

Senator Cruz Questions for the Record for
Loretta Lynch, Attorney General of the United States
Senate Judiciary Committee
Oversight of the U.S. Department of Justice
Wednesday, March 9, 2016

1. The Racketeer Influenced and Corrupt Organizations Act (RICO) was enacted in 1970 to combat the Mafia and other organized crime syndicates. Recently, a number of Democrats have been agitating for RICO to be used against persons and organizations that dispute the alleged “consensus” on climate change. On October 14, 2015, two Democrat representatives from California wrote to the Department of Justice (DOJ) asking for a RICO investigation into ExxonMobil for “organizing a sustained deception campaign disputing climate science” On January 12, 2016, the DOJ responded by saying that it had “forwarded your correspondence to the Federal Bureau of Investigation (FBI) . . . to conduct the initial fact finding.” At the hearing, you confirmed that the FBI was considering whether to pursue the case.
 - a. By what standard was this letter determined to be sufficient to warrant fact-finding by the FBI for a RICO inquiry? Do all outside letters requesting investigation get forwarded for fact-finding? If not, why was this one in particular referred to the FBI?
 - b. The October 14 letter essentially asks the DOJ to take a side in a hotly contested scientific matter and then investigate—under RICO, one of the most expansive and feared statutes ever enacted into American law—a company that has not always agreed with this perspective. Are you at all concerned about the potential chilling effect the DOJ’s publically announced “fact-finding” mission might have on free speech and honest and open scientific inquiry?
2. As Senator Vitter correctly observed at the hearing, 8 U.S.C. § 1373 states that “a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.”
 - a. Is it a violation of 8 U.S.C. § 1373 for a state or local government to prohibit its law enforcement officers from *voluntarily* providing to ICE information regarding the citizenship or immigration status of individuals in their custody, even when ICE has not specifically asked for the information?
 - b. Your testimony suggested that state and local law enforcement are obligated to provide immigration status information to ICE only when ICE asks for the information. Is that an accurate characterization of your position?
 - c. If so, how does that square with 8 U.S.C. § 1373, which bars any governmental entity from prohibiting or “in any way restrict[ing]” law enforcement from sending immigration status information to ICE?

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3. In December, the Wall Street Journal (WSJ) reported that the Department of Justice (DOJ) “is routing money back to programs that congressional Republicans deliberately stripped of funds.” (<http://www.wsj.com/articles/justices-liberal-slush-fund-1449188273>). Specifically, according to the WSJ, the DOJ has been requiring prosecutorial targets to “donate” hundreds of millions of dollars to third-party, non-victim activist groups as part of settlement agreements.
 - a. Do you believe this practice, on this nearly billion-dollar scale, is appropriate, especially given that the DOJ’s “own internal guidelines discourage donations to third parties, precisely because of the risk it ‘can create actual or perceived conflicts of interest and/or other ethical issues’”?