CLINE:

And while working on those investigations the inspector general found several text showing that (INAUDIBLE), correct?

BARR:

On that particular lawyer? I believe so.

CLINE:

Yes.

BARR:

I can't remember the time frame of the text, but I know there were other text.

CLINE:

Talk to you about the unmasking that occurred where Mr. (INAUDIBLE) released a list of 39 officials who submitted a request to unmask the identity of General Flynn from November 8, 2016 to January 31, 2017, 49 request were submitted. Is that a normal number of request for unmasking?

BARR:

I mean, historically, that seems to be a high number and the other question you have to ask is why--why was this after the election.

CLINE:

And seven Treasury officials including Secretary of the Treasury Jacob Lew, Deputy Secretary Sarah Raskin, is that a normal occurrence?

BARR:

You know, there are times where high-level officials can do it. I--I don't know enough about the specifics to (INAUDIBLE)--

CLINE:

I feel the remainder of my time to Mr. Jordan.

JORDAN:

Mr. Attorney General, what is more important going to church or going to a protest?

BARR:

It depends on the individual.

JORDAN:

Both are covered under the First Amendment, right?

BARR:

Right.

JORDAN:

Yeah, what is more important, going to work or going to a protest?

BARR:

Again it depends on the individual. You know we are all free, we can all make our choices.

JORDAN:

I am talking about government, limits on those activities. What--what is more important the government putting limits on protesting or our government putting limit on attending church?

BARR:

They are both First Amendment.

JORDAN:

Exactly. Exactly and we should treat them the same shouldn't we?

BARR:

Correct.

NADLER:

Gentlemen's time has expired. Ms. Jayapal?

JAYAPAL:

Mr. Barr, on June 1 there were protest against the murder of George Floyd and police brutality in Lafayette Park. Let us not be distracted by you or my GOP colleagues as to what these powerful and massive protest were actually about. They were about the persistent killing of black bodies by law enforcement and finally, finally an awakening in America of the conscience of our country and yet your response Mr. Barr was to direct federal officers to close in on the protesters and to use shields

offensively as weapons, teargas, pepper balls, irritants, explosive devices, batons and courses to clear the area just so the president could get a photo op so I do want to ask you do you think that your response--do you think the response at Lafayette Square to teargas, pepper spray and beat protesters and injure American citizens who were just simply exercising their First Amendment rights was appropriate?

BARR:

Well, first, it is my understanding that note teargas was used on Monday, June 1.

JAYAPAL:

Mr. Barr, that is a semantic distinction that has been proven false by many fact checkers.

BARR:

How is it semantic--how is it semantic? Teargas is a particular compound?

JAYAPAL:

You talked about chemical irritants and it has been proven false by report so just answer the question. Do you think that--

BARR:

Well, I think pepper--

JAYAPAL:

-- it was appropriate at Lafayette Park to pepper spray teargas and beat protesters and injure American citizens?

BARR:

Well, I don't accept your characterization of what happened but as I explain the effort there was--

JAYAPAL:

Mr. Barr, I just ask for a yes or no so let me just tell you I am starting to lose my temper. According to sworn testimony before the House Natural Resources Committee by Army National Guard officer Adam DeMarco who was there this was quote and unprovoked escalation and excessive use of force against peaceful protesters numerous - might

BARR:

Well, I don't--I don't remember DeMarco as being--

JAYAPAL:

Mr. Barr, excuse me this is my time. Sir, sir, the president told governors on a telephone call that the way to deal with the protesters of police brutality and systemic racism like in Lafayette Square is that quote you have to get much tougher, you have to dominate. If you don't dominate you are wasting your time. These are terrorist and he also talked about you on that call, sir. Here is what he said. He said the attorney general is here, Bill Barr and we will activate Bill Barr and activate him strongly. Do you remember that call Mr. Barr?

BARR:

Yes, I did but he wasn't talking about protesters, he was talking about--

JAYAPAL:

Mr. Barr, apparently the president believes that you can be activated to implement the president's agenda and dominate American people exercising First Amendment rights if they are protesting against him but let's look at how you respond when the protesters are supporters of the president. On two separate occasions after President Trump tweeted liberate Michigan to subvert stay home orders to protect the public health of people in Michigan protesters swarmed the Michigan capitol carrying guns, some with

JAYAPAL:

Swastikas, Confederate flags, and one even with a dark haired doll with a noose around its neck. Are you aware that these protesters called for the governor to be lynched, shot, and beheaded?

BARR:

No.

JAYAPAL:

You not aware of that?

BARR:

I was not aware of that.

JAYAPAL:

Major protest in Michigan. You the attorney general, and you didn't know that the protesters closed for the governor to be lynched, shot, and beheaded--

BARR:

--Well--

JAYAPAL:

--So obviously you couldn't be concerned about that--

BARR:

--Well, there are a lot of protests around the United States and on June 1--

JAYAPAL:

--Attorney General Barr, you seem to be--

BARR:

--I was worried about the District of Columbia, which is federal--

JAYAPAL:

--Engaging in protests in certain parts of the country. You're very aware of those, but when protesters with guns and swastikas--

BARR:

--I'm very--I am aware--

JAYAPAL:

--And Confederate flags--excuse me, Mr. Barr--

BARR:

--Of protesters in the federal government--

JAYAPAL:

--This is my time and I control it. You are aware of certain kinds of protesters, but in Michigan when protesters carry guns and Confederate flags and swastikas and call for the governor of Michigan to be beheaded and shot and lynched, somehow you are not aware of that. Somehow you didn't know about it, so you didn't send federal agents in to do to the president's supporters what you did to the president's protesters. In fact, you didn't--you didn't put pepper balls on those protesters.

So the point I'm trying to make here, Mr. Barr, that I think is very important for the country to understand is that there is a real discrepancy in how you react as the attorney general, the top cop in this country when white men with swastikas storm the government building with guns. There is no need for the president to "activate" you because they are getting the president's personal agenda done.

But when black people and people of color protest police brutality, systemic racism, and the president's very own lack of response to those critical issues, then you forcibly remove them with armed federal

officers, pepper bombs because they are considered terrorists by the president. You take an aggressive approach to black lives matter protests, but not the right wing extremists threatening to lynch a governor if it's for the Trump's--if it's for the president's benefit. Did I get it right, Mr. Barr?

BARR:

I have responsibility for the federal government and the White House is the seat of the executive branch--

JAYAPAL:

--Mr. Barr, let me just make it clear--

BARR:

--Not for the--

JAYAPAL:

--You are supposed to represent--

BARR:

--The Michigan authorities can handle--

JAYAPAL:

--The people of the United States of America--

BARR:

--The Michigan authorities can handle--

JAYAPAL:

--Not violate people's first amendment rights.

NADLER:

The gentlelady--

JAYAPAL:

--You are supposed to uphold democracy and secure equal justice under the law, not violently dismantle certain protesters based on the president's personal agenda.

NADLER:

The gentlelady time has expired.

JAYAPAL:

Mr. Chairman, I would like to ask unanimous consent to also introduce into the record report from the MIT election data and science lab which says that over the past 20 years, more than 258 million ballots have been cast by a mail in the forward rate is .0006 percent.

NADLER:

Without objection. Mr. Reschenthaler.

RESCENTHALER:

Thank you, Mr. Chairman. And thank you, AG Barr for being here today. I truly appreciate it and I'm sincere when I say it's an honor. AG Barr, let me just--

BARR:

--Could I just ask you for one minute though--

RESCENTHALER:

--To respond, yes.

BARR:

Yes. As I--as I made clear, moving H Street out to I Street as the perimeter was a decision made the day before. It was justified by the extreme rioting that was going on around the White House. I don't remember Captain DeMarco, who is that same Captain DeMarco who ran as a Democratic candidate for Congress in Maryland even being close to the discussions as to what was going on.

Now, the fact is that that movement was not geared to the behavior of that particular crowd. It was geared to the fact that we were moving the perimeter around so we can put a fence up on H Street, by H Street. So--but it is a fact that that park police reported, and I saw myself projectiles being thrown from that crowd. So I did not consider them peaceful--at all peaceful protesters. I'm sorry. Thank you for giving me that opportunity.

RESCENTHALER:

You're welcome, AG Barr. AG Barr, I'd like to also talk to you about the violent protests that are--there being seen in Seattle specifically CHAZ and also Portland, Oregon. As you know, over the course of June and early July, several shootings occurred inside Seattle's police free zone inclusion--including the tragic murders of a 16-year-old and a 19-year-old. There were numerous reports of robberies, assaults, and property destruction as well.

BARR:

Sexual assaults as well.

RESCENTHALER:

Yes. And despite all of this, all this chaos, all this violence, it took the Seattle Mayor literally weeks to declare this and on--an unlawful gathering and it took weeks before the police were allowed to clear that area. In similar circumstances, let's talk about Portland Oregon, it's been going through eight weeks of violent rioting in the streets as well.

Rioters continue in fact to fire projectiles and mortar style fireworks at federal--federal law enforcement officers and are using dangerous lasers, which have already permanently blinded at least three federal officers. Yet, our own chairman, Chairman Jerry Nadler told a reporter on Sunday that the anarchy and violence going on in Portland, and I quote the Chairman, "Is a myth that is spread only in Washington, D.C." Attorney General Barr, is it in fact a myth that there is anarchy in anarchist groups engaging in violence in Portland?

BARR:

I think there are--I think there are anarchists in the far left groups that are involved in the violence in Portland. I actually think that the chairman's comment was about Antifa. I'm not sure--I don't know exactly what he said, but I thought he was referring to antitheft.

RESCENTHALER:

Well, do you think that it's a myth that Antifa is involved in this anarchy?

BARR:

No, I think Antifa is involved in Portland.

RESCENTHALER:

So either way, the chairman's comments were--were not correct, were not accurate?

BARR:

I didn't consider them accurate.

RESCENTHALER:

What about the autonomous zone in Seattle? Congresswoman Jayapal has said, and I quote, that it's a "peaceful protest zone." Is it a peaceful protest zone?

BARR:

No. As I already said, it's outrageous that, you know, people set themselves up over a piece of territory with the people in their have not selected them as the government and try to exercise sovereign

authority. That's an outrage and, you know, we saw people handing out guns to people to "keep the peace" and so forth. It was anarchy there.

RESCENTHALER:

Your office has already charged several violent protesters with federal crimes. Can you just briefly elaborate on those crimes?

BARR:

Well they are--the whole gamut. I think--I think we've had 224. They run the gamut from throwing Molotov cocktails to, you know, assaulting a police officer, that kind of thing.

RESCENTHALER:

Thank you, AG Barr. I just want to say that I think, and I don't know if you agree is that CHAZ and Portland are really like political experiments. They really show us what would happen if we fully embraced the radical ideology of that social justice Democrats. And now, according to Democrats, it's the summer of love. According to the Congresswoman the represent Seattle, is a peaceful protest zone.

Attorney General Barr, in reality, these cities are experiencing violence, chaos, and frankly just anarchy. So I think this political experiment has shown us that the liberal social justice Democrat style government has failed. Would you like to comment on that, Attorney General Barr?

BARR:

Well, when I was first being--going through confirmation, I expressed concern about violence getting into our political system. I mean, seeing some--this intolerance and attacking people and I was very worried about that. And now we've seen it sweeping through the country like this and I hope the Democratic Party takes a stand against the violence.

RESCENTHALER:

Thank you and I yield my time.

NADLER:

The gentleman yields back. Ms. Demings.

DEMINGS:

Thank you so much, Mr. Chairman. Mr. Barr, during your--over here.

BARR:

I'm sorry

DEMINGS:

Over here in the corner.

(LAUGHTER)

Earlier during your testimony, you talk about gun violence and you asked the question what about those lives? And yes, Mr. Barr, those lives do matter. But do you believe that police officers should be held or held to a higher standard?

BARR:

Yes. And someone mentioned my comment about we shouldn't permit resistance, we shouldn't take that as a matter of course, but I never suggested that just because someone resists that justifies whatever is done. By no means--

DEMINGS:

--Thank you so much for that--

BARR:

--By no means that it does--

DEMINGS:

Because the police officers also believe that they are held to a higher standard. So I'm glad to hear you say that. As a former police detective, I've served many cases based on patterns of behavior and there is an alarming pattern, I believe, that's developing.

It appears, Mr. Barr, every time a U.S. attorney investigates the president or those close to him, he or she is removed and replaced by one of your friends. You have removed U.S. attorneys in the Eastern District of New York, the District of Columbia, and the Eastern District of Texas. On June 19, you announced Mr. Berman would be stepping down. And let me just be clear, when he told America that Mr. Berman was stepping down, did Mr. Berman tell you he was stepping down?

BARR:

No, but--

DEMINGS:

--Okay, on June--

BARR:

--But stepping down is the language that, I am told--

DEMINGS:

--He didn't--okay, he did not tell you that.

BARR:

No, no.

DEMINGS:

Okay, I'll--

BARR:

--But--but it's the language we usually use language to leave--to leave--

DEMINGS:

--Okay--

BARR:

--Flexibility as to whether--whether the person is doing it on their own.

DEMINGS:

On June 20th, when asked about the basis for Mr. Berman's removal on the very day you announced he was being fired, stepping down, the president's personal attorney, Mr. Giuliani, suggested that, and I quote, the reason may lie in the fact that Berman's office got involved in what Giuliani described as baseless investigations. So, if that wasn't true, if you didn't remove Mr. Berman because he was overseeing investigations of the president and those close to him, why would the president's personal attorney think that?

BARR:

I'm sorry, what--what did he say and when? I did hear the quote.

DEMINGS:

Mr. Giuliani suggests that--

BARR:

--When? When?

DEMINGS:

June 20th. June 20th, that he may have been fired because he was investigating baseless investigations.

BARR:

Well, if he said that, that's--that's nonsense. Number one, anyone familiar with the Department of Justice would say that removing a component head is not going to have any effect on any pending investigation.

DEMINGS:

Okay. And--and I know you're aware of reports that Berman's office was in fact investigating the president's former personal attorney, Mr. Cohen, his current personal attorney, Mr. Giuliani, his current personal attorney's associates, and his presidential inauguration. Mr. Barr--

BARR:

--I don't mean to suggest just by my silence that--that--that I'm confirming that. That seems to be your opinion.

DEMINGS:

Okay. All right. Have you in any way attempted to influence or interfere with any investigation in the Southern District, including the investigations I just mentioned?

BARR:

I have not interfered in any investigation. I raise questions on occasion about certain matters, but as far as I'm aware the--the--I--the--the office was satisfied with the resolution.

DEMINGS:

Mr.--Mr. Berman testified--

BARR:

--With the resolution of matter--

DEMINGS:

--Your efforts to remove him bypass the normal operation of law. Now we know the OLC defended--

BARR:

--No, they didn't--

DEMINGS:

--In the case that a--

BARR:

--No, they didn't--

DEMINGS:

--Sitting president cannot be indicted or criminally prosecuted, because you made sure President Trump understood that in your 19 page or however long application--job application. However, you are aware the special counsel confirmed that a sitting president can be investigated. You did read that in the special counsel's report. Is that correct?

BARR:

Yes.

DEMINGS:

Given Mr. Trump's residence and former business location, the Southern District, Berman's office, would have decision-making authority over whether to investigate the president in himself. And you removed him.

BARR:

I've explained why I--why I removed him.

DEMINGS:

Okay. Sitting here today under purge--penalty of perjury, do you still maintain, as you stated in a February 13th interview, that the president has never asked you to do anything in a criminal case, yes or no, please?

BARR:

Yes--no, I mean, will I confirm it? Is that the question?

DEMINGS:

No, do you stand by your testimony or your--

BARR:

--He has never asked me, directed me, pressured me to do anything in a criminal case.

DEMINGS:

Okay. All right. You are aware, and I think you had this conversation earlier with one of my colleagues, that the president's former attorney, Mr. Cohen, was released early from prison due to concerns of COVID-19.

BARR:
Yes.

DEMINGS:
Okay. And why did you support the decision to send Mr. Cohen back to prison?

BARR:
I didn't--I didn't even know of the decision to send him back.

DEMINGS:
Did you support it based--after you--

BARR:
--Well, I haven't looked into it enough, but my--

SCANLON:
The gentlewoman's time--

BARR:
--Understanding of why--

SCANLON:
--Is expired--

BARR:
--It happened was--

DEMINGS:
--Mr.--Mr. Barr, Mr. Barr, as a former police chief--

SCANLON:
--The gentlewoman's time is expired--

DEMINGS:
--The president has made a mockery of the department of justice. And I believe, is the nation's top cop, no one should care more about that than you.

BARR:
The Bureau of Prisons--

DEMINGS:
Chair--Chairwoman, I yield back.

SCANLON:
--Mr. Armstrong is recog--recognized for five minutes.

ARMSTRONG:
Thank you, Madam Chair. 10 years ago this summer in July, in my hometown it was a beautiful day. People were golfing. Kids were swimming. Everybody was playing baseball, just a perfect, gorgeous, sunny summer day in Dickinson, North Dakota.

And in the span of eight minutes, a tornado came through and destroyed--caused unbelievable economic devastation. I don't think everybody--anybody woke up the next morning and said it was a mostly peaceful day. And I want us to talk specifically about what's going on in Portland with you, Mr. Attorney General, because for 61 nights the federal courthouse is under siege, but not just the courthouse. Federal agents are under siege.

You have men and women there protecting that courthouse. Now, I have no doubt if they were there, that courthouse would not be standing right now. Would you agree with that?

BARR:
Absolutely.

ARMSTRONG:
And I think one of our problems is--is how we talk about this and how it's covered versus what is actually going on every single night in--in Portland at that courthouse. Can you explain what your officers and your agents are going through over there?

BARR:
Yes. The--I'm talking about the U.S. marshals who are in the courthouse. They have initially tried to contain themselves in the courthouse. There have been efforts to push through in--in the main door. When people have succeeded in breaching the courthouse, they have thrown kerosene and--and fireworks and started fires. So, then the effort was to make sure that they cannot breach. There still have been breaches into the courthouse.

But basically, they try to remain in there. And starting after the fourth, they try to arrest the people who were directing fireworks. They would climb up onto the side of the court, break windows, shoot

fireworks in. And whatever the marshals came out to try to put--put it into that, interdicted, they were shot at with slingshots. Lasers are constantly being put into their eyes even when they're inside the courthouse. There's a good description of it in an AP story.

ARMSTRONG:

I was just going to quote that. We don't have to take your word. I watched as injured officers were hauled inside. In one case, the commercial firework was--came over so fast the officer didn't have time to respond. It burned his sleeve and he had bloody gashes on both forearms. Another had a concussion from being hit in the head with a mortar.

BARR:

Right. That's right. And, you know, we've had a lot of injuries out there. And these are people who this Congress as charged with protecting federal courts. They're directed to protect federal courts in the U.S. Code and they are under attack, and they're being injured and it's been constant for 60 days.

ARMSTRONG:

Acting Secretary Wolf has said that the violent mobs are publishing personal information of federal officers, jeopardizing not only them but their families. Why is doxing federal agents so dangerous? And are you concerned about it?

BARR:

All comments dangerous because people can take--take retaliation against their homes, their families, or--for them, you know, when they're--when they're by themselves. You know, I see some of these Latin American countries in Central America where the police are very, very brave because the gangs they're trying to deal with go to their houses and kill their families. And, you know, you never think that can happen here, but you could never think some of the stuff we're saying today could ever happen here.

ARMSTRONG:

Is being burned by essentially improvised explosive device, being blinded by laser--lasers, is this something that typically happens with federal marshals in federal courthouses?

BARR:

No, not at all.

ARMSTRONG:

How is this handled--how--how is this going for re--recruitment, morale? How are they doing? I mean, I genuinely want to know how are they doing.

BARR:

Well, I think that AP story, you know, gives you a feel. They--they feel that their duty and they feel that's where they have to be. A number of them are from that area. But they're extremely tired and, you know, we had to rotate in some more--or put in some more people because they're very, very tired. And you make mistakes when you're tired.

ARMSTRONG:

Well, and I think that's an important part, because I think one of the most amazing parts of this whole thing, it started with under 30 agents there. Now it's still under 100. 61 nights in a row, they defend against a--a siege, fires, burning down these things. You know what's the most amazing thing? They get up every morning and that courthouse is still running. They're still conducting the federal government's business.

So, I'm going to say something that I think should be--should be said a lot more often. Tell them thank you. Tell the courthouse personnel thank you. Tell the clerks thank you. Tell the prosecutors thank you. Tell the judges thank you. And if--if--if you can handle it, can you tell the public defenders thank you too, because they're still conducting the business. They do this every single night. Are they getting sleep?

BARR:

The marshals are--are having a difficult time because the demonstrators go to the hotel. They also go from hotel to hotel because the demonstrators try and disrupt their sleep at the hotel.

ARMSTRONG:

And there's a difference between a protest and a riot. And every night at some point in time in Portland, it turns into a riot. Eventually, when you wake up the next morning and you know it's going to happen again, then we need to figure out a way to stop it.

BARR:

Yeah.

ARMSTRONG:

And then just one last question. Why would we have to negotiate a cease-fire with a peaceful protest?

BARR:

You're correct, but why would--you know, that's--that's right. You know, all--we don't want--what we would like to see and all we would like is what we see in the rest of the country, which is state and local law enforcement taking care of their own city and taking care of the streets or in the courthouse.

SCANLON:

The gentlemen's time is expired.

NADLER:

Mr. Correa is recognized.

CORREA:

Thank you, Mr. Chairman. And Mr. Barr, welcome. Let's talk a little bit about the census, if we can. As you know, that's the process where every 10 years we decide how many congressional seats each state--

CORREA:

gets, how much funding for schools, healthcare, other issues each region gets. Let's talk about the president's memo directing the Commerce Secretary to exclude undocumented immigrants from the apportionment count of the 2020 census count. Mr. Barr the president essentially saying something trying to do that is something that is unconstitutional and the legal. 14th amendment and I quote representative shall be apportioned among several states according to their respective numbers counting whole numbers of person in each state and then federal law as you know 2 U.S.C. Subsection 2a and I quote the president shall transmit to the Congress a statement showing a whole number of persons in each state. That I read those correctly, sir, more or less?

BARR:

Yes.

CORREA:

Do you agree that the president's memo essentially violates the Constitution?

BARR:

No.

CORREA:

Are undocumented people not whole individuals?

BARR:

They are not what?

CORREA:

Are undocumented individuals in this country not hold people?

BARR:

They are--they are obviously people but the legal issue there was the terminology of the Constitution--

CORREA:

If I may--

BARR:

It reflects the decision at the time of the Constitution that they count in half--

CORREA:

If I may reclaim my time, sir. Just you use to work for the Justice--the Department of Justice back in 1989. There was a letter written to Senator Jeff Bingaman on by the DOJ. On point if there's a slide there is a letter and I would ask unanimous consent to admit that to the record.

NADLER:

Without objection.

CORREA:

And I quote, in the past, the Department of Justice has taken the position that Section 2 of the 14th Amendment that the original apportionment and since this clause of Article 1, Section 2 of the Constitution requires that inhabitants of states who are the illegal aliens be included in the census count and then our view this issue to date we have found no basis for reversing that position. Are you reversing that position now?

BARR:

Well, I think what the department advised is that this came up because Alabama claims you cannot count the illegal aliens in the census under the Constitution. The department looked at it and advised that Congress can determine a meaning of inhabitant for this purpose, that it is not a self-defining term as they--

CORREA:

I've only got two minutes sir.

BARR:

That they recognize that--

CORREA:

Mr. Barr if I--

BARR:

Yet, but this is a hearing and I thought I was the one that was supposed to be heard.

CORREA:

Well, let me and I am going to get there. The current dispute you--you talked back when the Supreme Court struck down the president's attempt to put a citizenship question on the census at that time the president announced an Executive order to collect citizenship information by of their means and at that time you made reference to a current dispute over whether the legal aliens can be included in the apportionment purposes. Is that what you are referring to now, sir?

BARR:

I think that I could have been referring to the Alabama case I can't remember what (INAUDIBLE)--

CORREA:

Is the DOJ studying this issue? Have you concluded --

BARR:

Yes.

CORREA:

Can you provide this committee with discussions, any research, and a concluding memos on that issue?

BARR:

I will look into it but we have considered it and as I said our advice is has been that Congress does have the power to define the term inhabitant to either include or exclude a legal aliens.

CORREA:

Well, we are talking about the president's Executive orders, sir.

BARR:

Well, Congress has delegated that power to the commerce Secretary so as the law stands now we think the Commerce Secretary as the delicate of congressional power can define that term--

CORREA:

Mr. Attorney General--

BARR:

If that is a reasonable argument to make.

CORREA:

Mr. Attorney General in the last few seconds I have president has to be within the law, nobody is above the law in this country including the President of the United States. My concern is he goes around doing tweets, memos, dictums that are clearly unconstitutional. My district sir is a working-class hard-working community immigrants, the greatest generation. All we want is equanimity based on the census. We want to make sure we get our federal dollars like everybody else around the country. We want to make sure that our representation is equal, individual--individual and Orange County as it is another parts of the country. All we ask for is respect, sir. I ask you please tell the president stop tweeting things, stop writing memos that are clearly, clearly unconstitutional. Thank you very much and I yield.

NADLER:

The gentleman yields back. Ms. Tiffany?

TIFFANY:

Thank you, Mr. Chairman. Attorney General Barr will you send a thank you to the law enforcement people that work for you for the work that they are doing here across the United States of America?

BARR:

Certainly.

TIFFANY:

And I want to thank all of the law enforcement across our country. We are an imperfect country but law enforcement has done--they do a good job across our country and they should be recognized for that. I am going to ask you a question about Mr. Bernell Trammell from Milwaukee here in just a minute. He was the man who was shot to death at the end of last week. He is the African-American man who was wearing a sign and he is regularly known around Milwaukee for carrying a Trump for President sign but I want to share with you what happened in Madison Wisconsin so we all understand that this is not a myth about Antifa. So when the riots in Minneapolis and then extended around the country and they hit Madison Wisconsin also and I don't know if you have ever visited Madison, Wisconsin.

BARR:

Yes.

TIFFANY:

There is an iconic Street there called State Street, starts at the capital, and runs all of the way down to the University of Wisconsin Madison and that street if you go there now 75 businesses are boarded up as a result of a mayor and city council who would not protect those people. Those people went to the city council last weekend they ask for some assistance. The city council who would not protect their business they said no, we are not going to provide you for assistance. Shortly after State Street--State Street was destroyed by the way it is disappointing that some of the film that I have seen that the police cruiser that went flaming down State Street was not included in that but shortly after that about a week afterwards to monuments at the state capital that I use to walk by all of the time were torn down. One

was of Hans Christian Heg who was the abolitionist, Norwegian immigrant who died at (INAUDIBLE) defending the Union and providing for the end of slavery, fighting for the end of

slavery here in the United States. The other monument that was torn down by the way they took eight total truck and tore it down was Forward. Lady Forward is there because of women's suffrage. Wisconsin was the first state to pass suffrage back in the early 1900s here in the United States of America. Those were torn down. Just yesterday a woman, a social worker who teaches at a local school just outside Madison in Mount Dora she was charged with beating a state senator, a Democrat state senator. Her name is Samantha Hamer. Hopefully, she will be given justice but I want to emphasize to my colleagues on the left that if you think you are insulated from Antifa which is supposedly a myth you should really think about that because them and other radicals they will not spare violets on in the one. Their anarchy is meant to destroy our country and I would ask you to if you want to contact a former colleague of mine state senator Tim Carpenter a Democrat he will tell you he was beat to a pulp on that night at m

idnight when they were tearing down those statues. It is not a myth so Mr. Attorney General I would ask Mr. Bernell Trammell, I don't know if our attorney general--attorney general (INAUDIBLE) in Wisconsin or the mayor of Milwaukee are going to pursue what appears to perhaps be a political execution are you familiar with that situation in Milwaukee?

BARR:

You mean the shooting of that gentleman?

TIFFANY:

Yes.

BARR:

I have read about it.

TIFFANY:

If the attorney general and other law enforcement in Wisconsin do not act will the federal government study the situation and bring justice for Mr. Trammell and his family?

BARR:

Yes, we will certainly study that situation.

TIFFANY:

This is not a myth. You're hearing it from all over the country and we are hearing all of the time about Portland and Seattle. This happened in Madison, Wisconsin also wear a Mayor, a far-leftist mayor proudly carries that banner, sat on a street, actually, not a street, a highway with protesters and shut down traffic and then State Street, one of the most iconic streets in the state of Wisconsin in Madison was destroyed. And I'm not so sure that those businesses are going to get their businesses back.

It is not a myth, folks. What's happening is real across our country and we need to stop the riots. These are not peaceful protests. These are riots that are happening and we need to call an end to it and I hope you, Mr. Attorney General, will work towards that end.

BARR:

Thank you.

NADLER:

The gentleman yields back. Ms. Scanlon.

SCANLON:

Attorney General Barr, I wanted to follow-up on some questions from one of my colleagues. You testified earlier that you have at times voted by mail. Is that correct?

BARR:

I remember I think once voting by mail.

SCANLON:

So if public records show, you voted by mail in 2012 and 2019, you'd agree with that?

BARR:

Yeah, I think--I think--I can't really remember the details--

SCANLON:

--Okay--

BARR:

--I think on one occasion I had to go to a station and vote--

SCANLON:

--Okay, but you did it at least once--

BARR:

--Before the election--

SCANLON:

--Vote by mail--

BARR:

--I think in another when I voted by mail and--

SCANLON:

--I'm reclaiming my time, sir--

BARR:

Yeah.

SCANLON:

I raised this because in May of this year, 800 public health experts from across the nation sent a letter urging Congress to "Prepare for a presidential election by mail to allow Americans to vote from home and assure their health and safety." You are aware that health experts have emphasized that voting by mail is critical to protect public health in this upcoming election, correct?

BARR:

When was that?

SCANLON:

In May of this year. If you're not aware of it, I can provide this to--

BARR:

--Okay. I'd be interested in seeing it, yeah--

SCANLON:

--Your staff. Great. I have an extra copy for you. So that public health advice is really important to citizens in the Commonwealth of Pennsylvania because we have a large population of seniors who are at higher risk for the coronavirus. They shouldn't have to choose between risking their lives and exercising their right to vote. But the problem we are facing is that the president has repeatedly sought to cast doubt on the security of mail-in ballots saying that the 2020 election could be rigged with "Millions of mail-in ballots printed by foreign countries." And you, sir, have repeated this disinformation--

BARR:

--Well, it's not misinformation--

SCANLON:

--As far--as far--I don't have a question for you, yet. Here it comes though. Last month, you echoed the president's conspiracy theory when you suggested in at least three interviews that "Foreign countries could manufacture counterfeit ballots" and "To influence the presidential election," correct? You did that in at least three interviews?

BARR:

Yes.

SCANLON:

Okay. But in fact, you have no evidence that foreign countries can successfully sway our elections with counterfeit ballots, do you?

BARR:

No, I don't, but I have common sense.

SCANLON:

Okay. Okay, well--and that's what you responded when you were directly challenged on that. You said no. No, you didn't have evidence, but it was obvious. According to state election officials, your alleged concerns here are not obvious, but in fact are outrageous.

Every state in the Union has absentee ballots. Two thirds of the states allow for vote by mail by--for any reason. Five states, Colorado, Oregon, Washington, Hawaii, and Utah vote entirely by mail and have done so for decades. Even the U.S. military uses mail-in ballots, it doesn't it?

BARR:

Yes.

SCANLON:

Okay. So isn't it true that after you suggested without evidence that foreign adversaries could sway our elections using counterfeit ballots election experts and officials from around the country said that what you suggested was virtually impossible, preposterous, would never happen, and will be readily detected due to the multiple levels of security used with mail-in ballot systems?

BARR:

There are--there are not multiple levels of security used--

SCANLON:

--Okay, well so--

BARR:

--And I don't--

SCANLON:

--You don't recall--

BARR:

--And I don't agree that it's a--that's a--

SCANLON:

--Okay, reclaiming my time. And again, I'm happy to supply you with the statements that were provided from around the country--

BARR:

--Before Donald Trump raised concerns about it--

SCANLON:

--In fact--

BARR:

--Every publication major publication--

SCANLON:

--reclaiming my time, sir. In fact, there is no evidence that foreign countries can make counterfeit ballots and create a real threat to our election security. Are you aware that in May, the president tweeted, and I quote, "Mail-in voting will lead to massive fraud and abuse. It will also lead to the end of our great Republican Party."

BARR:

I was unaware of that tweet.

SCANLON:

Well, that tweet suggests, sir, that the president is spreading disinformation about mail-in ballots because he's afraid that if more people vote, he and his party will lose. The fact, Mr. Barr, is that our foreign adversaries cannot actually influence our elections by submitting massive counterfeit ballots, but the FBI and our intelligence services have repeatedly warned that those adversaries are actively trying to soak mistrust of our election systems and by repeating disinformation about mail-in voting, you and the president are helping them. Just switching gears, you would agree--

BARR:

--Well, I'd like the opportunity to respond that--

SCANLON:

--You would agree that prosecutors who make political contributions identifying fairly strongly with the political party, wouldn't you?

BARR:

Who--who makes contributions?

SCANLON:

You said in 2017 that prosecutors who make political contributions are identifying fairly strongly with the political party, correct?

BARR:

Yes. Yes.

SCANLON:

And in fact, you and your wife have donated over \$730,000 to Republican and conservative candidates, including donations of \$58,000 to Republican senators and Senate candidates in the four months preceding your confirmation. That's correct, isn't it?

BARR:

Are you--are you surprised on the Republican?

SCANLON:

Is that correct that you made those donations--

BARR:

--Over--over a long period of time.

SCANLON:

Including just before. Okay--

BARR:

--That's accumulative of a long period of time. But basically--

SCANLON:
Mr. Chairman--

BARR:
--I never hid the fact that I'm a Republican--

SCANLON:
--I yield back and I would also--

BARR:
--I was talking about career prosecutors--

SCANLON:
--Is a question before you--

BARR:
--Have generally historically avoided making contributions was my view.

SCANLON:
\$730,000 is not--

NADLER:
--The time of the nude lady has expired. Ms. Garcia.

SCANLON:
Mr. Chairman, I would like--I would seek unanimous consent to introduce that 800--the public health expert letter signed by 800 individuals. The attorney general's repeated interviews in which he suggested that our elections could be undermined. The overwhelming reaction from election officials around the country and the articles concerning his campaign donations. Thank you.

NADLER:
Without objection, the articles will be entered into the record. Ms. Garcia.

GARCIA:
Thank you, Mr. Chairman. Mr. Barr, your department released Paul Manafort, the president's former campaign manager early from prison in May out of concern for the coronavirus. In March 26 and April 3,

your department released guidelines, criteria by which prior--setting priorities by which people would be released early.

By your own department's admission, Manafort did not meet that criteria. Since the start of this pandemic, we have repeatedly urged you to use your authority to protect full herbal populations in prisons and instead you released the president's former campaign manager. Sir, do you know how many federal inmates have tested positive for COVID--COVID-19 as of today?

BARR:

Yeah, I have a number.

GARCIA:

Quickly, sir, because the clock takes.

BARR:

Well--

GARCIA:

--Well, we have a slide if you will--they'll bring it up. That shows us that 10,000 inmates have tested positive in over 1000 staff have tested positive. Do you know how many have died?

BARR:

About 100. Almost 100, I think.

GARCIA:

That's right. It's about 99 inmates have died. And yet, only five percent have been released under your guidelines

BARR:

7000 and--

GARCIA:

--You stated--you stated in May that you were taking "Every measure we can to protect federal inmates. The numbers, however, tell a different story as do your actions. Despite releasing Manafort, your lawyers continue to argue against the release of prisoners. In April, vulnerable prisoners who suffer from serious at risk health conditions like chronic asthma, health--heart disease and kidney disease, file a lawsuit for early release in Ohio.

These prisoners were being "overcrowded in like cattle because prisoners were not able to social distance them." 550 prisoners sought release. Yet, your own due process--department processed only seven applications and denied them all. Yet, you had time to process Manafort's application--

BARR:

--I didn't process Manafort's application--

GARCIA:

--Well, your department it, sir. But apparently, not these vulnerable Americans living at great--great risk. In fact, in a series of release in April and May, in an Ohio District Court ordered that your department "Act with urgency" and "Move inmates out" due to continued risk of harm to prisoners and to government staff. And sir, your department challenged that court order, did it not?

BARR:

I'm not familiar with that.

GARCIA:

Well, you all did. You did not help move these inmates out as ordered. In fact, you tried to block the district court's order. However, the Supreme Court on May 26 rejected your department's request. Several, nine prisoners had died and it's been two months since the Supreme Court's order. Do you even know today how many of those prisoners have been released or how many more have died?

BARR:

No, I don't. You know, we had 100--

GARCIA:

--Well, sir--

BARR:

--We started out this with 170,000 prisoners. So, we've lost--

GARCIA:

--I just need you to try to explain to me and to America how is it that the form--the former campaign manager of the president of the United States did not meet the--who did not meet the priority criteria got released even though you're on department admitted he didn't meet the guidelines, but all these other folks were not? If it was deadly enough of a virus that you needed to protect the former campaign manager, why not all of these Americans who also have vulnerable--are vulnerable and have at-risk conditions?

Mr. Barr, the contract says it all, and it is not just in Ohio. In fact, in my own home state in Texas, a federal prison housing women with mental and medical health issues just confirm last week that of the 1,357 prisoners, over 500 tested positive for COVID. One prisoner recounted we're like a whole bunch of hamsters in a cage tracing our own tails, and yet none have been released. Mr. Barr, have you seen the statistics, yes or no?

BARR:
The--

GARCIA:
--Well, if you can't answer--

BARR:
--I put out guidelines, general guidelines as--

GARCIA:
--Which--sir, which--

BARR:
--To propel the release of--

GARCIA:
--You have not released anyone.

BARR:
I put a general guidelines.

GARCIA:
One of those prisoners is a mother, Andrea Circle Bear, who had to give birth on a ventilator in that facility because your department prioritizes releasing Paul Manafort instead of vulnerable Americans. A few weeks after this photo, Ms. Bear died, along with two other women housed in this facility from COVID-19.

Sir, you could--could be saving lives by reducing the prison population, yet you have blatantly abandoned your duty to these women. You have shamelessly abandoned your oath of office to protect all Americans impartially because you have prioritized giving special favors to the president's friends. This is not equal justice under the law. It's not the law that you and I both learned in law school. It is two simple--simple systems of justice, one for the president's friends and one for everyone else. And it's wrong.

BARR:
The director of the BOP--

GARCIA:
--It is flat wrong--

BARR:
--Yeah. The direct--

GARCIA:
--Thank you. I yield back.

BARR:
Yeah, the director of the--

NADLER:
--The gentlelady--

BARR:
--BOP testified--

NADLER:
--The--

BARR:
--Testified under oath that no one from Justice--

NADLER:
--The gentlelady--

BARR:
--Department was involved.

NADLER:
The gentlelady yields back.

JORDAN:
Yeah, but the--but the gentleman--

NADLER:
--Mr. Neguse--

JORDAN:
--Has not been given an opportunity to respond.

NADLER:
Mr. Neguse?

JORDAN:
And that's been a consistent problem.

NADLER:
Mr. Neguse is recognized.

NEGUSE:
Thank you, Mr. Chairman. Good afternoon, Mr. Attorney General. I want to go through a couple of your prior statements. On April 19th--or, excuse me, April 18th of 2019, you stated, "That the White House fully cooperated with the special counsel's investigation." You're aware of that?

BARR:
Um-hmm.

NEGUSE:
Today, yes or no, Mr. Barr, under penalty of perjury, do you testify that that statement was true at the time you made it?

BARR:
I--I thought it to be true at the time I made it.

NEGUSE:
On--

BARR:

--Why isn't it true?

NEGUSE:

--June 9--I'll get to that, Mr. Barr.

BARR:

I mean, does it--does it have to do with--

NEGUSE:

--Mr. Barr, I will get to that--

BARR:

--Quibbling over--

NEGUSE:

--Reclaiming my time. You answered the question.

BARR:

Okay.

NEGUSE:

I have another question for you. On June 19th of 2020--

BARR:

--Actually, I need to answer that question.

NEGUSE:

Mr. Attorney General, you did answer the question.

BARR:

No, you said under penalty of perjury. I'm going to answer the damn question, okay?

NEGUSE:

You said--the answer was yes--

BARR:

--And--and--

NEGUSE:

--Is what you said--

BARR:

--Well--

NEGUSE:

--Are you saying no?

BARR:

I think what I was referring to, and have to see the context of it, was the supplying of documents.

NEGUSE:

No, Mr. Attorney General, the statement was not limited to the supply of documents. You stated at a press--

BARR:

--I think that's what--

NEGUSE:

--Mr. Attorney General, reclaiming my time--

BARR:

--I was talking about.

NEGUSE:

Reclaiming my time.

BARR:

I think that's what I was talking about.

NEGUSE:

You stated at a press conference on April 19th of 2019 that the White House fully cooperated with the special counsel's investigation. You knew when you made that statement that the president had not agreed to be interviewed by the special counsel. Now on June 18th of this year--

BARR:

--I think I subsequently said that--

NEGUSE:

--Mr. Attorney General--

BARR:

--I was referring to the--

NEGUSE:

--On June 18th--

BARR:

--Production of documents.

NEGUSE:

Mr. Attorney General, on June 18th of this year, the Department of Justice issued a statement saying that Mr. Berman, a former U.S. attorney for the Southern District of New York, had "stepped down." You're aware of that statement being released by the department, correct?

BARR:

Yes.

NEGUSE:

And do you testify today that that statement was true at the time the department issued it?

BARR:

He may not have known it--

NEGUSE:

--No, it's--

BARR:

--But he was stepping down.

NEGUSE:

He may not have known that he was stepping down, that your testimony today?

BARR:

He was being removed.

NEGUSE:

Mr. Attorney General, the statement did not say that he was being removed. It did not say that he was being fired. It said that he was stepping down.

BARR:

I was--

NEGUSE:

--And apparently your testimony today is that that was in fact accurate when Mr. Berman has testified under oath to this committee that it in fact was not.

Now, I want to talk about a separate--

BARR:

--No. No, he was removed--

NEGUSE:

--Process--

BARR:

--He was removed--

NEGUSE:

--Mr. Attorney General--

BARR:

--He was removed and I wanted an opportunity to offer him--

NEGUSE:

--I understand--

BARR:

--Another job and talk to him--

NEGUSE:

--Your rationalization--

BARR:

--The next day--

NEGUSE:

--For your answer, but the American people--

BARR:

--It's not a rationalization--

NEGUSE:

--Will let your answer speak for itself. Now, Mr. Attorney General, earlier this year, President Trump stated that he had planned to make what he described as vice president's "Ukraine dealings" an issue on the campaign trail. Earlier this year, on February 10th, you stated that you had set up a "intake process for submission of information--excuse me, "intake process" for submission of information relating to the Ukraine to the Justice Department, and that included, quote, these are your words, "Anything Mr. Giuliani might provide." Do you recall making those comments?

BARR:

Something along those lines.

NEGUSE:

You to concede there isn't anything standard about the attorney general creating a special process for information related to advancing--

BARR:

--I disagree, and--and--and I--

NEGUSE:

--You disagree--

BARR:

--Also made it clear that that is a vetting process that's available to anybody.

NEGUSE:

Is that right? Which U.S. attorney have you assigned to receive information from Vice President Biden's personal lawyers regarding President Trump?

BARR:

Well, maybe if they had vetted the dossier--

NEGUSE:

--There's no--

BARR:

--Maybe if they vetted the dossier, we wouldn't--

NEGUSE:

--There is--there is no U.S. attorney--

BARR:

--Have the whole Russiagate problem--

NEGUSE:

Mr. Attorney General, there's no U.S. attorney, of course, that you've appointed to do that because--

BARR:

--What are you talking about--

NEGUSE:

--What you have done with respect to this process is unprecedented. Now--

BARR:

--It was cautionary so that we do not pollute--

NEGUSE:

--Mr. Attorney General--

BARR:

--The criminal investigative process with Ukrainian disinformation.

NEGUSE:

I will give you an opportunity to explain this intake process. My understanding is that you have directed the U.S. attorney--

BARR:

--You are going to give me an opportunity--

NEGUSE:

--That you--I--I had planned--I intend to right now.

BARR:

Okay.

NEGUSE:

The Eastern District of New York, the U.S. attorney responsible for that district, my understanding is that you have asked that U.S. attorney to be responsible for the intake process. Is that right?

BARR:

No.

NEGUSE:

That's wrong? The U.S. attorney--

BARR:

--The U.S. attorney in the Eastern District was given oversight of all Ukrainian related cases, any new cases involving Ukraine.

NEGUSE:

Correct.

BARR:

We face a problem with Ukraine, which is unreliable information coming in it.

NEGUSE:
I appreciate you helping--

BARR:
--There's a lot of corruption there--

NEGUSE:
--I appreciate you--

BARR:
--It's a hall of mirrors--

NEGUSE:
--Mr. Attorney General--

BARR:
--And I wanted to make sure that before we got into criminal proceedings, and this was to everyone's benefit, particularly Vice President Biden--

NEGUSE:
--Mr. Attorney General--

BARR:
--That the information was scrubbed--

NEGUSE:
--I appreciate you noting that--

BARR:
--In conjunction with the intelligence community--

NEGUSE:
--And that is consistent with the memo that you issued, which said any and all new matters relating to Ukraine shall be directed exclusively to the Eastern District of New York for investigation an appropriate handling, just as you described right now. Now, of course the U.S. attorney responsible in the Eastern District of New York was recently changed. My understanding is a few weeks ago you announce that

Seth DuCharme would be taking over to replace Richard Donahue. Mr. DuCharme prior to serving in this role--

BARR:

-- Pittsburgh is in charge of the betting.

NEGUSE:

Mr. Attorney General, prior to taking this position, Mr. DuCharme worked at main Department of Justice. Is that correct?

BARR:

Yes, he was a counselor in main, and then he--

NEGUSE:

--He was a counselor in main--

BARR:

--Was the--the principal deputy--assistant deputy attorney general.

NEGUSE:

That's right. And rather than having the acting U.S. attorney--the deputy U.S. attorney, rather, and that district serve--

BARR:

--They wanted to swap jobs--

NEGUSE:

--You now have appointed your prior counsel to oversee that very same process. With that I yield back my time, Mr. Chairman.

GARCIA:

Mr. Chairman?

NADLER:

The gentle--the gentleman yields back. Ms. McBath?

GARCIA:

Mr. Chairman, before we go to Ms. McBath, could I enter a couple of documents under unanimous--under--ask for unanimous consent to enter four documents, the two memos I referred to setting the guidelines for who gets released, a--a Washington Post article about Paul Manafort's release, and a testimony from the Council of Prison Locals 33 for the record?

NADLER:

Without objection. Ms. McBath is now recognized.

MCBATH:

Thank you, Mr. Chairman. I want to start by thanking you, Attorney General Barr, for joining us today and for the work that the committed public servants in your department are doing to keep our country safe.

But, sir, just a few months ago in May, you said that you would be taking the president's position and urging the Supreme Court to overturn the Affordable Care Act. When asked if you will still take that position even if it means, and I quote, "stripping millions of Americans of their healthcare in the middle of a pandemic," you stated that the case would not be argued until October, and that the president expects to fix and replace Obamacare with a better system.

Attorney General Barr, let--let's be very, very clear. A public--as public health officials and data have shown us, this pandemic is simply not going away. Just last week, it was reported that one hospital was planning to send coronavirus patients home to die due to limited resources to treat them. So, we're still facing an extremely critical and extremely serious situation. And even if you expect the president to figure out a new plan by October, the president has not yet put in place another system, nor is there any guarantee that he will do so by October, as you "expect."

So, when you say you expect the president to figure out a new plan, you are taking a risk with millions of Americans lives. You are risking the lives of millions, people who will not be covered for pre-existing conditions if the Supreme Court agrees with your position. Civil servants in your own department have disagreed with you on this matter. In fact I am introducing a statement by one of the lead attorneys on the ACA case, Joel McElvain who resigned in protest when your department refused to defend the law as it is required. In my district, the sixth District of Georgia, congressional district there are over 300,000 people that have pre-existing conditions and I sir are one of them, a two time breast cancer survivor. Our state is continuing to battle hard against a resurgence in COVID-19 cases so I am asking you, sir, not to gamble with American lives, not to gamble with my life and I would like you to confirm that if the president has no other plan in place by October you will reverse course and drop your position that I quote you directly the entire ACA must fall?

BARR:

I have two children who are cancer survivors so I feel very strongly about this issue as a matter of policy and I believe that the president has made clear that he will ensure that their--

MCBATH:

Sir, please answer my question. Will use stop playing politics with the American self-care in the middle of a pandemic--

BARR:

I am not playing politics, I am a lawyer. I am not in charge of healthcare policy.

MCBATH:

Will you reverse your course and make sure that millions of Americans like me that depend on health care and treatment to stay alive will you reverse your course to make sure that we have the ability to be able to live in this country freely with quality healthcare?

BARR:

People will have the health care protection and it will be accomplished either if I lose--

MCBATH:

Okay, sir, I--I take this as a no.

BARR:

If the government loses the case if the Supreme Court strikes it down--

MCBATH:

I take this as a no. Sir, Iowa to briefly go on--

BARR:

Based on history there will be--

MCBATH:

Sir, I would like to go on. I would like to briefly mention my concerns relating to gun violence because that is actually how I got to Washington.

BARR:

I'm sorry, relating to what? What?

MCBATH:

I want to briefly go on to another concern that I have relating to gun violence.

BARR:

Okay.

MCBATH:

That is actually how I got here.

BARR:

Okay.

MCBATH:

During the coronavirus outbreak the nation has seen a dramatic increase in firearms sales and skyrocketing numbers of sales blocked by failed background checks. In March alone the (INAUDIBLE) background check system blocked 23,000 and attempted sales. In other words in one month there were 23,000 attempts to get a firearm by a person who was not allowed to possess one under our current law and it is a federal crime for anyone to lie in an attempt to get a firearm which is what I suspect most people try to do. I would like to know from you how many of these March blocked sales were investigated?

BARR:

I--I sent out a directive that we should start prosecuting to the extent we can these lie and try cases. Previously we hadn't really been pursuing--

MCBATH:

Okay, so I take that as a no. I just have one more thing to say--

BARR:

No, I--I--well, I am saying we are pursuing those cases.

MCBATH:

My time is up. I take that as a no. Unfortunately, this fits a larger pattern of your administration that neglecting the health and safety of Americans from health care to gun violence this administration is failing to keep my constituents and people all over the country healthy and safe. I demand better, Americans demand better. I want you to provide the answers that you are either unwilling to provide us or don't have answers to to this committee because these are relevant questions and we need to have answers from you. I yield back the balance of my time.

JORDAN:

Mr. Chairman--Mr. Chairman?

NADLER:

The gentlelady's--

JORDAN:
I have got a question.

NADLER:
What purpose--for what purpose does the gentleman seek--

JORDAN:
Four months you have tried to get the attorney general to come, he is here why don't you let him speak? Why don't you let him answer the questions?

NADLER:
The gentleman is not recognized.

JORDAN:
Time after time if you want the attorney general to, at least let him answer the questions and the accusations made against him.

NADLER:
The gentleman's rudeness is not recognized.

JORDAN:
Rudeness? Rudeness is--

UNKNOWN:
Rudeness is on the other side.

NADLER:
(INAUDIBLE)

JORDAN:
Time after time you refuse to let the attorney general of the United States answer the questions posed to him.

NADLER:
Mr. Stanton is recognized.

JORDAN:

Well, maybe the last few witnesses will actually let the attorney general speak.

UNKNOWN:

Mr. Attorney General?

NADLER:

Mr. Stanton is recognized.

STANTON:

Thank you very much, Mr. Chair. Mr. Attorney General, thank you very much for being here. Since the passing of the Voting Rights Act in 1965 those who have sought to suppress the minority vote concealed their intentions, the suppressors suggest that they were really out to advance some (INAUDIBLE) goals such as election security but history has proven that those allegations and those rationalizations were lies designed only to fend off legal challenges. It was a dirty little secret and those who aim to suppress the minority vote never dared to say it out loud but not Donald Trump he didn't even try to keep it a secret he just blurted it out. He said he will lose the 2020 election if more Americans are able to vote. That is one reason why this president needed a fixer at the department of justice from letting Russia off the hook to rewording Roger Stone. Mr. Barr you have proven not only very willing but I have to admit very able.

More than a year ago this committee heard testimony about a resurgence of discriminatory voting practices certain states making it more difficult to vote. These practices include unnecessarily strict photo ID requirements and the abuse of signature match requirements to reject absentee ballots. Despite that your department has a lax approach to enforcing voting rights act. During your tenure you file just one case to do so but the DOJ has done nothing to block this suppression practices we heard about over a year ago before this committee. Into your credit Mr. Barr you warned us. You told the New York Times Magazine earlier this spring that the DOJ's role in protecting the right to vote would be limited this year and that it would be up to the states to police themselves isn't that right, yes or no?

BARR:

I don't recall saying that but if you say it's in the article.

STANTON:

It is in the New York Times article from just last month. In that same news story you said it would be up to the voters to referee the election. Is that right, yes or no?

BARR:

I don't remember the context of that frankly. Was I talking about foreign influence?

STANTON:

No, sir. I--I will submit it for the record, you will have a chance to review it and submit additional testimony if you desire to. Someday when we have more time you will have to explain to me how a person whose right to vote is denied by a discriminatory practice can referee an election.

BARR:

That doesn't (INAUDIBLE)--

STANTON:

But I digress. It troubles me that you have not been consistent in your approach as the attorney general you have stood down on discrimination and allowed states to make it harder to vote but you have use the DOJ as a sword when attempts have been made to make it easier to vote. Voting right advocates in South Carolina and Alabama sought to prevent Americans from choosing between voting and risking their health by making it easier and safer to complete an absentee ballot during the pandemic but your DOJ intervened to try to block that accommodation. Mr. Barr, did you discuss either of those cases with the president, yes or no?

BARR:

No.

STANTON:

The American people--

BARR:

I--I don't even know. What two cases are you talking about?

STANTON:

Cases in which--

BARR:

Tell me the name of the cases.

STANTON:

I don't have the name of the cases.

BARR:

Where--where were they?

STANTON:

South Carolina and Alabama. You will have a chance to comment after your testimony is done here today. The American people have good reason to believe that you will continue to use your authority to carry out the president's wishes to suppress the vote and there are fears that you and the president are laying the foundation to interfere with the upcoming election specifically with vote by mail as my colleagues have previously noted because both of you have advanced false conspiracy theories about mail-in voting and I hope we can put some of those fears to rest here today. Mr. Barr, can you commit to the American people that you will not interfere with the decisions of state and local authorities to use vote by mail and absentee ballots in the 2020 elections? That is a yes or no question.

BARR:

Well, I think the federal government has very limited ability to get involved in this but I'm not going to give up whatever ability we have to ensure the integrity of the election. I have never--you know my observation was simply that it would inject some uncertainty into the election process and it opens up the potential of fraud--

STANTON:

Mr. Barr (INAUDIBLE)--

BARR:

--and I think the integrity of the election is very important.

STANTON:

Mr. Barr, the president has suggested that only votes counted on election day should be what matters meaning that if a voter cast a legal ballot on or before election day that that valid is not counted on election day it should account at all so I want to ask you again about your commitment to ensuring that every vote is counted. If in this upcoming November election the president ask you to intervene and try to stop states from counting legal balance after election day will you do the right thing and refuse, yes or no?

BARR:

I will follow the law.

STANTON:

You won't say no, sir?

BARR:

I will follow the law.

STANTON:

It is very disappointing--

BARR:

Well, well if a state--if a state has a law that--if a state has a law that says that has to be cast on election day that is the law. That will be enforced.

STANTON:

Will you commit to making sure the department of justice does not get involved in a contested election, yes or no?

BARR:

I will follow the law.

It is so disappointing we can't get a clear answer on that. Mr. Chairman I would like to ask unanimous consent to submit for the record the following items, an item from the Guardian magazine and embarrassment trumps Justice Department goes quiet on voting rights; second, New York Times Magazine William Barr state of the emergency finally, from the Washington Post trumps assault on the election integrity forces question what would happen if he refused to accept a loss.

NADLER:

Without objection the material will be--

JORDAN:

Mr. Chairman, just for the record--

NADLER:

Without objection--

JORDAN:

A member of the Judiciary Committee following the law--

NADLER:

Without objection--

JORDAN:

Following the law should be something that members of the Judiciary Committee knows--

NADLER:

(INAUDIBLE) the gentleman -- the material will be entered into the record. Ms. Dean is recognized.

BARR:

Sir, can I take a five-minute break--

NADLER:

--Ms. Dean is recognized.

BARR:

Could we take a five-minute break, Mr. Chairman?

NADLER:

No.

MIKE JOHNSON:

That's a common courtesy, Mr. Chairman--

NADLER:

--Ms. Dean is recognized--

MIKE JOHNSON:

--Of every witness.

BARR:

I waited 45--an hour for you this morning. I haven't had lunch. I'd like to take a five-minute break.

NADLER:

Mr.--Mr. Attorney General, we--we are almost finished. We're--we're going to be finished in it--in a few minutes if--otherwise--we can certainly take a break, but--

BARR:

You're a real--you're a class act, Mr. Chairman.

JORDAN:

Well, yeah--

BARR:
--A real class act.

NADLER:
(INAUDIBLE) yeah, after this if you still want one, will have a break.

JORDAN:
No, he wants a break now.

NADLER:
Right now? Fine.

JORDAN:
And you just--you just mentioned rudeness--

NADLER:
--The committee--the committee--

JORDAN:
--I think we're seeing it on display--

NADLER:
--The committee will stand --

JORDAN:
--Let's let the attorney general have a break--

NADLER:
--The committee will stand in recess now.

BARR:
Thank you. Thank you, Mr. Chairman.

(RECESS)

NADLER:

The committee will reconvene. Ms. Dean is recognized.

DEAN:

Thank you, Mr. Chairman. Good afternoon, Attorney General Barr. I'd like to return and describe--to discuss some different issues regarding June 1st and Lafayette Square, where, as you know, peaceful protesters had gathered over days and hours to discuss civil rights, to discuss the heinous murder of George Floyd, and to call for equality and justice.

When asked about the use of force displayed in the video against the protesters out of Lafayette Square, you stated that your attitude was "Get it done." Let's look at what you got done. If you'll take a look at the timeline we have compiled, we see that you were spotted in Lafayette Square at 6:10 P.M. that Monday evening.

The president was scheduled to speak in the Rose Garden at 6:15. The Park Police began to disperse protesters at roughly 6:33. President Trump started his speech at 6:43 and finished at 6:50. So, by 7:01, when the president was ready to walk across the street to take a photo in front of St. John's Church, the square was cleared and ready for him to go. Am I correct?

BARR:

Yes.

DEAN:

The timing is clear. Multiple local officials also confirmed the point of clearing the square. One safety official said it was as if the Park Police's plan to move the perim--perimeter had been "hurried up" when the president needed to walk to church. And just today, Congress for testimony from Adam DeMarco, a National Guard officer, deployed in Lafayette Square confirming that he expected the square to be cleared after the curfew after 7:00 P.M.

BARR:

I'm sorry. Who was that?

DEAN:

Adam DeMarco, National Guard.

BARR:

Well--

DEAN:

--In the afternoon--I--I didn't have a question for you, sir. In the afternoon, you told us that you learned of the president's interest in crossing the square to go to the church. Is it your opinion, Mr. Barr, that

clearing protesters from Lafayette Square, which local officials were told to hurry up moments before the president's photo op with a borrowed Bible in front of a church, was coincidence? Is this timing coincidence?

BARR:

I believe it is, yes. It's not COIN--post hoc ergo propter hoc, you know? Is--is that what you're saying?

DEAN:

I'm familiar with the Latin. In a related matter, when asked about the use of pepper bombs fired at--

BARR:

--If wasn't a coincidence in the set--if you would permit me, congresswoman, okay? As I said--I used the analogy of McArthur at Leyte Gulf.

DEAN:

We heard that. Thank you.

BARR:

Okay? Yeah?

DEAN:

I'll reclaim--

BARR:

--Okay. So--

DEAN:

--Mr.--Mr. Attorney General--

BARR:

--He couldn't have walked--

DEAN:

--You said coincidence. Fine. We'll--we'll assume that that was all coincidence.

In a related matter--

BARR:

--I've--I've already explained that it--

DEAN:

--When asked about--

BARR:

--Had been planned all day

DEAN:

Mr. Attorney General--

BARR:

--Um-hmm--

DEAN:

--The time is mine. We've waited long time for you to come here. The time is mine.

BARR:

You've waited to talk to me like this? You didn't need to wait so long.

DEAN:

When asked about the use of pepper bombs fired and Americans in Lafayette Square, you said, "No, there were no chemical irritants. Pepper spray is not a chemical irritant. It's not chemical."

BARR:

Well, everything is chemical. I was referring to a dichotomy--

DEAN:

--Actually, you're--

BARR:

--A dichotomy in these kinds of things between--

DEAN:

--So, Mr. Attorney General--

BARR:

--Chemical compounds and naturally occurring substances.

DEAN:

Mr. Attorney General, reclaiming my time, there are rules by which we operate here. I would ask you to respect them.

Take a look at the--the screen. I placed on the screen for reference, as you are aware, how your department describes pepper balls use on Americans in Lafayette Square. A 2009 Justice report noted that the pepper ball, "system's accuracy and accompanying blunt trauma impact made it an ideal chemical dispersing system." So, while you in a quote said it's not chemical, you today confirm it is chemical. And you're aware of your department's policy, are you not?

BARR:

What--what policy?

DEAN:

The one I've just promoted--provided to you.

BARR:

What does it say? What's the policy?

DEAN:

Finally, whether or not you authorized it at the time. Perhaps you weren't listening.

BARR:

I--I didn't see the policy. What--what was the policy in there?

DEAN:

Clearly, you weren't listening. Fine. Whether or not you authorize the use of pepper balls, what--

BARR:

--The--the--the--

DEAN:

--I--I did not ask you a question yet, sir.

BARR:
Well, no--well, you--

DEAN:
--I ask you to please refrain from interrupting me.

We watched horrifying videos played across the news and social media showing that these chemical irritants were used on protesters. So, yes or no, and this is a yes or no, sir, have you begun an investigation of the use of excessive force in Lafayette Square?

BARR:
Well, I think the IG is looking at the--everything related to, you know, the anti-rioting oper--

DEAN:
--So, the answer is yes, you are investigating by way of an--

BARR:
--The IG is investigating it, yeah.

DEAN:
Okay. We'll hope that he does not get fired.

Tragically, what happened in Lafayette Square is no longer an isolated incident. Use of chemical irritants has been used in more than 90 cities. My colleagues showed you the video of the Navy vet being pepper sprayed and beaten, his bones broken. Whether or not you thought this was appropriate at the time, have you now called for law enforcement to stop using these chemical irritants on protesters, yes or no?

BARR:
Pepper spray?

DEAN:
Yes, have--

BARR:
--No.

DEAN:
No?

BARR:
I think it's a very important non-lethal option.

DEAN:
For protesters?

BARR:
No, for--for rioters.

DEAN:
Sir, that was my question, for protestors.

BARR:
No, for rioters.

DEAN:
Yes. Sir, America was founded on the principles of free speech.

BARR:
When--when people resist--

DEAN:
--Excuse me--

BARR:
--Law enforcement, they're not peaceful.

DEAN:
Reclaiming my time. I'm surprised at your lack of respect for a member of Congress.

NADLER:
The time of the gentle--the time of the gentlelady has expired. Ms. Mucarsel-Powell?

MUCARSEL-POWELL:
Mr. Barr, good afternoon. I'm glad that you mentioned Latin America a little bit earlier. You know, many of my constituents that I represent in Florida fled to America from countries that use deadly force to

stifle speech, and the used armed forces to suppress dissenting voices. They cherish our Constitution as other Americans have done for generations because of the incredible freedoms and rights that being an American citizen gives to all of us.

It's extremely personal to me because you probably know that my roots are in Ecuador, but I live by the American Constitution. And it's true that those who weren't fortunate enough to always have these rights and freedoms sometimes cherish them even more than those who have always had them. When they see photos from Portland, they don't see the American ideal or the America that they know. They actually see and are reminded what they left behind. You would agree with me on that? Are you listening, Mr. Barr?

BARR:

Well, I wasn't sure of the subject.

MUCARSEL-POWELL:

Take a look at this video.

BARR:

I--who's the subject of that last sentence?

MUCARSEL-POWELL:

Just, you know, when you see--

BARR:

--Who honor--who--who--

MUCARSEL-POWELL:

--Look--look at these videos for one second.

BARR:

Yeah.

MUCARSEL-POWELL:

We have seen violence in Venezuela at the hands of Maduro firing tear gas at protesters and using brutal tactics to crush demonstrations. That's what we see from dictators on both the left and the right. But it's hard to distinguish these photos from those events and from the videos that we've seen by U.S. Federal police in Portland tear gassing and breaking the bones of a peacefully protesting U.S. Army veteran, very similar.

So, Mr. Barr, how do you restore the confidence of my constituents in the values of this country when every night on television there seeing these images of violence used against the peaceful protesters? We all denounce violence. How do you restore the trust in our democracy?

BARR:

I think that--I think that the--the force is being deployed against rioters or in situations where protesters are not following police directions that will--

MUCARSEL-POWELL:

--Most of the protests been peaceful, Mr. Barr. You know that. You know that. You're just using--

BARR:

--I don't know what that--

MUCARSEL-POWELL:

--Language for political purposes, just like my colleagues across the aisle.

BARR:

No, I don't know what that--I don't know what it means, most--

MUCARSEL-POWELL:

--Let me just go now to one of the most important topics facing our nation right now, healthcare. You know in my district we have close to 100,000 people that get their health insurance through the ACA. 19,000 of them are living with serious pre-existing conditions, and yet you are working to strip their healthcare at the worst possible moment, when the coronavirus is killing thousands of people in my state.

BARR:

They will not be stripped of their healthcare.

MUCARSEL-POWELL:

In Miami-Dade County and in Monroe Counties, counties that are present, do you know how many people have died from COVID-19?

BARR:

No, I don't.

MUCARSEL-POWELL:

1,410 people.

BARR:
Um-hmm.

MUCARSEL-POWELL:
You were at the White House on March 23rd when President Trump said Governor DeSantis was doing an incredible job. Do you agree that Governor DeSantis is doing an incredible job?

BARR:
Well, I have no reason not to believe that.

MUCARSEL-POWELL:
Well, Florida now has more cases than in China. And in fact, we have--

BARR:
--Well, did Cuomo--did Cuomo do an incredible--

MUCARSEL-POWELL:
Unfortunately, and I'm not proud to say this, in Florida we have more cases than most countries combined around the world so no, he is not doing an incredible job. You pushed states to open too soon, you threaten states with lawsuits--

BARR:
I didn't ask states to open. I didn't ask states to open.

MUCARSEL-POWELL:
You threatened with lawsuits for those states that wanted to have--

BARR:
For church.

MUCARSEL-POWELL:
--for stay at home orders Mr. Barr.

BARR:
For things like church.

MUCARSEL-POWELL:

We have the facts. I am going by the facts.

BARR:

I am just saying--

MUCARSEL-POWELL:

And now the country, the United States of America has more than 4.3 million COVID-19 cases alone. You--you Mr. Barr and President Trump working together are letting my constituents down and it is something that you are going to have to live with. What am I supposed to say to my constituents when they asked me if the government has done everything in its power to protect their loved ones from dying, you tell me Mr. Barr what am I supposed to tell them?

BARR:

I would tell them that managing this kind of thing requires a lot of difficult choices, weighing different consequences.

MUCARSEL-POWELL:

I am not going to lie--

BARR:

And that is--and that is--

MUCARSEL-POWELL:

I am not going to lie to my constituents. I'm going to tell them--

BARR:

And that is (INAUDIBLE) in our system of government that is--

MUCARSEL-POWELL:

That President Donald Trump and the attorney general working together are not following health guidelines, they are letting Americans die needlessly because of political reasons.

BARR:

(INAUDIBLE)

MUCARSEL-POWELL:

That is what I will tell them, Mr. Barr.

BARR:

--in our system--

MUCARSEL-POWELL:

Thank you and one last question if I can--

BARR:

In our system--

MUCARSEL-POWELL:

Under oath, under oath do you commit to not really saying in the report by Mr. Durham before the November election?

MUCARSEL-POWELL:

You don't commit to that?

BARR:

No.

MUCARSEL-POWELL:

So you will go by Department of Justice policy that--

BARR:

(INAUDIBLE) justice department policy.

MUCARSEL-POWELL:

--you won't interfere in in the--

NADLER:

The--

MUCARSEL-POWELL:

--political investigations before the November election?

NADLER:

The time--the time of the gentlelady--

BARR:

We are not going to interfere. In fact, I have made it clear I am not going to tolerate (INAUDIBLE).

MUCARSEL-POWELL:

But under oath you are saying that you do not commit to not releasing a report by Durham?

BARR:

I--I am not going to--any report will be in my judgment not one covered by the policy would disrupt the election.

NADLER:

The time of the gentlelady--

BARR:

I have already made it clear that neither candidate--

MUCARSEL-POWELL:

You--you would go against your own department of justice policy, Mr. Barr?

BARR:

Why don't you tell me what that policy is?

MUCARSEL-POWELL:

I have it right here.

BARR:

Well, actually--

MUCARSEL-POWELL:

Do you want me to repeat it for you?

BARR:

No, I know what the policy is.

MUCARSEL-POWELL:
Yeah.

NADLER:
The time--the time of the gentlelady--

JORDAN:
Mr. Chairman--

MUCARSEL-POWELL:
Thank you. I yield back. I yield back, Mr. Chairman.

NADLER:
The gentlelady--

UNKNOWN:
Mr. Chairman, point of order. Point of order, Mr. Chairman.

NADLER:
The gentlelady yields back. For what purpose does the gentleman seek--

MIKE JOHNSON:
Is it permissible for a member of this committee to accuse the sitting attorney general of the United States of murder because that is what we just heard. Those words need to be struck from this record. This is outrageous.

NADLER:
The members control the time.

JORDAN:
Mr. Chairman--

MIKE JOHNSON:
To say whatever they want. What about rules of decorum? Mr. Chairman?

JORDAN:

Mr. Chairman? Mr. Chairman, I have got--I actually have a clarification. Mr. Chairman?

NADLER:

Ms. Escobar--

JORDAN:

No,--

NADLER:

Ms. Escobar is recognized.

ESCOBAR:

Thank you Mr. Chairman.

JORDAN:

Was the video played by the previous member was that a video of things that happened in the United States or in Venezuela? I just want a clarification. What was the video?

NADLER:

The gentleman is not stating a (INAUDIBLE) point of order. Ms. Escobar is recognized.

ESCOBAR:

Thank you, Mr. Chairman. Mr. Barr the administration against the constitutional text, historical precedent and DOJ zone memo is trying to exclude undocumented persons from the census, and action that harms American lives and immigrant communities and American communities. Here is an example. Many American children are living with an undocumented parent or relative. This change in the census means that those children, American children would receive less money for programs like the national school lunch program, Headstart and/or these state children's health insurance program. A simple yes or no please Mr. Barr are you comfortable with the decision that would punish American children and immigrant communities in this way?

BARR:

I don't make the policy I provide legal advice on legal issues so as both to this issue and the issue of the ACA the question presented--

ESCOBAR:

(INAUDIBLE) ACA--

BARR:
The department is the (INAUDIBLE).

ESCOBAR:
Reclaiming my time Sarah. Mr. Barr a simple yes or no does the Constitution say that only citizens should be counted in the census?

BARR:
No.

ESCOBAR:
Correct, it does not. In fact the framers of the 14th amendment explicitly confronted this question and it provides that persons in each state be counted. I will move on.

BARR:
Well, they wouldn't have--they wouldn't have confronted because there were no illegal aliens--

ESCOBAR:
Among many other things I am alarmed by your department's refusal to comply with and implement key Supreme Court rulings. On June 18 of this year the Supreme Court in an opinion authored by Chief Justice Roberts ruled that the trump administration's attempt to re-send DACA was arbitrary and capricious and required the administration to process new applications. Despite the Supreme Court's ruling zero DACA applications have been processed. That is not the only Supreme Court decision your administration has ignored.

In 2017 your department issued a memo stating that transgender workers were not protected by civil rights laws. The Supreme Court struck that down to.

BARR:
No, I'm sorry--

ESCOBAR:
In both--in both--

BARR:
What we had said was the '64 act did not extend to--

ESCOBAR:

Excuse me. Reclaiming my time, sir. In both DACA, the DACA and transgender decisions your department has yet to comply. Yes or no, will the department implement the Supreme Court's DACA and transgender rulings?

BARR:

Yes, I think we are.

ESCOBAR:

The DACA ruling?

BARR:

Yes.

ESCOBAR:

You are--you--you are now processing DACA applications?

BARR:

I think what we are trying to do now is restore the administrative process.

ESCOBAR:

Sir, I--

BARR:

I think DHS has put out a real--I think DHS put out a rule today--

ESCOBAR:

Thank you, sir. Sir, earlier you testified--

BARR:

At least that is what I was told.

ESCOBAR:

--you testified that you discuss the president's reelection campaign with him. Does the president tell you what he thinks the winning issues for him would be in his reelection?

BARR:

I am not going to discuss my--my discussions with the president.

ESCOBAR:

It's a--it's a very--I am not asking you to divulge anything private-door classified--does the president--

BARR:

Well, I--I think my discussions with the president are confidential.

ESCOBAR:

Okay. Have you--

BARR:

But it shouldn't surprise you in an election here the topic of the election comes up.

ESCOBAR:

Well, it surprises me that the DOJ has become so politicized. That is what surprises me. Sir, have you and the president ever discussed the fact that anti-emigrant and anti-LGBTQ policies excite his base?

BARR:

No.

ESCOBAR:

You have never had that conversation?

BARR:

No.

ESCOBAR:

He has never told you that his anti-emigrant policies, his anti-LGBTQ policies gin up his base?

BARR:

I haven't discussed that with him, but I assume the emigration you know I think a lot of his base does--does care about immigration policy.

ESCOBAR:

Does that motivate some of the work that you do?

BARR:
Like what work?

ESCOBAR:
Well, for example your enthusiasm for--

BARR:
That position was taken on--on transgender that you are talking about was taken before I arrived in that litigation I believe.

ESCOBAR:
And you can reverse it in the day and my question was whether you--

BARR:
It was a legal question as to whether the '64 act extended to transgender. I think it--

ESCOBAR:
I am running out of time, sir. Want more question. You keep telling us that you are not aware of the president's tweets. Are you aware that your department has stated that the president's tweets are official White House statements?

BARR:
No, I was sent. I don't pay attention to the tweets unless they are brought to my attention.

ESCOBAR:
Okay, Mr. Barr thank you so much for being here today. I want to remind you of something you probably don't remember but some months ago you actually were outside my office you were coming out of my neighbor Doug Collins office. I tapped you on the shoulder and in a friendly reminder I handed you a copy of the Constitution and I ask you to please help us defend the Constitution. There is nothing more dangerous to our Republic than an attorney general who refuses to uphold his oath, refuses to uphold, and defend the Constitution and swears allegiance to just one person, Donald Trump. Sadly, that is where we are today.

BARR:
My loyalty is the Constitution.

ESCOBAR:
Mr. Chairman, I yield back.

BARR:

That is why I came into government.

NADLER:

The gentlelady yields back.

JORDAN:

The lady just accused him of not adhering to his oath of office let him talk. Holy--she just accused the attorney general of the United States not appearing to his oath. Let the gentleman speak.

UNKNOWN:

(INAUDIBLE)

NADLER:

The gentleman will suspend. The gentlelady yields back. The ranking member asked whether the video shown by the gentlelady from Florida took place in the U.S. or in Ecuador--

JORDAN:

No, Venezuela.

NADLER:

And that sir--the U.S. or Venezuela and that sir is precisely the point. This concludes--

JORDAN:

No, no, no she was--the point was it was Venezuela.

NADLER:

Thank the attorney general for participating. Without objection all members will have five legislative days to submit additional written records for the witnesses or additional materials for the record. Without objection the hearing is adjourned.

List of Panel Members

PANEL MEMBERS:

REP. JERROLD NADLER (D-N.Y.), CHAIRMAN

REP. ZOE LOFGREN (D-CALIF.)

REP. SHEILA JACKSON LEE (D-TEXAS)

REP. STEVE COHEN (D-TENN.)

REP. HANK JOHNSON (D-GA.)

REP. TED DEUTCH (D-FLA.)

REP. KAREN BASS (D-CALIF.)

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REP. DAVID CICILLINE (D-R.I.)

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REP. MADELEINE DEAN (D-PA.)

REP. DEBBIE MUCARSEL-POWELL (D-FLA.)

REP. VERONICA ESCOBAR (D-TEXAS)

REP. JIM JORDAN (R-OHIO), RANKING MEMBER

REP. JIM SENSENBRENNER (R-WIS.)

REP. STEVE CHABOT (R-OHIO)

REP. LOUIE GOHMERT (R-TEXAS)

REP. DOUG COLLINS (R-GA.)

REP. KEN BUCK (R-COLO.)

REP. MARTHA ROBY (R-ALA.)

REP. MATT GAETZ (R-FLA.)

REP. MIKE JOHNSON (R-LA.)

REP. ANDY BIGGS (R-ARIZ.)

REP. TOM MCCLINTOCK (R-CALIF.)

REP. DEBBIE LESKO (R-ARIZ.)

REP. GUY RESCHENTHALER (R-PA.)

REP. BEN CLINE (R-VA.)

REP. KELLY ARMSTRONG (R-N.D.)

REP. GREG STEUBE (R-FLA.)

REP. TOM TIFFANY (R-WIS.)

Source: CQ Transcripts

From: Goldsmith, Andrew \ (ODAG\
Subject: Fwd: (b)(5) per USMS
To: Braverman, Adam L. \ (ODAG\
Sent: November 20, 2020 10:04 AM (UTC-05:00)
Attached: image001.png, B&G Cell-site Simulator Memo.pdf

FYSA.

Sent from my iPhone

Begin forwarded message:

From: "Goldsmith, Andrew (ODAG)" <(b) (6)>
Date: November 20, 2020 at 10:01:00 AM EST
To: "Corpening, Felice (USANCE)" <(b)(6), (7)(C) per EOUSA>
Cc: "Jackson, Jane (USANCE)" <(b)(6), (7)(C) per EOUSA>
Subject: RE: (b)(5) per USMS

Felice – are you familiar with the attached memo from 2015, which went to all USAOs and counsel for, inter alia, USMS? – Andrew

From: Corpening, Felice (USANCE) <(b)(6), (7)(C) per EOUSA>
Sent: Friday, November 20, 2020 9:54 AM
To: Goldsmith, Andrew (ODAG) <(b) (6)>
Cc: Jackson, Jane (USANCE) <(b)(6), (7)(C) per EOUSA>
Subject: (b)(5) per USMS

Good morning Andrew! I hope you are doing well. (b)(5) per EOUSA; (b)(5), (b)(6), (b)(7)(C), (b)(7)(E), (b)(7)(F) per USMS

[REDACTED]

From: (b)(6), (7)(C), (7)(F) per USMS (USMS) <(b)(6), (7)(C), (7)(F) per USMS>
Sent: Tuesday, November 10, 2020 2:12 PM
To: Jackson, Jane (USANCE) <(b)(6), (7)(C) per EOUSA>; Pendergraft, Robin (USANCE) <(b)(6), (7)(C) per EOUSA>
Cc: (b)(6), (7)(C), (7)(F) per USMS (USMS) <(b)(6), (7)(C), (7)(F) per USMS>
Subject: RE: Investigative Methods Question

Thanks for speaking with me this morning, Jane.

As I mentioned, the USMS claims law enforcement/investigative privilege for the sensitive investigative techniques and efforts we undertake to locate fugitives. (b)(5), (b)(7)(E) per USMS

[REDACTED]

(b)(5), (b)(7)(E) per USMS

A large rectangular area of the document is completely blacked out, indicating redacted content.

(b)(5), (b)(7)(E) per USMS

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(b)(5), (b)(7)(E) per USMS



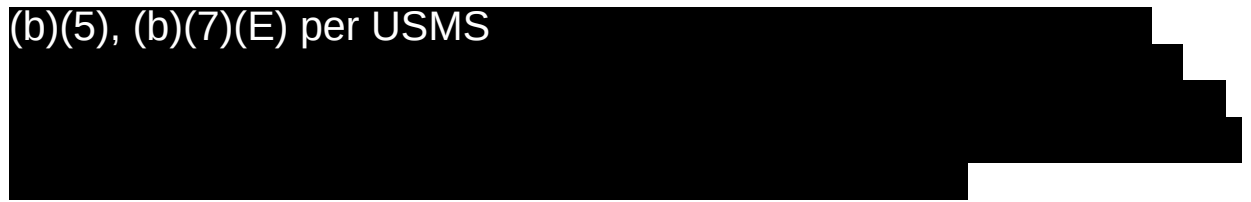
(b)(5), (b)(7)(E) per USMS



(b)(5), (b)(7)(E) per USMS



(b)(5), (b)(7)(E) per USMS



(b)(5), (b)(7)(E) per USMS



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(b)(5), (b)(7)(E) per USMS

Finally, I've attached an email that contains DOJ LE privilege resources that may prove helpful.

I hope this is helpful and I'm happy to discuss any of this further (at cell (b)(6), (b)(7)(C) per USMS as we're still 100% telecommuting). (b)(5) per USMS

(b)(5) per USMS I'm the agency's ELSUR Legal Advisor (and a former federal prosecutor) and am always happy to work with the USAOs on their discovery and litigation/motion strategies. We enjoy your office's partnership and thank you again for reaching out to us. Enjoy the rest of the week!

(b)(6), (7)(C), (7)(F) per USMS

Associate General Counsel

U.S. Marshals Service / Office of General Counsel

CG-3, 15th Floor

Washington, DC 20530-0001

Cell: (b)(6), (7)(C), (7)(F) per USMS **(use my cell from 3/16/20 and on due to telecommuting)**

Email: (b)(6), (7)(C), (7)(F) per USMS

Main OGC Line: 703-740-3943

Felice McConnell Corpening

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Fax: (919) 856-4487

E-mail: (b) (6)

From: Goldsmith, Andrew \ (ODAG\
Subject: RE: USMS "Protocols"
To: Randall, Craig \ (USANCW\); USAEO-CrimChiefWG
Cc: Braverman, Adam L. \ (ODAG\
Sent: December 21, 2020 12:26 PM (UTC-05:00)
Attached: B&G Cell-site Simulator Memo.pdf

Craig – as you'll recall, the BWC policy specifically prohibits TFOs from using BWCs when law enforcement deploys sensitive techniques/equipment. (b)(7)(E) per USMS [REDACTED]
[REDACTED] I've attached my memo from 2015 discussing *Brady/Giglio* in the Stingray context. Hope this helps. – Andrew

From: Randall, Craig (USANCW) <(b)(6), (7)(C) per EOUSA>
Sent: Monday, December 21, 2020 11:00 AM
To: USAEO-CrimChiefWG <USAEO-CrimChiefWG@usa.doj.gov>
Cc: Goldsmith, Andrew (ODAG) <(b) (6)>
Subject: USMS "Protocols"

Colleagues.

(b)(5) per EOUSA; (b)(5) per USMS [REDACTED]

Any feedback on your experience (or other advice) would be greatly appreciated,
Craig

Craig D. Randall
Criminal Chief
Western District of North Carolina
(b) (6)