a. Violation: Rule III
i. Date: July 25, 2019
ii. Summary: Chairman Graham's Secure and Protect Act was on the agenda. Then-Ranking Member Feinstein was the only Democrat in attendance. Graham stated that he would deem the bill held over at the following week's markup. This constituted ''conducting business'' under the Committee's rules, despite the lack of a quorum.
iii. Source: https://www.judiciary.senate.gov/meetings/07/25/2019/executive-business-meeting
2. Graham (116th Cong.)
a. Violation: Rule I; Rule IV; Rule V
i. Date: August 1, 2019
ii. Summary: At an August 1, 2019, markup, Chairman Graham forced a vote on his Secure and Protect Act despite a request to hold over the bill. Graham ignored Democratic requests to hold the bill over; called a vote—setting a time certain for final passage of the bill—without first allowing any Democratic members to speak; and did not allow any amendments to be offered.
iii. Source: https://www.judiciary.senate.gov/meetings/08/01/2019/executive-business-meeting
3. Graham (116th Cong.)
a. Violation: Rule III; Rule IV
i. Date: October 15, 2020
ii. Summary: Chairman Graham held a markup during which Committee Republicans held over Amy Coney Barrett's nomination to the Supreme Court. Chairman Graham also called a vote to vote on Barrett's nomination at a time certain the following week. However, Barrett's hearing had not yet concluded by this point—the witness panels were held in the afternoon on October 15, 2020, after the markup vote. Committee Democrats objected to holding this markup before the hearing concluded, and Senator Durbin—the only Democrat in attendance—moved to adjourn the markup. Graham overrode Durbin's motion on a roll call vote in violation of the Committee's quorum rule.
iii. Source: https://www.judiciary.senate.gov/meetings/nomination-of-the-honorable-amy-coney- barrett-to-be-an-associate-justice-of-the-supreme-court-of-the-united-states-day-4
Durbin Comments: https://twitter.com/SenatorDurbin/status/1316751184468865025?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1316751184468865025% 7Ctwgr%5E% 7Ctwcon%5Es1_&ref_url=https%3A %2F%2Fwww.commondreams.org%2Fnews%2F2020%2F10%2F 15%2Funpreceden ted-lindsey-graham-openly-violates-committee-rules-schedule-vote-barrett
4. Graham (116th Cong.)
a. Violation: Rule III
i. Date: October 22, 2020
ii. Summary: Chairman Graham broke the Committee's business quorum rule, which states that nine Members of the Committee, including at least two Members of the minority, must be present to transact business. No Committee Democrats attended this markup, at which Amy Coney Barrett's nomination was voted out of Committee. Chairman Graham ignored this rule, and Committee Republicans voted 12–0 to advance Barrett along with the other nominees on the agenda that day.
iii. Source: https://www.judiciary.senate.gov/meetings/1 0/22/2020/executive-business-meeting

CHAIRMAN GRASSLEY RULE VIOLATIONS

1. Grassley (115th Cong.)
a. Violation: Rule IV
i. Date: September 13, 2018
ii. Summary: Then-Chairman Grassley violated Rule IV by passing a motion to cut off debate on Brett Kavanaugh's nomination without an affirmative vote from one member of the minority. At this markup, the Judiciary Committee held over Brett Kavanaugh's nomination. Numerous other items were on the agenda that day, most notably a motion from thenChairman Grassley to set a precise time at which the committee would vote on Kavanaugh's nomination the following week. Senators Leahy and Durbin argued that Grassley's motion violated Rule IV by cutting off debate without the consent of any member of the minority. Senator Durbin read Rule IV aloud and then summarized: ''The point is, you need 11 votes and one member of the minority to stop debate on any matter, let alone a nomination to the Supreme Court.'' Grassley responded, ''The answer to your question is no we don't, and we've checked with the Senate Parliamentarian.'' Grassley asserted that Chairman Hatch had done the same thing in 2003, setting a precedent that he was following.
Other items on the agenda that day included: six motions to subpoena various documents related to Kavanaugh' s record; 21 lower court judicial nominees; a nominee to be a U.S. Attorney; a nominee to be a U.S. Marshal; a nominee to be Director of National Drug Control Policy; and five legislative bills.
iii. Source: Video of the markup, from approximately minute marker 00:44:48 to 00:48:15: https://www.judiciary.senate.gov/meetings/09/13/2018/executive-business-meeting

CHAIRMAN HATCH RULE VIOLATIONS

1. Hatch (108th Cong.)
a. Violation: Rule IV
i. Date: February 27, 2003
ii. Summary: At a markup, Chairman Hatch ignored Rule IV by cutting short Committee debate on the nominations of John Roberts (D.C. Cir.) and Deborah Cook (6th Cir.). Pursuant to Rule IV, then-Ranking Member Leahy asked for a vote before Hatch ended debate, but Hatch refused, directing the clerk to call the roll and noting that ''[t]he Chairman's prerogative is to determine that we can go ahead to a vote'' and that Rule IV ''does not apply to executive nominations.''
iii. February 27, 2003 Executive Business Meeting Record, on file with the Senate Judiciary Committee Library

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

NOMINATION OF VANITA GUPTA

Ms. KLOBUCHAR. Mr. President, I thank Senator DURBIN for his leadership, and following my colleague and friend, Senator LEE, I disagree with him vehemently about Vanita Gupta. She is someone I have worked closely with for years on voting rights, on police reform, and just last year I marched with her across the Edmund Pettus Bridge with the late John Lewis to mark the 55th anniversary of Bloody Sunday in Selma, AL.

After working alongside her to build a more just system, I have no doubt that she will take this job on with two words, two words that I think are so important right now to build trust with the people of this country: honor and integrity. That is what has marked her career.

As a civil rights lawyer, public servant, and as President of the Leadership Conference on Civil and Human Rights, the Nation's oldest, largest, and most diverse civil and human rights coalition, she has a record of fighting for all Americans, with dedication, consistency, and—and—a willingness to work across ideological lines to achieve results.

Why did she get those police endorsements and the kind of support that she got, even though she was taking on reform? It is because she earned people's respect. She is the right person for the right time in the Justice Department, and I say this coming from Minnesota, where my State is reeling after the killing of Duante Wright.

Our hearts break for Daunte's family and for our community, which is still in the midst of the George Floyd murder trial of Derek Chauvin. I was so proud and am so proud of the ordinary citizens that came forward and testified from my State: a clerk in the store, a man walking by, all of them having carried the burden—the burden—of this murder, looking inside themselves thinking: What could I have done better?

And that case will soon conclude, but those citizens coming forward and actually the law enforcement coming forward and testifying at all levels of law enforcement for the prosecution of Derek Chauvin—that meant something to the people of my State. I want to be able to go back and tell those citizens who testified that you don't carry this burden alone; that we have a Justice Department that is going to stand up for you.

And, for me, one of those key people is Vanita Gupta. She is exactly who we need right now to champion the cause of equal justice under the law.

She has described the Department as an institution she loves dearly because, as she said, it bears the name of a value—justice—one that carries a unique charge and North Star. It is the sacred keeper of the promise of equal justice under the law, and coming from the North Star State, that means a lot.

Her commitment to defending the Constitution and upholding the integrity of this important Agency is, for her, a professional calling. It is also a personal calling. As she has described, she inherited from her parents, who came to this country, a belief in the promise of America, one that carries with it a personal responsibility to make this country better for everyone.

We all know immigrants who think like that every day—people who have just arrived and people who have raised their families here. They are Vanita Gupta. There is no question that Ms. Gupta has the experience for this job.

As an attorney for the NAACP Legal Defense and Educational Fund, she worked on the frontlines, fighting in court to protect the civil rights of some of the most vulnerable people. Later, at the American Civil Liberties Union, she brought cases on behalf of immigrant children and worked to end mass incarceration while keeping communities safe.

While serving as our country's chief civil rights prosecutor at the Department of Justice, during the Obama administration, she led critical work on criminal justice reform, prosecuting hate crimes and human trafficking, defending the right to vote, and protecting the rights of the LGBTQ community and those with disabilities.

Ms. Gupta's depth of experience at the Department of Justice and her years as a civil rights attorney make her imminently qualified to serve as Associate Attorney General. In that position, she will oversee the work of the Department's Civil Rights Division and will help direct the Department's work to reform our justice system. Having helped to lead the Federal review of police practices, she understands the need for systemic reform in our justice system, as well as ways to work with law enforcement—with law enforcement—to make necessary changes.

That is why she has the support of police chiefs, sheriffs, and major law enforcement groups across the country, including the National Sheriffs' Association, including the International Association of Chiefs of Police, and including the Major Cities Chiefs Association. They know that Ms. Gupta is a trusted partner who, as the Fraternal Order of Police wrote in a letter of support, has ''always worked with us to find common ground even when that seemed impossible.''

Grover Norquist, a Republican and president of Americans for Tax Reform, described Ms. Gupta as ''an honest broker; someone with an ability not only to understand but also appreciate different perspectives. She was someone who sought consensus,'' he said. That is exactly the kind of person we need at the Department right now.

I look forward to working with her on the next steps in our efforts to reform our criminal justice system, which we were able to discuss at her hearing. We talked about her commitment to police reform and the need to increase funding for alternatives to incarceration, such as drug court, which is something I have worked on for years since my time as county attorney, and her support for conviction integrity units to help States to review legal cases for people believed to be innocent. She gets that the work of a prosecutor is, yes, working for safety, but it is also to be a minister of justice and to make sure that people are treated equally under the law.

I also have talked to Ms. Gupta about the urgent need to finally reauthorize the Violence Against Women Act, which I hope my colleagues and I will work to pass and get to President Biden's desk. In the Obama administration, she coordinated the Department of Justice's efforts to develop guidance supported by data on how law enforcement can prevent gender bias when responding to sexual assault and domestic violence. At our hearing, she affirmed the important role that the Department has in protecting victims of domestic violence, and I look forward to working with her on these issues.

As chair of the Subcommittee on Antitrust, Competition Policy and Consumer Rights, I am also pleased that Ms. Gupta committed to make vigorous antitrust enforcement a priority. I think there is agreement from both sides of the aisle that robust competition is essential to protect consumers, workers, and businesses, large and small.

I am confident that Ms. Gupta will lead the Department's efforts to confront monopoly power and restore competitive markets along with Lisa Monaco and along with, of course, the Attorney General himself, Merrick Garland.

Ms. Gupta's history as a champion of civil rights and record as a consensus builder makes her, as I said, the right person at the right time. She has the backing of more than 220 national civil and human rights organizations, including the ACLU, the NAACP, and the Human Rights Campaign.

She has, as I said, the support from law enforcement and from former Department of Justice leaders from both parties. She is a person who works to bring people together to get big things done. That is what we need right now, someone who sees that vision but also understands that the way we get to justice is by doing things step by step by step and bringing people with you as you march along. We need to do more than restore what has been undermined or lost. We need the courage of leadership to preserve and strengthen our democracy by protecting the rule of law.

I would like to finally acknowledge that her nomination is historic. In addition to Ms. Gupta's years of experience, dedication to justice, and support from across the ideological spectrum, she will be the first civil rights lawyer and the first woman of color to serve as Associate Attorney General. I look forward to confirming her to be Associate Attorney General, and I urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. COONS. Mr. President, I rise today in support of Vanita Gupta's nomination to be the Associate Attorney General of the U.S. Department of Justice. Those of us who have had the joy and the honor of getting to know her and working with her know Ms. Gupta to be engaging and smart, a skilled and balanced lawyer and practitioner, and someone who will bring great values in leadership to the U.S. Department of Justice.

Ms. Gupta has devoted her career to public service and to protecting and advancing the civil and constitutional rights we all cherish as Americans. President Biden, Attorney General Garland, and Lisa Monaco, the President's nominee to be Deputy Attorney General, have all made clear Ms. Gupta would serve as an integral part of the leadership team at the Justice Department. She would bring to that critical role a long record of working with folks across the ideological spectrum in our country on some of our Nation's most difficult and most sensitive issues, some that are urgent and pressing like criminal justice reform and policing.

Unfortunately, a campaign launched against Ms. Gupta shortly after her nomination has painted a misleading portrait of her as a partisan and a radical. I won't repeat or rehash these unfounded critiques, but the fact is this caricature could not be further from the truth.

As letter after letter has come in from her supporters to the Judiciary Committee, in which I serve, we heard over and over that, at her core, Ms. Gupta is a person who seeks to build bridges, to understand others' points of view, and to build consensus and solve problems.

One of the elements of this campaign to mischaracterize her suggests that somehow she is anti-police or anti-law enforcement, and, in this particular instance, the distinction between those who worked with her and know her and what we have heard in this social media campaign and in our committee and here on the floor of the Senate could not be sharper.

We heard from multiple leading national law enforcement organizations that have worked with her in specific and clear and concrete terms. The National Sheriffs' Association, in their letter of support, said:

> Ms. Gupta has an open mind and a strong desire to understand the viewpoint of each stakeholder. She is able to find common ground with law enforcement.

They added:

> [Ms. Gupta] possesses immense credibility among law enforcement leaders.

And they said:

> [She is] exactly the type of leader who is needed in the Justice Department today.

From the Fraternal Order of Police:

> She always worked with us to find common ground, even when that seemed impossible. Her open and candid approach has created a working relationship grounded in mutual respect and understanding.

And the Federal Law Enforcement Officers Association in their letter said:

> [Ms. Gupta has a] proven history of working with law enforcement agencies . . . and elected officials across the spectrum.

We even heard from a leading conservative advocate and activist, Grover Norquist, the leader of Americans for Tax Reform. Mr. Norquist wrote:

> I have come to know and respect Ms. Gupta through our common work on criminal justice reform issues. I found her strongly qualified, effective, principled, driven by a desire to seek common purpose and consensus. . . . At every step, Ms. Gupta was an honest broker, someone with an ability to understand, appreciate different perspectives, someone who sought consensus.

Last but not least, we heard from Mark Holden, general counsel of Koch

Industries, who worked with her on criminal justice reform and wrote the committee saying:

> I respected and admired how Ms. Gupta was not ideologically driven, but principled and solutions-oriented. . . . Ms. Gupta is a principled leader who seeks to find common ground and will work with anyone committed to making the system better and more effective.

I just plead with my colleagues to reflect for a moment: Are these the sorts of letters that we would have received in support of someone who is genuinely intolerant and in support of someone who is the radical activist this misleading campaign has attempted to portray her as being?

Instead, Vanita Gupta has demonstrated in her work and in her career that she is pragmatic, she is principled, and she is a relationship builder in search of solutions. Given this broad and bipartisan support in the letters that came to us on the committee and as Members of this body, I was surprised and disappointed that some of my colleagues on the other side have continued to levee this misleading barrage of unsubstantiated attacks.

So, in conclusion, I would ask my colleagues to consider her fairly and to listen to the range and the scores of groups that have described her as a principled, honest broker. She cares deeply about protecting the civil rights and civil liberties of all Americans and about being fairminded and taking into consideration all points of view. She will bring that same approach to her service and leadership as Associate Attorney General.

This should not be a party-line, partisan vote. Vanita Gupta is the right leader at the right time to help our U.S. Department of Justice tackle some very difficult issues, and I am pleased to stand in support of her nomination and will vote for her confirmation.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, later this afternoon, the Senate will vote on whether to discharge the nomination of Vanita Gupta, the nominee for Associate Attorney General, from the Judiciary Committee.

Ms. Gupta is a polarizing figure, as reflected by the vote in the Judiciary Committee. It was a tie vote, 11 votes to 11. So she failed to receive a majority support from the committee, and now the Senate must vote on whether or not her nomination can come to the Senate floor for consideration.

I want to be clear, though, the passionate opposition of this nominee is not about politics. I voted to confirm the vast majority of President Biden's nominees, my attitude being that he won the election and he is entitled to populate a Cabinet and other important positions with people he has confidence in. But there are limits.

The President's nominees for the top two positions for the Department of Justice did not require this extraordinary step. I voted to support Ms. Monaco's nomination, who has been nominated for Deputy Attorney General, as well as the Attorney General himself, Judge Merrick Garland. As I said, those were not controversial nominees. This nominee is a polarizing, partisan activist and should not be confirmed to this important position.

The lack of support for Ms. Gupta is not a reflection on her political affiliation, nor of her gender, nor of her race, as the chairman of the Judiciary Committee intimated. The opposition to Ms. Gupta is a direct result of her history of inflammatory public statements, radical policy positions, and a laundry list of misleading statements and flat-out lies during her sworn testimony before the Judiciary Committee.

The position of Associate Attorney General is not some bureaucratic paper-pusher. This is the third ranking position at the Department of Justice, the highest law enforcement Agency in America. The American people deserve to know that the individuals leading the Department have no agenda other than to fairly and impartially administer justice, but based on everything we now know about Ms. Gupta, I do not have faith in her ability to deliver on this most basic principle.

Ms. Gupta is not a career public servant. She is a partisan culture warrior with a radical agenda. During her tenure in jobs outside of government, during which she was a registered lobbyist, Ms. Gupta was quite outspoken about her views on just about every topic you can imagine. She slandered Supreme Court nominees. She vilified organizations that she disagreed with. She even took a crack or two at a number of our Senate colleagues.

But the words I find most troubling are those that relate directly to the policies of the Department of Justice itself. As the Judiciary Committee evaluated Ms. Gupta's qualifications, she was asked about her previous writings and her public statements on a variety of topics. There is a lot to sort through.

First, following the tragic killing of George Floyd last summer, people across the country engaged in an important discussion and debate about the use of force by police officers and responsible policing strategies.

The Judiciary Committee held a hearing on this very topic, and Ms. Gupta was one of the star witnesses. At the time, she was the president and CEO of the Leadership Conference on Civil and Human Rights. She testified before the committee there, under oath, that it is ''critical for state and local leaders to heed calls . . . to decrease police budgets and the scope, [and] role, and responsibility of police in our lives.''

Well, for obvious reasons, the phrase ''decrease police budgets'' and ''defund the police'' lead to the same conclusion that she believes police departments need less—not more—resources in order to maintain public safety.

When Ms. Gupta was asked about this at her confirmation hearing, she did not mince words. She said she does not support defunding the police. So I followed up with a written question for the record. I asked Ms. Gupta, following the hearing, to explain the distinction between ''decrease police budgets'' and ''defund the police,'' so we could understand her views. After all, the Associate Attorney General will play an important role in making grants to fund States and local police departments. But Ms. Gupta offered no explanation. She simply said, once again, she does not support defunding the police.

Now, I can understand when people change their minds. I think reasonably intelligent people, as they acquire new information, maybe reflecting on their previous points of view, change their minds, but Ms. Gupta did not offer a single bit of information for this shift between her statement last summer saying that State and local leaders must heed calls to ''decrease police budgets'' and her current position, which is that she does not support defunding the police.

Then there were her statements on qualified immunity. This is an important issue for Congress to discuss and debate because it is qualified immunity that protects law enforcement officers, given the nature of the discretionary decisions they need to make in emergency circumstances. Again, there are people on both sides of that argument.

But in June 2020, less than a year ago, Ms. Gupta argued in a Washington Post opinion piece that it is time to revisit qualified immunity. Well, you can imagine I asked her about that at the hearing. And, again, she said, unequivocally, she does not support eliminating qualified immunity. But, once again, we received no explanation for her changed position.

And while her statements are intentionally, I believe, unclear at best, her words about previously held beliefs on drug policy represent an irreconcilable conflict. Back in 2012, Ms. Gupta authored an opinion piece on November 4, 2012, in the HuffPost. In that article, she argued that the States should decriminalize possession of all drugs—all drugs, not just marijuana, all drugs, presumably, to include prescription opioids, heroin, methamphetamine, fentanyl, you name it—all drugs.

Well, I don't have to remind Members of this Senate that more than 80,000 Americans have died from drug overdoses this last year alone, and much of it would include the sorts of drugs that, back in 2012, Ms. Gupta said should be legalized—or at least decriminalized, to be fair—decriminalized, although the distinction between that may be lost on some.

Well, I am sure that this will surprise no one that this is a controversial view. Congress has spent billions upon billions of dollars to fight the opioid epidemic in this country. We passed the Cures Act, the CARES Act, to try

to get at this epidemic of opioid addiction and abuse. But Ms. Gupta, circa 2012, said that these drugs—all drugs—should be decriminalized for personal use.

Well, I followed up with a question because, during the hearing, Ms. Gupta talked about how her views had evolved since 2012. Again, as we all have different experiences over time, we learn new information, perhaps reflect on our previously held views, I understand how people's views can change. But then she wasn't satisfied with that answer.

So I followed up with a written question. I asked Ms. Gupta if she ever made this statement that is printed in black and white in the HuffPost, dated circa 2012. She said: ''I have never''—never—''advocated for the decriminalization of all drugs.'' She said: ''States should decriminalize simple possession of all drugs.'' Compare that with ''I have never advocated for the decriminalization of all drugs.'' Those are irreconcilable positions.

And the fact is, if you believe Ms. Gupta circa 2012, it is simply a lie. It is a lie under oath, potentially perjury. I mean, why do we swear witnesses in if some of them will take the burden of their oath so lightly and they would lie with impunity? I mean, what is the purpose?

She didn't just lie to me. She lied to Chairman DURBIN. She lied to Senator WHITEHOUSE. She lied to every member of the Judiciary Committee. And, unfortunately, she is lying to the Senate. She has been given many opportunities to reconcile these radically conflicting statements. These are diametrically opposed positions. If she had a good answer, if she cared enough, if she respected Members of the Senate enough, she would have provided us an answer rather than just an outright lie.

Here is a fact check from the Washington Post, that great ultra or uberconservative publication. As you can see, they gave her a unique Pinocchio award. I have never seen a Pinocchio award like this. Ordinarily, they would say, well, you get one, two, or three, or four Pinocchios based on whether or not we find this to be a misrepresentation of the facts or a lie.

But here, they said: ''For this tango of previously unacknowledged flip-flops, Gupta [deserves] an Upside-Down Pinocchio''—''Upside-Down Pinocchio.'' They went on to say Vanita Gupta's shifting views on defunding the police, decriminalizing drugs deserve this Upside-Down Pinocchio, March 10, 2021.

If you published an op-ed saying the sky is purple and now you say the sky is blue, don't tell us you never thought the sky was purple. Have a little more respect for your obligation for one of the highest positions in the Department of Justice not to lie to the Judiciary Committee or the Senate. Have the courage to tell us the truth and stop trying to deceive the Senate in order to be confirmed.

As I said earlier, Ms. Gupta was a registered lobbyist and spent a good part of her career pushing a very specific agenda and a range of radical policies to go along with it. In the process, she disparaged individuals, organizations, and political parties who dared to oppose her beliefs.

She wrote about the growing number of conservatives on the Federal bench and said: ''Republicans have planted the seeds of this takeover for decades—and now, they are leaping into action.'' I wonder if she realized she might one day be in a position of advocating on the Department of Justice before the very same judges that she has disparaged.

She tweeted that Justice Kavanaugh ''lied'' to the Judiciary Committee and ''showed himself to be a partisan.'' And she is going to represent the American people in the highest Court in the land, populated by Justices she has called a liar? Well, she has called a number of other Federal judges—she has described a number of them with similar disdain.

Now, I find it hard to believe that these views, which are not from decades-old law school writings or that you can write off to immaturity or perhaps satire—like we heard yesterday from Ms. CLARKE, who has been nominated to the civil rights division—these are recent public statements which this nominee no longer claims to hold.

Like I said, if confirmed, she will supervise litigation in front of the many Federal judges she has disparaged, and she will be in an extraordinarily powerful position to bend the Department of Justice to her political whims.

Ms. Gupta is the daughter of a gentleman who heads up a chemical company that produces all sorts of chemicals for a variety of legitimate purposes. It looks like, from her financial disclosure statement, he has been very successful and so has Ms. Gupta, in family trusts worth tens of millions of dollars, much of it including the stock of Avantor, the company that her father heads.

I realize Ms. Gupta is not personally responsible, as a shareholder in this company, but it is clear, I believe, from an investigative journalism story by Bloomberg dated September 2020 that Avantor was selling acetic anhydride, an essential ingredient in converting poppies to heroin, for at least the last decade.

She owns tens of millions of dollars' worth of that stock.

I have asked the Attorney General and the Securities and Exchange Commission to look into Avantor's conduct because, if, in fact, an American chemical manufacturer has been selling acetic anhydride in the country where they know that it will be available to the criminal cartels and drug runners—and they should know that 92 percent of the heroin made in Mexico, using acetic anhydride, manufactured by Avantor and its subsidiary in Mexico—that is a serious, serious problem. So I have asked the Attorney General and the Department of Justice to look into it.

Asked about this, asked about Avantor's activities, Ms. Gupta said: ''I'm aware of the allegations.''

I do not have faith, nor should the Senate have faith, nor should the American people have faith that Ms. Gupta will act fairly and impartially if confirmed to this position. If she was willing to lie to the American people during her confirmation hearings before the Judiciary Committee, imagine how she might treat others with disdain, people who hold opposing views in our society, using the great weight and power of the Department of Justice perhaps to further some of her partisan, political, ideological agenda.

Can we really expect someone with this track record, this history, to live up to the highest ideals of the Justice Department? And, for example, we all know lawyers are taught that, if you have exculpatory information about a criminal defendant, you have a duty to disclose that to the other side. If you are the prosecutor, you have a duty to disclose it to the defendant so it can be cross-examined and used in the course of a jury trial.

Do we really expect someone who appears willing to lie with such disregard for the truth to disclose exculpatory material that a person sued by the Department of Justice would have a right to, or would she just try to sit on it?

Can we really expect her to hire people around her based on merit as opposed to some political litmus test? Can we really expect her to disclose material information to the Foreign Intelligence Surveillance Court or encourage folks under her supervision to be meticulous and forthright with the court when seeking warrants? I don't think so.

Given the incredible power of the Department of Justice and all the tools available to it, Ms. Gupta's radical beliefs and agenda—that she believes in sincerely, apparently—these would be more than words on a screen. Her views would be terribly dangerous to the American people. Based on her track record, I have no confidence in her ability to act with fairness, candor, or integrity.

As a member of the bar, as a lawyer, you have a higher duty, than even a regular citizen, of candor. The model disciplinary rules that apply to lawyers, members of the bar, like Ms. Gupta, who is a member of the New York bar as well as the Supreme Court bar—they are subject to discipline from grievance committees in those jurisdictions.

We know that they have real teeth because former President Clinton, as you may recall, lied under oath as a lawyer and was disbarred by the Arkansas Bar Association and also had to give up his membership in the bar of the Supreme Court of the United States.

If the Senate is going to make a habit of allowing witnesses to come in

and lie under oath in such a brazen way, why do we even go through this Kabuki theater? Why do we require them to take an oath in the first place if you can lie with impunity? What is the point of going to these hearings if the witnesses are not going to be truthful and answer our questions honestly?

As I say, I have grave concerns about this nominee's ability to separate her well-documented personal beliefs from her role as a high-ranking official at the Department of Justice.

So it will come as no surprise that I will oppose discharging Ms. Gupta's nomination from the committee. I think she should have to come back to the committee, as we have requested of Chairman DURBIN, to explain these inconsistencies, if she has a good answer. So far, Chairman DURBIN has declined to provide her and us that opportunity.

But if we want to maintain any sense of legitimacy and respect for the confirmation process, we need to hold people accountable who come here and lie under oath. And for that and many other reasons, I will oppose the motion to discharge this nomination.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, before yielding to my colleague from Rhode Island, I would like to respond very briefly.

My, have we come a long way since we had a President who, for 4 years, refused to disclose his tax returns—first time ever. Oh, they are under audit. I will get back to you at some other time later.

Now we have witnesses and nominees coming before the committee, suggested by President Biden, who are producing the documentation and the things that are being requested by this committee so that everyone knows the answers.

So did Ms. Vanita Gupta produce 100 pages of documents? No. Did she produce 1,000? No, she produced 11,000 pages of documents, answering every question that was to be asked. And the suggestion the senior Senator from Texas raises—he raised it before in committee—that somehow, because her family made a business decision about selling a chemical, legally, into the nation of Mexico, she should be held responsible as a shareholder or as a member of the family?

You will notice, if you listen very carefully to what the Senator said, he is not saying there was any wrongdoing. He is saying there was an article once which made that allegation, and he has referred the question to others to decide. That is a long way from saying Vanita Gupta is responsible for whatever the company did, if it did anything, wrong. She has made that full disclosure, and I think raising this is unfair, just fundamentally unfair.

Secondly, on the question of decriminalizing drugs, narcotics, she says her position on it has evolved. Well, I think the Senator from Texas would be the first to acknowledge that the position of America has evolved on the question of drugs; has it not? Hasn't the position of Texas recently evolved on the decriminalization of some drugs and the possession thereof?

We are thinking differently about it. We are trying to find the most effective way to end addiction and save lives. We no longer want to lock everybody up, nor should we. We are deciding that there are some drug violations that shouldn't merit any time in jail, that some people just need help to break their addiction.

If Vanita Gupta has been part of that conversation in America over 9 or 10 years, she is in good company. We have all been part of it. Virtually all of us have been part of it.

And this notion of defunding the police—do you honestly believe the Fraternal Order of Police would be endorsing her if she wanted to defund the police?

She made it clear, as others have too, that reallocation of funds for law enforcement is just common sense. Putting a social worker in a delicate situation, putting a psychologist in a delicate situation, may spare a policeman a terrible choice that he has to make, and I think most of us agree that it is common sense.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Mr. President, I am here to express my support for the nomination of Vanita Gupta to serve as Associate Attorney General.

It is a little strange here on the floor today because under normal circumstances I would talk about Ms. Gupta's exemplary record of service and how she will excel as the third in command of the Department of Justice and that she would be a consensus nominee. But the extraordinary effort to scuttle her nomination on a partisan basis in spite of her exemplary record asks some questions about what is going on here.

Vanita Gupta is an accomplished lawyer with a record of working well with just about everyone. When she was last at the Department, working on really difficult issues like use-of-force guidelines for police, she built solid relationships with law enforcement. So they have thrown their full-throated support behind her nomination.

Here are the law enforcement agencies and leaders that are supporting her: the Fraternal Order of Police; the Major County Sheriffs of America; the International Association of Chiefs of Police; the Major Cities Chiefs Association; the Police Executive Research Forum; the Federal Law Enforcement Officers Association; the Hispanic American Police Command Officers Association; NOBLE, the National Organization of Black Law Enforcement Executives; and a whole array of distinguished law enforcement leaders.

These are influential groups and respected individuals, and, for some of my Republican colleagues, this kind of support from law enforcement is literally unbelievable.

So here is what my colleague, the junior Senator from Arkansas, asked Ms. Gupta about all these law enforcement endorsements during her confirmation hearing: ''Did you, or anyone on your behalf or anyone in or affiliated with the Biden campaign transition or administration, pressure those organizations with threats of retaliation if they did not support your nomination?''

''No, Senator,'' she answered.

And she wasn't kidding. Law enforcement doesn't brook threats from criminals, let alone Presidential candidates and executive nominees seeking their endorsement.

And, indeed, they stood up to dispute that insinuation. Here is what Jim Pasco, the executive director of the Fraternal Order of Police, said in response:

> I was kind of shocked by it. If [the Senator] really suspects that, then he doesn't really know the law enforcement organizations as well as he thinks he does, and he certainly doesn't know Vanita Gupta as well as I know her.

Chuck Wexler is the head of the Police Executive Research Forum, and here is how he responded:

> Do you really think you can stand up to law enforcement and threaten them? Do you really think that's going to work? We never forgot that she stood with us when it mattered.

That is the reason for her support from law enforcement: She stood with them when it mattered. And to say that she is such a radical and so against law enforcement and disdains those who disagree with her—which would presumably be law enforcement, if she is such an anti-law-enforcement radical, as my colleagues suggest—is completely blown to smithereens by their continued support for her—not disdain: ''She stood with us when it mattered.''

So when that effort to blow her up exploded in their face, colleagues went after an op-ed that she authored 9 years ago in which she supported decriminalization and defelonization of simple possession of small amounts of drugs. It could be read to say decriminalization of marijuana—other drugs, small amounts.

Well, we know a lot today about substance abuse that we didn't know then that people who have addictions require treatment and care, not punishment and incarceration. That is no radical position. The idea that you should not prosecute people for possession of small amounts is the basis of drug courts.

I started the drug court in Rhode Island. It has been a roaring success. It is the basis for diversion programs. As attorney general of my State with full criminal jurisdiction in my State of Rhode Island, we constantly did diversion of cases of possession of small amounts of drugs—all kinds of drugs—

because they don't belong in the criminal justice system. They get swept up, and you divert them out before prosecution.

This is nothing peculiar or unusual. This is the position of the World Health Organization. This is the position of the Organization of American States. This is the position of the International Red Cross. Heck, even former Speaker Boehner supported decriminalization of simple possession of some or all drugs.

So they had to get into rhetorical tricks to try to make the point look different than it actually is. And Republicans repeatedly asked her questions about that statement regarding small amounts with respect to what they call here ''the legalization of 'all drugs.''' In response to that, she said:

I have never advocated for the legalization or decriminalization of all drugs, and I do not support the legalization or decriminalization of all drugs.

If I were to come up to you, Mr. President, and say ''Do you support the legalization or decriminalization of all drugs?'' what will you take that question to mean? It would seem to mean blanket decriminalization or legalization of all drugs, not small amounts—all.

Well, they went on in this same vein. Here is a question for the record from Senator HAWLEY describing Senator CORNYN's question ''whether you advocate decriminalization of all drugs.''

That is not what she advocated. What she advocated was decriminalization of small amounts—consistent with diversion, consistent with drug court activity, consistent with the way the substance abuse and recovery community treats this issue, and consistent with the position of all those organizations and many, many more. This is the way we operate in law enforcement these days.

So then they try to focus in on the word ''never.'' Senator CORNYN, who was speaking on the floor a moment ago, ominously said to me, the most important word in that quote is ''never.'' As you can see, it is simply a misrepresentation of what she said in 2012.

Well, you could also argue—''I have never advocated for the decriminalization of all drugs.'' You could also argue that the key word in that sentence isn't ''never''; it is ''all.'' That is the subject of the sentence: ''all drugs.'' Kilos of cocaine, pounds of methamphetamine—no. Small, simple possession amounts—that is the way everybody treats drugs in law enforcement these days.

As lawyers, we know that it is important to get the question right, and it is not unusual for lawyers to flub the question. When you are asking a question in court and you flub the question, you often get an answer you don't like, and the remedy for that is not to call the witness who answered your question a liar. The remedy for that is to get the question right in the first place. And if the question is whether Vanita Gupta advocated decriminalization of all drugs, the answer is, in fact, no because small amounts of simple possession is a very different thing than ''all drugs.''

And now they are hanging this extraordinary rampart of invective—liar, deliberate liar—all over getting an honest answer to a question that they asked badly or, perhaps, worse yet, a trick question intended to trip her up that she answered honestly.

So what is going on? Why are they going through this exercise? Well, step back a little bit and look what is going on in our country. The first thing that is going on is that there is a massive dark money campaign for voter suppression. There is a guy named Leonard Leo who ran the dark money campaign that pushed three Supreme Court Justices onto the Court. The Washington Post reported that as a $250 million effort—$250 million.

After the Washington Post article came out and Leonard Leo was blown like a covert agent who suddenly is identified with all of this, he has to get out. Where does he go? He goes to something called the Honest Elections Project, which is the sister organization of a group called the Judicial Crisis Network, which—guess what—is running ads against Vanita Gupta.

They used to run ads for the Supreme Court nominees. They spent tens of millions of dollars running ads against Garland, for Gorsuch, for Kavanaugh, for Barrett—tens of millions of dollars. But with Biden in the White House, nobody is listening to them any longer. They are not getting their appointees through, so they moved to voter suppression. And all that money and that same guy, Leonard Leo, are now lined up behind voter suppression.

So you get dark money ads paid for by Judicial Crisis Network against the third-ranking person in the Department of Justice? They are used to going for the Supreme Court. They are going after the third-ranking person at the Department of Justice. Why? Because it is voter suppression—because she has been the head of the Civil Rights Division, which prosecuted voter suppression. She knows that stuff. She will supervise Kristen Clarke, whom you will hear a lot more nonsense about from the other side, who will run the Civil Rights Division and sue for voter suppression.

So what this is really about is the voter suppression project that you see alive and well in the country from the Republican Party. There are reports that say that every single legislative body in the country controlled by Republicans is pushing voter suppression measures. I don't know that it is true, but it sure looks like it is true. And if not, it is darn close. It is a pattern. Wherever you go in the country, Republicans in charge—boom—restrict the ballot.

They know people don't like what they stand for. They know people can't stand the dark money forces behind ads like this. So the secret, as my distinguished colleague Senator WARNOCK said: Some people don't want some people to vote.

So the two women who will be overseeing the Department of Justice voter suppression resistance, the legal fight against voter suppression, the enforcement of the Civil Rights Act, are being subjected to this treatment.

On this, I will stand with Ms. Gupta.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Daily Beast, Mar. 22, 2021]

HOW RIGHT-WING DARK MONEY IS TRYING TO KNEECAP THE BIDEN DOJ

(By Sheldon Whitehouse)

Someone is targeting Biden Justice Department nominees Vanita Gupta and Kristen Clarke with attacks. Why? Both nominees hold exceptional records as litigators and civils rights activists. The respect they've earned extends beyond the civil rights movement and progressives to law enforcement and leading conservatives. They ought to be consensus picks.

But pull back the curtain, and strategy and motive take shape. Gupta and Clarke are poised to use their skills to defend Americans' right to vote, just as the Republican Party is going all in on voter suppression as its path to political victory in 2022.

Unraveling the strategy starts with the dark-money group running the ads: the so-called Judicial Crisis Network (JCN). This group's ordinary work has been to translate big donors' money into political attack ads in the ''Court capture'' mission that set out to remake the Supreme Court to the donors' advantage. JCN has placed more than 10,000 ads since 2012 in pursuit of that mission, and they've kept secret the identity of those big donors.

In Donald Trump and Mitch McConnell's courtpacking machine, this Judicial Crisis Network spent $7 million to oppose President Obama's Supreme Court nominee Merrick Garland, and then spent another $10 million to boost Trump's nominee Neil Gorsuch. JCN pledged $10 million or more for Brett Kavanaugh's nomination. It spent $10 million in under two months to support Amy Coney Barrett's bid. These campaigns were funded with tens of millions of anonymous dollars, primarily through four separate donations of at least $15 million. Those donations may well have been the same donor.

Eye-popping as that is, those millions are a tiny slice of the funding behind the overall dark-money operation. A 2019 Washington Post investigation revealed JCN is one of a web of front groups coordinated by Leonard Leo, the long-time executive vice president of the Federalist Society.

The Post tracked more than $250 million in dark money flowing through Leo's groups.

The groups see to the grooming and selection of reliable nominees, the lobbyists needed to shepherd nominees through confirmation, and the attack ads to motivate the confirmation votes. Then, more groups lobby the selected judges through amicus curiae briefs, signaling how their donors want the judges to rule.

The dark-money network has won an avalanche of victories for its donors. There are 80 partisan, 5–4 Supreme Court decisions that limit workers' rights and access to reproductive health care, erode environmental protections, block commonsense gun safety laws, undermine civil rights, and protect corporations from courtrooms. It is an astounding 80–0 rout for big right-wing donors.

After The Washington Post exposed the $250 million operation, Leo stepped back from his Federalist Society role and turned up at a new organization improbably named the Honest Elections Project. This project began voter suppression work in political swing states like Florida, Nevada, Wisconsin, and Michigan that included: negative ads against Democrats; threatening letters to election officials challenging voter rolls; and a barrage of lawsuits seeking voting restrictions for November's election.

''Trump's cronies at the Justice Department showed dark-money donors the value of a captive Department that would look away from voter suppression schemes.''

The media soon uncovered that the Honest Elections Project was a rebrand of the Judicial Education Project—which shared connections, donors, and aims with its sister group—yes, the Judicial Crisis Network. As a reporter for The Guardian observed, the Honest Elections Project melds two goals of the right-wing dark-money operation: first, pack the federal judiciary; and second, bring voting rights cases before the packed courts. Rigging elections through the courts is now a Republican judicial priority.

This brings us back to Gupta and Clarke. Gupta once ran the Civil Rights Division. She prosecuted hate crimes and human trafficking, promoted disability and LGBTQ rights, and fought discrimination in education, housing, employment, lending, and religious exercise. But most important, she challenged voter suppression. Gupta, if confirmed as assistant attorney general, will supervise the Civil Rights Division she once ran.

Accomplished civil rights attorney Clarke will fill Gupta's former role running the Division and enforcing voting rights. The Honest Elections Project, kin to the Judicial Crisis Network, wants no part of these two women, because they will be strong, motivated leaders against unlawful voter suppression. They preferred Trump's Civil Rights Division, which didn't bring one single Voting Rights Act case until late May of 2020.

That's the motive. The donor-approved Republican appointees to the Supreme Court may handcuff the Civil Rights Division with further judicial assaults on voting rights. But Trump's cronies at the Justice Department showed dark-money donors the value of a captive Department that would look away from voter suppression schemes. As Republicans hinge their election strategy on keeping Americans from voting, an active Civil Rights Division is a deadly threat.

I get it. If I were a right-wing special interest group, the last thing I would want is these two experienced lawyers wielding the power of the Justice Department to defend voting rights. But for everybody else, these women are two appointments to applaud.

Mr. VAN HOLLEN. I yield the floor.

The PRESIDING OFFICER (Ms. CORTEZ MASTO). The Senator from Tennessee is recognized.

Mrs. BLACKBURN. Madam President, I find it so interesting that my friend and colleague across the aisle is trying to deflect questions and concerns that we have by insinuations and some pretty disgusting slander, and I am sorry that we have listened to that here on the floor of this Chamber.

Yes, indeed, I am coming to the floor today to oppose discharging Vanita Gupta from this floor to be confirmed as the Associate Attorney General. And, yes, I have concerns. I have had questions in committee.

I will tell you I didn't expect to find a lot in common with her because I have had a difficult time finding a lot in common with some of the nominees that President Biden has sent over to us at Judiciary Committee. But as a member of that committee, it is my responsibility to approach each nomination with an open mind. Some I have decided were worthy of an ''aye'' vote. There are others, like Ms. Gupta, that I feel are not worthy of a confirmation vote.

Over the course of the review of information—and to my friend, the chairman of the Judiciary Committee, 11,000 pages of documents—you can send in a million pages of documents, but if you are not answering the question, if you are trying to circumvent the question or nuance it or dance around it, it still doesn't answer the question. So the volume doesn't really matter.

What matters is someone who steps up and says: Here is my answer—clear, concise. That is what you want, and that is what the American people expect.

I arrived at the opinion that, no, I didn't think she was fit to take that No. 3 position, not because I disagreed politically but because the answers that she gave on some specific issues—police funding, drug legalization, qualified immunity—were so inconsistent with what she had previously said or what she had previously written that no one can say with any degree of certainty what she will do with the newfound power if we decided to give that to her. No one knows what she would do.

Due to the time constraints we have on the floor today, I want to go back to the 2012 article and use that as one example. There has been quite a bit said about that. Now, she was in the position of the ACLU's deputy legal director. She wrote an op-ed arguing—and I quote, and we have just heard a good bit about this—''States should decriminalize simple possession of all drugs, particularly marijuana, and for small amounts of other drugs.'' That is a quote.

Speaking as a Senator representing the interests of a State struggling to emerge from the opioid epidemic, this statement to me is a disqualifier. It is as simple as that.

Senator CORNYN added to that conversation with other specific items that have transpired in her past. In her hearing, which took place in March, Ms. Gupta almost got away with disavowing that op-ed. But when we pressed her on it, what did she have to say? That her position had evolved.

It seems there is an issue with some of these nominees that are coming before us. They are going through these just in time, road to Damascus, evolution processes. All of a sudden, they are evolving to a position of something that they think the committee wants to hear, that they think will help them skirt through, that they think will help them get confirmed so that they can hold the power.

Ms. Gupta has also evolved on criminal justice reform, on the fundamentals for that. And as we have discussed on this floor today, the fact checkers have had a pretty good time with that. Back in March, the Washington Post took her to task—Senator CORNYN talked about this—her evolving position, her shifting views on defunding the police, decriminalization of drugs. This is the Washington Post. This is the Washington Post that gave her the unusual upside-down Pinocchio because she was flip-flopping and evolving at such a rapid rate, they couldn't keep up with it.

Madam President, everyone has the right and the opportunity to change their mind. Absolutely, people have the right to change their mind, but trying to follow the many changes of her mind on the issue of drug crimes, on decriminalization, on defunding police—these are important issues to our communities. These are not a game. These are very important issues to the safety and security of our communities.

The number of inconsistencies in her testimony more than test the boundaries of understanding. Is she still evolving? Is she going to flip-flop, as the Washington Post says, back to her previous opinions of 2012? Is she going to flip-flop again? Would we see that in the next 11,000 pages of documents that were submitted that she has decided to change her mind one more time? From what standard is she going to work at the Department of Justice?

Each of these are concerns. Each of these are reasons that my hope is that this Chamber will refuse to discharge Vanita Gupta for a confirmation vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Madam President, before my distinguished friend's speech, I ask unanimous consent to have an article appended as an exhibit to the remarks I gave earlier.

The PRESIDING OFFICER. The Senator from North Dakota.

REMEMBERING DOUGLAS BURTELL

Mr. CRAMER. Madam President, 12 days ago, on April 3, we brought sad news of the passing of Douglas Burtell, of Bowman, ND, the last known World War II veteran residing in my State from the legendary 164th Infantry Regiment of the North Dakota National Guard. Tomorrow would have been his 97th birthday, April 16. I join in remembering and honoring him and the generation of heroes he represents to our State and to our Nation.

Douglas Burtell joined the National Guard in Fargo at the age of 16. In February of 1942, 2 months after the attack on Pearl Harbor, this Casselton native was among the 1,723 young men to mobilize in the 164th Infantry Regiment. Ten months later, the regiment sailed into history as the first U.S. Army unit to offensively engage the enemy in the Pacific when they landed at Guadalcanal on October 13, 1942. There they reinforced the 1st Marine Division and spent more than 600 days in the combat zone until August 1945.