

QUESTIONS FOR THE RECORD
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NOMINEE TO BE UNITED STATES ATTORNEY GENERAL

QUESTIONS FROM SENATOR HIRONO

1. At your hearing you both told Senator Graham that you don't believe Robert Mueller would be involved in a "witch hunt," and expressed to me that you had sympathy for Donald Trump's calling it that.

You said, "the President is one that . . . has denied that there was any collusion and has been steadfast in that. . . . But I think it is understandable that if someone felt they were falsely accused, they would view an investigation as something like a witch hunt, where someone like you or me who does not know the facts, you know, might not use that term."

If you don't believe that Mr. Mueller would conduct an unfounded investigation, and if you know about the numbers of indictments and guilty pleas entered so far, why would you express sympathy for the President's insulting characterization of the Special Counsel's work?

RESPONSE: Neither Members of Congress, the public, nor I know all of the facts. That is why I believe that it is important that the Special Counsel be allowed to complete his investigation.

As I testified at the hearing, President Trump has repeatedly denied that there was collusion. It is understandable that someone who felt like he or she was being falsely accused would describe an investigation into him or her as a "witch hunt."

If confirmed, I will ensure that the Special Counsel finishes his work, and that all of the Department's investigative and prosecutorial decisions are based on the facts, the applicable law and policies, the admissible evidence, and the Principles of Federal Prosecution (Justice Manual § 9-27.000), and that they are made free of bias or inappropriate outside influence.

2. You mentioned that you had lunch with Deputy Attorney Rod Rosenstein and tried to sell him on your theory that a President can never obstruct justice if his actions are among those properly delegated to the Chief Executive, even if they have a corrupt intent. You described his reaction as "sphinx-like." Did you think that reaction was improper, given the fact that you were not a Department official and had no basis to be involved in the case? Are you implying he should have reacted more positively to you? Why?

RESPONSE: While your characterization of my position is not accurate, Deputy Attorney General Rosenstein’s response was entirely proper and commendable.

3. To explain why you provided unsolicited input to narrow the scope of Special Counsel Mueller’s investigation – efforts that you noted were resisted by Deputy Attorney General Rosenstein – you asserted that you also “weighed in repeatedly to complain about the idea of prosecuting Senator Menendez” when your “friend . . . was his defense counsel.”
 - a. Do you think it is proper for non-Department of Justice (DOJ) officials, including former Attorneys General, to weigh in to seek to influence law enforcement decisions, particularly when such decisions have a personal benefit?

RESPONSE: Yes. Whether the former official is paid or unpaid—and I was not paid in either of these instances—it can be appropriate and is not unusual for former Department officials to provide their views to current Department officials on pending matters through a variety of means, including personal conversations, legal memoranda, editorial articles, white papers, and law review articles.

- b. Should you be confirmed, how will you respond when others give you unsolicited input or seek to influence Special Counsel Mueller’s investigation?

RESPONSE: I will consider the views raised and proceed in an appropriate manner.

4. In the 19-page unsolicited memo addressed to Justice Department officials that you distributed to Donald Trump’s private and White House Attorneys, you argued that “Mueller should not be permitted to demand that the President submit to interrogation about alleged obstruction” and that “[i]t is inconceivable to me that the Department could accept Mueller’s interpretation of §1512(c)(2). It is untenable as a matter of law and cannot provide a legitimate basis for interrogating the President.” Despite making such strong and unequivocal assertions, you claimed you did not know many facts about Special Counsel Mueller’s investigation.

You testified at your hearing that you “do not recall getting any confidential information about the investigation.” Please review your emails, notes, and any other relevant materials. Having reviewed those materials, did you receive any confidential information about Special Counsel Mueller’s investigation? Do you recall getting any information whatsoever about the investigation from anyone? If you did, who gave it to you?

RESPONSE: I based my memo on information available to the public at the time through news media reports. To the best of my recollection, I did not receive any non-public or confidential information regarding the Special Counsel’s investigation.

5. At your hearing, you mentioned two meetings you had with Donald Trump.
- a. Are those two meetings that you mentioned at the hearing the only times you have met with Donald Trump? If not, when else have you met with him? Where?
 - b. Have you had any telephone conversations with Donald Trump? If so, where? When?
 - c. Please tell us the details of all of your meetings and telephone calls with the President, including the following:
 - Where were the meetings?
 - Who was present for the meetings and the phone calls?
 - How long did each meeting or phone call last?
 - What was discussed?
 - What promises, if any, did the President ask you to make?
 - Did the President ask for your loyalty?
 - Did he make any threats?
 - Do you have any notes from any of the meetings or phone calls?
 - Did anyone else in the meetings or on the phone calls take notes?

RESPONSE: As I described in my testimony, in summer 2017, I met briefly with the President at the White House. Prior to the meeting, and again during the meeting, I indicated that I was not in a position to represent him in connection with the Special Counsel's investigation. During the meeting, the President reiterated his public statements denying collusion and describing the allegations as politically motivated. I did not respond to those comments. The President also asked my opinion of the Special Counsel. As I testified, I explained that I had a longstanding personal and professional relationship with Special Counsel Mueller and advised the President that he was a person of significant experience and integrity.

On November 27, 2018, I met with the President and then-White House Counsel Emmet Flood to interview for the position of Attorney General. After the President offered me the job, the conversation turned to issues that could arise during the confirmation process. I recall mentioning that I had written a memorandum regarding a legal issue that could arise in the Special Counsel's investigation, and that the memorandum could result in questioning during my confirmation hearing. I do not remember exactly what I said, but I recall offering a brief, one-sentence description of the memorandum. The President did not comment on my memorandum. There was no discussion of the substance of the investigation. The President did not ask me my views about any aspect of the investigation, and he did not ask me about what I would do about anything in the investigation.

On December 5, 2018, following President Bush's funeral, President Trump asked me

to stop by the White House. We spoke about a variety of issues, and were joined for much of the discussion by then-White House Counsel Emmet Flood and Vice President Pence. We have also spoken via phone several times as part of the selection and nomination process for the Attorney General position. In all of these conversations, there was no discussion of the substance of the Special Counsel's investigation. The President has not asked me my views about any aspect of the investigation, and he has not asked me about what I would do about anything in the investigation.

The President has never sought any assurances, promises, or commitments from me of any kind, either express or implied, and I have not given him any, other than that I would run the Department of Justice with professionalism and integrity. The President has never asked for my "loyalty," nor has he made any "threats" to me.

6. The former head of the Office of Government Ethics, Walter Shaub, believes you were wrong in your testimony about government ethics rules. You testified that you would seek the opinion of ethics officials about whether or not you should recuse yourself from the Special Counsel's investigation, but that you would not necessarily follow it. You reserved the right to ignore their advice and decide for yourself. Mr. Shaub points to 5 C.F.R. 2635.502(c), which requires you to follow the guidance of your designated agency ethics official. Is Mr. Shaub correct? If not, why not?

RESPONSE No. Under the governing regulations, the Attorney General, as the head of an agency, makes the final decision on whether to recuse under 5 C.F.R. § 2635.502. *See* 5 C.F.R. § 2635.102 ("Any provision [of this part] that requires a determination, approval, or other action by the agency designee shall, where the conduct in issue is that of the agency head, be deemed to require that such determination, approval or action be made or taken by the agency head in consultation with the designated agency ethics official."). In addition, Mr. Shaub is citing a regulation, 5 C.F.R. § 2635.502(c), which applies only to appearance problems arising from a financial interest or a covered relationship. When other circumstances may raise a question regarding an employee's impartiality, the employee follows the procedures of section 2635.502, but the ultimate recusal decision is left to the employee himself. *See* 5 C.F.R. § 2635.502(a)(2).

7. In light of 5 C.F.R. 2635.502(c), will you commit to following the opinion of career ethics officials on whether or not you should recuse yourself from the Special Counsel's investigation?

RESPONSE: If confirmed, I will consult with the Department's career ethics officials, review the facts, and make a decision regarding my recusal from any matter in good faith based on the facts and applicable law and rules.

8. You testified at your hearing that you think former FBI Director James Comey "is an

extremely gifted man who has served the country with distinction in many roles,” although you disagreed with some actions he took in the investigation of Hillary Clinton’s emails. What do you think about the President’s insults of Mr. Comey? The President has referred to the former FBI Director as “Leakin’ James Comey,” called him a liar multiple times, a “bad guy,” a “slime ball,” “slippery,” and “shady.”

RESPONSE: As I stated during my hearing before the Committee, I agreed with the conclusions in Deputy Attorney General Rosenstein’s memorandum regarding former FBI Director Comey’s handling of the Clinton email investigation. As a general matter, I do not believe that it is the role of the Attorney General to comment on, criticize, or censor the President’s public statements.

9. At your hearing, you testified to Senator Cornyn that you “completely agree with” the memo Rod Rosenstein wrote justifying former FBI Director James Comey’s firing.

But do you believe Donald Trump really fired James Comey because he was too harsh on Hillary Clinton, or because he didn’t follow Department of Justice guidelines? Do you discount the other explanations Donald Trump has given – specifically, that he told Lester Holt of NBC on air that he fired Mr. Comey because of “this Russia thing,” and that he told the Russian Ambassador and Russian Foreign Minister in the Oval Office that he fired Mr. Comey, referring to the former FBI Director as “crazy, a real nut job,” and saying, “I faced great pressure because of Russia. That’s taken off.”?

RESPONSE: I do not know whether the President’s decision to remove former FBI Director Comey is an aspect of the Special Counsel’s ongoing investigation. If confirmed, it is possible that I will be supervising that investigation as Attorney General under applicable regulations. Accordingly, as a nominee, it would not be appropriate for me to answer your question.

10. You told Sen. Feinstein at your hearing that you would “[a]bsolutely” commit “to ensuring that Special Counsel Mueller is not terminated without good cause consistent with Department regulations.”

Would the President’s displeasure with a lawful action by Special Counsel Mueller taken in accordance with Justice Department regulations constitute good cause?

RESPONSE: No.

11. You told Senator Durbin at your hearing that there is nothing wrong with an Attorney General taking a policy position that happened to have a political benefit to it. But do you agree that an Attorney General should not formulate policies just BECAUSE they are politically advantageous?

RESPONSE: Yes.

12. At your hearing, you told Senator Whitehouse that with respect to finding out the sources of payments to Acting Attorney General Whitaker, “my first consideration always is where do you – where do you draw the line, and also what are the implications for other kinds of entities because, you know, there are membership groups and First Amendment interests . . .” Why is that your FIRST consideration? What about transparency and confidence in the system? Shouldn’t they be your first considerations in addressing conflicts of interest by the nation’s top law enforcement official?

RESPONSE: The public’s interest in “transparency and confidence in the system” are important considerations when considering conflict-of-interest issues, as are American’s constitutional rights, including those guaranteed by the First Amendment.

13. I asked you at your hearing whether you believe birthright citizenship is guaranteed by the Fourteenth Amendment. You said you had not looked at the issue and that you would ask the Justice Department’s Office of Legal Counsel to advise you on “whether it is something that is appropriate for legislation.”

In 1995, Walter Dellinger, then-Assistant Attorney General for the Office of Legal Counsel testified in the House Judiciary Subcommittees on Immigration and Claims and on the Constitution that to change birthright citizenship the Constitution would have to be amended. See <https://www.justice.gov/file/20136/download>.

Now that you have had a chance to look at the Constitution, and read Mr. Dellinger’s testimony, do you believe that birthright citizenship is guaranteed by the 14th Amendment?

RESPONSE: As I said at the hearing, I have not had an opportunity to study the issues raised by this question in detail and therefore do not have an opinion on the matter at this time. If confirmed, and if the issue arose, I would consult with the Office of Legal Counsel and others before forming my own conclusion.

14. When you were Attorney General for President George H.W. Bush, you recommended that he pardon people implicated in the Iran-Contra scandal. You told the Miller Center about it, saying, “I went over and told the President I thought he should not only pardon Caspar Weinberger, but while he was at it, he should pardon about five others. I favored the broadest — There were some people arguing just for Weinberger, and I said, ‘No, in for a penny, in for a pound.’ Elliot[t] Abrams was one I felt had been very unjustly treated.”

President Bush issued the pardons you recommended, and they were widely viewed as having the effect of protecting the President and others from having to testify in any related cases. At the time the pardons were issued, Independent Counsel Lawrence Walsh, criticized them, and said, “The Iran-Contra cover-up, which has continued for more than six years, has now been completed.”

- a. Why did you recommend the Iran-Contra pardons?

RESPONSE: President George H.W. Bush issued an eloquent proclamation explaining why he believed those pardons were required by “honor, decency, and fairness.” Among his reasons were that the United States had just won the Cold War and the individuals he pardoned had long and distinguished careers in that global effort. As President Bush explained, the individuals he pardoned had four common denominators: (1) they acted out of patriotism; (2) they did not seek or obtain any profit; (3) each had a long record of distinguished service; and (4) they had already paid a price grossly disproportionate to any misdeeds.

- b. If confirmed, will you recommend that Donald Trump pardon any of the people who have already been convicted or have pleaded guilty under Special Counsel Robert Mueller’s investigation or in related cases?

RESPONSE: The decision to issue a pardon is a highly individualized determination that takes into account myriad factors. Depending on the facts and circumstances, the decision can take into account the seriousness of the crime, remorse expressed by the individual, any mitigating factors involved in the crime, harm to victims, evidence of rehabilitation, the nature and severity of the sentence imposed, and countless other factors. If confirmed, I would advise the President to carefully consider these and other appropriate factors in exercising his pardon power.

- c. Would you agree that pardoning anyone who is subject to a current indictment or will be subject to a future indictment by the Special Counsel could be seen as undermining the Special Counsel’s investigation and an abuse of the President’s pardon power?

RESPONSE: To my knowledge, the President has not pardoned anyone subject to a current or future indictment in connection with the Special Counsel’s investigation. As the nominee for Attorney General, I do not believe that I should address hypotheticals that may relate to the ongoing investigation.

- d. Do you believe it is proper for the President to use his pardon power to pardon his family members or any associates, businesses, foundations, campaigns, or organizations in which he has a personal interest?

RESPONSE: The President has an obligation to take care that the laws be faithfully executed and to exercise his authority in the best interests of the country.

Please also see my answer to Question 14(b) above.

- e. Will you recommend Donald Trump pardon any of the people convicted, indicted, or under investigation by Special Counsel Robert Mueller or any of the related cases in other districts that relate to President Trump's business, foundation, campaign, inauguration, administration, family, or associates?

RESPONSE: I am not familiar with the facts and circumstances of the cases of those who have been convicted in connection with those investigations apart from media reports. I am not in a position to speculate about how I might advise the President in such circumstances.

- 15. At your hearing, you stated, "I will vigorously enforce the Voting Rights Act." The Trump administration has not brought a single lawsuit to enforce the Voting Rights Act. Moreover, the administration has actually withdrawn the Justice Department's claim against a Texas voter ID law that a federal district court judge found was enacted with discriminatory intent and reversed its position in a case by defending Ohio's voter purge efforts that Justice Sotomayor recognized "disproportionately affected minority, low-income, disabled, and veteran voters." In fact, career attorneys in the Civil Rights Division did not sign the amicus brief defending the voter purge efforts as they did the prior brief.

- a. Since you agreed that you would "vigorously enforce the Voting Rights Act," should you be confirmed, will you commit to asking the Voting Rights Section of the Civil Rights Division to present to you all the instances where the Justice Department has been asked to initiate Section 2 claims under the Voting Rights Act and allowing the career attorneys in the Voting Rights Section to bring claims where appropriate?

RESPONSE: If confirmed, I am firmly committed to protecting and upholding the civil rights and voting rights of all Americans. As with all matters, any decisions regarding whether to bring Section 2 enforcement actions will be based on a thorough analysis of the facts and the governing law.

- b. Similarly, if confirmed, will you commit to investigating, evaluating, and reviewing those states and jurisdictions—including any that were formerly covered under the Voting Rights Act's preclearance system—that have passed voting laws that tend to hinder voter turnout to determine if they are, in fact, discriminatory, and to bring Section 2 claims under the Voting Rights Act for any that are found to have a discriminatory impact or purpose?

RESPONSE: If confirmed, I am firmly committed to protecting and upholding the civil rights and voting rights of all Americans. As with all matters, any decisions regarding whether to bring Section 2 enforcement actions will be based on a thorough analysis of the facts and the governing law.

- c. Should you be confirmed, will you commit to working with Congress to support a fix to Section 5 of the Voting Rights Act, which was nullified by the Supreme Court in *Shelby County v. Holder*?

RESPONSE: If confirmed, I will be pleased to work with Congress regarding legislation that supports the Department's mission and priorities.

- d. If confirmed, will you commit to reviewing the decisions by the Justice Department to switch positions in the following two cases to determine whether customary processes for changing the government's position in a case were followed and what, if any, improper influences impacted those decisions? The two cases are: (1) *Veasey v. Abbott*, where the Department withdrew its claim that a Texas voter ID law was enacted with a discriminatory intent, despite a finding of discriminatory intent by a federal district court, and (2) *Husted v. A. Philip Randolph Institute*, where the Department reversed its position by defending Ohio's voter purge efforts under the National Voter Registration Act, even though Justice Sotomayor recognized such efforts "disproportionately affected minority, low-income, disabled, and veteran voters."

RESPONSE: If confirmed, I am firmly committed to protecting and upholding the civil rights and voting rights of all Americans. I understand from publicly available information that *Veasey v. Abbott* did not involve a change in legal position by the Department. Rather, it involved a change in law by the Texas Legislature. In particular, in 2017 the Texas Legislature amended the challenged voter ID law to largely incorporate the interim remedy that the federal courts had put in place for the 2016 election. In its most recent decision in this case in 2018, the Fifth Circuit agreed with the Department that this amendment was sufficient to remedy the alleged defects in the original law.

I also understand from publicly available information that the Supreme Court upheld the Department's position in *Husted v. A. Philip Randolph Institute*.

16. After the Supreme Court's decision in *Shelby County v. Holder*, many states passed voting restriction laws based on claims of going after voter fraud. But a 2014 study found a total of 31 credible allegations of voter fraud between 2000 and 2014 out of more than 1 billion votes cast.
- a. Are you aware of any credible study that confirms that there was massive voter fraud, not election fraud, in either the 2016 or 2018 election?
- b. Do you agree that voter fraud is incredibly rare in the context of the number of votes cast?

RESPONSE: I have not studied this issue and therefore have no basis to reach a conclusion on it.

17. In a 2017 report entitled *The Civil Rights Division's Pattern and Practice Police Reform Work: 1994-Present*, the Civil Rights Division explained that “its experience demonstrates that court-enforceable consent decrees are most effective in ensuring accountability, transparency in implementation, and flexibility for accomplishing complex institutional reforms. Federal court oversight is often critical to address broad and deeply entrenched problems and to ensure the credibility of the reform agreement’s mandates.” But last November, just before leaving the Department, former Attorney General Jeff Sessions issued a memo that drastically limited use of consent decrees to bring police departments into compliance with the Constitution. At your hearing, you stated that you agreed with Mr. Sessions’s memo and questioned whether the policy changes in the memo would make it tougher to enter into consent decrees for pattern or practice violations.

- a. Do you agree with the Civil Rights Division’s report that based on its experience, “court-enforceable consent decrees are most effective” in accomplishing complex institutional reforms in a transparent way that ensures accountability?

RESPONSE: I am not familiar with this study and, beyond what I have seen reported in the media, have no knowledge of the facts and circumstances surrounding these issues. As a result, I am not in a position to comment on this matter.

- b. Despite the Civil Rights Division’s finding regarding the historical effectiveness of consent decrees, Mr. Sessions’s memo warns that “the Department should exercise special caution before entering into a consent decree with a state or local governmental entity.” Among other changes, it requires any consent decrees to be approved not only by the Assistant Attorney General for Civil Rights or the U.S. Attorney, but also by the Deputy Attorney General or the Associate Attorney General. Would you now agree that that Mr. Sessions’s memo imposes more stringent requirements for the Civil Rights Division to pursue consent decrees, making it harder to enter into consent decrees for pattern or practice violations? If not, please explain.

RESPONSE: Please see my response to Question 18(a) above.

- c. At your hearing, you recognized that “the Department has a role in pattern and practice violations.” Please specify what role you believe the Civil Rights Division should play in pattern or practice violations.

RESPONSE: In its discharge of its legal obligations, the Department should investigate all allegations that fall within the Department’s jurisdiction. If confirmed, I would work vigorously to uphold and enforce the federal laws within the Civil Rights Division’s jurisdiction.

18. Former Attorney General Sessions eliminated a highly effective program handled by the Office of Community Oriented Policing Services—also known as the COPS Office—that allowed local police departments to voluntarily work with Justice Department officials to

improve trust between police and the public without court supervision and consent decrees. Former head of the Justice Department's Civil Rights Division Vanita Gupta criticized this decision, saying "[e]nding programs that help build trust between police and the communities they serve will only hurt public safety."

Under the Collaborative Reform Initiative for Technical Assistance program, local police departments involved in controversial incidents, such as police-involved shootings, would ask the COPS Office to investigate and issue public reports with recommendations.

- a. If confirmed, will you reinstate this program?
- b. If confirmed, what steps will you take to support and promote community-oriented policing?

RESPONSE: As I am not currently at the Department, I am not familiar with the details of this particular program. If confirmed, I look forward to learning more about this issue. It is my understanding that the COPS Office and its program efforts continue to promote police and community engagement promoting responsibility and accountability. Working with law enforcement agencies to promote effective crime fighting, combined with a strong community engagement partnership, is a promising approach and creates mutual benefits for the law enforcement agencies and the communities being served.

19. The Washington Post published an article on January 3, 2019 that reported that a "recent internal Justice Department memo directed senior civil rights officials to examine how decades-old 'disparate impact' regulations might be changed or removed in their areas of expertise, and what the impact might be." In 2015, the Supreme Court, in *Texas Department of Housing and Community Affairs v. The Inclusive Communities Project, Inc.*, affirmed that the Fair Housing Act protects against discrimination based on a disparate impact.

- a. Do you believe that there are actions that can have a discriminatory impact regardless of intent? If so, how do you propose such actions should be addressed or remedied?
- b. Do you believe that a valid way to demonstrate discrimination is through a disparate impact analysis?
- c. If you are confirmed, will you continue this reported DOJ effort to change or remove disparate impact regulations related to enforcing civil rights laws?

RESPONSE: As I am not currently at the Department, I have no knowledge of the facts and circumstances surrounding these issues beyond what I have seen reported in the news media and, therefore, am not in a position to comment on this specific matter. I note that Congress has enacted statutes that expressly impose disparate-impact liability, and the Supreme Court has recognized that other statutes also

impose disparate-impact liability. The Department is charged with enforcing all of the laws that Congress has enacted where warranted by the facts, the law, and Department policies and priorities. As with all matters, any decision to pursue an enforcement action based upon disparate-impact liability will be based upon a thorough analysis of the law, the facts, and Department policies and priorities.

20. Last July, the Justice and Education Departments rescinded policy guidelines promoting diversity in education. This was in the context of a lawsuit brought by a conservative organization to challenge Harvard's diversity admissions policies. When you worked for the Reagan administration you co-wrote a memo arguing that you "want[ed] a color blind society" and did not "embrace the kind of social engineering that calls for quotas, preferential hiring and the other approaches that do nothing but aim discrimination at other racial groups."

- a. Is it your view that policies that promote diversity are the same as discrimination against other racial groups?
- b. If confirmed, will you commit to not intervening in the Harvard lawsuit or others like it?

RESPONSE: In my written testimony to the Committee, I emphasized the benefits of a diverse society. Specifically, I stated: "We are a pluralistic and diverse community and becoming ever more so. That is, of course, a good thing – indeed, it is part of our collective American identity." I do not believe that policies that promote diversity must necessarily result in discrimination against other groups. It is my understanding that the lawsuit referenced in your question is currently pending, and that the Department of Justice has filed a statement of interest. In light of this, it would not be appropriate for me to comment further.

21. The Justice Department includes the Office on Violence Against Women (OVW), which currently administers 25 grant programs authorized by the Violence Against Women Act (VAWA) and subsequent legislation. VAWA protects and provides services to survivors of dating violence, domestic violence, sexual violence, and stalking – four issues that impact people of all genders and sexual orientations. The law also prohibits discrimination on the "basis of actual or perceived race, color, religion, national origin, sex, gender identity..., sexual orientation, or disability."

- a. Do you believe that VAWA's protections should be extended to LGBTQ survivors of violence more fully than the current level?

RESPONSE: I have not studied this issue, however, it is my understanding that the grant programs administered by the Office on Violence Against Women (OVW) improve responses to sexual assault, domestic violence, dating violence, and stalking against all victims, including providing services for all victims. The 2013

reauthorization of VAWA, in addition to enacting the nondiscrimination provision, expanded VAWA's definition of underserved populations to include populations who face barriers in accessing services because of sexual orientation and gender identity. If confirmed, I look forward to learning more about this issue and the needs of victims and the work of the Department.

- b. Should you be confirmed, how will you ensure that LGBTQ survivors of violence are included and represented in the services of OVW?

RESPONSE: If I am confirmed, I will enforce all federal laws, including the 2013 reauthorization of VAWA. Although I am not currently at the Department, it is my understanding that programs funded by OVW have always served all victims, and VAWA contains provisions specifically addressing the provision of services to victims underserved because of sexual orientation and gender identity. If I am confirmed, I will ensure that VAWA programs, and the funds made available for them by Congress, are employed in the most effective manner possible in furtherance of their stated missions.

22. Recent surveys of law enforcement officials, court officials, legal service providers, and victim advocates have found that fear of immigration enforcement is a significant barrier for immigrant survivors of sexual assault and domestic violence to seek help from law enforcement and the legal system. The immigration provisions of the Violence Against Women Act were enacted to address how the immigration process can be used by domestic violence, sexual assault, dating violence and stalking abusers to further perpetrate abuse and maintain control over their victims.

If you are confirmed, what steps would you take to support access for vulnerable victims to VAWA's protections for non-citizen victims of domestic violence, sexual assault, dating violence, and stalking?

RESPONSE: It is my understanding that the Department of Homeland Security is responsible for implementing VAWA's immigration protections for victims. However, the Department's Office on Violence Against Women (OVW) administers VAWA's grant programs, which include a number of provisions designed to ensure that services reach non-citizen victims of domestic violence, sexual assault, dating violence, and stalking. If I am confirmed, I will enforce all federal laws, including VAWA, and work to ensure that VAWA programs are implemented in the most effective manner possible in furtherance of their stated missions.

23. Native Americans experience higher rates of domestic violence and sexual assault. According to a 2016 National Institute of Justice study, 56.1% of American Indian and Alaska Native women have experienced sexual violence in their lifetimes.

Should you be confirmed, what steps will you take to ensure that the Office on Violence Against Women addresses the needs of Native Hawaiian, Alaska Natives, and American Indian survivors of domestic violence and sexual assault?

RESPONSE: If I am confirmed, I will continue to support the Office on Violence Against Women's (OVW) priority of addressing the needs of American Indian, Alaska Native, and Native Hawaiian victims. It is my understanding that OVW administers multiple grant programs to help ensure that Native Hawaiian, Alaska Native, and American Indian victims of these crimes receive needed services and that offenders are held accountable. I look forward to learning more about this important work.

24. When you left the Reagan Administration's Domestic Policy Council, you talked derisively about women's issues, calling feminist agenda items "pernicious" and saying, "I think the whole label women's issues is a crock."
- a. Do you still believe issues of equality for women in the workplace and elsewhere are a "crock"?
 - b. Do you believe women are discriminated against?
 - c. What is your view of the "Me Too" movement?
 - d. What do you think the role of the Justice Department should be in ensuring equality for women, and ensuring harassment-free workplaces and industries?

RESPONSE: As the father of three daughters, all of whom are practicing attorneys, I have always believed strongly in the issue of equality for women in the workplace and elsewhere. It is an unfortunate fact that women historically have been discriminated against in a number of areas, including the workplace. Although we have made great strides as a society over the years, work remains to be done, as the "Me Too" movement and others have dramatically demonstrated. If confirmed, I will continue the Department of Justice's important work enforcing the federal civil rights laws, including with respect to sex-based discrimination.

25. At your hearing, Sen. Blumenthal asked you if you would defend *Roe v. Wade* if it were challenged. You responded, without answering his question, stating: "Would I defend *Roe v. Wade*? I mean, usually the way this would come up would be a State regulation of some sort and whether it is permissible under *Roe v. Wade*. And I would hope that the SG would make whatever arguments are necessary to address that." You testified in 1992 that you believed the Supreme Court's decision in *Planned Parenthood v. Casey* "didn't go far enough" in allowing restrictions on abortions and that "*Roe v. Wade* should be overruled." Currently there are efforts to effectively gut *Roe* by narrowing it. For example, in last March, Mississippi enacted one of the most restrictive abortion laws in the country – a ban on abortions after 15 weeks. In striking down the law, the federal judge observed: "The State chose to pass a law it knew was unconstitutional to endorse a decades-long campaign, fueled by national interest groups, to ask the Supreme Court to overturn *Roe v.*

Wade.”

Should you be confirmed, if a case came before the Supreme Court or a lower court that presented the possibility of narrowing *Roe v. Wade*, would you have the Solicitor General or a DOJ component weigh in and argue for narrowing the scope of *Roe*, even if the case did not involve a federal statute or program?

RESPONSE: As I stated at the hearing, I would respond to any such case by consulting with the Solicitor General and other relevant members of the Executive Branch to determine our position based on the facts of the case, the governing law, and the federal government’s interests.

26. The Justice Department has the responsibility for enforcing the Americans with Disabilities Act (ADA), one of the most successful civil rights laws passed in the United States. It has integrated people with disabilities into American life in ways they had not been before.

Last Congress, the House of Representatives passed H.R. 620, the “ADA Education and Reform Act of 2017,” which would remove most incentives for businesses to accommodate people with disabilities, and reward businesses for ignoring their responsibilities under the law. It was opposed by disability rights groups, and seen as a giant step backward for the country.

- a. Do you support these restrictions on the ADA’s protections?

RESPONSE: I am not familiar with the details of that legislation. If confirmed, I can commit to working with Congress regarding legislation that supports the Department’s mission and priorities.

- b. Do you believe the ADA goes too far in protecting the rights of people with disabilities?

RESPONSE: If confirmed, I will enforce vigorously all federal civil rights laws enacted by Congress, including the ADA.

- c. If confirmed, will you allow the Disability Rights Section of the Civil Rights Division to robustly enforce the ADA?

RESPONSE: Please see my response to Question 26(b) above.

27. You criticized former Acting Attorney General Sally Yates for refusing to defend Donald Trump’s Muslim Ban because she did not think it was constitutional. But at your 1991 confirmation hearing, you told Senator Paul Simon that you would do the same. He asked you, “...would you automatically defend [a statute] even if you believe it is unconstitutional?” You responded, “No. In fact, I have told agencies I wouldn’t defend regulations, not only if they raise constitutional questions, but if I don’t think the regulation

is consistent with Congress' intent. If the statute requires a certain action and if a regulation in my view is not consistent with the statute, then there is a legal problem with it."

Why did you criticize Sally Yates for doing what you told Senator Simon you would do?

RESPONSE: Your question compares commentary addressing two very different scenarios. As I explained in my op-ed, acting Attorney General Yates refused to defend an executive order signed by the President. If one or more of the political branches, such as the president or Congress, take an action that is reasonably defensible under the law, such as by issuing an executive order or passing a statute, then I believe that action is entitled to considerable weight and that the Department of Justice generally has an obligation to defend it in good faith. A different situation is presented by a regulation that is inconsistent with an underlying statute. In such a scenario, a federal agency arguably has taken an action that is inconsistent with the will of two political branches – both the president and Congress – as expressed in a statute. As I explained to Senator Simon, on those facts, the Department of Justice may be justified in refusing to defend the regulation based on that inconsistency.

28. More than a year after the 2016 election, you told the New York Times, "I have long believed that the predicate for investigating the uranium deal, as well as the foundation, is far stronger than any basis for investigating so-called 'collusion.'" Both Senator Leahy and Senator Blumenthal asked you about this at your hearing, but I found your answers unclear.
- a. Can you explain clearly and succinctly exactly what you believed the predicate for investigating the "uranium deal" and the Clinton Foundation were?
 - b. What evidence did you have to support your contention?
 - c. Where did you get that evidence?
 - d. What evidence supporting an investigation into the Trump campaign's possible collusion with Russia were you comparing it to?
 - e. What was your standard for comparison?
 - f. Now that you're aware of all of the evidence of contacts and cooperation between Russian officials (many in Russian intelligence) and high-ranking officials of the Trump campaign (Paul Manafort, Jared Kushner, Donald Trump, Jr., and Rick Gates, to name a few), has your assessment of the strength of the predicate for investigating possible conspiracy changed?

RESPONSE: My November 2017 comments to the New York Times were based on

media reporting regarding the Uranium One case and the Special Counsel’s investigation. I did not have any information regarding the actual predicates for either matter. As I explained during my hearing before the Committee, the point I was attempting to make in my comments was that the Department of Justice should apply the rules for commencing investigations in a fair and evenhanded manner. Politics should never be part of the analysis of whether to launch a particular criminal investigation or prosecution. I am not aware of the extent to which the Uranium One case has been pursued by the Department of Justice, but as I noted during my hearing, it is my understanding from public reporting that U.S. Attorney John Huber may be looking into the matter.

As I stated during my hearing, I believe that it is in the best interest of everyone, the president, Congress, and the American people, that the investigation into Russian attempts to interfere in the 2016 election be resolved by allowing the Special Counsel to complete his work.

29. At your hearing, you promised Senator Graham you would “look in to see what happened in 2016.”
- a. What exactly have you agreed to investigate?
 - b. How will it be different from any existing investigations into what the FBI was investigating related to the 2016 elections?
 - c. How will it be different from the DOJ Inspector General’s investigation into “Various Actions by the Federal Bureau of Investigation and the Department of Justice in Advance of the 2016 Election,” on which a report was issued in June 2018?

RESPONSE: I did not commit to conduct any investigations; I promised only to look into issues of concern to the Chairman and noted that an investigation may be underway right now.

In the hearing, Chairman Graham raised the issue of numerous inappropriate text messages exchanged by two FBI employees that appear to document personal or political bias for Secretary Clinton and prejudice against President Trump. Chairman Graham also spoke to the FBI’s potential use of the Steele-authored “dossier” as a basis to obtain a Foreign Intelligence Surveillance Act (FISA) warrant from the FISA Court. FBI investigations must be based on the law and the facts, and should be conducted without regard to political favoritism. If confirmed, I will seek to better understand what internal reviews of these and related matters were undertaken, including any investigations conducted by the Inspector General, United States Attorney John Huber, and the Department’s ethics and professional responsibility offices.

30. You also agreed at your hearing to look into a FISA warrant issued in relation to an investigation into Carter Page.

- a. What exactly have you agreed to investigate?
- b. What evidence do you have to doubt the integrity of a decision made by the Foreign Intelligence Surveillance Court (FISC)?
- c. Do you think it is wise to launch a politically-motivated investigation into decisions by the FISC?

RESPONSE: Please see my response to Question 29 above.

31. If Donald Trump declares a national emergency based on the crisis he has manufactured at the southern U.S. border, will you defend it, should you be confirmed?

RESPONSE: The legality of any hypothetical declaration of national emergency would depend on the specific facts and circumstances at the time. I have no knowledge of whether a national emergency will be declared nor of the facts and circumstances relevant to such a declaration beyond what I have seen reported in the news media and, therefore, am not in a position to comment on this matter.

32. When I asked you at your hearing whether you agreed with former Attorney General Sessions's zero-tolerance policy that resulted in the separation of children from their parents, you replied that you "would have to see what the basis was for those decisions" to determine whether you agreed with the policy and would continue them if you were confirmed.

You then implied that family separations were no longer a problem because the Department of Homeland Security was currently not referring migrant families for prosecution and therefore, the Justice Department's policy of prosecuting all referrals for illegal entry under its zero-tolerance policy would not result in separating families.

- a. What more information do you need to know about the zero-tolerance policy that resulted in the separation of more than 2,000 children from their parents in order to determine whether you agree with that policy and whether you would continue it, if confirmed?

RESPONSE: As a private citizen, my knowledge of the Zero Tolerance Initiative is based on what is publicly available and what has been reported by news media.

Prior to making any judgment on the policy, I would need to review relevant statistics and data and understand other relevant factors and considerations, as well as review any developments in immigration law. I also note that President Trump's June 20, 2018 Executive Order directed that families should be kept together, to the extent practicable, during the pendency of any criminal or immigration matters stemming from an alien's entry.

- b. If the Department of Homeland Security changed course again and referred families for prosecution of illegal entry, would you continue the zero tolerance policy, knowing that it would result in children being separated from their parents?

RESPONSE: President Trump's June 20, 2018 Executive Order directed that families should be kept together, to the extent practicable, during the pendency of any criminal or immigration matters stemming from an alien's entry. If confirmed, I will evaluate this policy and other directives to determine how best to continue enforcement of the United States' immigration laws while balancing the Department's other priorities and resources.

- c. Do you believe that the zero-tolerance policy of prosecuting *all* Department of Homeland Security referrals of illegal reentry is an appropriate use of the Justice Department's limited resources? If yes, will you agree to provide the Senate Judiciary Committee a review of the impact of this policy on federal prosecutions across the Justice Department within 120 days, should you be confirmed?

RESPONSE: As I stated in my testimony, I do not know all the details of the Zero Tolerance Initiative and its application to family units, but my understanding is that the Department of Homeland Security makes the decision as to whom they apprehend, whom they refer for criminal prosecution, and whom they will hold—subject to applicable law. President Trump's June 20, 2018 Executive Order directed that families should be kept together, to the extent practicable, during the pendency of any criminal or immigration matters stemming from an alien's entry. If confirmed, I will evaluate this policy and other directives to determine how best to continue enforcement of the United States' immigration laws while balancing the Department's other priorities and resources.

- d. If confirmed, will you continue to implement former Attorney General Sessions's April 11, 2017 memo that directs federal prosecutors to highly prioritize the enforcement of immigration laws?

RESPONSE: The Administration has deemed enforcement of immigration-related offenses a priority. If confirmed, I will evaluate this memo and other directives to determine how best to prioritize immigration enforcement while balancing the Department's other

priorities and resources.

33. Former Attorney General Sessions took the unusual action of intervening in an individual asylum application and deciding the case himself as a way of making policy.

Mr. Sessions used the case *Matter of A-B* to overturn legal precedent and longstanding policies by significantly restricting the ability of victims of domestic violence and gang violence to obtain asylum relief. A court eventually struck down many of these new policies and ordered the government to bring prior claimants back to the United States who have already been deported so they can pursue their asylum claims.

- a. Should you be confirmed, will you comply with these court orders in a prompt manner?

RESPONSE: Because this issue is in active litigation, it would not be appropriate for me to comment on it specifically. But the Department of course complies with court orders and will continue to do so if I am confirmed.

- b. Do you think it is appropriate for an attorney general to intervene in immigration cases in order to set policies that narrow asylum protections that immigration judges have recognized were established by Congress?

RESPONSE: Pursuant to 8 C.F.R. § 1003.1(h)(1)(i) (2018), the Attorney General may direct the Board of Immigration Appeals to refer cases to him or her for review of its decisions. Attorneys General of both parties have exercised this authority for decades. Regarding any specific referred cases, it is my understanding that these issues are the subject of ongoing litigation. While I am not involved in that litigation, it is the longstanding policy of the Department of Justice to not comment on pending matters, and thus it would not be appropriate for me to comment on those matters.

34. As you know, U.S. Immigration Courts operate as a component of the Department of Justice, which creates the possibility that Immigration Judges can be subjected to inappropriate political pressure. Moreover, former Attorney General Jeff Sessions decided to effectively subject Immigration Judges to quotas, which may make it difficult for these judges to review each case fully and fairly.

What is your view of how Immigration Judges ought to be categorized and treated?

RESPONSE: The Immigration and Nationality Act provides that an “immigration judge shall be subject to such supervision and shall perform such duties as the Attorney General shall prescribe, but shall not be employed by the Immigration and Naturalization Service.” Beyond that, I have not studied the issues raised by this question in detail and therefore do not have an opinion on the matter. I am committed to ensuring that immigration judges are supervised appropriately to ensure effective and efficient processing of immigration cases consistent with due process and other

applicable law.

35. When Sen. Ernst asked you at your hearing about legislation that requires Immigration and Customs Enforcement to detain an undocumented person who is charged with a crime resulting in death or serious injury, you stated that it “sounds like a very commonsensical bill” and “something that [you] would certainly be inclined to support.”

- a. When Donald Trump began separating families at the border he created hundreds of Unaccompanied Alien Children (UAC). These children, including infants, who did not speak English, were expected to represent themselves in court. Last year, I introduced, together with Senator Feinstein, the Fair Day in Court for Kids Act. It would require that legal counsel be provided for every Unaccompanied Alien Child. Studies show that when unaccompanied minors are represented by a lawyer, they are consistently more likely to show up for immigration court – in fact, a 2014 study found that 92.5% of children with counsel attended immigration proceedings. Do you agree that providing children with legal counsel so that a child does not have to appear before a judge alone is commonsensical? Is that something that you would be inclined to support?

RESPONSE: I am not yet familiar with the current specific operations of immigration courts in cases involving minors, but it is my general understanding that all respondents in immigration proceedings, including minors, are afforded protections established by the Immigration and Nationality Act and applicable regulations. My understanding is that, under federal law, 8 U.S.C. § 1362, all respondents have a right to counsel in immigration proceedings at no expense to the government. I understand that the issue of counsel for minors at government expense, including for both accompanied and unaccompanied alien children, remains in litigation. While I am not involved in that litigation, it is the longstanding policy of the Department of Justice to not comment on pending matters, and thus it would not be appropriate for me to comment on this matter.

- b. Last year I introduced the Immigration Courts Improvement Act, which was endorsed by the National Association of Immigration Judges. The bill would eliminate the use of numerical completion goals as a measurement of how judges are doing their job and would insulate them from the Attorney General’s control, treating them like independent decisionmakers rather than as DOJ attorneys. Do you agree that allowing Immigration Judges to act as independent decisionmakers and insulating them from inappropriate political pressure is commonsensical? Is that something that you would be inclined to support?

RESPONSE: By regulation, immigration judges exercise “independent judgment and discretion.” Additionally, by regulation, they are required to resolve cases in a “timely and impartial manner.” I am not familiar with the details of the legislation discussed above. If confirmed, I can commit to working with the Committee regarding legislation that supports the Department’s mission and

priorities.

36. In February 2018, the New York Times reported that former Attorney General Sessions had effectively shut down the Justice Department's Office for Access to Justice, even though he cannot officially close the office without notifying Congress. The purpose of that office is to promote fairness in the justice system and increase access to legal resources for indigent litigants.

- a. If confirmed, what steps will you take to ensure that the justice system is fair for all Americans, regardless of whether they are poor or rich and regardless of their racial or ethnic background?

RESPONSE: At my hearing, I committed to pursuing a justice system that is fair to all Americans. As I stated, it is the Attorney General's responsibility to enforce the law evenhandedly and with integrity. If confirmed, I will take whatever steps are available to me to ensure that our nation's laws are enforced fairly and impartially and that all Americans are treated equally under the law, without regard for economic status or racial or ethnic background.

- b. Will you commit to reinstating the Office for Access to Justice by reallocating resources to this office?

RESPONSE: The Office for Access to Justice did not exist when I was last at the Department. I believe its mission to help the justice system deliver outcomes that are fair and accessible to all is important, and I can commit that, if confirmed, I will ensure that this mission is continued.

37. In 2006, you wrote a letter to the Speaker of the House of the Massachusetts legislature to urge increased funding for the Massachusetts Legal Assistance Corporation. Donald Trump has submitted two budgets in a row proposing to defund the Legal Services Corporation. Do you agree with the President's proposal to defund the Legal Services Corporation?

RESPONSE: I understand the work of the Legal Services Corporation (LSC) and the role that they have played within the legal framework of the country. While LSC is not part of the Department's Budget, and I am not familiar with their current budget request, if confirmed, I look forward to working with Congress and the Administration on resource allocations, needs, and funding proposals.

38. The Department of Justice and its Office of Juvenile Justice and Delinquency Prevention enforce the Juvenile Justice and Delinquency Prevention Act that was passed in December 2018. The law bans states from holding children in adult jails even if they have been charged with adult crimes.

Is it still your view that chronic or serious juvenile offenders should be treated like an adult and tracked through the traditional criminal justice system? If so, if confirmed,

how would you implement the Juvenile Justice and Delinquency Prevention Act?

RESPONSE: If confirmed, I would ensure that the Juvenile Justice Reform Act of 2018 is effectively and appropriately implemented according to its terms. As I have said throughout my career, early intervention—which includes mentorship, research-based programs, and capacity-building of mentor organizations and sponsors—is critical to keeping juveniles on the right path, and the Department supports critical work in this area. But those who break the law – especially those who commit serious violent crimes – must be held accountable as provided by law.

39. In a report you issued as Attorney General laying out 24 recommendations to combat violent crime, you called it a “flawed notion[]” that “success in reforming inmates can be measured by their behavior in prison.” Is it still your view? Do you disagree with the approach taken by the First Step Act to expand the use of “good time” credits?

RESPONSE: When I was in Department leadership, the crime rate had quintupled over the preceding 30 years and peaked in 1992. My comments as Attorney General reflected that context. I believe “good time” credits are helpful in ensuring appropriate behavior in prison. Regardless, if confirmed, I would faithfully enforce and implement the FIRST STEP Act and the procedures by which offenders might be eligible for earned good time credits.

40. The Tax Cuts and Jobs Act eliminated the income tax deduction for moving expenses for most people. Accordingly, reimbursements for moving expenses received by federal employees, such as FBI Special Agents who are required to relocate in connection with their service, are now considered income subject to taxation by the IRS. This can result in extra withholding and higher tax liability for government employees.

While the General Services Administration has taken action to give clear authorization for agencies to use the Withholding Tax Allowance (WTA) and Relocation Income Tax Allowance (RITA) to reimburse most federal employees for their extra tax liability, we are still hearing questions from Justice Department employees about whether the Department is doing everything in its power to offset the increased tax liability being faced by employees.

Given that many Justice Department employees are required to relocate in connection with their work, will you commit to using the WTA and RITA, and taking any other actions within your power, to provide timely reimbursements for employees who face increased tax liability as a result of reimbursed moving expenses?

RESPONSE: If confirmed, I commit to using the WTA and RITA authorities to the extent permitted by law and consistent with the Department’s budgetary limitations. I understand the Department is currently making good use of these authorities.

41. In October 2018, The Washington Post published an article asserting that “Attorney

General Jeff Sessions and Solicitor General Noel Francisco have repeatedly gone outside the usual appellate process to get issues such as the travel ban, immigration and greater authority for top officials before the justices.” The article argued that they aggressively bypassed the normal process of appealing lower court decisions to circuit courts, and tried to short-circuit the judicial process on the Trump administration’s “signature issues by seeking extraordinary relief from a refortified conservative Supreme Court.”

- a. Do you believe this strategy is proper? Do you think such efforts to repeatedly bypass the normal judicial processes may erode public confidence in the judicial system?
- b. Should you be confirmed, will you review the Trump administration’s efforts to bypass the appellate courts and jump directly to the Supreme Court and reconsider this strategy?

RESPONSE: The proper litigation strategy in any case depends on its facts and the applicable law. The Supreme Court’s rules permit requests for emergency relief, and those requests can be appropriate in some circumstances—for example, when a lower court has entered an extraordinary form of relief such as a nationwide injunction of a significant Executive Branch policy. If confirmed, I would consider each case carefully on its facts and the applicable law.

42. In an op-ed published in The Washington Post on January 10, 2019, a former lawyer in the Justice Department’s Office of Legal Counsel (OLC) wrote:

“[W]hen I was at OLC, I saw again and again how the decision to trust the president failed the office’s attorneys, the Justice Department and the American people. The failure took different forms. Sometimes, we just wouldn’t look that closely at the claims the president was making about the state of the world. When we did look closely, we could give only nudges. For example, if I identified a claim by the president that was provably false, I would ask the White House to supply a fig leaf of supporting evidence. Or if the White House’s justification for taking an action reeked of unconstitutional animus, I would suggest a less pungent framing or better tailoring of the actions described in the order.”

She further explained that she “occasionally caught [her]self fashioning a pretext, building an alibi” for the President’s “impulsive decisions.”

- a. If you are confirmed, what steps will you take to prevent the Office of Legal Counsel from retroactively justifying the President’s decisions or policies based on a pretext or a fig leaf of evidence?

RESPONSE: I know and have confidence in Assistant Attorney General Engel and in the Office of Legal Counsel. Indeed, I have known some of OLC’s attorneys since I ran the office nearly 30 years ago. I do not know the author of

the *Washington Post* op-ed, who works for an advocacy group espousing the notion that the United States has “seen an unprecedented tide of authoritarian-style politics sweep the country.” However, the author’s statement that “[w]hen OLC approves orders such as the travel ban, it goes over the list of planned presidential actions with a fine-toothed comb, making sure that not a hair is out of line” certainly reflects my experiences with the Office.

As I stated in my confirmation hearing, “I love the department . . . and all its components . . . I think they are critical institutions that are essential to preserving the rule of law, which is the heartbeat of this country. And I’d like to think that there was bipartisan consensus when I was last in this position that I acted with independence and professionalism and integrity . . . And I feel that I’m in a position in life where I can provide the leadership necessary to protect the independence and the reputation of the Department and serve in this Administration.” As I further stated, “I am not going to do anything that I think is wrong and I will not be bullied into doing anything I think is wrong by anybody, whether it be editorial boards or Congress or the President. I’m going to do what I think is right.”

- b. If you are confirmed and find that the Office of Legal Counsel has justified the legality of the President’s decisions or policies based on a pretext or a fig leaf of evidence, will you agree to report such actions to the Senate Judiciary Committee?

RESPONSE: I have no reason to believe that the premise of your question is correct. If I am confirmed, however, the Department will work to meet the Committee’s information and oversight needs, consistent with the Department’s law enforcement, national security, and litigation responsibilities.

43. In a panel at Hastings Law School, you once said of judicial selection, “[o]f course you’re picking them for their personal beliefs....I think political philosophy is an important part of what makes a judge.”

If confirmed, will you recommend to judicial nominees – who are prepared for their hearings by Justice Department lawyers – that they answer questions posed by Senators about their personal beliefs? If political philosophy is an important part of what makes a judge, why should nominees be reluctant to discuss theirs?

RESPONSE: I believe judicial nominees should answer any questions that are appropriate under the Code of Conduct for United States Judges and relevant Senate precedent.

44. You also said at that Hastings event that you think the reason the President appoints judges is so the judiciary is “responsive to the popular will.” Donald Trump has given a

very large role in judicial selection to outside, non-governmental groups. In particular, he has chosen many of his lower court judges, and both of his Supreme Court justices, from a list compiled by the Federalist Society and the Heritage Foundation. Do you think the authors of the Constitution intended the judiciary to be responsive to the will of the Federalist Society and the Heritage Foundation?

RESPONSE: I am not familiar with the current judicial-selection process, but the text of Article II entrusts the nomination of federal judges to the President, with the advice and consent of the Senate.

45. In your written statement, you state, “As Attorney General, my allegiance will be to the rule of law, the Constitution, and the American people.” It does not appear that Donald Trump views the role of the Attorney General in that way. From the time he recused himself from the Russia investigation, former Attorney General Jeff Sessions became the target of merciless attacks by Donald Trump. Beginning in the summer of 2017, and continuing to the end of Mr. Sessions’s tenure, Donald Trump questioned and mocked him on Twitter. He called Mr. Sessions “weak,” “beleaguered,” and “disgraceful.” He is even reported to have asked his advisors, “Where’s my Roy Cohn?” after being “perturbed by Attorney General Jeff Sessions’s decision to recuse himself from supervising the investigation into the Trump campaign’s relationship with Russia.”
- a. Do you think the President agrees with your vision of the Attorney General’s duty?
- b. If a conflict arises between your views of the Attorney General’s role and that of the President, how will you maintain your allegiance “to the rule of law, the Constitution, and the American people”?

RESPONSE: As I stated during my hearing before the Committee, President Trump has sought no assurances, promises, or commitments from me of any kind, express or implied, regarding my service as Attorney General and I have not given him any, other than that I would run the Department of Justice with professionalism and integrity. During my hearing, I testified that, if I were ever directed to do something unlawful, I would resign rather than carry out the order.