

Schaumburg, Sara (Ossoff)

From: Schaumburg, Sara (Ossoff)
Sent: Monday, October 25, 2021 6:27 PM
To: Greenfeld, Helaine A. (OLA)
Subject: [EXTERNAL] Hearing Qs

Hi Helaine,

Wanted to share some draft questions that Sen. Ossoff may (or may not) raise at Wednesday's hearing. We'll all find out in real time...

He obviously won't get to all of these but sharing the full draft universe just in case. Please let me know if anything causes heartburn. I'm particularly curious if you think the phrasing of the second Voting Rights wind-up/question could be unhelpful in any way. Always happy to hop on the phone. Cell (b) (6).

Best,
Sara

PRISON REFORM AND OVERSIGHT

Question to Attorney General re: prison security cameras

Wind up: Last week, the Senate passed legislation that I introduced along with Ranking Member Grassley and Chairman Durbin the *Prison Camera Reform Act* to reduce violence and civil rights abuses in prisons by requiring an overhaul of federal prisons' security camera system. As the Justice Department's Inspector General recognized in its report on this issue, outdated and unreliable cameras threaten the safety and wellbeing of incarcerated people as well as employees and the general public.

Question: Do you agree that reforming the federal prisons' security camera systems is a critically important safety and civil rights issue?

Follow-up: Will you commit to adhering to the requirements laid out in this bill and to prioritizing its implementation should it become law?

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Question to Attorney General Garland re: BOP staffing shortages

Wind up: The Federal Bureau of Prisons is responsible for the custody and care of more than 130,000 incarcerated people. Yet chronic staffing shortages undermine the agency's ability to ensure their safety, as well as that of the prison staff and the general public.

Staffing shortages also pose a major obstacle to implementing a range of much needed prison reform initiatives. Congress can require good security camera systems, but you need staff to monitor those cameras and respond. Congress can as has - passed laws requiring critically important programming and

activities to help reduce recidivism, but you need the teachers and staff to run those programs.

Earlier this year, the Government Accountability Office a nonpartisan, independent government watchdog concluded that BOP lacks a reliable method for calculating staffing levels and assessing the impact of staffing shortages, as well as the use of overtime and augmentation, on employees and incarcerated people. This impedes the agency's -- and Congress's - ability to assess the problem and address workforce gaps.

BOP agreed with this assessment and hired a contractor to assist the agency in revising its approach.

Question: Can you provide this committee a brief update on the status of this effort?

Follow-up: Will you commit to prioritizing the implementation of these recommendations and working with my office to ensure adequate staffing that is vital to a safe prison environment and the success of prison reform efforts?

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VOTING RIGHTS

Question to Attorney General Garland re: *Right to Vote Act*

Question: Do you agree that voters should be able to challenge laws that restrict or diminish voting access in cases when the state fails to provide a legitimate justification for such a restriction?

Follow up: I introduced the *Right to Vote Act*, which establishes the first-ever affirmative right to vote in federal statute. It then allows voters to enforce that right by challenging laws that substantially impair or diminish voting access. Is it fair to say that you support passage of such a bill?

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Question to Attorney General Garland re: *Voting Rights Act*

Wind up: The Justice Department's primary tool for challenging discriminatory voting laws is to bring a lawsuit under Section 2 of the Voting Rights Act. That's exactly what it did in Georgia earlier this year when it sued the state over its implementation of a voting law, SB 202, that discriminated against Black and Brown voters. Yet the Supreme Court recently undermined that law in its *Brnovich* decision, making it extraordinarily difficult to establish that a violation has occurred.

Question: What should Congress do to restore Section 2 and ensure that it is able to fulfill the Constitution's guarantee that the right to vote shall not be denied or abridged based on race?

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SURVEILLANCE

Question to Attorney General Garland re: Notice of Electronic Surveillance

Wind up: Federal law requires the department of justice to provide notice to individuals who are wiretapped or for whose bank accounts records the DOJ issues subpoenas. The law permits the government to delay notice until doing so will not disrupt an investigation, but eventually Americans must be told. In contrast, federal law does not require that DOJ tell people if it spies on their emails, their private photos, or tracks their location through electronic records.

Question: Would you support a requirement that the government eventually notify the targets of these other forms of digital surveillance, and do agree that notice of surveillance is a constitutional requirement of any surveillance statute?

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Question to Attorney General Garland re: Use of Facial Recognition Tools for Investigations

Wind up: GAO reports that DOJ uses Clearview AI for law enforcement purposes,¹ but the National Institute for Standards and Technology has shown that the majority of facial recognition systems exhibit a higher rate of false positives, in which they make an incorrect match, for certain demographics, especially Black women.²

Question: Has the DOJ or any other federal agency analyzed the Clearview tool for accuracy, bias, or discriminatory outcomes? (Expected answer: no)

Follow up: Does the Department have specific procurement policies relating to its acquisition of new and emerging technologies?

Follow up: Several popular websites demanded that Clearview stop using web scraping to obtain images from their sites, asserting that this activity violated their terms of service.³ Does the Department have a position on the ethics or legality of using data scraped from websites in violation of their terms of service?

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Question to Attorney General Garland re: use of commercial data for investigations

Wind up: In 2018, the Supreme Court said in *Carpenter v. United States* that government agents must obtain a warrant before collecting cell phone data that showed the location of a device over a seven day period.

Question: To your knowledge, do any federal agencies currently purchase data or contract for services providing device location data from commercial vendors and if so, is this data used in investigations or prosecutions?

Follow up [if location data is still purchased/used]: Given the Court's ruling in *Carpenter*, how do you justify the constitutionality of the purchase of location data for law enforcement purposes?

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FREEDOM OF THE PRESS

Question to Attorney General Garland re: freedom of the press