Nomination of Loretta E. Lynch to be Attorney General of the United States
Questions for the Record
Submitted February 9, 2015

QUESTIONS FROM SENATOR CORNYN

1. Please give me three examples of where you disagree with Attorney General Eric Holder's decisions.

RESPONSE: Every Attorney General must decide on priorities for the Department of Justice. If I am fortunate enough to be confirmed as Attorney General, I would bring my own personal approach to decisions about the Department's priorities, an approach that would emphasize (1) fostering a new and improved relationship with this Committee, the United States Senate and the entire United States Congress, (2) enhancing the Department's commitment to combating the ever-growing threat of cybercrime, and (3) committing additional attention to the scourge of human trafficking which subjects the most vulnerable among us to a modern-day nightmare of sexual slavery.

2. As U.S. Attorney in the Eastern District of New York, what mistakes have you made?

RESPONSE: In July 2012, in response to a pronounced spike in cybercrime, I reorganized the United States Attorney's Office's Criminal Division to expand the Office's extraordinarily successful terrorism unit into a new National Security & Cybercrime Section. In hindsight, given the success of that reorganization in attacking the problem of cybercrime in the Eastern District of New York, through increased investigations, prosecutions, and partnership with the private sector, I have come to believe that the reorganization should have occurred sooner. Drawing on that experience, if I am fortunate enough to be confirmed as Attorney General, I am prepared to ensure that the Department of Justice is proactive and forward-leaning in addressing the threat posed by cybercrime.

3. What assurance can you provide that you will prevent the President from violating the Constitution?

RESPONSE: The Attorney General must be a forceful, independent voice of justice and a fierce defender of the constitutional rights of all Americans. I have devoted my professional life to the pursuit of justice and the defense of the ideals and principles set forth in the Constitution of the United States of America. If confirmed as Attorney General, I pledge to Congress and the American people that the Constitution, the bedrock of our system of justice, will be my lodestar as I exercise the power and responsibility of that position. I will never forget that I serve the American people—all of the American people, from every state, every community, and every walk of life.

4. On March 11, 2013, Texas applied to the Department for expedited certification under 28 U.S.C. § 2265. On July 18, 2013, Senator Cruz and I wrote to Attorney General Holder asking him to inform us when he would make a decision. He did not decide, or respond to the letter. Will you commit to approve the § 2265 application submitted by Texas almost two years ago? And, if not, please explain why.

RESPONSE: As the United States Attorney for the Eastern District of New York, I have not encountered the certification process under 28 U.S.C. § 2265. My limited understanding is that the certification process under 28 U.S.C. § 2265 has been delayed because of pending litigation challenging that process. If I am fortunate enough to be confirmed, I would expect to learn more about this issue.

5. In Holt v. Hobbs, the Supreme Court ruled unanimously that the Religious Land Use and Institutionalized Persons Act required the Arkansas Department of Corrections to accommodate the religious liberty of a prison inmate and allow him to grow a beard in observance of his religious faith. In her concurrence, Justice Ginsberg wrote: "Unlike the exemption this Court approved in Burwell v. Hobby Lobby Stores, Inc., 573 U. S. ___ (2014), accommodating petitioner's religious belief in this case would not detrimentally affect others who do not share petitioner's belief."

    a. Do you believe the scope of an American's religious liberty – protected by the Constitution and statutes – is inherently limited by whether or not other Americans might be affected by one person's religious belief?

RESPONSE: The Religious Freedom Restoration Act's text states that a burden on religious exercise is impermissible if (1) it is a "substantial[] burden" and (2) it is not "in furtherance of a compelling governmental interest" and is not "the least restrictive means of furthering that compelling governmental interest." 42 U.S.C. § 2000bb-1. The Supreme Court has held that the government does not have "an entirely free hand to impose burdens on religious exercise so long as those burdens confer a benefit on other individuals," but that "'courts must take adequate account of the burdens a requested accommodation may impose on nonbeneficiaries,'" which "will often inform the analysis of the Government's compelling interest and the availability of a less restrictive means of advancing that interest." *Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751, 2781 (2014) (quoting *Cutter v. Wilkinson*, 544 U.S. 709, 720 (2005) (applying RLUIPA)).

    b. Do you accept Burwell v. Hobby Lobby as binding precedent?

RESPONSE: Yes, the decisions of the Supreme Court are binding.

6. The Department is currently suing Texas because of its common-sense requirement that voters show ID to vote. The Supreme Court held in Crawford v. Marion County that voter ID laws are constitutional-and further held that voter ID laws are a legitimate means

of deterring voter fraud, even in States with zero recorded incidents of voter impersonation.

a. Do you agree with the Supreme Court's decision in Crawford?

RESPONSE: The decisions of the Supreme Court represent the law of the land. My general understanding is that in *Crawford* the Supreme Court decided certain facial constitutional challenges to one state's particular voter identification law, based on the facts and arguments in that case. I understand that the Department is addressing the meaning of *Crawford* in certain cases that are currently pending, so I cannot comment further.

7. In its litigation with the State of Texas over voter ID, parties to the action argued that the state's voter ID requirement constituted a "poll tax" barred by the 24th Amendment. The Department of Justice did not take that position in the litigation. Do you agree that the law in question is not a poll tax?

RESPONSE: Because these issues are currently pending in the Texas case in which the Department is participating, I cannot comment on this question.

8. In January 2012, the President made appointments to the National Labor Relations Board. The Senate did not consent, so the President purported to use his authority under the Recess Appointments Clause.

    a. The Supreme Court held that "the President lacked the power to make the recess appointments here at issue." Do you accept the Court's ruling?

    b. Do you agree with the Court that the President violated the Constitution in making the appointments at issue?

RESPONSE: It is my understanding that in *National Labor Relations Board v. Noel Canning*, 573 U.S. ___, 134 S. Ct. 2550 (2014), the Supreme Court held that the President's appointment under the Recess Appointments Clause of three members of the National Labor Relations Boards during a three-day period between two pro forma sessions of the Senate were not valid. The Court's decision is the law of the land, and such appointments would not be consistent with the Constitution in the future.

9. On April 15, 2009 the Counsel to the President issued an unpublicized memorandum ordering all executive departments and agencies to consult with White House Counsel on any FOIA-requested documents involving "White House equities." This policy permits the White House to filter any FOIA request that might relate to the White House in some fashion. There is no exemption in the Freedom of Information Act for "White House equities," nor does FOIA give White House Counsel the authority to intervene in FOIA requests.

a. If confirmed as Attorney General, you will have primary authority over agency implementation of FOIA. Will you continue to allow this practice?

b. If you will not stop this practice, will you commit to making this process more transparent, so that requestors know when their request has been reviewed and/or censored by White House Counsel's office?

RESPONSE: The Freedom of Information Act (FOIA) plays a vital part in our democracy. The Department of Justice, in turn, plays a pivotal role in guiding agencies in their administration of this important statute. While I am not familiar with the particular memorandum you reference, I am committed to ensuring that the law is implemented in an efficient and transparent manner, in keeping with its underlying purpose.

10. According to the Center for Effective Government nearly half of the largest agencies in the federal government are failing in their implementation of FOIA. The Associated Press reported last year that the use of the deliberative process exemption to withhold information is at an all-time high. And reporters are expressing mounting frustration at the uselessness of FOIA, leading one reporter to say at your confirmation hearing that FOIA "is pretty much pointless and senseless now in its application at the federal level. It does no good." This is unacceptable.

    a. If confirmed as Attorney General, what will you do to improve FOIA compliance within DOJ and at other agencies? Please list specific measures you will take.

RESPONSE: As mentioned above, the FOIA plays a vital part in our democracy, and the Department of Justice, in turn, plays a pivotal role in guiding agencies in their administration of this important statute. I believe that agency personnel involved in any aspect of FOIA administration should receive training regarding their obligations under this statute, should have resources available to them to assist in their day-to-day administration of the law, and should be held accountable for their progress. These are all areas where the Department of Justice can continue its work of encouraging full and proper compliance with the law.

11. The War Powers Resolution requires that the President receive Congressional authorization for any use of military force in hostilities that extends beyond 60 days. We have now been engaged in hostilities with ISIL nearly 6 months—well past the 60-days required by the War Powers Resolution.

    a. Do you believe the War Powers Resolution is binding on the President?

    b. If so, do you think that the conflict with ISIL qualifies as "hostilities" under the War Powers Resolution, such that the President must have Congressional authorization?

RESPONSE: The War Powers Resolution is a duly enacted law of the United States and therefore binding on the President to the extent that it is consistent with the Constitution. I have not had the occasion to address the question in my role as a United States Attorney, but it is my understanding that, over the years, there has been public debate about the constitutionality of certain provisions of the War Powers Resolution. It is also my understanding that whether U.S. military forces are engaged in "hostilities" as used in the War Powers Resolution is a highly fact-specific question, and I am not at present fully informed about the nature and scope of our military operations against ISIL. Regardless of whether the War Powers Resolution imposes a binding requirement for congressional authorization under the present circumstances, and whether the AUMFs to which I refer in my next answer give that authorization, I agree with the President that we are strongest as a Nation when the Executive and the Congress work together on the use of military force abroad, and, should I be confirmed as Attorney General, I would support the President's efforts to work with Congress to enact a resolution specifically authorizing the use of force against ISIL.

12. The President has claimed varying theories of authority for his use of military force since hostilities began in August, beginning first with Article II of the Constitution, then moving to the 2001 AUMF for al-Qaeda, the on to the 2002 AUMF for Iraq and back again to the 2001 AUMF.

    a. Under the 2001 AUMF for Al-Qaeda can the President continue the use of force against ISIL indefinitely, without ever seeking Congressional authorization?

    b. If not, at what point is the President constitutionally and statutorily required to seek Congressional authorization?

RESPONSE: Although I have not had the occasion to address the question in my role as a United States Attorney, it is my understanding that the Administration has concluded that the 2001 AUMF provides statutory authority for the current military operations against ISIL and that the 2002 AUMF also provides statutory authority for those operations at least to the extent that they are necessary to address the threat posed by ISIL's operations in Iraq or to help establish a stable, democratic Iraq. Regardless of whether any additional congressional authorization might be necessary at any point, I agree with the President that we are strongest as a Nation when the Executive and the Congress work together on the use of military force abroad, and, should I be confirmed as Attorney General, I would support the President's efforts to work with Congress to enact a resolution specifically authorizing the use of force against ISIL.

13. In the 2011 conflict with Libya, the President neither sought nor received congressional authorization for the use of military force, even though air strikes continued long past the 60-day requirement of the War Powers Resolution. The President's tenuous legal theory was that the air strikes were not "hostilities" for purposes of the War Powers Resolution. This was in direct conflict with the legal opinion of the Department's Office of Legal

Counsel. If you are confirmed as Attorney General and the President acts counter to your counsel in similar manager—possibly violating the law—what will you do?

RESPONSE: Should I be confirmed as Attorney General, I would provide the President with vigorous and independent legal advice in all situations.

14. The Department has secured billions of dollars through settlement agreements over the past few years, but not all of the money claimed in these settlements has gone to a governmental entity. For example, in the recent $16.65 Bank of America settlement—a case in which your office participated—less than 60% of that money was paid to a governmental entity. $7 billion of the settlement is to be spent independently by Bank of America on a nation-wide "consumer relief" program. The Department does not have the statutory authority to design a nationwide consumer relief program and direct appropriations and grants from public funds toward that program. That is a legislative power. Yet, it appears to have done so through a settlement agreement.

    a. Please explain where the Department has found the authority to appropriate public funds in such a manner and to design a public consumer relief program implemented by a private entity.

RESPONSE: The 2014 $16.65 billion settlement with Bank of America constitutes the largest settlement with a single entity in the history of the Department of Justice. Among its other components, the settlement features a $5 billion penalty under the FIRREA statute, payable to the U.S. Treasury, which represents the largest penalty ever assessed under that statute. In addition, the settlement requires the bank to make payments to the Department's various federal and state law enforcement partners.

No public funds from the Bank of America settlement—whether from the FIRREA penalty or other payments to federal or state agencies—were directed toward consumer relief.
Apart from these various payments, the bank agreed, as part of the referenced settlement agreement, to provide $7 billion in consumer relief. The consumer relief portion of the settlement, however, will not be funded through public moneys. Instead, these are separate private funds—provided by the settling banks as part of the settlement agreement—that are dedicated to assisting consumers in the housing market, including struggling homeowners who have suffered as a result of the collapse of the housing market. That collapse was caused in large part by the conduct that was the basis for the Bank of America investigation—namely, the fraudulent packaging and selling of Residential Mortgage-Backed Securities (RMBS).

    b. Please describe what oversight and transparency measures have been put in place to monitor the expenditure of these funds, and what control, if any, the federal government will have over how this money is spent, other than through the broad terms of the settlement agreement. Additionally, please describe what controls are in place to ensure that this money will go to the victims of the alleged wrongdoing—for instance, the purchasers of the residential mortgage-backed securities—rather than interest groups listed in the settlement agreement.

RESPONSE: The consumer relief provisions in the Bank of America agreement explicitly require the bank to provide specific amounts and types of consumer relief, targeted to help precisely those Americans in need of such relief—those who are still suffering the effects of the misconduct that was the basis for the government's investigation. In addition, a series of provisions in the Bank of America settlement agreement require oversight of, and transparency into, Bank of America's activities under the consumer relief provisions of the settlement agreement.

An annex to the settlement agreement provides very specific requirements for activities the bank must undertake to satisfy its consumer relief obligations. Among other provisions, for example, Bank of America is obligated to accrue at least $2.15 billion in credits for first lien principal forgiveness for homeowners. And the consumer relief annex—which contains provisions that the bank agreed to at the time of the settlement—provides precise parameters for the bank's satisfaction of its consumer relief obligations. The federal government does not dictate individual consumer relief decisions that the bank might make (such as, for example, which specific homeowners should be entitled to mortgage modifications).

Beyond these requirements, the settlement agreement establishes that an independent monitor—paid for by the bank—is charged with determining whether the bank has satisfied its consumer relief obligations. The settlement agreement further requires Bank of America to provide the monitor with all documentation necessary for the monitor to serve this function.
Moreover, the settlement agreement requires the monitor to issue regular public reports documenting the manner in which Bank of America is satisfying its consumer relief obligations. The Bank of America monitor has established a website, http://bankofamerica.mortgagesettlementmonitor.com, where the monitor's reports, as well as other information about the settlements and the consumer relief provisions, are available to the public. These various provisions all help to assure that the bank lives up to its consumer relief obligations, and does so in a transparent manner.

15. State financial regulators in my state and others play an important role in protecting consumers and ensuring that we have robust and diverse financial services marketplaces in our states. Licensing is an important tool for these regulators by seeking to ensure businesses and individuals meet certain professional standards and conduct themselves with integrity. Many financial regulators are required to review criminal background information as part of the licensing process. It is my understanding the FBI denied Tennessee State officials access to any criminal history data starting January 1, 2015 and will deny Georgia access in July 2015. The FBI objected to these states' statutes authorizing --but not mandating -- use of a nationwide state licensing system to process state-required criminal background record on licensees. I am concerned because Texas has similar language in its licensing laws. As Attorney General, would you promise to work with states to ensure state regulators have an efficient electronic system to access

FBI criminal background information for licensing purposes, as authorized under P.L. 92-544?

RESPONSE: As the United States Attorney for the Eastern District of New York, I have not had the opportunity to study this issue, but if I am confirmed, I would expect to learn more about it.

16. Last November, President Obama and the Department of Homeland Security announced a series of unilateral and unconstitutional Executive Actions that will suspend enforcement of our immigration laws against a class of up to 4 million illegal immigrants. Under these executive actions, certain classes of illegal immigrants will be allowed to remain in the United States and obtain work authorization. Before President Obama formally announced these Executive actions, the Department of Justice Office of Legal Counsel issued a memorandum agreeing that the President had the authority to unilaterally grant amnesty to certain classes of illegal immigrants.

    a. Do you agree with the legal analysis contained in the OLC memorandum supporting President Obama's immigration Executive Actions?

RESPONSE: As I indicated at my hearing, the opinion by the Office of Legal Counsel is based upon a thorough review of precedent, prior actions by Congress, as well as the discretionary authority of the Department of Homeland Security to prioritize the removal of the most dangerous aliens within the United States and recent border crossers. Accordingly, the legal analysis by the Office of Legal Counsel appears reasonable.

    b. As a career prosecutor, have you ever been involved in a program through which certain classes of offenders were systematically granted deferred action or immunity from prosecution after admitting their crime in a written application?

RESPONSE: My understanding of the deferred action guidance issued by the Department of Homeland Security is that the guidance does not grant deferred action on a systematic basis. Instead, it establishes a series of factors, to be applied on a case-by-case basis, by those individuals responsible for enforcing our nation's immigration laws in order to prioritize the limited resources afforded to the agency. As a career prosecutor and a United States Attorney, I know full well the resource constraints that require those who enforce the law to prioritize the prosecution of those who pose the greatest threats to our country.

    c. In your experience as a prosecutor, does the non-enforcement of a particular law generally incentivize or encourage future violations of that law?

RESPONSE: In my experience, the decision to prioritize the enforcement of a law against a set of particular individuals, such as those who present the greatest risk to our country's safety and security, results in increased prosecutions against those bad actors, by allowing limited prosecutorial resources to be dedicated to that law enforcement effort.

d. Are you concerned that President Obama's new deferred action program will incentivize or encourage future violations of our immigration laws?

RESPONSE: I am hopeful that the Secretary's efforts to prioritize the enforcement of our immigration laws against criminals and national security threats will encourage individuals within the country to abide by the law. It is also my understanding that the new removal priorities established by the Secretary include recent border crossers and visa overstays who are ineligible for deferred action. As a result, it would appear to discourage attempts to cross the border illegally at this time, as such persons would be a priority for removal.

e. Under the theory of prosecutorial discretion advanced by the Department of Justice in the OLC memorandum regarding President Obama's immigration executive actions, would it be possible for the President to unilaterally extend deferred action to all 11 million illegal immigrants in the United States? If not, what is the limiting principle on Department of Justice's theory of prosecutorial discretion?

RESPONSE: I do not understand that question to have been presented to the Office of Legal Counsel, as that is not a situation that is presented by the memoranda issued by the Secretary. As the OLC opinion indicated, "[g]iven that the resources Congress has allocated to DHS are sufficient to remove only a small fraction of the total population of undocumented aliens in the United States, setting forth written guidance about how resources should presumptively be allocated in particular cases is a reasonable means of ensuring that DHS's severely limited resources are systematically directed to its highest priorities across a large and diverse agency, as well as ensuring consistency in the administration of the removal system." OLC Op. at 10. <u>I would also note that the OLC opinion examined an additional proposed deferred action program—for parents of recipients of deferred action under the Deferred Action for Childhood Arrivals program—and determined that it would not be permissible, reflecting a clear limit to discretion.</u>

f. Under President Obama's Executive Actions, many illegal immigrants who have been convicted of serious crimes in the United States will be eligible for deferred action and work authorization. For instance, a criminal alien would not be categorically excluded from receiving amnesty, even if they were convicted of the following types of offenses: child pornography possession, child abuse, assault, abduction, robbery, voter fraud, and many others. As a career prosecutor, you have routinely put criminals like these behind bars. Do you agree that granting deferred action to criminal aliens instead of removing them from the country will jeopardize public safety?

RESPONSE: It is my understanding that deferred action is not available to individuals convicted of criminal offenses and who pose a threat to national security or public safety. It is my expectation that the crimes to which you refer would ordinarily fall within these removal priorities.

g. In 2013, the Department filed an amicus brief in a Ninth Circuit case arguing that the State of Arizona should be required to issue drivers' licenses to illegal immigrants who are beneficiaries of the DACA program. Do you agree with this analysis? If so, do you believe that states should have the right to deny drivers' licenses to individuals covered by President Obama's November 2014 immigration executive actions? If confirmed as Attorney General, would you support litigation requiring states to issue driver's licenses to such individuals?

RESPONSE: As the United States Attorney for the Eastern District of New York, I was not involved in the brief to which the question refers. It is my understanding, however, that as a matter of preemption, neither the 2014 Deferred Action Guidance nor any federal statute compels States to provide driver's licenses to DACA and DAPA recipients, so long as the states base eligibility on existing federal alien classifications—such as deferred action recipients, or other categories of aliens—rather than creating new state-law classifications of aliens.

17. During a hearing last Congress, Gayle Trotter of the Independent Women's Forum testified before the Senate Judiciary Committee that guns are "a great equalizer" for women who are trying to protect themselves from aggressors. In my home State of Texas there have been countless examples of brave women standing their ground and defending themselves with firearms. For instance, last year in the South Texas city of Palmview, a pregnant woman stood her ground against two would-be home invaders and opened fire—forcing the criminals to retreat. They were later apprehended by SWAT officers after a long standoff. As Attorney General, will you work to encourage lawful firearm possession among women so that they are better equipped to defend themselves and their families against criminals?

RESPONSE: The Supreme Court has made clear that the Second Amendment protects the individual right of law-abiding citizens—both men and women—to keep and bear arms for self-defense in the home. If confirmed, I will ensure that the actions of the Department of Justice are consistent with the Constitution, including the Second Amendment.

18. In 1994, President Clinton and Congress enacted an "assault weapons ban" that prohibited the purchase of a large number of now-common self-defense and hunting firearms. In the decade since expiration of the ban, violent crime rates have dropped, while millions of law-abiding Americans have purchased self-defense weapons that were once prohibited under the assault weapons ban. Do you believe that the assault weapons ban was effective, and if confirmed as Attorney General, would you support the re-enactment of this type of gun ban?

RESPONSE: As a United States Attorney, one of my highest priorities has been to protect Americans from violent crime, including violent gun crime. I understand that the Administration supports passage of legislation that would strengthen and enhance the now-sunsetted 1994 Public Safety and Recreational Firearms Use Protection Act. If confirmed, I look forward to working with Congress on any appropriate legislation toward that end.

19. From 2010-2011, the Department operated a controversial gun-walking program known as "Operation Fast and Furious." As part of that program, Department officials knowingly transferred thousands of firearms to drug cartel associates and straw purchasers with no intent that these weapons would be tracked or interdicted. All told, the Department lost track of nearly 2,000 weapons that were put into the hands of drug cartel agents as part of this reckless operation—many of which have been recovered at violent crime scenes on both sides of our Southern border. Tragically, weapons from Operation Fast and Furious were used in the December 2010 murder of United States Border Patrol Agent Brian Terry. Throughout congressional investigations into the Operation Fast and Furious tragedy, Attorney General Holder repeatedly misled and stonewalled Congress, withholding tens of thousands of important documents through frivolous claims of executive privilege and making multiple inaccurate statements concerning his knowledge of the program.

    a. Do you believe that the gun-walking tactics used in Operation Fast and Furious were acceptable?

RESPONSE: In my position as a United States Attorney, I was not personally involved in either the underlying investigation of Operation Fast and Furious nor the Department's responses to Congress regarding it. I share the perspective of many, including the Department's Inspector General and Attorney General Holder, that this was a flawed operation.

    b. Can you think of any legitimate law enforcement rationale for transferring guns to drug cartel agents without interdicting or tracking them?

RESPONSE: The Department's law enforcement components and the United States Attorneys' Offices take seriously the need to ensure that investigations and prosecutions are conducted in a way that preserves public safety as well as officer safety. Accordingly, the Department has provided guidance to all United States Attorneys' Offices regarding risk assessment and mitigation for law enforcement operations in criminal matters.

    c. During Operation Fast and Furious, was it appropriate for Department of Justice officials to demand that licensed and law-abiding firearms dealers participate in the illicit transfer of weapons to suspected straw purchasers?

RESPONSE: As noted above, in my position as a United States Attorney, I was not personally involved in either the underlying investigation of Operation Fast and Furious or the

Department's responses to Congress regarding it. Generally, I believe it would be inappropriate for Department officials to demand that citizens participate in the illicit transfer of weapons.

d. If confirmed as Attorney General, would you ever allow Department of Justice officials to request that law-abiding Americans violate a federal statute?

RESPONSE: The Department of Justice has robust guidelines governing and limiting situations in which the government may authorize a citizen to engage in otherwise unlawful activity.

e. Will you pledge to fire all Department of Justice employees who utilize gun-walking tactics similar to those in Operation Fast and Furious, or who were directly involved in the execution of that program?

RESPONSE: Just as I have in my tenure as a United States Attorney, if confirmed as Attorney General, I would take seriously all allegations regarding inappropriate actions by Department employees, and would follow well-established laws and procedures regarding disciplinary actions against employees found to have engaged in inappropriate conduct.

20. According to an unclassified threat assessment from the Texas Department of Public Safety: "Mexican cartels control most of the human smuggling and human trafficking routes and networks in Texas. The nature of the cartels' command and control of human smuggling and human trafficking networks along the border is varied, including cartel members having direct organizational involvement and responsibility over human smuggling and human trafficking operations, as well as cartel members sanctioning and facilitating the operation of human smuggling and human trafficking organizations." Do you agree that human smuggling networks and drug cartels are directly responsible for many cases of human trafficking in the United States? If confirmed as Attorney General, will you prioritize the investigation and prosecution of these networks and organizations?

RESPONSE: I understand that human trafficking is a serious threat in Texas, and am told that it is perpetrated by a wide range of individual smugglers, loosely affiliated smuggling networks, and organized smuggling rings, often only loosely and informally associated with the trafficking networks that lure the victims with false promises, arrange the smuggling, then coerce and exploit the victims once in the United States. Cartels, human smuggling organizations, and human trafficking networks all present serious criminal threats, and if I am confirmed as Attorney General, I will continue to use all available law enforcement tools to combat them all, and to continue investigating the complex relationships among them. I further commit that I will continue to build on the Department's record of vigorously prosecuting those who prey on those most in need of our protection. And I will continue to provide strong and effective assistance to survivors who we must both support and empower.

21. According to an October 2014 study by the Human Trafficking Pro Bono Legal Center, Department of Justice prosecutors secure restitution orders for victims in only 36% of human trafficking cases, and nearly half of U.S. Attorneys' Offices that have handled human trafficking cases have failed to win any compensation for victims. Do you agree that victim compensation and financial contribution from criminals should be a priority in human trafficking prosecutions? If confirmed as Attorney General, will you work with me to ensure that Department of Justice officials are adequately trained and instructed to seek victim restitution orders in all human trafficking cases?

RESPONSE: Securing restitution for trafficking victims is an essential part of the Department's victim-centered approach to trafficking investigations and prosecutions. If I am confirmed as Attorney General, I would welcome the opportunity to work with you and your staff on the issue of seeking restitution for victims of trafficking. I look forward to continuing the Department's record of secure significant restitution orders, as provided by law, and seeking justice for victims of human trafficking.

22. Do you believe that mandatory minimum sentences are an appropriate law enforcement tool in crimes involving the sexual exploitation and slavery of children?

RESPONSE: Those who exploit children commit heinous crimes against the most vulnerable members of society. Congress has responded to the seriousness of these offenses by enacting statutory schemes that include mandatory minimum sentences for many child sexual exploitation offenses. These sentences clearly signal that the sexual exploitation of children will not be tolerated, and I will ensure that those who do so will face appropriate punishment. The Department vigorously enforces these laws, and has placed the protection of children and other vulnerable populations from sexual exploitation and slavery at the top of the Department's list of priorities.

23. Do you support amending the federal hate crimes statute to cover the intentional targeting of a law enforcement officer?

RESPONSE: I attended the funerals of New York City Police Department Detectives Rafael Ramos and Wenjian Liu. The grief and the sense of loss from their tragic deaths could be felt across New York City. We cannot allow our law enforcement officers to be targets. We must provide law enforcement officers with the protections they need in order to serve and protect our communities.

The President recently established the Task Force on 21st Century Policing, and it will consider the proposal by the Fraternal Order of Police to expand the existing federal hate crimes statute to include law enforcement officers who have been targeted for violence because of their official position and duties. I look forward to hearing from the Task Force on this important subject.

If confirmed as Attorney General, one of my priorities will be to ensure that law enforcement officers have the tools that they need to do their jobs and to do them safely.

24. The rape kit backlog is a national scandal with tragic consequences for crime victims. Experts estimate that hundreds of thousands of rape kits currently sit on shelves and in evidence lockers across the country gathering dust—each one holding the potential to imprison a rapist and deliver justice for victims of this horrible crime. In 2013, I introduced the SAFER Act, which was enacted into law and amended the *Debbie Smith Act* to both increase the funding available to support the testing of kits and to support audits, by local law enforcement, of their un-submitted kits. Numerous states, including Texas, have enacted laws requiring statewide audits, and these SAFER grants will make an enormous difference in supporting law enforcement's efforts to end the rape kit backlog forever. Though the SAFER Act has been law for nearly two years, Attorney General Holder and the National Institute of Justice have failed to fully implement this law.

    a. Is there any excuse for Attorney General Holder's failure to fully implement the SAFER Act?

RESPONSE: I share your strong commitment to eliminate the backlogs of sexual assault kits that are being discovered in some law enforcement agencies. I understand that the Department of Justice has been actively engaged with law enforcement partners to develop strategies to eliminate backlogs and hold offenders accountable, while providing support to victims. I am committed to continuing this important effort to facilitate the core elements of accountability and transparency consistent with the purposes of the SAFER Act.

    b. Do you think the failure to implement this law sends a poor message to sexual assault survivors?

RESPONSE: Sexual assault is a public health and public safety problem with far reaching implications. I am committed to ensuring implementation of various efforts to support state, local, and tribal work to improve sexual assault investigations and victims' services and assistance. I will continue the Department's efforts to fund strategies and programs designed to provide resources to prevent and reduce the risk of sexual assault and effectively respond to the needs of sexual assault victims, as well as partnering with law enforcement agencies to improve victim notification and support services.

    c. If you are confirmed as Attorney General, will you pledge to immediately and fully implement the SAFER Act, as enacted in 2013?

RESPONSE: As stated previously, I am unwavering in my commitment to reduce the sexual assault kit backlog and promote accountability and transparency, the core elements of the SAFER Act.

d. Will you commit to work with me to ensure that the National Institute of Justice is in full compliance with the SAFER Act requirement that not less than 75% of funds appropriated under the Debbie Smith Act are being deployed to state and local governments to analyze crime scene evidence, rather than being used for federal purposes that are not expressly permitted under the statute?

RESPONSE: I am firmly committed to ensuring that NIJ, along with all of the components of the Department, comply fully with all applicable laws in carrying out their missions.

e. Under current law, the National Institute of Justice is required to submit an annual report discussing their DNA backlog reduction grant expenditures, but these reports are often submitted to Congress more than one year after the conclusion of the covered Fiscal Year. As Attorney General, will you ensure that Congress receives annual DNA backlog reduction reports within 90 days of the end of each Fiscal Year?

RESPONSE: I am fully committed to ensuring that NIJ meets all requirements of providing reports to Congress in timely fashion.