

Senator David Perdue
Questions for the Record
On the Nomination of Sally Quillian Yates
To be Deputy Attorney General of the United States
March 31, 2015

- 1. As a former federal prosecutor, I know you are familiar with the concept of prosecutorial discretion. What, if any, are the limits of the President's discretion to enforce federal law?**

RESPONSE: There are certainly legal limits to prosecutorial discretion and a President's authority. Defining and drawing those limits, however, requires knowing all of the facts relevant to a particular issue, carefully examining the pertinent legal authorities, and reviewing any relevant judicial opinions.

- 2. In his Memorandum Opinion and Order in *Texas v. United States*, B-14-254 (S.D. Tex. Feb. 16, 2015), Judge Hanen enjoined the implementation of President Obama's Deferred Action for Parental Accountability Program ("DAPA") and of the "three expansions/additions to the [Deferred Action for Childhood Arrivals Program, hereinafter "DACA"]," finding that the government had "clearly legislated a substantive rule without complying with the procedural requirements under the Administrative Procedure Act." *Mem. Op.* at 123. Do you agree that in promulgating and implementing DAPA and the DACA expansions, the government acted unlawfully?**

RESPONSE: As I noted in my testimony, this is an issue on which reasonable people can disagree. As Acting Deputy Attorney General, and if I am confirmed as Deputy Attorney General, I commit to follow the referenced preliminary injunction nationwide unless and until the injunction is stayed, lifted, or altered by the district court itself or by an appellate court. This matter is currently in litigation and so, as Acting Deputy Attorney General, it would not be appropriate for me to opine further. Therefore, I would respectfully direct you to the Department's court filings in this matter. As I noted in my testimony before the Committee, I stand by the Department's filings in this matter.

- 3. According to press reports, at a recent hearing on the injunction in the *Texas* case, Judge Hanen told the government that "I was made to look like an idiot. I believed your word that nothing would happen." The judge was referring to the more than 100,000 three-year DACA renewals the government processed in the weeks following issuance of the injunction. Is it the Justice Department's position that the government is authorized to continue processing of DACA renewals during the pendency of the *Texas* injunction? If so, please explain the legal basis for your answer.**

RESPONSE: The Justice Department's view is that the government is not authorized to continue processing three-year DACA renewals during the pendency of the *Texas* injunction. Beyond that, as Acting Deputy Attorney General, it would not be appropriate for me to opine on the active litigation. I would respectfully direct you to the Department's court filings in *Texas et al. v. Johnson et al.* (SDTX Case No. B-14-254) that address these issues.

- 4. With respect to the President's executive actions on immigration implemented through the DACA and DAPA programs, please explain whether you share the view of Attorney General nominee Loretta Lynch that the Office of Legal Counsel memorandum setting forth the argument for the President's actions are constitutional and "reasonable."**

RESPONSE: As mentioned in my answer above, the legality of the President's executive actions on immigration is currently a matter of pending litigation. As Acting Deputy Attorney General, it would not be appropriate for me to opine on the active litigation.

- 5. Please explain your view on how, or whether, the President's executive action on immigration implemented through the DACA and DAPA programs comports with the Constitution's Take Care Clause and Congress's Article I authority over immigration and naturalization.**

RESPONSE: As mentioned in my answer above, these issues currently are matters of pending litigation. As Acting Deputy Attorney General, it would not be appropriate for me to opine on active litigation. The Department's position is set forth in court filings in *Texas et al. v. Johnson et al.* (SDTX Case No. B-14-254), and I stand behind the Department's filings in this matter.

- 6. It's now indisputable that the Internal Revenue Service ("IRS") targeted conservative organizations that were seeking to obtain tax-exempt status. Senate investigators with the Permanent Subcommittee on Investigations found that over 80% of the targeted groups had a conservative political ideology. The Department of Justice ("DOJ" or "Department") responded by initiating a criminal probe led by a Civil Rights Division attorney who had contributed to President Obama's campaign in 2012. Little, if any, progress has been made in that investigation thus far.**

- a. With respect to IRS targeting of individuals and organizations who ostensibly identify with a conservative or Tea Party viewpoint, do you believe that reassignment of the DOJ's investigation to a special prosecutor is appropriate?**

RESPONSE: Since I began my career as a line prosecutor in the United States Attorney's Office for the Northern District of Georgia 25 years ago, moving on to be a supervisor and then head of that office, and now as the Acting Deputy Attorney General, I have had the honor of witnessing the work of the career criminal prosecutors of the Department. I can assure you that these men and women work on a daily basis in pursuit of justice, following the facts and the law.

In this case, I know that career prosecutors from the Department's Criminal Division and Civil Rights Division are working alongside professional law enforcement agents from the FBI and the Treasury Inspector General for Tax Administration (TIGTA). I understand that before I was in my current role, the Attorney General carefully considered your question and determined that the appointment of a special prosecutor is not warranted.

- b. Do you believe it was appropriate to assign management of the DOJ's investigation of IRS targeting to a DOJ lawyer who contributed to President**

Obama's campaign?

RESPONSE: As stated above, it is my understanding that the investigation is being conducted by a team of experienced career prosecutors and law enforcement agents from the Department and the TIGTA.

- c. Do you believe that assigning management of the DOJ's investigation of IRS targeting to a DOJ lawyer who contributed to President Obama's campaign could reasonably be expected to create the appearance of partiality or lack of objectivity on the part of the DOJ?**

RESPONSE: As I have described above, through my experience at the Department, I am confident that our career prosecutors follow the facts and the law without any regard to politics or other inappropriate considerations. It is also my understanding that the investigation is being conducted by a team that includes attorneys from the Criminal and Civil Rights Divisions and agents from the FBI and TIGTA.

- d. If you are confirmed, will you commit to keeping Congress informed in a more timely way than the current DOJ leadership has about the status of the investigation?**

RESPONSE: If I am confirmed as Deputy Attorney General, I look forward to working with Congress to accommodate your information needs, consistent with our law enforcement and litigation responsibilities.

- 7. National security is always of paramount importance for the Justice Department. The January 2015 Paris attack and the rise of ISIS are episodes that show two emerging national security threats that you will confront, if confirmed: foreign fighters and so-called "lone wolf" attacks.**

- a. In your view, does the recent emergence of these threats have any impact on the debate over the impending renewal of the Foreign Intelligence Surveillance Act of 1978 ("FISA")?**

RESPONSE: National security threats posed by foreign fighters and lone-wolf attacks should inform the congressional debate regarding the reauthorization of certain expiring FISA provisions. It is important that our intelligence and law enforcement professionals have access to all available and appropriate investigative tools and techniques to deal with the ever-evolving threat presented by terrorism and other national security threats, while also ensuring that we use those tools in a way that effectively protects privacy and civil liberties. If I am confirmed as Deputy Attorney General, I will work with Congress to ensure the Intelligence Community has the authority necessary to meet our national security needs consistent with our shared commitment to privacy and civil liberties.

- b. Do you believe that the current "bulk collection" regime under FISA Section 215 is lawful?**

RESPONSE: Yes. The “bulk collection” program under Section 215 operates pursuant to court order, has been reviewed and approved by nineteen federal judges, and is subject to rigorous oversight by all three branches of government.

c. Do you believe that the incidental collection provision, Section 702, is lawful?

RESPONSE: Yes. Section 702 collection operates pursuant to court authorization, is subject to rigorous oversight by all three branches of government, and has been reviewed and found constitutional by our courts. Section 702 may only be used to target non-United States persons located outside the United States and may not be used to target foreigners for the purpose of targeting Americans’ communications. Some communications of Americans, however, may be incidentally collected when an American communicates with a Section 702 target located outside the United States. Congress understood that this would be the case when it drafted Section 702, and required that collection under this program be governed by court-approved procedures to minimize the acquisition, retention, and dissemination of Americans’ communications consistent with our need for foreign intelligence information. If confirmed as Deputy Attorney General, I will ensure that Section 702 collection continues in a lawful manner that meets our national security needs and appropriately protects privacy and civil liberties.

d. President Obama has indicated that he supports a legislative reform of Section 215’s bulk collection regime. What are your thoughts on amending Section 215?

RESPONSE: If confirmed as Deputy Attorney General, I will work with Congress to amend Section 215 in a manner consistent with the President’s proposal to end the Section 215 bulk telephone metadata program and establish a new mechanism to preserve the capabilities we need without the government holding this bulk metadata.

e. Do you think law enforcement currently has sufficient investigative and legal authority to address the increasing threat from foreign fighters and “lone wolves”?

RESPONSE: It is important that our intelligence and law enforcement professionals have access to all available and appropriate investigative tools and techniques to deal with the ever-evolving threat presented by terrorism and other national security threats, while also ensuring that we use those tools in a way that effectively protects privacy and civil liberties. If confirmed as Deputy Attorney General, I will work with law enforcement and Congress to evaluate any gaps in existing authorities and to ensure all appropriate tools are brought to bear to respond to these threats.

8. Are you committed to transparency between the DOJ and Congress, and will you commit to prompt, complete, and truthful responses to requests for information from Congress about outstanding issues related to Operation Fast and Furious?

RESPONSE: I appreciate the importance of transparency as well as congressional oversight of the Department’s programs and activities. I commit to working with you to get you the information you need, while preserving the Executive Branch’s proper functioning and the separation of powers, and consistent with the Department’s law enforcement interests.

As you are aware, there is ongoing litigation related to your question, and I understand that the

Department has produced documents consistent with the district court's order in that litigation.

9. Do you believe that detainees currently being held at the United States Naval Base at Guantanamo Bay, Cuba, are entitled to criminal trials in the civilian court system within the United States?

RESPONSE: Consistent with the 2001 AUMF, as informed by the law of war, and subject to habeas review of the lawfulness of their detention by the courts, continued detention of enemy combatants at the military facility at Guantanamo Bay is lawful.

Although every case presents its own unique set of facts that would bear on a decision about appropriate trial venue, I can attest to the ability of our criminal justice system to serve as one effective tool among several to address the threat posed by terrorists. I would support the careful evaluation of all lawful options in the fight against terrorism, including military, diplomatic, economic, law enforcement, and intelligence activities, and including prosecutions in federal courts or in military commissions in appropriate cases.

10. In 2013, the DOJ intervened in litigation over the Louisiana Scholarship Program, a state initiative that provides school vouchers to low-income families. An analysis by the State of Louisiana found that the program promoted diversity in Louisiana schools and actually assisted in speeding up federal desegregation efforts. Most of the schoolchildren who benefit from this program are members of minority groups. This year, more than 13,000 students applied and nearly 7,500 schoolchildren were awarded a scholarship voucher. These children now get the chance to excel and attend high-quality schools that their parents can choose for them because of the program. Ultimately, after public pressure, the Justice Department backed off trying to kill the program entirely, but still insisted that the State provide demographic data about the students to a federal judge overseeing the lawsuit. Accordingly, now Louisiana has to provide data for the upcoming school year and for every school year as long as the program is in place.

- a. Do you agree with the DOJ's decision to intervene in this case?**
- b. If confirmed, will you use Justice Department resources to obstruct, monitor, or regulate school-choice programs?**
- c. Will you commit to asking the federal district court with jurisdiction over this case to discontinue the reporting requirement if you are confirmed?**

RESPONSE: Because this issue is in active litigation, I cannot comment on this matter at this time. It is my understanding that the Department sought the Court's assistance in ensuring that Louisiana provided information on its school voucher program in a timely fashion as required by court orders, and that Louisiana implemented its voucher program in full compliance with federal law, including the desegregation orders in the case. The Court ultimately granted the relief that the United States had been seeking. It is also my understanding that the Department has not taken a position against school voucher programs. That would continue to be my position if I am confirmed as Deputy Attorney General.

11. A 2013 report by the DOJ's Inspector General revealed disturbing systemic problems related to the operation and management of the DOJ's Civil Rights Division. If confirmed, will you commit to implementing the recommendations made by the Inspector General in that report?

RESPONSE: If I am confirmed as Deputy Attorney General, I will commit to ensuring that all Department components are responsive to recommendations made by the Office of Inspector General, including those recommendations made to the Civil Rights Division.

12. Do you agree with the recommendation of the U.S. Sentencing Commission in its 2011 report to Congress, *Mandatory Minimum Penalties in the Federal Criminal Justice System*, that Congress should amend 18 U.S.C. § 924(c) to confer on federal district judges the discretion to impose concurrent sentences under that provision?

RESPONSE: I believe that mandatory minimum sentences are an important tool for prosecutors—and a tool that should be deployed effectively and efficiently. In 2010, I had the opportunity to testify before the Sentencing Commission as it was considering the issue of mandatory minimums, including the mandatory sentences for certain firearm offenses under 18 U.S.C. § 924(c). As I noted then, Section 924(c) has been subject to some criticism, in part because it appears that the statute may have been originally intended to target recidivist offenders, but nonetheless requires judges to impose lengthy consecutive sentences regardless of the defendant's criminal history. If I am confirmed as Deputy Attorney General, I look forward to continuing the dialogue between the Department, the Sentencing Commission, and Congress regarding the use and application of mandatory minimums. It would be premature for me to opine on that specific recommendation before soliciting input from all relevant stakeholders, including prosecutors and law enforcement.

13. As the former U.S. Attorney for the Northern District of Georgia and the former Vice Chair of the Attorney General's Advisory Committee, you are no doubt familiar with the DOJ's recent "Smart on Crime" Initiative, which addresses a number of criminal justice issues like prioritizing prosecutions, sentencing disparities, recidivism, and incarceration of non-violent offenders. Attorney General Holder has advocated reduction of the federal sentencing guideline levels that apply to most drug-trafficking offenses, including trafficking of hard drugs like heroin. The Holder Justice Department also announced a new clemency initiative last year that invites clemency petitions from offenders who meet a number of criteria. Thousands of offenders, including drug traffickers, fall within those criteria.

- a. What are your views on those DOJ initiatives and proposals?
- b. Do they make the work of federal prosecutors harder?
- c. Do they make the American People safer?
- d. Are you going to continue them if you are confirmed as Deputy Attorney General?

RESPONSE to a-d: As I evaluate Department policies, it is critical that that our sentencing and corrections policies protect the public, are fair to both victims and defendants, reduce recidivism, and control the prison population. The Smart on Crime Initiative is allowing the Justice Department to help ensure that our sentences are sensible, effective, and proportional to the crime; to hold offenders accountable; to conserve precious public safety resources; and to improve outcomes. Since Smart on Crime was announced, federal prosecutors are able to better focus resources on the most serious offenders, and the result has been enhanced public safety. Under the policies announced as part of the Initiative, Federal prosecutors are able to better focus resources not on quantity of prosecutions, but rather on the most serious offenders. The result has been a steady decline in the prison population and enhanced public safety. It has also meant an enhanced focus on fewer, but more significant, defendants being admitted to BOP custody. After the Initiative was announced, the number of drug cases brought federally has declined, but the average guideline minimum sentence for drug trafficking cases has risen, indicating a focus on more serious cases and more significant or violent defendants. Moreover, the rate of guilty pleas has risen, and, despite concerns raised by some, drug defendants have cooperated with the government at the same rate as before the Initiative.

Importantly, this Initiative is based on models from states, like my home state of Georgia, which successfully enacted criminal justice reforms to address the high cost of incarceration. In Georgia, like other states, not only have prison admissions and cost of incarceration fallen but, since the enactment of reforms, violent crime has decreased as well.

As Acting Deputy Attorney General, I have continued to implement the Smart on Crime Initiative with an eye towards reducing the prison population. Prison spending has increasingly displaced other critical public safety investments – such as resources for investigation, prosecution, prevention, intervention, prison reentry, and aid to local law enforcement. I look forward to working with Congress to ensure that we maximize resources to enhance public safety.

- e. Do you believe that these or other DOJ initiatives should be expanded to encompass early release for violent offenders who have served a substantial portion of their sentences?**
- f. Do you believe that these or other DOJ initiatives should be expanded to encompass early release for offenders who have received so-called “stacked” or consecutive mandatory minimum sentences under 18 U.S.C. § 924 or other provisions of federal law?**

RESPONSE to e-f: As you know, more than 90% of federal offenders will eventually be released to the community, including many who have a history of violence. Congressional policy has for decades recognized that modest incentives are appropriate to encourage good behavior in prison and participation in recidivism reducing programs. Under current law, all prisoners accrue good time credits. While this law is part of sensible corrections policy, we must be careful to ensure that violent offenders are sentenced in a manner that reflects the seriousness of their conduct and protects society from future harm. I also believe it is critical to do everything we can to reduce reoffending, especially among those who have a history of dangerousness. There are a number of proposals that have been introduced in Congress over the past few years to better reduce reoffending. I look forward to working with Congress to explore how to accomplish this goal in

the most effective and just way.

14. The 2013 Cole Memorandum explains the DOJ's priorities on enforcement of federal law regarding marijuana offenses. Several jurisdictions have recently legalized cultivation and distribution of marijuana for personal use, in effect, initiating a series of state regulatory regimes that contravene federal drug laws.

a. Do you agree with the current DOJ enforcement policies and priorities outlined in the Cole Memorandum?

RESPONSE: I have been committed to enforcing the Controlled Substances Act (CSA) throughout my career as a prosecutor, and that commitment will continue if I am confirmed as Deputy Attorney General. The Cole Memorandum articulates eight priority areas for the enforcement of federal marijuana laws. In addition, the Cole Memo acknowledges the importance of examining the particular circumstances of each case and the authority of the Department to pursue investigations and prosecutions that otherwise serve an important federal interest. As such, the Department's focus is on applying its limited investigative and prosecutorial resources to enforcing the CSA in a manner that addresses the most significant threats to public health and safety.

To be clear, the Department and the Administration do not support the legalization of marijuana, nor do I. The Department remains committed to enforcing the CSA and federal money laundering laws in a way that most efficiently uses its limited resources to address the most significant threats to public health and safety, particularly with respect to violent offenders and gang activity.

b. Do you consider the DOJ's policy, as it is being implemented now, to reflect legitimate enforcement discretion consistent with the Take Care Clause?

RESPONSE: As I have seen firsthand through my over two decades as a federal prosecutor, the Department uses its discretionary enforcement authority in a manner that seeks to focus limited investigative and prosecutorial resources to address the most significant public health and public safety threats. This principle applies in all areas of civil and criminal enforcement. In every instance, prosecutors across the country must determine how limited resources are marshaled to best confront those threats. The Department's policies, including in the area of marijuana enforcement as in others, are crafted to provide guidance on doing so in an effective, consistent and rational way, while leaving prosecutors discretion within the constraints of that guidance to take into account the particular circumstances of each case.

c. If you are confirmed, how do you plan to measure the effect of the DOJ's policy on the federal interest in enforcement of drug laws?

RESPONSE: If I am confirmed as Deputy Attorney General, I will ensure that the Department continues to consider data of all forms. These data can include the results of existing federal surveys on drug usage, state and local research, and, of course, feedback from the community and from federal, state, and local law enforcement. The degree to which existing Department policies and the state systems regulating marijuana-related activity protect federal enforcement priorities and the public is an important issue, and one on which I will remain focused in my current position,

and if confirmed. The Department will continue to collect data and make these assessments through its various components and will continue to work with our partners throughout the government to identify other means by which to collect and assess data on the effects of these state systems.

15. A number of commentators have expressed the opinion that voter fraud simply doesn't exist or the alternative opinion that, if it does, it is a minor problem with no real effect on the integrity of elections.

a. Do you agree that voter fraud does not exist or is so insignificant that it does not threaten the integrity of elections?

RESPONSE: I am not personally familiar with the specifics of studies regarding the prevalence of voter fraud. The Department of Justice has a number of important law enforcement responsibilities, including investigating and prosecuting violations of the federal criminal laws that criminalize various types of election fraud. If I am confirmed as Deputy Attorney General, I can assure you that where the Department finds credible evidence of voter fraud, it will enforce the federal criminal laws regarding election fraud, according to their terms, as appropriate.

b. Do you think that voter fraud is a *bona fide* issue that states should be entitled to address with voter ID laws?

RESPONSE: As the Supreme Court held in *Crawford v. Marion County Election Board*, voter identification laws are not per se unconstitutional. Nor do they necessarily violate the Voting Rights Act. I understand that before the *Shelby County* decision, the Department did preclear some voter identification laws under Section 5 of the Voting Rights Act, such as in Virginia and New Hampshire.

The analysis of a voter identification law is very specific to the particular law, the particular jurisdiction, and a wide range of factors that Congress has identified as relevant to determining whether a particular voting practice comports with the Voting Rights Act. As such, it is difficult for me to comment on the merits of any law (or in the abstract) without a full understanding of how the law actually operates or would operate in that jurisdiction. Nor can I comment on voter identification laws that are the subject of pending litigation to which the Department is a party.

16. First Amendment freedoms that protect the press became a lot more tenuous during Mr. Holder's administration of the DOJ. In May 2013, the Department obtained phone records for the Associated Press ("AP") without the knowledge of that organization, reportedly as part of an investigation of an AP story on CIA operations in Yemen. It then came to light that in 2010 the Holder Justice Department obtained a warrant to search the emails of Fox News reporter James Rosen – the Department claimed that Rosen was a potential co- conspirator with a State Department contractor in violation of the Espionage Act. Since then, the DOJ has issued new guidelines governing how it obtains evidence from journalists. The guidelines maintain that notice of a subpoena may be withheld only if notifying the journalist would present a "clear and substantial threat" to an investigation or to national security.

- a. Do you agree that the Department's treatment of journalists has been heavyhanded and that reform of DOJ practices was necessary?**

RESPONSE: I take very seriously any legal process used with respect to the news media. Any such processes must strike an appropriate balance among several vital interests, including protecting national security; ensuring public safety; promoting effective law enforcement and the fair administration of justice; and safeguarding the essential role of the free press in fostering government accountability and an open society. To this end, I believe that the revisions to the Department's policies and practices regarding the use of certain law enforcement tools to obtain information from, or records of, members of the news media struck that balance. Significantly, the revised policies and practices cover law enforcement tools and records, and ensure thorough, high-level consideration of the use of those tools to obtain information from, or records of, members of the news media.

- b. Do you believe that the DOJ investigations described above pose a serious risk of chilling free speech?**

RESPONSE: I believe that a free press plays a critical role in ensuring government accountability, but that as a general matter, persons entrusted with safeguarding national security information should be held accountable when they violate that trust. I believe the Department's revised media policies and practices strike the proper balance among several vital interests, including protecting national security; ensuring public safety; promoting effective law enforcement and the fair administration of justice; and safeguarding the essential role of the free press in fostering government accountability and an open society.

- c. Do you support the new guidelines?**

RESPONSE: Yes. I support the new guidelines. The revised policies and practices strike the proper balance among several vital interests, including protecting national security; ensuring public safety; promoting effective law enforcement and the fair administration of justice; and safeguarding the essential role of the free press in fostering government accountability and an open society.

- d. As a former federal prosecutor, you are no doubt aware of the balance between individual liberties and the need to conduct thorough and effective investigations. Do the guidelines strike the right balance?**

RESPONSE: Yes, in my view, the Department's revised policies and practices strike the proper balance between among several vital interests, including protecting national security; ensuring public safety; promoting effective law enforcement and the fair administration of justice; and safeguarding the essential role of the free press in fostering government accountability and an open society.

- e. Going forward, how should the Justice Department distinguish itself from the Holder Justice Department when it comes to investigation of journalists?**

RESPONSE: Members of the news media play a critical role in our society. As a result, the use

of certain law enforcement tools to obtain information from, or records of, non-consenting members of the news media should be seen as extraordinary measures. If I am confirmed as Deputy Attorney General, I would give careful consideration to, and closely scrutinize, any request for authorization to use law enforcement tools to obtain information from, or records of, a member of the news media; or to investigate or prosecute a member of the news media. In my view, the revised media policies and practices both provide an appropriate framework with which to conduct this critical analysis, and strike the appropriate balance between law enforcement and free press interests.

17. There have been significant developments recently at the DOJ regarding policies on civil asset forfeiture in response to abuses by U.S. Attorney's Offices and federal and state agencies. Attorney General Holder recently announced that the DOJ will end the Equitable Sharing Program, which essentially apportions billions of dollars in seized assets between federal, state, and local authorities – a huge pool of money that clearly created a risk of encouraging aggressive, if not unlawful, seizures from individuals who are not charged with a crime, have not been indicted, and have not enjoyed any due process whatsoever.

a. Do you believe that there have been inappropriate or excessive seizures by your office or by the DOJ with respect to civil asset forfeitures, adoptive seizures, and equitable sharing practices?

RESPONSE: Attorney General Holder's January 16, 2015, Order generally prohibited the practice of federal adoptions of assets seized by state and local law enforcement. It did not end the Equitable Sharing Program, but came as part of the Department's comprehensive, ongoing review of the Asset Forfeiture Program, including the Equitable Sharing Program.

As part of that ongoing review, the Department recently announced additional important policy changes in this area. On February 11, 2015, the Department issued follow-on guidance on task force participation and adoption. Most recently, on March 31, 2015, the Department issued guidance restricting seizures for structuring violations unless a defendant has been criminally charged, there is probable cause that the structured funds are tied to additional criminal activity, or the U.S. Attorney or Chief of the Asset Forfeiture and Money Laundering Section (AFMLS) personally determines that there is a compelling law enforcement interest served by the seizure.

b. What steps do you plan to take, if confirmed as Deputy Attorney General, to ensure that the DOJ returns wrongfully seized assets promptly and does not continue to seize assets wrongfully?

RESPONSE: I take seriously the concerns that have been raised about civil asset forfeiture. As mentioned above, the Department has embarked on an ongoing review of its Asset Forfeiture Program, which has so far resulted in the policy change on adoptions. If I am confirmed as Deputy Attorney General, I look forward to continuing that review to ensure that Asset Forfeiture tools are used effectively and appropriately to take the profit out of crime and return assets to victims, while safeguarding civil liberties and the rule of law.

I should note that the Department's March 31, 2015, guidance on structuring imposes a 150-day

deadline to file a criminal charge or civil complaint against seized structured funds. If no charge or complaint is filed within this time period, the new guidance requires DOJ prosecutors to direct the seizing agency to return the full amount to the person from whom it was seized unless the claimant consents to extending the deadline or the U.S. Attorney or Chief of AFMLS personally approves an extension.