

# OVERSIGHT OF THE DEPARTMENT OF JUSTICE

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## HEARING BEFORE THE COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES ONE HUNDRED FOURTEENTH CONGRESS SECOND SESSION

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JULY 12, 2016

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## **OVERSIGHT OF THE DEPARTMENT OF JUSTICE**

**TUESDAY, JULY 12, 2016**

HOUSE OF REPRESENTATIVES  
COMMITTEE ON THE JUDICIARY  
*Washington, DC.*

The Committee met, pursuant to call, at 10:09 a.m., in room 2237, Rayburn House Office Building, the Honorable Bob Goodlatte (Chairman of the Committee) presiding.

Present: Representatives Goodlatte, Sensenbrenner, Smith, Chabot, Issa, Forbes, King, Franks, Gohmert, Jordan, Chaffetz, Gowdy, Labrador, Farenthold, Collins, DeSantis, Walters, Buck, Ratcliffe, Trott, Bishop, Conyers, Nadler, Lofgren, Cohen, Johnson, Chu, Deutch, Gutierrez, Bass, Richmond, DelBene, Jeffries, Cicil-line, and Peters.

Staff Present: Shelley Husband, Chief of Staff & General Counsel; Branden Ritchie, Deputy Chief of Staff & Chief Counsel; Zachary Somers, Parliamentarian & General Counsel; Caroline Lynch, Chief Counsel, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations; (Minority) Perry Apfelbaum, Staff Director & Chief Counsel; Aaron Hiller, Chief Oversight Counsel; Joe Graupensperger, Chief Counsel, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations; James Park, Chief Counsel, Subcommittee on the Constitution and Civil Justice; Susan Jensen, Senior Counsel; David Greengrass, Counsel; and Veronica Eligan, Professional Staff Member.

Mr. GOODLATTE. The Judiciary Committee will come to order.

And, without objection, the Chair is authorized to declare recesses of the Committee at any time.

We welcome everyone to today's hearing, an oversight of the Department of Justice.

And I will begin by recognizing myself for an opening statement.

Welcome, General Lynch, to your second appearance before the House Judiciary Committee.

The flags over the Capitol are flying at half-mast in recognition of the five Dallas police officers murdered in cold blood last week. This was not an arrest gone wrong. The person who carried out this appalling act of terror and hate stalked and murdered five police officers and injured seven others and two civilians, ostensibly in retaliation for recent police shootings, including the tragic and fatal shootings in Minnesota and Louisiana last week.

We mourn all those tragedies. The divisiveness between our police and our communities must end. And I ask that we observe a moment of silence for all those who have lost their lives in these tragedies.

[Moment of silence observed.]

Mr. GOODLATTE. Thank you.

We must not give in to hate and let emotion replace reason. We must bridge the divide that separates us and embrace one another as Americans. We must have faith that the institutions that have sustained our Republic for the last 240 years will deliver fair, impartial justice to victims of crime and punish the guilty.

I look forward to your thoughts on this important matter.

The American people also expect government officials to abide by the law just like everyone else and to be reprimanded when they break the law. That is not the case for former Secretary of State Hillary Clinton. Last week, FBI Director James Comey announced that he would not recommend criminal charges against Secretary Clinton for her use of a private email server while at the State Department and the mishandling of classified information.

The timing of and circumstances surrounding this announcement are particularly troubling. On Monday, June 27, Attorney General Lynch, you met privately with former President Bill Clinton aboard your plane on the tarmac of the Phoenix airport despite the fact that his wife was the target of an ongoing criminal investigation.

This encounter is even more troubling if the FBI is also investigating improper donations to the Clinton Foundation, which was founded by former President Clinton, a member of the foundation's board of directors.

Five days later, the FBI held its first and only interview with Secretary Clinton after a yearlong investigation. Three days later and on the first day back from a holiday weekend, Director Comey publicly announced that he was not recommending charges against Secretary Clinton. And a mere 24 hours later, Attorney General Lynch, you issued a press release announcing that no charges would be brought against Secretary Clinton.

While Director Comey may have refused to criminally indict Hillary Clinton, his public pronouncement and subsequent congressional testimony is nonetheless a public indictment of her conduct and character.

Though Director Comey declined to recommend charges, he laid out sufficient facts to warrant a referral to the Justice Department. That forces one to confront the question of whether someone who was not in Secretary Clinton's position would have fared as well with the FBI as she did.

Secretary Clinton stated repeatedly that no classified information was contained within her private email system. This is not true. The FBI found 110 emails in 52 email chains containing classified information at the time they were sent or received.

Secretary Clinton stated repeatedly that no information in her emails was marked "classified." This is not true. The FBI found that some of these emails were marked "classified."

Secretary Clinton said all relevant emails were returned to the State Department. This is not true. The FBI found thousands of work-related emails that were not returned.

But all of this evidence, according to Director Comey, amounted only to, “extreme carelessness” by Secretary Clinton and her staff. And although the Director admitted that there is evidence of potential violations of the statutes regarding the handling of classified information, he went so far as to publicly declare that “no reasonable prosecutor would bring such a case.”

This defies logic and the law. Contrary to Director Comey’s assertions, the law does not require evidence that a person intended to harm the United States in order to be criminally liable for the mis-handling of classified information.

To be sure, Congress has set forth a variety of statutes on this subject with different intent requirements and penalties. Were a rank-and-file Federal employee to do what Secretary Clinton did, they would face severe punishment, including termination, revocation of security clearances, or criminal prosecution. Even Director Comey acknowledged this fact at a recent congressional hearing. But Secretary Clinton is not facing prosecution for her actions.

This has now become an issue for Congress, in that it appears Secretary Clinton testified falsely when appearing under oath before the Select Committee on Benghazi. Yesterday, I and Oversight and Government Reform Chairman Chaffetz asked the United States Attorney for the District of Columbia to investigate Secretary Clinton’s testimony before Congress.

Secretary Clinton’s extreme carelessness possibly jeopardized the safety and security of our citizens and Nation. Her extreme carelessness suggests she cannot be trusted with the Nation’s most sensitive secrets if she is nevertheless elected President.

Frankly, the FBI’s conclusion leaves many more questions than answers, and we hope, Madam Attorney General, to get answers to those questions today.

Thank you.

And it’s now my pleasure to recognize the Ranking Member of the Committee, the gentleman from Michigan, Mr. Conyers, for his opening statement.

Mr. CONYERS. Thank you, Chairman.

And welcome, Madam Attorney General, for being with us today.

The news of the past few days have been full of questions about violence, civil rights, and the safety of our police officers. And I want you to know that we take seriously the burden of each of these questions on your office.

It will not have escaped your attention that we’re in the middle of an election season. You may also know that there are just 3 working days left until we break for the summer and really not much more time after that until the Congress ends.

Elections are about choices, and a short working schedule is about setting priorities. As you are no doubt aware, one of this Committee’s top legislative priorities is criminal justice reform. We have already found consensus on a range of such issues, including sentencing, prison, and asset-forfeiture reform.

The Chairman of this Committee and I also stand on the precipice of an agreement on policing-reform legislation. Given the events of the past week, the need for this measure has never been more urgent. Questions about the use of lethal force by police are not new, but the Nation is newly engaged in the issue after Fer-

guson, Staten Island, Cleveland, North Charleston, and Baltimore. Over the past week, we saw the same sad themes play out in Baton Rouge and Minnesota, as well as the horrific killing of five police officers in Dallas.

I believe it's more critical than ever that we reach a final agreement on police accountability and standards. At the time when African-Americans are 30 percent more likely than Whites to be pulled over while driving, more than three times more likely to have their car searched, and more than twice as likely to be shot by police, it is imperative that we restore public faith in our criminal justice system.

We must finish this work for both the communities that feel so much anguish this week and for the officers who patrol our streets every day. It's my sincere hope that we consider this matter before we adjourn.

Unfortunately, there are many other areas where we have not been able to advance bipartisan initiatives. I would like to tell you that we are prepared to have a substantive discussion about the manner in which we will restore section 5 of the Voting Rights Act.

The preclearance mechanism was used for decades by your department to restore a sense of fairness in jurisdictions that have known prejudice for generations. Since it was struck down, we have seen at least 17 States enact measures designed to restrict access to the ballot box.

Bipartisan legislation has been introduced that would have restored this vital tool long before voting began this year, but Mr. Sensenbrenner of Wisconsin's legislation sits untouched.

I would also like to tell you that we are prepared to address the scourge of gun violence in this country. The events last week in Baton Rouge, in Minnesota, and in Dallas and the anger and sadness felt in communities across the Nation are what one commentator aptly called "the horrific, predictable result of a widely armed citizenry."

This epidemic claims nearly 33,000 individuals every year. It infects our churches, our schools, our homes. It places our police officers into the direct line of fire. It makes our citizens afraid.

But we've not held a single hearing on this topic—not when 26 children and teachers were murdered at Sandy Hook, not when our colleague was shot in Phoenix, and not when the body count reached 49 in Orlando.

Last month, every Democratic Member of this Committee wrote to our Chairman Goodlatte with a list of specific policy proposals to address this violence, and, to date, I'm sorry to say we have received no response.

I would also like to tell you, Madam Attorney General, that we have an answer for the millions of undocumented immigrants who came here in search of a better life but who are forced to live in the shadows. Some of us have put a great deal of effort into antagonizing and vilifying that community, but this Committee has offered very few solutions acknowledging that these families are here to stay.

But elections are about choices, Madam Attorney General. There are only 3 working days—some count it less—left this month, and



then we adjourn for 7 weeks. How will my colleagues on the other side of the aisle choose to fill that time?

Today, apparently, Secretary Hillary Clinton's email takes precedence over gun violence and civil rights. Let us be clear: The criminal investigation is closed. There was no intentional wrongdoing. Director Comey, whose reputation for independence and integrity is unquestioned, has explained his reasoning in great detail.

If any of my colleagues are not yet convinced, it is because they do not want to be convinced. And in their zeal to call Secretary Clinton a liar or maybe even a criminal, despite the facts and despite the law, I fear we will have missed an opportunity to engage with you on more worthy subjects.

We may also spend time today talking about the alleged wrongdoings of Commissioner Koskinen of the Internal Revenue Service. Some of my colleagues want to use one of the remaining working days before the break to move his impeachment directly to the House floor. I hope they do not.

In many ways, this gesture is totally meaningless. There is bipartisan consensus that the Commissioner's critics have not proved their case, and there is virtually no chance of a conviction in the Senate.

But I believe that the rush to impeachment, although ineffectual, would set a dangerous precedent for the Congress and the American people. Once we cross this line, we write a new rule: Whatever the merits of the charges, the House may impeach an official without due process, without the right to counsel, without the right to present evidence to this Committee, and without the right to question the evidence presented against him.

Elections are about choices, and here is the choice we face as the clock runs down on the 114th Congress: We can spend the few days that remain on conspiracy theories and political sniping that does little for our constituents but drive them further apart from their neighbors, or we can attempt to solve even one of the long list of problems facing this country today. We should choose to do work—the work we were sent here to do—or the public is right to choose somebody else to do it.

And so I look forward to our conversation today, Madam Attorney General Lynch.

I thank the Chairman, and I yield back.

Mr. GOODLATTE. Thank you, Mr. Conyers.

And, without objection, all of the Members' opening statements will be made a part of the record.

We welcome our distinguished witness today.

And, General Lynch, if you would please rise, I will begin by swearing you in.

Do you swear that the testimony that you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Attorney General LYNCH. I do.

Mr. GOODLATTE. Thank you.

Let the record reflect that the witness has responded in the affirmative.

Attorney General Loretta Lynch was sworn in as the 83rd Attorney General of the United States on April 27, 2015.

Ms. Lynch began her career in public service by joining the United States Attorney's Office for the Eastern District of New York. After 9 years, Ms. Lynch was appointed by President Bill Clinton to lead that office as United States Attorney, a post she held until 2001.

Ms. Lynch then worked in private practice until 2010, when President Obama asked her to resume leadership of the United States Attorney's Office in Brooklyn.

Ms. Lynch is a graduate of Harvard College and Harvard Law School.

General Lynch, welcome. Your entire testimony will be made a part of the record, and we ask that you summarize your testimony in 5 minutes. Thank you. And you may begin.

**TESTIMONY OF THE HONORABLE LORETTA E. LYNCH, ATTORNEY GENERAL, UNITED STATES DEPARTMENT OF JUSTICE**

Attorney General LYNCH. Thank you, sir.

Good morning, Chairman Goodlatte, Ranking Member Conyers, and the distinguished Members of this Committee. I'm grateful for the opportunity to appear before you today to discuss how we can continue working together to ensure the security of our Nation and the strength of our communities and the safety of our people.

Now, as we gather here this morning, I know that we are all thinking of the two bailiffs who were killed and the sheriff's deputy who was wounded in a shooting in a courthouse in Michigan yesterday. The Department of Justice stands ready to provide whatever help we can to State and local authorities as they investigate this heinous crime. And our sincerest condolences are with the friends, the colleagues, and the loved ones of the devoted public servants that we lost.

Now, of course, this incident follows on the heels of a series of devastating events that rocked our Nation last week: the tragic deaths of Alton Sterling in Louisiana and Philando Castile in Minnesota and the deplorable murder of five brave Dallas police officers—Lorne Ahrens, Michael Krol, Michael Smith, Brent Thompson, and Patrick Zamarripa—who were protecting a peaceful protest, along with several of their comrades who were wounded.

The Department of Justice, including the FBI, ATF, the U.S. Marshals Service, and our U.S. Attorney's Office in the Northern District of Texas, is working closely with our State and local counterparts, and we will offer any assistance that we can as the investigation in Dallas unfolds.

And, among other resources, we will send assistance to the victims and to their families. Our hearts are literally broken for the families and loved ones of those we lost in these tragic events. And our gratitude goes out to the brave men and women who wear the badge, who carry our safety on their shoulders and who risk their lives every day to keep us safe.

As we grapple with the aftermath of these events, the Department of Justice will continue to do everything in our power to build the bonds of trust and cooperation between law enforcement and the communities that we serve. That work has never been more difficult nor more important.

We will continue to offer our State and local partners funding, training, technical assistance for critical programs as well as for assets like body-worn cameras, deescalation training, and education in implicit bias. In fact, in the last month, we announced that we would begin providing implicit-bias training to Federal law enforcement agents and prosecutors.

We will continue to promote the recommendations of the President's Task Force on 21st Century Policing through training and technical assistance. Our Civil Rights Division plays a critical role in ensuring constitutional policing and accountability and in rebuilding trust where trust has eroded.

And through our Office of Justice Programs and our Office of Community-Oriented Policing Services, we will continue to give local departments the tools they need and the training they require to come home safely, from funds for bulletproof vests to training in officer health, safety, and wellness.

At the same time that we are working to support police and citizens in their efforts to build stronger and more united communities, we remain committed to keeping those communities safe and secure. Just 1 month ago today, 49 innocent lives were taken in an attack on the Pulse nightclub in Orlando, an appalling act of terror and of hate that underscored the urgency of confronting threats to our Nation wherever they emerge and whatever form they take. There is no responsibility that this department takes more seriously. We.

Are moving aggressively against those who seek to receive training from or are inspired by foreign violent extremist groups. And we've arrested more than 90 individuals since 2013 for conduct related to foreign-fighter activity and homegrown violent extremism.

And we are working closely with our counterparts abroad to pursue terrorists and investigate attacks around the world. As the recent incidents in Turkey, Bangladesh, Iraq, and Saudi Arabia have reminded us, terror knows no borders. And in the face of violent extremism, we must stand with our global partners in unity, in readiness, and in resolve.

Now, I want to close with a comment about the investigation of Secretary Clinton's use of a personal email server during her time as Secretary of State.

As you are aware, last week, I met with Director Comey and career prosecutors and agents who conducted that investigation. I received and accepted their unanimous recommendation that the thorough, yearlong investigation be closed and no charges be brought against any individuals within the scope of the investigation.

And while I understand that this investigation has generated significant public interest, as Attorney General, it would be inappropriate for me to comment further on the underlying facts of the investigation or the legal basis for the team's recommendation. But I can tell you that I am extremely proud of the tremendous work of the dedicated prosecutors and agents on this matter.

Thank you for this opportunity to make this opening statement.  
[The prepared statement of Attorney General Lynch follows:]

**Statement of Attorney General Loretta E. Lynch  
Before the House Judiciary Committee  
Tuesday, July 12, 2016  
Washington, D.C.**

Good morning, Chairman [Bob] Goodlatte, Ranking Member [John] Conyers, and distinguished members of the Committee. I am grateful for the opportunity to appear before you today to share some of the recent accomplishments of the United States Department of Justice; to outline my priorities for the months ahead; and to discuss how we can continue working together to ensure the security of our nation, the strength of our communities, and the safety of our people.

Of course, as we gather here this morning, that sense of safety has been shaken by the series of devastating events that rocked our nation last week: the tragic deaths of Alton Sterling in Louisiana and Philando Castile in Minnesota, and the deplorable murder of five brave Dallas police officers – Lorne Ahrens, Michael Krol, Michael Smith, Brent Thompson, and Patrick Zamarripa, who were protecting a peaceful protest, along with several of their comrades who were wounded. The Department of Justice – including the FBI, ATF, U.S. Marshals Service, and our U.S. Attorney’s Office in the Northern District of Texas – is working closely with our state and local counterparts, and we will offer any assistance we can as the investigation in Dallas unfolds. Among other resources, we will send assistance to the victims and their families. Our hearts are broken for the families and loved ones of those we lost in these tragic events. And our gratitude goes out to the brave men and women who wear the badge, and who risk their lives every day to keep us safe.

As we grapple with the aftermath of these events, the Department of Justice will continue to do everything in our power to build bonds of trust and cooperation between law enforcement and the communities we serve. That work has never been more difficult – or more important. We will continue to offer our state and local partners funding, training, and technical assistance for critical programs and assets like body-worn cameras, de-escalation training, and education in implicit bias. In fact, in the last month, we announced that we would begin providing implicit bias training to the more than 23,000 agents serving our four law enforcement agencies and approximately 5,800 attorneys across our 94 U.S. Attorney’s Offices—training that will be expanded later to all criminal prosecutors in the Department’s litigating components. Through our National Initiative for Building Community Trust and Justice, we will continue working to enhance procedural justice, reduce bias, and support racial reconciliation. We will continue to promote the recommendations of the President’s Task Force on 21<sup>st</sup> Century Policing through training and technical assistance. Our Civil Rights Division plays a critical role in ensuring constitutional policing and accountability, and rebuilding trust where trust has eroded. And through our Office of Justice Programs and our Office of Community Oriented Policing Services, we will continue to give local departments the tools they need and the training they require to come home safely – from funds for bulletproof vests to training in officer health, safety, and wellness.

At the same time that we’re working to support police and citizens in their efforts to build stronger and more united communities, we remain committed to keeping those communities safe and secure. Just a month ago today, 49 innocent Americans were killed in an attack on the Pulse

nightclub in Orlando – an appalling act of terror and hate that underscored the urgency of confronting threats to our nation wherever they emerge and whatever form they take. There is no responsibility that this department takes more seriously. We are moving aggressively against those who seek to receive training from, or are inspired by, foreign violent extremist groups, and we have arrested more than 90 individuals since 2013 for conduct related to foreign fighter activity and homegrown violent extremism. We are vigilantly monitoring domestic terrorist groups – an undertaking that has been strengthened by the reconstitution of the Attorney General’s Domestic Terrorism Executive Committee. We are pursuing a number of efforts to counter threats in cyberspace as well, including the formation of closer partnerships with the private sector and the creation of a specialized cybersecurity unit in our Criminal Division. And we are working closely with our counterparts abroad to pursue terrorists and investigate attacks around the world. As the recent incidents in Turkey, Bangladesh, Iraq, and Saudi Arabia have reminded us, terror knows no borders, and in the face of violent extremism, we must stand with our global partners in unity, readiness, and resolve.

Of course, in order to effectively tackle the most serious threats, we must ensure that our resources are being deployed as wisely and as efficiently as possible, which is why we are so deeply committed to making our criminal justice system more effective and more fair – a commitment that I know this Committee shares. Since my predecessor, Attorney General Eric Holder, launched the Smart on Crime Initiative, the department has been able to devote more time and resources to the most serious cases and the most dangerous defendants. We have also expanded our support for the more than 600,000 Americans who return home each year after serving time in federal and state prisons. One of the surest ways to reduce crime and promote prosperity is to ensure that these individuals have the help they need to successfully return to society, and at the end of April, we held the first-ever National Reentry Week to draw attention to this critical issue and to shine a light on the many ways that the Obama Administration and its partners are working to make that help available. These are promising steps, but we still have a long way to go in order to make our criminal justice system as effective and equitable as possible. In part as a result of overly harsh sentencing practices, prison spending continues to crowd out other critical public safety investments, leading prosecutors, law enforcement, and policymakers of all stripes to embrace sentencing reform – reform that the Department of Justice urges this Congress to enact.

Beyond criminal justice reform, the Justice Department is working to ensure that the most vulnerable among us can experience the full blessings of American life – that their rights are protected; that their freedom is defended; and that their dignity is upheld. This has been one of my primary objectives since my first day as Attorney General. We are standing firmly against the scourge of human trafficking by prosecuting offenders and assisting survivors. We are using the latest evidence-based strategies to help young people who have been exposed to violence. We are working with our American Indian and Alaska Native partners to protect their right to vote and to improve public safety on tribal lands. And we are prosecuting those who seek to harm individuals because of what they look like, where they are from, how they worship, or whom they love.

These are just a few of the efforts that the dedicated men and women of the Department of Justice are advancing every day, and I appreciate the opportunity to discuss them with you. 1

want to thank you for your ongoing support of the Justice Department, and I look forward to continuing our work together to build a stronger, safer, and more just nation in the months ahead.

At this time, I would be happy to answer any questions you may have.

Mr. GOODLATTE. Thank you, General Lynch.

We'll now proceed under the 5-minute rule with questions for the witnesses, and I'll begin by recognizing myself.

Before being confirmed as Attorney General in May of last year, you were first nominated by President Obama to serve as the United States Attorney for the Eastern District of New York, and you were originally appointed to the U.S. Attorney post in 1999 by former President Bill Clinton.

The existence of Secretary Clinton's private email server was first brought to light in March of last year, 1 month before your confirmation as Attorney General. A few months after your confirmation, the inspectors general of State and National Intelligence requested the Department of Justice investigate whether classified information was stored on her private email servers. The FBI then opened an investigation into the matter.

Given that she was a political appointee of your current boss and, more importantly, the wife of your previous boss, why did you not see fit to recuse yourself from the investigation? Wouldn't recusal or appointment of a special prosecutor have removed any appearance of impropriety given your service during Bill Clinton's Presidency?

Attorney General LYNCH. Thank you for the question, Mr. Chairman.

As I've said on several occasions before, when the referral came into the Department of Justice, it was received and referred to experienced, dedicated career agents and prosecutors who handle matters of this type every day with independence, with efficiency, with thoroughness, and the matter was handled like any other matter.

It was reviewed through the chain by those independent career agents and prosecutors. And, in considering the matter, there was no connection, there was no need for recusal or an independent prosecutor.

Mr. GOODLATTE. Well—

Attorney General LYNCH. And, as I indicated before, I'm incredibly proud of the dedicated work that they did over the past year.

Mr. GOODLATTE. Let me follow up on that then.

Two weeks ago, roughly a year into the FBI's investigation and a mere week before Director Comey's announcement, you met privately with your former boss, former President Bill Clinton, on your plane at the Phoenix airport.

Why was this meeting, particularly in light of your previous appointment by President Clinton, not grounds for recusing yourself?

Attorney General LYNCH. With respect to my conversation that I had with former President Clinton in Phoenix, it was a conversation that was held on the airplane on the tarmac. The former President indicated he wanted to say hello, and I agreed to say hello, and we had a social conversation.

Nothing of any relationship to the email investigation was discussed, nor were any specific cases or matters before the Department of Justice discussed.

Mr. GOODLATTE. We'll have some followup questions to that later, but let me turn your attention to Director Comey's conclusions on a variety of points.

Secretary Clinton stated that she never sent or received information marked as “classified” on her server. Director Comey stated that was not true. Do you agree with Director Comey?

Attorney General LYNCH. You know, Director Comey has chosen to provide great detail into the basis for his recommendations that were ultimately provided to me. He’s chosen to provide detailed statements, and I would refer you to those statements.

I, as Attorney General, am not able to provide any further comment on the facts or the substance of the investigation.

Mr. GOODLATTE. Well, General Lynch, I think you would agree that the ultimate responsibility for a prosecutorial decision does not rest with the Federal Bureau of Investigation but with the Department of Justice, which you head.

Have you not taken a close look at the work done by Director Comey, especially given the extreme national interest in this issue, to make a determination, yourself, whether you and those working for you agree or disagree with Director Comey?

Attorney General LYNCH. As I’ve indicated, I received the recommendation of the team. And that team was composed of prosecutors and agents. It was a unanimous recommendation as to how to resolve the investigation.

Mr. GOODLATTE. So do you——

Attorney General LYNCH. And the information that they had received concluded——

Mr. GOODLATTE. Do you agree with the conclusion?

Attorney General LYNCH. And I accepted that recommendation. I saw no reason not to accept it. And, again, I reiterate my pride and faith in their work.

Mr. GOODLATTE. Secretary Clinton stated that she did not email any classified material, and Director Comey stated there was classified material emailed. Do you agree with Director Comey’s conclusion about that?

Attorney General LYNCH. Again, I would have to refer you to Director Comey’s statements for the basis for his recommendations.

Mr. GOODLATTE. Director Comey stated that there is evidence of potential violations of the statutes regarding the handling of classified information. Do you agree with Director Comey’s statement?

Attorney General LYNCH. Again, I would refer you to Director Comey for any further explanation as to the basis for his recommendations.

The recommendation that I received from the team, including Director Comey——

Mr. GOODLATTE. But, General Lynch——

Attorney General LYNCH [continuing]. Was that the investigation be resolved without charges.

Mr. GOODLATTE. General Lynch, Director Comey made a recommendation, but he made a recommendation to the Department of Justice, which you head, and you would have to come to the final conclusion on whether or not to act.

I would presume that, before you acted, you would look at his conclusion to determine whether you agreed with him or not.

Attorney General LYNCH. As I’ve indicated, I received a briefing from the team, which included not just the prosecutors but the agents and Director Comey, their unanimous recommendation was



that the matter be resolved in the way in which we've announced, and I accepted that recommendation.

Mr. GOODLATTE. Let me ask you one final question that does not regard the specific facts with regard to Secretary Clinton, but Director Comey said that there was not clear evidence that Secretary Clinton or her colleagues intended to violate laws governing the handling of classified information.

My question for you is, is intent to violate the law a requirement under 18 U.S.C. section 793(f)?

Attorney General LYNCH. Well, Congressman, I think the statutes that were considered here speak for themselves. To answer further would require a discussion of the facts and the analysis of this matter, which, as I've indicated, I'm not in a position to provide at the time. Again, I refer you to Director Comey's discussion for that.

As I've indicated, the team reviewed this matter, and it was a unanimous team decision.

Mr. GOODLATTE. And you made a decision, following their recommendation to you, that you were not going to prosecute and the matter was closed. Is that correct?

Attorney General LYNCH. I made the decision some time ago that I would accept the recommendation of that team and was awaiting that recommendation. When I received it, there was no basis not to accept it. And, again, I reiterate my pride and faith in them.

Mr. GOODLATTE. Well, thank you. I appreciate your faith in them. The concern here is in regard to your sworn oath to uphold the United States Constitution and the laws thereunder, including 18 U.S.C. section 793(f) and 18 U.S.C. section 1924. And to conclude that no prosecution would take place without examining and drawing conclusions regarding the questions that I've just asked does not seem to be a responsible way to uphold your constitutionally sworn oath.

At this time, I would recognize the Ranking Member of the Committee, the gentleman from Michigan, Mr. Conyers, for his questions.

Mr. CONYERS. Thank you.

Thank you for being here again, Attorney General, and thank you very much for your frank and candid discussion with us that is now taking place.

I'm looking for answers and views of some events that I'm going to string together and ask you to discuss as far as you can in an appropriate manner.

Baton Rouge, Louisiana, police shot and killed Alton Sterling. Video shows that he was shot while being pinned to the ground by two officers.

Outside of Minneapolis, police shot and killed Philando Castile at what should have been a routine traffic stop. He was armed, but reports suggest that he repeatedly told police that he had a valid permit for the weapon.

In Dallas, a gunman killed five police officers and wounded seven others in what appeared to be a well-planned attack—this terrible act in the middle of an otherwise peaceful protest in a city that has become a model for community-engaged policing.

And so I think you're qualified to advise us here, as both the chief law enforcement officer in the United States and the first African-American woman to hold that post. How can we make sense of these events during these trying times, ma'am?

Attorney General LYNCH. Thank you, Congressman, for the opportunity to speak on these issues.

I believe that you have truly outlined the issue of the day facing our Nation. And it is my hope that, as we all look at these tragic incidents, that we will take the opportunity to draw closer to each other, to have the difficult conversations about race and policing in this country, involving all sides, involving all issues and all points of view.

I have spent the last year as Attorney General touring this great country, meeting specifically on the issue of police and community relations. And I have sought out jurisdictions that have had extremely troubled relationships but have, in fact, made the conscious decision to pull themselves back from that brink and develop a positive relationship between the community and law enforcement.

It can be done. I have seen it done. You have cited Dallas as one example of a police department that, through its community policing efforts, has crafted a strong bond with its community so that, when there is tension, there is an outlet, there is a way for discussion.

I believe, Congressman, that the key to many of the problems that we face is communication—communication and truly listening to one another, listening to individuals who feel for whatever reason separated and at a distance from the goals of this great country, individuals who feel that they do not have an opportunity to fully participate in this great democracy; as well as listening to our brave members of law enforcement, who talk to me every day with great poignancy about why they joined this wonderful profession, their desire to protect, to serve, to put young people on the right path, to build a better country, and to, in fact, build strong communities because they live in those communities.

All of that must be recognized, as well as the pain of law enforcement, who feel themselves under attack as well. By recognizing our common humanity, our common loss, and our common goals, we can, in fact, work on this difficult problem.

Mr. CONYERS. Thank you for your response.

I would like to ask you in a friendly way how we can—as a Committee, what is it that we can do to address the problem?

And we seek your friendly advice in that direction because we want to work together with all the branches of government, and the House Judiciary Committee is in a very unusually important position to play an important role in this.

Attorney General LYNCH. Yes. Thank you, Congressman.

The Department of Justice is actively engaged in working with both communities and law enforcement to further these discussions, and, of course, efforts in our grant-making arena are important there. And we welcome and appreciate the support of this Committee and others in making sure the Department's grant-making operations are fully funded.

We also provide a great deal of support for law enforcement through training and technical assistance, for example, the bullet-proof vest program, and our funding for body-worn cameras for so many police departments. Again, we thank this Committee and so many Members of Congress who have provided bipartisan support for those efforts, and we would hope that those efforts in funding, in particular, would continue.

Those are just a few of the examples of ways in which we hope to continue to receive support.

I would also note that the issue of criminal justice reform is a larger canvas upon which this conversation is being writ. And certainly we support the efforts by so many on this Committee and others throughout Congress to push that important legislation forward.

We have provided assistance in terms of many of the details that have been raised in the context of that legislation. I know this Committee, in particular, has spent so much time and effort on that, and we appreciate that and all of the issues that have been raised.

And that is an important way toward dealing with making our criminal justice more effective, more efficient, and more fair. That, in and of itself, will go a long way toward restoring faith and trust in the overall criminal justice system, which is also a problem often raised to my attention during my travels.

So the Department looks forward to continuing to support those important efforts.

Mr. CONYERS. I am so pleased that you would be with us today. And I hope that we can continue this communication, because it's very important for all of the citizens in our Nation.

And I thank the Chair.

Mr. GOODLATTE. Thank you, Mr. Conyers.

The Chair now recognizes the gentleman from Wisconsin, Mr. Sensenbrenner, for 5 minutes.

Mr. SENSENBRENNER. Thank you very much, Mr. Chairman.

And thank you, Attorney General Lynch, for being with us today.

You are in charge of the Department of Justice. The buck stops with you. And I'm concerned that you keep on saying that you have deferred the authority that by law is yours to Director Comey.

Let me give an example. Mr. Comey has said that Secretary Clinton was extremely careless in her handling of highly classified, very sensitive information. Now, the criminal statute uses the word "gross negligence." And I can't for the life of me figure out what the difference between "gross negligence" and "extremely careless" is unless one really wants to parse some words.

Now, secondly, the misdemeanor statute does not require intent. It's a strict liability statute, and it relates to the removal and retention of classified information. So it doesn't matter whether Secretary Clinton had the intent to do that or not; the fact is that the FBI said that she did it.

Now, I think that what Director Comey has said is that Secretary Clinton's actions essentially meet the definition for prosecution under the statute. Why did you defer to Director Comey when the responsibility is yours?

Attorney General LYNCH. Thank you, Congressman, for the question.

Let me be clear that my decision was to accept the recommendation of the team of agents and investigators who worked on this. And these are the career attorneys as well as the dedicated investigators, including the FBI Director, who worked on this matter for over a year.

They've reviewed the facts. They followed the facts. They looked at the law. They've applied the facts to that law and came up with a unanimous recommendation——

Mr. SENSENBRENNER. Well——

Attorney General LYNCH [continuing]. A joint recommendation, in effect——

Mr. SENSENBRENNER. Well, I have——

Attorney General LYNCH [continuing]. That was provided to me.

Mr. SENSENBRENNER. I have a limited amount of time.

You know, the fact is that, whether it's extremely careless or gross negligence and a strict liability of statute, I think that the language of the statute is clear.

Now, I've noted that the Justice Department over the last several years has prosecuted several servicemen for doing the exact same thing that Secretary Clinton did and, in one case, actually reached a judgment of a court that prohibited that serviceman from ever having a security classification again.

Now, you have a problem, Madam Attorney General, that people think that there's a different standard between the servicemen and Secretary Clinton and the fact that the language is almost synonymous, if not synonymous, saying no prosecution of Secretary Clinton and prosecution and conviction of the servicemen.

You have a burden, I think, to convince the American public that you don't have a double standard. You're not meeting the burden. And how do you plan to change the argument that you make to the American public so that they can be convinced that the thing was correct and that you made the right decision, rather than simply deferring to people in the FBI and the prosecutors?

Attorney General LYNCH. Congressman, every case stands on its own separate facts and application of those facts to the law. So you'd have to refer to the specific facts of the other matters that you're referring to.

With respect to the investigation into the former Secretary's handling of classified information, her private email system, again, I can tell you and this entire Committee and the American people that all of the relevant facts were considered, investigated thoroughly, and reviewed by the entire team, which, again, is composed of career independent investigators as well as lawyers. And their recommendation, upon a full and thorough analysis, was that the matter be resolved in the way in which it was recommended to me.

As I've indicated, I determined to accept that recommendation and did, in fact, accept that recommendation.

Mr. SENSENBRENNER. One final question. One of the servicepeople who was prosecuted, basically he sent an email out that his fellow Marines were in danger. And he ended up getting prosecuted for warning his fellow Marines that their lives may be in danger.

Now, here in the case of Ms. Clinton, the private email arrangement was simply to avoid public scrutiny. So, in terms of the intent of Major Jason Brezler and Secretary Clinton, one, Major Brezler, was doing it to save his colleagues; the other, Secretary Clinton, was to avoid transparency.

Now, in terms of the bottom line, that's the hoop that you have to jump through in order to retain and regain your credibility with the American public. I hope that you'll be able to do that.

And I yield back.

Mr. GOODLATTE. The Chair thanks the gentleman and recognizes the gentleman from New York, Mr. Nadler, for 5 minutes.

Mr. NADLER. Thank you, Mr. Chairman.

Thank you, Ms. Lynch, for appearing here today and for your service as Attorney General.

I am sure that many of my Republican colleagues will spend their time discussing the over-hyped matter concerning Secretary Clinton's emails, but I am going to focus instead on more important issues facing this country.

We're all sickened by the killings of Alton Sterling in Baton Rouge and Philando Castile outside of St. Paul. According to the ACLU, Mr. Castile was the 123rd African-American to be killed by law enforcement this year. That is, of course, no excuse for last week's vicious murders of five police officers in Dallas. But the knowledge that Mr. Sterling's and Mr. Castile's deaths come on the heels of a long list of senseless killings of Black men, women, and children whose encounters with the police might have gone differently had they not been Black must spur us to take action.

"Black Lives Matter" is not a hashtag; it is an imperative. And I appreciate the work that you are doing and your department is doing in this regard, and I hope you'll keep us informed on that.

But I want to go to a different matter, related, unfortunately. Exactly 1 month ago today, a lone gunman killed 49 people and wounded more than 50 others in an LGBT nightclub in Orlando.

Mass shootings are now an all-too-common occurrence in this country. In 2016, there were 229 mass shootings, defined as shootings in which at least 4 people are shot. As you know, every day, on average, nearly 300 Americans are shot in murders, assaults, suicide attempts, accidents, and police actions. Forty-eight of them are children and teenagers.

This is a distinctly American problem. More than 33,000 Americans lose their lives to gun violence each year. In the United Kingdom, in 2011, 146 deaths to gun violence; Denmark, 71; Portugal, 142; Japan, just 30; the United States, 33,000. You cannot tell me, no one can tell me, that the American people are a thousand times more mentally ill than people in these other countries.

A recent study in the American Journal of Medicine found that, compared to 22 other high-income countries, the gun-related murder rate in the United States is 25 times higher.

We have held exact—there is an epidemic of gun violence, and how has the majority in Congress responded? With emergency hearings about Hillary Clinton's and Lois Lerner's emails. We have held, of course, zero hearings on gun violence. We have passed no bills to address the issue. We have done nothing to require universal background checks. We continue to allow military-style as-

sault weapons on our streets. We have not even prevented those on the no-fly list from purchasing guns.

That's why I was proud to join John Lewis and nearly the entire Democratic Caucus in protesting the Republican Congress' abdication on this issue.

Now, Ms. Lynch, what does the assassination of five Dallas police officers last week tell us about the NRA's favorite adage, "The only thing that stops a bad guy with a gun is a good guy with a gun"? The police officers, after all, were armed. And what about, "An armed society is a polite society"?

Attorney General LYNCH. Well, Congressman, thank you for raising this important issue of gun violence in our society.

I don't have a comment on the NRA's positions or statements.

Mr. NADLER. Well, what about that statement—never mind their position, but what do you think of the statement that the only thing that stops a bad guy with a gun is a good guy with a gun? Is that true? Does it work?

Attorney General LYNCH. Congressman, I think the issue, as is usual, doesn't really lend itself well to aphorisms and short statements. And it's my hope that the work of many on this Committee and, indeed, throughout Congress in having the discussion that has begun on this issue will continue so that we can, in fact, continue to work on the serious issues of access to firearms in our society.

Earlier this year, I did make several recommendations to the White House, which were accepted, for important ways for dealing with this issue, ranging from clarifying guidance on those who are engaged in the business and therefore must provide background checks for purchasers, ranging from clarifying rules on acquisitions of certain types of firearms and by those in certain business capacities, such as trusts.

But also, as part of that, a very important part of that was a request for additional funding for ATF for more resources to deal with the information and the issues arising out of gun violence, as well as funding for HHS to deal with the issues of mental health that place so many Americans in jeopardy.

Mr. NADLER. A loophole in Federal law allows the transfer of a firearm to anybody after 3 business days, even if a background check is not complete. Last year, the FBI concluded the suspect in the shooting in Charleston was able to purchase a gun through this loophole.

Should that policy change? Should we hold the transfer of firearms until the background check has been completed?

Attorney General LYNCH. Well, Congressman, in order to change that rule, it would require congressional action. The 3-day waiting period is part of congressional action that has already been voted on by Congress. And, certainly, it is a fact that, with the rise in purchases and the increased use on the NICS background system, there is ever more use of that system.

We are working to improve the NICS system to make it as efficient as possible. We've expanded the number of personnel working on those background checks. We are working also to improve the automated portion of the NICS system so that the dealers who go through the system will be able to get information more quickly

and to be able to respond, either by proceeding or denying a sale or in other ways as appropriate.

So we are working within the system as it is currently structured. In order to change that, it would require congressional action.

Mr. NADLER. Thank you.

My time is expiring, but I wanted to briefly mention one more issue. We have been following the Department's review of the consent decrees that govern ASCAP and BMI. There are reports that the Department is not recommending any changes to the consent decrees but is moving forward with an interpretation of the decrees requiring these organizations to license works on a 100-percent basis instead of the current practice of fractional licensing, in conflict with the formal opinion of the U.S. Register of Copyrights.

I have heard from numerous songwriters and constituents greatly concerned about the disruption this will cause in the industry and to the creative process. Several of the parties involved have raised a host of other issues relating to the consent decrees, as well.

Can you clarify for the Committee the status of the Department's review of the consent decrees and the process moving forward?

Mr. GOODLATTE. The time of the gentleman has expired. The witness will be permitted to briefly answer the question.

Attorney General LYNCH. Thank you, Mr. Chairman.

Thank you, Congressman.

The Antitrust Division is engaged in a review of the consent decree, which I believe dates to 1941. It has been utilizing a public comment system. After going through an initial round and receiving public comments, another round of public comments was also opened. Those comments are still being reviewed. Stakeholders are being consulted with.

And it is my understanding that the Antitrust Division will be wrapping up this matter shortly and will be making public its findings. And we will, of course, make sure that they're made available to Congress. I believe they would be in any event provided to you, but we will certainly make sure that they are provided to you.

Mr. NADLER. Thank you very much.

Mr. GOODLATTE. The Chair recognizes the gentleman from Ohio, Mr. Chabot, for 5 minutes.

Mr. CHABOT. Thank you, Mr. Chairman.

Madam Attorney General, I think the thing that I find so disheartening, so unfortunate, about FBI Director Comey's decision not to recommend criminal charges against former Secretary of State Hillary Clinton last week was that, for a lot of Americans, it looked like we're seeing a double standard, unequal treatment under the law.

Under the facts of the case as laid out by Director Comey, virtually anybody else, I think most Americans think, including myself, there would have been charges brought for a crime against virtually anybody else in this country. But the politically connected Hillary Clinton, well, we won't charge her.

I mean, look what Comey laid out. It's already been laid out to some degree, but I think it warrants doing it again. He found that, despite the fact that Hillary claimed that she'd never sent or re-

ceived classified information over a private email, she'd actually sent 110 of them, over 100 of them, and 8 of those were determined to have been Top Secret at the time that they were sent.

Now, I assume that, based upon the way you've answered some of my colleague's questions prior to this, you're not going to acknowledge what I think virtually every other American believes, even her supporters, and that's to at least acknowledge, as Director Comey did, that she lied. Would you respond?

Attorney General LYNCH. Congressman, with respect to the Director's statements, as I've indicated, he's provided really unprecedented access into his views of the matter, and I would refer you to them.

I understand the issue that you raise, obviously, is one involving perceptions as to whether or not charges would have been brought in some other situation. And, again, I can only refer you back to the Director's statements, where he chose to outline the fact that no other cases similar to this had, in fact, been brought.

Mr. CHABOT. Let me go back to what Mr. Sensenbrenner referred to. I think it's one of the great mysteries of this case, and that's why extreme carelessness—apparently not in his mind, and you accepted it, so I guess apparently not in your mind—did not constitute gross negligence.

Now, I'm an attorney. I practiced 16 years before coming here. And I've been on this Committee for 20 years now, so even though I'm not actually practicing law right now, I've been doing this type of thing for a long time. And I, for the life of me, don't know what the difference between "extreme carelessness" and "gross negligence" is. He said he found one but apparently not the other.

Could you shed some light for me and perhaps anybody else in this room or that may ultimately watch this, what is the difference between the two?

Attorney General LYNCH. Well, Congressman, again, I'm not going to further explain the Director's comments, as he has, I believe, explained them.

But I will say, when people have asked—and I understand your question to be the meaning of "gross negligence"—one always, as you know, refer to the statute itself, relevant cases, and then, of course, it is a very fact-specific inquiry.

And since to go further would go into the facts of this case, I'm not able to go further at this time.

Mr. CHABOT. All right. Okay.

Attorney General LYNCH. But we always start with the statute. We start with relevant caselaw. We start with legislative history into the—

Mr. CHABOT. Okay. As—

Attorney General LYNCH [continuing]. Determination of what Congress meant.

Mr. CHABOT. Also, as Mr. Sensenbrenner mentioned, I've got limited time, as well. So since you're not going to answer that question, let me give you one final question here.

Let me go back to this double-standard thing that I mentioned before. I couldn't help being reminded when this whole thing—especially over the last week, of something that I was involved in in



this very Committee 18 years ago. And, at the time, it was Hillary Clinton's husband, Bill Clinton, who was in trouble.

He was accused of sexually harassing a number of women, and then he lied under oath about it, committed perjury. He'd been asked if there were other women. There was a civil lawsuit brought, and oftentimes when you have a lawsuit like that, you go to other people: Did you sexually—were you aggressive with people who were under your jurisdiction or that you had some power over? Did you ever do that? No, he never did.

Well, then a young intern came forward that was working under him at the White House, and she had physical proof. He denied it, but there was physical proof. I won't go into exactly what that was, but there was proof about that. So he was pretty much caught up in this. He lied, committed perjury.

That's why articles of impeachment were voted affirmatively out of this Committee and then in the full House. And then he went for trial in the Senate. I know a lot about that because they picked 13 Members to be the prosecutors of that case, the House managers, and I was one of them, under Henry Hyde, who of course has gone on.

My principal focus at that trial was the topic of perjury, the elements of it, its history, what you had to prove. And in my argument with the Senate, my argument about that was that we had hundreds of people all over the country who were in jail, behind bars, for perjury, and the President of the United States shouldn't be above the law.

Well, the ultimate vote was 50 to remove him, 50 to stay, so he remained President.

But I would just conclude by saying that every American, including the President of the United States, including a candidate for the highest office in our land, ought to be treated equally under the law. And I think, in this case, I think it's a travesty, because I don't think Hillary Clinton has been treated like any other American would've been treated under the same circumstances.

And I yield back.

Mr. GOODLATTE. The Chair thanks the gentleman and recognizes the gentlewoman from California, Ms. Lofgren, for 5 minutes.

Ms. LOFGREN. Thank you, Mr. Chairman.

And thank you, General Lynch, for taking the time to be here with us today.

You know, I get a sense that really we're in this political season, and there is so much disappointment on the Republican side in the country that they couldn't obviate the election through the legal process. You know, despite the fact that most of us—I mean, in the Congress—we use personal emails that are not official. I do, and I know many Members of this Committee on both sides of the aisle do that.

And Secretary Clinton, like her predecessor before her, General Colin Powell, used a private email system for convenience. She has expressed the view that that was a mistake. I don't know that Colin Powell has.

Certainly, we know from press reports that the official State Department email account was the subject of the worst-ever cyber intrusion of any Federal agency. What we don't know is whether her

communications on a private email were actually more secure than had she used the State Department email system.

But after over a year and \$30 million or more across various agencies and congressional Committees investigating this matter, your agency has finally made the determination to follow the FBI's recommendation not to prosecute. And I think, you know, to some extent, we're beating a dead horse here for political reasons.

And I think it's important because there are—to use your time here for other things. There are a lot of things that need attention that we're not giving attention to. And so I'd like to raise the issue—it may seem arcane, but it is really important—of the backlog in immigration courts.

You know, we have had a massive expansion of immigration enforcement from 2003 to 2016. We increased the U.S. Border Patrol and Protection and ICE from \$9.1 billion to \$20.1 billion. That's a massive expansion.

But, at the same time, we increased, in your department, the Office of Immigration Review and the immigration courts \$199 million to \$426 billion. We have a massive backlog right now. In Los Angeles, the backlog is 806 days to hear a matter in immigration court. In Chicago, it's 915 days; Denver, 983 days; Phoenix, 884 days. This is, I mean, really, years and years to hear your matter in court.

And I'm wondering if you have—obviously, we need additional resources, but what are your thoughts of managing this just unconscionable workload for the immigration courts?

Attorney General LYNCH. Thank you, Congressman, for raising that important issue.

Certainly, with respect to the workload of the Executive Office for Immigration Review, their workload has increased significantly over the past several years due to the influx of those seeking to enter our country. We saw this problem begin several years ago, as you have noted. The backlog of more than 2 or 3 years is something that we had been noting and certainly back in 2014, EOIR decided to try and handle this matter by prioritizing certain types of cases and trying to work through that backlog.

Particularly, along our southwest border—you mentioned Los Angeles. You mentioned Phoenix. Although Chicago reflects an influx of individuals who have chosen to move further north. But particularly along our southwest border, we have been trying to work on those backlogs. The additional resources we have with the assistance of Congress—and I thank the Members of this Committee and other Members for their support—we have been able to add additional resources to the immigration courts.

We have, as far as 2016, hired 36 new immigration judges. We hired 20 new judges in 2015. And we have another approximately 100 judges going through the hiring process now.

It is our hope that this will assist us in not only handling the priority issues, but dealing with the backlog that often results from the other areas that we have to pull resources from. We are always looking for ways to make the system more efficient, to make the system deal with the important issues raised in immigration courts, to protect our borders as well as to provide due process to those who are in immigration court.

Ms. LOFGREN. Thank you, General.

I would just like to note, Mr. Chairman, that our colleague Sheila Jackson Lee is not here because she is attending the memorial in Dallas. And I wanted to make sure that Members knew that it is not for lack of interest but because of that obligation.

I thank you, General Lynch for your testimony.

And I yield back.

Mr. GOODLATTE. The Chair thanks the gentlewoman and recognizes the gentleman from California, Mr. Issa, for 5 minutes.

Mr. ISSA. Thank you.

General Lynch, you and I worked together on a myriad of issues, and I have great respect for many parts of the work you do and the way you do it. So I'm going to take a tack that maybe is more appropriate to my own district and to the men and women there who are asking certain questions. And I will run you through some quick questions, and it is really for them to understand. You are obviously a skilled attorney. You took an oath. You are under a penalty of perjury as you speak today. You prepared for today so that you would be able to answer some of the critical questions, including, obviously, the ones you have been asked so far. Is that correct?

Attorney General LYNCH. I try and be responsive to the Committee's questions, and I appreciate the information that staffers provide about what's of interest to the Committee so that we can have the information for you.

Mr. ISSA. So, in that preparation—and you have got my old friend Peter Kadzik behind you—you prepared to answer questions more or less in about four ways: yes; no; I don't know or I can't answer; or, in some cases, some combination of that. That's pretty much how you answer here is affirmatively yes, affirmatively no, or these shades of gray in between, Correct?

Attorney General LYNCH. Congressman, I'm not going to go into the internal discussions I have with staff.

Mr. ISSA. No, no, I'm not asking for the internal, but the character of the question.

Attorney General LYNCH. And I would not characterize my responses in that way.

Mr. ISSA. So far today, you have rarely said absolutely yes or absolutely no, correct? You've mostly talked in terms of "I can't answer that" or "it's not appropriate" or "see the FBI Director." And so, in light of that, and this is really a question of, what do I tell the marines, the sailors, the Army personnel in my district, the veterans, the contractors, all of those who work for the government with classified information? Former Secretary of State in an unambiguous way said repeatedly both under oath and to the public, time and time again: "I did not send or receive any information marked classified." And you are aware of that, that she had definitively said this repeatedly, Right?

Attorney General LYNCH. I believe her statements are on the record and I defer you to that.

Mr. ISSA. And I have referred to that. She unambiguously said something which was not true, according to the FBI Director. So when you send and receive documents that are marked classified clearly—and according to her statement, 300 people have seen her

emails. Some portion of those people saw the ones that said secret, top secret, confidential, whatever. None of them are charged.

What do I say to the tens of thousands of people that live and work in my district that work for the Federal Government, including more than 47,000 marines? What do I say when, in fact, saying something that isn't true, handling classified information in an extremely careless way has no criminal ramifications? What do I say to them? How do I reconcile the fact that they know that their friends and colleagues have been prosecuted or fired for doing less in the past?

Attorney General LYNCH. Congressman, I can't speak to any cases you may be referring to involving friends or colleagues. Again, I would refer you to the description that Director Comey—

Mr. ISSA. No, I appreciate that—

Attorney General LYNCH [continuing]. Provided about—

Mr. ISSA [continuing]. Madam General, but I'm going to ask you a question.

Attorney General LYNCH. The fact that there are no other cases that follow this similar fact pattern. That is what I think we focus on.

Mr. ISSA. Okay, let me go through—

Attorney General LYNCH. Every case is different.

Mr. ISSA. Every case is different.

Attorney General LYNCH. Every case has to be handled in the same way. Every individual—

Mr. ISSA. Okay, so there will be some cases—

Attorney General LYNCH [continuing]. Whether they are a former Secretary or anyone else—

Mr. ISSA. Madam General, I have very limited time.

Attorney General LYNCH [continuing]. Has to be reviewed with the facts and the law there.

Mr. ISSA. General Lynch, you keep mentioning this professional team of career professionals. Were there any political appointees on that team, any people who, in fact, did not work for the State Department—or did not work for the U.S. Attorney's Office prior to President Obama coming into office?

Attorney General LYNCH. Well, my understanding, again, with respect to the team, typically, we don't go into the composition of it. It was led by our National Security Division, and everyone on the team was a career individual.

Mr. ISSA. Again, I will ask the question with specificity. I'm not asking for names. Was there at least one person who was politically appointed that was on that team?

Attorney General LYNCH. The investigative team was composed of career prosecutors and seasoned agents.

Mr. ISSA. The question is, was there at least one that did not work a career, that was, in fact, an appointee, either confirmed or unconfirmed?

Attorney General LYNCH. Congressman, I have replied to you as to the composition of the team that all of them—

Mr. ISSA. Okay. So your answer is no, there were no political appointees.

Attorney General LYNCH. All of them were career lawyers as well as seasoned investigators.

Mr. ISSA. Okay. I will take that as a no because that's the only way I can interpret what you keep repeating. So, last but not least, the American people are told that these documents were not a crime to carelessly deal with. Should I find a way to make sure that those thousands of documents are made public so the American people can evaluate just how insignificant they are or how President Obama said, "There is classified and then there's classified"?

Are these documents documents that could be easily made available to the public, or are they too sensitive to be made to the public today?

Attorney General LYNCH. Congressman, you may take the appropriate steps in terms of reviewing anything, and you may rank request for that, and we will work to accommodate you with respect to that. I don't have an answer for you beyond that.

Mr. ISSA. So today, you could not characterize whether any or all of those documents would have to be retained privately because they are too sensitive to be made public?

Mr. GOODLATTE. The time of the gentleman has expired. The witness will be permitted to answer the question.

Attorney General LYNCH. Thank you, Mr. Chairman.

With respect to the handling of any of the documents or emails in this matter, because they involve another agency, we would have to work with the other agency. We always work with the agency that is termed the owner of the information. So, on behalf of the Department of Justice, I would not be able to give you an answer at this time as to those documents because it would involve other agencies.

Mr. ISSA. Thank you, Mr. Chairman. I yield back.

Mr. GOODLATTE. The Chair thanks the gentleman and recognizes the gentleman from Tennessee, Mr. Cohen, for 5 minutes.

Mr. COHEN. Thank you, Mr. Chair.

Madam Attorney General Lynch, when you appeared last time before this Committee, I brought up the case of Darrius Stewart. Darrius Stewart as was a young man, 19 years old, who was shot to death by a Memphis police officer. He was a passenger in a car. The officer stopped the car for a headlight violation and ran a check on the passenger, end up getting in the backseat. Officer shot him, killed him.

Our local prosecutor asked the grand jury to indict for manslaughter, but the grand jury didn't for some reason. I asked the Department of Justice to investigate, and I'm grateful for that. We are eager to know the results of your investigation. We need to know if there are any civil rights violations. Can you please tell us when we might expect any results in that case? I read today in the Times about the Garner case. I know it is difficult, but this case is one that is in Memphis with Darrius Stewart.

Attorney General LYNCH. Yes, thank you for raising this important issue. The matter is still under review, so I'm not able to give you either a result or a timetable at this time. But, of course, we will work to keep you informed.

Mr. COHEN. Thank you very much. Last week, we saw more disturbing videos of police shooting of African-Americans, and we saw police officers killed in Dallas. And that was dreadful. The other

side has made a point, my friends, to say people should know that nobody is above the law and all people are treated equally. Unfortunately, what we have seen is that African-Americans are not treated equally when it comes to deadly force and police officers in this country. And that's a more chilling reality than anything else that's been brought up here today. People's lives have been taken. This is a great problem. Black lives matter.

Congressman Lacy Clay and I put forward a bill last year, the Police Training and Independent Review Act, H.R. 2302, to address two of the major issues that have been identified as necessary to help improve the relationship of police and citizens. The bill would withhold a portion of Federal funding unless police are trained on a range of important issues like racial and ethnic bias and cultural diversity. I know the DOJ recently announced it would train all its office agents to recognize implicit bias, so I know you are aware of the need of training.

Our bill would also withhold a portion of Federal funding, unless police shootings that result in a death or injury are investigated and, if necessary, prosecuted independently. Asking a local prosecutor to investigate the same law enforcement agency they work with and provide them with witnesses is implicitly wrong. Like Caesar's wife, an individual should be a prosecutor beyond the appearance of impropriety. If a prosecutor does everything right, the action can still appear biased.

If we are serious about restoring the sense of trust that we need to have with our citizenry, we need to eliminate this conflict of interest. As I know, as you've mentioned, a key part of President Obama's Task Force on 21st Century Policing calls for independent prosecutors. Campaign Zero, gaining a lot of credibility, also has called for the passage of this act. Congressman Clay and I have seen a surge of support. We now have 77 cosponsors. It has been endorsed by an unlikely a team maybe as the NAACP and the Chicago Tribune.

Do you think that additional training for police and the use of independent prosecutors would help reduce violence between police and civilians and help restore a sense of trust in law enforcement?

Attorney General LYNCH. Well, thank you for raising this important issue, Congressman. I think that the issue of the training that we at the Department of Justice provide for law enforcement as well as the training generated in the field is of utmost importance. And I will tell you that as I have, in fact, traveled the country on my community policing tour highlighting departments that are working on this very issue, I've seen some outstanding examples, in particular, of de-escalation training using various scenarios to start, literally, with the mindset of the officer and how they respond to certain situations.

I have also been extremely encouraged by seeing law enforcement comment on many of the recent incidents that have been captured on video and talk about how training would or would not relate to those specific incidents. And I've been incredibly heartened by the growing sense of importance this issue has taken on within law enforcement itself. We have seen a number of, as I mentioned, of very, very positive programs involving training. We have seen, as I mentioned, not just the de-escalation but also training in the

issues about the definitions of excessive force, the legal standards for excessive force. I have seen programs that break that down for officers, where we have seen—

Mr. COHEN. My time is about to expire—

Attorney General LYNCH [continuing]. Results in those communities.

Mr. COHEN. So do you think training is something—additional training would be important?

Attorney General LYNCH. It is key.

Mr. COHEN. And would independent prosecutors be a good thing?

Attorney General LYNCH. I believe it depends upon the nature of the office that would be looking into the matter. I believe that you would need individuals who have experience in dealing with complicated cases, who have experience in dealing with forensic evidence. And, certainly, you would want those offices, wherever they be located, to have that kind of expertise at their hands as well.

Mr. COHEN. And let me close, Mr. Chairman, with one other fact. I don't know if you are aware, but in Memphis, a group, partially Black Lives Matter, had a protest march on Sunday. They interfered with traffic, made their demonstration on I-40 at the Hernando de Soto Bridge crossing the river. Our interim Police Director Rallings marched arm-in-arm with them, saw to it that there was no violence, no arrests, no shootings, no use of force. He showed a kind of policing we need in this country where both the protesters and all of the citizenry and the police saw this man as a leader, a hero, and somebody who kept the calm and the peace in Memphis Tennessee. Thank you.

Mr. GOODLATTE. The time of the gentleman has expired, but the witness will be permitted to respond if she chooses to do so.

Attorney General LYNCH. Just to acknowledge, indeed, the strong leadership of the Memphis Police chief, which I have seen replicated in departments across the country, including particularly in Dallas.

Mr. GOODLATTE. The Chair recognizes the gentleman from Virginia, Mr. Forbes for 5 minutes.

Mr. FORBES. Thank you, Mr. Chairman.

And, Madam Attorney General, thank you for being here today and for responding to our questions.

Madam Chairman—I mean, Madam Attorney General, when Director Comey was here, he was very forthcoming and candid in answering his questions with specificity about Secretary Clinton, and he did not refuse to answer any of those questions based on the fact that there was some legal prohibition that kept him from doing it.

Today, you have indicated several times that you wouldn't respond to some of those questions with specificity. Is there any legal prohibition that you have that Director Comey did not have that prohibits you from answering those questions with some degree of specificity?

Attorney General LYNCH. Thank you for the opportunity to speak to that, Congressman. I think it's important to note that the Director and I had very different roles in this investigation and, therefore, very different amounts of information about this information—this investigation. I am speaking about the information that

I received, which, again, as I've noted, was the team recommendation. Director Comey was speaking from his position as someone who was more directly involved in the investigation.

Mr. FORBES. I understand that you may have different information. My question, though, is, are there any legal prohibitions on you that Director Comey did not have?

Attorney General LYNCH. Well, as I've indicated, it would not be appropriate in my role to discuss the specific facts and the law.

Mr. FORBES. Is the legal prohibition against that other than the fact that you just don't have the same knowledge about the case that Director Comey had?

Attorney General LYNCH. We typically actually do not provide the level of detail that Director Comey did. He chose to provide that level of information and detail.

Mr. FORBES. Is there any legal prohibition, or is that just a choice that you make in not disclosing that information?

Attorney General LYNCH. Well, as indicated, we, obviously, are not allowed to discuss certain types of information, for example, grand jury information in any matter.

Mr. FORBES. I know, but we are not talking grand jury information here, are we?

What I want to know is—tell me, is there a legal reason that prohibits you from giving us information, or is that just a choice you have made?

Attorney General LYNCH. Congressman, as I've indicated, the Director and I had very different roles in this investigation. So his level of detail is significantly different from mine, and I would not be able to provide you with that same level of detail.

Mr. FORBES. Because you don't have the information, not because there's a legal prohibition.

Attorney General LYNCH. In addition to that, in part of my role as Attorney General, I would not be going into these discussions typically. We have taken the role—taken the step of providing—

Mr. FORBES. Madam Attorney General, I'm running out of time. I just—

Attorney General LYNCH [continuing]. More information on this matter than on others.

Mr. FORBES [continuing]. Need to know if there is a legal prohibition that prohibits you from disclosing information to this Committee, or is that a choice you have made?

Attorney General LYNCH. It would depend upon the nature of the information.

Mr. FORBES. The questions which have been—

Attorney General LYNCH. Certainly, there would be.

Mr. FORBES [continuing]. Asked that you've had, is there any legal prohibition that would prohibit you from giving the same information that Director Comey has given?

Attorney General LYNCH. Well, with respect to the source of that information, if it came from the grand jury, that would be a legal prohibition.

Mr. FORBES. So let the record—

Attorney General LYNCH. With respect to opinions about the matter of law—

Mr. FORBES [continuing]. State that there is no legal—



Attorney General LYNCH [continuing]. That's a different issue.

Mr. FORBES [continuing]. Prohibition that can be cited here.

On June 27, the Supreme Court of the United States gave your department a rather stellar rebuke in your prosecution of Governor Bob McDonnell.

Having looked at that and the basis—that, essentially, your department launched everything you had against the Republican Governor, who everyone agreed had violated no State law. They took a Federal law—and you had cited looking at statute, relevant caselaw, and history. There was no relevant caselaw to suggest that setting up a meeting constituted a crime; no history, statutory history, that suggested it was a crime. And yet your department put everything it had in prosecuting that Governor.

Having looked at what the Supreme Court has now said, do you believe that prosecution was a mistake?

Attorney General LYNCH. Certainly, I believe that the prosecutors who worked on that matter investigated it, presented it to a grand jury, and received an indictment. We, of course, as presented in our papers before the Supreme Court—

Mr. FORBES. But they made a choice to do that, a choice which—

Attorney General LYNCH [continuing]. Have made a different argument.

Mr. FORBES [continuing]. You've not made in Secretary Clinton's case. Can you tell us now, looking at that and the way you interpreted that statute, was that a mistake?

Attorney General LYNCH. Congressman, with respect to the investigation of the former Governor of Virginia, I don't have a comment on that. We have accepted the results of the Supreme Court—

Mr. FORBES. Not because you don't have a legal prohibition. Simply because you refuse to comment.

Attorney General LYNCH [continuing]. And will, of course, be reviewing the case in light of that.

Mr. FORBES. Then my final question then, as time is running out, is, when you look at a Governor of Virginia that you launched everything this department had against to destroy him and to prosecute him, can you tell me the Federal nexus you had in that case and compare that to the Federal nexus against Secretary Clinton and national security of this country, which you refused to bring to a grand jury or for an indictment, to see if, in fact, one is justified?

Attorney General LYNCH. Congressman, I don't have a comment on the McDonnell case except to refer you to the pleadings in that for a discussion of the law there.

Mr. FORBES. Can you compare the Federal nexus between the two cases for us, please?

Attorney General LYNCH. Congressman, I don't have a comparison between those two cases for you.

Mr. FORBES. And that's rather disappointing because national security of the country is rather important to the country.

With that, Mr. Chairman, I yield back.

Mr. GOODLATTE. The Chair thanks the gentleman and recognizes the gentleman from Georgia, Mr. Johnson, for 5 minutes.

Mr. JOHNSON. Thank you, Attorney General Lynch, for being here today.

And I think Americans see the duplicitousness of the arguments that have been made by Republicans here on this panel.

First, they question you about why you did not recuse yourself from the Hillary Clinton email investigation decision not to prosecute. And then, on the other hand, they criticize you for relying upon the recommendation, the unanimous recommendation, of career professional investigators and prosecutors at both the FBI and the Department of Justice who made the decision and then recommended to you that Hillary Clinton not be prosecuted.

And they take issue with these things, and then they bring back some 20-year-old salacious accusations against former President Bill Clinton. I think we've reached a low point on this Committee because we're talking about these things at the same moment that Americans are focused on the out-of-control gun violence in this country.

The chickens have indeed come back home to roost as a result of 20 years of NRA control of decisionmaking about firearms here in this Congress. Absolutely no action by Congress to restrain the flow of weapons of war onto the streets of America, weapons of war that are producing mass casualties, one incident after the other, with increasing regularity here in America.

Americans get it, but my colleagues on the other side of the aisle don't. They're just tone deaf. And they insist on chasing rabbits down holes by trying to make some hay out of something that is over with, this controversy about emails from Hillary Clinton. There is absolutely no evidence of any criminal activity.

But yet, as we approach the Republican convention to be held next week—where the candidate that they're going to nominate has been a tremendously divisive figure in polarizing this Nation, such that we can't do any work here in Congress.

And so I think the people looking at this hearing are just simply dejected. This is really a spectacle, as we get ready in Congress to leave for 7 weeks of vacation. The American people don't get 7 weeks of vacation, and I know you don't in your job. And we appreciate the job that you have done.

Can you tell me, General Lynch, whether or not, with respect to the Orlando mass murder, 49 people, innocent people, killed at the hand of a deranged gunman wielding an assault weapon, can you tell us whether or not you found any evidence that the gunman used any encrypted messaging to prepare for his attack? And have you faced any roadblocks related to accessing the gunman's social media outreach, be it encrypted or otherwise?

Attorney General LYNCH. Well, Congressman, thank you for raising those important issues. And, of course, it was exactly 1 month ago today that those 49 innocent lives were taken from us so brutally. And I remember visiting Orlando and speaking with many of the victims' families, and their loss is still so incredibly close and fresh and painful.

With respect to the investigation, we are proceeding. We have gotten great cooperation from all of the law enforcement agencies in central Florida who have worked on this case, from first re-

sponders through the police department, still helping with the investigation. All the Federal agencies have come together.

We are still reviewing a vast amount of evidence, so I'm not able to provide insight into whether or not we have come across encryption at this time. I will say that we are moving forward with the investigation. We certainly are not encountering any difficulties with the teamwork on the ground. Everyone is committed to trying to determine what led this individual to take this heinous act.

Mr. GOODLATTE. The time of the gentleman has expired.

The Chair recognizes the gentleman from Texas, Mr. Smith, for 5 minutes.

Mr. SMITH. Thank you, Mr. Chairman.

Madam Attorney General, I think you would agree that justice needs to be impartial, and the American people need to be reassured that the justice system is not rigged. And so I'd like to ask you a couple of questions about conversations you may or may not have had with Bill Clinton and Hillary Clinton.

And the first is, have you had any conversations with either individual about the email investigation since you became Attorney General in April 2015?

Attorney General LYNCH. Congressman, I have had no conversations about the email investigation with either of the Clintons since the investigation began or at any point in time.

Mr. SMITH. Okay. And an investigation preceded your being appointed Attorney General. So you had no conversations whatsoever on the subject.

Attorney General LYNCH. Well, the investigation may—I believe the referral may have come in right after I became Attorney General. But I've had no conversations about Mrs. Clinton's email server at any point in time with either her or former President Clinton.

Mr. SMITH. Okay. And have you had any conversation with either individual about your possibly serving in a Hillary Clinton administration?

Attorney General LYNCH. No, I've had no conversations with either individual—I've had no conversations with former Secretary Clinton on any topic at all. And in my conversation with the former President, there was no conversation on that nature at all.

Mr. SMITH. Okay. Thank you.

Let me go to a different subject, and this is back to the FBI investigation, though. The usual practice in such an investigation is to leave the decision on whether or not to recommend prosecution to the Attorney General. Did you suggest to Director Comey, directly or indirectly, that he make the decision rather than you?

Attorney General LYNCH. Well, Congressman, with respect to the usual process, it is, in fact, the way in which most cases are handled that the team of career investigators or prosecutors make a recommendation and go forward with an action. I can also tell you that—

Mr. SMITH. Did you lead anybody to think that you would prefer that Director Comey make the decision not to prosecute rather than you?

Attorney General LYNCH. I'm sorry, sir, I couldn't hear the beginning of your question. I apologize for that.

Mr. SMITH. Okay. Let me—I'll speak more loudly.

Did you make any suggestion to Director Comey, directly or indirectly, that he should be the one to decide whether or not to prosecute rather than you, which is traditionally the case?

Attorney General LYNCH. No, sir. I made no—I had no discussions with the Director on that point, nor had I made any decision as to that point.

Mr. SMITH. And you say you had no discussions. When I say “directly or indirectly,” I mean through associates or anyone else.

Attorney General LYNCH. That is correct.

Mr. SMITH. Okay.

Attorney General LYNCH. And what I would say, though, is that, as I indicated before, the process that we followed in this case was, in fact, a very common process. I chose to make it more public because I wanted to make it clear that there was no inappropriate influence on the investigation.

Mr. SMITH. Do you agree with Director Comey that Mrs. Clinton violated the Federal Records Act?

Attorney General LYNCH. I actually don’t recall Director Comey speaking on that point. I’d have to go back and check. So I don’t have a comment on that.

Mr. SMITH. Okay. Several newspapers reported that he said that Mrs. Clinton did violate the Federal Records Act, and you don’t have any opinion on that?

Attorney General LYNCH. You know, I—again, I don’t recall him speaking directly to that, but, again, he could have. I just don’t recall him speaking directly to that.

And, at this point, again, I think that, with respect to what was reviewed in the investigation about the handling of the emails, we heard the basis of his recommendation, and, in fact, the team came to a similar conclusion.

Mr. SMITH. Let me ask you for your opinion. Do you feel that she violated the Federal Records Act?

Attorney General LYNCH. I don’t believe—I don’t know if that was under the purview of the investigation. It’s not something—I don’t believe—I don’t know if that was under the purview of the investigation at this point. As I said before, I don’t recall a specific opinion on that.

Mr. SMITH. Okay.

Okay. Thank you very much.

Thank you, Mr. Chairman. I’ll yield back.

Mr. GOODLATTE. The Chair thanks the gentleman and recognizes the gentlewoman from California, Ms. Chu, for 5 minutes.

Ms. CHU. Yes. Attorney General, first, I’d like to state my great concerns regarding the DOJ’s decision to force songwriters and music publishers into 100-percent licensing. I understand this would require ASCAP and BMI to license songs for songwriters that they do not represent, which poses concerns of how and if a writer will be compensated for their work.

I believe this ruling will disrupt the ecosystem that songwriters operate under and hurt creativity by discouraging them to collaborate with others belonging to a different PRO in the future. This decision is also contrary to the formal opinion that was released by the Copyright Office.

I urge you to conduct an independent review of this ruling that was issued by the Antitrust Division. The livelihoods of thousands of songwriters depend on it.

And now I'd like to address a completely different topic. Attorney General, when you testified before the Judiciary Committee last fall, I brought up the issue of Chinese-Americans who were wrongfully arrested as spies for China and their lives ruined, only to have all the charges dropped. These string of incidents have had a chilling effect in the Asian-American community, where scientists, engineers, and Federal employees now live in fear that they may be targeted next.

During last year's hearing, two of the accused, Sherry Chen and Xiaoxing Xi, were in fact with me in the audience.

To recount one story, Dr. Xiaoxing Xi, professor in the physics department of Temple University, woke up at the break of dawn with almost a dozen FBI agents at his home. Guns were pointed at him as he was handcuffed and arrested in front of his wife, two young daughters, and neighbors. Because of allegations that he was a spy for China, his name was put in the newspapers, his reputation was dragged through the mud, and he had to resign from his position as chairman of the department.

But then, after enduring a lengthy investigation and emotional trauma, all of the charges against him were dropped. It turns out that the technology that the government thought was being shared with China was actually publicly available technology, not the pocket heater in question. And yet, despite having all this information at their disposal, the investigators in this case got the facts completely wrong.

Similar wrongful arrests took place with Guoqing Cao, Shuyu Li, Sherry Chen, all of whom are American citizens.

I bring up these cases again because they have been officially closed since we last spoke and yet we still have no answers. In fact, when I met with some of your staff last week, they informed me that race, ethnicity, and national origin did not play a role in either of these cases. But we still lack any evidence that this is true. That's why we and national Asian-American groups have asked repeatedly for an independent investigation with letters and meetings, and we've been doing it for a year.

So, once again, I'd like to know if there are any plans to open up an independent investigation to determine what went wrong in these cases.

Attorney General LYNCH. Well, Congresswoman, thank you for raising both of these important issues.

With respect to the ASCAP review—and that is, the review of the ASCAP/BMI—there actually has been no ruling issued as of yet. There have been significant consultations with stakeholders, as well as receipt of a great number of public comments on the issue, many of them raising the issues that you have discussed here at the hearing. And so I thank you for keeping those before us as well.

My understanding is that the Antitrust Division anticipates concluding the review as well as those discussions within the next few months and issuing a ruling at that time. And we will of course

make sure that you will receive that, as certainly all the Members of the Committee. But there has been no ruling at this time.

With respect to the other issue you've raised with respect to those particular cases that were brought and then dismissed, race and ethnicity do not have a role in the Department's prosecutions. It is something that we reject. We focus on the facts; we follow the law. But we do continue our investigations, and where we find that, in fact, our initial review may not have been accurate, it is incumbent upon to us dismiss those cases, as happened in this case.

I'm glad that you were able to have the meeting with representatives from the Department most recently. And I can assure you that the review that was done——

Ms. CHU. Okay.

Attorney General LYNCH [continuing]. Was of the cases that were raised to determine what led to their initial charging and dismissal.

Ms. CHU. I do have a followup question that I want to get in.

Most recently, I hear you are implementing a new implicit-bias training program for DOJ investigators and prosecutors. Can you describe this program? And will this new bias training ensure that Asian-Americans are not wrongly profiled and targeted for economic espionage? And will the content of this training be made available to the public?

Attorney General LYNCH. We are still—we are beginning the implicit-bias training. It will be a requirement for all the Department of Justice law enforcement officers and attorneys. And that is the field as well as main Justice, those who are working on cases.

We have found in our work with working with local law enforcement that often implicit-bias training is something that is well-received and has been helpful in helping departments understand the point of view of other individuals, the perceptions of many of their actions, as well as implicit biases that people bring to their actions that may cause collateral consequences and unexpected results.

And we felt that it was important that we also participate in something that we were advocating throughout the law enforcement community, to make our law enforcement as strong and efficient and fair as possible.

It will be discussing—it will not be limited to any particular ethnicity, of course, but it will certainly focus on how we handle race and ethnicity in our review of matters. So, while it will not be limited to any one ethnicity, it will cover more broadly the issue of how we perceive anyone who may be different from us.

We feel that this will, frankly, make our law enforcement agencies stronger, more efficient, and help keep them devoted to the goals of the Department of Justice.

Ms. CHU. And will the content be made available?

Mr. GOODLATTE. The time of the gentlewoman has expired. The witness will be permitted to answer the question.

Attorney General LYNCH. Thank you, Mr. Chairman.

At this point in time, I don't have that information for you, but I'm happy to have our staffs consult on that point.

Thank you.

Thank you, Mr. Chairman.

Mr. GOODLATTE. The Chair recognizes the gentleman from Iowa, Mr. King, for 5 minutes.

Mr. KING. Thank you, Mr. Chairman.

Thank you, General Lynch, for your testimony today.

I'd ask first that, in that happenstance meeting on the tarmac in Phoenix, was there any discussion that might have implied anything with regard to the investigations of the Clintons, be it the Clinton Foundation or the investigation of the FBI into Hillary Clinton's emails?

Attorney General LYNCH. No, sir, there was not.

Mr. KING. Zero implications.

Attorney General LYNCH. There was nothing about any investigations or any specific cases or any of the other matters that you have mentioned in your question. It was a purely social—

Mr. KING. And when did you learn about that meeting?

Attorney General LYNCH. As I was getting ready to leave the plane. I had landed, and I was getting ready to disembark from the plane. I learned that the former President wanted to say hello, and I agreed to say hello to him.

Mr. KING. Was there any staff in that meeting, or was it the two of you alone?

Attorney General LYNCH. Well, my husband was with me during our conversations. I believe there were also two members of the flight crew on board the plane, to whom the former President said hello.

Mr. KING. Okay. Thank you.

Are you aware that Hillary Clinton has repeatedly lied to the public about her emails and her email servers in public forums and, say, campaign speeches and interviews with the press? Are you aware of that?

Attorney General LYNCH. I have no comment on a characterization of any candidate and their statements.

Mr. KING. I would point out that most of the rest of America is aware of that, and including her political supporters, who will continually say that they will support her even though she lied publicly.

I would also point out, October 9, 2015, Barack Obama stated that Hillary Clinton did not endanger national security. The whole issue was "ginned up by Republicans." That was October 9, 2015. On October 10, he stated that Hillary Clinton was "careless but had not been intentionally endangering national security."

It's curious to me that that turns out to be the very word that the lack of prosecution hinges upon, is intent, even though the statute doesn't require intent. And when you see a President publicly make a statement like that, are you concerned that it might influence the decision on prosecution?

Attorney General LYNCH. Well, as—I've been asked about that statement. As I've clarified before, the Department of Justice had no input into it. And, certainly, my view has always been that the team working on this did their work independently and without any political influence.

Mr. KING. From the information that's been made available to you, do you believe that Hillary Clinton knowingly removed classified information?

Attorney General LYNCH. I don't have a comment on or a characterization—

Mr. KING. I understand that. And, also—

Attorney General LYNCH. And that was part of—

Mr. KING [continuing]. Do you believe that she had intent to keep unauthorized information in an unauthorized location? And you have no comment on that?

Attorney General LYNCH. No. I'd would refer you to my statement on the—

Mr. KING. Uh-huh.

Attorney General LYNCH [continuing]. Recommendation that I accepted.

Mr. KING. And I understand that.

Now, the hinge of this thing, according to Mr. Sensenbrenner and I'll say myself, the definition of the word "gross negligence," in that Director Comey used the term "extreme carelessness," and Mr. Sensenbrenner asked you to define the difference between that and "gross negligence."

Do you find it ironic that the last examination of a Clinton in this room, the previous one, Bill Clinton—excuse me, before this Judiciary Committee, not technically in this room—hinged on the meaning of the word "is." It looks to me like this investigation is hinging upon the meaning of "extreme carelessness" versus "gross negligence."

Do you actually see that there's a difference between those two words?

Attorney General LYNCH. Congressman, I always start with the statute with any review that is being done on any matter by the Department of Justice. And we look to the statute, legislative history, caselaw, and we look at the facts as they're developed by an investigation and apply them to that statute and to that standard. And that is what the team did in this case, and that was, I believe, the basis for their recommendation.

Mr. KING. Director Comey stated in his press conference that they didn't have evidence that the classified information or the Top Secret information had been hacked by a foreign actor. But neither did he state that they had any evidence that it had not been hacked, and he stated also it'd be unlikely that we would know if it had been.

Now, under Snowden, we have to operate as if any information he had access to is now in the possession of foreign hostile actors. Would you believe that's the same thing with any information that Hillary Clinton had on her private server, we have to act as if it were in the hands of a hostile foreign actor?

Attorney General LYNCH. I don't have a comment on a characterization or comparison of Mr. Snowden and Mrs. Clinton.

Mr. KING. Well, just answer the part about Hillary Clinton then, please, General Lynch.

Attorney General LYNCH. You had asked me—

Mr. KING. The information that was on her server, that we have to presume now that it's in the hands of hostile foreign actors. Do we have to handle it as if that's the case? And, if so, didn't that endanger our national security?



Attorney General LYNCH. Congressman, I think that you'd have to look at the facts of the matter and determine whether or not there had been access. And, as the Director indicated, I believe he's responded to that, as to whether or not——

Mr. KING. And it is a very serious matter, and it's been covered up, General Lynch.

I yield back.

Mr. GOODLATTE. The Chair recognizes the gentleman from Florida, Mr. Deutch, for 5 minutes.

Mr. DEUTCH. Thank you, Mr. Chairman.

And, General Lynch, thank you for being here. Thank you for your thoughtful and patient responses to my colleagues' questions.

In the brief time that I have today, I'd like to discuss recent reports of some disturbing and dangerous and inhumane prisoner transport conditions in this country.

Just last week, The New York Times, in a big story that they put together with The Marshall Project, shed light on abuses that harm thousands of prisoners who were loaded into vans by private contractors on a pay-per-mile basis. It's the same way we pay for shipping cargo in this country, and any retailer will tell you that it pays to ship in bulk. But we're not talking about pallets of laundry detergent; we're talking about human beings, we're talking about American citizens. And no matter their crime, they deserve better than the way that these transport services are treating them.

The story that ran in the July 6 New York Times recounts the horrific deaths of several individuals—one of them, Steven Galack from south Florida. And I'll just quote briefly from the story.

"In July 2012, Steven Galack, the former owner of a home remodeling business, was living in Florida when he was arrested on an out-of-State warrant for failing to pay child support. Mr. Galack, 46, had come to the end of a long downward spiral, overcoming a painkiller addiction, only to struggle with crippling anxiety. Now, he was to be driven more than a thousand miles to Butler County, Ohio, where his ex-wife and three children lived, to face a judge.

"Like dozens of States and countless localities, Butler County outsources the long-distance transport of suspects and fugitives. He was loaded into a van run by Prisoner Transportation Services of America, the Nations largest for-profit extradition company.

"Crammed around him were 10 other people, both men and women, all handcuffed and shackled at the waist and ankles. They sat tightly packed on seats inside a cage with no way to lie down to sleep. The air conditioning faltered amid 90-degree heat. Mr. Galack soon grew delusional, keeping everyone awake with a barrage of chatter and odd behavior. On the third day," General Lynch, "the van stopped in Georgia, and one of two guards onboard gave a directive to the prisoners. 'Only body shots,' one prisoner said she heard the guard say. The others began to stomp on Mr. Galack, two prisoners said.

"The guards said later in depositions they had first noticed his slumped, bloody body more than 70 miles later, in Tennessee. A homicide investigation lasted less than a day, and the van continued in its journey. The cause of death was found to be undetermined.

"This is,'" his ex-wife said, "'someone's brother, father, and it's like nobody even cared.'"

So, General Lynch, paying transport contractors on a per-mile—prisoner-per-mile basis incentivizes overcrowding, overheated van cargo holds, taking shortcuts on officer training, skipping stops to rest drivers and to relieve passengers. Each investment into humane conditions and treatment of prisoners cuts into the profits of these companies. And despite a Federal law that passed in 2000, known as Jeanna's Act, these private transport companies operate with virtually no oversight.

Prisoners have died from untreated medical emergencies because officers have no medical training or just don't seem to care. Prisoners have been assaulted and raped while cramped into the back of a van, just feet from the transport officers who are responsible for their safety. And reports show that prisoners often do not receive adequate food and water, the vans are unsanitary, and prisoners do not get opportunities to use the bathroom.

In addition to these poor conditions, the transport system is vulnerable to prisoner escapes.

Now, no American should be subject to this treatment, but I'd like to state clearly for the record that many of the people transported in the system have not even been convicted of any crime.

Jeanna's Act set out minimum standards for transport companies, including guard training, the proper use of restraints, CPR, navigation, defensive driving, maximum driving times, et cetera, but in spite of these minimum standards, the companies are not being held to account.

And since the passage of Jeanna's Act, it's been reported that at least 56 prisoners have escaped for-profit transport vehicles; 16 committed new crimes while on the run; and, in what is most shocking of all, the act has been enforced by the Department of Justice one time in 16 years—one time in 16 years.

So, General Lynch, I'd just ask, what else can be done for us to focus on an issue that we were so concerned about here in Congress 16 years ago that we passed legislation? But that legislation seemingly goes unnoticed or certainly unenforced.

And I'll finish just by pointing out a quote from the chief operating officer of one of these companies, who said, "Well, it's regulated by the Department of Justice, but I've never seen anybody come out to actually check on us."

What can we do to address this problem that's resulting in putting—the result of which is that our communities are made less safe and these prisoners are treated inhumanely?

Attorney General LYNCH. Well, Congressman, you raise an extremely important issue, because, of course, the treatment of all those within the criminal justice system at every point throughout that system has to be humane and fair regardless of their status, whether they are convicted or not. And, certainly, pretrial is just as important a situation and a status as well.

I'm not familiar with the situation that you have encountered, but I am happy to review that. And I would hope that our staffs could continue the discussion about this issue.

Mr. DEUTCH. I would be grateful—

Mr. GOODLATTE. Would the gentleman yield?

Mr. DEUTCH. Yeah, I would be happy to yield.

Mr. GOODLATTE. I thank the gentleman for raising the issue.

And if the General would look into this in-depth and report back to the Committee in addition to Mr. Deutch, we would very much require that.

Attorney General LYNCH. Thank you, Mr. Chairman.

Mr. DEUTCH. Thank you, Mr. Chairman. I yield back.

Attorney General LYNCH. Thank you, Congressman.

Mr. GOODLATTE. The Chair recognizes the gentleman from Arizona, Mr. Franks, for 5 minutes.

Mr. FRANKS. Well, thank you, Mr. Chairman.

And thank you, Madam Attorney General, for coming today.

Madam Attorney General, you mentioned earlier that your first consideration in any case was to start with the statute. And I know there are a lot of questions already that's addressed this issue, but I want to read you 18 U.S.C. 1924, where it says any Federal official who "becomes possessed of documents or materials containing classified information of the United States and knowingly removes such documents or materials without authority and with the intent to retain such documents or material in an unauthorized location shall be fined under this title or imprisoned for not more than 1 year or both."

Now, this statute doesn't require an intent to profit or to harm the United States or otherwise act in a manner disloyal to the United States. It simply requires intent to retain classified documents at an unauthorized location, something FBI Director Comey's own comments suggest was the case with Hillary Clinton's investigation.

Can you walk us through your reasoning on your nonprosecution decision in the Clinton case based on this particular statute?

Attorney General LYNCH. Congressman, with respect to the reasoning for my recommendation, as I have stated before, I had committed to and did accept the recommendations of the team working on this matter.

And, as I indicated in my opening statement, it would not be appropriate for me, as Attorney General, to go into that level of analysis. I believe the FBI Director has chosen to make his recommendations and analysis public in order to afford more clarity into that.

But the team did review the relevant laws, the relevant facts that the investigation revealed. They relied solely on that and not on anything else in making that recommendation, which was unanimous, to me.

Mr. FRANKS. Well, Madam Chair—Madam Attorney General, you know, the FBI doesn't give an opinion or decide if an individual will be prosecuted. You do.

But many Members already—I can see where this is going. Far more capable Members of this Committee have summarily failed, as I just did, to get you to answer even the most reasonable and relevant question. Consequently, I'm going to simply capitulate to your prodigious dissimulation skills and suspend the remainder of my questions.

Instead, I just want to remind all of us that in a republic like America, which is fundamentally predicated on the rule of law and

the equality of us all under the rule of law, there are few things that break faith with America and the American people and undermine their trust in their government more than witnessing the highest law enforcement officer in the land blatantly ignoring the crystal-clear meaning and equal protection and equal enforcement of the laws as they are written.

And, Madam Attorney General, I think such an abrogation of your official duties and responsibilities—it's not just a matter of what will be written writ large in the annals of your own legacy. It's something, rather, that goes to the very heart of the rule of law in a republic that so many lying out in Arlington National Cemetery have died to keep. And I hope, going forward, if there are other investigations into the false testimony given to the Congress by Mrs. Clinton, that that will be at least part of your consideration.

And, with that, I yield back.

Mr. GOODLATTE. The Chair thanks the gentleman and recognizes the gentleman from Illinois, Mr. Gutierrez, for 5 minutes.

Mr. GUTIERREZ. Welcome, Attorney General.

Unfortunately, this morning, while America sees children that go to school, elementary school children, murdered in their classrooms, we read and see young people murdered, dancing on a Saturday night, we see five brave, courageous police officers murdered in Dallas, Texas, that's not important. The security of the American people and their safety in their schools and in their place of play and on their streets is not important.

What's important? Let's go talk about the emails once again. And let's bring into question the integrity, the independence of the U.S. Justice Department. First they did it to the FBI Director last week, and today they're doing it to you.

So it's clear where they want to go. They want to talk about regaining credibility and integrity. I want to talk about safety and regaining the trust that the American people need to have in their law enforcement and you as the chief law enforcement officer of the Nation, how it is that we bridge that gap, given the series of deaths, tragic deaths, that we have seen of young Black men at the hands of police officers.

I think that's an important issue we should be talking about. I think making sure that my children can go to school, they can go to play, or they can go and protest, and that, yes, police officers in this Nation that are brave and courageous should be able to go home, too, after they've served the American people—I want to talk about how it is we make that safer instead of talking about, as they refer to her, Hillary. They didn't say the former First Lady, the former Secretary of State—Hillary. Because that's what they want to do, minimize this.

Then they take us all the way back to Bill Clinton, 19 years ago, and they ask you about a case that they prosecuted that they lost. I would've thought I'd bring up a case that I won if I was going to talk to the chief law enforcement officer of the United States of America.

If I wanted to have some credibility, I'm going to talk about—then they talk about that you lost the case, yes, against the Virginia Governor that took a \$6,500 watch, \$15,000 in catering,

\$15,000 in a Goodman Bergdorf—\$25,000 in flights—yeah, oh, hundreds of thousands of dollars for the Governor of Virginia. Why'd you bring that case?

Thank you. That's what we need. Because what happens in America is people don't trust the system. And they're not going to trust the system any more today, because people are saying to themselves, God, I don't feel safe.

So, having said that, I want to ask you—because I know they're all smiling over there, but let them smile at this. Kevin McCarthy, their leader that appoints most of them to their leadership positions, said, "Everybody thought Hillary Clinton was unbeatable, right? But we put together a Benghazi special Committee, a Select Committee. What are her numbers today? Her numbers are dropping." Their leader. And that's what they're continuing to do today instead of keeping the American people safe—safe—in every aspect of their lives.

So I just want to say to you, Attorney General, I think it's regrettable that we have a hearing—that we have all of these issues that we confront as a Nation.

And so I just want to say—you said, rather, the answer must be action, peace, calm, collaborative action. You said we must find a difficult way forward in finding a path. You said we have to stand together to support one another. We will work to seek ways with local officials and residents and law enforcement officers alike.

So my question to you is—I saw a group of Chicago police officers yesterday for lunch. And nobody has been stronger about making sure that they're accountable for their actions than I have, but I've got to tell you, my heart went out for them yesterday.

So how are we going to bring the thousands of Chicago men and women who serve in the Chicago Police Department—brave, courageous men and women, dedicated public servants—how are we going to bring them together with the millions of American citizens that they are sworn to serve and protect? How are you and I going to work together?

I've invited you to come with me, along with Robin Kelly, to come and discuss Laquan McDonald in our neighborhoods with our people so that we can make our police stronger, so that we can make the people stronger. Will you accept that invitation to come?

I don't want to talk about the elections. I want to talk about how it is I take brave men and women in Chicago that serve in our police department and the millions of American citizens and have them work together. Can we do that?

Attorney General LYNCH. Well, thank you for raising this important issue, and I thank you again for the invitation.

With respect to the Chicago Police Department, we find that—we are, of course, working on a pattern and practice investigation involving them. And what I will say is that an important part of all of our pattern and practice investigations are the involvement of the officers. We focus on things like the training they receive and the training that they need. We focus on the omissions and lapses that we see in community connections and the bridge-building tools that they need.

So they are a vital part of our efforts to provide assistance and training and to, in fact, strengthen that department so that those bridges of trust can begin to be rebuilt——

Mr. GUTIERREZ. And I just—because my time is up. Thank you. But, you know, Congresswoman Bass and I, we went out with the protesters when they came out last week, and you know what they yelled back at us? They said, “Do your job.” I want them to know we’re doing our job.

Mr. GOODLATTE. The time of the gentleman has expired.

Mr. GUTIERREZ. Come and visit with us in Chicago. Laquan McDonald deserves that. The people—the Chicago police deserve that. The people—won’t you please accept our invitation so that we can engage in that dialogue and hopefully have positive impact across the Nation.

Mr. GOODLATTE. The time of the gentleman has expired.

The Chair recognizes the gentleman from Texas, Mr. Gohmert, for 5 minutes.

Mr. GOHMERT. Thank you, sir.

Thank you, Attorney General Lynch. I appreciate your being here.

I cannot let the statement of my colleague go un rebutted. To say the death of five police officers that just happened and that we on this side of the aisle think that’s not important is an outrage. It is simply an outrage.

I won’t say that, actually, if my colleague had his way, then everybody would be as disarmed around the country as they are in Chicago and in Washington, D.C., and we would be losing thousands more of precious Black lives in America.

But we’re here in the wake of five police officers being killed, and that is a huge deal. And having spent much of my adult career working with law enforcement, it is a huge deal to me. And I know, from the law enforcement officers I talk to, they want to make sure that others are not above the law.

Now, Chairman Goodlatte had asked you about the recommendation, and you talked about the briefing team, and you said you saw no reason not to accept the recommendation of the team.

How much time did you spend reading the recorded testimony of Hillary Clinton from that 3½-hour interview?

Attorney General LYNCH. Congressman, I’m not going to go into the particulars of my briefing, except to say that——

Mr. GOHMERT. No, this is just your own personal work. Did you go through in detail all of the statements she made in that 3½-hour interview?

Attorney General LYNCH. Congressman, as I’ve indicated previously, my role that I had decided earlier was that I would be speaking and meeting with the team who had done that substantive, in-depth work for over a year, that had worked on this matter, that had compared the facts——

Mr. GOHMERT. Now, you’ve said that several times, Attorney General, and I don’t have enough time to have you keep repeating that four more times.

But you—when Chairman Goodlatte asked you about the statute and whether it includes the term “gross negligence,” you made an

improper statement. You said discussion of the statute would require discussion of the facts. That's not true.

You know, from my years of judging on the bench, your comment that discussion of the statute would require discussion of the facts, when he asked you about an element that's contained in the statute, Attorney General, that really sounds like an answer somebody would give who hadn't read the statute and was looking for a dodge to avoid talking about a statute with which they're not familiar.

You are aware—and this doesn't require any discussion of any facts whatsoever—but you are aware that in 18 U.S.C. 793(f), "gross negligence" is an element of the offense, are you not?

Attorney General LYNCH. Congressman, I refer you to my statement that you just commented on with respect—

Mr. GOHMERT. Okay. Well, if you're not going to answer the question, I'm afraid you might be reinforcing it.

Attorney General LYNCH. The question to me was the meaning of a phrase—

Mr. GOHMERT. Now, you said there was no basis not to accept the recommendation of our team. But you've given no indication whatsoever that you did any independent reading of the evidence of the statements. Was Hillary Clinton's statement even recorded?

Attorney General LYNCH. Congressman, I'm not going to discuss the specifics of that. I believe the FBI has provided extraordinary clarity and insight into that—

Mr. GOHMERT. Okay. Well, if you're not going to—

Attorney General LYNCH [continuing]. And that information is before you.

Mr. GOHMERT [continuing]. Answer the question, let's move on.

But I find it extraordinary that after a 3½-hour interview so quickly a recommendation is made. So there are inquiring minds that are very intelligent that have said, wow, it almost sounds like on that plane somebody said, "Look, if you'd just tell Hillary to come in. We're wrapping up, but we've got to be able to say that we interviewed her. It won't be recorded, so she'll be good." It sounded like it was a check-the-box.

You're familiar with Scooter Libby's case and Martha Stewart's case, correct? You remember they were prosecuted for making a false statement when the FBI and the Justice Department couldn't make the case they started out. You remember that?

Attorney General LYNCH. One in New York and I believe one here.

Mr. GOHMERT. Right.

Attorney General LYNCH. "Here" meaning D.C.

Mr. GOHMERT. So that's a pretty common instrument to be used. If someone makes a statement somewhere inconsistent in what they tell the FBI, that itself becomes a matter of prosecution. And I am shocked. I thought it would be weeks before an answer could be made. But it looks like, to do a 3½-hour interview—you haven't reviewed the facts. You've reviewed the team recommendation.

And I would just encourage you, Attorney General, your oath was not to follow the recommendation of some team. Your oath is your own responsibility to our Constitution and those that are working under you.

My time's expired.

Mr. GOODLATTE. The Chair thanks the gentleman and recognizes the gentlewoman from California, Ms. Bass, for 5 minutes.

Ms. BASS. Thank you, Mr. Chair.

Attorney General Lynch, thank you for joining us today.

My questions are going to focus on your role in addressing the serious situations faced by African-American men and women currently being discussed across our Nation.

Cell phone cameras and now live streaming have provided a new platform to highlight issues that have been known by the African-American community—and, I might add, in California, the Latino community—for decades.

In the last few weeks, we have witnessed one image after another depicting the worst and the best in police conduct. I might also add that, in the last week, three young Latinos were killed at the hands of law enforcement.

The best of law enforcement was demonstrated in Dallas by how they protected peaceful protesters and in Inglewood, California, near my district. Then there is the worst, with the most recent examples, of course, in Baton Rouge and St. Paul.

While Mike Brown and Eric Garner are household names, Alexia Christian, Meagan Hockaday, and Myra Hall are unknown to the general public. I hold in my hand and I will ask permission to submit for the record a Say Her Name brief written by the African American Policy Forum. It stems from the #SayHerName campaign, which was formed to name and give voice to Black women and girls who have lost their lives at the hands of law enforcement. This 45-page report goes through numerous examples of girls and women who have died, African-American girls and women.

My question to you is, has the Department of Justice begun to carefully review cases of alleged law enforcement misconduct related to the treatment of African-American women and girls?

Attorney General LYNCH. Well, thank you for raising this important issue. Certainly, the treatment of women and focusing on minority women—African-American, Hispanic women, and other minority women—throughout the criminal justice system is an issue of great importance to me, ranging from their encounters with the police throughout their time in the system.

We take, of course, any death in custody seriously, any death resulting from an interaction with law enforcement seriously and are always reviewing such matters. They are often brought to our attention, either directly to the Civil Rights Division or to our U.S. Attorney's offices, and we, of course, review those matters.

The other area that we're working on is working with law enforcement leaders, as well as academics, to ensure that we have better data on all of the encounters between civilians and law enforcement so that we can, in fact, have the true picture on what happens to our women, our girls, our sons, our brothers, to all individuals who encounter law enforcement. And it is—

Ms. BASS. Let me actually interrupt you on that so I don't run out of time.

In terms of a death in custody, I wanted to give you an example of a situation that happened in Los Angeles, where a woman was in custody, she was in jail, and she called her mother, and she told her mother to meet her in court the next day. Shortly after that,



she died mysteriously. It was said that she committed suicide shortly after telling her mother to meet her in court the next day. Her mother goes to court and sits there the entire day, and they never tell her mother that her daughter has died.

So the question is, what's the current system to notify family members about the death of a family member in custody?

Attorney General LYNCH. Well, that system—

Ms. BASS. And I have one more question for you after that.

Attorney General LYNCH. Then let me just be brief then.

That system would vary depending upon the jurisdiction, whether it—and who, in fact, has jurisdiction or authority over the jail or other institution where someone is being held.

Ms. BASS. Okay. Let me get my last question in.

Across our country, communities have come together to speak up against the violent deaths at the hands of law enforcement. The marches actually reflect the diversity of America and remind us all that this is not just a concern for African-Americans but for our Nation as a whole. It's interesting to me that the thousands of young White protestors that chant in solidarity "Black lives matter" are never acknowledged.

Black Lives Matter activists across the country are beginning to document and complain about increased surveillance and harassment by law enforcement not during protests but before and after as they go about their daily lives.

Are you aware of any increased surveillance of Black Lives Matter activists? And, if so, why? And under what circumstances would the Department of Justice become involved in the surveillance of a group like Black Lives Matter?

Attorney General LYNCH. Congresswoman, I'm actually not aware of that issue being brought to my attention. Again, it sounds like it may be an issue in a particular jurisdiction—

Ms. BASS. It's across several cities, by the way. And I can follow up with you and give you the specific information.

Attorney General LYNCH. Yes, if our staffs could speak, I would appreciate that. If we could get more information from you, I would appreciate that.

Mr. GOODLATTE. The Chair recognizes the gentleman from Ohio, Mr. Jordan, and would ask the gentleman if he would yield very briefly to the Chair.

I thank the gentleman for yielding.

General Lynch, we are now about halfway through the Members of this Committee asking questions, and your refusal to answer questions regarding one of the most important investigations of someone who seeks to serve in the highest office in this land is an abdication of your responsibility.

This is a very important issue of whether or not the Justice Department is going to uphold the rule of law in this country, and I hope that with the questions that will be forthcoming now you will be more forthcoming with answers.

Thank you.

The gentleman is recognized.

Mr. JORDAN. Thank you, Mr. Chairman.

General Lynch, who made the decision that no charges would be brought against Secretary Clinton?

Attorney General LYNCH. Congressman, with respect to that decision, I had determined that I would accept the recommendation of the team and made that known——

Mr. JORDAN. So who ultimately made the decision?

Attorney General LYNCH. I made that known, and then when the recommendation was given to me, I did accept that recommendation.

Mr. JORDAN. So did you ultimately make that decision, or did Director Comey?

Attorney General LYNCH. Well, Director Comey was part of the team.

Mr. JORDAN. Who ultimately made the decision?

Attorney General LYNCH. So the team consisted of prosecutors and agents that did include Director Comey, but there were others——

Mr. JORDAN. I want to know where the buck stops. Who made the decision?

Attorney General LYNCH. As I indicated before, I had previously decided that I would accept their recommendation when they made it to me——

Mr. JORDAN. So are you saying you——

Attorney General LYNCH [continuing]. And I did accept their recommendation.

Mr. JORDAN [continuing]. Made the decision? Are you saying you made the decision?

Attorney General LYNCH. I had previously indicated I would accept their recommendation, and I——

Mr. JORDAN. Okay. So let's just run through that. On July 1, you said, "I'll accept the recommendations of the FBI." Mr. Comey didn't announce his decision until July 5, and he said that he didn't talk to you beforehand.

Now, I assume it's not unusual for the Attorney General to accept the recommendations of the FBI and the career prosecutors and the team, as you've so often cited. What is unusual is to make a big, bold, public announcement that you're going to do it. It's one thing to do it. I assume it happens all the time. It's another thing to announce ahead of time you're going to do it.

So here's what I'm having trouble with and my guess is a lot of people are having trouble with. If you commit and announce that you will abide by the FBI's decision before they even finish their investigation, then how can you also say ultimately it was your decision?

Attorney General LYNCH. Well, Congressman, as I've indicated, I accepted their recommendation. I had indicated——

Mr. JORDAN. So are you——

Attorney General LYNCH [continuing]. Before that I would accept——

Mr. JORDAN. What I want to know is, was it not your decision or was it your decision? Because it seems to me you can't have it both ways. You can't say, I'm the Attorney General and I decide, but yet I'm going to take their recommendations even before they make their recommendations.

Attorney General LYNCH. I had indicated that I would be accepting their recommendation because I wanted to make it clear that

any conversation that I might have had with the former President would have no impact on the team or their review——

Mr. JORDAN. Ever do this before?

Attorney General LYNCH [continuing]. Or the investigation.

Mr. JORDAN. Did you ever do this before?

Attorney General LYNCH. I have not had occasion to do that before, but I felt——

Mr. JORDAN. You've never——

Attorney General LYNCH [continuing]. It was important in this case.

Mr. JORDAN. So you've never announced before an investigation is done that whatever they come up with—maybe they're going to screw it up, who knows—you've never announced before that whatever they recommend I'm going to follow. It's never happened before.

Attorney General LYNCH. I thought it was important in this case to do so.

Mr. JORDAN. So this is the first time you've ever done that, announce beforehand, I don't care what their recommendations are, I'm gonna—by golly, I'm gonna follow them.

Attorney General LYNCH. I have complete faith in the judgment and the hard work of the team.

Mr. JORDAN. I'm not questioning whether you have faith in them. I have—I think probably a lot of people have faith in the FBI in a lot of situations. I don't know that they agree with them here, but I think they have faith in them a lot of times.

What I'm questioning is why announce ahead of time, when you've never done it before, why announce ahead of time, I'm going to follow their recommendations even though I don't know what they are, and still claim you're the ultimate decider?

Attorney General LYNCH. Well, as I indicated, I felt it was important to express my role in the investigation, to clarify my role, because I was concerned that the conversation I had with the former President would make people think that there could be some influence there.

Mr. JORDAN. So that was the trigger.

Attorney General LYNCH. That, in my view, was something that needed to be clarified. I felt that people needed to understand my role in——

Mr. JORDAN. So you've never done this before, but when you have a conversation with the former President, the husband of the subject of an ongoing investigation, and you have that conversation before they've interviewed the subject and before they've reached their recommendations and finished their investigation, that's what triggered you to do this thing you've never done before, which is announce, I don't care what they recommend, I'm gonna follow it.

Attorney General LYNCH. My concern was that the conversation that I had with President Clinton would be seen by some as having an influence over that. I felt it was important to clarify——

Mr. JORDAN. Not just some, General Lynch. A lot of people.

Attorney General LYNCH. And I felt it was important to clarify that even before I had landed in Phoenix——

Mr. JORDAN. Well, here's what I think.

Attorney General LYNCH [continuing]. I had made that decision. And I felt—

Mr. JORDAN. Here's what I see happening here.

Attorney General LYNCH [continuing]. It was important that people hear that from me.

Mr. JORDAN. Here's what I think is—I think your actions made it worse. I really do.

I think a lot of people already think that there are two systems, as many have talked about, one for we, the people, a different one, entirely different one, for the politically connected. If you're a former Secretary of State, you're a former Senator, you're a former First Lady, you're a nominee for President, and your husband meets with you 5 days before a decision is announced—different standard for those facts.

And you proved it. You demonstrated that it's different by your actions, because you said you've never done this before. So you not only—you changed your internal practices. You changed the fact that you've never announced beforehand that you're going to follow a recommendation before you even have the recommendations. Your actions contributed to this belief that the system is rigged.

And that—you made a bad situation worse by saying, I'm going to do whatever they recommend, even though I don't know what the recommendations are. I don't know anyone who would conduct themselves that way when they're the ultimate decider. But you said, I'm going to wait—I'm going to do whatever they said, and I'm not even going to wait to see what they're recommending, I'm gonna follow it.

You showed that this case was different. And the law is supposed to treat every single person the same. And your announcement, by definition, made this thing entirely different. And then, of course, what was ultimately decided made it entirely different, as well.

I yield back.

Mr. GOODLATTE. The Chair thanks the gentleman and recognizes the gentleman from Louisiana, Mr. Richmond, for 5 minutes.

Mr. RICHMOND. Thank you, Mr. Chairman.

Rome is burning, there's blood on the streets of many American cities, and we are beating this email horse to death.

In our last Committee meeting, I implored this Committee to do something, to have a hearing, to respond to the deaths of Alton Sterling and Philando Castile. And when I said it, I said it's important that we act because I am very fearful that there will be bloodshed on the streets and that people will start to take it into their own hands. Unfortunately, I was right. And I'm going to ask again that we do something to start to convene a conversation on how we protect both police and citizens.

Attorney General Lynch, let me ask you, how do you initiate pattern and practice investigations within your Civil Rights Division? And has Baton Rouge Police Department undergone a pattern and practice review?

Attorney General LYNCH. Well, Congressman, thank you for raising this important issue.

An investigation into whether or not a police department presents a pattern or practice of unconstitutional behavior can come about in a number of ways. There have been times when public of-

ficials have reached out to us to raise issues of concern. There have been times when community groups or leaders have reached out to us to raise issues of concern.

There have been times when specific incidents or actions or cases have themselves raised issues of concern, and, through the investigation of a particular case, we look at the police department, and we may initiate an investigation.

And there actually have been instances when police departments have come to us and requested technical assistance or a review, and we have started on the practice of what is often called collaborative reform, and we have converted that into a pattern or practice investigation.

Mr. RICHMOND. Has Baton Rouge?

Attorney General LYNCH. That's Baltimore, actually.

Mr. RICHMOND. No, have we done that in Baton Rouge?

Attorney General LYNCH. In Baton Rouge, we are beginning the investigation—we, meaning the Department of Justice—are beginning the investigation into Mr. Sterling's death.

Mr. RICHMOND. Right.

Attorney General LYNCH. We will, of course, be cognizant of issues about the police department that may be raised there.

Mr. RICHMOND. Well, let me just give you some background.

September 2005, out-of-State troopers accused Baton Rouge police of harassing Black people, illegal searches, and unnecessary violence in the days after Katrina. Troopers from New Mexico and Michigan, totaling seven, said that, as a thank you, Baton Rouge police offered to let him beat a suspect to thank them for coming down to help and that they were ordered to make life rough for New Orleans evacuees so that they would leave town.

March 2007, Brian Townsend was arrested for a noise complaint. He ended up being hit in the back by Officer Nathan Davis, causing him to defecate on himself. He was then kicked in the groin, which ended up rupturing his bladder. He was awarded \$239,000. Officer Davis was fired.

July 2008, Jon Shoulders suffered a fractured skull, brain bleeding, and permanent brain damage after being beaten by Officer Lorenzo Coleman when Shoulders moved toward him with fists clenched. He was awarded \$350,000.

In 2011, Carlos Harris was ordered by Officer Christopher Magee to move a car despite Harris telling the officer that he was too drunk to drive. Harris, while attempting to move the car, crashed into several police officers. Magee shot him dead despite being told not to by another officer. Harris' family settled for \$495,000.

Corporal Robert Moruzzi used excessive force on Brett Percle, 24, whose head was stomped on and whose teeth were knocked out during a drug raid in 2014. That settled for \$25,000.

Officer Michael Elsbury resigned after being accused of sending a series of racist text messages. Ultimately resigned, but they have not reviewed all of his cases and his arrests, and one officer can make a complete difference in the length of time and whether someone gets arrested.

So I would just ask, formally ask—and I can do it in writing also—that we initiate a pattern and practice investigation on the Baton Rouge Police Department. And that is for police departments

that may be violating people's civil rights. And I will not make an ultimate conclusion of whether they are or are not; I will leave that to you all. But I would ask for the investigation.

And, Mr. Chairman, I would ask unanimous consent to submit for the record an op-ed written by Clint Smith that's titled "Police Killings Get a Lot of Attention. So Should Police Beatings."

Thank you.

Mr. GOODLATTE. Without objection, that will be made a part of the record.\*

Mr. GOODLATTE. And Ms. Bass had asked earlier and did not get a response from me to make—to put in the record the Say Her Name report. Without objection, that will be made a part of the record, as well.\*\*

Mr. GOODLATTE. The Chair thanks the gentleman and would advise the Members there is a vote on the floor, one vote. There is about 10 minutes remaining in that vote.

We'll go ahead and recognize the gentleman from Utah, Mr. Chaffetz, for 5 minutes. And then we will recess to give the General an opportunity for a brief break, but we'll resume immediately after.

Mr. CHAFFETZ. I thank the Chairman.

And, Madam Attorney General, thank you so much for being here.

Attorney General LYNCH. Good afternoon.

Mr. CHAFFETZ. Does an individual need a security clearance to review or have access to classified material?

Attorney General LYNCH. Congressman, that issue would be dependent upon the agency for whom they worked and the nature of the work that they did with respect to—

Mr. CHAFFETZ. Can you give me an example where you don't need a security clearance to view classified material?

Attorney General LYNCH. No, I believe, as I was going to say, they would, but the type of clearance varies with every agency, and the agency would make that decision and determination.

Mr. CHAFFETZ. Is it legal or illegal to share classified information with somebody who doesn't have a security clearance?

Attorney General LYNCH. Congressman, it depends on the facts of every situation. You'd have to determine how that sharing occurred. You'd have to determine the means. You'd have to determine, you know, the reason, the intent. Certainly, depending upon how you view the statute, it could go any number of ways.

Mr. CHAFFETZ. So you think there is a scenario in which you could share classified information with somebody who doesn't have the requisite security clearance.

Attorney General LYNCH. No, I would not draw that conclusion. I would say that I'm not able to answer it as a hypothetical but that there are a number of factors that would go into the decision, and one could have any number of results.

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\***Note:** The material referred to is not printed in this hearing record but is on file with the Committee, and can also be accessed at:

<http://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=105175>

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Mr. CHAFFETZ. Is it legal or illegal to provide access to somebody who doesn't have the requisite security clearance to view classified material?

Attorney General LYNCH. To provide access?

Mr. CHAFFETZ. Yeah.

Attorney General LYNCH. Again, you know, I'd need more facts on the hypothetical, but I would look at a number of things, and depending upon how you reviewed it, it could go any number of ways.

Mr. CHAFFETZ. Is it legal or illegal to store, house, or retain classified information in a nonsecure location?

Attorney General LYNCH. Again, I would refer you to the statute. One could, in fact, have liability, again, depending upon the nature and facts and circumstances——

Mr. CHAFFETZ. Do you have any examples of where it's legally acceptable to retain classified information in a nonsecure location?

Attorney General LYNCH. I don't have a hypothetical answer for that.

Mr. CHAFFETZ. Is it legal or illegal to provide false testimony under oath?

Attorney General LYNCH. There are a number of statutes that cover that, both at the Federal and State level. There are a number of ways in which that could be found.

Mr. CHAFFETZ. There's a difference between prosecuting something and whether it's legal or illegal. You know, these questions are pretty simple. And we've got millions of people with security clearance. How are they supposed to go through the gyrations that you've laid out in order to make a simple determination?

Attorney General LYNCH. Congressman, if we had a specific fact situation or fact pattern, that could be reviewed.

Mr. CHAFFETZ. I'm just asking is it legal——

Attorney General LYNCH. When it comes to a hypothetical situation, it would be unfair to come up with a blanket answer to someone without reviewing all the facts of their situation.

Mr. CHAFFETZ. I'm asking if it's legal or illegal to share classified information with somebody who doesn't have a security clearance.

Attorney General LYNCH. Again, I would refer you to the appropriate statutes, and I'd refer you to the facts of every situation. It would be unfair to give a blanket answer to every hypothetical.

Mr. CHAFFETZ. Why aren't we telling all the Federal employees and contractors who have access to classified information, those in our military, why aren't we telling them, "You can't do this. It's against the law"? Why can't you say that?

Attorney General LYNCH. We give them guidance. Again, every agency does. We give them examples. We give them information as to——

Mr. CHAFFETZ. Wait, wait, wait.

Attorney General LYNCH [continuing]. How to make those decisions. We show them. And, again, every agency——

Mr. CHAFFETZ. Why is the law not sufficient guidance? You believe—is there a flaw in the law? Is there a suggestion on the law? I mean——

Attorney General LYNCH. I don't have a comment on the state of the law. My answer is that in order——

Mr. CHAFFETZ. Somebody asked me to consult an attorney, and you are the Attorney General. And I think you're sending a terrible message to the world, to those people who are trying to make some simple decisions. The lack of clarity that you give to this body, the lack of clarity on this issue is pretty stunning. These seem like simple issues.

Let me ask you, the team that you talk about in the Secretary Clinton email scandal, outside of the FBI, who is on that team that you refer to that made the recommendation?

Attorney General LYNCH. As I indicated before, they would be career prosecutors.

Mr. CHAFFETZ. Okay, so they're prosecutors. Anybody else on the team that was a participant in the investigation?

Attorney General LYNCH. Not to my knowledge. I'm not sure if you're referring to anybody else. Can you give me some further context for that?

Mr. CHAFFETZ. I don't know—like, if they go back and do security clearances, determine classification, whether it's secure or non-secure, I would think that there would be somebody outside of the FBI that would help you make those determinations.

Attorney General LYNCH. Well, the Department of Justice team would be Department of Justice employees. With respect to—

Mr. CHAFFETZ. I'm trying to ask specific to which departments within the Department—I mean, the Department of Justice is a large organization, right? FBI is part of that; prosecutors are part of it. Who above and beyond prosecutors and the FBI was involved in this investigation?

Attorney General LYNCH. As I've indicated before, the DOJ team was composed of the career lawyers and seasoned agents in there. I'm not sure if you're asking about something outside of DOJ—

Mr. CHAFFETZ. I didn't know if there was another unit or other people that were part of it. That was my question.

My time was expired. I wish I had about 20 more minutes.

Thanks, Mr. Chairman. I yield back.

Mr. GOODLATTE. The Chair thanks the gentleman.

The Committee will stand in recess for approximately 15 minutes.

[Recess.]

Mr. GOODLATTE. The Committee will reconvene.

When the Committee recessed, we were questioning General Lynch under the 5-minute rule.

And the Chair now recognizes the gentlewoman from Washington State, Ms. DelBene.

Ms. DELBENE. Thank you, Mr. Chair.

And, Madam Attorney General, thank you so much for being with us today and for all of your time.

Over the past several years, I have come to know a young man, a DREAMer, in my district. His name is Andres, and he's a truly impressive young man. He's a bright student, a volunteer in his community, and really an eloquent advocate for individuals across the country with stories just like his.

Someone like Andres knows no other home. His home is Washington State. And, in my view, we should be supporting DREAMers like Andres, not deporting them.



I wanted your feedback on what you think the Supreme Court's 4-4 ruling means legally for people like Andres.

Attorney General LYNCH. Thank you, Congresswoman.

Well, certainly, with respect to—the Court's 4-4 ruling essentially refers to the most recent executive actions taken by the President. So if someone in young Mr. Andres' position were here——

Ms. DELBENE. He missed the original DACA by 26 days.

Attorney General LYNCH. Ah, he was not in the original DACA. Yes. Well, that program has been enjoined at the State and Federal level in Texas and the Fifth Circuit. That injunction remains in effect, which means that the program is not currently being implemented.

Ms. DELBENE. And so, if the ruling remains in place, what does that mean for the Department of Justice? And, in particular, would you view this as essentially taking away the prosecutorial discretion that you would have in any other context?

Attorney General LYNCH. Well, certainly, with respect to prosecutorial discretion, we will still exercise our discretion in terms of what cases we prosecute and how we prosecute them at the border. We will still continue to focus on individuals who pose a threat to society and raise issues of violent crime, particularly those who have criminal records. We'll continue to focus on those individuals who have more recently come across the border. We will continue to make public safety the watchword, as it always has been, of our enforcement actions.

And, of course, I'm sure the Department of Homeland Security will be looking at the ruling, as well.

Ms. DELBENE. So, to back up a bit, what do you think the role of prosecutorial discretion is in a general sense? And do you exercise prosecutorial discretion in other contexts outside of immigration?

Attorney General LYNCH. Well, we exercise prosecutorial discretion in every context because of resource issues, for the most part, as well as the different priorities presented by the challenges of the law enforcement environment.

We, of course, are focusing great attention on matters like violent crime and the heroin-opioid issue today and trying to make sure that we have sufficient resources to cover those important issues.

Immigration cases are a large part of our docket. We try and make sure that we handle them thoroughly, efficiently, but fairly as well. And we also try and make sure that we protect individuals who live in immigrant communities who still have a need to come forward to law enforcement.

Ms. DELBENE. So why do you think this particular case is so controversial, given that you use this discretion in other ways?

Attorney General LYNCH. You know, I can't speak to the points others choose to make about the decisions and the policies that are set forth. I leave that to them to characterize their views and why it's important.

But, certainly, from a prosecutorial perspective, managing resources is an important part of what we do. Determining the people who should be our priority targets for prosecution is something that we do on a routine basis.

And we take a number of things into account for that. We look at, as I indicated before, the type of threat posed by individuals or certain groups of individuals. We look at the amount of law enforcement resources that we have to handle a situation and our ability to augment those resources or whether they are being diminished over time. So a number of things go into that calculation.

Ms. DELBENE. Will indiscriminately deporting immigrants make us safer?

Attorney General LYNCH. Well, certainly, you know, I don't have a comment on the policy there. I think that, from a prosecutorial discretion point of view, we do focus on individuals who pose danger to the community. That is our focus, is the protection of the American people.

So individuals who have a violent background, a violent history, who have engaged in violence, those would be individuals that we would look at and find a way to remove them from the community, either by prosecution—there could be deportation. Again, we'd work with the Department of Homeland Security on that issue since they handle deportations per se.

And so we would look, again, at trying to make the community as safe as possible.

Ms. DELBENE. Thank you so much.

I yield back, Mr. Chair.

Mr. GOODLATTE. The Chair thanks the gentlewoman and recognizes the gentleman from South Carolina, Mr. Gowdy, for 5 minutes.

Mr. GOWDY. Thank you, Mr. Chairman.

Madam Attorney General, the central issue to me is this perception, frankly, rooted in some realities, of a dual-track or two-tiered justice system. And I know that you have dedicated your career to the pursuit of justice. I know you work for a blindfolded woman who's holding nothing but a set of scales. And I think it's important that she's blindfolded because she shouldn't see the race, the gender, the socioeconomic status, the fame or lack of fame of the person in front of her.

And I'm sure you've experienced it, like some of the rest of us. It's not just the suspect or the target or the defendant. The witnesses have to have confidence in the justice system. The jurors have to have confidence in the justice system. The public has to have confidence in the justice system.

So this dual track, different set of rules for certain people than for others—it, frankly, should not matter whether you are running for President or running late to a kid's ball game, the same rules ought to apply to everyone.

So let me ask you this. Why do you think it's important to use official email to conduct official business?

Attorney General LYNCH. I believe it's important to do that. I think that, certainly, every department has chosen to craft the way in which they carry out their business, and it provides for a way of doing business in a secure system.

Mr. GOWDY. So you use official email to conduct official business.

Attorney General LYNCH. Yes, sir, I do.

Mr. GOWDY. Okay. And do you ever email, send or receive, classified information on personal email?

Attorney General LYNCH. I do not.

Mr. GOWDY. I doubt you even use your USDOJ.gov account to send classified information, do you?

Attorney General LYNCH. We have separate systems.

Mr. GOWDY. Right.

Attorney General LYNCH. So there would be a separate—

Mr. GOWDY. Classified system.

Attorney General LYNCH [continuing]. System for that.

Mr. GOWDY. Right. So not only do you not use personal email to do it, you don't even use your USDOJ.gov. You have a separate, dedicated system to handle classified information. Why?

Attorney General LYNCH. We have a separate system to handle the security needs.

Mr. GOWDY. But my question is why. Why is it important enough to you to not use personal email to conduct public business and to use a separate, more safely guarded system when you do handle classified information?

Attorney General LYNCH. That is the practice that I have certainly always followed. It—

Mr. GOWDY. But it's not just your—

Attorney General LYNCH [continuing]. Allows for the protection—

Mr. GOWDY. I mean, it's not just a personal preference, is it?

Attorney General LYNCH. Oh, no. It allows for the protection of the information, both on a regular system—because, again, that's still sensitive law enforcement types of matters—and then a classified system for separately classified information.

Mr. GOWDY. What element do you think was lacking in the statutes that you evaluated as it relates to Secretary Clinton?

Attorney General LYNCH. So let me again, as I've indicated before—and I want to make it clear that, as I indicated before, the reason why I will not be going into the analysis that was provided and the discussion that we had between myself and the team is because we protect our teams, and they have to be free to provide information and analysis in a confidential way without the fear or impact of there being a political influence on that. And—

Mr. GOWDY. I understand that.

Attorney General LYNCH [continuing]. That is why I have not gone into that type of discussion.

What I can tell you is that the team did evaluate the relevant statutes that were considered in this investigation. They looked at all of the facts in evidence, and, as in every case, they applied them to that statute—

Mr. GOWDY. All right. But my—

Attorney General LYNCH [continuing]. To determine whether the elements had been met.

Mr. GOWDY [continuing]. Specific question to you, Madam Attorney General, is, what element of which offense did you find lacking from an evidentiary standpoint?

Attorney General LYNCH. Well, I would say that in order to answer that I would have to go into the entire level of analysis.

Mr. GOWDY. Well, don't you think public perception in a single-track justice system is important enough that you could at least touch on what you thought was lacking?

Attorney General LYNCH. Congressman, in this case, we have taken the unusual step of discussing it in ways that the Department typically does not in order to provide more clarity into the situation. And while I understand that it is frustrating to a number of people, civilians as well as Members of this body alike, we have taken extraordinary steps to discuss this matter in ways that typically we do not—

Mr. GOWDY. Let me ask you this.

Attorney General LYNCH [continuing]. Particularly when charges are not brought.

And, as I indicated before, just so it's clear, my reasons for not going into the substance of the information that I receive and review before I made my decision to accept the recommendation are that the teams that I work with, whether it's this case or any other, be free to provide confidential analysis, discussion without the input of any kind of political—

Mr. GOWDY. With all due respect, Madam Attorney General, you can do all of what you just described and still tell the people what element—I mean, the elements of a criminal offense are public. So there's no secret there.

And for you to go through the elements and say, as Director Comey did—he said there was no specific intent. I'm out of time, but I suspect you have prosecuted reckless homicide cases, haven't you?

Attorney General LYNCH. In the context of violent crime.

Mr. GOWDY. How about involuntary manslaughter?

Attorney General LYNCH. For the Department or personally?

Mr. GOWDY. No, just as a prosecutor.

Attorney General LYNCH. My—

Mr. GOWDY. There's involuntary manslaughter. There's reckless homicide. There's felony DUI, where you really didn't mean to hurt anybody, you really didn't, but you did. And this lack of specific intent is not a defense in any of those cases.

So I think the public would like to know how you determined she did not have the intent to break the law and why you are applying a specific-intent requirement here when you don't even do it in certain homicide cases.

Attorney General LYNCH. Well, Congressman, as I've said—well, I think you've mentioned a number of State cases there. But, as I've said, the reason why I am not going into the discussion I had and providing that particular level of information, although the FBI Director did choose to do so, is that the information the team provides to me on this or any other case has to be given in a zone of confidentiality so that they can be clear and sure that there's never a political overtone to their decisions, nor will I apply one in accepting their decisions.

That's why we have taken the unusual steps of providing greater information, as frustrating as that has been for a number of people, to have additional information. That's why I took the unusual step of clarifying my role in this investigation.

Mr. GOWDY. Well, I'm out of time, but the only thing I find frustrating is that, even after this and Director Comey, people still believe that if you are famous there's a different set of rules than if people don't know your name. And I think you're missing a wonder-

ful opportunity to say with specificity which evidentiary element you found lacking.

Congress can go fix the statute if you think we need to, but right now we have no idea whether or not a President Lynch could do exactly what Secretary Clinton did or whether President Clinton could do exactly what Secretary Clinton did. And I think that lack of clarity is bad for the Republic, quite frankly.

I would yield back.

Mr. GOODLATTE. The Chair thanks the gentleman and recognizes the gentleman from Rhode Island, Mr. Cicilline, for 5 minutes.

Mr. CICILLINE. Thank you, Madam Attorney General, for being here and for your time.

We are living in very difficult times, where we see violence and guns continuing to plague our communities. And building communities of trust and respect are critical, and reducing the ability of dangerous individuals to easily access guns is part of the answer.

What I really want to focus my inquiry on is the first part of that effort. And I was, before coming to Congress, mayor of Providence, and my former chief used to say the most powerful weapon in the police department in fighting crime and keeping communities safe is the trust and confidence of the people they serve.

I have had the unfortunate occasion to both comfort families who lost a loved one to gun violence, mothers and fathers and siblings, as well as to, in August—in April of 2005, to have lost a police officer to a shooting inside the Providence police station, Detective Jimmy Allen, which was a very painful experience for the city and for the department.

Both of those examples are horrible and painful events, not capable of easy answers or quick fixes. But one thing that I found as mayor of the city was, when I took over, we had a police department that was under investigation by the Department of Justice for patterns and practice civil rights issues and crime was on the increase and the community had really lost confidence in the department. And as a result of implementing a citywide community policing model, we really rebuilt the confidence of the community, the department became accredited. Remarkable turnaround, and we produced the lowest crime rate in 40 years.

So it was an example of really investing and building relationships between the police and community, which made the police officers safer and made the community safer. And so what I really want to ask you about is what the Department of Justice or Congress can do to help that kind of thing happen in other cities around the country.

There was a 2007 national survey of police leaders, and they identified insufficient resources and the support of frontline officers as the two major obstacles to implementing community policing models effectively. And I'd love your thoughts on what we can do as a Congress, what DOJ is doing to help close these gaps with local and State law enforcement agencies.

Attorney General LYNCH. Well, thank you for raising this important issue, Congressman, one that has become central to my tenure as Attorney General. And I've had the privilege also of traveling to different communities, much like yours, Providence, that had a pattern and practice, and yet residents and police officers, together,

determined that they would rebuild to a positive relationship. So, as you note, it can be done, it has been done, and I have seen it done.

With respect to what the Department of Justice is doing, we are supporting the work of community policing around the country through our Community-Oriented Policing Service that provides technical assistance to police departments upon their request. One of the things that we try and do is match up police departments facing specific issues—crowd control, for example; a question about whether their excessive force policy really is sufficient—we try and pair them with police departments that have dealt with those issues and, in fact, come to a positive working relationship so that they can have a peer-to-peer connection. Because there is a lot—there is a tremendous amount of positive police work being done in this country, and we need to spread that as well.

We're also supporting through COPS grants local municipalities hiring additional officers and retaining those officers.

Through supporting the recommendations of the President's Task Force on 21st Century Policing, we're supporting a number of pillars, particularly officer safety and wellness. And I've been privileged to watch some outstanding training focusing on instilling in officers from the beginning of their time on duty that when they are encountering someone on the worst day of that civilian's life, they themselves need as much support and training as possible.

The issue of resources is one that is raised with me a great deal, with respect to officers and departments who want to set up wellness programs, who want to have a dedicated community policing officer, who want to expand their school resource officer program, and yet their municipalities are struggling to provide the resources. We try and help.

Of course, assistance with that is always welcome. I'm happy to have our staffs speak about ways in which we can work together on that.

Mr. CICILLINE. Great.

And just quickly, in connection with that, there was a 2006 Department of Justice report that found police academies spend an average of 110 hours training their recruits on firearm skills and self-defense but only 8 hours on conflict management and mediation.

And I'm wondering whether or not you think that's a sensible allocation and what can be done really to give a more balanced approach in the training, because that's obviously part of it.

And I'm hoping that out of this difficult time that we are experiencing because of the tragedy in Dallas and the other shootings we're seeing around our country that we can come together and respond to some of this. And I'd love your thoughts on that.

Mr. GOODLATTE. The time of the gentleman has expired, but the witness will be permitted to answer the question.

Attorney General LYNCH. I believe that police departments around the country are looking at exactly that issue and trying to ensure that they have ongoing training in mediation, conflict resolution, and, most importantly, deescalation at the police academy and also throughout the life of the sworn officers. I've been privi-

leged to actually see some of the training given to on-duty officers as part of their continuing education.

Mr. CICILLINE. Thank you, Madam Attorney General.

I yield back.

Chairman Goodlatte. The Chair would advise Members that there is another adjournment vote on the floor, a motion to adjourn. The gentleman from Idaho is recognized for 5 minutes, and then the Committee will stand in recess to take that vote.

Mr. LABRADOR. Thank you.

Madam Attorney General, thank you for being here, and thank you for your service to this Nation.

I happen to disagree with Director Comey's conclusion, but I have a great deal of respect for him. I have seen him to be nothing but an honorable man. And reasonable minds can disagree. So I just have some questions that are similar to what has been asked before but a little bit different.

Director Comey said repeatedly that Secretary Clinton and her colleagues were "extremely careless" in their handling of very sensitive, highly classified information. Do you agree with this assessment?

Attorney General LYNCH. I don't have a characterization of their actions. Typically, we do not characterize the actions of individuals. That was Director Comey's assessment of that, and my review—

Mr. LABRADOR. So you don't accept his assessment, but you only accept his recommendation to not charge.

Attorney General LYNCH. As I have said before, I did not come to a characterization or a description, as he did, of individual behavior. My discussion was focused on the investigation, what it revealed—

Mr. LABRADOR. Okay. That's fine.

Attorney General LYNCH [continuing]. And how it applied to the legal standards.

Mr. LABRADOR. So Secretary Clinton had a security clearance while she was serving at the State Department, correct?

Attorney General LYNCH. As far as I know, that is correct.

Mr. LABRADOR. If any other Federal employee with a security clearance is extremely careless with classified information, in your opinion, what would happen to that person's clearance?

Attorney General LYNCH. I believe the matter would be reviewed and investigated and the appropriate actions would be taken.

Mr. LABRADOR. And, in fact, Director Comey suggested, if Secretary Clinton were anyone else, the facts uncovered in the FBI the investigation could have cost her that security clearance. Is that correct?

Attorney General LYNCH. I don't want to characterize the Director's statements or testimony. I'd have to—

Mr. LABRADOR. But anybody else who would've been extremely careless with their security information, they would have lost their security clearance, correct?

Attorney General LYNCH. I think the matter would have to be reviewed and handled according to the rules of the relevant agency.

Mr. LABRADOR. In your experience as a Federal prosecutor, if any other American with a security clearance had acted extremely care-

lessly with classified information, what would DOJ's position be in prosecuting that person?

Attorney General LYNCH. Well, with respect to whether or not a prosecution would ensue, the issue would be the same as here, whether or not the evidence rose to the legal standard of all the statutes that were considered. So it would be the——

Mr. LABRADOR. But you would seriously look at that, correct?

Attorney General LYNCH [continuing]. Same consideration. It would be the same consideration that was done here, but it would have to, again, reflect all of the relevant facts and not just a characterization of that. And, again, I did not make a characterization or conclusion about that.

Mr. LABRADOR. No, but if your characterization would have been that somebody acted extremely carelessly—what if that individual transacted business on Gmail?

Attorney General LYNCH. As I said before, I don't have a characterization or description of anyone, and——

Mr. LABRADOR. I'm not asking you for that.

Attorney General LYNCH. Well, my only point, sir——

Mr. LABRADOR. I'm saying, if you would have found just a regular person working at DOJ extremely carelessly handling classified information on Gmail.

Attorney General LYNCH. My only point, sir, is that the legal standard would have to be met——

Mr. LABRADOR. Okay.

Attorney General LYNCH [continuing]. And you would have to look at the relevant statutes regarding that person's information and how it was transmitted.

Mr. LABRADOR. So was Director Comey correct——

Attorney General LYNCH. And the characterization or description——

Mr. LABRADOR. You've said that.

Attorney General LYNCH [continuing]. Did not go to that.

Mr. LABRADOR. Was Director Comey correct in stating that the range of punishment is from reprimand to termination to a possible criminal prosecution when someone is found to have mishandled classified information?

Attorney General LYNCH. Certainly, if he was speaking about the steps that the FBI would possibly take, I would certainly reflect—I believe he would be reflecting his agency's own understanding of that.

Mr. LABRADOR. Okay. Has the Department ever reprimanded, terminated, or prosecuted an employee for mishandling classified information?

Attorney General LYNCH. I'm not at liberty to go into that. We don't discuss individual matters here.

Mr. LABRADOR. So you haven't—this would be a public record, if you have prosecuted somebody.

Attorney General LYNCH. It would be a public record. I don't have that information now for you.

Mr. LABRADOR. And you have not reprimanded or terminated anybody who has mishandled classified information?



Attorney General LYNCH. I don't know the answer to that information. I'm happy to have our staffs speak and provide you whatever information we can consistent with DOJ policy and the law.

Mr. LABRADOR. So if a low-level DOJ attorney or FBI agent was reprimanded for carelessness with classified information, would that person have any chance of being promoted or otherwise advancing in their career?

Attorney General LYNCH. Congressman, I can't speak to a hypothetical. I also, again, would urge caution with using a characterization or description instead of a legal analysis.

Mr. LABRADOR. But you want us to respect—

Attorney General LYNCH. And I think you have to look at the facts—

Mr. LABRADOR [continuing]. Director Comey's conclusion but not his words?

Attorney General LYNCH. You have to look at the facts in every situation, and you have to—

Mr. LABRADOR. I'm sorry. I'm actually confused by your statement. You want us to respect his conclusion, which I do even though I disagree with it, but you don't want us to respect his words or to actually take any kind of statement that he made at face value. Is that what you are saying?

Attorney General LYNCH. Congressman, my answer is that, as I said before, a characterization or a description is not the issue; it's was a relevant legal standard reached. In every case, you would look at the relevant legal statute, and you would see if the determination had been made that, in fact, those elements had been met.

Mr. LABRADOR. You can't even tell us, if one of your employees carelessly used information, whether you would advance them in their career or not.

Attorney General LYNCH. We look at every case and all these situations, all the facts, and all the issues, we apply the rules, and we come to a decision or determination there consistent with the rules of our organization, as I believe any other organization would.

Mr. LABRADOR. I yield back my time.

Mr. GOODLATTE. The Committee will stand in recess until the completion of this vote in about 15 minutes.

[Recess.]

Mr. GOODLATTE. The Committee will reconvene. When we recessed, we were questioning General Lynch under the 5-minute rule, and the Chair now recognizes the gentleman from New York, Mr. Jeffries, for 5 minutes.

Mr. JEFFRIES. Thank you, Mr. Chairman.

I want to thank the Attorney General for your presence here today, for your leadership in this country.

And let me first just associate myself with the remarks that have been made by others with respect to expressing concern about the apparent willingness of the Antitrust Division of the Department of Justice to move from a model of fractional licensing to 100 percent licensing in the context of the ASCAP and BMI consent decrees. I think songwriters and the publishing community are already under siege and this will just exacerbate the problem.

I have great respect for my colleagues on the other side of the aisle, but we are in the midst of a gun violence epidemic here in America. Five police officers were killed in Dallas, Texas; 49 members of the LGBT community were gunned down in Orlando; 14 Americans were killed at a holiday party in San Bernardino; 9 individuals, God-fearing folks, were killed at a church in Charleston, South Carolina; 20 children were killed at a school in Newtown, Connecticut. We have mass shooting, after mass shooting, after mass shooting.

Yet this hearing has been about email. Not the gun violence epidemic, not the explosion of mass shootings, not the tense relationship between the police and communities of color. It's been about email.

This is not a legitimate oversight hearing with the Attorney General of the United States of America designed to try to find public policy solutions to the problems of the American people. It's a fishing expedition. It's a reckless legislative joyride designed to crash and burn. It's a sham. And the American people, in the midst of an incredible gun violence epidemic throughout the country, deserve better.

Let me ask a few questions about the relationship between the police and the community in the little time that I have remaining in the context of the Eric Garner case. You testified earlier today that it was important to try to strengthen the relationship between the police and the community, increase trust. Is that correct?

Attorney General LYNCH. Absolutely.

Mr. JEFFRIES. Would you agree that one of the problems that we have in America is the fact that there are many people who believe that when police officers, the overwhelming majority are hard-working public servants who are there to protect and serve, but when some police officers use excessive force resulting in the death often of an African-American male, sometimes unarmed, that that officer is rarely held accountable by the criminal justice system. Is that a legitimate concern that people throughout America have?

Attorney General LYNCH. People have expressed that to me throughout my travels as a concern that they have.

Mr. JEFFRIES. Now, about 2 years ago, Eric Garner was killed as a result of a chokehold deployed against him by Officer Pantaleo in Staten Island. Is that correct?

Attorney General LYNCH. Well, I'm not able to give you the conclusion on that. Certainly, it's a matter that's under investigation now.

Mr. JEFFRIES. But he was killed, I mean, that's clear to everyone. I'm not saying it was a homicide, justifiable. Mr. Garner was killed. Is that right?

Attorney General LYNCH. Yes, approximately 2 years ago.

Mr. JEFFRIES. Okay. And you opened up an investigation I believe in December of 2014—or December of 2015, perhaps—December of 2014, in connection with the death of Mr. Garner. Is that right, the Department of Justice?

Attorney General LYNCH. Late 2014.

Mr. JEFFRIES. Late 2014. And so that investigation is still ongoing. Is that right?

Attorney General LYNCH. Yes, it is.

Mr. JEFFRIES. And in order to—what is the standard by which the Department of Justice will consider whether a civil rights action is merited?

Attorney General LYNCH. In terms of a referral or an ultimate conclusion?

Mr. JEFFRIES. Ultimate conclusion.

Attorney General LYNCH. Ultimate conclusion, we, as in every case, we look at the law and we look at the facts and determine if we are able to meet all of the elements of the relevant statutes.

Mr. JEFFRIES. And what's the relevant statute in this case?

Attorney General LYNCH. Well, one statute I can tell you that is often considered in cases is 18 U.S.C. 242, which would essentially criminalize the use of excessive force by a law enforcement officer.

Mr. JEFFRIES. And is the fact that Mr. Garner said on 11 different occasions, "I can't breathe," and 11 different times Officer Pantaleo failed to respond, is that a relevant consideration in terms of intentionality in this case?

Attorney General LYNCH. I can tell you all of the facts are being considered by the team.

Mr. JEFFRIES. And is the fact that the chokehold had been outlawed by the NYPD for the previous 20 years, yet it was deployed in this instance, is that a relevant consideration in terms of intentionality in this case?

Attorney General LYNCH. I can tell you that NYPD procedures and training would be part of what's considered in the case, but I'm not able to go further into the merits or substance of that.

Mr. JEFFRIES. And lastly, is the fact that Eric Garner was unarmed and was essentially being accosted for the sale of loose cigarettes, is that a relevant consideration in the universe of facts that the Department of Justice is considering?

Attorney General LYNCH. I can tell you that everything is under consideration in the review.

Mr. JEFFRIES. Thank you. I yield back.

Mr. GOODLATTE. The Chair thanks the gentleman and recognizes the gentleman from Texas, Mr. Farenthold.

Mr. FARENTHOLD. Thank you, Mr. Chairman.

First off, I'd like to, respectfully, disagree with one of the comments the gentleman from New York just made. This line of questioning isn't about email. It's about national security and, to borrow Director Comey's words, someone at the top level of our government being extremely careless with classified information.

And I think the other day my colleague from Texas, Will Hurd, a former CIA agent, made the point that mishandling classified information has real repercussions to our men and women who are working in the intelligence field and actually, potentially, puts their life in jeopardy.

With that being said, General Lynch, are Federal employees generally prohibited from removing classified materials from secure areas or networks and placing it on open or unclassified networks?

Attorney General LYNCH. Congressman, generally speaking—

Mr. FARENTHOLD. It's a yes or no.

Attorney General LYNCH [continuing]. The issue that you are talking about would be covered by statute and regulation.

Mr. FARENTHOLD. But they are not allowed to do that.

Attorney General LYNCH. And it would prohibit the behavior that you are talking about.

Mr. FARENTHOLD. All right. And are people allowed to retain classified documents in an unclassified environment?

Attorney General LYNCH. Generally, no.

Mr. FARENTHOLD. All right. So let me ask you a question. I'm going to get back to Mrs. Clinton for a second. How did this information wind up on her server? I doubt Mrs. Clinton was technically savvy enough to copy it to a thumb drive and move it from one to the other; didn't have the patience to retype it. So, obviously, some other people took it off a classified network and sent it to her.

Do you think those people should be prosecuted?

Attorney General LYNCH. Well, Congressman, with respect to any of the individuals considered in the investigation, as I indicated, I won't be going into the discussions about them.

Mr. FARENTHOLD. All right.

Attorney General LYNCH. And as I've indicated earlier, and I said I know that this is a frustrating exercise for you, it is because we asked—

Mr. FARENTHOLD. It is and it's pretty clear you are not going to answer my questions on it.

Attorney General LYNCH [continuing]. We asked the team to provide information in a confidential manner—

Mr. FARENTHOLD. I have a very—

Attorney General LYNCH [continuing]. So that it can be reviewed without their being influenced by any political overtures.

Mr. FARENTHOLD. All right, well, I have—it's pretty clear you are not going to answer any of my questions.

So you were appointed by the President, who called himself, I think, wanted to create the most, you know, transparent Administration ever. So we are going to quit asking Congressman questions. I'm going to ask some questions that the American people have posted on my Facebook page.

Both Mark from Portland, a retired Coast Guard person, and George, also a U.S. Army vet, want to know under oath what you discussed on the plane with President Clinton.

Attorney General LYNCH. Well, what I can tell you is exactly what we discussed was—and I have indicated earlier—when the President indicated he wanted to say hello, I said he could say hello. He came on board, spoke to myself, my husband. There were two flight crew members on the plane. He spoke with them briefly. Mr.—the former President then spoke at length about his grandchildren.

Mr. FARENTHOLD. You all didn't speak at all about anything pending, any pending investigations or Mrs. Clinton's problems with the email or the Clinton Foundation or anything like that? None of that was discussed?

Attorney General LYNCH. If I could continue with what was discussed—

Mr. FARENTHOLD. No, I'm just asking you if you discussed something that might be relevant.

Attorney General LYNCH. We did not discuss anything about a case or a matter before the Department of Justice. We did not dis-

cuss Mrs. Clinton in any way. He spoke about his grandchildren at length. He spoke about his travels——

Mr. FARENTHOLD. Okay. You know, I apologize for interrupting you. I have only got 5 minutes——

Attorney General LYNCH [continuing]. Spoke about what he had done in Phoenix.

Mr. FARENTHOLD [continuing]. And you have been very good at burning up the time and stonewalling, and I do want to get to some questions.

So have you ever met with anybody else on your plane on the tarmac?

Attorney General LYNCH. I've not had occasion to meet with anyone on my plane.

Mr. FARENTHOLD. Okay.

Attorney General LYNCH. I had been traveling at the airport and public individuals have asked to come in and say hello and I've said hello to them.

Mr. FARENTHOLD. Okay. And have you had any other meetings of more than a couple of minutes off the books with Mrs. Clinton, President Clinton, or their close associates, Sidney Blumenthal and the like?

Attorney General LYNCH. I've never had any other conversations with either former President Clinton or Mrs. Clinton before this except to say hello or was in a photo line.

Mr. FARENTHOLD. All right. So let me he get back to my question.

Attorney General LYNCH. And the other individual you mentioned, also no.

Mr. FARENTHOLD. All right, so getting back to some of the Facebook questions. Martin from Corpus Christi, also a retired Coastie, would like to know if a military person handled classified information the way Mrs. Clinton does, would he probably have been prosecuted or she possibly have been prosecuted?

Attorney General LYNCH. So I think that it's—that I think we have to look at this from the situation of if the exact same facts were presented and the exact same laws considered, the same conclusion would be come to. That is what both Director Comey has indicated. I'd certainly have no reason to view it differently. Every case is viewed differently. But, again, if you have the facts as they were presented here and reviewed here, applied to the laws that were reviewed here and analyzed here, that would be the conclusion.

Mr. FARENTHOLD. I have one question to get before I get out of time. This is Stuart, a friend of mine from Luling, Texas. And we have seen several attorney generals that have either been asked to resign or resigned on their own when—and I will use the term loosely—scandals have come up. And I think people have been using that word with respect to this and have suggested you should have recused themselves on this.

Should the President replace an Attorney General if the Attorney General does not enforce the law evenly or should there be separate enforcement for different classes? And that's Stuart from Luling.

Mr. GOODLATTE. The time of the gentleman has expired, but the General is allowed to answer the question.

Attorney General LYNCH. Thank you, Mr. Chairman.

Congressman, there is no separate method of enforcement for anyone here. And as I said before, while I understand the frustration of people who disagree with the decision, I will say that it is similar to the frustration I have encountered when I as a prosecutor or others who were prosecutors have to explain to someone why charges are not being brought if their family member is involved and the like.

And so I understand the emotion that things generate, I understand the frustration that it generates. But it is something that we take very seriously. And as I said before, we follow the law, we follow the facts in every single case.

Mr. FARENTHOLD. Thank you. I see my time has expired.

Mr. GOODLATTE. The Chair thanks the gentleman and recognizes the gentleman from Florida, Mr. DeSantis, for 5 minutes.

Mr. DESANTIS. General Lynch, the team that recommended not to prosecute Secretary Clinton, did that include the deputy attorney general.

Attorney General LYNCH. Yes, Congressman, the day-to-day—

Mr. DESANTIS. Did it include the associate attorney general?

Attorney General LYNCH. The day-to-day team that reviewed the matter did not, although the matter was reviewed up through—

Mr. DESANTIS. How about the Office of Legal Counsel or Office of Legal Policy?

Attorney General LYNCH. I just want to conclude with the—you asked about the deputy attorney general and I wanted to provide that information for you.

Mr. DESANTIS. Who was not, though, on the day-to-day. I'm just trying to get through the people because I have limited time. So he was not, correct?

Attorney General LYNCH. She was part of the chain of review, but she was not on the day-to-day team.

Mr. DESANTIS. Okay. What about the head of the National Security Division.

Attorney General LYNCH. The NSD was the component that was leading this, and so the head of the NSD or the National Security Division would have been in the chain of review.

Mr. DESANTIS. What about the head of the Criminal Division?

Attorney General LYNCH. No. I will tell you that the team was led by NSD.

Mr. DESANTIS. Okay.

Attorney General LYNCH. And therefore its head. You asked about the deputy attorney general, that's Sally Yates. She was in the chain of review, but not the day-to-day team. And the FBI Director, I don't know the intermediate-level supervisors there who would have been involved.

Mr. DESANTIS. Good. Director Comey said that the Department of Justice has grave concerns about whether it's appropriate to prosecute somebody under a gross negligence standard. Do you as the Attorney General have grave concerns about prosecuting—forget about this case—anybody under a gross negligence standard?

Attorney General LYNCH. Our concerns are always whether or not we have the facts to support the charge.

Mr. DESANTIS. I'm not asking about the facts.

Attorney General LYNCH. That is a concern in every case.

Mr. DESANTIS. Assume you have the facts. Forget about this case. Do you have grave concerns about bringing a prosecution under gross negligence?

Attorney General LYNCH. Yeah, I would have to have the factual record before me to make that determination.

Mr. DESANTIS. Did any of the people who were on the team that advised you, did they tell Director Comey that they had grave concerns about bringing a case under a gross negligence standard?

Attorney General LYNCH. Congressman, I wasn't privy to those conversations, so I'm not able to say.

Mr. DESANTIS. Because you guys prosecute environmental crimes under a negligence standard, Correct?

Attorney General LYNCH. We do prosecute a number of crimes—

Mr. DESANTIS. Those are constitutional prosecutions, Right?

Attorney General LYNCH. We do prosecute a number of crimes under different standards.

Mr. DESANTIS. And States the country, you prosecute under—for homicide, you can have a negligent homicide. And so Director Comey said: Well, look, people say you can do this but how come there haven't been cases brought recently? How many cases has the Justice Department declined to bring under 18 U.S.C. Section 793(f) because they were concerned about the gross negligence standard?

Attorney General LYNCH. I don't have the answer to that.

Mr. DESANTIS. Do you know if there's been any that have been declined over the last 10, 20 years.

Attorney General LYNCH. I don't have the answer to that.

Mr. DESANTIS. I'd like to get that because I think that that's important, because you can say people haven't been prosecuted under it, but maybe people in the civilian sector have actually met their responsibilities by and large and not been extremely careless with it.

I'm a little bit disappointed with how you have approached this. I think that given all the circumstances that are involved in this case—and, again, I'm just talking about the appearance of what the average Joe sees.

You, yourself, were appointed by President Clinton in the '90's to be U.S. Attorney. Your current boss has said on more than one occasion, before Comey's recommendation, that Hillary Clinton having top secret information on her email did not damage national security. You, of course, met with Bill Clinton privately just days before the decision was announced not to go ahead with this prosecution.

Of course, your current boss has endorsed Secretary Clinton to be the next President of the United States, and, in fact, they had a campaign trip scheduled, I believe, the afternoon that Director Comey announced his findings.

And so with all of that surrounding, there's a lot of people that have concerns about whether this decision was made with proper

integrity, and basically what you have told us today is: I'm not going to talk about it, I'm not going to justify it, it is what it is.

And that falls very short, I think, of what a lot of people want. And I have noticed that you have been willing to opine on other instances when it suits you. I mean, for example, in Orlando in June, you said the most effective response to terror is compassion, it's unity, and it's love. You were interjecting on that.

You said after the San Bernardino attack that your greatest fear was the rise of anti-Muslim rhetoric. That was something that you volunteered. You discussed the possibility in front of the Senate Judiciary Committee in March of bringing civil actions against people who denied climate change. And of course, you also discussed taking potential criminal action against those engaged in anti-Muslim speech.

And so I want to ask you whether your hear-no-evil-see-no-evil performance today, if somebody honestly just looks at what happened here and thinks that if they were a junior officer in the Navy or a mid-level official in the Federal bureaucracy and they treated classified information like this, that they would have been held accountable, and they look to see all these circumstances, and then here you are to justify as the head of the Department and you are offering them nothing.

Do you understand that there are going to be a lot of people that are not satisfied with that?

Attorney General LYNCH. Well, Congressman, as I've indicated, I understand that people are often frustrated when they don't either understand or have clarity into the reasons behind a decision.

In this matter, there have been a number of times when unprecedented clarity has been provided in terms of the FBI Director's statement, for example. That was unusual clarity into his thinking and what led up to his recommendation.

Mr. DESANTIS. It is also unusual for the Justice Department to be investigating somebody who is endorsed by the sitting President, though. I believe that's completely unprecedented. So there's a lot of things. The unprecedented nature of this can cut both ways.

I'm out of time. I do appreciate your time, but I'm definitely not satisfied with your answers.

Mr. GOODLATTE. The Chair thanks the gentleman and recognizes the gentlewoman from California, Mrs. Walters, for 5 minutes.

Mrs. WALTERS. Thank you, Mr. Chairman.

Ms. Lynch, during last week's oversight hearing Chairman Chaffetz asked Director Comey about Secretary Clinton's granting her attorneys access to emails for the purpose of document review.

Specifically, he asked: Did Hillary Clinton give non cleared people access to classified information? Director Comey responded: Yes.

My question is this. Does the conscious decision on the part of Secretary Clinton to grant access to classified information to her attorneys who did not have security clearance constitute criminal intent under 18 U.S.C. Section 793(d), which describes the intent element as the following: "willfully communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit, or cause to be commu-



nicated, delivered, or transmitted to any person not entitled to receive it.”

Attorney General LYNCH. Congresswoman, I would need to have information about the recipients, what information and what background they had, what clearances they had or didn’t have, and I simply am not able to provide you with that—with that answer, because I don’t have that full information.

Mrs. WALTERS. So you do not know if her attorneys had security clearance?

Attorney General LYNCH. I do not have that information.

Mrs. WALTERS. My understanding is they did not. But having said that, we’re going to move on to the remainder of my time. I want to address another DOJ-related matter before this Committee.

On October 28, 2015, you appeared before this Committee for an oversight hearing. And during that hearing, I noted that FBI Director Comey confirmed that the FBI was investigating criminal allegations within the Department of Veterans Affairs related to the manipulation of wait times. I asked a series of questions regarding DOJ’s role and activity subsequent to the FBI referral. I note that none of these questions would have necessitated answers that would compromise active investigations.

If you recall, you were unable to provide those answers during the hearing. However, you twice committed to have DOJ’s Office of Legislative Affairs provide information to my office.

Subsequently, your staff inquired whether they could provide those answers through an informal phone call rather than official questions for the record. And the promise from your staff was that the answers would be quicker and provide more substantive information. And I agreed because I am more concerned with getting real answers so we can ensure that our veterans receive the care that they have earned.

After 6 weeks, that informal phone call took place. Citing ethical and privacy concerns, your staff refused to answer many of those questions—quite the opposite of the promise that an informal call would be more substantive. I can only assume that your staff intentionally induced my office to participate in this informal call to avoid answering these questions, thus, obstructing legitimate congressional oversight beyond the purview of the public. This is exactly the type of behavior that disgusts the American public.

I attempt to inject transparency on a subject of immense public importance and then agreed to coordinate with the Administration to get answers and develop solutions, only to be subject to partisan games. I sent a follow-up letter to you asking for an in-person meeting with an official who could provide these answers. I received a response that stated that the DOJ “provided you with information as appropriate and consistent with the Department’s law enforcement responsibilities.”

I want to clarify. I received no information whatsoever. So after 8 months, I will try again. Can you provide a status update regarding this investigation?

Attorney General LYNCH. Well, certainly, Congresswoman, I can tell you that there has been at least one prosecution. I believe it was Southern District of Georgia. And there have been other mat-

ters that are under investigation that are not resolved yet. So we are not able to provide information about them.

And certainly, again, if you would reach out again, we will attempt to provide whatever information we can. Where a matter is open, however, we are simply not going to be able to provide that information. But it is something that we take very seriously.

Mrs. WALTERS. Of the case that was prosecuted, was that case a charge against the VA employee for manipulating wait times?

Attorney General LYNCH. I will confirm that and get back to you.

Mrs. WALTERS. Okay. And I would appreciate a response from you or your staff. And how many VA medical facilities are under active investigation for manipulating patient wait times and when do you expect those investigations to conclude?

Attorney General LYNCH. I missed the very first part of your question. I'm sorry.

Mrs. WALTERS. How much VA medical facilities are under active investigation for manipulating patient wait times and when do you expect those investigations to conclude?

Attorney General LYNCH. I'm not able to give you a timetable for any of the open investigations. I don't have the number. And we will see if we are able to provide you with some clarity on the number.

Mrs. WALTERS. Yeah. You should be able to provide clarity on the number and that's where we are getting stonewalled. I mean, they wouldn't give us any information to my staff at all and it's very frustrating.

Okay another question. How many cases has the DOJ declined to prosecute or press charges against VA employees for manipulating wait times?

Attorney General LYNCH. I don't have that information. Again, we'd have to look into that.

Mrs. WALTERS. Okay. Again, another question that could be answered because we are not asking specific private information of people.

And can you provide the reasoning that the DOJ declined to pursue each of these cases?

Attorney General LYNCH. I don't have that information, so—

Mrs. WALTERS. Okay. So I will look forward to having my answers from your staff and I appreciate.

And I yield back my time. I appreciate your time. Thank you.

Mr. GOODLATTE. The Chair thanks the gentlewoman and expresses the interest of the Committee in getting the answers to those questions as well.

The Chair now recognizes the gentleman from Michigan, Mr. Trott, for 5 minutes.

Mr. TROTT. I thank the Chairman.

Attorney Lynch, thank you for your time today.

In 1965, a Member of the Senate Labor Committee complained to the Chairman of the Committee that the new junior Senator from New York was getting preferential treatment, and the Chairman responded, "I'm not treating Bobby Kennedy any different than I would any other future President of the United States."

Did Hillary Clinton receive treatment that was different than others?

Attorney General LYNCH. She received no treatment different from any other. The only difference in this case is that we have, again, as I've indicated before, provided more information about, at least from the FBI's point of view, the investigative team's thoughts on this.

Mr. TROTT. So if a member of your staff took classified information home, put it on their server, their laptop, nothing would happen to that person?

Attorney General LYNCH. We would review the matter and come to the appropriate decision. We would look at it to see all of the relevant ramifications and see what fit.

Mr. TROTT. So, you know, the meeting on the tarmac with former President Clinton, that was a pretty fortuitous meeting for you, wasn't it?

Attorney General LYNCH. I would not say that.

Mr. TROTT. I will give you a perfect alibi because if you had recused yourself as some have suggested at the outset of this investigation because you are friends with the Clintons and maybe hope to be Attorney General in her Administration, then you wouldn't have—then you could stand here and say I defer to the FBI Director. But you didn't recuse yourself. But now you're using the meeting on the tarmac to basically say: To avoid the appearance of impropriety, I can't answer your question. Isn't that basically what's happened here today?

Attorney General LYNCH. Congressman, I would not say it was fortuitous for me or for anyone. It led me to take, again, another unusual step in this case outlining my role in that.

Mr. TROTT. But that's what's happened today. In fact, I knew you weren't going to answer our questions today. And I apologize for wasting so much time here because this has really not been very productive. And I asked my staff to count the number of times today you would say "I can't answer that question" or refuse to give an appropriate response. It's happened 74 times so far.

So really—and it's either one or two things. Either you're saying that because you want to avoid the appearance of impropriety, in which case you should have recused yourself, or you're trying to protect Hillary Clinton.

So my colleague, Mr. Smith, asked earlier if you had talked with Bill or Hillary about serving as Attorney General in Hillary's administration. Have you talked to any of their staff?

Attorney General LYNCH. No, I have not.

Mr. TROTT. Have you talked to anyone on their transition team? I know they are talking to people.

Attorney General LYNCH. I have not spoken to anyone either the campaign or the transition or any staff members affiliated with them.

Mr. TROTT. Do you want to be Attorney General?

Attorney General LYNCH. My focus is on being the Attorney General throughout the remainder of this Administration and dealing with the issues that I have discussed here; particularly, my focus on law enforcement and community relations and national security as represented by the Department's work in the most recent tragic actions facing this country; also my work involving vulnerable victims of human trafficking.

My focus is on making sure that the resources and assets of the Department of Justice are dedicated toward those important goals, particularly when it comes to individuals who feel at odds or left out or somehow cut out of our society and therefore have—or in a situation where their relationship of trust with law enforcement and government—

Mr. TROTT. Thank you, General. I want to reclaim my time.

Why did you tell the FBI security detail not to have any cameras or phones when you met with President Clinton on the plane?

Attorney General LYNCH. I didn't make any comments about cameras or phones or anything.

Mr. TROTT. So no one directed the security detail not to take any pictures or anything like that?

Attorney General LYNCH. I did not. I didn't make any comments about cameras or phones or anything.

Mr. TROTT. So last week Director Comey, I think when he was being questioned by Mr. Gowdy, said that Hillary Clinton didn't tell the truth when she said that she turned over all the emails; that all of the emails had been reviewed by her lawyers; that nothing was classified; that she only had one device. And he was quite pointed in his comments that she wasn't telling the truth about all of those matters and other issues. Do you think she told the truth?

Attorney General LYNCH. You know, I'm not privy to the reasoning on that. My understanding is that after that exchange, a Committee was going to decide whether or not to make a referral. If that were the case, the matter would be reviewed and looked at and it would be not appropriate to go into it until then.

Mr. TROTT. But you didn't recuse yourself, so you are really using that meeting on the tarmac as a way to avoid answering our questions. Isn't that is what's happening here? You're saying to avoid the appearance of impropriety—

Attorney General LYNCH. I talked about my conversation with former President Clinton as a way to explain how it would have no impact on the case. And I felt it was important to explain that because I had earlier decided that I would be accepting the team's recommendation, but that also we didn't talk about anything involving cases or the investigation itself. The conversation was, as I've noted earlier, primarily personal and on his part. We have taken that unusual step so there would not be a view that there would be any influence on that, on this matter at all.

Mr. TROTT. And you've used that to not answer our questions today.

Attorney General LYNCH. I've answered your questions. If you have more, I'm happy to hear them.

Mr. TROTT. Let's segue to the three mortgage settlements for billions of billions of dollars, where in excess of half a billion dollars was basically put into a slush fund to be steered toward liberal community service groups. Any more information on whether the attorneys at DOJ that were involved in mandating money not be steered toward conservative groups, any repercussions for that?

Attorney General LYNCH. Congressman, with respect to the issue of the settlements that were crafted in some of the residential mortgage-backed securities resolutions, I believe that our staffs have had discussions about that. We have provided information to

answer questions about that. I believe we are working to provide more information. Again, let us know if there are additional questions there.

Those settlements were, in fact, under the FIRREA statute, did generate large fines that went to the U.S. Treasury, and payments to other groups were not of government funds, but they went to organizations that have helped literally tens of thousands of Americans modify mortgages and bring their homes out from being under water and allowed them to keep their homes—

Mr. TROTT. Sure.

Attorney General LYNCH [continuing]. Which is the consumer relief that we were hoping we could effectuate through these settlements.

Mr. TROTT. And the settlement probably violated the Miscellaneous Receipts Act, but that's a discussion for another time.

Thank you, General.

I yield back my time.

Mr. GOODLATTE. The Chair thanks the gentleman and recognizes the gentleman from Michigan, Mr. Bishop, for 5 minutes.

Mr. BISHOP. Thank you, Mr. Chairman.

Thank you, General Lynch, for being here today. I know that the Attorney General's office is required to—the folks in your office are required to attend ethics training every year. Are you required to, as the Attorney General, to attend those as well?

Attorney General LYNCH. I do.

Mr. BISHOP. And do they cover, I'm sure, the issue of conflict of interest and doing whatever is possible to avoid the appearance of impropriety?

Attorney General LYNCH. Yes.

Mr. BISHOP. I say that in the context of the question that was just asked regarding the meeting on the tarmac. And I wondered if—and I know that you've indicated since then that you regret the unscheduled meeting and that, moreover, the most important thing for you as Attorney General is the integrity of the Department of Justice, which I appreciate. And I think most Americans would agree with that statement.

Do you recall when and whom the—told you that former President Clinton wanted to speak with you?

Attorney General LYNCH. As I indicated, I was getting ready to leave the plane, to disembark with my husband, and I don't recall who, but I was informed that former President Clinton wanted to say hello. So I agreed that he could say hello.

Mr. BISHOP. Okay.

Attorney General LYNCH. And he did come on board and speak with my husband and myself and other people.

Mr. BISHOP. Right. I remember that part. But full stop, right at that moment, at that very moment I want you to think back. Did you think even for a split second that maybe perhaps that wasn't the right thing to do; that there might be a conflict of interest or at the very, very least, an appearance of impropriety to have that meeting with the spouse of a person under investigation and, in fact, a key witness in another investigation, a former President of the United States, just for a second, at that moment, did you think about that?

Attorney General LYNCH. I will tell you, Congressman, that at that moment my thought was, as it is in many instances, that I respond to courtesy with courtesy. And I viewed it as a brief social greeting. And it turned into a longer conversation, certainly, than I had anticipated, and——

Mr. BISHOP. But at any time during that meeting did you feel—did it ever occur to you—I mean, you say in retrospect you regret it, but during that timeframe did you regret it at all?

Attorney General LYNCH. Congressman, at the time that we had the conversation, as I indicated, I viewed it as a social conversation, similar to when other individuals had asked to say hello, and we speak and move on.

Mr. BISHOP. Fair enough. Fair enough. You've answered the question. Thank you very much for that answer.

You've indicated that the career prosecutors from your office assisted in the investigation, reviewed the evidence with the investigators with the FBI, correct?

Attorney General LYNCH. They were the line team, as we call it.

Mr. BISHOP. Okay. So you had a team working. So did those career prosecutors have the opportunity to advise FBI investigators as to whether or not this was an actionable offense, whether probable cause existed?

Attorney General LYNCH. Well, certainly, they would have provided legal analysis. I'm not able to go into their specific discussions, obviously.

Mr. BISHOP. So I get that.

Attorney General LYNCH. But they would have had discussions about the facts and about the legal analysis.

Mr. BISHOP. So your—your team did—your teams was part of the team, that the Department of Justice was part of this FBI investigation?

Attorney General LYNCH. Well, the FBI is part of the Department of Justice also.

Mr. BISHOP. Well, okay.

Attorney General LYNCH. And I apologize for the confusion. When I refer to the DOJ team, I actually mean the lawyers and the agents. So I apologize for that confusion.

Mr. BISHOP. So—but these were lawyers from your office, though, that were part of this team is what I'm getting at, and they were part of—were they part of also the recommendation that was provided by Director Comey? Do they help draft that recommendation?

Attorney General LYNCH. Well, my understanding is that Director Comey provided the information and recommendation that he provided. The information that I received was from the team. It included Director Comey. And they——

Mr. BISHOP. Okay. So what I'm saying is, I don't want to mince words here and I don't want to—I don't want to be elusive in my question, I want to be as direct as possible. Your team was part of this investigative process, so your team was also part of the recommendation that was put forward by Comey—Director Comey, excuse me.

Attorney General LYNCH. Well, the recommendation that came to me included Director Comey's recommendation. It was a unanimous recommendation——

Mr. BISHOP. By the team.

Attorney General LYNCH [continuing]. Agents and prosecutors, yes.

Mr. BISHOP. Okay. So I understand it. So this really was your recommendation that you accepted from your team?

Attorney General LYNCH. It was a recommendation of the career agents and prosecutors who had done——

Mr. BISHOP. In your office.

Attorney General LYNCH [continuing]. Who had done the work. They were, as I indicated before, from within the National Security Division——

Mr. BISHOP. Okay.

Attorney General LYNCH [continuing]. Affiliated with main Justice. And they are the ones who made the recommendation to me. And my decision was to accept their recommendation.

Mr. BISHOP. Okay. Let me ask you one more thing. I know my time is fleeting here.

Did Secretary Clinton have counsel present for the interview at the FBI?

Attorney General LYNCH. I'm not privy to the details of her meeting.

Mr. BISHOP. Okay. So you don't know whether or not she was questioned under oath or whether recorded or any of those?

Attorney General LYNCH. I'm not privy to the details of that.

Mr. BISHOP. Okay. You indicated earlier you—my colleague made mention of the fact that there were relevant statutes in a certain case, an investigation that was going on. What are the relevant statutes involved in this Hillary—Secretary Clinton case?

Attorney General LYNCH. I believe that they have been discussed in terms of mishandling classified information and——

Mr. BISHOP. But can you cite those chapter and verse, so that I understand that you reviewed and understand the statutes that are being used?

Attorney General LYNCH. Let me——

Mr. GOODLATTE. The time of the gentleman has been expired, but the witness will be requested to answer the question.

Attorney General LYNCH. Thank you. Let me get you the exact citations of statutes that would have been under consideration, because I don't want to misstate here. But we have discussed them here generally, and the discussions have been of the relevant statutes. They have been discussed here. But let me get you the exact citations.

Mr. BISHOP. Okay. Thank you, Mr. Chairman. And I would yield back.

Mr. GOODLATTE. The Chair recognizes the gentleman from Georgia, Mr. Collins, for 5 minutes.

Mr. COLLINS. Thank you, Mr. Chairman.

I want to, before I get into some other questions, I want to express my concerns over the Antitrust Division's proposed recommendations regarding consent decrees on performing rights organizations, specifically ASCAP, BMI. Rather than meaningfully discussing and reviewing the consent decrees, the Antitrust Division appears to have committed instead to reinterpreting existing

agreements in a way that fundamentally changes the way license rights are jointly owned. You've heard this already.

The concern, it can be broken down in a couple of ways. Number one, this goes completely, is contradictory to the U.S. Register of Copyrights, completely contradictory to the information that has been given from there. And the Antitrust Division's proposal to re-interpret the existing consent decrees to govern the PROs recommends a shift to 100 percent licensing and away from the current form of fractional licensing.

The Reviewer of Copyrights has previously said this is—it violates basically the principles of copyright law and interferes with creative collaborations among songwriters, negates private contracts, and impermissibly expands the reach of consent decrees. The way I see it, American songwriters are grasping for air and the Antitrust Division just took them off life support.

And there's issues here because in this instance, the acting head of the division of the Department of Justice is making a decision that flies in the face not only of another agency, but also—and putting an industry at risk—there is at least the appearance of conflict of interest among this head with the person making the decision at DOJ, based on a previous experience.

Now, listening to you all day, I'm not expecting a direct answer, unfortunately. But—and your answer earlier doesn't ring true. You have answered several times that they are continuing to look at this and be a part.

Well, let me just say, I've had conversations with parties that have been a part of this and they have been specifically told the division has concluded that it would not be in the public interest to modify these consent decrees into fractional licenses. That sounds like it has already been made up. So we are going ahead and just preempting the time.

And I would just ask, would you be willing to look at this, considering the concerns here, and do an internal independent review of this Antitrust Division's recommendations?

Attorney General LYNCH. Well, thank you, Congressman. Again, as I have said before, my understanding, as has been briefed to me, is that the Antitrust Division's review and recommendations, the review is not complete and the recommendations have not been made. That while they are consulting with various stakeholders—and I do not know if those are some of the individuals with whom you have spoken—that that discussion—that those discussions, I should say, are still ongoing, and that it will be still a few more months until—

Mr. COLLINS. I appreciate that. I'm going to reclaim my time here because this is an issue that I know might not be on your radar at this point. I'm wanting to put it square front and center on your radar because this is a decision that affects a great deal.

But it goes back to something that is very disturbing. I never thought I would say this. I actually, and I say this with due respect, Attorney General, I miss Eric Holder, because at least when he came here he gave us answers. We didn't like it.

But I have spent the last 4 hours listening to basically the Attorney General of the United States not willing to make a concrete statement of law, to not be willing to say that when given the op-



portunity by a colleague of mine, who made the decision in this case. I understand Director Comey stepped up and said here is the decision we recommend. And you all, you have been willing to say is, well, we just accepted the team's recommendation.

When given the opportunity to say, do you accept this decision, you have never answered directly that you owned this decision. Do you own this decision?

Attorney General LYNCH. Congressman, as I have stated, I made the decision and I do accept—I did accept it and, therefore, I made the decision to accept that recommendation. That was the action that I took.

Mr. COLLINS. The problem that we are having here, though, is you took a decision because you had to. Your own words just a few moments ago, that the meeting on the tarmac led you to do something, that was your exact words, it led me to do something, and that was basically recuse yourself, but didn't recuse yourself. You just said: I'm going to accept what they tell me.

Attorney General LYNCH. It led me to discuss the decision that I already made about how the matter would be handled.

Mr. COLLINS. Had you already had conversations with the team before you made this statement and before the meeting on the tarmac?

Attorney General LYNCH. No. Before I had a conversation with former President Clinton, I had not spoken with the team. I had concluded in my mind how it should best be resolved because I had tremendous faith in their work, in their integrity. And so there were no conversations before that.

Mr. COLLINS. Did you have it as it would best be resolved as far as what they're doing and the way it was going about or the end outcome?

Attorney General LYNCH. I had no conversations about the end outcome of the investigation.

Mr. COLLINS. Do you believe that there is such a thing as a strict liability defense?

Attorney General LYNCH. Depending upon the statute. In the FIRREA matter, for example. In OSHA—

Mr. COLLINS. No, ma'am. No. No. We went to law school. Is there strict liability defenses or not?

Attorney General LYNCH. In OSHA, for example, there are.

Mr. COLLINS. Is that a yes or a no?

Attorney General LYNCH. In some environmental cases there are.

Mr. COLLINS. Simply yes or no.

Attorney General LYNCH. I have given you two examples.

Mr. COLLINS. No. I want a yes or A no. Is there a strict liability—

Attorney General LYNCH. I've given you two examples.

Mr. COLLINS. The issue that we have here is there is no ownership at DOJ. It's no wonder the optics are so bad. I've never agreed probably with David Axelrod in my life, but the optics of this are terrible and you today have made it worse.

And as also a member of the military who just got through with my drill duty this weekend, you have basically to me offended every military member here who handles classified information,

who does so with their training, and you have basically said: Well, it depends on this.

I got a question for you. Riding down the road, the speed limit says 55, I'm doing 65. Have I broke the law?

Attorney General LYNCH. You'd have to ask the highway patrol.

Mr. COLLINS. Oh, my God.

Attorney General LYNCH. They would likely write you a ticket. They would likely write you a ticket for that.

Mr. COLLINS. I went to a small law school. We taught the law. Harvard, I'm not sure anymore. Did you break the law or not; 65 in a 55. My dad was a state trooper.

Attorney General LYNCH. As I said before——

Mr. COLLINS. Be careful with your answer. You're under oath.

Attorney General LYNCH. As I said before, you would get a ticket for that.

Mr. COLLINS. Okay. So you broke the law.

Attorney General LYNCH. You would be cited for that. That would be considered an offense.

Mr. COLLINS. When you've been asked many times, you've said: I'm not going to talk about this. The day after you said: Well, I'm just going to have to accept whatever they tell me. Because you're not going to do any investigation. You're not going to put the Attorney General, the top law enforcement officer's stamp of approval on it. You said: I'm just going to accept whatever they give me.

Did you at least read anything before you had a press conference the next day? Did you at least look at the testimony from Hillary Clinton.

Attorney General LYNCH. Well, Congressman——

Mr. COLLINS. Did you at least look at anything?

Attorney General LYNCH. No, I did not hold a press conference. I issued a statement.

Mr. GOODLATTE. The time of the gentleman has expired. The witness can answer the question.

Attorney General LYNCH. Thank you, Mr. Chairman.

I did not issue a press conference. I issued a statement. I did receive a briefing from the team. It was thorough. It discussed the findings that they had come to. It discussed the legal analysis that they had made. My decision was to accept those findings. And as I've said before, that was my decision.

Mr. COLLINS. As a famous leader once said: The buck stops with me. Please go read that. This has been depressing.

Mr. GOODLATTE. The Chair thanks the gentleman.

I recognize the gentleman from California, Mr. Peters, for 5 minutes.

Mr. PETERS. Thank you. And I would like to thank the Attorney General for being here for this long period of time.

And since I'm the last person, literally, my colleagues on the—on this side have exhausted a lot of the topics about community policing, gun safety, police misconduct. There was even a question about the compensation for songwriters. I don't think a single one of my colleagues on the other side of the aisle has asked a question about something other than Secretary Clinton's emails, so that topic has been extensively covered.

I do wish that she had not used the—a private server. I do wish that you had not had that meeting on the tarmac. And I think each of you has acknowledged these errors, to your credit.

But my colleagues throughout this hearing have exhibited an honest and a passionate concern about the law and about the Constitution here today with regard to Mrs. Clinton. And we are serious about the Constitution here in the Judiciary Committee. They even give us a pocket Constitution in each of our drawers. And I wanted to ask a couple of questions about the constitutional issues that might be raised by some of the proposals of another candidate for President.

Mr. Trump has proposed a ban on Muslims entering the country until our leaders figure out what the heck is going on. Now, putting aside the vagueness of that proposal, do you see any constitutional issues that are raised by such a proposal? Are there any barriers to such a proposal raised by the Constitution?

Attorney General LYNCH. So, Congressman, I will tell you that I do not have a comment on any of the candidates and their specific proposals. That is not my role, and I have chosen not to comment on specifics that any candidate may offer.

What we have said about any proposal to ban a particular group is that it would not be in the interest of law enforcement and would not advance the goals of law enforcement to do so. But I don't have a comment on any of the comments or proposals of any of the candidates.

Mr. PETERS. Has the Justice Department under you considered a registry of Muslim Americans that would keep track of where they moved?

Attorney General LYNCH. That has not been a consideration of ours.

Mr. PETERS. Do you not think that would be useful?

Attorney General LYNCH. Well, as I've indicated, the way in which we interact with the Muslim-American community has been one where we are trying to grow cooperation and trust. They are, in fact, an ally in many investigations that we have. They have been helpful in providing information about various issues. And so it has been more effective, in our view, to deal with individuals from any particular community as all Americans.

Mr. PETERS. Might that also, such a proposal, pose a burden on the free exercise of religion under the First Amendment.

Attorney General LYNCH. Well, certainly I would not support any burdens on the free exercise of religion.

Mr. PETERS. Have you ever considered whether women might be punished for seeking an abortion? Is there any—

Attorney General LYNCH. Again, Congressman, to the extent that it relates to something that a particular candidate has raised, I'm not going to comment on that. I think that that issue has been discussed considerably in the press. I think it depends upon the State laws at issue there. And as I said before, it is because my role is not to comment on the campaign or any of the candidates. And so I apologize for that, but I don't have a comment on that.

Mr. PETERS. And then I guess the other thing that was raised—and, you know, you're the Attorney General, so I don't have anyone else to ask—but the idea that if we entered into a treaty or an

agreement with other countries, a new President might come in and rip it up. I don't suppose you have any view on the constitutional mechanism to do that by executive action alone?

Attorney General LYNCH. Well, I actually don't have knowledge of the process by which one could revoke a treaty, and so I'm not able to answer that question for you.

Mr. PETERS. Well, it's my observation that, you know, we talk a lot about executive overreach in this Committee. In fact, I think we have another—the next hearing is on executive overreach. And the kinds of proposals that are coming out of the other campaign—and this has been, you know, this, frankly, has been about a Presidential candidate. I don't think we're—any of us is under the illusion that this is all about one prosecution. This has to do with the political campaign. I think Ms. Lofgren suggested that some Members of the Committee were disappointed by your failure to obviate the need for an election by prosecuting Secretary Clinton.

So I just raise the point that, you know, executive overreach appears to go both ways, and I want my colleagues to consider that as they spend the next week supporting the candidate who's really the king of executive overreach. And I guess that's not your issue today, but I hope we don't have to face that in the next term.

I do want to thank you very much for spending the time here. I know it's been a long day. And I appreciate your service. Thank you.

Mr. GOODLATTE. The Chair thanks the gentleman and recognizes the gentleman from Texas, Mr. Ratcliffe, for 5 minutes.

Mr. RATCLIFFE. General Lynch, after your meeting with Bill Clinton, you were asked in an interview about the appearance of impropriety, and said, "No matter how I view it, I understand how people view it. It has now cast a shadow over how this case may be received." Do you remember saying that?

Attorney General LYNCH. That was a few days afterwards in an interview, yes, sir.

Mr. RATCLIFFE. And we know that you made the decision at that point not to recuse yourself from this investigation. Two days after you made that statement about casting a shadow on the integrity of the Department of Justice, The New York Times reported that "Democrats close to Mrs. Clinton say that she may decide to retain Ms. Lynch, the Nation's first Black woman to be Attorney General."

Did the timing of that, right after the Bill Clinton meeting, give rise to any thought in your mind of reconsidering whether or not recusal in the light of appearance of impropriety might be appropriate?

Attorney General LYNCH. Congressman, I have no knowledge of the source of that statement, nor have I had any conversations about that.

Mr. RATCLIFFE. Have you given it any thought?

Attorney General LYNCH. My view was that I needed to discuss the conversations I had with the former President to clarify my role in the investigation.

Mr. RATCLIFFE. Let me move on. So I don't want to impugn your integrity by asking you whether the prospect of future employment as Attorney General in a Hillary Clinton administration influenced

your decision whether or not to recuse yourself or influenced your final decision regarding prosecution, but now that you have already made that decision and closed the matter, will you consider serving as an Attorney General in the Hillary Clinton administration?

Attorney General LYNCH. Congressman, my focus is on serving as Attorney General in this Administration.

Mr. RATCLIFFE. No, I don't care about your focus. What I want to know is, will you rule it out?

Attorney General LYNCH. That is my focus now.

Mr. RATCLIFFE. You won't rule it out?

Attorney General LYNCH. It is working on the issues before the Department of Justice.

Mr. RATCLIFFE. Will you rule it out?

Attorney General LYNCH. That matter is not before me.

Mr. RATCLIFFE. Well, I got to tell you, that shadow that you cast on the Department of Justice just got a whole lot bigger. Because if you're not willing to rule out future employment in a Hillary Clinton administration, what that means is the American people have every right to wonder whether or not you looked at this through a fair and impartial lens.

Because your answer tells the American people that after the FBI Director told you that Ms. Clinton had been extremely careless with at least 110 emails marked as top secret, secret, or classified, and may have jeopardized the lives of actual Americans, and told you that she made numerous false public statements about sending, receiving, or turning over classified materials, you might want to apply for a job with her?

Attorney General LYNCH. Sir, I have no comment on that.

Mr. RATCLIFFE. Your answer not ruling employment with her means that as much of the free world is wondering whether or not Hillary Clinton should have been prosecuted and possibly sent to prison for being extremely careless, as the FBI director said, with hundreds of top secret, secret, and classified emails, you're telling the American people watching today that instead of going to jail, faced with the prospect of possible future employment, you think she should go to the other end of the spectrum and be eligible to be the person with greater access and greater control over America's most sensitive and trusted national security information than anyone else on the planet.

I got to tell you, utter shock is an understatement with respect to what I just heard you say. So let me ask you this question. Based upon—

Attorney General LYNCH. Well, Congressman, let me—as I indicated—

Mr. RATCLIFFE. No, I want to ask you this question. My time is limited, and the clock is moving.

Based upon your unwillingness to rule out future employment, in light of the fact that you and your husband had a 30-minute conversation with the spouse of a pending Federal investigation, the subject or target of a pending Federal investigation, and with a person who would be the subject or target of the Federal investigation if there is one into the Clinton Foundation, would you at least agree with me that if there is such an investigation, you'll have to recuse yourself from that one?

Attorney General LYNCH. Congressman, with respect to other matters before this Committee or any other, or before the Department of Justice, they will be reviewed like any other. I will take all of the appropriate action that I would need to take in that instance.

Mr. RATCLIFFE. I will take that as a no and let me move on then, because I have got a really important—

Attorney General LYNCH. And, Congressman, as I've indicated to your colleague, just as I will not comment on the statements of candidates or the candidacy of anyone, either side, I would not comment on the candidacy of the other one.

Mr. RATCLIFFE. With all due respect, I'm not going to let you run out the clock on the American people that have questions that need to be answered, so let me move on.

On July 5, 1 week after your meeting with Bill Clinton, the FBI Director made an unprecedented, extraordinary public recommendation not to indict. But his statement was just a recommendation. You said: I made the decision. And in his statement to the press, he said that what that decision would include would be "considerations like the strength of evidence, especially regarding intent." He said also that a responsible decision would consider the context of a person's actions.

So my question to you is, as you made the decision, did your final decision weigh the strength of the evidence in the context of Hillary Clinton's actions?

Attorney General LYNCH. I will tell you, Congressman, that that was part of what the team that was presenting to me was focused on. And it was a—it was—certainly encompassed those issues, as well as all of the other issues that I have indicated before that would be in that. It would be contained within their entire recommendation to me.

Mr. RATCLIFFE. And that was reflected in your two-sentence statement about—that starts out: Late this afternoon I met with FBI Director Jim Comey and career prosecutors.

By the way, how long did that meeting last?

Attorney General LYNCH. You know, I don't recall.

Mr. RATCLIFFE. Hours?

Attorney General LYNCH. I don't recall, and I wouldn't be providing that information.

Mr. RATCLIFFE. More than hours?

Attorney General LYNCH. I don't recall and would not be providing that information.

Mr. RATCLIFFE. This was late in the afternoon. I assume it was in 1 day?

Attorney General LYNCH. It's clear from the statement when the meeting occurred.

Mr. RATCLIFFE. Okay. So it happened the day after, and apparently within a matter of hours, if it happened in 1 day. So you just told us that after a yearlong investigation involving 150 FBI agents working around the clock, involving more than 30,000 emails, tens of thousands of man-hours, that your thoughtful, careful weighing of strength of the evidence took you an afternoon, a cup of coffee with the FBI Director, that your decision in this case for charges relating to a person who, according to the FBI Director, said was

extremely careless handling America's most sensitive national security matters and is seeking to be a candidate in charge of America's most sensitive national security matters, took the better part of an afternoon. It didn't last weeks, didn't last months, didn't take days. You weighed that evidence, determined her intent and gross negligence in a matter of hours.

Will you at least tell the American people whether or not you at least reviewed the 110 top secret, secret, and classified emails that we know that she sent and received on an unsecure, unauthorized server? Will you at least answer that?

Attorney General LYNCH. As I have indicated—

Mr. GOODLATTE. The time of the gentleman has expired. The witness is permitted to answer the question.

Attorney General LYNCH. Thank you, Mr. Chairman.

As I've indicated, I received a recommendation after a briefing from the team, which included the career lawyers, as well as the FBI Director. I received a full and thorough briefing. We reviewed and discussed the matter and I accepted their recommendation.

And as I've indicated earlier, again, just to be clear, the reason I do not go into these internal meetings is because the teams of prosecutors and agents who work on every matter need to be able to provide their full and unfettered advice, counsel, discussion, without the fear of political overtones, without the fear of that kind of thing.

Mr. RATCLIFFE. Since you didn't answer that question, I'll give you a preview that I'll ask Director Comey that when he's in front of Homeland next week.

And let me just close then, summarize by saying, so less than after a week after you meet privately with the spouse of a target of a Federal investigation, a target with whom you haven't ruled out applying for a job, you didn't recuse yourself and instead spent a grand total of a few hours reaching a decision regarding tens of thousands of documents involving our national security, and you can't seem to understand why the American people, Republicans, Democrats, and independents, are outraged at your action?

If you thought the meeting that you had on the tarmac with Bill Clinton cast a shadow over the integrity of the Department of Justice, what I've heard today from you made the size of that shadow—made the size of that shadow something that I will tell you that as far as casting shadows that the American people pay attention to, Punxsutawny Phil's got nothing on you.

I yield back.

Mr. GOODLATTE. General Lynch, Mr. Ratcliffe had a number of good questions, and he cut you off on some of the answers. If you'd like to give an answer to anything that he just posed, we'd be happy to give you additional time to do that.

Attorney General LYNCH. Thank you, Mr. Chairman. I will not take a great deal of your time.

The only comment that I wanted to make clear for the record was just as with respect to questions about the—any Presidential candidate or candidate for any other office, just as I would not opine on policies or issues raised by one, I would not opine on policies or issues raised by the other. That is something that I want

to make it clear. That is not my function as the Attorney General. I'm not attempting to do that in any way here.

So just as I would not opine with respect to the questions raised by Congressman Peters, I did not want to appear to be responding about Mrs. Clinton as a candidate. My responses here have been with respect to the matters before the Department of Justice and the Department of Justice alone.

As I've indicated, we have provided unprecedented access into the thinking of the investigative team in this case. We have also—I have provided access into the process by which the Department was resolving this matter, things that we rarely do, but I felt was important to do in order to make it clear to the American people that my role in this matter had been decided before I had a conversation with the former President. That conversation did not have any impact on it. And that in fact, as with every case, the team of experienced career prosecutors and agents who reviewed this diligently, thoroughly, and at great length had gone to great lengths and came up with a thorough, concise, and exhaustive review and recommendation, which I then accepted.

And while I understand the frustration by people who disagree with that decision, as I've indicated before, it is similar to the frustration of people who may have a situation where they are the victim of a crime and we're not able to bring a case, and we have had similar discussions with individuals in that category as well.

So I understand that frustration and the desire to see action in a certain matter where feelings are strong and emotions run high. But in this case, as with every other case that the Department handles, we looked at the law, we looked at the facts, they were applied, and a conclusion was come to that was consistent with the law and those facts. And I accepted that recommendation.

Mr. GOODLATTE. Well, General Lynch, this concludes our hearing. I thank you for providing us with more than 4½ hours of your time. However, scores of questions were posed to you that were not answered by you. Some you have offered to get back to us about in writing afterwards. We will be forwarding to you additional questions related to other matters raised, as well as the investigation and nondecision to prosecute former Secretary of State Clinton, and we would expect that you would answer those questions.

You are the chief law enforcement officer of the United States, and—okay—you are the chief law enforcement office of the United States, and the final decision regarding the prosecution is yours. And the fact that you were not able to provide us with answers regarding how that decision was reached is very concerning to Members of this Committee and to the American public.

I do thank you for appearing today. Without objection, we will make a part of the record a letter from Congresswoman Walters to you, General Lynch, and your response—or actually Peter Kadzik's response to her first letter, dated December 17, 2015, the second, January 15, 2016. And I know you have made a commitment to respond further regarding her inquiry regarding the Department of Veterans Affairs.\*\*\*

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\*\*\*Note: The material referred to is not printed in this hearing record but is on file with the Committee, and can also be accessed at:

<http://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=105175>



Attorney General LYNCH. Yes.

Mr. GOODLATTE. With that, the Committee—this concludes the hearing, and we thank you for your appearance today. And without objection, all Members will have 5 legislative days to submit additional written questions for the witness or additional materials for the record.

And with that, the hearing is adjourned.

[Whereupon, at 2:47 p.m., the Committee was adjourned.]



## A P P E N D I X

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MATERIAL SUBMITTED FOR THE HEARING RECORD

**Questions for the Record submitted to the Honorable Loretta E. Lynch,  
Attorney General, United States Department of Justice\***

BOB GOODLATTE, Virginia  
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ONE HUNDRED FOURTEENTH CONGRESS

**Congress of the United States**

**House of Representatives**

COMMITTEE ON THE JUDICIARY

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September 26, 2016

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SCOTT PETERS, California

The Honorable Loretta E. Lynch  
Attorney General  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Attorney General Lynch,

The Committee on the Judiciary held a hearing on oversight of the United States Department of Justice on July 12, 2016 in room 2237 of the Rayburn House Office Building. Thank you for your testimony.

Questions for the record have been submitted to the Committee within five legislative days of the hearing. The questions addressed to you are attached. We will appreciate a full and complete response as they will be included in the official hearing record.

Please submit your written answers by Monday, November 7, 2016 to Alley Adcock at [alley.adcock@mail.house.gov](mailto:alley.adcock@mail.house.gov) or 2138 Rayburn House Office Building, Washington, DC, 20515. If you have any further questions or concerns, please contact 202-225-3951.

Thank you again for your participation in the hearing.

Sincerely,

  
Bob Goodlatte  
Chairman

Enclosure

\*Note: The Committee had not received a response to these questions at the time this hearing record was finalized.

The Honorable Loretta E. Lynch  
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**Submitted by Rep. Doug Collins**

1. On June 27, 2016 you met with former President Bill Clinton on your plane on the tarmac of the Phoenix Sky Harbor International Airport. Please provide a list detailing each individual and their title that was on the plane during your conversation with former President Clinton. Please also provide a list of anyone in addition to yourself and President Clinton who participated in the conversation and/or assisted with facilitating the conversation on your plane at the Phoenix Sky Harbor International Airport.

2. You accepted FBI Director Comey's recommendation not to prosecute Secretary Clinton in the email investigation because her violations of the law were the result of negligence or extreme carelessness rather than being the result of deliberate or intentional misconduct.

Do you agree that these same standards should be applied by the Department of Justice in deciding whether to prosecute businesses or corporate employees for regulatory violations under federal laws governing the operation of those businesses?

3. Was Secretary Clinton questioned under oath? If not, was Secretary Clinton warned that lying to the FBI or the Department of Justice, even if not under oath, is nevertheless a crime? If not, why not?

4. Was a grand jury ever convened in Secretary Clinton's case, either in federal or state court?

I believe it makes sense to convene a grand jury in this case so that a jury of peers can determine if there is strong enough evidence of criminal wrong-doing to merit an actual trial. You have convened grand juries in other cases involving public officials, such as the recent case of Congresswoman Corrine Brown. Do you believe it makes sense to convene a grand jury in this case as well? And if not, why not?

Further, a grand jury indictment does not mean that a prosecutor has to take the case to trial, only that the grand jury believes there is strong enough evidence to suggest criminal wrong-doing. If Secretary Clinton was indicted by a grand jury, would you then reconsider your position/decision on formally charging her? If not, why?

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**Submitted by Rep. Ken Buck**

- (1.) What is the total amount that the Department has obtained for third-party groups pursuant to settlements entered into by the Department?
  - a. What is this amount by year for the last eight years?
  - b. Please provide a listing of cases for the last eight years in which the Department has entered into a settlement requiring a payment to a third-party group.
  - c. Please provide the amount each third-party group received in each of these cases.
- (2.) What criteria does the Department use to determine when to seek payment from defendants to third-party groups as part of a settlement?
- (3.) What requirements does the Department impose on third-party groups that receive money pursuant to settlements entered into by the Department?
- (4.) What criteria does the Department use to ensure that third-party groups receiving money pursuant to settlements entered into by the Department are using that money on appropriate purposes?
- (5.) What are the purposes that the Department determines to be appropriate upon which money received by third-party groups pursuant to settlements entered into by the Department may be spent?
- (6.) What oversight does the Department exercise on third-party groups that receive money pursuant to settlements entered into by the Department?

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(7.) What is the ideological breakdown of the third-party groups that have received money pursuant to settlements entered into by the Department?

(8.) Are any of the third-party groups that have received money pursuant to settlements entered into by the Department currently the subject of investigations by the Department or any other law enforcement agency?

(9.) Have any of the third-party groups that have received money pursuant to settlements entered into by the Department previously been the subject of investigations by the Department of any other law enforcement agency?

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**Submitted by Rep. Mike Bishop**

1. Attorney General Lynch, the Committee is aware that some of the Department's investigations and prosecutions are funded, at least in part, by the proceeds of previous enforcement actions. Please identify all such non-appropriated sources of funding. Please also include the legal authority for those programs and the amounts expended during the last five fiscal years.



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**Submitted by Rep. Zoe Lofgren**

1. ASCAP—just this past May—agreed to pay a \$1.7 million fine to DOJ for anticompetitive behavior. ASCAP had required song writers to sign contracts that prohibited them from licensing their work through means other than ASACP. What part did the consent decree play in this resolution?
2. In its decision, the DOJ clarified that the consent decrees do not allow fractional licensing. Is this important for ensuring that the consent decrees function as intended, and if so, why?
3. Opponents of the DOJ's decision say that the consent decrees are old and outdated. Can you explain why the current market structure still requires enforcing the consent decrees?

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**Submitted by Rep. Ted Deutch**

1. In their investigative article entitled *Inside the Deadly World of Private Prisoner Transport* the Marshall Project and the New York Times uncovered at least four deaths of prisoners since 2012 who died while being transported interstate in private company vehicles. See <https://www.themarshallproject.org/2016/07/06/inside-the-deadly-world-of-private-prisoner-transport?ref=hp-4-113#dEg9OI4XU>. The prisoner transport vehicles were operated by Prisoner Transportation Services of America. The four prisoners identified in the Marshall Project and New York Times story are Steven Galack, William Culpepper Jr., Denise Isaacs, and William Weintraub.
2. According to the news reports some of these deaths and incidents occurred near or while crossing state border lines and jurisdictional boundaries.
3. Is the Department of Justice involved in investigating the deaths or other incidents that occur during the interstate transportation of prisoners in private company vehicles?
4. Please describe the findings from each of the investigations that are closed, how many investigations remain open, and any actions the Department of Justice has taken in response to deaths or other incidents that occur during the interstate transportation of prisoners in private company vehicles.
5. On September 16, 2013, U.S. Attorney Timothy Purdon announced a settlement with Extradition Transport of America, L.L.C. ("ETA") to resolve civil claims for violations of "Jeanna's Act," Pub. L. No. 106-560. According to the press release on the Department of Justice website, the U.S. Attorney sought civil claims against ETA for the escape of a prisoner who was in the company's custody at the Oriska Rest Area along Interstate 94 in North Dakota.
6. According to the terms of the settlement, ETA reimbursed law enforcement entities \$70,000 for any expenses relating to the recapture of the prisoner. In addition, ETA paid a \$10,000 civil penalty. This civil penalty is permitted under Section 5(1) of Jeanna's Act.
7. Since enactment of Jeanna's Act, has the Department of Justice investigated, filed any legal actions, or settled any claims for violations of Jeanna's Act?
8. If the Department of Justice has brought any cases for violations of Jeanna's Act, please provide for each case: the caption of the case; the violations for which penalties were sought under the Act; the outcome of the case, including any penalties or fines; and any restitution that was made, including identifying the name of the entity that received restitution.

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9. Please describe how the Department of Justice enforces the provisions of Jeanna's Act? How frequent do officials from the Department of Justice make on-site visits to private companies that provide interstate transport of prisoners for states or localities? Does the Department of Justice work with the Department of Transportation to create regulations relating to for the interstate transport of prisoners for states and localities by private companies?

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**Submitted by Rep. Suzan DelBene**

1. My understanding of the DOJ's position is that consent decrees have, for decades, required ASCAP and BMI to offer licenses to all of the works in their repertoires. I further understand DOJ to believe that fractional licensing would be a significant change to the marketplace and one that would have the potential for significant harm.
2. Am I correct to believe that the Department's decision to not amend the decrees and to clarify the scope of licenses is not a change but rather the maintenance of the status quo?

