

ACCOUNTABILITY AND JUSTICE FOR WAR CRIMES
COMMITTED IN UKRAINE BY THE RUSSIAN
FEDERATION

HEARING

BEFORE THE

SUBCOMMITTEE ON EUROPE, ENERGY, THE
ENVIRONMENT AND CYBER

OF THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTEENTH CONGRESS

SECOND SESSION

MAY 11, 2022

Serial No. 117-125

Printed for the use of the Committee on Foreign Affairs



Available: <http://www.foreignaffairs.house.gov/>, <http://docs.house.gov/>,
or <http://www.govinfo.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

47-505PDF

WASHINGTON : 2023

COMMITTEE ON FOREIGN AFFAIRS

GREGORY W. MEEKS, New York, *Chairman*

BRAD SHERMAN, California	MICHAEL T. McCAUL, Texas, <i>Ranking Member</i>
ALBIO SIRES, New Jersey	CHRISTOPHER H. SMITH, New Jersey
GERALD E. CONNOLLY, Virginia	STEVE CHABOT, Ohio
THEODORE E. DEUTCH, Florida	SCOTT PERRY, Pennsylvania
KAREN BASS, California	DARRELL ISSA, California
WILLIAM R. KEATING, Massachusetts	ADAM KINZINGER, Illinois
DAVID CICILLINE, Rhode Island	LEE ZELDIN, New York
AMI BERA, California	ANN WAGNER, Missouri
JOAQUIN CASTRO, Texas	BRIAN MAST, Florida
DINA TITUS, Nevada	BRIAN FITZPATRICK, Pennsylvania
TED LIEU, California	KEN BUCK, Colorado
SUSAN WILD, Pennsylvania	TIM BURCHETT, Tennessee
DEAN PHILLIPS, Minnesota	MARK GREEN, Tennessee
ILHAN OMAR, Minnesota	ANDY BARR, Kentucky
COLIN ALLRED, Texas	GREG STEUBE, Florida
ANDY LEVIN, Michigan	DAN MEUSER, Pennsylvania
ABIGAIL SPANBERGER, Virginia	AUGUST PFLUGER, Texas
CHRISSY HOULAHAN, Pennsylvania	PETER MEIJER, Michigan
TOM MALINOWSKI, New Jersey	NICOLE MALLIOTAKIS, New York
ANDY KIM, New Jersey	RONNY JACKSON, Texas
SARA JACOBS, California	YOUNG KIM, California
KATHY MANNING, North Carolina	MARIA ELVIRA SALAZAR, Florida
JIM COSTA, California	JOE WILSON, South Carolina
JUAN VARGAS, California	
VICENTE GONZALEZ, Texas	
BRAD SCHNEIDER, Illinois	

SOPHIA LAFARGUE, *Staff Director*

BRENDAN SHIELDS, *Republican Staff Director*

SUBCOMMITTEE ON EUROPE, ENERGY, THE ENVIRONMENT AND CYBER

WILLIAM R. KEATING, Massachusetts, *Chairman*

SUSAN WILD, Pennsylvania	BRIAN FITZPATRICK, Pennsylvania, <i>Ranking Member</i>
ABIGAIL SPANBERGER, Virginia	ANN WAGNER, Missouri
ALBIO SIRES, New Jersey	ADAM KINZINGER, Illinois
THEODORE DEUTCH, Florida	BRIAN MAST, Florida
DAVID CICILLINE, Rhode Island	DAN MEUSER, Pennsylvania
DINA TITUS, Nevada	AUGUST PFLUGER, Texas
DEAN PHILLIPS, Minnesota	NICOLE MALLIOTAKIS, New York
JIM COSTA, California	PETER MEIJER, Michigan
VICENTE GONZALEZ, Texas	
BRAD SCHNEIDER, Illinois	

LEAH NODVIN, *Staff Director*

CONTENTS

Page

WITNESSES

Carpenter, Ambassador Dr. Michael R., Permanent Representative of the United States of America to the Organization for Security and Cooperation in Europe, U.S. Mission to the Organization for Security and Cooperation in Europe, U.S. Department of State	8
---	---

APPENDIX

Hearing Notice	30
Hearing Minutes	31
Hearing Attendance	32

ACCOUNTABILITY AND JUSTICE FOR WAR CRIMES COMMITTED IN UKRAINE BY THE RUSSIAN FEDERATION

Wednesday, May 11, 2022

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON EUROPE, ENERGY, THE
ENVIRONMENT AND CYBER,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:10 p.m., via Webex, Hon. William Keating (chairman of the subcommittee) presiding.

Chairman KEATING. House Foreign Affairs Subcommittee will come to order.

Without objection, the chair is authorized to declare a recess of the committee at any point and all members will have 5 days to submit statements, extraneous material, and questions for the record subject to the length limitations to the rules. To insert something in the record please have your staff the previously mentioned address or contact full committee staff.

Please keep your video function on at all times even when you are not recognized by the chair. Members are responsible for muting and un-muting themselves and please remember to mute yourself after finished speaking.

The system with House Resolution 965 and the accompanying regulation staff will only mute members and witnesses as appropriate when they are not under recognition to eliminate background noise.

I see we have a quorum present. Now recognize myself for an opening statement pursuant to the notice.

We are holding a hearing today entitled, "Justice and Accountability for War Crimes Committed in Ukraine by the Russian Federation."

Good afternoon and I thank all of you for participating in today's hearing. This is a timely and critical topic.

On March 16 just days after the Russian Federation invaded Ukraine this subcommittee held a hearing dedicated to the early signs of war crimes and human rights abuses committed in Ukraine by the Russian military. Since that time the U.S. has taken significant steps to support the people of Ukraine in their fight for freedom while supporting the careful preservation of evidence of war crimes that are committed by the Russian Federation in Ukraine.

Today Putin's war on Ukraine rages on and the onslaught of Russian aggression continues. More and more heartbreaking sto-

ries emerge from the front lines. It has not been 76 days since Russia's renewed invasion of Ukraine and the evidence of war crimes is insurmountable.

As the Russian military retreated from the north of Kiev horrific accounts of war crimes and human rights abuse surfaced. Bucha, Borodianka, Irpin, Chernihiv, Sumy, Hostomel, and Kharkiv. In such instances Reuters reported that the residents of Staryi Bykiv watched and watched on as six of their civilian male countrymen died needlessly at the hands of the Russian troop.

Russian military is also using sexual assault as a weapon of war. Many accusations of rape are streaming in all across Ukraine. Women and children have been the main targets of Russian sexual violence. In another instance the New York Times reported that a mother in Kharkiv sheltering with her 5-year-old daughter in school was forced into another room and repeatedly raped at gunpoint.

As reports like this increase we cannot dismiss these as isolated incidents. At what point do we turn these systematic?

Probably one of the worst stories yet is the deliberate bombing of the Donetsk Academic Regional Drama Theater in Mariupol that occurred on March 16. Reports from the Associated Press estimated that 600 civilians died in that blast. "Dity," the Ukrainian word for children was painted on the ground in plain sight of satellite imagery. This was a signal to any Russian reconnaissance that this is a civilian target, yet still countless children died. We still do not know the exact number, but the site is now a mass grave under Russian occupation.

And the worst yet may be to come as the fighting intensifies in the east and in the south. Russian military has continued artillery rocket and missile bombardment of civilian infrastructures and they disregard humanitarian excavation routes killing unarmed passengers as they drive in their cars. So far U.N. investigators have documented nearly 3,000 civilian deaths in Ukraine.

My colleagues, based on the evidence collected so far I believe the Russian Federation is undeniably committing crimes against humanity that amount to genocide. I repeat, and I do not take the term lightly, I believe that they—I believe that we are seeing in Ukraine right now is a genocide committed by the Russian Federation against the people of Ukraine. I will leave it up to the lawyers to debate the exact abrogation of this term, but to me Putin rhetoric and his blatant attempt to ride this world—to rid this world of people and the culture of Ukraine itself meets this definition.

It is now the job of the international community, including Members of Congress and especially this subcommittee, to keep the spotlight on these atrocities and to see—so that the U.S. does everything in its power to help the Ukrainians seek justice.

As chair of the subcommittee I was on the ground in Poland just 2 weeks ago to hear firsthand the stories of Ukrainian refugees who have fled westward. Some have trekked hundreds of miles, never knowing if they will see their homes again or if their homes are even going to be there when they go back to it.

I heard stories of family members including children pleading with Russian soldiers to leave Mariupol only to be rejected at the contact line. Their fate has been to wait out the bombardment or

get shipped to Russia and join reduction camps. I returned from Poland, reconfirmed that the U.S. must do everything in our power to ensure justice for the victims of these war crimes committed in the Ukraine, yet this determination of mine I think (inaudible) on a few points.

First, we live in an age where perpetrators cannot hide. Between cell phone photos and videos captured in the battlefields and postings on social media to satellite images of Russian attacks the truth is still out there and we have to just see it to watch it.

Second, we live in a period of great unity and solidarity with Ukraine. This is exactly why our forbearers created the United Nations, NATO, and other international institutions.

And finally, we have a collective conscience with shared values. We know that the values that we share are being violated. We know this war is wrong. We know these atrocities are not isolated. The question is what will we do and how will we live up to our commitments of never again?

With that being said, I look forward to the testimony we are about to hear from our esteemed witness, Ambassador Michael Carpenter. Dr. Carpenter has been a vocal critic of the Kremlin and has persistently advocated for not only the Ukrainian people, but for human rights in general. To bring war criminals to justice the coalition of countries and international organizations need to cooperate and relentlessly pursue these cases. The ranking member and I have asked Ambassador Carpenter to speak about the ways in which the OSCE can play an important role in this effort.

Thank you very much, Ambassador, for being here today. I look forward to hearing your perspectives on how the U.S. and especially Congress can work in promoting awareness and gather information from possible war crimes on Ukraine holding war criminals accountable.

And I now turn to the ranking member, Mr. Fitzpatrick. I thank him for his cooperation and support in this and his commitment to Ukraine which goes back to his days before Congress in the FBI. Thank you, ranking member. And I now yield to you for your opening statement.

Mr. FITZGERALD. Thank you, Chairman Keating. Thank you for your partnership. This is something that our entire Congress and our entire nation have rallied around, the cause of supporting freedom and independence for the good people of Ukraine and also fully pursuing the war crimes of Vladimir Putin and his regime.

I want to thank the chairman for holding this hearing today.

To the Ambassador, Ambassador Carpenter, for being here with us.

As we all know, Russia invaded Ukraine back on February 24, earlier this year. They have not stopped in their unjustified war on the innocent people of Ukraine ever since. And as a result more than 6 million Ukrainians have left the country. Europe is facing the largest refugee crisis since World War II and over a quarter of the population of Ukraine has been displaced.

Just this morning news coverage estimated that another 10,000 people could die in Mariupol by the end of the year if conditions did not improve. This is just a complete atrocity. And it is no secret what Russia is capable of and how far they are willing to go to

achieve total control of the former Soviet Bloc. It is also clear that Russia has committed war crimes in Ukraine against Ukrainians.

As the chairman had pointed out, some of the examples include intentionally killing civilians, overt acts of torture, hostage taking, beheadings, intentionally targeting and destroying civilian property. The list goes on and on. We have seen Russian forces attack and fire upon a nuclear plant, bombed civilian infrastructure buildings such as residential homes and apartments, destroy and operating maternity ward with infants inside, and target a pediatric cancer hospital. Does not get any worse than this. And these are only a few of the horrific acts that the Putin regime has carried out and it is clear that they stop at nothing including killing innocent children and women, including children with cancer in order to continue his rampage on Ukraine.

The Russian Federation has a long history of committing war crimes and it has never been held accountable, and that needs to change. Moreover, this is no indication that Russia will stop their attacks on Ukraine any time soon. How many times will Russia have to be accused of committing war crimes for them to be stopped. The people of Ukraine deserve justice and the entire world is watching. And the time is now to hold Russia accountable for the horrific acts of the people of Ukraine.

And I look forward to continuing working with Chairman Keating in a bipartisan manner, with you, Mr. Ambassador, and with all people across the world, including everybody in this Congress who wants to support freedom and democracy and human rights, and all that is good in the world. The Ukrainians are showing us their heart, but we need to back them up, not just the United States, but the entire world. Anybody who supports freedom and democracy over dictatorships needs to step up and make the tough decisions to do what is right here.

Mr. Chairman, I yield back.

Chairman KEATING. Thank you, ranking member.

And I would like to introduce our witness today and thank him for being here. It is critically important that we hear from you and that you communicate in your role not only the way you are to other countries, but to us as Members of Congress.

Yesterday I joined a group of members meeting with President Biden for over 2 hours in the White House and we talked about this hearing. We talked about the war crimes that are being committed and his commitment to bring accountability and justice wherever he can.

Ambassador, again thank you for being here.

Ambassador Michael R. Carpenter is a permanent representative of the United States of America Mission, the Organization for Security and Cooperation in Europe. He is the Former Deputy Assistant Secretary of Defense for Russia, Ukraine, and Eurasia, and Conventional Arms Control at the Pentagon, as well as a former White House Foreign Policy Advisor to then-Vice President Biden, and Director for Russia at the National Security Council.

I will now recognize Ambassador Carpenter for 5 minutes. And we give great deal of flexibility. It is a virtual hearing that is being taken place while some votes are being taken place.

And I want to also say that without objection, your prepared written statements will be made part of the record.

Ambassador Carpenter, you are now recognized for your opening statement.

**STATEMENT OF AMBASSADOR MICHAEL R. CARPENTER, Ph D.,
PERMANENT REPRESENTATIVE OF THE UNITED STATES OF
AMERICA TO THE ORGANIZATION FOR SECURITY AND CO-
OPERATION IN EUROPE, U.S. MISSION TO THE ORGANIZA-
TION FOR SECURITY AND COOPERATION IN EUROPE, U.S.
DEPARTMENT OF STATE**

Mr. CARPENTER. Thank you, Chairman Keating, Ranking Member Fitzpatrick, and distinguished members of the subcommittee.

I greatly appreciate this opportunity to appear before you today to testify on the topic of accountability and justice for Russia's atrocities including war crimes in Ukraine.

The OSCE has played a unique and important role in documenting the horrific atrocities Russia has committed and continues to commit in Ukraine. As some of my colleagues testified last week in the Helsinki Commission's hearing on war crimes in Ukraine, one of the OSCE's most powerful tools is its ability to quickly establish and deploy a fact-finding mission, even without the consensus of all the OSCE's participating States.

On March 3, 45 OSCE participating States, a record majority, that included the United States, invoked with Ukraine's support what is informally known as the Moscow Mechanism and in less than 2 weeks the mission was launched. It was mandated to examine possible violations and abuses of human rights and violations of international humanitarian law including war crimes and crimes against humanity.

The mission's report released on April 13 covers the first 5 weeks of the war from February 24 to April 1 and documents what might be called the Catalog of Inhumanity perpetrated by Russia's forces in Ukraine including evidence of direct targeting of civilians, attacks on medical facilities, rape, executions, looting, and deportation of civilians to Russia.

The mission found clear patterns of international humanitarian law violations by Russia's forces and noted that it is not conceivable that so many civilians would have been killed and injured and so many civilians objects would have been damaged or destroyed if Russia had respected its international humanitarian law obligations in terms of distinction, proportionality, and precautions.

The report documents many particularly heinous attacks such as the March 9 attack striking the Mariupol Maternity House and Children's Hospital that the chairman referred to determining that based upon Russia's own statements about the strike, quote, "The attack must have been deliberate," end quote. The mission concluded that no effective warning was given and that the strike constitutes a clear violation of international humanitarian law and a war crime. While the Russian government alleged the hospital was used for military purposes, the mission categorically dismissed these claims.

Similarly the mission found that the March 16 attack on the drama theater in Mariupol that killed approximately 600 people

was most likely an egregious violation of international humanitarian law and that those who ordered or executed it committed a war crime. The reporter powerfully chronicles cases of Russia's forces arresting civilians including journalists without any procedure and ill-treating them by methods that amount to torture.

It also cites evidence showing that Russia's forces engaged in a, quote, "widespread and systematic pattern," end quote, of damage to Ukrainian health care facilities with attacks on 52 facilities just between February 24 and March 22 by indiscriminate bombardment and in some cases intentional targeting noting that these strikes too constitute war crimes.

Since the period covered in the report the scale of atrocities committed by Russia's forces in Ukraine has dramatically escalated. Russia has continued its campaign of utter destruction in Mariupol and has launched a renewed offensive in Ukraine's east and south. Tens of thousands of civilians are feared dead in Russia's barbaric siege of Mariupol. Liberated areas around Kiev and Kharkiv have revealed evidence of mass killings and widespread sexual violence committed by members of Russia's forces against civilians.

Russia appears to be intensifying its ongoing forced transfers and deportations of local populations from Mariupol and other regions of Ukraine to Russia or Russia-controlled parts of the Donbas through so-called filtration camps, a truly abominable practice that harkens back to an era we all thought we would never see again.

Liberated areas around Kiev and Kharkiv have revealed evidence of mass killing and widespread sexual violence committed by members of Russia's forces against Ukrainian civilians and further credible reports are mounting that Russia is further abducting, torturing, and/or murdering locally elected leaders, journalists, and civil society activists, as well as religious leaders in the areas under its control.

It is increasingly clear that Russia's war is an attempt to suppress Ukrainian identity and culture. Moscow appears to be planning to attempt to forcibly annex the so-called Donetsk and Luhansk People's Republics in the coming weeks or months and is considering a similar operation in the Kherson region.

In areas under its control Russia has forced schools to switch to a Russian curriculum and has put the Russian ruble into general use. It has also started changing the names of towns and villages in areas it controls as well as changing street signs from Ukrainian to Russian.

Russia's military campaign is underpinned by continuous dehumanizing propaganda deployed on a repeat loop by Russian government officials and State-run or State-controlled media that deny Ukraine is historically or culturally distinct from Russia and that it has a right to exist as a sovereign independent nation State.

Mr. Chairman and members of the subcommittee, thanks to the support of the United States and like-minded nations the OSCE's highly regarded Office of Democratic Institutions and Human Rights, ODIHR, is already on the ground in Ukraine and neighboring countries researching and documenting the most serious violations of human rights and international humanitarian law to help ensure accountability.

We continue to explore ways we can leverage the OSCE to support Ukraine and the Ukrainian people alongside other international efforts to ensure accountability including another potential invocation of the Moscow Mechanism. We are committed to using every available tool to ensure Russia is held accountable for its monstrous atrocities.

Thank you, Mr. Chairman. I look forward to any questions.
[The prepared statement of Mr. Carpenter follows:]

**Opening Statement for Ambassador Michael Carpenter
Permanent Representative of the United States of America to the
Organization for Security and Cooperation in Europe
House Committee on Foreign Affairs
Subcommittee on Europe, Energy, the Environment & Cyber
May 11, 2022**

Chairman Keating, Ranking Member Fitzpatrick, and distinguished members of the subcommittee: I greatly appreciate this opportunity to appear before you today to testify on the topic of accountability and justice for Russia's atrocities, including war crimes, in Ukraine.

The OSCE has played a unique and important role in documenting the horrific atrocities Russia has committed and continues to commit in Ukraine. As some of my colleagues testified last week in the U.S. Helsinki Commission's hearing on *Russia's War Crimes in Ukraine*, one of the OSCE's most powerful tools is its ability to quickly establish and deploy a fact-finding mission even without the consensus of all the OSCE's participating States. On March 3, 45 OSCE participating States – a record majority that included the United States – invoked, with Ukraine's support, what is informally known as the "Moscow Mechanism," and in less than two weeks the mission was launched. It was mandated to examine possible violations and abuses of human rights and violations of international humanitarian law, including war crimes and crimes against humanity.

The mission's report, released on April 13, covers the first five weeks of the war – from February 24 to April 1 – and documents what might be called the "catalogue of inhumanity" perpetrated by Russia's forces in Ukraine, including evidence of direct targeting of civilians, attacks on medical facilities, rape, executions, looting, and deportation of civilians to Russia. The mission found "clear patterns of international humanitarian law violations by Russian forces" and noted that it is "not conceivable that so many civilians would have been killed and injured and so many civilian objects...would have been damaged or destroyed if Russia had respected its international humanitarian law obligations in terms of distinction, proportionality, and precautions."

The report documents many particularly heinous attacks, such as the March 9 attack striking the Mariupol Maternity House and Children's Hospital, determining that, based upon Russia's own statements about the strike, "the attack must have been deliberate." The mission concluded that no effective warning was given, and that the strike constitutes a "clear violation" of international

humanitarian law and a war crime. While the Russian government alleged the hospital was used for military purposes, the mission categorically dismissed these claims.

Similarly, the mission found that the March 16 attack on the drama theater in Mariupol that killed approximately 600 people was “most likely” an egregious violation of international humanitarian law and that those who ordered or executed it committed a war crime.

The report powerfully chronicles cases of Russia’s forces arresting civilians, including journalists, without any procedure, and ill-treating them by methods that amount to torture. It also cites evidence showing that Russia’s forces engaged in a “widespread and systematic pattern” of damage to Ukrainian healthcare facilities with attacks on 52 facilities between February 24 and March 22 by “indiscriminate bombardment and in some cases intentional targeting,” noting that these strikes too constitute war crimes.

Since the period covered in the report, the scale of atrocities committed by Russia’s forces in Ukraine has dramatically expanded. Russia has continued its campaign of utter destruction in Mariupol and has launched a renewed offensive in Ukraine’s east and south. Tens of thousands of civilians are feared dead in Russia’s barbaric siege of Mariupol. Liberated areas around Kyiv and Kharkiv have revealed evidence of mass killings and widespread sexual violence committed by members of Russia’s forces against civilians. Russia appears to be intensifying its ongoing forced transfers and deportations of local populations from Mariupol and other regions of Ukraine to Russia or Russia-controlled parts of the Donbas through so-called “filtration camps” – and truly abominable practice that harkens back to an era we all thought we would never see again.

Liberated areas around Kyiv and Kharkiv have revealed evidence of mass killings and widespread sexual violence committed by members of Russia’s forces against Ukrainian civilians. And further credible reports are mounting that Russia is further abducting, torturing, and/or murdering locally elected leaders, journalists, and civil society activists, as well as religious leaders in the areas under its control.

It is increasingly clear that Russia’s war is an attempt to suppress Ukrainian identity and culture. Moscow appears to be planning to attempt to forcibly annex the so-called Donetsk and Luhansk “people’s republics” in the coming weeks or months and considering a similar operation for the Kherson region. In areas under its control, Russia has forced schools to switch to a Russian Federation curriculum and has put the Russian ruble into general use. It has also started changing the

names of towns and villages in areas it controls, as well as changing street signs from Ukrainian to Russian. Russia's military campaign is underpinned by continuous, dehumanizing propaganda deployed on a repeat loop by Russian government officials and state-run or state-controlled media that deny Ukraine is historically or culturally distinct from Russia or that it has the right to exist as a sovereign, independent nation-state.

Mr. Chairman and members of the subcommittee, thanks to the support of the United States and like-minded nations, the OSCE's highly regarded Office for Democratic Institutions and Human Rights (ODIHR) is already on the ground in Ukraine and neighboring countries researching and documenting the most serious violations of human rights and international humanitarian law to help ensure accountability. We continue to explore ways we can leverage the OSCE to support Ukraine and the Ukrainian people alongside other international efforts to ensure accountability, including another potential invocation of the Moscow Mechanism.

We are committed to using every available tool to ensure Russia is held accountable for its monstrous atrocities. Thank you, Mr. Chairman. I look forward to answering any questions.

Chairman KEATING. Thank you, Ambassador.

I may, just because of the format here—I notice on the screen is—Representative Wild is here.

I do not know if you would like to given the roll calls begin your questioning now. I will give you that opportunity for 5 minutes.

Ms. WILD. Thank you very much, Mr. Chairman. I would be delighted to do my questioning if that is what I was being offered. Did I hear correctly?

Chairman KEATING. Yes.

Ms. WILD. Thank you so much. I appreciate it.

And thank you, Mr. Ambassador, for being here. This is a matter of great importance to me, but also to my community in Pennsylvania's 7th District where we have one of the largest Ukrainian American populations here in the United States. And so I feel very strongly, because many of them still have family and friends in Ukraine, that it is my obligation on their behalf to ask about the Administration's efforts to make sure that Russian officials are going to held to some degree of justice and accountability for the actions. And I can hear from your opening statement that that is the full intent that you have and that the Administration has, and I thank you for that.

Let me just start by asking how far is the Administration prepared to go in supporting the efforts to hold Russia and Russian officials accountable, including any proceedings in the International Criminal Court despite the fact that we are not a member?

And I will as you my second question just so you can answer both at the same time. Does the Administration have a view on the specific mechanism through which Putin and high-ranking Russian officials could be held to account for these actions? Thank you.

Mr. CARPENTER. Thank you, Representative Wild, for that—for those two questions.

On the first we are determined to support all international accountability mechanisms to include the International Criminal Court. As my colleague Beth Van Schaack, Special Envoy Beth Van Schaack has said before, we support an all-of-the-above approach. So we are determined to use all of the multilateral tools as well as frankly national jurisdictions to pursue accountability. And as I am sure you are aware, the Ukrainian prosecutor general is also working over time to ensure that she is able to document cases of war crimes and possible crimes against humanity in Ukraine. In fact, I believe she has brought her first case just today against a captive Russian service member.

But we are determined to use all of the tools available to include the OSCE and its Moscow Mechanism, which we have invoked once. And as I said, we are prepared to invoke it again. We have the U.N. Commission of Inquiry, which has been established but not—is not yet up and running. And so we hope that that jurisdiction will have progress. The prosecutor of the International Criminal Court has found that he is going to pursue this line of inquiry into war crimes in Ukraine and we will support that to the maximal extent we can.

Then on your second question regarding President Putin, it is our belief that all Russians within the chain of command who are guilty of war crimes should be accountable. And of course this is

a tricky question of how you get them into a jurisdiction where they can face justice from a court of law, as they must. It is not going to be easy, but we believe at the end of the day that we have to insist that everyone at all different levels of the chain of command is held accountable.

Ms. WILD. Well, thank you. Obviously I agree. And your answer leads to this, which is would you agree that these atrocities have reinforced the need for a more effective international justice system that can hold powerful countries accountable?

Mr. CARPENTER. Yes, thank you, Congresswoman. I do agree. I think we need a system that is flexible but that has the authority to immediately pursue these sorts of cases when evidence comes to light that there are war crimes or other crimes against humanity, potentially genocide, and so on and so forth. There are multiple overlapping jurisdictions. It is a little bit messy, but we intend to work through all of those accountable mechanisms as I just said including the ICC, but also the ICJ, which is also looking into the question of genocide in Ukraine. And we are going to continue to help these institutions to compile the evidence, preserve the evidence, and bring cases against individuals.

Ms. WILD. Thank you. I am hoping we will use this as a tool for enhancing our international criminal justice system going forward in the future. I have fears that Russians and the Putin regime, in part because of Russia's robust global propaganda machine, do not take these calls for accountability and justice seriously or do not view them seriously. And I think it is essential that we carry through with our word, that we take—that we support all efforts to hold them accountable, and as I said and have mentioned, using every possible tool to do so because we cannot allow Putin and other superpowers to believe that they are going to be free of eventual justice. So thank you so much for this commitment.

I yield back, Mr. Chairman.

Chairman KEATING. Thank you, representative.

The chair now recognizes Representative Meijer for 5 minutes.

Mr. MEIJER. Thank you, Mr. Chairman. Can you hear me?

OK. And I am grateful that we are having the chance to hold this subcommittee hearing. I appreciate some of our earlier work when we hosted Bellingcat and some of the other open source observers who have been cataloging a lot of these Russian atrocities.

I guess my first question for Ambassador Carpenter—when we are looking at cataloging the war crimes, to my knowledge there hasn't yet been the kind of smoking gun plan coming from on high, from the Russian generals, from Vladimir Putin that says we want to systematically and categorically kill off the civilian population of Ukraine. We have obviously seen the intercepted messages from more senior officers, more mid-ranking members, and then also the awareness on behalf of some of the lower junior officers and lower enlisted who are perpetrating many of these crimes.

How are we looking at the question of intentionality, the specific targeting as we saw in Mariupol where it could not have been more clear that that was a facility with children inside versus the just indiscriminate attacks, the lack of any efforts made to reduce civilian casualties that has frankly seemed to be the modus operandi of the Russian military?

Mr. CARPENTER. Thank you, Representative Meijer, for that question. I think it is going to be—each case is going to be a little bit different. I think we are going to have to rely on both declassified intelligence as well as open sources regarding culpability at both the unit or individual soldier level and then all the way up to those as I said in the chain of command who may have given orders that were to some degree explicit about the perpetration of these crimes.

Now I am not a lawyer. I understand that the war crimes themselves will be prosecuted based on an individual basis, so individuals will be held to account in a court of law, but also international human rights law can determine that if there is in fact systematic patterns of abuse and systematic war crimes, that those are crimes against humanity and that label gets applied potentially to the Russian Federation as a State.

And so frankly, we are looking as we expand our efforts possibly with a second invocation of this Moscow Mechanism and working together with other accountability mechanisms internationally at both of those angles and then genocide relatedly. But that is the systematic nature. And it goes to intentionality at the top and whether there was an expectation that these crimes would be committed by units in Ukraine especially after information has already come to light that these sorts of crimes were being perpetrated.

And then to your point, I think it is a little bit more difficult with some of the indiscriminate attacks, but cases have been made in the past and can be made that lack of respect for any proportionality with regards to targeting is in fact a war crime.

Mr. MEIJER. And I have actually mentioned that kind of general labeling potential for Russia, the Russian Federation I should say, that crimes against humanity. I know President Biden has suggested labeling or designating Russia as a State sponsor of terrorism.

Can you speak at all to how—what type of overlap that would have with war crimes and kind of atrocity international prosecution side, if those are two wholly different separate channels? I am just curious. I feel like we haven't had necessarily a robust discussion on that and in prior instances we have looked at—and the Russian equivalent here would probably be the Wagner Group—we have looked at sort of mercenary forces or aligned but not necessarily in the full military chain of command, the Quds force in Iran being another—forces that we can designate as terrorist—foreign terrorist organization. But I guess how are you seeing that being weighed, FTO designations for constituent components versus the Nation, Russian Federation itself being label a State sponsor of terror?

Mr. CARPENTER. Yes, thank you so much for that question. So my understanding is that the cases that are brought under the war crimes mantra, or as crimes against humanity, those are violations of international law, either of international humanitarian law or international human rights law.

The designation of a State as a State sponsor of terrorism is defined by U.S. statute and would be—so this would not be a matter of international law; this would be a determination that would have to be made by the State Department upon legal review as to

whether the definition, whether the bar that is defined in that statute has been met.

Now my understanding on this State sponsor of terrorism label is that the statute then requires that certain sanctions be implemented as a result. And my understanding is that many of those sanctions that would be triggered by this designation are already in play. So in terms of practical consequences and accountability I think a lot of those actions have already been taken. There might be scope for doing a little bit more, but I think most of those actions are already underway. So this would be pursuant to domestic legislation as opposed to international.

Mr. MEIJER. Thank you, Mr. Ambassador.

And, Mr. Chairman, my time is expired. I yield back.

Chairman KEATING. Thank you, representative.

The chair now recognizes Representative Phillips for 5 minutes.

Mr. PHILLIPS. Thank you, Mr. Chairman.

Welcome, Mr. Ambassador. Three quick questions for you starting with how do you mechanically connect atrocities on the ground in Ukraine back to the architects of that violence in Moscow and ultimately potentially to President Putin himself?

Mr. CARPENTER. Yes, that is a very good question and a very tricky one. It will be difficult I think to find because of the insular nature of Kremlin decisionmaking and because of the fact that the Kremlin also wants to keep those communications secret. It is very difficult to trace back specific instances, or will be difficult in the future to trace back to specific instances on the ground, whether it is in Bucha or Borodianka, or any of these other atrocities that we now see have come to light back to a specific order given from the Kremlin.

But I think all leads will be pursued. There may be commanders in the field who in the course of their communication may reveal the level at which the order was given or it may be subordinates who are talking about this. And then we would have to infer how far up it goes. So it is going to be a painstaking effort, I have to say. It is not going to be easy. I do not want to give any impressions that this is going to be simple.

But certainly I think those leads will be pursued and we will—as I said earlier, we are going to use all available tools, open-source and not open-source, to pursue the evidence where it leads.

Mr. PHILLIPS. OK. And relative to that work how intentionally as—have the Russians tried to stymie the work of the OSCE field missions themselves and hinder progress? Are they calculated in that respect.

Mr. CARPENTER. Yes, absolutely. Very calculated. So we saw back when we had the Special Monitoring Mission active in Ukraine, with its 600 or 700 members that was documenting cease-fire violations and the presence of heavy weapons in prescribed zones in Eastern Ukraine, that its freedom of movement, which was stipulated both in the mandate of the Special Monitoring Mission, which was agreed by Russia—but then also in the three Minsk Agreements, the ones from September 2014 and February 2015, specifically said that it should be granted unfettered access, and yet we saw that Russia's proxies, who were under the very clear command and control of the Russian Federation, were blocking that mission

from having the access that it needed to be able to declare that cease-fire violations were occurring in this or that area.

So we saw that repeatedly. And then we have seen it again. In fact we see now detentions of national staff members of the OSCE SMM by Russia's proxies in Eastern Ukraine, which is just beyond the pale in terms of the fact that they signed up to this mission. They were partly responsible for the fact that it existed and it was deployed on the ground.

Mr. PHILLIPS. Can you quantify how many detentions?

Mr. CARPENTER. My understanding is four, but I may not have the latest data because this is being worked in the OSCE Secretariat. But there are—to my knowledge there have been four cases of such detentions.

Mr. PHILLIPS. OK. Last and most importantly, what can the U.S. Congress do to support the OSCE investigations and the field missions investigating war crimes? Is there anything incrementally that you would like to see us provide or do?

Mr. CARPENTER. Well, I think the OSCE currently has the resources that it needs to pursue additional accountability mechanisms using the Moscow Mechanism and also using—I should have mentioned at the outset also using the Office of Democratic Institutions and Human Rights, which has a mandate—it is one of the autonomous institutions within the OSCE and it has a specific mandate to monitor human rights violations. Some of its staff are already redeployed inside Ukraine and are conducting monitoring. Others have deployed to the borders between Ukraine and Poland, and Ukraine and Romania, and Moldova and Slovakia, Hungary, to interview those refugees who are fleeing Ukraine to gather evidence about systematic patterns of human rights violations and war crimes inside Ukraine.

So there may be a need for additional funding especially for the ODIHR monitoring, which is ongoing. I think we, the State Department, has the authorities and the funding streams currently to be able to back those efforts. And we will, and we—but we count on Congress as well to continue to support vocally from your bully pulpit the use of these tools to hold individuals accountable.

Mr. PHILLIPS. OK. Well most importantly thank you for your remarkable and important work.

And with that, I yield back. Thank you.

Chairman KEATING. Thank you, representative.

The chair now recognizes Representative Wagner for 5 minutes.

Mrs. WAGNER. I thank you, Mr. Chairman.

And I want to thank Ambassador Carpenter also for his service and certainly for his time today.

We know that Putin's soldiers are deliberately killing civilians, preying upon the defenseless and vulnerable. Russian war crimes are certainly a profound offense to all peaceful and responsible nations and they must always be matched with severe consequences.

Russia seeks to erase the bright line that must separate combatants from civilians. It is reviving the abhorrent practices and ideologies that were the hallmarks of totalitarian dictatorships of the previous century, the discriminate and wanton violence, terror, summary executions, and mass killings. It has been decades since the world has seen a country so shamelessly embrace a cult of

death and violence. This is a pivotal moment in history and swift decisive action to punish Putin's war crimes is imperative.

Putin has proven himself to be the heir of the worst mass murderers in history. He must be stopped and punished and the United States must do what it can today to prepare for the moment when Putin at last suffers the consequences of his crimes.

Ambassador Carpenter, following Russia's initial invasion of Ukraine in 2014 human rights groups reported evidence of crimes against humanity including the summary execution of soldiers and the murder of prisoners of war. How did the Organization for Security and Co-operation in Europe, the OSCE, use its tools and mechanisms then to hold Russia accountable for those prior crimes against humanity? And has the OSCE incorporated any lessons learned to assure that its accountability efforts are more effective in deterring human rights violations?

Mr. CARPENTER. Thank you, Congresswoman, for the question. So as I noted in the opening statement, the OSCE did invoke the Moscow Mechanism to be able to look into egregious human rights violations, war crimes, and crimes against humanity. The period from the initial report that was conducted and assembled by the fact-finding mission was from February 21—February 24, excuse me, the first day of the invasion and it went through to April 1.

Now as you will recall, Congresswoman, the evidence, especially of the summary execution of civilians; not even soldiers or POWs, but civilians—

Mrs. WAGNER. Right.

Mr. CARPENTER [continuing]. In Bucha, the folks who had their hands tied behind their backs and were shot point blank in the head, that evidence, or at least the video evidence came to light in early April. So after the period where this fact-finding team was mandated to look at these questions in Ukraine.

So what we are now contemplating doing, and what I have advocated and I mentioned again in the opening statement, is a re-invocation of the Moscow Mechanism. We can go back and look at the same period, from February 24 until today, or until whenever they choose based on their mandate, to look again at these very same questions and to analyze the systematic pattern of these violations in Bucha—

Mrs. WAGNER. OK. Thank you. Thank you, Ambassador. I want to get one more question in as I am running out of time.

We are seeing reports of Ukrainians, especially children, being deported to Russia to be held in captivity and for the purpose of perhaps reeducating them, we are told. Do you or the OSCE have any more details on these Russian activities?

Mr. CARPENTER. So I cannot say I have a whole lot of detail. We have some eyewitness accounts and reports that we have received including from Ukrainian government officials, the mayor of Mariupol. I personally met with the mayor of Melitopol who was abducted from his office in broad daylight. In fact it was captured CCTV camera where they put a bag over his head and they marched him down the street. He managed to escape after I think it was 9 days, or almost 10 days in captivity faced with mock executions almost every day. He could hear screams of others in the detention facility who he believed were being tortured.

And so yes, we do have reports that these so-called filtration camps are operational in Southern and Eastern Ukraine, that the Ukrainian population of these regions is being forced through these camps. They are being interrogated. Their cell phones are being confiscated. They are being forced to give up their passwords. All these reports are coming in. It is truly atrocious and if true, Congresswoman, it would—those would be war crimes.

Mrs. WAGNER. Oh, good. I hope we are documenting everything. I have exhausted my time.

I appreciate the chair's indulgence and I yield back.

Chairman KEATING. Thank you, representative.

Now I recognize the vice chair of the committee, Representative Spanberger, for 5 minutes. As I vote, she will also chair this hearing until I return.

So, Representative Spanberger?

Ms. SPANBERGER. Thank you, Mr. Chairman.

Thank you, Mr. Ambassador. I really appreciate the opportunity to speak with you today and have appreciated your comments thus far with the questions posed by my colleagues.

So technology has always mattered in the prosecution of war crimes. The Nazis who stood trial at Nuremberg were convicted not only by war reporters' photographs and films, but also by their on typewriters and mimeographs. Forensic science and satellite imagery added to the prosecution of Rwandan and Yugoslavian war criminals. But today we have user-generated evidence uploaded to Twitter, Facebook, and other social media platforms thousands of times a day in Ukraine alone.

So I would like for you to comment on how social media and modern technology has changed the way that investigators collect evidence for potential war crimes. How does social media and modern technology ensure perpetrators cannot hide evidence of their crimes reports? And I have got some followup questions, but I would like to begin with that portion of your answers.

Mr. CARPENTER. Thank you, Representative Spanberger. It is a great question and obviously social media tools, but other forms of technology including commercial satellite imagery have been used to identify individuals based on their geo-location, based on a variety of other factors that can corroborate that they were in a specific place at a specific time when an atrocity was being committed.

We have seen investigations by independent journalists on the ground in places like Bucha, and Irpin, and Borodianka already which have found documentation by those Russian units who were there, that they were involved in these sorts of atrocities. At the moment I think it is still limited in terms of the number of individuals that have been pinpointed, but as I mentioned earlier already the Ukrainian prosecutor general has brought a case against one Russian service member who is in captivity in Ukraine because they have found compelling evidence that he committed war crimes. And I have no doubt that there will be many more such cases that are brought through a combination of social media evidence and other forms of sophisticated use of technologies, information technologies to—

Ms. SPANBERGER. OK.

Mr. CARPENTER [continuing]. Both locate and then also follow those leads.

Ms. SPANBERGER. So, Mr. Ambassador, a followup related to that: So I think about how the U.S. can facilitate evidence gathering activities on the ground and Ukraine's—in cooperation with social media companies. One of my concerns or my areas of interest is that settlements with the Federal Trade Commission have required that certain social media companies agree to permanently delete any content that they take down from their site, but in many cases that content that may also violate terms of service or act as harmful disinformation could be evidence of war crimes.

So how can we when we are looking at how to balance concerns over user privacy in a domestic context also balance that with the pressing concerns that we want to ensure that we are stopping the spread of disinformation, but that we are also preserving evidence of war crimes? Are you concerned about the issues of when they might have permanently delete information what that might mean for evidence?

Mr. CARPENTER. Yes, thank you. And I think this is a little bit outside of my lane. And of course I appreciate your own background and your understanding of these issues, which I think is probably more sophisticated than my own. I do think that there is a tradeoff there, but since we are talking perpetrators who are not U.S. citizens, who are not subject to the same constitutional protections that Americans would be, there is a distinction to be made there. And perhaps that can be leveraged in order to preserve some of this evidence, which has been—it has been the pointy tip of the spear as far as gathering evidence.

Ms. SPANBERGER. Thank you very much. I could continue asking my questions, but I must go vote. So I turn it back over to Mr. Chairman. Thank you.

Chairman KEATING. Mr. Pfluger.

Mr. PFLUGER. Thank you, Mr. Chairman.

Ambassador, we appreciate your time and the effort that you are putting into this, and just a couple of questions: I think with the information warfare and the use of digital manipulation and the false flag operations we have seen can you maybe transmit to us in the—I have got a couple other followup questions, but what are your concerns on that kind of—that side of—it is a little bit to Ms. Spanberger's question, but the digital manipulation, or the covering up, or the just overall issues with separating fact from fiction and the discernment? How does that impact the investigators' ability to do their job and to catalog what we know and are seeing as fact?

Mr. CARPENTER. Yes, thank you so much for the question. So as you know, representative, we have been very proactive in getting information out into the public arena regarding what we believe would be Russian potential false flag operations. And this goes back to the period prior to February 24 when we believed that Russia was going to stage some sort of false flag operation to use it as a pretext for launching the war. At the end of the day they did not have any justification whatsoever. They just went in with all their forces from 1 day to the next.

However, Russian propaganda, including here at the OSCE but also in other places, has been replete with instances of Russians ac-

cusing Ukrainians of committing the crimes that we know are being committed by Russian forces. I think the evidentiary trail is very clear and leads back to those Russian units, but in the information space of course we are going to be dealing with a very robust stream of Russian propaganda day in and day out making these false allegations.

Mr. PFLUGER. Yes, so that kind of goes to the heart of what I am trying to understand is during the course of this hearing I have actually looked at pictures that are—have been taken from a source that are firsthand pictures that depict an atrocity that has already been discussed here. And we are seeing that time and time again.

And I have got a followup question on that, but I guess my question is how are we cataloging? Are you concerned about preserving that evidence? And then are we able to get that out into—obviously not the pictures themselves, but to quote/quote “win the information campaign” to make that the propaganda from Russia does not overtake the actual evidentiary body that there is possibly war crimes—I think what we can call war crimes being committed?

Mr. CARPENTER. Yes, so I think it is very important that we have folks go in and on the ground are able to look at the evidence and preserve the evidence because we have already seen these reports that, for example in Mariupol Russia’s deploying mobile crematoria in order to be able to get rid of some of the bodies of those who have suffered from Russian atrocities. And so it is very, very important that the international community writ large, both the OSCE, but also the other actors that I mentioned: the ICC and the U.N. Commission of Inquiry, have that access on the ground so that they can preserve the evidence. Because often mixed in with that—with those mass graves is evidence of who committed those crimes. And so it is important to get there quickly.

Mr. PFLUGER. Ambassador, my last question for you is looking at past policy precedence for the U.S. has opposed the ICC assertions of jurisdiction when it comes to the non-parties to the Rome Statute. To what extent do you think this Administration is actually going to pursue a war crimes trial at the ICC?

Mr. CARPENTER. Yes, thank you for the question. So the United States is not a party to the Rome Statute obviously, as you mentioned, but we will support the ICC and its prosecutor in bringing cases against perpetrators of war crimes in Ukraine. And we have said that publicly and we will continue to do that both via the OSCE, but also via whatever resources we have available. And we will have information of course that other nations are not privy to that we will be able to share at the end of the day with the ICC to enable to bring cases.

Mr. PFLUGER. I have 40 seconds left. With the sources that we have that are on the ground in Ukraine should we be—what do we do with those assertions of war crimes? And the people that we are talking to we know—where do I tell people to send that evidence to and how do we facilitate that to continue to build this case?

Mr. CARPENTER. Well, I think it is going to be imperative at some point that all the various accountability mechanisms coordinate. There is already a lot of communication happening, but there clearly needs to be a repository of evidence that is located in one place. And there is any number of NGO’s operating in Ukraine, both

Ukrainians, but also from other nations, that are conducting very valuable work. But again, it is important how they do it, what their methodology is, how they preserve the evidence so that it withstands scrutiny in a court of law when the actual case is brought. And so that coordination is imperative. Some of it is already starting to happen, but the United States actually—this Administration can help promote that coordination among different international accountability mechanisms. So thank you for the question.

Mr. PFLUGER. Thank you, Ambassador. My time is expired.

I yield back, Mr. Chairman.

Chairman KEATING. Thank you, representative.

The chair now recognizes Representative Cicilline for 5 minutes, who will chair the hearing also as I go to vote.

Mr. CICILLINE. Thank you, Mr. Chairman. And thank you to you and Ranking Member Fitzpatrick for—sorry. Thank you, Mr. Chairman and thank you to you and Ranking Member Fitzpatrick for holding this really important hearing.

Since February 24 and the start of Vladimir Putin's grotesque war in Ukraine our committee has really snapped into action advancing the cause of peaceful freedom for the people of Ukraine and the consequences for Vladimir Putin and the architects of his unjust invasion.

Let this hearing serve as a warning to the Putin regime we will do all we can to hold you and your enablers responsible for your crimes.

The images that have emerged from areas like Bucha and Irpin have stirred the conscience of the world: men, women, and children with their hands tied behind their backs and shot to death; elderly Ukrainians who were executed while they searched for food; civilians confined to frigid hiding places dead from thirst; the partially burned bodies of women and girls who were victims of depraved acts of sexual violence.

In pursuit of his terrible plan for the rebirth of a Russian Empire, Vladimir Putin is presiding over a military that is losing on the battlefield and instead hoping to achieve his goals by unleashing horrors on civilians reminiscent of the darkest day of World War II or the breakup of Yugoslavia. We must ensure that Putin and his regime fails in that aim.

To that end I am currently working on a bicameral piece of legislation with Senator Durbin, chairman of the Senate Judiciary Committee, that would allow the United States to hold perpetrators who commit war crimes or crimes against humanity accountable in U.S. courts. This will ensure that the United States does not become a safe haven for criminals who commit atrocious human rights violations to live free of accountability. In the defense of human rights war criminals face justice and I pledge to continue leading on that effort.

And, Mr. Ambassador, I want to ask you first about that. Currently the United States is limited in its jurisdiction to try war criminals and perpetrators of other atrocities, meaning that even if we have mountains of evidence that a war criminal is residing in the United States, we may have no means to hold that individual accountable in U.S. courts. Do you think the United States should expand our jurisdiction to try war criminals on U.S. soil?

Mr. CARPENTER. Thank you, representative. So there are a number of OSCE participating States that I work with on a regular basis whose courts have invoked universal jurisdiction in the past and whose representatives have signaled that they intend to do so in the future, specifically with regards to the allegations of war crimes committed by Russian forces in Ukraine. So this is an avenue that is being pursued by some of our allies and partners and I have no doubt that a number of these States, which have very sophisticated investigation and judicial institutions, will succeed in this effort.

I do not know how many of the perpetrators of these crimes are going to be traveling into these various jurisdictions, so how many will actually be apprehended and therefore subject to these courts of law, but this is certainly something that a lot of countries at the OSCE table are looking at.

Mr. CICILLINE. Great. And, Mr. Ambassador, as you suggested collecting and storing and assessing evidence of war crimes committed by the Russian Federation, Ukraine is obviously critical to any future pursuit of accountability and justice. So what country will have access to any evidence that has been obtained and stored by OSCE and how can we facilitate greater cooperation around access to crucial data? What are things that we can be doing?

Mr. CARPENTER. So with regards to the first invocation of the Moscow Mechanism, the fact-finding mission that produced that first report, they have clearly stated; and it is in writing in the report, that they intend to share their evidence that they have collected with any respected international—basically with any international accountability mechanism.

If there is a path that they see that will bring individuals to justice, they are prepared to share the information that they have collected. In fact, much of it is already public in the report, but they have committed to doing so. And I imagine that if there is a second invocation similarly it will make that evidence available to whoever is able to do justice for these crimes, for the victims.

And then finally, the same is true of the Office of Democratic Institutions and Human Rights which will make that evidence all publicly available. I have heard that it is going to be digitized and therefore searchable by others, and I hope that is the case.

Mr. CICILLINE. Thank you very much, Mr. Ambassador.

I see that the chairman is back, and so I will yield back to Mr. Keating.

Chairman KEATING. Thank you, representative.

I now recognize for 5 minutes Representative Meuser.

Mr. MEUSER. Thanks, Mr. Chairman.

And thank you very much, Ambassador. So I think it is—I think all of us on this committee, most of the world see Putin as a war criminal. So I will start my questioning with this, Ambassador: What would be the—and pardon me if it has already been discussed, but has Putin been notified or his staff notified at this point that he has engaged in war crimes?

Mr. CARPENTER. So, representative, I think one of the big questions that we have is how much information is actually getting to Mr. Putin. I think there is a lot of questions about whether he is fully understanding how—not only how his troops have failed in

the field; for example in the northern suburbs of Kiev, but also the degree to which they are perpetrating atrocities. I think that is an open question.

However, there is very clear evidence in the simple fact that President Putin has bestowed one of the highest honors that can be bestowed on a Russian unit; the honor is called the Status of Guards, on the specific unit that we believe was involved, or at least some of whose members were involved in the atrocities in Bucha. And so the fact that so soon—as we are still in the midst of this conflict, so soon after the perpetration of those atrocities that this particular unit would be singled out by the Kremlin with this reward suggests that there is some knowledge and in fact tacit public acknowledgement of what they are doing.

Mr. MEUSER. OK. So you currently continue to build evidence. And are we providing that evidence to those who will engage in the procedures of criminalizing Putin's actions?

Mr. CARPENTER. So as I Stated earlier, Congressman, the accountability that has been pursued via the OSCE through the Moscow Mechanism, that information will be available to all international accountability mechanisms including the ICC that intend to bring cases. And both the experts who fielded that fact-finding mission, but also the participating States who invoked it; and there were 45 of us, so 44 others, plus the United States, have all said that every individual at every level of the chain of command must be held accountable. And so there is broad unanimity that that is the way forward.

Mr. MEUSER. What is China's—representatives of the CCP, the People's Republic of China—what has been their position? I know they apparently are favorable or at least neutral on this invasion and on Putin, but is there any information that you are receiving that they also appreciate and understand that he is committing war crimes?

Mr. CARPENTER. So the PRC is not a member or a partner of the OSCE. We have 56 other participating States and 10 partners including Japan, Australia, New Zealand, Thailand, Afghanistan, and the Indo-Pacific, but not the PRC. But to my knowledge they have not acknowledged the commission of war crimes by Russian forces in Ukraine.

Mr. MEUSER. OK. There have been 46 indicted—war criminals indicted by the International Criminal Court. The last was Mahamat Said Abdel Kani, a militia commander from the Central African Republic. Would the process for criminalizing that individual be the same as you are going to proceed for Vladimir Putin? Is it a similar model?

Mr. CARPENTER. So that is a little bit outside my lane because that pertains to the ICC, but my understanding is that the general process of holding individuals accountable for violations of international humanitarian law and international human rights law would be analogous to previous cases that have been brought.

Mr. MEUSER. Who would have the opportunity to arrest, if you will, Vladimir Putin?

Mr. CARPENTER. Well, that is obviously a very, very tricky question. I think it is hard to envisage that President Putin would travel outside of the Russian Federation to a jurisdiction where na-

tional authorities would choose to exercise an arrest warrant, especially so long as he is head of State. So it is a conundrum, frankly. But if one looks at the long term, there are plenty of examples of former leaders who have been held accountable at the end of the day, usually after they have fallen from power, for their crimes.

Mr. MEUSER. All right. Thank you.

I yield back, chairman.

Chairman KEATING. Thank you very much.

The chair now recognizes Representative Schneider for 5 minutes.

Mr. SCHNEIDER. I was having difficulties.

Ambassador, can you hear me now?

Mr. CARPENTER. I can hear you, yes.

Mr. SCHNEIDER. OK. I apologize for not being on microphones. Anyway, I want to thank you for all of your work, but in particular for sharing your work with the committee today.

And I want to thank the chairman for organizing this critically important hearing.

One of the things is you mentioned in the report that it covered the first 5 weeks of the war. The war has obviously been going on much longer and is likely to continue for a extended period of time. And you indicated that the pattern of abuse has continued, the pattern of apparent war crimes. Has that continued at the same pace as what you were seeing in the first 5 weeks or do you think it has expanded dramatically and that the pace, scope, breadth, and depth of war crimes is increasing?

Mr. CARPENTER. Well, thank you for the question. It is hard to say because my information is obviously limited, but we obviously saw those dramatic and horrifying images from the northern suburbs of Kiev where Russian forces retreated and as soon as the Ukrainians had access to that land, they found all the bodies in the mass graves that indicated that war crimes had been committed.

My understanding based on the utter devastation that has been affected upon the city of Mariupol, which was a city with a population of some roughly 430,000 people prior to the war, and the fact that over 90 percent of the buildings there are destroyed in some way, that the atrocities that are likely to be discovered once the international community or once Ukraine gets access to that city and to that territory are likely to be horrendous and just the scale will be immense. So if anything, I suspect there may have been an acceleration of these forms of atrocities.

Mr. SCHNEIDER. Yes, I think that is the concern of the world. And one of the things—my concern is that the news—Ukraine has dominated the news for an extended period now, but other things happen around the world. What can OSCE, the United States do to help steel the resolve of the international community to make sure as you are collecting this data and evidence of war crimes that we are going to signal to the Russians that they are not going to outlast us and we will hold them to account, not just for actions for the first 5 weeks, or for 3 months, or the war, but throughout their campaign?

Mr. CARPENTER. Yes, so thank you so much for that question because that is what we are trying to do every week here at the OSCE. We have the Permanent Council, which is the equivalent of

the U.N. Security Council for the OSCE where all 57 participating States sit at the table. And each and every week I specifically talk about Russian atrocities in Ukraine and I try to bring them to light and I try to also impress upon my counterparts around the table the extent to which we are witnessing something that we have—the scale and scope of which and the barbarity of which we have not seen since really the Second World War, although to a certain extent we saw some of this in the 1990's in the Former Yugoslavia or in Rwanda. And my colleagues, especially from our allies and like-minded partners, are making the same case each and every week.

So the Russian representative, the Russian ambassador is hearing this every week. And he is isolated with the one exception of Belarus. Russia and Belarus are completely isolated at the OSCE because all other States—some are silent and do not speak, but all those who do speak condemn these atrocities in no uncertain terms and demand accountability.

Mr. SCHNEIDER. Thank you. I think it is important that we continue to condemn these atrocities and hold all of our allies strongly together on this.

It is not just the violent crimes we are seeing like in Mariupol and other places. Russia is weaponizing its energy supplies and threatening Europe. I had a meeting yesterday with the Prime Minister of Bulgaria, one of the countries where Russia has specifically targeted.

My question, specific to Bulgaria, but also more broadly, is what can the OSCE do to help dampen the threat and diminish the challenge to member States from Russia's illegal use of food and oil, but in particular oil and gas, as a weapon?

Mr. CARPENTER. Thank you for the question. So of course Russia has used energy as a tool of political coercion for decades, using its—the power of its pipelines and the fact that so many countries in particularly Eastern Europe, but some in the Balkans and Western Europe, are dependent to a large degree on Russian hydrocarbons.

While this is within the OSCE mandate, the OSCE is probably not the lead organization that is looking at this issue. But I can say as a representative of the United States that—I mean this is something that we have been talking to our partners and allies about for a long time. And where we have supported the construction of the infrastructure in Europe to include, for example floating LNG terminals, inter-connector pipelines particularly on the north-south axis, that would enable reverse flows and enable some of the countries that are so dependent, sometimes 80, 90, even 100 percent dependent on Russian gas to wean themselves off of that dependency and to use other sources and other transport routes.

And so our Energy Bureau at the State Department has been heavily involved with this and will continue to be because now is the moment where I think some of those allies that perhaps knew this was a problem—now it is really hitting home that this is existential.

Mr. SCHNEIDER. Thank you. And I am not sure how much time I have left, but I would like to yield what time I do have to spare to my colleague Abigail Spanberger from Virginia.

Chairman KEATING. The chair recognizes Representative Spanberger, and she will now chair just until I commit the—finish this vote and come back.

Ms. SPANBERGER. Thank you so much. And again, Mr. Ambassador, thank you for your patience as we continue to make sure that we are getting all of our votes in in this 23-vote series while also ensuring that we can ask many questions given your expertise.

So I want to do a little bit more followup on a line of questioning that I was going down before related to social media companies, related to the challenges that we face in terms of when they are pulling down disinformation and what might potentially be evidence of war crimes.

Some of my colleagues—and certainly in the first round of questions we have talked about how there are some pros and cons obviously to modern technology, and social media more specifically when it comes to documenting war crimes. And when we look at Russia, we have really seen a professionalization of disinformation, false narratives, certainly we saw that the U.S. intelligence community had released information before Russia even invaded to speak to the fact that there was an intent to potentially release a doctored video that could be cause or an excuse for an alternate Russian invasion.

And so when we are looking at how the Russians in particular obscure truth, misdirects global attention, and of course engage in strong disinformation campaigns, even here, where do you think that social media companies might have a role in again going back to sort of preserving the evidentiary record of war crimes, but of disinformation campaigns that frankly could lead us on a path toward war crimes, or the responsibilities that they might have to remove or curate misinformation and help their users separate actual truth from clear lies? And I am thinking about this in the context of course as Congress continues to determine what we potentially could be doing long term. Your comments on this, sir, would be great.

Mr. CARPENTER. Yes, thank you, Congresswoman. So with regards to the role of social media companies in curating, as you noted, misinformation, that's probability a little bit outside my lane, but what I will say is that a lot of these social media companies have the big data analytics to be able to do investigations and pull the threads on some of the evidence that may be coming out of Ukraine by individuals from Russia or potentially elsewhere, mercenaries on the ground to be able to help identify and then also implicate others.

And so they have unique capabilities in this regard probably matched only by the U.S. Government and a few other States, but they can certainly support efforts to identify individuals involved in potential war crimes. And we have seen NGO's with remarkable capabilities. I am thinking of Bellingcat, but there are others: the Atlantic Council's Digital Research Lab, amongst others, that have really done phenomenal work in pulling the thread on some of these obscure social media posts that then have revealed quite a lot about what is happening on the ground.

Ms. SPANBERGER. Thank you very much, Mr. Ambassador.

And while I could continue asking you questions all afternoon, I am going to yield back to the chairman and go vote and return. Thank you.

Chairman KEATING. Thank you, vice chairman.

And I just want to let the Ambassador know (inaudible) effort of so many members and the interest in this today given the unexpected volume of folks in the middle of this hearing. Now I will just recognize myself for a few questions as well.

You mentioned the systematic nature of things in terms of these atrocities and how that can be termed and categorized as crimes versus humanity. And you mentioned that it could be—then if it qualifies for that, the Russian Federation itself can be held accountable. Can you describe how that process works and what are the repercussions of the Russian Federation being held accountable in that process?

Mr. CARPENTER. Well, thank you, chairman, for the question. Crimes against humanity is one of those terms that is so evocative because of recent history of the past century. And so when a finding is made by a credible international institution, an impartial international institution that crimes against humanity were committed, I think that strongly aids the efforts to find individuals accountable for violations of the Geneva Conventions or other war crimes because it tarnishes the reputation of the State essentially forever. I mean, States change and government come and go, but that is such a powerful tool that I think we should not discount it.

Of course Russia is a large country with a large military, but nevertheless having that designation would be a very powerful signal, and especially to those countries on Russia's periphery, some of whom are afraid of what the Kremlin might do next and therefore reluctant to speak out, but also countries elsewhere around the world, some of which are U.S. partners who are reluctant to speak out against what Russia is doing. But if we had that designation that crimes against humanity had been perpetrated, I think that would be very powerful in terms of rallying our international allies and partners together.

Chairman KEATING. And you also mentioned, too, in your testimony how different leaders—these are civic leaders, mayors, activists at the local level, and religious leaders you mentioned, too, and we noticed the support for this war on behalf of the Russian Orthodox leader himself.

So could you tell us, if you could, what religious leaders have been targeted for these atrocities as well or put into filtration camps or faced any other kind of Russian action?

Mr. CARPENTER. Well, thank you, chairman. So in the city of Kharkiv, which is one of the largest Russian-speaking cities in the world, which has suffered so much from Russian aerial and missile bombardment over the course of the last 10 weeks, we have seen that the—one of the major Orthodox churches there has been hit with a strike. I believe the synagogue, or it may be more than one, has been targeted with a strike. And the mosque in that city has also been targeted with a strike.

So again, Russia is—the scale of the devastation is such that is affecting many different faith communities across Ukraine, which of course is a very diverse and multiethnic society. But we have

also received reports that some priests, including Orthodox priests, are indeed subject to these filtration camps. Again, there we have less information, but I think as more comes to light we will learn that many indeed religious figures have been detained by Russian forces in Ukraine.

Chairman KEATING. And given some of the rhetoric that has come out of the Russian Federation in terms of the justification for the war and some of the religious tenets that some of the Russian Orthodox leaders have done in terms of attacking the LGBTQ community, have you found any evidence to date that the LGBTQ community has been targeted by the Russians with some of these atrocities or if they are placing them in detention or filtration camps?

Mr. CARPENTER. Well, we did have information prior to February 24 and we assessed that the LGBTQ community would be potentially targeted by Russian forces following an invasion. Now the members of the community are not always very visible for obvious reasons. They are worried about their safety. And so we have limited information. But unfortunately we do have some reports that some of the sexually based violence which has been perpetrated against both women and men has also been perpetrated against members of that community.

Chairman KEATING. And does that include boys and children as well? That is my understanding.

Mr. CARPENTER. Indeed, yes, there are reports.

Chairman KEATING. Just looking at a parallel for Russian activity, too, I believe you are aware of their actions in Syria where they targeted health care facilities and did these civilian targets, but I recall in Syria just the targeting of hospitals and medical facilities, how significant that was and extensive. Can you comment on the parallels that might be there in Ukraine as well?

Mr. CARPENTER. Indeed. Well, of course it is very difficult to prove at this stage of the war that certain facilities were deliberately targeted. Nevertheless, despite the high bar for making that determination the Moscow Mechanism report that I referenced in my introductory statement did find that that Mariupol Children's and Maternity Hospital was in fact deliberately targeted by Russian forces.

And in the days following the strike Foreign Minister Lavrov of Russia said that it was a legitimate target because he believed that there were—I forget if he used the term Neo-Nazis or Nationalists because Russian officials use those terms interchangeably, but that they were hiding supposedly, allegedly in the basement of that hospital. And subsequent to that of course; and the OSCE experts determined this, there is absolutely no credibility to that claim whatsoever. There were indeed women and children in that hospitals, hundreds of them, who suffered horribly as a result of that strike.

Chairman KEATING. And also I think to help summarize some of this, the strategic failure of the Russians and the frustration, although we did see these war crimes at the outset of this, but are they indicative and can you comment on really the strategic failure thus far of this Russian effort?

Mr. CARPENTER. Yes. So it appears that, from the planning at least, that the Russian forces were intent on a shock and awe cam-

paign that would have decapitated the Ukrainian government in Kiev in short order, in a matter perhaps even of days and that they were so confident that they would be greeted by some of the local residents across Ukraine when they marched in that their planning in terms of, for example the amounts of food that they brought with them was wholly insufficient for the operation. Of course they failed. They lost the battle of Kiev. The Ukrainians won. They pushed them back across the border.

But the Russians have a numeric superiority over the Ukrainian army, both in terms of troops, but also in terms of tanks, in terms of aircraft, ships, rocket launchers, missiles, all of that. And so now that the Russians forces have regrouped and reattacked in the south and east, the Ukrainians are going to face and are facing a very, very stiff battle and a huge challenge to their sovereignty.

But so far yes, the Russian operation has been—has not achieved President Putin's aims, which were to subordinate Ukraine to Russian control.

Chairman KEATING. I think to myself with so many people that their actions clearly are indicative of a State-sponsored terrorism. And there is much discussion about that issue, but one of the things I see now and am learning about; perhaps you could help us, is indeed that designation at this juncture could actually limit some of our options. Are you familiar with how that could actually limit at this juncture some of our options?

Mr. CARPENTER. Well, so I answered this question, chairman, with regards to one of your colleagues on the subcommittee. You may have been voting at the time. So my understanding is that in contrast to war crimes, crimes against humanity, and violations of international humanitarian law and human rights law, which are matters of international law, the designation of a State as a State-sponsored terrorism is something that is done by the United States under domestic statute and so not be pursued at the OSCE together with other allies are partners. It would be a determination made by the legal advisor at the State Department based upon a careful review of the definition that is contained in that statute.

Now I am not an international lawyer, so I won't comment on it, but I will—

Chairman KEATING. Ambassador, I think you helped explain this.

Mr. CARPENTER. Yes.

Chairman KEATING. I think there is perhaps less flexibility and certainly less impact going our own domestic law, not that that cannot be done in future, but it might inhibit or go in a different direction than our international efforts with our international allies. I think that is something we are looking at as we look at that issue as well.

And last, there has been much talk already about the use of energy and how brutally that is being done and what is the impact of what they are doing on food supplies. I honestly believe the amount of casualties as a result of Russia's action, limiting food supplies, which they are well aware of, may result in more deaths than the war itself as things spread into the fall and this becomes more acute.

I do not know if you wanted to comment on the devastating effects of Putin's actions on our—the food supply of the world. Forty

percent of fertilizers come from Belarus and Russia, and indeed Ukraine and Russia are the breadbasket of much of the world. This could indeed be one of the greatest evil actions of Putin of all. Could you comment on that?

Mr. CARPENTER. Indeed. Well, I think Russia's actions to blockade Ukraine's ports both in the Sea of Azov and the Black Sea are having a devastating impact on global food security and the blame has to be place squarely at Russia's feet because it is the one that is preventing these foodstuffs from getting out to markets around the world.

Ukraine is the No. 1 global producer of sunflower oil. They produce a lot of wheat. They produce a lot of other grains. As you mentioned, chair, they are considered one of the major breadbaskets in the world. And their harvests are sitting in storage facilities across Ukraine and are not getting out from those ports like Mariupol, or Berdiansk, or Odessa because Russian forces, and specifically the Black Sea fleet, is blocking any ship, whether it is a State-owned vessel or a commercial vessel, from leaving any of those ports. And so a lot of that grain and those oils are being— are trapped there in Ukraine as a result of this war.

Chairman KEATING. And I have one more comment and I might have turn it over to vote before we conclude, but it is the issue that people should be aware of I think in terms of the oil and gas imports with Europe. If that was an immediate shutdown—this is something I understand has to be calibrated. If it was an immediate effort to shut that down, that could affect supply and actually in a short term give Putin more profit right now for his war efforts. Is that your understanding?

Mr. CARPENTER. That is indeed my understanding and I believe that European Union leaders including Ursula von der Leyen and council president Charles Michel have said that when they look at measures to impose costs on Russia, we would have to be cognizant that we—that they not hurt their own economies more than they hurt Russia's. And so that should be an operating principle going forward.

Chairman KEATING. Thank you for that. I just want to thank you for—and I want to thank the vice chair for getting through this. It is so important and it is extraordinary the bipartisan participation we had in the midst of this. It is highly unusual and it really goes to how important this is. I want to thank you and I want to ask you if we can continue. We want to continue on this issue with war crimes as it—on a continuing basis. And thank you for your cooperation.

And with that, members will have 5 days to submit statements or extraneous material, any questions for the record subject to the length and limitation of the rules.

I want to thank again all the members.

And I want to thank you, Ambassador, for your service to our country and for taking this issue one particularly. It is something we want to join you in your efforts as Members of Congress.

With that, I will call this hearing adjourned. Thank you again.
[Whereupon, at 3:41 p.m., the subcommittee was adjourned.]

APPENDIX

**SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS**

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128

Subcommittee on Europe, Energy, the Environment, and Cyber

William R. Keating (D-MA), Chair

May 11, 2022

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs, to be held by the Subcommittee on Europe, Energy, the Environment, and Cyber held virtually via Cisco WebEx (and available by live webcast on the Committee website at <https://foreignaffairs.house.gov/>):

DATE: Wednesday, May 11, 2022

TIME: 2:00 p.m., EDT

SUBJECT: Accountability and Justice for War Crimes Committed in Ukraine by the Russian Federation

WITNESS: The Honorable Michael R. Carpenter, Ph.D
Permanent Representative of the United States of America to the
Organization for Security and Cooperation in Europe
U.S. Mission to the Organization for Security and Cooperation in Europe
U.S. Department of State

By Direction of the Chair

To fill out this form online: Either use the tab key to travel through each field or mouse click each line or within blue box. Type in information.

COMMITTEE ON FOREIGN AFFAIRS

Note: Red boxes with red type will NOT print.

MINUTES OF SUBCOMMITTEE ON Europe, Energy, the Environment, & Cyber HEARING

Day Wednesday Date 05/11/2022 Room Cisco Webex

Starting Time 2:10 Ending Time 3:41

Recesses ☐ (____ to ____) (____ to ____) (____ to ____) (____ to ____) (____ to ____) (____ to ____)

Presiding Member(s)

William R. Keating

Check all of the following that apply:

Open Session ☒

Executive (closed) Session ☐

Televised ☒

Electronically Recorded (taped) ☒

Stenographic Record ☒

To select a box, mouse click it, or tab to it and use the enter key to select. Another click on the same box will deselect it.

TITLE OF HEARING:

Accountability and Justice for War Crimes Committed in Ukraine by the Russian Federation

SUBCOMMITTEE MEMBERS PRESENT:

See Attached

NON-SUBCOMMITTEE MEMBERS PRESENT: (Mark with an * if they are not members of full committee.)

HEARING WITNESSES: Same as meeting notice attached? Yes ☒ No ☐

(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: (List any statements submitted for the record.)

Ambassador Carpenter's Statement for the Record

TIME SCHEDULED TO RECONVENE _____

or

TIME ADJOURNED 3:41s

Clear Form

Note: If listing additional witnesses not included on hearing notice, be sure to include title, agency, etc.

Julia Ellings
Subcommittee Staff Associate

WHEN COMPLETED: Please print for subcommittee staff director's signature and make at least one copy of the signed form. A signed copy is to be included with the hearing/markup transcript when ready for printing along with a copy of the final meeting notice (both will go into the appendix). The signed original, with a copy of the final meeting notice attached, goes to full committee. An electronic copy of this PDF file may be saved to your hearing folder, if desired.

HOUSE COMMITTEE ON FOREIGN AFFAIRS

EUROPE, ENERGY, THE ENVIRONMENT, AND CYBER SUBCOMMITTEE HEARING

<i>PRESENT</i>	<i>MEMBER</i>
X	William R. Keating, MA
X	Abigail Spanberger, VA
X	Susan Wild, PA
	Albio Sires, NJ
	Theodore E. Deutch, FL
X	David Cicilline, RI
	Dina Titus, NV
X	Dean Phillips, MN
	Jim Costa, CA
	Vicente Gonzalez, TX
X	Brad Schneider, IL

<i>PRESENT</i>	<i>MEMBER</i>
X	Brian K. Fitzpatrick, PA
X	Ann Wagner, MO
	Adam Kinzinger, IL
	Brian Mast, FL
X	Dan Meuser, PA
X	August Pfluger, TX
	Nicole Malliotakis, NY
X	Peter Meijer, MI
	Claudia Tenney, NY