

**Questions for the Record from
Senator Thom Tillis for
Mr. Kenneth Polite**

1. The Department of Justice's attention to intellectual property enforcement has been somewhat inconsistent over the years. During the times that IP enforcement has properly been regarded as a high priority, the Department generally had put into place a structure that emphasizes its importance and takes a coordinated approach involving all the stakeholder components. What type of organizational structure do you plan to put in place at DOJ, as well as other steps you will take, to ensure that protecting American intellectual property will be regarded as a high priority under your leadership?

RESPONSE: The Attorney General has stated that he considers intellectual property enforcement to be a priority. If I am confirmed as the Assistant Attorney General, I would ensure that the Criminal Division coordinates closely with the National Security Division, FBI, the Civil Division, and other Department components within a framework that best draws upon the strengths of each component.

2. How do you plan to work proactively with the IP Enforcement Coordinator alongside DOJ's sister agencies, especially DHS, to coordinate IP enforcement across the government? In addition, please provide specific information about your plan to combat counterfeit products, online piracy and copyright crime, and the theft of trade secrets.

RESPONSE: I share the Attorney General's view that intellectual property crime can threaten both our nation's economy and public safety. If I am confirmed as the Assistant Attorney General, I would ensure that the Criminal Division fosters productive working relationships with other Department components, as well as with other agencies including the State Department and the IP Enforcement Coordinator in the Executive Office of the President and the National Intellectual Property Rights Coordination Center.

I understand that the Criminal Division conducts industry outreach and supports the Global Law Enforcement Network of International Computer Hacking and Intellectual Property ("ICHIP") attorney advisors. I also understand that the Criminal Division, through its Computer Crime and Intellectual Property Section and its Office of Overseas Prosecutorial Development Assistance and Training, plays a key role in supporting these attorneys and coordinating their efforts to develop international capacity through training, case-based mentoring, and other assistance that can lead to successes in obtaining international cooperation on IP enforcement. I look forward to fully supporting these efforts if confirmed.

3. Last Congress, Senator Leahy and I partnered together to enact the Protecting Lawful Streaming Act. This bill finally closed the so-called “streaming loophole” by giving the Department the authority to pursue felony charges against large scale, commercial piracy organizations. Importantly, this law doesn’t allow the Department to target individual streamers, companies pursuing licensing deals in good faith, or internet service providers.
 - a. Will you use this new authority and make the prosecution of commercial piracy sites a tier one priority?
 - b. In what ways will you ensure that US Attorneys nationwide will actively and aggressively prosecute commercial piracy organizations?

RESPONSE: I know that the Department has pursued criminal prosecutions against some large-scale commercial piracy sites involved in illicit streaming of copyrighted content on the internet. The PLSA addressed some of the limitations in United States copyright law related to prosecuting illicit streaming services. If confirmed, I will fully support the Criminal Division’s Computer Crimes and Intellectual Property Section and also work with the Computer Hacking and Intellectual Property Coordinators in the U.S. Attorneys’ Offices to identify, investigate and, where appropriate, prosecute piracy cases using the PLSA and other applicable statutes. As a former United States Attorney, I understand the benefits of having both centralized expertise and trained prosecutors in the field able to take on a wide range of cases.

4. In 2020, 47 law enforcement officers were murdered by criminals. In 2021, there have already been 31 law enforcement officers killed by criminals. The shocking calls to “defund the police” continue to devalue and dehumanize our brave men and women in blue. This is dangerous and it is unacceptable. What will you do to stop violence against law enforcement officers?

RESPONSE: If confirmed, I look forward to utilizing all available tools (including prevention, intervention, and enforcement) to prevent violent crime and preserve public safety for all members of our communities, including law enforcement officers.

5. Do you agree or disagree that we need to make it a federal crime to assault law enforcement officers? If not, please explain why.

RESPONSE: Any attack against the men and women who ensure law and order is unacceptable and cannot be tolerated. I have not studied the specific issue of whether a federal statute is necessary to supplement state and local laws. If confirmed, I look forward to learning more about legislative proposals in this area.

6. What are your thoughts on “defunding the police?” If you don’t support defunding the police, how do you and the Administration intend to manage the vocal stakeholders calling for this policy?

RESPONSE: I do not believe in defunding police. If confirmed, I look forward to working with the Administration to ensure that additional community resources – including, but not limited to, mental health treatment, substance abuse treatment and counseling, and housing resources – are also supported and utilized, particularly when a non-law enforcement response is more appropriate.

7. What are your thoughts on qualified immunity for law enforcement officers? I view qualified immunity as a critical legal protection for law enforcement agencies across the country? Do you believe it is appropriate to eliminate or limit qualified immunity?

RESPONSE: I understand that qualified immunity is a judicially created doctrine. If confirmed, I would welcome the opportunity to lend my voice to discussions in the Department on ensuring effective methods of police accountability and related issues such as qualified immunity.

8. The First Step Act was a landmark law that had broad bipartisan support. I am proud of the work we in the Judiciary Committee did to enact this commonsense and historic legislation. But proper implementation of the First Step Act is just as important as passing the law. Do I have your commitment that you will work in good faith with Congress to see that the First Step Act is fully implemented?

RESPONSE: Yes.

9. Which criminal justice policy do you believe is the most important issue that needs to be addressed?

RESPONSE: In my opinion, criminal justice policies that help improve public safety (e.g., targeted enforcement, intervention, prevention, treatment, and reentry efforts) and strengthen public trust (e.g., community policing, transparency, fair and proportional sentencing) should be at the forefront of our considerations.

10. I have a specific interest in the issue of international parental child abduction, where one parent will unlawfully kidnap an American citizen child to another country. Many of these countries often refuse to return the children. This practice is devastating to left-behind parents, who must navigate international law to get their children returned. Will you make this issue a top priority if you are confirmed?

RESPONSE: I have not previously handled a case of international parental kidnapping as a prosecutor but am aware that the Criminal Division’s Office of

International Affairs is directly involved in these matters. I look forward to learning more about this area of the law and supporting the Department's efforts to employ all tools including prevention, training and outreach, engagement with left-behind parents, and, when appropriate, extradition and prosecution.

11. Are you committed to working with left-behind parents to return each and every child kidnapped abroad? What steps will you take, yourself, to engage directly with left behind parents and their advocacy organizations?

RESPONSE: I will support the Criminal Division's engagement with left-behind parents and their advocacy organizations.

12. How will you direct the Division to prevent and resolve cases of international parental child abduction? Will you commit to directing US Attorneys and DOJ staff to aggressively prosecute cases of international parental child abduction?

RESPONSE: I will support the Criminal Division efforts to address international parental kidnapping, which I understand include partnering with U.S. Attorneys' Offices on the investigation and prosecution of cases, participating on an interagency task force focused on prevention of these crimes, providing training and outreach to federal, state, local, and foreign partners, and efforts of the Office of International Affairs to facilitate extradition requests from federal, state, and local prosecutors concerning prosecutions for these crimes.

13. Are you willing to utilize extradition as a tool to bring those who kidnap children to justice in the United States?

RESPONSE: If confirmed, I would support extradition efforts as appropriate to each case. Although I have not studied the issue, I am generally aware that some countries will not extradite their own citizens and may not extradite individuals charged with kidnapping their own child.

14. In 2017, the Crime Victim's Fund collected \$6.5 billion – the most ever, and three times what was collected the year before. Collections in 2018 and 2019 plummeted to approximately \$500 million. As a result, organizations that serve victims have been deeply impacted by cuts in federal funding. My colleagues and I sent a letter on this issue last year that has yet to receive a response. In the letter, we identified the use of non-prosecution agreements as a major factor in this decrease in collections. Do you agree with that assessment?

- a. Other than the use of non-prosecution agreements, what other factors have contributed to this significant decline in collections for the Crime Victims Fund?

RESPONSE: Because I am not yet at the Department of Justice, I am not in a position to assess the causes of an overall decrease in collections of criminal fines.

- b. Do you commit to working with the President and Congress to address this growing crisis for organizations who serve victims?

RESPONSE: I do.

- c. What recommendation would you make to solve this challenge?

RESPONSE: Because I am not at the Department, I do not know enough to make a recommendation but, if I am confirmed, I will commit to working with others in the Department to examine the issue and determine how we can best assure that funds are available for victim services.