

**NOMINATIONS OF HON. CHRISTINE M. GRIFFIN  
AND STUART G. NASH**

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**HEARING**

BEFORE THE

**COMMITTEE ON  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE**

OF THE

**ONE HUNDRED ELEVENTH CONGRESS**

**FIRST SESSION**

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NOMINATIONS OF HON. CHRISTINE M. GRIFFIN TO BE DEPUTY DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT, AND STUART G. NASH TO BE ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

**JULY 16, 2009**

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## **NOMINATIONS OF HON. CHRISTINE M. GRIFFIN AND STUART G. NASH**

**THURSDAY, JULY 16, 2009**

U.S. SENATE,  
COMMITTEE ON HOMELAND SECURITY  
AND GOVERNMENTAL AFFAIRS,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:08 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Daniel K. Akaka, presiding.

Present: Senators Akaka and Voinovich.

### **OPENING STATEMENT OF SENATOR AKAKA**

Senator AKAKA. The hearing of the U.S. Senate Committee on Homeland Security and Governmental Affairs will now come to order.

Good morning and welcome. Today, the Committee on Homeland Security and Governmental Affairs meets to consider the nomination of Christine Griffin to be the Deputy Director of the Office of Personnel Management (OPM).

Ms. Griffin is a native of Boston, Massachusetts, and a graduate of the Massachusetts Maritime Academy and the Boston College Law School.

Ms. Griffin is a veteran and a lifelong public servant who began demonstrating her commitment to her country at an early age. Immediately after graduating from high school, Ms. Griffin enlisted in the U.S. Army and served on active duty for 3 years during the Vietnam War. After completing her active service, Ms. Griffin served an additional 2 years on reserve duty.

We thank you very much for your dedicated service during that difficult time of war.

After graduating from the Massachusetts Maritime Academy, Ms. Griffin began work with the U.S. Food and Drug Administration (FDA) as a mechanical engineer and field investigator. Ms. Griffin also has served as Executive Director of the Boston Disability Law Center.

In 2005, Ms. Griffin was unanimously confirmed by the U.S. Senate to become a member of the U.S. Equal Employment Opportunity Commission (EEOC). Ms. Griffin is the first female with a physical disability to serve as a commissioner in the history of the EEOC.

Ms. Griffin has been a leading advocate for improving the opportunities available to physically disabled Americans and is an advocate in particular for disabled veterans. Ms. Griffin has played a

key role in increasing the number of physically disabled workers in the Federal Government.

As the Chairman of both the Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee and the Veterans Affairs Committee, I understand the critical importance of these efforts, and I look forward to hearing about your very important work in this area. But before I say another word, I want to introduce my friend Senator Kerry and ask him to continue the introduction of Ms. Griffin.

Senator Kerry.

**TESTIMONY OF HON. JOHN F. KERRY, A U.S. SENATOR FROM  
THE STATE OF MASSACHUSETTS**

Senator KERRY. Well, thank you, Senator Akaka. Thank you for your kind words about the nominee and for the privilege of letting me be here to introduce Ms. Griffin.

I apologize, I was outside, but I am happy to say that I was on the phone with Senator Kennedy and his wife, Vicki, both of whom are enormously supportive of the nominee and want to extend their good wishes.

I am really here both on my own behalf as well as Senator Kennedy's behalf. I know he is in our thoughts a lot right now but more so when we get to see a nominee who embodies the virtues and engages in the battles for which Senator Kennedy has fought for about half a century now. I think it is fair to say that Ted Kennedy has done more than any Senator in the history of this institution to advance the cause of Americans with disabilities. I know because he just told me how much he wishes he was here to salute this nominee and to introduce her himself.<sup>1</sup>

Ms. Griffin is a friend and a longtime partner in the equal rights struggle and now a nominee for the very important post of Deputy Director of the Office of Personnel Management.

If I could just say, Mr. Chairman, Senator Voinovich, before becoming America's 26th President, Teddy Roosevelt helped another reformer President, Benjamin Harrison, to fix the Federal Civil Service system, and he wanted it to be professional, driven by merit rather than patronage, and open to all. Today, the former President and former Civil Service Commissioner is the namesake of the OPM's building, and in many ways we are still struggling with the same issues. We need highly competent and devoted public servants like Christine Griffin to help ensure that Federal hiring reflects our ideals.

Like Teddy Roosevelt, Christine Griffin is a trailblazer. In the mid-1970s, as you mentioned, she served on active duty in the Army. She was one of only 11 women, Mr. Chairman, in the second coed class at the Massachusetts Maritime Academy.

I know she is fond of saying that the engineer on a merchant ship is more in charge of the ship than the captain, and as a lieutenant in the Navy, I am going to respectfully disagree with her. [Laughter.]

But I admire her training and her moxie. In her third year at the Academy, Mr. Chairman, a car accident confined Christine to

<sup>1</sup> The prepared statement of Senator Kennedy appears in the Appendix on page 28.

a wheelchair, but she has never truly been confined to it. Her spirit is much bigger than that, her energy, her direction, and more importantly, she never has allowed that disability to define her.

Instead, she thrived as a lawyer and as a public servant. She earned a law degree from my alma mater, Boston College Law School, and won the prestigious Skadden Fellowship when she graduated. She became Executive Director of the Disability Law Center in Boston from 1996 to 2005 when she was named one of the Nation's 11 Lawyers of the Year by Lawyers Weekly USA.

She was then appointed by President Bush and confirmed unanimously by the Senate to serve on the U.S. Equal Employment Opportunity Commission.

Christine will take on a leadership position inside the organization that is the chief architect of the human resources agenda for 1.9 million Federal employees nationwide. This is an important job. Among the OPM's primary responsibilities are crafting improved Federal recruitment strategies, expediting the hiring process for Federal positions, and attracting a diverse group of men and women with a rich mix of talents to serve in America's Civil Service.

I am 100 percent plus confident of Christine's ability to execute those responsibilities with enormous distinction. She is a person who literally embodies all that we hope for in public servants. She is smart. She is accomplished. She is courageous. She is independent. And I think she is deeply committed to the values and principles embodied in the job that she has been named for.

So I am really proud on behalf of Massachusetts and Senator Kennedy to introduce her to you.

Ms. GRIFFIN. Thank you very much.

Senator AKAKA. Thank you very much, Senator Kerry.

Senator KERRY. If you will forgive me for having to leave, I appreciate it.

Senator AKAKA. Thank you very much. Thank you for your introduction. I know you have a very busy schedule. So I am pleased that you were able to make it today, and thank you so much for mentioning Senator Kennedy and, in a sense, representing him in this introduction.

Senator KERRY. Thank you so much.

Senator AKAKA. Thank you.

Ms. Griffin, I want to congratulate you on your nomination and welcome you and your family, in particular, your husband, Philip, who is here today with you. I understand that you have some family and friends here, and I should also add, supporters, in the audience today, and I want to give you an opportunity to introduce them to the Committee. Will you please do that at this time?

Ms. GRIFFIN. Thank you. You actually mentioned my husband, Philip.

This is my nephew, Griffin Doherty, and he is a staffer who works in Senator Kennedy's office.

There are a lot of people here, way too many for me to introduce, but there are folks from OPM. There are folks from the EEOC. There are, I know, a number of people from the disability community in various Federal agencies and nonprofit organizations in Washington, DC, and my colleague from the Commission, Commis-

sioner Barker, is here. People on my staff—Jo Linda Johnson and Steve Zanolovic are here—and I am sure you know some of the other folks that you have been working with from OPM over the years.

But thank you for allowing me to do that.

Senator AKAKA. Well, thank you very much for that introduction.

Again, let me express my aloha and welcome to all of you. We are very happy to have all of you here.

Now, Ms. Griffin, I look forward to hearing from you about your vision for OPM and your thoughts on addressing the vast human capital challenges the government is facing. As we all know, it is a crucial time for the Federal Government and the Federal workforce. With an economy that is continuing to struggle, people are looking to the Federal Government for effective leadership. An increasing number of young people are looking to the Federal Government as well for meaningful careers. Having the right talent in place from the most senior officials down to front-line employees is more important now than ever.

If confirmed, you, along with Director Berry, must confront the pressing challenges of helping agencies meet their workforce needs. With nearly half of the current Federal workforce being eligible for retirement by 2012, we will be looking for a new generation of Federal employees who may have different career expectations than their predecessors. We must work now to make the Federal Government the employer of choice in our country. In particular, we must reform the broken hiring process, which takes too long and places too much burden on applicants.

I appreciate the work OPM has been doing on this issue with assistance from the Office of Management and Budget for the first time. As you know, Senator Voinovich and I have introduced the Federal Hiring Process Improvement Act, S. 736, to streamline and improve the Federal hiring process. We strongly believe that legislation is needed to ensure that OPM and the agencies have all of the tools needed to ensure full and effective governmentwide implementation of hiring reform. We look forward to hearing your thoughts on this issue.

The hiring process is not the only part of this equation that needs to be changed. Supervisors play a key role in motivating and retaining the most talented Federal employees. Research shows that strong senior leadership in Federal agencies is among the most important elements of employee satisfaction. Supervisors must be trained to increase employee productivity without undermining employees' rights and protections. I have introduced the Federal Supervisor Training Act, S. 674, to provide initial and ongoing training to supervisors in the Federal workforce.

I know that Senator Voinovich is committed to improving performance management as well, and I look forward to working with you, Ms. Griffin, and with Senator Voinovich as we move forward on these important issues.

During the last Congress, I introduced a bill to reestablish labor-management partnerships in the Federal sector. I understand that the Obama Administration is considering reestablishing these partnerships, and I have not yet reintroduced my bill to allow the new Administration time to work through the issue.



I encourage you to ensure that OPM is doing all it can to facilitate the reestablishment of these valuable partnerships. More broadly, I hope all of your work to improve and reform Federal personnel systems is based on working closely with Federal employees and their representatives.

My good friend and partner, Senator Voinovich, and I have sat on this Committee for a number of years. Senator Voinovich is a true leader—I call him a champion in Federal workforce issues—and has demonstrated his commitment in his years on this Committee to improve all aspects of our Federal workforce.

Senator Voinovich, I would like to continue to work on this as long as we can and as quickly as we can.

At this point, I would like to call on Senator Voinovich for his opening statement.

#### **OPENING STATEMENT OF SENATOR VOINOVICH**

Senator VOINOVICH. Senator Akaka, thank you for your very generous words. I think that we have had a great partnership for 10 years and have tried conscientiously to make a difference in terms of our Federal workforce.

Senator Akaka is right, Ms. Griffin. I am going to finish up next year, and there is a list of things at OPM that I want to see get done.

I would like to thank your family for the sacrifice they have made so that you can serve. They are going to make even more sacrifices if you are confirmed by the Senate, which I think you will be. I thank them in advance for it. This is tough work and long hours.

During my tenure on this Committee, we have spent a great deal of time reviewing our government's efforts to find and hire the best and brightest employees that the private sector hires at higher salaries and better benefits. I think in this instance the Office of Personnel Management and the District of Columbia have found extremely qualified candidates for positions.

Mr. Chairman, since you and I have discussed the nominee's background and qualifications, I will not go into the details. You have done that.

Ms. Griffin, I will be following with great interest your work with Director Berry to reinvigorate the Office of Personnel Management. We had a wonderful discussion in my office. I would like to suggest to Senator Akaka when we get back from recess that you and Director Berry could come in and see us privately to talk about your priorities.

Mr. Nash will appear next, and I want to say that I appreciate his distinguished education and background. He has also devoted more than a decade to his career in public service, and I am pleased that he is willing to continue serving his community further at the D.C. Superior Court.

I look forward to hearing from both of the nominees about their education, experience, and why they have sought their respective positions.

Mr. Chairman, I hope that the Committee can vote on these nominations as soon as possible because I think the court needs Mr. Nash and OPM needs Ms. Griffin. Thank you.

Senator AKAKA. Thank you very much, Senator.

I would like to now call a person who has served the District of Columbia so well for many years in the U.S. House of Representatives and continues to do so, and we are very happy to continue to work with her on many pioneering issues for the District. I am delighted to have her here to add to the introduction of Mr. Nash.

Will you please do that at this time?

**TESTIMONY OF HON. ELEANOR HOLMES NORTON, A  
DELEGATE IN CONGRESS FROM THE DISTRICT OF COLUMBIA**

Ms. NORTON. Well, thank you very much, Mr. Chairman. I thank you, Senator Akaka, for your long service to the city on this Committee and you, Senator Voinovich, for service in so many ways, especially on the District of Columbia Tuition Assistance Grant (DC TAG) bill, which has met the promise that both of you knew it would.

This is the bill that allows so many more District residents to go to college because we do not have a State university system. But because of your work in getting this bill through, we have virtually doubled college attendance here. I want to take this moment to offer my particular thanks on that very important score.

It is always a pleasure to introduce a judge for an Article I court, in this case, Stuart Nash for Associate Judge of the Superior Court of the District of Columbia. I believe you will find him a particularly well-qualified nominee, with a strong law enforcement background, in particular, coming from the Organized Crime Drug Enforcement Task Forces program, which he directed.

We are very pleased with his local work as a U.S. Attorney here for 7 years. He was counsel to the Judiciary Committee. Before that, he was in private practice at Williams and Connolly.

And, he has a strong academic background: Duke University, magna cum laude; and Harvard Law School, magna cum laude. We are particularly pleased when our residents who are equipped with this background also involve themselves in local work, and Mr. Nash has worked with the D.C. Bar Pro Bono Program, Advice and Referral Clinic, which is absolutely necessary and important work that our attorneys in private practice and public practice do to help people who cannot afford attorneys.

And, I have to say how grateful I am to him for his work for Trees for Capitol Hill.

I think you will find that this candidate more than meets the Committee's expectations, and I thank you for considering him.

Senator AKAKA. Thank you very much, Delegate Norton, and we appreciate your introduction. I know you have a busy schedule too and wish you well.

Ms. NORTON. Thank you.

Senator AKAKA. And now I would like to return to Ms. Griffin. Mr. Nash, welcome, and we will get back to you.

Ms. Griffin has filed responses to a biographical and financial questionnaire, answered pre-hearing questions submitted by the Committee, and had her financial statements reviewed by the Office of Government Ethics. Without objection, this information will be made a part of the hearing record with the exception of the fi-

nancial data, which is on file and available for public inspection at the Committee offices.

Our Committee rules require that all witnesses at nomination hearings give their testimony under oath. So I ask that you please raise your right hand.

Do you solemnly swear that the testimony that you are about to give this Committee is the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. GRIFFIN. I do.

Senator AKAKA. Thank you very much. Let it be noted in the record that the witness answered in the affirmative.

Ms. Griffin, will you please proceed with your statement?

**TESTIMONY OF THE HON. CHRISTINE M. GRIFFIN<sup>1</sup> TO BE  
DEPUTY DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT**

Ms. GRIFFIN. Good morning, Mr. Chairman. Please allow me to begin by thanking you, Ranking Member Voinovich, and the Members of the Committee for holding this hearing.

Thanks also to Senator Kerry for his kind introduction and taking the time to come here.

I would also like to express my gratitude to Senator Kennedy, who could not be here today, but who has supported and encouraged me for many years and continues to do so. There is not a person with a disability in this country who has not benefited by legislation that Senator Kennedy has helped pass.

One other person I want to thank for support is former Congressman Tony Coelho. No one is more passionate about employment of people with disabilities than Tony Coelho, and he emailed me this morning and said that he is here in spirit.

And I would also like to thank my husband, Philip, who you acknowledged. And you are right, Senator Voinovich. He, as my champion and supporter, will endure a lot as he has in the past for me to be able to pursue my interest in public service, and I did warn him about the long hours.

When I was a child, the importance of serving the public was stressed at home and reinforced at school. My father worked for the Federal Government for 39 years before retiring. He began his Federal career right here as a clerk in Washington, DC, during the Depression. He moved to Washington, DC, for an entry-level Federal job because, during that time, jobs in Boston were very scarce. He eventually transferred to another Federal position in Boston so he could marry my mother.

Unfortunately, neither of them could be here today, yet I know it is because of them that I am here.

I began my career, as you mentioned, serving our country as a Private in the U.S. Army in 1974. There were seven children in my family, and while we were not, I would say, poor, money for college was not readily available. The G.I. Bill was my ticket to a college education.

After leaving the Army, I entered Massachusetts Maritime Academy with the five other women who made up only the second class of women to ever go there.

<sup>1</sup> The prepared statement of Ms. Griffin appears in the Appendix on page 30.

After college, I returned to public service as a GS-7 mechanical engineer for the Food and Drug Administration. I spent 7 years with the FDA, testing medical devices and inspecting medical device manufacturers. It was this job and the investigations that I worked on that gave me the desire to go to law school.

While a student at Boston College Law School, as you heard, an alma mater that Senator Kerry and I share, I learned about the areas of law that would prepare me for the next 16 years of public service. After a Skadden Fellowship at the Disability Law Center, I worked as an attorney advisor for the EEOC Vice Chair, Paul Igasaki, before returning to the Disability Law Center as the Executive Director, a position I held for 10 years.

Since January 2006, I have served as a Commissioner and, more recently, the Acting Vice Chair of the EEOC.

During the past 3½ years, I have truly come to understand how important our Federal workforce is to the security, health, and well-being of the Nation. I also know that OPM's mission is to ensure that the Federal Government has an effective civilian workforce. OPM must ensure that the men and women who are responsible for the security, health, and well-being of our Nation are the best our Nation has to offer and that they reflect all of our Nation's citizens, including those of us with disabilities.

In a message addressed to the employees of the Federal Government soon after taking office, President Kennedy stated, "Government service must be attractive enough to lure our most talented people. It must be challenging enough to call forth our greatest efforts. It must be interesting enough to retain their services. It must be satisfying enough to inspire single-minded loyalty and dedication. It must be important enough to each individual to call forth reserves of energy and enthusiasm."

Those words ring as true today as they did 48 years ago.

I believe it is OPM's highest calling to strive to make working in the Federal Government the most attractive employment opportunity available in the country—in other words, to make the Federal Government an employer of choice when competing for the best and the brightest talent available. To do that, we must simplify and shorten the Federal hiring process so that it encourages rather than discourages applicants. I know Director Berry has already begun working with Federal agencies to address hiring issues, and if confirmed, I look forward to assisting him in these efforts.

Certainly, the work of the Federal Government has never been more challenging. One of OPM's greatest challenges is to increase the diversity of our workforce at all levels. As Deputy Director, I would work tirelessly with Director Berry and the staff at OPM to enhance the diversity of our Federal employees—not just diversity in traditional terms of race, gender, national origin, sexual orientation, and disability, but also with respect to our many cultures, our generational divide, and our multifaceted talent pool.

If we wish to open the door to a diverse, talented workforce, we also need to work tirelessly to give Federal workers opportunities for training and development. We must provide continuing training and leadership development as well as advancement opportunities

so that our employees stay interested in their work and we continue to retain a well-trained and dedicated workforce.

Whether you are a file clerk or a project manager, a GS-3 or someone in the Senior Executive Service (SES), every employee must believe in the usefulness of the work he performs and be dedicated to facing the challenges and changes that lie ahead.

All employees must be treated fairly and respectfully, from the maintenance worker who keeps the environment around the computers in our air traffic control towers clean, to the technician who keeps those computers up and running, to the air traffic controller who uses that same computer to safely guide our planes home. Each of these employees must be committed to the work he performs, for even the smallest failure could lead to disaster.

I am willing and eager to serve our country alongside Director Berry, the staff at OPM, and the men and women who make up our Federal workforce. As someone who started her Federal career at the entry level, I have a deep appreciation for the work of our Civil Service and the opportunities it provides.

I want all of you to know that I will take my responsibilities as Deputy Director very seriously. I look forward to working with you to make our Federal Government the model employer that Theodore Roosevelt talked about in 1885 and that the American people deserve today.

Thank you for your time, and I look forward to your questions.

Senator AKAKA. Thank you very much for your statement. I will begin with the standard questions this Committee asks of all nominees and require your answer.

First, is there anything you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Ms. GRIFFIN. No, Senator.

Senator AKAKA. Second, do you know of anything personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Ms. GRIFFIN. No, Senator.

Senator AKAKA. Third, do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress if you are confirmed?

Ms. GRIFFIN. Yes, Senator.

Senator AKAKA. Thank you. Thank you very much.

The Federal Government currently is facing a number of significant human capital challenges, several of which I have highlighted in my opening statement. With so many challenges, what will be your top priorities if you are confirmed as Deputy Director of OPM?

Ms. GRIFFIN. I mention them in my statement. I think the hiring process is a big priority. I do think that we have to find a way to, as I said, simplify and shorten the process, and I know there is some work underway, and I appreciate the legislation that you filed regarding this as well. I think we really need to start looking at the front end of how people actually come into the Federal Government.

The other thing I mentioned is diversity at all levels, but I am very cognizant of the legislation regarding diversity in the SES

ranks of the Federal Government, and I support that and think that is important for us to undertake.

I think there are a number of things that are underway at OPM that I am looking forward to learning about, but those are two of the issues that I am interested in looking at, as well as veterans' preference issues.

I think over the last few years, I have come to realize that some agencies probably do not use the veterans' preference appropriately, and there seems to be some misunderstanding about it. I think we can do a lot to provide more guidance to the agencies about veterans' preference and how it can be used more effectively. I think it is important that our veterans returning from Iraq and Afghanistan and, frankly, being discharged from any military installation in this country have the opportunity to work in the Federal Government and that they have the preference that this legislation was created to give them. So that is something else I would be very interested in working on.

Senator AKAKA. Thank you.

During your time at the Equal Employment Opportunity Commission, you have focused on increasing diversity in the Federal Government. In June, I introduced a bill, S. 1180, to improve diversity in the Senior Executive Service. That measure required the creation within OPM of the Senior Executive Service Resource Office (SESRO), which was dissolved in 2003. The SESRO would be responsible for building a Senior Executive Service that reflects this Nation's diversity through strategic partnerships, more stringent reporting requirements, and mentorship programs.

What recommendations would you make for improving diversity in the SES?

Ms. GRIFFIN. Frankly, I followed that bill since it was introduced the first time, and I agree with what you are trying to accomplish, that we need to have more of a diverse senior staff. I think a lot of times that is how you foster more diversity throughout the whole Federal Government.

And I agree with you. I think that we should have an office dedicated at OPM to make sure that happens.

Senator AKAKA. I am a strong supporter of increasing supervisor training in a workforce. As I mentioned in my statement, I recently introduced the Federal Supervisor Training Act, S. 674, to provide initial and ongoing mandatory training to Federal supervisors. OPM would play a vital role in providing agencies with the resources that they need to meet these training requirements.

What are your views on the training of Federal supervisors currently and what they currently receive, and what improvements do you believe should be made?

Ms. GRIFFIN. I think we need to do a lot more in that area. I see sometimes that we tend to promote people because they have been there, they are next in line, and they know the work that is being done.

And yet, we very rarely try to find out if they will be good supervisors. Will they be able to actually lead people? Will they be able to evaluate them appropriately?

Will they be able to understand the hiring process themselves because now they will have a role in actually doing that? Do they

understand the human resources (HR) process and are they going to be effective as hiring managers because a lot of times as supervisors that is what they are becoming as well?

So I would support anything that we could do to increase the training opportunities—and frankly, mandatory is probably a good way to go—so that we actually ensure that everyone who does become a supervisor has to have some level of training to do that job.

Senator AKAKA. As you may know, I introduced a Non-Foreign Area Retirement Equity Assurance Act, which is S. 507, to transition employees in Hawaii, Alaska, and the Territories from a non-foreign cost-of-living allowance (COLA) into locality pay while protecting employees' take-home pay. Your pre-hearing responses indicated support for this transition and a pledge to work with stakeholders, and I want to thank you for that response.

This is a complicated issue, and I am concerned that affected Federal employees may misunderstand how this transition affects them. If confirmed, how will you work to ensure that OPM appropriately educates Federal employees in Hawaii, Alaska, and the Territories about the transition from non-foreign COLA to locality pay?

Ms. GRIFFIN. I would work with Director Berry and other people at OPM to develop some sort of a training program that we could deliver to those people because I think you are right. I think it will be complicated, and people will have to understand how it will impact them and their pay. I think we would have to look at everything possible, including if we should send people to those States and areas to talk to people about what their rights are and how they actually make those changes within their pay system.

Senator AKAKA. For Federal agencies to be most effective, it is important that agency management and labor organizations representing Federal employees work together. In the last Congress, I introduced a bill that would reestablish labor-management partnerships in the Federal Government. I believe these partnerships will make Federal agencies more productive and will increase employee morale.

I understand that the Obama Administration is considering establishing labor-management partnerships in the Federal Government. Based on your experience, what benefits do you think would come from the reestablishment of labor-management partnerships in the Federal Government?

Ms. GRIFFIN. I have the benefit of having been at the EEOC in 1995 and 1996, working for Vice Chair Paul Igasaki, when the partnerships were being developed then. And I also have the benefit of now coming back to the EEOC at a time when they no longer exist. And I can tell you firsthand that there is a huge difference, and I think it will be important.

I do not know what it will be called or what form it will take, but there has to be a better partnership between agency management and our labor unions.

I have seen back when they were formed that there was a great partnership and a lot of interaction and collaboration about decisions that were being made that would affect all Federal employees. And now I see a time when even I, as a supporter of the Federal union at the EEOC, find that because there is not that part-

nership anymore, sometimes something I would say or do would inadvertently be seen as something that was against them. So I really do think we have to establish better trust and have a better partnership.

Senator AKAKA. In their Best Places to Work in the Federal Government rankings for 2009, the Partnership for Public Service ranked OPM 20th out of 30 large Federal agencies. Strategic management and effective leadership were two of OPM's lowest scores.

If confirmed, you will be responsible for addressing human capital challenges within OPM as well as government-wide. What steps will you take to identify and respond to such challenges within OPM?

Ms. GRIFFIN. I think we have to review everything, and I am sure Director Berry is in the process of doing this, but I would like to join him in reviewing everything that goes on at that agency. I think it is important that OPM is the model agency for all the others and that, if morale is not good, we reestablish good morale, and we do that by communicating with all of the employees at OPM. I know that is Director Berry's style, and he has already begun to do that.

I think just being open with people and being clear and direct about what you are trying to change and why you are trying to change it makes change less threatening to people who have done things a certain way for a long time or think whatever they are doing is the way it should be done.

I think we have a good opportunity to work with the folks at OPM and change the morale there, and hopefully that will spread to the other agencies.

Senator AKAKA. Thank you very much for your responses. I would like to now call on Senator Voinovich for his questions.

Senator VOINOVICH. I am going to go over some things that we talked about in my office.

Have you had a chance yet to talk about what your portfolio is going to be with Director Berry?

Ms. GRIFFIN. No. As I said to you when we met, we have talked very broadly about issues like the Model Employer Concept for the whole Federal Government and for the agency, diversity, veterans issues, and the hiring process.

Senator VOINOVICH. I am really interested in OPM's internal management. I am very interested in it because in many instances the agency heads focus on the operational challenges, and the day-to-day management falls into the hands of the deputy.

Ms. GRIFFIN. I think Director Berry is very hands-on himself, so I cannot imagine that he is just going to go off and focus on the big picture.

Senator VOINOVICH. I am real interested in knowing what it is that you are going to be assigned to do.

Ms. GRIFFIN. You requested that we actually come in and talk to you. I think we would be happy to do that.

Senator VOINOVICH. Yes. I would appreciate that.

The other thing I am interested in, as you know, is pay for performance. The Transportation Security Administration (TSA) has a system outside of Title V, and the unions have been very upset about this because they want to unionize TSA.



I understand that there is a study underway at TSA. We also have the National Security Personnel System in the Department of Defense, with 200,000 people under a system that rewards individual performance.

I would like to get your opinion. Where do you stand on that?

Ms. GRIFFIN. I do not really have an opinion. I do not know enough about it, and I do know that the study is underway. I saw that people have been appointed to the task force—I think it is a task force—and they are going to study the system and then come back with some recommendations.

I also know that I have read that the unions and Director Berry said that they are going to work together to come up with some sort of a plan. So I am hopeful that the study that is underway will give us some clear direction in this area.

Senator VOINOVICH. Senator Akaka and I have worked to provide flexibilities to ensure that the government has the right people at the right place at the right time. Some agencies have failed to use the flexibilities that we have given to them, and we are interested in why they are not using the flexibilities.

Other agencies have been given specific help, including the Nuclear Regulatory Commission, the Government Accountability Office, and the National Aeronautics and Space Administration. And I do not know whether Senator Akaka is aware of this, but the three agencies to which we have given special provisions in addition and outside of Title V are No. 1, 2, and 3 in terms of employee satisfaction according to the Best Places to Work rankings.

These flexibilities obviously have helped them recruit the right people and apparently have helped create a good environment there. What would your thoughts be about making these flexibilities available throughout the Federal Government and just amend Title V, or do you think we should just wait for agencies to talk to us about their specific problems and then try to respond?

Ms. GRIFFIN. I actually think we should take a look at all of it. There are a lot of hiring waivers and flexibilities that are available that some agencies are using, some are not, and some are coming to you to ask permission to use something that may even exist already. And so, I think OPM has to do a better job of actually developing some training around this and giving folks at the agencies the opportunity to learn more.

I have become very frustrated with the Schedule A hiring authority that is available to hire people with severe disabilities very quickly into the Federal Government. As a matter of fact, I think that a lot of veterans with disabilities would benefit by going through the Schedule A process as well. And yet, I cannot tell you how many agencies do not use it, do not know about it, or, if they use it, use it inappropriately and ineffectively, thereby really changing what it was created to do, which was get someone with a severe disability quickly into the Federal Government.

So I am interested in looking at all of the flexibilities and waivers. I do not know all of them right now, but I think we could do a better job of helping the agencies understand what they already have the ability to do and helping them do it.

Senator VOINOVICH. You are very interested in providing individuals with disabilities an opportunity to work for the Federal Gov-

ernment and ensuring veterans' preference is adhered to. What thoughts are you going to bring to OPM to guarantee that some of the provisions you just talked about are actually taken advantage of by the departments?

Ms. GRIFFIN. I think we have to do, again, a better job of communicating with the other agencies. I think a lot of times when they learn about these flexibilities and waivers and they learn that they can actually shorten the hiring process from 6 months to a year down to a matter of weeks or a month, frankly, they start to realize the advantage of doing that. And I think once they have a very good employee who happens to have a disability or happens to be a wounded warrior, they start to realize this is a very good, efficient system, and using the waiver becomes more popular.

There are agencies—and I will give you the example of the National Security Agency (NSA)—that have demonstrated good leadership in hiring qualified people with disabilities. I do not even know what NSA does, and we are probably not supposed to. But NSA is an agency that understood that they needed special talent at their agency to do whatever they do, and they also understood that they did not care what package that came in.

So they have been, for years, seeking people with severe disabilities to work at the agency, but there are very specific qualifications that they need to meet. It does not matter to them if a person is deaf or if a person is a quadriplegic. They understand that they can accommodate them very easily. What they are looking for is the brains that are coming in whatever the package looks like.

And I think we need to be able to demonstrate best practices like that to the other agencies, who, for whatever reason—I think it is societal—have a perception that someone with a disability is inherently less qualified. It is just not true. We need to change that thinking in the Federal Government because I think if we do not change it there, we are not going to change it in the private sector.

Senator VOINOVICH. I wonder if anybody in the Administration ever does a performance evaluation of our secretaries in looking at their record in this area.

When I wanted something done when I was governor or mayor, I put it as part of somebody's performance evaluation.

Ms. GRIFFIN. What gets measured gets measured, right?

Senator VOINOVICH. It was very interesting how it made a difference.

I think that this would be one way that you could get folks serious about this opportunity that we should be taking advantage of, that NSA is, but some others are not.

I look forward to working with you, and God bless.

Ms. GRIFFIN. Thank you very much, Senator. I look forward to working with both of you as well.

Senator AKAKA. Thank you very much for those questions, Senator Voinovich.

Ms. Griffin, the Federal Government currently has a unique opportunity to recruit more undergraduate students to public service than at any time in decades. Reports suggest that with the economy struggling, young people in this country are attracted to the stability of the Federal Government. Moreover, I believe that President Obama has re-invigorated interest in public service.

It is important that the Federal Government do as much as it can to capitalize on this opportunity to bring a new generation into the Federal workforce. How do you plan to recruit young people, in particular, current undergraduate students, into the Federal workforce?

Ms. GRIFFIN. I think this is another area where there are a few agencies that do a very good job at this and a lot of agencies do not. A lot of agencies actually do not go out and do targeted recruitment for the people who they are looking for at colleges and universities.

This is, as you said, a very exciting time, and I am happy to be a part of it because I think we are going to see a real change in the Federal Government as an employer and how it is perceived. And for young people to be excited about it is important, and for us to make it easier for them to apply for jobs and to get in is important. But getting to them first and making them realize that it is a good option for them is important.

I hope at OPM that we can do a lot more in the area of actually recruiting and that we can help other agencies, whether we do it for them, whether we do it with them, whether we do it in some collaborative fashion, and that we really start looking more closely at how we recruit folks. And, again, there are some agencies that do a very good job of it by themselves, and maybe we can look at them for best practices on how to do it.

I am excited about that aspect. I think it is something that we probably have not done as much of. I think in times when resources are tight, we actually say that is not important, we do not have money for that, when you really have to look at it and say, no, that is something we do have to pay attention to. It is not something we cannot spend resources on.

Senator AKAKA. I am a strong supporter of employee mentoring and apprentice programs and believe that these programs can assist the Federal Government in developing a skilled and talented workforce. Employee mentoring will take on an even larger role in the coming years with more young people joining the Federal workforce and a large number of employees eligible to retire.

What is your evaluation of the existing mentoring programs in the Federal Government and what recommendations do you have for improving them?

Ms. GRIFFIN. I think it is "catch as catch can" right now. I think some agencies do it, but you see very little demonstration of it government-wide.

I think there are a lot of things that we could do, especially because we are expecting this big retirement wave. We need to match people up and start sharing skills that the older workers have and the younger workers need, and some of the historical knowledge is always good to have, too, so that you are not reinventing wheels.

So I would hope that we could figure out a way to institute it in the senior leadership at various agencies, and I know that mentoring is something that Director Berry is very interested in, and I would love to help him come up with a plan to do it.

Senator AKAKA. For the past 3½ years, you have served as a Commissioner and Acting Vice Chair of the Equal Employment Opportunity Commission. Your work at the EEOC has focused on di-

versity and a more equitable employment opportunity system in the private sector and the Federal Government. How do you feel your experience at the EEOC will assist you in your new role as Deputy Director of OPM?

Ms. GRIFFIN. I think it is interesting that, as I learned more and more about what was happening with diversity, especially with people with disabilities and veterans government-wide, the more I learned as a Commissioner at the EEOC, the more I realized that everything that I wanted to change or have a bigger impact on really happened at OPM and not at the EEOC. So I cannot tell you how happy I am and delighted that I may have the opportunity, if confirmed, to actually do that.

A lot of these things that I have been looking at, such as increased use of hiring waivers or flexibilities, looking at the diversity issue in the most senior levels of our government, as well as everything at the lowest levels, are important issues that I wanted to work on. And so, all of those things that I have learned as a Commissioner, when looking at all of the data that we collect from the various agencies and interacting with the equal employment opportunity directors and other folks at the Federal agencies, a lot of the fixes that will help the Federal Government become a better employer really can only be done at OPM.

Senator AKAKA. This is my final question before I ask Senator Voinovich for his final questions as well.

Coming from the EEOC, I am sure that you will be spending a significant portion of time studying to get up to speed on many aspects of Federal personnel policy and the workings of OPM. As you approach these new topics, what will be your guiding principles in making policy decisions?

Ms. GRIFFIN. I think as I go through that process, I would spend a lot of time listening to the career folks who have been involved in various aspects of the work at OPM, but my guiding principle would always be what is best for the Federal employee because I think that is what OPM should be focusing on.

How do we make this the best working environment for the Federal employee? As we look at policy and changes that we make to the personnel system, the health benefits, retirement, you name it, what is really best for them?

What is going to give us the best motivated employees and the most talented employees and from the most diverse population so that we actually have a government that reflects the society that we are serving? That would be my guiding principle.

Senator AKAKA. Thank you very much.

Ms. GRIFFIN. Thank you.

Senator AKAKA. Senator Voinovich.

Senator VOINOVICH. The last one, and I forgot to ask this question, is you know I have sponsored legislation to require agencies to develop rigorous performance management systems so people know where they stand.

And a provision of that says that if there is an unacceptable performance appraisal, then that individual does not get an automatic pay increase. The latter provision would impact less than 3 percent of the 1.8 million employees that we have, who, quite frankly, could

lower morale for the overwhelming majority of the other people who are in the departments.

I have received bitter complaints from people who have left the Federal Government. They just said: Forget it. I have worked my butt off. Why do it?

I am encouraged by the President's focus on improving government performance, and I asked you to look at this legislation. I would like to know what your opinion of it is.

Ms. GRIFFIN. I think it goes back to the supervisor training. I think when you put someone in a position where they are supervising someone, they should know how to do it and how to supervise someone and know what the parameters are for doing that. So, if someone is not doing their job, there has to be a way to deal with that.

We see a lot of times that it is easier to just give someone an acceptable performance appraisal because otherwise it is a little more paperwork and the person may file a complaint. But we are not doing anyone any favors by allowing those people to not do their job.

And you are right. If you have a whole group of people not working, it does destroy the morale of everybody else.

Whether it is the General Schedule (GS) system that we have or something else in the future, there always should be a mechanism for rewarding the performers and dealing with the people who do not perform, and I think it currently exists in the GS system, although it probably is not used appropriately.

I really do think it goes back to picking people who are good managers to be supervisors.

Senator VOINOVICH. That is interesting because I think that I am going to ask my staff to look at that, and the reason why I am acknowledging that is that I recall when I became Mayor of the City of Cleveland, people complained that they had people working for them who were not performing and there was nothing they could do about it.

Ms. GRIFFIN. Yes.

Senator VOINOVICH. I asked them to go back and look at the procedure. After they reviewed it, and we had some training, it was interesting that they were able through the system that existed to get at the folks who were kind of thumbing their nose at the system. And we were able to be a lot more successful.

Ms. GRIFFIN. Yes, I agree with you.

Senator VOINOVICH. I think that is interesting to look at, just what is available now and find out whether or not what is out there is actually being used. And then if it is not being used, then why not?

Ms. GRIFFIN. Right. I agree with you. I think systems always have a way for you to deal with someone who is not doing their job and is not performing.

And there is sometimes this perception problem, as you said. Someone will say, well, we cannot get rid of them. Of course, you can. That does not even make sense to think that you could have someone who does not do his job and you just have to tolerate that and let him not do his job. There is always a way to deal with it,

and it may be a process that you have to follow, but you follow that process.

At the end of the day, if you are doing it right and you can document that this person was not doing his job, there has to be a way to deal with that, whether it is through progressive discipline, all the way to termination. But there is a way.

Senator VOINOVICH. I would also like to mention that we are just talking about one aspect of this, but for the record, I want everyone to understand that I think that overall the people who work for the Federal Government are doing an outstanding job.

Ms. GRIFFIN. I agree.

Senator VOINOVICH. Thank you.

Ms. GRIFFIN. Yes, it is always a very small percentage, to be honest with you, and I think people are afraid of people filing complaints. But when we look at the numbers, people who file complaints are also about 1 percent of the whole Federal workforce.

Senator VOINOVICH. Thank you.

Ms. GRIFFIN. Thank you.

Senator AKAKA. Thank you very much, Senator Voinovich.

You can see why we have been able to do as much as we have done, and there is so much more to do. Senator Voinovich's experience is a great asset to this Committee, and I really love it when I hear him say, when I was a mayor, or when I was a governor, bringing those personal experiences back and posing the problems that he had then. It helps to answer some of our problems here, but we have so much more left to do.

But we are making progress, and we are really looking forward to working with you.

I do not have any further questions, but there may be others on the Committee who have questions. The hearing record will remain open until the close of business Friday for Members of this Committee to submit additional statements or questions.

Again, I want to thank you so much for being here. It is good to have met your family and your friends and your supporters. It is my hope that the Committee will vote in the near future and that your nomination will be considered soon by the full Senate.

With that, this hearing is adjourned.

Ms. GRIFFIN. Thank you very much. Thank you both.

Senator AKAKA. We will reconvene immediately for Mr. Nash.

[Recess.]

Senator AKAKA. Thank you very much for being here.

This hearing will come to order. I want to welcome you all to the second part of today's proceedings as the Committee on Homeland Security and Governmental Affairs considers the nomination of Stuart Nash to be an Associate Judge of the District of Columbia Superior Court.

I want to extend a special welcome to Mr. Nash and to his lovely family and friends. Mr. Nash is the most recent nominee in a series of well-qualified candidates for D.C. judgeships referred to this Committee. I am pleased to hold this hearing today and am confident that, if confirmed, Mr. Nash will join others who have appeared before us in making valuable contributions to the D.C. court system.

Mr. Nash has a strong legal background and currently is an Associate Deputy Attorney General and Director of the Organized Crime and Drug Enforcement Task Forces. Before heading the Department of Justice (DOJ) task forces, he spent many years practicing criminal law as an Assistant U.S. Attorney for the District of Columbia, spending one of those years as a detailee to the Senate Judiciary Committee.

I believe Mr. Nash has much to offer the D.C. Superior Court and hope we can quickly act to confirm him.

I now turn to my good friend, Senator Voinovich, for his opening statement.

Senator VOINOVICH. Mr. Chairman, I have no opening statement.

Senator AKAKA. Thank you, Senator Voinovich.

The nominee has filed responses to a biographical and financial questionnaire submitted by the Committee. Without objection, this information will be made a part of the record with the exception of the financial data, which will be kept on file and made available for public inspection in the Committee offices.

Our Committee rules require that all witnesses at nomination hearings give their testimony under oath. Therefore, at this time, I ask you to please stand and raise your right hand to take the oath.

Do you solemnly swear that the testimony you are about to give this Committee is the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. NASH. I do.

Senator AKAKA. Thank you. Let the record note that the witness responded in the affirmative.

Mr. Nash, I understand you have friends here today with you. We have met your lovely family as well. I would like to give you an opportunity to introduce your family and friends before we proceed with your statement.

Mr. NASH. Thank you very much, Senator Akaka.

I have with me my wife, Mary; my eldest son, William; my middle son, Christopher; and my youngest daughter, Loretta. My father, Gordon, is seated right behind them. And I have a number of colleagues from different portions of my professional career who are here in support. I will not take the time to introduce them all individually, but thank you for the opportunity.

Senator AKAKA. Thank you. It is wonderful to see your loved ones here supporting you, and I am sure they are proud of all you have accomplished. It was interesting to hear about your background prior to this hearing.

Mr. Nash, will you please proceed with your statement?

#### **TESTIMONY OF STUART G. NASH<sup>1</sup> TO BE AN ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**

Mr. NASH. Thank you very much, Mr. Chairman and Senator Voinovich. I am honored to appear before you today to have you consider my qualifications for a position as an Associate Judge on the D.C. Superior Court.

<sup>1</sup> The prepared statement of Mr. Nash appears in the Appendix on page 86.

I have introduced my family who are here with me today, and there are a number of people who I do need to thank. But first and foremost, I would like to express my appreciation to my family who have nourished me for so many years, both emotionally and intellectually, and have made such substantial sacrifices to allow me to pursue a career in public service.

As I had mentioned, there are a number of people here in the gallery who have been important role models and colleagues at different stages of my professional career, and while I will not take the time to acknowledge them individually, I would like to express my appreciation to them for being here today and also for sharing their wisdom, their integrity, and their good counsel with me on so many different occasions in the past.

I would like to thank the members of the D.C. Judicial Nomination Commission for recommending me to the White House and President Barack Obama for nominating me.

Finally, I would like to thank this Committee for acting on my nomination in such a thorough and timely fashion. Throughout the vetting process, the staff of this Committee has treated me with the utmost professionalism and courtesy, for which I would like to express my appreciation.

I feel extraordinarily blessed to be under consideration for a position as a judge in this city that I love so well.

I was born in New York City and raised in northern New Jersey where I attended the public schools. I received my bachelor's degree from Duke University and my law degree from Harvard Law School. I gained great respect for the judicial vocation while clerking for two exceptional jurists, Chief Judge Sam Ervin of the U.S. Court of Appeals for the Fourth Circuit and Judge T.S. Ellis of the Federal District Court in the Eastern District of Virginia.

I worked as a defense attorney for 3 years at the law firm of Williams and Connolly here in the District of Columbia and then for over 8 years as an Assistant U.S. Attorney here in D.C. In both capacities, I had extensive contact with the D.C. Superior Court, and I came to appreciate the great capacity that exists for dedicated judges on that court to improve the lives of our fellow citizens by presiding over cases fairly, impartially, and with respect for the dignity of the litigants.

For the last 4 years, I have served in the Office of the Deputy Attorney General for the United States as an Associate Deputy Attorney General directing a nationwide task force that targets the most powerful international drug cartels.

As rewarding as it has been to tackle issues with national and international repercussions, I have never lost my love for the place where I first learned the practice of law—D.C. Superior Court. More often than not, our fellow citizens' interactions with D.C. Superior Court come at a time of crisis in their lives. At that particular moment, there is nothing more important to them than the outcome of their cases. In light of that, there is an opportunity for a dedicated public servant to affect people's lives for the better in a way that is without parallel anywhere else in government. It is truly where the "rubber meets the road."



I am honored to be considered for this position, and I look forward to answering any questions the Committee might have about my qualifications. Thank you.

Senator AKAKA. Thank you. I will begin with the standard questions this Committee asks all nominees and would like you to answer each question.

Is there anything you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. NASH. No, there is not.

Senator AKAKA. Do you know of anything, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Mr. NASH. No.

Senator AKAKA. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress if you are confirmed?

Mr. NASH. I do.

Senator AKAKA. Thank you very much for those responses.

Before I begin with my questions, I would like to say for the record that the comments of Delegate Eleanor Holmes Norton in support of Mr. Nash appear earlier in the hearing record.<sup>1</sup>

Senator AKAKA. Mr. Nash, you spent many years in private practice and public service, including the last 5 years as an Associate Deputy Attorney General at the Department of Justice. Why did you seek this nomination and what contributions do you hope to make if confirmed?

Mr. NASH. Senator, as I pointed out in my opening remarks, I do feel that the D.C. Superior Court provides a very tangible way to give back to the community, that the rights that are adjudicated in that court are of the utmost importance to the citizens of this city, and at that particular instant there is nothing more important to the people of the city than the case that they are embroiled with. Because of that, I think there really is an opportunity to affect people's lives for the better.

I am in an environment right now where I deal with national and international issues, and as a result, my efforts are diffused across a very wide swath of the public. I really looked forward to going back to a situation where my efforts are focused and tangible and I can improve people's lives more on a one-by-one basis.

Senator AKAKA. As with many courts, D.C. Superior Court judges must manage heavy caseloads. It sometimes can be difficult to strike the balance between moving one's docket and judiciously reviewing the merits of a case. Please discuss how you plan to find that balance as an Associate Judge.

Mr. NASH. Senator Akaka, I practiced in the D.C. Superior Court, and I am aware of the pressures. I think I thrived in that environment, the first brush I had with it, as a practicing lawyer both on the defense side and as a prosecutor. It does require working long hours, working hard, and putting in a maximum effort because you are absolutely right, the caseload in the D.C. Superior

<sup>1</sup>The testimony of Hon. Eleanor Holmes Norton introducing Stuart Nash appears on page 6.

Court is a crushing caseload and the judges work very hard. So I am going in with my eyes open, knowing that this is not a job for the faint-hearted.

I do think that it is important to move cases quickly. It is a cliché that justice delayed is justice denied, but it is no less true for the fact that it is a cliché. And so, I think there is a premium on moving cases quickly and doing it in a way that is both economical in terms of time but also fair and thorough, and that is the balance that I hope to strike.

Senator AKAKA. Thank you. Mr. Nash, your practice in the private and public sectors focused heavily on criminal law. You spent many years prosecuting criminals who violated Federal law, and currently you lead the DOJ Organized Crime and Drug Enforcement Task Forces.

How will you handle the challenges of overseeing civil cases as a judge and what steps will you take to familiarize yourself with civil law and procedure?

Mr. NASH. Before I joined the U.S. Attorney's Office, I did have a substantial opportunity to practice civil law in private practice. And currently, in addition to leading the Organized Crime and Drug Enforcement Task Forces, in my capacity as an Associate Deputy Attorney General, I also have stewardship over a range of issues related to money-laundering and asset forfeiture, and the asset forfeiture in particular has a substantial civil component. So my current job has caused me to reeducate myself regarding civil law as well as criminal law.

So I do feel like I have a relatively strong background in civil law, but there is no question that the bulk of my experience over the last decade has been criminal law. I actually look forward to an opportunity to experience the variety of dockets in Superior Court and to have both criminal responsibilities and civil responsibilities. I know the D.C. Superior Court has first-rate training opportunities, and I certainly will take full advantage of that and go in there with every expectation of learning the area of law to which I am assigned.

Senator AKAKA. Mr. Nash, as you know from your experience as an Assistant U.S. Attorney, courtrooms can sometimes be emotionally charged places, especially when people feel they have been wronged either by government or by any person. What steps will you take to maintain a courtroom environment in which all parties feel their views are considered?

Mr. NASH. I do think that is one of the most important aspects of the judicial demeanor, and what I hope to bring to the bench is the understanding that this is a competitive process. There generally are winners and losers in the litigation process, and you cannot paper over the fact that some people leave the courtroom as winners but other people leave as losers.

I think with the judges that I have seen and most respected in my practice all of the litigants, both the winners and losers, leave with the impression that their case was fairly heard, that their arguments were listened to, that the judge took the time to reflect on their arguments and treated them with dignity, and that is the way I expect to model myself when I take the bench. I absolutely want every litigant who appears before me to fully recognize that

I have listened to their arguments and done so in an open-minded fashion and without any preconceived notion as to who the winner in the litigation should be.

Senator AKAKA. Thank you. I have a final question that I will hold until after Senator Voinovich is through with his questions. Senator Voinovich.

Senator VOINOVICH. Obviously, you are qualified for the job, Mr. Nash. You have practiced law for a long time. What were the characteristics of the judges that you have had to deal with that you would like to emulate and that you would not want to emulate? I have seen people who have almost changed personalities once they got on the bench.

Mr. NASH. I think that is right, Senator. We have all seen our colleagues. Sometimes it is the person that you least expect who will don the robes and suddenly take on a very dictatorial demeanor from the bench.

Frankly, the trait that I find most effective and most appealing in a judge is humility. Whether the judge wants to admit it or not, it is always the case that the two litigants who are appearing before him or her know more about the case than the judge does at the start of the case. Judges, oftentimes I have seen, will get themselves in trouble by projecting that they know the most of anyone in the room, that they are the smartest person in the room and know more about the facts than the litigants do.

And so, the humility to sit on the bench and learn from the litigants in a true fashion, learn about the facts of the case and make sure that you have a full fact set before rendering your decision, I think, is the trait that we all like to see from judges. I think the personality trait that makes that most likely to occur is humility, and I do think that I bring that to the bench.

Senator VOINOVICH. Senator Akaka, that is all I am going to ask.

Senator AKAKA. Well, thank you very much, Senator Voinovich.

Mr. Nash, as a judge, it will be important to work effectively with different personalities and people who will not always agree with your decisions or with each other. I was glad to hear you say something about humility. How would you describe your temperament and style of resolving conflicts?

Mr. NASH. I do think that one of my great formative experiences in life was the time that I was trying cases in Superior Court. We touched already on the fact that it is a pressure-packed environment, often a chaotic environment. There were instances when I felt like my work was done for the day, I was on my way back to the office, and someone would hand me a file and say, go try this case right now in that courtroom. And so, I did very early in my legal career learn to roll with the punches, think on my feet, and respond to unexpected developments in a productive fashion.

I think having had that experience has been invaluable, and it has become part of who I am as a lawyer. I do think that I am able to maintain a calm demeanor, an unflappable demeanor in the face of pressure, in the face of unexpected developments. I think, again, that this is a trait that I would cite as one that is beneficial for a judge to have, and I think that I will be a fair, impartial, and calm judge no matter what is thrown at me.

Senator AKAKA. Thank you very much for those closing remarks. I want to thank you and thank all of those who are here to support you.

There may be additional questions for the record, which we will submit to you in writing. The hearing record will remain open until the close of business tomorrow for Members of this Committee to submit additional statements or questions.

And I want to thank you very much, Mr. Nash, for being here and for all of your responses. I am pleased to be able to hold a hearing for such well-qualified nominees as you and Ms. Griffin, and it is my hope that the Committee will soon vote and that your nominations will be considered by the full Senate very shortly.

Again, I want to thank Mary, your wife, and also William, Chris, and Loretta, and of course, Gordon, your dad, for being here, as well as others who are here too. Thank you all for coming to support Mr. Nash.

This hearing is adjourned.

[Whereupon, at 11:50 a.m., the Committee was adjourned.]

# APPENDIX

**Nominations Hearing**  
**The Honorable Christine M. Griffin to be Deputy Director, United States Office of**  
**Personnel Management**  
**And**  
**Stuart G. Nash to be Associate Judge, Superior Court of the District of Columbia**

**Statement of Senator Daniel K. Akaka**  
**Senate Committee on Homeland Security and Governmental Affairs**

Good morning and welcome. Today, the Committee on Homeland Security and Governmental Affairs meets to consider the nomination of the Honorable Christine Griffin to be the Deputy Director of the Office of Personnel Management (OPM).

Ms. Griffin is a native of Boston, Massachusetts and a graduate of the Massachusetts Maritime Academy and the Boston College Law School. Ms. Griffin is a veteran and a life-long public servant who began demonstrating her commitment to our country at an early age. Immediately after graduating from high school, Ms. Griffin enlisted in the United States Army and served on active duty for three years during the Vietnam War.

After completing her active service, Ms. Griffin served an additional two years on reserve duty. We thank you for your dedicated service during that difficult time of war.

After graduating from the Massachusetts Maritime Academy, Ms. Griffin began work with the U.S. Food and Drug Administration as a mechanical engineer and field investigator. Ms. Griffin also has served as the executive director of the Boston Disability Law Center.

In 2005, Ms. Griffin was unanimously confirmed by the United States Senate to become a member of the United States Equal Employment Opportunity Commission (EEOC). Ms. Griffin is the first female with a physical disability to serve as a commissioner in the history of the EEOC.

Ms. Griffin has been a leading advocate for improving the opportunities available to physically disabled Americans, and is an advocate in particular for disabled veterans. Ms. Griffin has played a key role in increasing the number of physically disabled workers in the federal government. As the Chairman of both the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, and the Veterans Affairs Committee, I understand the critical importance of these efforts, and I look forward to hearing about your very important work in this area.

As we all know, it is a crucial time for the federal government and the federal workforce. With an economy that is continuing to struggle, people are looking to the federal government for effective leadership. An increasing number of young people are looking to the federal government as well for meaningful careers. Having the right talent in place from the most senior officials down to front line employees is more important now than ever. If confirmed, you, along with Director Berry, must confront the pressing challenges of helping agencies meet their workforce needs.

With nearly half of the current federal workforce becoming eligible for retirement by 2012, we will be looking to a new generation of federal employees, who may have different career expectations than their predecessors. We must work now to make the federal government the employer of choice in our country. In particular, we must reform the broken hiring process, which takes too long and places too much burden on applicants.

I appreciate the work OPM has been doing on this issue, with assistance from the Office of Management and Budget for the first time. As you know, Senator Voinovich and I have introduced the Federal Hiring Process Improvement Act (S. 736) to streamline and improve the federal hiring process. We strongly believe that legislation is needed to ensure that OPM and the agencies have all of the tools needed to ensure full and effective government-wide implementation of hiring reform. We look forward to hearing your thoughts on this issue.

The hiring process is not the only part of this equation that needs to change. Supervisors play a key role in motivating and retaining the most talented federal employees. Research shows that strong senior leadership in federal agencies is among the most important elements of employee satisfaction. Supervisors must be trained to increase employee productivity without undermining employee rights and protections. I have introduced the Federal Supervisor Training Act (S. 674) to provide initial and ongoing training to supervisors in the federal workforce. I know that Senator Voinovich is committed to improving performance management as well. I look forward to working with you, Ms. Griffin, and with Senator Voinovich as we move forward on these important issues.

During the last Congress, I introduced a bill to reestablish Labor-Management Partnerships in the federal sector. I understand that the Obama Administration is considering reestablishing these partnerships, and I have not yet reintroduced my bill to allow the new administration time to work through the issue. I encourage you to ensure that OPM is doing all it can to facilitate the reestablishment of these valuable partnerships. More broadly, I hope all of your work to improve and reform federal personnel systems is based on working closely with federal employees and their representatives.

For the second part of today's proceedings, the Committee on Homeland Security and Governmental Affairs considers the nomination of Stuart Nash to be an Associate Judge of the District of Columbia Superior Court. I want to extend a special welcome to Mr. Nash, his family, and friends. Mr. Nash is the most recent nominee in a series of well-qualified candidates for D.C. judgeships referred to this Committee. I am pleased to be holding this hearing today and am confident that if confirmed, Mr. Nash will join the others who have appeared before us in making valuable contributions to the D.C. Court System.

Mr. Nash has a strong legal background and currently is an Associate Deputy Attorney General and Director of the Organized Crime and Drug Enforcement Task Forces. Before heading the Department of Justice task forces, he spent many years practicing criminal law as an Assistant U.S. Attorney for the District of Columbia, spending one of those years as a detailee to the Senate Judiciary Committee. I believe Mr. Nash has much to offer the D.C. Superior Court and hope we can act quickly to confirm him.

**OPENING STATEMENT OF  
SENATOR GEORGE V. VOINOVICH  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE  
NOMINATION HEARING  
THURSDAY, JULY 16, 2009**

Thank you, Senator Akaka. I want to extend a welcome to the nominees appearing before us today - we appreciate your time and your willingness to serve.

During my tenure on the Oversight of Government Management, Federal Workforce, and District of Columbia subcommittee, we have spent a great deal of time reviewing the government's efforts to find and hire the best and brightest employees when the private sector often offers higher salaries and competitive benefits. I think in this instance, the Office of Personnel Management and the District of Columbia have succeeded in their efforts to find extremely qualified candidates for these positions.

Mr. Chairman, since you have discussed the nominees' background and qualifications, I won't go into those details.

But I do want to say Ms. Griffin that I will be following with great interest your work with Director Berry to reinvigorate the Office of Personnel Management. OPM must lead by example if we are to improve how our government manages its civilian workforce. I am looking for OPM to partner with this Committee on a number of initiatives, including current efforts to reform the federal government's hiring, performance management, and security clearance processes.

I also want to let Mr. Nash know that I appreciate that, with his distinguished education and background, he has devoted more than a decade of his career to public service. I am pleased that he is willing to continue serving his community further as a D.C. Superior Court Judge.

I look forward to hearing from both of the nominees further about their education, experience, and why they have sought these respective positions.

Again, I want to thank both of you for your time today and your willingness to serve.

Mr. Chairman, I hope that the Committee will vote on both of these nominations in the very near future. Thank you.

EDWARD M. KENNEDY  
 MASSACHUSETTS

## United States Senate

WASHINGTON, DC 20510-2101

### Statement of Senator Edward M. Kennedy in Support of the Nomination of Honorable Christine M. Griffin to be Deputy Director, Office of Personnel Management

Chairman Lieberman, Ranking Member Collins, Senator Akaka, Senator Voinovich, and members of the Committee:

I wish I were able to be with you this morning as you conduct a hearing on the nomination of my friend Christine M. Griffin to be Deputy Director of the Office of Personnel Management. I'm grateful to Senator Kerry for introducing Ms. Griffin, who is from Boston, is a well-respected civil rights leader, and is beloved to the disability community in Massachusetts and around the country.

As Commissioner and later Vice Chair of the Equal Employment Opportunity Commission, Ms. Griffin has distinguished herself in her role heading the Commission's Leadership for the Employment of Americans with Disabilities Initiative, an ongoing effort to reverse the downward trend in the federal government of employing people with significant disabilities. Ms. Griffin is dedicated, strategic, and knows how to work in a bipartisan manner to get results. All of these qualities will serve her well in the role of Deputy Director of the Office of Personnel Management as she seeks to carry out President Obama's agenda to improve the representation of workers with disabilities in the federal sector.

Prior to her recent service at the Commission, Ms. Griffin had a distinguished career in nonprofit management and labor and employment law in both the public and the private sector. She had an outstanding record as Executive Director of the Disability Law Center in Boston from 1996-2005, and was the acting President of the Massachusetts Maritime Academy, her alma mater. In December 2005, Chris was selected as one of the nation's eleven "Lawyers of the Year" by Lawyers Weekly USA newspaper. In addition, Ms. Griffin is a Vietnam-era Veteran of the U.S. Army and served on active duty from 1974-1977.

President Kennedy believed that one person can make a difference and that everyone should try. Ms. Griffin has demonstrated the truth of that belief each and every day. She has made a difference throughout her career, and she has inspired many others to follow her lead. I know she will distinguish herself as Deputy Director of the Office of Personnel Management, and I urge you to confirm her so that she can begin the important task of making sure that the federal government is truly a model employer for all our citizens.



# United States Senate

WASHINGTON, DC 20510

June 11, 2009

The Honorable Joseph Lieberman, Chairman  
Committee on Homeland Security and Governmental Affairs  
340 Dirksen Building  
Washington, DC 20510

Dear Joe,

I'm writing to give my strong recommendation for Christine M. Griffin, the President's nominee to serve as Deputy Director of the Office of Personnel Management.

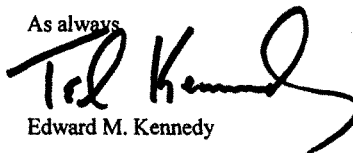
Christine has had a long and very successful career in labor and employment issues in both the public and private sectors. As the current Acting Vice Chair of the Equal Employment Opportunity Commission, she has been an active and vocal supporter of increasing diversity in the federal workforce and promoting greater efficiency and fairness in the federal EEO process. As a strong advocate for women's rights and the rights of individuals with disabilities, Christine would be an impressive asset to OPM in its ongoing mission to retain and recruit a highly qualified, diverse federal workforce.

I've known Christine for many years and have relied on her advice and counsel on many issues, most notably, disability policy issues, that have been of paramount importance to me throughout my Senate career. In her many years at the Disability Law Center in Boston, she was a highly respected and dedicated champion for the disability community. She served on numerous Boards, and contributed her talents to many organizations in Massachusetts.

Christine has also served in the U.S. Army on both Active and Reserve duty, and her commitment to public service has always been strong. Her leadership, dedication and extensive knowledge of labor and employment issues make her an excellent choice for the Deputy Director position, and I urge you to support her early confirmation.

With great respect and appreciation,

As always



Edward M. Kennedy

Statement of Christine M. Griffin  
before the  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
on  
Nomination to be the Deputy Director of the Office of Personnel Management  
July 16, 2009

Good Morning Mr. Chairman. Please allow me to begin by thanking you, Ranking Member Voinovich and the Members of the Committee for holding this hearing. Thanks also to Senator Kerry for that very kind introduction. I would also like to express my gratitude to Senator Kennedy who couldn't be here today, but who has supported and encouraged me for many years, and continues to do so. There isn't a person with a disability in this country that hasn't benefited by legislation that Senator Kennedy has helped pass.

One other person I must thank for his support is former Congressman, Tony Coehlo. No one is more passionate about the employment of people with disabilities than Tony Coehlo.

If I may, Mr. Chairman, I would also like to thank my husband Phil who continues to be my greatest champion and supporter. He endures a lot for me to be able to pursue my interest in public service and it is nice to be able to acknowledge his contribution publicly.

Mr. Chairman, Committee Members, it is a great honor for me to be a nominee of President Obama and to seek your support today for my nomination to be Deputy Director of the Office of Personnel Management.

When I was a child, the importance of serving the public was stressed at home and reinforced at school. My father worked for the Federal Government for 39 years before retiring. He began his federal career as a clerk right here in Washington, DC during the Great Depression. He moved to DC for an entry level federal position because jobs in Boston were scarce. He eventually transferred to another federal position in Boston so he could return to marry my Mother.

Unfortunately, neither of my parents could be with us today. Yet I know it is because of them that I am sitting here, nominated to serve in this important capacity.

I began my career serving our country as a Private (E-1) in the U.S. Army in 1974. There were 7 children in my family and while we weren't poor, money for college was not readily available. The G.I. Bill was my ticket to a college education. After leaving the Army, I entered Massachusetts Maritime Academy with the 5 other women who made up only the second class of women to enter the Academy.

After college, I returned to public service as a GS-7 mechanical engineer for the Food and Drug Administration. I spent 7 years with the FDA testing medical devices and inspecting medical device manufacturers. It was this job and the investigations that I worked on that gave me the desire to go to law school.

While a student at Boston College Law School, an alma mater that Senator Kerry and I share, I learned about the areas of law that would prepare me for my next 16 years of public service. After a Skadden Fellowship at the Disability Law Center, I worked as an attorney advisor for EEOC Vice Chair Paul Igarashi before returning to the Disability Law Center as the Executive Director, a position I held for 10 years. Since January, 2006, I have served as a Commissioner, and more recently the Acting Vice Chair, of the EEOC.

During the past 3 ½ years, I have truly come to understand how important our federal workforce is to the security, health, and well being of this nation. I also know that OPM's mission is to ensure that the federal government has an effective civilian workforce. OPM must ensure that the men and women who are responsible for the security, health and well being of our nation are the best our nation has to offer and that they reflect all of our nation's citizens, including those of us with disabilities.

In a message addressed to the employees of the federal government soon after taking office, President Kennedy stated:

Government service must be attractive enough to lure our most talented people. It must be challenging enough to call forth our greatest efforts. It must be interesting enough to retain their services. It must be satisfying enough to inspire single-minded loyalty and dedication. It must be important enough to each individual to call forth reserves of energy and enthusiasm.<sup>1</sup>

Those words ring as true today as they did some 48 years ago. I believe it is OPM's highest calling to strive to make working in the federal government the most attractive employment opportunity available in this country: in other words, to make the federal government an employer of choice when competing for the best and brightest talent available. To do that, we must simplify and shorten the federal hiring process such that it encourages rather than discourages applicants. I know Director Berry has already begun working with Federal agencies to address hiring issues and if confirmed, I look forward to assisting him in these efforts.

Certainly, the work of the federal government has never been more challenging. One of OPM's greatest challenges is to increase the diversity of our workforce at all levels. As Deputy Director, I would work tirelessly with Director Berry and the staff at OPM, to enhance the diversity of our federal employees: not just diversity in traditional terms of race, gender, national origin, sexual orientation, and disability, but also with respect to our many cultures, our generational divide, and our multifaceted talent pool.

If we wish to open the door to a diverse, talented workforce, we also need to work tirelessly to give federal workers opportunities for training and advancement. We must provide continuing training and leadership development opportunities so that our employees stay interested in their work and we continue to retain a well-trained and dedicated workforce.

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<sup>1</sup> Excerpt from President Kennedy's Message to the Federal service published in the Civil Service Journal, January-March 1961.

Whether you're a file clerk or a project manager, a GS-3 or an SES, every employee must believe in the usefulness of the work they perform and be dedicated to facing the challenges and changes that lie ahead. All employees must be treated fairly and respectfully, from the maintenance worker who keeps the environment around the computers in our air traffic control towers clean, to the technician who keeps those computers up and running, to the air traffic controller who uses that same computer to safely guide our planes home. Each of these employees must be committed to the work they perform, for even the smallest failure could lead to disaster.

I am willing and eager to serve our country alongside Director Berry, the staff at OPM and the men and women who make up our Federal workforce. As someone who started their federal career at the entry level, I have a deep appreciation for the work of our civil service and the opportunities it provides. I want all of the Committee Members to know that I will take my responsibilities as Deputy Director very seriously. I look forward to working with you to make our federal government the "model employer" that Theodore Roosevelt talked about in 1885 and that the American people deserve today.

Thank you for your time and I look forward to your questions.

## BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

## A. BIOGRAPHICAL INFORMATION

1. **Name:** (Include any former names used.) Christine M. Griffin
2. **Position to which nominated:** Deputy Director of OPM
3. **Date of nomination:** May 12, 2009
4. **Address:** (List current place of residence and office addresses.)  
 Home Address: REDACTED  
 Business Address: EEOC, 131 M St NE, Washington, DC 20507
5. **Date and place of birth:** 02/10/1955 Boston, MA
6. **Marital status:** (Include maiden name of wife or husband's name.)  
 Married -- Philip D. Berry
7. **Names and ages of children:** David W. Berry (stepson) 38 yrs old  
 Leslie D. Bridges (stepdaughter) 33 yrs old
8. **Education:** List secondary and higher education institutions, dates attended, degree received and date degree granted.  
 St. Patrick's High School, Roxbury, MA, 1968-1972, High School Diploma 1972  
 Massachusetts Maritime Academy, 1979-1983, B.S. Marine Engineering 1983  
 Boston College Law School, 1990-1993, J.D. 1993
9. **Employment record:** List all jobs held since college, and any relevant or significant jobs held prior to that time, including the title or description of job, name of employer, location of work, and dates of employment. (Please use separate attachment, if necessary.)  
 Commissioner, Equal Employment Opportunity Commission, Washington, DC  
 Jan, 2006 to Present  
 Executive Director, Disability Law Center, Boston, MA  
 Sept. 1996 - Dec. 2005  
 Attorney Advisor, Office of Honorable Paul M. Igasaki, Vice Chair  
 Equal Employment Opportunity Commission, Washington, D.C.,

June 1995 - August 1996

Skadden Fellow/Staff Attorney, Disability Law Center, Boston, MA  
Jan 1994 - May 1995

Interim President, Massachusetts Maritime Academy, Buzzards Bay, MA  
July 1993 - Jan 1994

Legal Intern, McDermott/O'Neill & Associates, Boston, MA  
Summer, 1992

Legal Intern, United States Attorney's Office, Boston, MA  
Summer, 1991

Investigator/Engineer, United States Food and Drug Administration, Stoneham, MA  
1988-1990

Mechanical Engineer, United States Food and Drug Administration, Winchester, MA  
1983-1988

**MILITARY:**

United States Army Active duty: 1974-77; Reserve duty: 1977-79. Vietnam Era Veteran

10 Government experience: List any advisory, consultative, honorary or other part-time service or positions with federal, State, or local governments, other than those listed above.

SSA Ticket to Work, Work Incentive Improvement Act Advisory Panel 2001-2003

11. Business relationships: List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.

Boston College Law School Alumni Association Council Member 2008 to present  
Mental Health Legal Advisors Committee - Committee Member 1999-2005  
Developmental Disabilities Council - Council Member 1997-2005  
Massachusetts Board of Higher Education - Board Member 2002-2003  
Easter Seals of Massachusetts Board - Board Member 2002-2003  
Paralyzed Veterans of America Research Board - Board Member 1995-2003  
Massachusetts Maritime Academy Board of Trustees - 1987-1993, Chair 1989-91

12. Memberships: List all memberships, affiliations, or and offices currently or formerly held in professional, business, fraternal, scholarly, civic, public, charitable or other organizations.

New England Paralyzed Veterans of America - 1981 to present

Massachusetts Maritime Academy Alumni Association - 1983 to present  
 Boston College Law School Alumni Association - 1993 to present  
 American Association of People with Disabilities - 1998 to present

13. Political affiliations and activities:

- (a) List all offices with a political party which you have held or any public office for which you have been a candidate.

NONE

- (b) List all memberships and offices held in and services rendered to any political party or election committee during the last 10 years.

I served as the Disability Liaison for the Massachusetts Democratic Party, 1999-2001.

- (c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more during the past 5 years.

To the best of my recollection and records, these are the political contributions made:

2008 Obama/Biden Campaign \$750  
 2008 Massachusetts Bristol County Sheriff Campaign Richard Pond \$100  
 2008 Massachusetts Governor's Council Campaign Robert Jubenville \$100  
 2005 Massachusetts State Senator Fred Berry \$500  
 2005 Massachusetts Attorney General Tom Reilly \$500  
 2005 Massachusetts State Representative Salvatore DiMasi \$500  
 2005 Massachusetts State Representative Robert DeLeo \$200  
 2005 Boston Mayor Tom Menino \$500  
 2004 Massachusetts Attorney General Tom Reilly \$250  
 2004 Massachusetts State Senator Fred Berry \$200  
 2004 Massachusetts State Senator Therese Murray \$150  
 2004 Massachusetts State Representative Charles Murphy \$100  
 2003 Massachusetts State Senator Fred Berry \$100,  
 2003 Massachusetts State Senator Pamela Resor \$100  
 2003 Massachusetts State Senator Therese Murray \$150  
 2003 Massachusetts State Representative Lida Harkins \$150  
 2003 Massachusetts State Representative Robert Coughlin \$100  
 2003 Massachusetts State Representative Bruce Ayers \$150

14. Honors and awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for

outstanding service or achievements.

**Skadden Arps Public Interest Fellowship 1993-1995**  
**Honorary PhD in Public Administration – Massachusetts Maritime Academy 2006**

- 15 **Published writings:** Provide the Committee with two copies of any books, articles, reports, or other published materials which you have written.

I was co-editor of the **Legal Rights of Individuals With Disabilities**, a two volume legal practice book which was published in 2002 by Massachusetts Continuing Legal Education (MCLE), and I co-authored Chapter 9 on Vocational Rehabilitation Services.

I wrote 4 articles for LRP's (originally known as Labor Relations Press, now just LRP Publications) online publication **CyberFeds** in 2007-2008 regarding the lack of employment opportunities for people with disabilities in the Federal Government.

Please see attached.

16. **Speeches:**

Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated. Provide copies of any testimony to Congress, or to any other legislative or administrative body.

Please see attached.

Provide a list of all speeches and testimony you have delivered in the past 10 years, except for those the text of which you are providing to the Committee. Please provide a short description of the speech or testimony, its date of delivery, and the audience to whom you delivered it.

I did not give any speeches before becoming an EEOC Commissioner in January, 2006.

I testified before the House Judiciary Committee of the 106<sup>th</sup> Congress on May 18, 2000 regarding the ADA Notification Act.

17. **Selection:**

- (a) Do you know why you were chosen for this nomination by the President?

I have considerable experience in the Federal and private sector as an employee



and as a manager. In the last 3 ¼ years as an EEOC Commissioner, I have developed a good understanding of issues and challenges that Federal employees and managers face, as well as an understanding of the role OPM plays in dealing with those issues and challenges. As a leader with vision, I have significant experience working with a variety of employee groups, unions and management to create solutions to employment related problems.

- (b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

I have more than 15 years of successful executive experience leading non-profit, state and federal agencies through transition/organizational change and policy development and legislative initiatives. I am a strong leader with a motivational management style and reputation for building and retaining a highly motivated, diverse, unionized workforce.

As Executive Director of the Disability Law Center for 10 years, I was responsible for day to day operation of a 2-office / 18-attorney law office with a \$2.8 million budget, 80% of which were federal funds. This was a union workforce with membership in UAW Legal Services Union. My duties included the following:

- Negotiated 3 collective bargaining agreements;
- Oversaw development and administration of employee benefit package; including health, life, dental insurance programs, flexible spending program and retirement benefits;
- Developed and oversaw performance management process;
- Monitored and developed equitable compensation program;
- Developed tele-work policies and procedures;
- Developed transportation/Metro program;
- Oversaw employee development program;
- Ensured compliance with Federal and State employment law;
- Developed comprehensive personnel policies and procedures;
- Developed financial management policies and procedures;
- Oversaw annual A-133 auditing process;
- Organized personnel resources statewide;
- Negotiated contractual agreements with government & other funding sources;
- Negotiated sub-contracts with various organizations;
- Promoted and maintained working relationships with Federal, State and private entity officials.

I have been a Commissioner, and since January 22, 2009, the Acting Vice Chair of the EEOC, a federal agency with 53 offices, 2158 employees and a \$344 million budget.

My work at the EEOC, enforcing employment discrimination laws in the private and federal sector, as well as monitoring the data that EEOC collects and analyzes related to federal employment, has helped me identify problems and develop solutions, such as the LEAD (Leadership for Employment of Americans With Disabilities) Initiative, a national outreach and education campaign to address the declining number of employees with severe disabilities in the federal workforce.

The federal government is currently not the "model employer" it needs to be. There needs to be a common sense approach to reforming how the Federal Government recruits, selects, compensates, trains and manages the Federal workforce while paying attention to diversity, collaboration with agencies as well as agency compliance with employment rules and principles. I have a professional and personal commitment to ensuring that the federal government, the "model employer," recruits, hires, advances and retains a diverse workforce that includes all people. I believe I am well qualified to be a member of OPM's leadership team that will address these problems and create the solutions that ensure that we are able to recruit, hire and retain the best federal workforce that truly reflects the society we serve.

#### B. EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate? **YES**
2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain. **NO**
3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization, or to start employment with any other entity? **NO**
4. Has anybody made a commitment to employ your services in any capacity after you leave government service? **NO**
5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? **YES**
6. Have you ever been asked by an employer to leave a job or otherwise left a job on a non-voluntary basis? If so, please explain. **NO**

**C. POTENTIAL CONFLICTS OF INTEREST**

1. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Office of Personnel Management's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with OPM's designated agency ethics official and that has been provided to the Committee. I am not aware of any other potential conflicts of interest.

2. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration or execution of law or public policy, other than while in a federal government capacity.

I testified before the House Judiciary Committee of the 106<sup>th</sup> Congress on May 18, 2000 regarding the ADA Notification Act.

3. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position? YES

**D. LEGAL MATTERS**

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details. NO
2. Have you ever been investigated, arrested, charged or convicted (including pleas of guilty or nolo contendere) by any federal, State, or other law enforcement authority for violation of any federal, State, county or municipal law, other than a minor traffic offense? If so, provide details. NO

3. Have you or any business of which you are or were an officer, director or owner ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details. NO
4. For responses to question 3, please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity. N/A
5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination. None

#### E. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

#### AFFIDAVIT

Christine M. Griffin being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Subscribed and sworn before me this 8th day of June, 2009

Bobbie Jean Williams  
Notary Public

Bobbie Jean Williams  
Notary Public, District of Columbia  
My Commission Expires 11/30/2011

**U.S. Senate Committee on Homeland Security and Governmental Affairs  
Pre-hearing Questionnaire for the  
Nomination of Christine M. Griffin to be  
Deputy Director, Office of Personnel Management**

**I. Nomination Process and Conflicts of Interest**

1. Why do you believe the President nominated you to serve as Deputy Director of the Office of Personnel Management (OPM)?

I believe I was nominated to serve as Deputy Director of the Office of Personnel Management (OPM) because of my relevant experience and expertise. For the past 3 ½ years I have served as a Commissioner and more recently as Acting Vice Chair of the Equal Employment Opportunity Commission (EEOC). In that capacity, I have spearheaded an initiative and a working group that involve issues and challenges affecting Federal employees and managers. The majority of the work I have done at the EEOC has focused on diversity and a more efficient and fair EEO system in the Federal Government. As a result, I have become known throughout the Federal workforce as someone that cares about Federal employees and wants to see the Federal Government become the "model employer" it is supposed to be. I began my career as a Federal employee when I joined the Army in 1974. Since then, I have worked in the private and public sector, gaining the experience and leadership skills that would allow me, if confirmed, to succeed as Deputy Director of OPM.

2. Were any conditions, expressed or implied, attached to your nomination? If so, please explain.

No.

3. What specific background and experience affirmatively qualify you to be Deputy Director of OPM?

I have more than 15 years of successful executive experience leading non-profit, State and Federal agencies through transition/organizational change and policy development and legislative initiatives. I am a strong leader with a motivational management style and reputation for building and retaining a highly motivated, diverse, unionized workforce.

As Executive Director of the Disability Law Center for ten years, I was responsible for day-to-day operation of a 2-office / 18-attorney law office with a \$2.8 million budget, 80 percent of which were Federal funds. This was a union workforce with membership in UAW Legal Services Union. My duties included the following:

- Negotiated three collective bargaining agreements;
- Oversaw development and administration of employee benefit package; including

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health, life, dental insurance programs, flexible spending program, and retirement benefits;

- Developed and oversaw performance management process;
- Monitored and developed equitable compensation program;
- Developed tele-work policies and procedures;
- Developed transportation/Metro program;
- Oversaw employee development program;
- Ensured compliance with Federal and State employment law;
- Developed comprehensive personnel policies and procedures;
- Developed financial management policies and procedures;
- Oversaw annual A-133 auditing process;
- Organized personnel resources Statewide;
- Negotiated contractual agreements with government & other funding sources;
- Negotiated sub-contracts with various organizations; and
- Promoted and maintained working relationships with Federal, State and private entity officials.

I have been a Commissioner for three years, and since January 22, 2009, the Acting Vice Chair of the EEOC, a Federal agency with 53 offices, 2158 employees and a \$344 million budget.

My work at the EEOC, enforcing employment discrimination laws in the private and Federal sector, as well as monitoring the data that EEOC collects and analyzes related to Federal employment, has helped me identify problems and develop solutions, such as the Leadership for Employment of Americans With Disabilities (LEAD) Initiative, a national outreach and education campaign to address the declining number of employees with severe disabilities in the Federal workforce. I also led an internal working group that was created to meet with Federal EEO stakeholders to craft recommendations that would improve the timeliness, quality and fairness of the Federal EEO investigation process.

The Federal Government is currently not the "model employer" it needs to be. There needs to be a common sense approach to reforming how the Federal Government recruits, selects, compensates, trains and manages the Federal workforce while paying attention to diversity, collaboration with agencies as well as agency compliance with employment rules and principles. I have a professional and personal commitment to ensuring that the Federal Government, the "model employer," recruits, hires, advances and retains a diverse workforce. I believe I am well qualified to be a member of OPM's leadership team that will address these problems and create the solutions that ensure that we are able to recruit, hire and retain the best Federal workforce that truly reflects the society we serve.

4. Have you made any commitments with respect to the policies and principles you will attempt to implement as Deputy Director of OPM? If so, what are they and to whom have the commitments been made?

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No, I have not made any commitment with respect to the policies and principles that I will attempt to implement. Once confirmed, I intend to meet with the leadership team and career staff to discuss the issues, challenges, and priorities that OPM faces in the next few years.

5. If confirmed, are there any issues from which you may have to recuse or disqualify yourself because of a conflict of interest or the appearance of a conflict of interest? If so, please explain what procedures you will use to carry out such a recusal or disqualification.

I am not aware of any existing conflicts. Should a potential conflict arise, I would consult with OPM's designated agency ethics official and recuse myself if necessary.

## **II. Role and Responsibilities of the Deputy Director of OPM**

6. How do you view the role of Deputy Director of OPM? Have you discussed with Director Berry what responsibilities you would have, if confirmed, and how your responsibilities would relate to his?

Director Berry and I have discussed my role. We both believe in the goal of OPM helping to make the Federal Government the "model employer" as well as the "employer of choice". He has asked me to help him achieve those goals and to help him address diversity in recruiting, hiring, advancement and retention. We also discussed the importance of veteran preference rules and ensuring that our wounded warriors have opportunities in the Federal workforce. Once confirmed, I look forward to further discussing my role with Mr. Berry.

7. What do you anticipate will be your greatest challenges as OPM Deputy Director, if confirmed, and what will be your top priorities?

If confirmed, my top priorities would be to ensure that the Federal Government is the "model employer" and the "employer of choice" for *all* people in this country. That means that I examine how we as a Federal workforce recruit, hire, advance, and retain the best qualified workforce that reflects the society we serve and developing improvements where necessary. In addition, I hope to work with the Chief Human Capital Officers (CHCOs) to determine how OPM can help agencies implement the very best practices to provide a quality work experience for all employees while at the same time holding them accountable through performance appraisals, recognizing outstanding service, improving employee/management relations and ensuring a retirement system that is worth working towards. Another top priority will be developing the protocols and policies that result in improved communication and collaboration between the EEOC and OPM. There are a number of areas where these two agencies could be working in a more collaborative fashion to ensure equal employment opportunity within the Federal workforce and I am committed to improving the relationship between the two agencies.

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8. How do you plan to communicate with OPM staff on efforts to address challenges facing OPM?

As a manager, I communicate with all staff clearly and directly and maintain an open door policy. In addition to regularly scheduled staff meetings, I encourage informal meetings whenever necessary. I believe it is important for all OPM staff to have an opportunity to communicate with their leadership in person when possible and via email when it is not. I know that OPM career staff have a lot to contribute, and I value their input and ideas. If confirmed, I will work closely with Director Berry to ensure that we communicate directly and often with the OPM workforce.

9. OPM not only develops and proposes broad human resource (HR) strategies for managing the federal workforce, but also administers and enforces certain specific HR policies and requirements, consults with and advises federal agencies on HR matters, and provides HR services to agencies, sometimes for a fee.

- a. How do you believe OPM should balance its roles as a strategist on HR, as an administrator and regulator, as a consultant, and as a fee-based service provider?

The primary challenges are to ensure that (1) strategic and regulatory functions are adequately resourced, (2) neither eclipses the other at the highest levels of management, and (3) considerations relevant to strategic, regulatory, and fee-based functions inform each other without dictating particular outcomes.

- b. Do you believe OPM may face any conflicts between or among any of these roles, and, if so, how might such conflicts be addressed?

I do not believe there is an inherent conflict between the strategic and regulatory roles OPM plays and its provision of services on a reimbursable basis.

10. If confirmed as OPM Deputy Director, you will be responsible for protecting the interests of the federal workforce. However, given the often competing interests within the Executive branch alone, at times you may find that this can be a difficult task. Please describe the general approach that you would apply for tackling strategic human capital problems in an environment of competing interests.

The general approach I would take is to spend time understanding the challenges and competing interests and then addressing the problem at hand with that knowledge. I am always willing to listen and to incorporate others' ideas as feasible, and then move toward the solution in a collaborative manner.

11. Do you believe that OPM has the appropriate resources to fulfill its various roles and functions in helping agencies develop and meet their human capital goals?

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I fully support the President's Fiscal Year 2010 budget request to Congress on behalf of OPM. If confirmed, I will work with Director Berry to assess OPM's resource needs internally and those of the agencies we serve.

### **III. Policy Questions**

#### *Human Capital Management*

12. What role should OPM play in assisting agencies with successful human capital management activities? Do you believe that OPM has the appropriate resources to help individual agencies develop and meet their human capital goals?

OPM should be the leader in human resources management across the Federal Government. OPM has the unique, Government-wide perspective that allows it to identify problems based on cross-agency data, to design innovative approaches that draw on the best practices of private and public sector organizations, and to help agencies adopt strategic human resources management to achieve results. OPM's team of Human Capital Officers should step up their direct assistance to individual agencies to help them create agency-specific solutions that meet Government-wide standards. OPM's role in holding agencies accountable should also drive change, and OPM needs to continue evaluating agencies' performance not just for compliance, but to identify the most effective approaches to strategic human resources management.

For OPM to play this unique role effectively, it must have sufficient resources. If confirmed, I would work closely with Director Berry to identify any areas that need additional resources to be effective.

13. The Government Accountability Office (GAO) designated strategic human capital management as a high-risk area in its January 2009 High Risk Update (GAO-09-271). Furthermore, federal agencies continue to face fundamental capacity challenges with new demands, limited resources, and a retirement wave within the immediate future.
- a. Given the many challenges in this area, what do you believe are the most important things that should be done to improve human capital management in the federal government, and how will you assist the OPM Director to further this goal?

Agency human resources (HR) organizations can and should provide more value than simply processing transactions. Senior leaders must engage and plan for the current and future workforce; they need to address who will make up the workforce, what competencies they need, where they can be found, how to attract them, and importantly, how to engage and retain them. The Chief Human Capital Officer plays a pivotal role in making the business case that agencies must pay attention to their most precious resource – their people. By partnering with CHCOs to provide enhanced and expanded value-added services in their agencies, OPM can make a significant difference in the lives of our Federal workforce.

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In addition, the human resources competencies that were effective in the 1980's and 1990's have been eclipsed by technological advances, systems models, and communications tools that have not been made available at many agencies. A strategic approach to human resources/human capital decisions has not been pursued because the infrastructure needed to make such decisions is not available or encouraged. OPM can lead in designing new decision making models, supporting necessary technology, and promoting governmentwide efficiencies of scale.

- b. What philosophy and perspective would you bring to OPM regarding federal human capital management?

My philosophy is that OPM should be the premier agency for personnel issues -- from recruiting to retirement, and everything in between. It will be Director Berry's job and mine to ensure that we have a team of experts at OPM that have the ability to help agencies develop their own expertise in this area as well as support and perform certain functions for agencies. OPM should always demonstrate "best practices" in recruiting, hiring and retention in OPM's own workforce. OPM should be the "model employer" that leads the rest of the Federal Government to "model employer" status.

14. The GAO January 2009 report also identified four specific areas within strategic human capital management that need improvement. These include leadership within agencies to address human capital and related organizational transformation issues, strategic human capital planning, acquiring, developing, and retaining talent, and a results-oriented organizational culture. Do you agree with these findings and recommendations, and, to the extent that you do, how would you plan to improve human capital management in these four areas?

I certainly agree these areas represent challenges in engaging a high-performing and effective workforce. Too often, leaders focus on their programmatic functions and expect the people to take care of themselves. OPM is the champion for workforce transformational issues. In that role, OPM strategically promotes the importance of human resources planning as the first step in identifying, hiring and retaining top-notch employees.

Today the Federal Government is fortunate to have many applicants for open positions, but we must not be complacent. Those who join public service must be the innovators for the future, so we must choose carefully. Research shows employees value professional development, yet training dollars are often the first to be cut from the budget. And organizations cannot retain the best if the work environment does not match how the position is advertised.

Effective people management starts with leadership -- senior managers who understand the payoff in dedicating resources to meet the needs of the employees who fulfill the mission. OPM can take the lead by ensuring human resources management gets the

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attention of federal leadership. OPM can challenge agencies to make wise decisions to improve work-life balance through training, competitive pay and benefits, opportunities for professional development, challenging work, and feedback mechanisms to measure results. Director Berry has begun to tackle many of these issues. I welcome the opportunity to offer my contributions so the Government Accountability Office (GAO) January 2010 or 2011 report will have a more positive finding related to human resources risk in the Federal Government.

15. Performance metrics are essential for effective oversight and holding agencies accountable for results. What metrics do you feel are appropriate for gauging OPM's and agencies' human capital efforts?

We all know the adage "what gets measured gets done." As an oversight agency, OPM has the responsibility to establish and hold agencies (including OPM) accountable for performance metrics. However, the metrics that are reported must represent the foundational commitment to the implementation of sound strategies to improve HR management. Metrics do not achieve the intended results if they are simply viewed as a reporting requirement to OPM and are done by HR staff only without senior leader review. Among the metrics currently in use, employee perception as measured by the Federal Human Capital Survey is a powerful indicator of organizational health. If confirmed, I would assess the metrics that are currently collected by OPM from the agencies to determine if they continue to be useful and to assess whether other metrics need to be collected and analyzed.

16. Some believe that developing indicators to measure our progress towards improving the federal civil service, and renewing them on a regular basis, will provide necessary information to help make important decisions, improve research, and increase public awareness about the state of government service in America.

Do you believe better data is needed to measure and assess the condition of the federal civil service? If so, how will you improve the availability and use of measures to determine the state of public service?

If confirmed, I look forward to studying the data currently gathered in order to determine whether better data is needed. Any data collected must be reliable and accurate. I believe a more transparent process of data sharing will aid in the commitment to accurate data. For example, publicly posting reports would encourage agencies to verify accuracy, as well as to analyze the results and take action for improvement.

17. In February 2009, GAO recommended the Director of OPM develop a systematic approach to share information broadly throughout the federal government on agency practices in order to recruit and retain mature, experienced workers, given that 46% of the federal workforce will be eligible for retirement by 2012 (GAO-09-206). What is your opinion of this recommendation and how would you encourage federal agencies to recruit and retain older workers?

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Although I am not familiar with this report, I know there are many retired employees and employees who are eligible to retire who have extremely valuable skills that we would do well to retain if we can. With this in mind, if confirmed, I will certainly look for ways in which we can reap the benefit of their skills across the government.

18. The demographics of the nation's workforce, and the workforce as a whole, are in flux. For the first time, four distinct generations will be in the workforce together, and each group possesses unique values, attitudes, and expectations. For example, the younger workforce appears to be more transient than in generations past. Given these differences, how should the employer-employee relationship adapt to these changes in order to build an inclusive work environment that supports success?

Because people's work styles differ, it is important that managers know how to foster a work environment that genuinely welcomes diversity and focuses on getting the job done. Telework, alternative work schedules, computer technology, and mentorship are all examples of tools that help overcome generational differences. To forge the most effective workforce possible, we must have as inclusive a perspective as possible.

19. The federal acquisition workforce has been experiencing an increasing workload and complexity of responsibilities without adequate attention to its size, skills and knowledge, and succession planning. The 2008 National Defense Authorization Act (P.L. 110-181) (NDAA) created an Associate Administrator for Acquisition Workforce Programs at the Office of Federal Procurement Policy (OFPP) to develop a strategic human capital plan for the acquisition workforce of the federal government.

- a. What is your opinion about the present capacity and the need for improving the acquisition workforce within the federal government?

There has been a lot of negative press about the acquisition community and the need to improve its workforce. This is one of the issues I look forward to looking more closely at if I am confirmed, to see if additional improvements are needed.

- b. What should OPM's role be in the development of a strategic human capital plan for the acquisition workforce?

I understand OPM has been working closely with the Office of Federal Procurement Policy (OFPP) to develop strategic approaches to Federal acquisition workforce management. If I am confirmed, I will continue to work with the OFPP to develop additional strategies to improve the acquisition workforce.

- c. How do you believe OPM should coordinate its efforts in human capital planning with the efforts of OFPP?

My understanding is that OPM began a partnership with OFPP last year and that their collaboration has included joint workshops and outreach efforts. If confirmed, I look forward to learning more about the existing collaboration.

20. The FY2008 NDAA established, by statute, a government-wide Contingency Contracting Corps that would be available for deployment in responding to disasters, natural and man-made, and contingency contracting both within and outside the United States. OFPP is charged with: (1) establishing and administering the Corps; (2) establishing and paying for educational and training requirements; (3) clothing and equipping members; (4) submitting an annual report to Congress regarding the progress of these responsibilities of OMB/OFPP. Are you aware of this Corps? How do you see OPM's role in assisting OFPP and other federal agencies in staffing this Corps?

I am not familiar with the Contingency Contracting Corps, or the specific nature of OPM's role in staffing it. However, if I am confirmed I plan to learn more about the issue.

21. The FY2008 NDAA also requires the Director of the Office of Management and Budget (OMB) to submit a report regarding the implementation of the recommendations of the Acquisition Advisory Panel, in particular, the recommendations regarding acquisition panel workforce. Which of these recommendations do you agree with? Why or why not? How do you define the federal acquisition workforce?

I am not familiar with the recommendations of the Acquisition Advisory Panel relating to the acquisition workforce. If confirmed, I plan to review the recommendations, and I look forward to future dialogue with the Committee on this subject.

22. Many federal employee and management groups have testified to the need for better management training in the federal government, and a number of bills have been introduced to address the deficit of management training in the federal government.
- a. What do you believe needs to be done to improve management training across the federal government? Do you believe that there should be a requirement for initial and ongoing training for managers in the federal government?

I strongly agree that effective management training is critical to the success of federal agencies. Many studies conducted in organizational performance and retention have shown that workforce retention and performance are linked to the effectiveness of supervisors and managers. Requiring such training sends a strong message that well-trained managers are critical to the success of an organization and that supervisors and managers are accountable for their actions. I believe this training also would be welcomed by federal managers who are eager to improve their skills.

My understanding is that the Federal Workforce Flexibility Act of 2004 requires agencies to establish a comprehensive management succession program that includes

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training to develop managers and specifies the topics to be covered in this training. I also understand OPM has proposed revisions to its training and managerial training regulations to require training for managers and supervisors within the first year of their appointment, and retraining every three years. I think these are all good things, but more can be done. If confirmed, I will work to achieve Director Berry's initiatives to support the ongoing development of managers across the Federal Government, and ensure all necessary leadership competencies are included in agencies' human resources management strategies for development.

- b. What do you believe OPM can do to help promote and improve mentorship programs across the federal government?

I believe mentoring is critical and can happen through both formal programs and day-to-day interaction with one's supervisors. The Federal Workforce Flexibility Act of 2004 requires agencies to provide training to managers and supervisors on mentoring their employees. In addition, I understand OPM recently released a publication on mentoring best practices and recently hosted a "Best Practices in Mentoring" forum.

If confirmed, I will continue to explore other ways OPM can support agencies in integrating mentoring into their human resources management strategies to ensure that workers who are interested in mentoring are provided that opportunity, to stimulate individual growth and enhance their advancement and retention.

23. The President issued Executive Order (E.O.) 13434 on National Security Professional Development (NSPD) in May 2007 and issued a strategy and implementation plan pursuant to the Executive Order, which establishes a roadmap for strengthening the national security workforce. The Project on National Security Reform and the Commission on the Prevention of WMD both issued reports in December 2008 highlighting the importance of building a modern national-security workforce by investing in training and education programs and by establishing joint duty programs. The Director of OPM along with OMB worked on this program.

- a. What is your assessment of E.O. 13434 and the successive strategy and implementation plan?

I have not reviewed E.O. 13434 and the related strategy and implementation plan. However, if confirmed, I am committed to working with Director Berry to ensure that strategies are available to recruit, hire, and retain security modern national security workforce.

- b. What steps will you take as OPM Deputy Director to continue to strengthen the national security workforce?

If confirmed as Deputy Director, I will work with Director Berry and the agencies involved in the national security mission to understand where they face challenges in

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recruiting and developing the workforce needed to carry out this critical mission and to develop strategies to address those challenges.

24. What is your opinion of the current state of labor-management relations within the federal government, and what do you believe the Deputy Director of OPM can and should do to improve those relations?

While there are examples of both effective and ineffective labor-management relationships in the various Federal agencies, I believe that, in general, more collaborative approaches should be emphasized. Any strategy to improve labor-management relations must include a commitment by both union representatives and management to build greater trust and to foster open communications with a shared focus on solving problems that hinder the agency's accomplishment of its mission. If confirmed as Deputy Director of OPM, I am confident I can add value by advancing the approaches and strategies that Director Berry advocates and offering ideas to promote more positive engagement by the parties.

25. OPM's recent plans prepared under GPRA (Government Performance and Results Act of 1993) were intended to provide managers with a disciplined approach – developing a strategic plan, establishing annual goals, measuring performance, and reporting on the results – for improving performance and service quality, increasing customer satisfaction, and strengthening internal management.

- a. How would you reinforce accountability with your senior leadership for accomplishing OPM's performance goals?

I plan to reinforce performance and accountability not only at the executive level, but throughout the OPM organization. If confirmed, I will work closely with the Director in overseeing the development of OPM's Fiscal Year 2010 – 2015 strategic plan. I will make sure that the strategies and goals in the plan address the major personnel issues the Federal Government will face over the next several years. These strategies and goals will be outcome-oriented and measurable.

- b. How would you cascade accountability throughout the organization?

To support the implementation of a new strategic plan, each major program office and organizational element would be required to develop yearly operational plans that include detailed actions and milestones to support the goals and objectives in the strategic plan. Senior leadership would be held accountable to execute their operational plans and to cascade operational plan milestones into supervisor and employee performance plans. By doing this, employees at all levels of OPM will understand their role and have a stake in the organization's overall success.

26. Under President Clinton's E.O. 12871, labor-management partnerships were established, which required, among other things, that agencies establish labor-management

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committees to create partnerships at appropriate levels, that a National Partnership Council be established to promote partnership efforts throughout the executive branch, and that agencies negotiate over matters as to which negotiation is permissible. E.O. 12871 was repealed during the Bush Administration. Based on your experience, what is your opinion of labor-management partnerships in the federal government?

I favor a climate where union representatives and agency management are able to work cooperatively through issues to implement the agency's mission. Effective partnerships between labor and management can help ensure success in this regard.

27. President Clinton created the Federal Career Intern Program (FCIP) through E.O. 13162, which requires OPM to develop appropriate merit-based procedures for the recruitment, screening, placement, and continuing career development of Career Interns.

- a. Based on your experience, what is your opinion of how agencies are using FCIP?

I have no direct experience with the FCIP program. If confirmed, I look forward to learning more about the extent to which agencies are using the FCIP and how effective it is.

- b. How will you work to ensure that agencies are utilizing FCIP appropriately?

If confirmed, I intend to talk to the key FCIP players at OPM to discern whether FCIP is being used effectively and appropriately, and if not, talk to key agency personnel to ensure the FCIP is being used in a manner consistent with its governing provisions.

28. If confirmed, what steps will you take to maintain constructive relationships with organizations such as the Merit Systems Protection Board (MSPB) and GAO as they conduct studies of merit systems and human capital practices?

OPM shares responsibility with organizations such as the Merit Systems Protection Board (MSPB) and GAO in ensuring that merit systems are effective and that workplace practices meet the current and future needs of the Federal Government. I will, if confirmed, work tirelessly to preserve the integrity of the civil service by promoting open communication and constructive collaboration with the MSPB, GAO, and other stakeholders.

29. Federal employees are protected from inappropriate, arbitrary, and prohibited personnel practices, but the federal government's administrative redress system has long been criticized as being overly complex, time consuming, costly, and adversarial. What role can OPM play in improving this system and in helping agencies develop conflict management systems, including alternative dispute resolution (ADR) processes, that work to prevent, as well as to resolve, workplace disputes?



I believe, based in part on my experience at EEOC, that much can be done within the framework of the current system to prevent and effectively resolve disputes. I would strongly support the use of alternative dispute resolution (ADR) techniques. At EEOC, we developed a program five years ago called Resolve, which provided a conflict resolution service that included mediation. This program was very successful. If confirmed, I look forward to discussing with Director Berry the possibility of OPM playing a role in encouraging agency development of conflict management systems, including ADR processes. I understand that OPM in the past has highlighted ADR best practices and provided general information about the benefits of ADR.

#### *Hiring Process and Flexibilities*

30. What are your views with respect to the current hiring process within the federal government, and how would you recommend that it be improved?

I believe our hiring process should provide opportunities for the best qualified applicants from all walks of life, including our nation's veterans and individuals with disabilities. I am committed to strengthening that process so that it draws on the strengths of our citizens. It is essential for the Federal Government to recruit from a broad pool of applicants from diverse cultures. I also understand Director Berry has designated a special team that he calls the "hiring wolfpack" to focus intensively on the concerns that have been raised about the federal hiring process. I look forward to working with that team and other stakeholders to make sure we have the best possible mechanisms in place in federal agencies to bring talented individuals into the civil service.

31. Research, including the Partnership's *Best Places to Work in the Federal Government* rankings has shown that "leadership" is one of the most critical factors in determining workforce effectiveness. Not only is leadership one of the most important contributing factors to organizational health, it is also one of the areas where our federal government most dramatically lags behind the private sector. Employees in the federal sector are twice as likely as their counterparts in private industry to report that their supervisors do not have the leadership and management skills needed to do their jobs effectively.

Making matters worse, the federal leadership ranks are facing a numbers crunch. Due in part to a hiring freeze in the 1990s, the number of mid-career and senior federal employees who will retire in the next several years will exceed the number of highly qualified candidates ready to replace them. In addition, studies suggest that agencies are not doing enough to identify, select, develop and evaluate supervisors. Most agencies are using just-in-time strategies to deal with leadership voids – filling vacancies among supervisors with the next-highest-level employee, regardless of managerial competence.

Yet, despite the critical role of leadership in determining workforce effectiveness, no single agency "owns" leadership development across government.

- a. In your opinion, what officer or entity should be responsible for developing and executing a government-wide strategy to ensure that the federal government is identifying and preparing its next generation of leaders?

I agree that leadership development is important, and I believe it needs to be addressed very strategically. If confirmed as the Deputy Director of OPM, I would work with Director Berry to ensure that OPM champions leadership development. This includes encouraging agencies to share best practices and lessons learned.

- b. What is your view on what OPM's role should be in leadership development in the federal government?

OPM's role in leadership development should be to champion the development and implementation of innovative policies and practices that are merit-based. I understand OPM already provides high-quality, timely, and cost-effective leadership development in their three management and executive development campuses—the Federal Executive Institute in Charlottesville, Virginia, and the Eastern and Western Management Development Centers in Shepherdstown, West Virginia, and Aurora, Colorado. I look forward to learning more about OPM's leadership development opportunities and, if confirmed, working with Director Berry to encourage best practices throughout the federal government.

32. The current economic challenges facing the federal government are considerable, and fiscal restraint will clearly be needed as part of the response to those challenges. Given this situation, how can the federal government also make the critical investments needed to attract, select, develop, motivate, and retain the highly qualified and productive workforce that the American people expect and deserve?

There are many cost-effective strategies to attract, select, develop, motivate and retain a highly-qualified and productive workforce in spite of our current economic challenges. Director Berry has highlighted mentoring as an inexpensive and rewarding way to help motivate and retain highly-qualified individuals, and I agree. Also, instituting family-friendly workplace policies (e.g., telework and alternative work schedules) can provide incentives to employees. Establishing a meaningful employee recognition system and allowing employees to participate in the administration of the system can also be motivating without requiring an expenditure of dollars.

33. Many job-seekers complain about the tedious process of finding and applying for federal jobs, as well as the amount of time it takes to get through the hiring process. It is argued that some federal agencies continue to require the candidate to apply by submitting more information than is needed for an initial review of the applicant, including knowledge, skills, and abilities essays and official transcripts. Furthermore, applicants complain about the challenges in using the usajobs.com website, difficulties understanding the position descriptions, and the lack of regular or timely communication from agencies on the status of their application.

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In 2008, GAO identified numerous factors that have contributed to problems in the federal government's hiring process, including unclear job vacancy announcements and time-consuming paperwork processes (GAO-08-762T). With many employers laying off highly-skilled professionals and a renewed attention to government service, this sentiment among job-seekers is likely to be exacerbated, and many qualified applicants may not even apply for federal jobs because of the process. Agencies will sometimes argue that the merit system principles, including veterans' preference, and the competitive process are the problem.

- a. What role do you believe OPM can play in any reform effort to the recruitment and hiring process?

I believe OPM's role is to provide ongoing leadership of the reform efforts, including initiating and developing any proposed legislation and new policies and regulations that may be needed. I understand that there are many talented experts within OPM who are currently working to reform the recruitment and hiring process. Director Berry calls the team the "hiring wolfpack." OPM's leadership and creativity have also been effective in the agency's work with the Chief Human Capital Officers Council.

- b. If confirmed, how do you plan to address these issues raised by job-seekers, applicants, and others?

I recognize that despite OPM's best efforts, some agencies and applicants remain frustrated. If we make a renewed commitment to simplify and streamline the hiring process, we can find ways to make the process more user-friendly, refrain from asking applicants unnecessary questions, decrease turnaround times for responding to applications and making offers, and thus encourage highly-qualified candidates with diverse backgrounds to apply for federal jobs.

It is essential for us to constantly assess our hiring process. I understand Director Berry is working, in partnership with the Chief Human Capital Officers Council and the Office of Management and Budget, to tackle some of the underlying challenges in fixing the hiring process.

- c. What do you believe is needed to reform the recruitment and hiring process at federal agencies while adhering to the merit system principles and the competitive process?

If we look at this from the applicant's perspective, we can make real progress in reforming and simplifying the recruitment and hiring process. We can have a system that adheres to both the merit system principles and veterans' preference, on the one hand, and our commitment to effective and efficient recruitment and hiring of a workforce that reflects the society we serve. We need to really get to the bottom of what the specific impediments are to making the process more efficient and address

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each of them. I believe OPM can make progressive reforms and establish good business practices that are in the best interests of the American public and the federal workforce.

34. Many political appointees come to their jobs as "first-timers," never having served in a political position before and never having worked in an environment with both political and career employees. What will you do to ensure that agency employees, particularly the political appointees, are well-oriented to the federal environment and trained to work effectively with career civil servants?

OPM cannot be successful unless political and career staff can work together seamlessly. Political appointees should keep in mind the importance of communication, information-sharing and the value of input from career staff. If confirmed, I will work with Director Berry to ensure that OPM's work is the product of career and political points of view, and I will build a management team based on mutual trust and respect. If confirmed, I would like to explore what OPM can do to foster similar relationships and teams at other agencies.

35. Over the past year, OPM has worked with the Chief Human Capital Officer Council to develop new hiring guidelines for federal agencies known as the *End to End Hiring Roadmap* initiative. The intent of the initiative is to address the timeliness, communication, and ease with which OPM is currently working to train agency human resource professionals on the five-part plan. What is your opinion of the guidelines in the Roadmap, and what steps do believe OPM should take to ensure that agencies follow desirable hiring practices?

The guidelines in the End-to-End Hiring Roadmap are an excellent tool to help agencies understand how the components of the hiring process are integrated. If I am not mistaken, this is the first time the entire process has been mapped out, starting with workforce planning and proceeding all the way through to the new employee's orientation. I am eager to discuss with those who developed this Roadmap the next steps in implementing these changes. If there are metrics we can use to ensure greater accountability, I'd like to work with the agencies to make that happen. If confirmed, I look forward to reviewing what has been done to date, identifying needed changes, and working with the Chief Human Capital Officers Council to improve the hiring process by leveraging the results of the End-to-End Hiring initiative.

36. In some areas, OPM has authority to require that agencies follow certain practices and desist from others, but generally OPM can encourage and cajole agencies to improve human capital practices but cannot force agencies to follow its recommendations.

a. Do you believe OPM's authority should be expanded in this area?

I believe the answer is found less in the extent of OPM's authority and more in how that authority is exercised.

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Over the past two past two decades, the Federal personnel system has been characterized by decentralization and delegation. Over that time, OPM has become less of an enforcer and more of a strategic partner with agencies, aligning itself with the evolution - both in public and private sector - of human resources practices. OPM has delegated many personnel decisions to the agencies and encouraged agencies to use human resources flexibilities as they saw fit to achieve their goals.

We must take care to avoid further fragmentation when it comes to human resources reform. OPM must be smart enough to recognize differences among agencies and be agile enough to apply tailored solutions. But we also need reasonable consistency across agencies regarding how we recruit and hire talent, how we evaluate and reward performance, and how we compensate employees. Flexibility must remain firmly bounded by the civil service system's core values -- merit, effectiveness, due process, and protection from reprisal and discrimination.

- b. More generally, do you believe OPM should be granted greater authority in certain areas to require that agencies follow better practices in addressing critical human capital issues?

Oversight is a fundamental element of a federal personnel system that has become more decentralized in recent years. As the government's central personnel agency, OPM has been given statutory responsibility to ensure that agency human resources programs are effective, efficient, and comply with merit system principles and other civil service laws. However, while OPM has broad oversight authority over the Government's human resources program, it has more limited authority to hold agencies accountable for results and ensure compliance with applicable laws and regulations. I believe this is an area worth further study to determine if OPM should have stronger compliance authority to complement and support its already broad oversight role.

- c. How can OPM work with OMB to increase the likelihood of compliance?

Our nation faces enormous challenges on several fronts, from the economy to foreign policy. It has never been more important for the men and women of the Federal Government to have the tools, training, and resources they need to serve the American people.

It is equally important that OPM and OMB, as the two key central management agencies, work closely together on a management plan for the federal workforce. OPM and OMB have already closely collaborated on a strategy to improve the Government's antiquated and ineffective hiring system. OMB's recent memo to agencies outlined four clear benchmarks for improving the federal hiring process and required agencies to meet them in the next six months and demonstrate progress in their annual budget proposals. I am confident that OPM Director Berry and OMB

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Director Orszag will continue to collaborate closely on the management challenges ahead.

At the same time, no institution can transform itself successfully without the buy-in of its most critical stakeholders, and the Government is no exception. In the case of the federal civil service, that means collaboration not only between OPM and OMB, but with senior agency executives and managers, front-line employees and the unions and organizations that represent them, and human resources professionals.

37. As federal agencies implement provisions of the American Recovery and Reinvestment Act (ARRA) (P.L. 111-5), OPM must ensure that the agencies have, and are aware of, the necessary flexibilities and other tools so that they are able to hire qualified individuals in an expedited manner. The Department of Treasury is also tasked with hiring qualified individuals in an expedited manner as they implement the Troubled Asset Relief Program (TARP) (P.L. 110-343). What do you believe is OPM's role in assisting agencies to expedite the hiring process to meet the demands of effectively implementing the ARRA and TARP?

I believe OPM should play a very active and aggressive role in helping to ensure that federal agencies charged with implementing TARP and ARRA are able to meet the challenges caused by unprecedented demands on agency resources.

It is my understanding that OPM has been working with agencies in seeking ways to expedite the hiring process in support of the ARRA and TARP. OPM has held forums and inter-agency training sessions to share information on flexibilities and tools agencies can use to recruit and promptly hire the talent they need. OPM has placed specific information on its website relating to agencies' human resources management needs resulting from the Recovery Act. I look forward to learning more about what OPM is currently doing in this area.

38. Under current law, most federal retirees who return to work for the federal government, find that their new salary is offset by the amount of their existing annuity, unless their agency is granted a waiver from OPM. In many cases, the offset of salary discourages individuals from seeking out new employment opportunities with the federal government, despite the fact that the individual may possess the necessary skills and institutional knowledge desired and often required by agencies for highly skilled, technical, hard-to-fill positions. Often these individuals are attracted to contractors where they can lend their same skill set, and work side-by-side with their former colleagues, but they do not have to receive less pay.

A few agencies, such as the Department of Defense (DoD) have been granted statutory exemptions, not requiring the OPM waivers, thus making it more attractive to return back to work at the agencies. There has been some confusion, however, among agencies and interested job applicants as to why some re-employed annuitants continue to find their salary fully offset, while others are allowed to receive a full salary and annuity, some

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working at agencies needing OPM waivers and some working for agencies not needing OPM waivers.

- a. What is your opinion of rehiring annuitants and what other flexibility mechanisms do you believe need to be in place in order for agencies to hire many people quickly while remaining competitive with the private sector?

Hiring the right person for the right job quickly is essential to an agency's ability to have the workforce necessary to accomplish its mission. Rehiring annuitants is just one tool. There are a number of Government wide hiring flexibilities, in addition to the competitive hiring process, that agencies have at their disposal. The hiring authorities for veterans and for individuals with disabilities are just two examples of expedited hiring.

- b. To what extent do you believe OPM should apply a uniform government-wide policy regarding the authorization to rehire annuitants without offsetting their salary, or to what extent would you support allowing each agency to make such human resources decisions independently?

I am not currently familiar with exactly how this authority is being used across the government. If confirmed, I plan to learn more about this issue.

- c. More generally, do you believe that any changes are needed in current OPM practices or regulation regarding the rehiring of annuitants?

I have been informed that OPM previously proposed legislation that would permit the reemployment of annuitants without salary offset on a limited basis. I would like to review this proposal more carefully, along with OPM's current regulations and practices, in order to make an informed decision about any potential statutory, regulatory, or policy changes.

#### *Workplace Flexibilities*

39. Over the past eight years, Congress has enacted a number of workforce flexibilities for agencies to use in the recruitment and retention of highly qualified applicants. Some believe that flexibilities such as category rating, student loan repayment programs, direct hire authority, and recruitment, retention and relocation bonuses are not used as often as they should be. However, many agencies continue to seek independent statutory authority, partly because agencies do not know that the flexibilities are available for them to use or they do not know how to use them.
- a. What do you believe to be the value of workplace flexibilities such as these, and what is your opinion about whether agencies are using them enough?

Human resources management flexibilities can be extremely useful tools in helping employers address recruitment and retention challenges. My impression from looking at the guidance and information on OPM's website, including its reports to Congress, is that flexibilities like student loan repayments and retention incentives seem to be valuable compensation tools, and agencies have been using them increasingly over the last several years. I cannot comment on whether agencies are using these flexibilities as much as they should. However, I would expect this would depend on a number of factors, including mission requirements, the severity of the recruitment or retention problem, and budget considerations.

- b. How will you help educate agencies on the availability of such flexibilities and how to use them?

Although I have seen the information on OPM's website on human resources flexibilities, I am not familiar with the full scope of OPM's educational initiatives. I think it is important, though, to make sure agencies understand how to use current flexibilities most effectively to help meet their most serious workforce challenges. Therefore, if confirmed, I will seek to ensure OPM is conducting the best possible outreach to agencies on the effective use of flexibilities through all the mechanisms that are currently available, including webcasts and video broadcasts, as well as making more and better information available on the web pages.

- c. Do you believe that there are additional workforce flexibilities needed to help agencies build a modern workforce?

Agencies should be able to take advantage of a wide range of flexibilities to enhance their recruitment efforts. If the current workforce flexibilities do not provide sufficient authority to help agencies build a workforce with the right mix of skills for their missions, OPM should identify why the current authorities are inadequate, and determine whether improvements are needed. If confirmed, I would look forward to assisting Director Berry in developing a plan to address this issue.

40. Agencies often come to Congress seeking permission to gain flexibility for hiring purposes when OPM could have granted a waiver for the same. This has been seen especially in agencies seeking direct hire authority.

- a. How do you believe OPM can work with agencies in using already established authorities effectively?

OPM has an excellent opportunity to work cooperatively with agencies with the aim of helping them use, or improve their use of, established authorities to the benefit of job seekers and federal agencies alike. If agencies view OPM as a partner, they may avoid seeking special legislative authorities unnecessarily.



- b. Are there any concerns about whether there are inconsistent authorities caused by agencies seeking out their own carve-out exceptions to the current hiring provisions?

Carve-out exceptions too often result in re-creating the same authority multiple times across the government. This leads to competitive imbalances among the hiring agencies that use these "designer" authorities, as well as confusion on the part of job-seekers who may be eligible under one authority at one agency, but ineligible for appointment under essentially the same authority at another agency. Generally speaking, a standardized government-wide approach is preferable to replicating the same authority multiple times across government.

41. Flexible work arrangements, referred to generally as "telework," have become an increasingly important component of the federal government's efforts to create continuity of operations plans (COOPs) and to develop modern approaches to effective human capital management. Additionally, telework allows employees and managers flexibility to create work arrangements that are accommodating, boost employee morale, and increase trust and communication between employees and managers. In 2007, the Oversight of Government Management Subcommittee held a hearing on telework opportunities within the federal government. At the hearing, experts testified to the benefits of expanding telework opportunities for federal employees.

- a. How do you plan to work with agencies in developing robust telework policies in their COOPs?

I understand that, as part of OPM's annual collection of telework data from agencies, agencies are asked whether they have integrated telework into their COOP plan. I also know that incorporating telework in agency COOP plans figures prominently in OPM's pandemic guidance.

Telework should be part of all agency emergency planning. Management must be committed to implementing remote work arrangements as broadly as possible to take full advantage of the potential of telework for this purpose. The key is to have a well-established routine telework program so that, in the event of an emergency, as many employees as possible are ready to telework and are comfortable working at an alternate location.

Each agency must develop its own telework policy and manage its telework program, but OPM can do a tremendous amount to assist by:

- Helping agency decision-makers understand that telework is an important tool;
- Providing agencies with individualized guidance and technical support through on-site visits, as well as providing one-on-one consultation to agency telework coordinators on an ongoing, as-needed basis;

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- Continuing to meet regularly with agency telework coordinators for training and discussion;
  - Encouraging agencies to include their telework coordinators in business continuity planning and exercise; and
  - Working with OPM's partner agency, the General Services Administration, to keep information current on the telework.gov website.
- b. More generally, what do you believe are the advantages and disadvantages of telework within federal agencies?

Depending on individual agency goals and needs, a vital telework initiative can help:

- Recruit and retain the best possible workforce - particularly newer workers who have high expectations of a technologically forward-thinking workplace and any worker who values work/life balance;
- Employees manage long commutes and other work/life issues that, if not addressed, can have a negative impact on their effectiveness or lead to employees leaving federal employment;
- Reduce traffic congestion and infrastructure impact in urban areas, thereby improving the environment;
- Save taxpayer dollars by decreasing government real estate costs;
- Address reasonable accommodation issues for employees with disabilities who have significant difficulty commuting to an office; and
- Ensure continuity of essential government functions in the event of national or local emergencies.

Many of the disadvantages of telework tend to arise due to poor program design and/or implementation, rather than because of any inherent problems with the practice. For example, concerns about equity occur when some employees are privileged by opportunities to telework while others are not allowed to do so (as in the case of programs that permit all professional staff to telework, but strictly exclude clerical staff from participating). In addition, the learning and knowledge capacity of agencies can be hampered and employee career development can be jeopardized when programs are implemented in a way that severely limits face-to-face contact among senior and junior staff. Telework becomes a win-win for agencies when program development is guided by strong policies. Director Berry's recent telework

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initiatives include plans to assist agencies in the development of effective telework policies.

- c. Do you support increasing telework opportunities in federal agencies, and, if so, how do you believe it can be accomplished?

Yes, I support increasing telework opportunities in federal agencies, and I'm pleased that Director Berry is committed to moving the program forward with an ambitious agenda, which he announced on Capitol Hill in April and outlined in a memo to agency heads on May 6.

The initiative consists of five key elements:

- **Advisory Group:** OPM has convened an advisory group of telework program managers from key agencies, to draw on their knowledge and expertise in formulating standards for agency policies and programs.
- **Policy Review:** OPM asked all agencies to submit their telework policies for annual review against a set of standards to be established with the help of the telework advisory group. OPM will provide technical assistance to each agency to get the policies up to standard.
- **Telework Managing Officer:** OPM is recommending that all agencies establish a Telework Managing Officer position, and will work intensively with these Telework Managing Officers to provide the support and assistance they need and to cultivate a community of practice.
- **Appeals Process:** OPM encourages agencies to ensure that employees have access to established grievance procedures when they believe the agency's telework policy has not been properly applied.
- **Training:** Director Berry has made a commitment to work with Congress to ensure that high quality, broadly-accessible telework training is provided throughout the Government.

#### *Compensation and Benefits*

42. Some have argued that the current General Schedule (GS) pay system is antiquated and that we need a market-based pay-for-performance system for our federal workforce. Others believe that the General Schedule is fundamentally sound, though it might be better implemented in some respects.
- a. What is your opinion about the General Schedule and what improvements do you think are needed?

I share many of the concerns Director Berry has expressed about the balkanization of federal compensation systems and the need for government-wide pay reform. Many agencies have already abandoned the General Schedule (GS) in favor of alternative personnel systems. There has been little change to the General Schedule since its inception over 50 years ago, so it is not hard to see why there is interest in reassessing GS work level definitions, the relationship of GS pay levels to the market, and performance-based pay. However, poor management and lack of performance accountability on the part of supervisors cannot be fixed by just developing a new system. I would like to hear more from stakeholders regarding the perceived shortcomings of the General Schedule before considering any improvements. If confirmed, I will work with Director Berry to seek that input.

- b. What guiding principles would you follow in any review and improvements of the General Schedule pay system and its implementation?

In reviewing and improving the General Schedule pay system, I would be guided by compensation best practices and the merit system principle of equal pay for work of equal value, considering local and national market rates, with incentives and recognition for performance excellence.

43. In the legislation authorizing the creation of the National Security Personnel System (NSPS), Congress intended OPM to be a full partner in the development of the NSPS. However, section 9901.105 of the proposed regulations issued by DoD and OPM on February 14, 2005, states that OPM may review and comment on proposed DoD implementing issuances, but that, in cases where the Director of OPM does not concur with the proposed action of DoD, the Department may implement it anyway. What recourse do you believe the Director of OPM should have in cases where OPM does not concur with the actions of DoD regarding NSPS?

The intent of the regulations is to maximize the opportunity for consensus and agreement on such issues, but if OPM does not concur with actions DOD is contemplating, I believe the Director has recourse in reporting the lack of consensus to the White House.

44. Certain agencies currently have the authority to waive a number of provisions in the government-wide civil service law in the areas of pay and performance-management to create a human capital management system. Some have been successfully implemented, while others have failed.
- a. What has been your experience working with pay-for-performance personnel systems in government agencies, and what has been your experience with systems under which pay is less flexibly tied to performance? What conclusions have you drawn from these experiences?

As a federal employee, my only experience has been with the General Schedule pay system, which has some tools to reward performance, such as Quality Step Increases

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(QSI) and performance awards. If confirmed, I welcome the opportunity to learn more about best practices in current performance-based systems.

- b. Do you believe that pay-for-performance systems can work without the use of quotas or forced distributions?

I would welcome the opportunity to study how the pay for performance systems work before answering this question.

- c. How do you plan to address concerns raised by employees and managers about the use of quotas and forced distributions?

Under current law, forced distributions or quotas cannot be used in deriving summary performance ratings. If confirmed, I will work with agencies to establish performance management systems that comply with the law.

- d. Generally, what is your opinion about the desirability and feasibility of extending the use of pay-for-performance in the federal government?

I believe federal pay systems should provide incentives and recognition for excellence in performance. Existing systems provide such incentives and recognition in varying degrees. In order to determine how best to reform federal pay, we must determine the best practices in these systems. If confirmed, I will work with Director Berry to make such an assessment.

45. Since 1949, federal employees in the non-contiguous states and territories have received a non-foreign cost of living allowance (COLA) that is based on a cost of living comparison between the COLA area and Washington, D.C. The allowance cannot exceed 25 percent of base pay, does not count toward retirement, and is not subject to federal taxes. When the Federal Employee Pay Comparability Act was enacted, the measure did not cover federal employees in these areas for purposes of locality pay. Since then, there has been a retirement inequity for Federal employees in the non-foreign areas and the federal employees in the 48 contiguous States. In May 2007, OPM submitted a draft legislative proposal to Congress that would transition employees out of COLA and into locality pay. The proposal offered a seven-year phase-in and an 85 percent COLA offset to help with the added taxes and retirement contributions. In May 2008, Senators Akaka, Stevens, Inouye, and Murkowski introduced the Non-Foreign Area Retirement Equity Assurance Act to phase-in locality pay and phase-out COLA over three years with a 65 percent offset with the understanding that federal employees take home pay should be protected. The measure was not enacted in the last Congress and was reintroduced on March 2, 2009 as S. 507 and H.R. 1266.

- a. Do you support a transition from non-foreign COLA to locality pay?

Yes. I understand that the legislation (H.R. 2990) was incorporated into H.R. 2647, as passed by the House. If confirmed, and if the legislation becomes law, I would look forward to working with stakeholders to implement its provisions.

- b. Do you agree with the other key elements of the pending legislative proposal (Including: No employee's take-home pay should be reduced by the transition and a three-year phase-in of locality pay)?

I agree with the key elements in the legislation, including three-year phase-in of locality pay and the sense of Congress that employee take-home pay should not be reduced because of the transition from non-foreign COLA to locality pay.

- c. What level of commitment can you provide that OPM will help educate employees in the non-contiguous United States about the transition from non-foreign COLA to locality pay prior to or after enactment of S. 507 or H.R. 1266, including traveling to Hawaii, Alaska, and the Territories?

If confirmed, I pledge to work with OPM experts to help educate employees in the non-foreign areas on the provisions of the legislation, including traveling to Hawaii, Alaska and the Territories if that is what is necessary to educate federal employees in the non-contiguous United States.

*Federal Employee Health Benefits Program*

46. What changes, if any, do you envision for the Federal Employee Health Benefits Program (FEHBP)? What do you believe needs to be done to help reduce premiums without sacrificing access to quality care?

I am looking forward to working with Director Berry to guide OPM in its important responsibility of administering the largest employer-sponsored health insurance program in the United States, which covers approximately 8 million federal employees, retirees, and their dependents. Health care is a challenging issue for all employers and the nation at large, and I am happy to have the opportunity to help the FEHB Program continue to meet the needs of federal employees during this time of change. I think OPM has done a good job of aggressively negotiating with health plans to provide value to enrollees, and I plan to look for additional opportunities to maintain comprehensive benefits and restrain premium increases.

The Government's contribution to FEHB premiums is established by law, but there is no Government contribution to the new Federal Employees Dental and Vision Insurance Program (FEDVIP). I believe OPM should review these programs, within the context of the Administration's overall health care reform strategies, while ensuring that we continue to be responsible in managing the Government's compensation and employee benefits costs.

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Health care costs have continued to rise in the United States, affecting government programs as well as employer-sponsored health insurance plans. I understand the FEHB Program has generally compared favorably to the cost of coverage industry-wide. To control costs, it is important to ensure that FEHB carriers are adopting industry best practices, including implementation of value-based benefit designs that provide comprehensive coverage of preventive care services and that use disease management programs. In general, if confirmed, my aim will be to promote OPM's continuing, active oversight of health benefits carriers and the benefits they provide to federal employees and their families.

47. In 2003, Congress passed the Medicare Prescription Drug Improvement and Modernization Act, which provided a subsidy for employers who continue to pay the prescription drug benefits of their Medicare eligible employees and retirees. The federal government, as an employer, is eligible to apply for this subsidy like any other employer that provides its retirees with a certain level of prescription drug coverage. However, OPM has not requested the subsidy offered to employers under the Act and has prevented the Postal Service from requesting the subsidy. According to GAO testimony, "if OPM had 'applied for the subsidy and used it to offset premium growth, the subsidy would have lowered the 2006 premium growth by 2.6 percentage points from 6.4 percent to about 4 percent'" (GAO-07-873T, pg. 10). What do you understand to be the reasons for OPM's decisions, and what do you believe are the advantages and disadvantages of making the Medicare prescription-drug subsidy applicable to federal agencies and the Postal Service?

I have not discussed the subsidy with Director Berry or any officials at OPM, so I am not aware of the reasoning behind this decision. It is important for OPM to continue to provide quality health care coverage for employees, retirees, and their families at an affordable cost. If confirmed, I plan to work with Director Berry to review this and any other practice that may have an effect on the cost of coverage for enrollees. I look forward to having the opportunity to examine all possibilities to reduce FEHB Program spending towards prescription drug coverage.

48. The FEHBP has long served as a model employer-sponsored group health insurance plan that provides coverage to active and retired federal employees. When high deductible health plans (HDHPs) with health savings accounts (HSAs) were added to the FEHBP as a voluntary option, some expressed concern that they could have an adverse impact on the risk pool.
- a. Generally, what are your views on advantages and disadvantages of offering HDHPs and HSAs under the FEHBP?

In order to determine any positive or negative effects of HDHPs on the FEHB Program, it would be necessary to conduct a thorough review of the value of these plans. I understand they represent a very small percentage of the overall enrollment

in the Program. If confirmed, I plan to assist Director Berry in looking at all aspects of the FEHBP, including these types of plans.

- b. What do you believe may be the effect of HDHPs on the shared risk pool, and do you believe that this consideration warrants limiting the addition of more HDHPs into FEHBP?

HDHPs could potentially have an adverse impact on the cost of other plans by attracting only healthy enrollees. I believe it is imperative to determine whether such an impact is occurring while reviewing the efficacy of HDHP plans. I understand they represent a very small percentage of the overall enrollment in the Program even though they have been offered as an option since 2005.

*Diversity/Equal Opportunity*

49. In a 2006 report, *Improved Coordination Needed between EEOC and OPM in Leading Federal Workplace EEO*, GAO recommended that the Equal Employment Opportunity Commission (EEOC) and OPM regularly coordinate their responsibilities under the EEO framework and seek opportunities for streamlining similar reporting requirements. (GAO-06-214). Given that OPM and EEOC are both involved in ensuring equal opportunity in the federal workplace, in what ways can OPM and EEOC work collaboratively in providing leadership to ensure equal employment opportunity?

GAO made a number of recommendations for greater collaboration between the two agencies. While some limited progress has been made, many recommendations for improved communication and collaboration have not been realized. I believe that this is an area where I can make a difference. As stated earlier, one of my priorities is to help develop the framework for improved relations between the agencies in order to improve coordination and consolidation where appropriate. Together, EEOC and OPM can provide the leadership, guidance and training necessary to help every agency ensure that EEO is more than an abstract concept that resides in the EEO office and is addressed only when a formal EEO complaint has been filed. EEO principles must be infused in every management policy and decision dealing with human resources. The following recommendations from the GAO report should serve as a starting point of discussion:

- regularly exchanging data from reports submitted by agencies to EEOC and OPM;
- adopting a common format for reports to EEOC under MD-715 and reports to OPM under Federal Equal Opportunity Recruitment Program;
- resolving policy disagreements regarding the collection and use of applicant data;
- collaborating to help ensure that Enterprise Human Resources Integration can support agencies in meeting both EEOC and OPM reporting requirements;
- regularly meeting and exchanging information between EEOC and OPM staff performing oversight of the same agency;

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- identifying opportunities for joint reviews of an agency's EEO and workforce diversity efforts;
- establishing an "e-diversity" Web page created and maintained jointly by EEOC and OPM; and
- meeting jointly with Federal agency EEO and human capital managers during on-site visits.

50. In your position as an EEOC Commissioner, you launched the LEAD (Leadership for the Employment of Americans with Disabilities) Initiative to increase the number of employees with targeted disabilities in the federal workforce.

- a. As Deputy Director of OPM, what do you envision OPM's role to be in helping applicants and agencies better understand how to hire and retain individuals with disabilities?

I believe that OPM must take a leadership role in increasing the number of employees with targeted disabilities who are recruited, hired, advanced, and retained in the federal workforce. Some steps have been taken recently, such as improving the information on the OPM website explaining the Schedule A hiring waiver, but much more can be done. EEOC's LEAD Initiative has developed easy to understand materials for a variety of audiences explaining how to implement and use the Schedule A hiring waiver as an effective and efficient way to increase the employment opportunities for people with disabilities. EEOC's LEAD Initiative is also working collaboratively with the Department of Labor's (DOL's) Office of Disability Employment Policy and the Job Accommodation Network to develop tool kits for a variety of audiences, including potential applicants with disabilities, that will help them understand the Schedule A hiring authority. There is an immediate opportunity for OPM to collaborate on this project and help ensure widespread dissemination to agencies, disability service providers, as well as potential applicants with disabilities. OPM could also become more involved in the promotion and use of the Workforce Recruitment Program, a Federal internship program for students with disabilities. This will provide another opportunity for collaboration with the Office of Disability Employment Policy at the DOL as well as DOD. In addition, OPM should ensure that students with disabilities have equal opportunity to participate in all Federal internship programs.

- b. How will OPM coordinate with the EEOC on initiatives/programs for individuals with disabilities?

There is currently a variety of ways for both agencies to join forces to ensure that agencies have the tools they need to increase employment opportunities for people with disabilities. EEOC currently provides training opportunities on this particular issue. OPM can play a more significant role in establishing training opportunities for all selective placement coordinators and disability program managers. More importantly, OPM should consider providing training for all human resource

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specialists regarding the Federal Government's obligation to recruit, hire, advance, and retain employees with disabilities under the Rehabilitation Act as well as how to use the Schedule A hiring authority. EEOC's LEAD Initiative, in collaboration with DOD, is currently developing a week long training course for Disability Program Managers and Selective Placement Coordinators that will be piloted this August. Based on feedback from experienced personnel who will be invited to attend the pilot session, EEOC will have a well developed and tested training product that will be ready to market to agencies who want to improve employment opportunities for people with disabilities. OPM will have the opportunity to collaborate with the EEOC to begin providing this course to current and newly hired HR and EEO personnel responsible for disability program management in their agency. In addition, OPM and EEOC can work collaboratively to ensure that we are using the same materials and providing the same message when speaking about this issue. In addition, EEOC and OPM can collaborate to develop strategies that will help agencies eliminate the barriers they identify in their MD 715 report that are preventing them from increasing employment and advancement opportunities for people with disabilities.

51. In testimony presented to the Oversight of Government Management Subcommittee on diversity in the Senior Executive Service (SES) on April 3, 2008, GAO showed that diversity in the SES has improved over the past nine years, but that the SES remains less diverse than the candidate pool for the SES, which includes GS-14 and GS-15 employees (GAO-08-609T, pg. 4). Furthermore, the Senior Executives Association testified at the same hearing that "in the past OPM has had [an SES oversight office] and it worked effectively to monitor and manage the SES, government-wide. Currently, different offices within OPM share the responsibility for managing the SES with policy in one office and implementation of that policy in another office. In our opinion, the effect has been a diminishment in the effectiveness of the management of the government-wide SES corps. With respect to diversity, this means that agencies use different systems and standards for recruiting into the SES with varying outcomes on diversity resulting in different agencies." Among the proposals to address these concerns are: (a) that SES Executive Review Boards be made up of a diverse body of reviewing officials; and (b) that a Senior Executive Service Resource Office be established to focus solely on SES policy and support. What is your opinion about the relative lack of diversity within the ranks of the SES, and the more general lack of focus on SES issues within OPM, and what do you believe should be done to address these issues?

I am familiar with the recent GAO Report on Senior Executive Service (SES) diversity and am committed to realizing the goal of an SES that reflects the makeup of the Federal workforce as a whole.

As you note, the current population in GS grades 14 and 15 is more diverse than the SES, with the exception of people with disabilities. If confirmed as Deputy Director, I would expect that a strong emphasis on development at these levels would result in a diverse pool of internal candidates ready to step into executive leadership positions. We have a

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lot of work to do in the area of advancing employees with disabilities into the GS 14 and 15 positions so that they too can qualify for and apply for SES positions. We also need to encourage agencies to recruit from outside government where it is appropriate, to reach a larger and potentially more diverse candidate pool. Certainly, promoting greater diversity on the agency Executive Resources Boards that approve selections to the SES is another option OPM should consider.

The government has already demonstrated in other segments of the federal workforce that diversity goals can be achieved while adhering to the exacting standards of the merit system. Under that system, we cannot mandate individual selections to achieve diversity, and the particularly low turnover among SES members may mean that progress is slower than we would like. Nevertheless, I am confident real progress can be made, and I would look forward, if confirmed as Deputy Director of OPM, to playing a major role in that effort.

In addition, if confirmed, I will lend my full support to any effort by Director Berry to review the organizational structure of OPM to ensure it effectively supports achievement of our mission. For example, establishing a Senior Executive Service Resource Office at OPM might be an effective tactic to promote diversity.

*Automation Efforts/Privacy*

52. OPM has been working on the Retirement Systems Modernization (RSM) program to convert all retirement processing from a paper to an electronic format. OPM contracted Hewitt Associates to develop the electronic system. According to a GAO Report from January 2008 (GAO-08-345), "[OPM's] management of RSM in areas that are important to successful deployment of new systems has not ensured that system components will perform as intended." In May 28, 2008, OPM issued a "stop work" and "show cause" order to Hewitt and claimed that Hewitt failed to meet the performance standards and quality levels in the contract, including failing to comply with OPM's Earned Value Management System guidelines. Hewitt had been paid \$21 million so far for the work they had done to develop the system. On October 16, 2008, OPM terminated its contract with Hewitt and has since begun the process of reexamining the issue.

- a. What steps do you plan to take to address the problems that arose with the Hewitt contract and ensure that RSM is implemented smoothly?

I would work with Director Berry to continue what he has begun -- a top-to-bottom visibility of project performance expectations between OPM and any future vendor. Detailed transparency would be imposed to ensure contracted capabilities are well understood by all parties responsible for deployment and integration. Incremental validation of performance outcomes and accountability would be exercised throughout each phase of the project. Vendor variability in meeting government requirements during any stage of the project would be resolved prior to further project advancement. This would be reinforced by adherence to sound project management

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principles that would support comprehensive integration of all components with program objectives. Where appropriate, an iterative implementation approach would be utilized to allow for incremental build, test, and validation; and meaningful performance measures would drive program improvement. Clear business requirements will be communicated at the outset of any contract opportunity; and those requirements would be managed using a methodology which follows industry best practices and confirms to established standards. Finally, the concept of shared accountability between OPM, federal agencies, and the contractor would be employed as a unifying principle from project initiation through project completion.

- b. How do you plan to address the internal management issues described by GAO in any future RSM contract?

Increased adoption and continuous demonstration of established project management practices are key. I understand that the new project management leadership is focusing its efforts on establishing the appropriate mechanisms to address many of the GAO-identified internal issues and ensure the project moves forward. Successful deployment of a project of this scale requires planning, careful measurement of progress, accountability and empowerment of project leadership. After a review of the revised project plan, an evaluation will be made to determine if the project is on a clear path. If confirmed, I would work with Director Berry to provide the necessary direction and communication of expectations to the Agency's leadership and operational staff that hold a shared responsibility for RSM success both internally and with our external stakeholders.

53. OPM plans have a vast collection of federal employee human resources information, in conjunction with records in OPM's Enterprise Human Resources Integration project and electronic information created under the Retirement System Modernization project. In recent years, various federal agencies have experienced data breaches or had personally identifiable information compromised. Moreover, government data containing sensitive personal information is subject to a number of statutory requirements regarding privacy and data integrity, including: (a) the Privacy Act of 1974, which requires agencies to identify systems of records, provide public notice of such determinations, and provide the public with opportunities to review and correct personally identifiable information; (b) the E-government Act of 2002 and OMB Memorandum 03-22, which call for agencies to conduct privacy impact assessments of new systems; and (c) the Federal Information Security Management Act (an implementing policy published by OMB and the National Institute of Standards and Technology), which requires agencies to conduct risks analyses of new systems and to certify and accredit new systems before commencing operation. Please describe what steps you would take to address such federal privacy and security requirements and concerns regarding OPM records and systems.

If confirmed as Deputy Director of OPM, the protection of the private information of federal civilian employees will be among my highest priorities. Because OPM is the recipient of government-wide data on federal civilian employees, I will ensure that each

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system conforms to the proscriptions of the Privacy Act of 1974, that each system has a completed privacy impact assessment as necessary, and that all risk analyses and certifications are completed as required.

I understand OPM issued guidance to agencies in 2007 to eliminate unnecessary use of social security numbers (SSNs), and I will work to further this objective. OPM and other federal agencies appear to have made significant progress. For instance, where Human Resource Information Technology (HR IT) systems do not yet allow for elimination of the SSN, agencies have replaced full SSN with only the last four digits. As Deputy Director of OPM, I will support these efforts to discontinue the use of SSNs where possible.

I recognize the need to provide information to the public, but I also recognize the need to safeguard the personal information of federal workers. As Deputy Director of OPM, I will ensure that these principles are upheld and that OPM's data release policy always conforms to current law.

54. OPM is responsible for collecting and maintaining accurate information on the federal workforce. OPM also defines data standards and gives instructions to agencies on how to collect, code, and edit data to assure accurate, accessible information. Each month, the federal agencies use the Standard Form-113 Summary Data Reporting System to report their workforce data to OPM. This is a predominantly paper-based process that relies on Excel spreadsheets and the data collection skills of a small team of OPM professionals. Some believe that this process is cumbersome and outdated. OPM could, instead, gather workforce data from the agencies whenever it is needed through the widespread use of automated timekeeping systems that offer web-based reporting that is accurate, verified and fully auditable. If confirmed as OPM Deputy Director, would you consider automating the SF-113 process across all of the agencies in order to increase accessibility and efficiency?

If confirmed, I am committed to continuing efforts to facilitate information-sharing, streamline reporting, and improve efficiency through automation. I understand OPM has taken steps to facilitate electronic work year reporting and will move from monthly to quarterly reporting in coordination with OMB. Providing workforce information to Congress, other agencies, and taxpayers is extremely important, and I take very seriously the need to make sure the data is accurate, timely, and easily accessible for those who need it, and to accomplish this in a cost-effective way. At the same time, we must ensure that all necessary precautions are taken to protect personal information and the security of our data systems.

#### *Security Clearances*

55. Since 2004, this Committee, through the Oversight of Government Management Subcommittee, has worked closely with OPM, through the Federal Investigative Services

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Division (FISD), in reforming the current security clearance process, which remains on GAO's Office's High Risk List. Until recently, the backlog for obtaining a security clearance was unacceptably long. In 2004, the Intelligence Reform and Terrorism Prevention Act tasked OMB with coordinating clearance policy and ensuring reciprocity of clearances between agencies. This resulted in the formation of the Performance Accountability Council at OMB through E.O. 13467 which is the body responsible for enacting policies related to suitability determinations and security clearances.

- a. What additional steps do you believe OPM could take to streamline and expedite the process of issuing security clearances, both for new hires and for existing federal and contract personnel?

OPM can take several additional steps. For example, the imaging and electronic agency delivery process is one way OPM is employing technology to transform the security clearance and investigation process. OPM currently has a major project underway to transform its suite of investigation systems and applications, referred to as *EPIC*. The EPIC transformation will align technologies of many systems and applications to enable OPM to meet the needs of its customer agencies while delivering their investigative products more effectively and efficiently. The transformation project is a multi-year effort and provides an environment to:

- Rapidly respond to government-wide increased demand for security clearances through the use of best-business processes and technology scalability;
- Modernize the technology platform; and,
- Provide the agility of our systems to adjust quickly enough to meet changing business needs.

- b. Will you continue working with our Committee on this important issue?

If confirmed, I would be pleased to work on any issue and with any Committee Director Berry asked of me. OPM and its stakeholders have devoted much time, energy, and resources to addressing this issue, and I welcome the continued interest and support of the Committee as we strive to achieve the goals of reform.

#### *Human Resources Lines of Business*

56. The Human Resources Line of Business (HR LOB) initiative has been initiated and administered by OMB and OPM over the past few years. Under this initiative, some HR practices and functions remain within individual employing agencies, but other functions – that are transactional and not linked to agency missions – are moved out of individual agencies to shared-service providers. Thus, to upgrade their HR information systems, agencies have been required to allow for competition for the work among approved shared-services providers, some of which are within other agencies, and some of which

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are in the private sector. OPM itself provides certain services for a fee under this program.

- a. What is your opinion of the HR LOB program generally, and what changes, if any, do you believe would be desirable?

As I understand it, the Human Resources Line of Business (HR LOB) is the most mature, successful, and viable example among the lines of business initiatives. HR LOB is driving consolidation of HR technology and services across federal agencies and promoting a delivery model of shared services that will create efficiencies and improve the effectiveness of HR. I look forward to studying it in greater depth what could be done to improve its efficiency and effectiveness.

- b. Do you have any concern that a conflict might arise between OPM's role as an administrator and regulator of agencies with respect to their HR activities, and its role providing fee-based services to these same agencies subject to OPM's authority?

The fee-for-service arm of OPM acts independently of the HR LOB, resides in a separate OPM organization, and is subject to the same competitive regulations as any other public or private entity. I do not believe there is a conflict in the execution of OPM's HR LOB responsibilities and OPM's fee-based service unit.

- c. Do you have any concern that OPM's role as a fee-based service provider under HR LOB might divert attention from OPM's core mission? If so, how do you believe such concerns could be addressed?

Although I have not had an opportunity for a detailed review of the issue, at this point I do not believe OPM's core mission suffers because of OPM's role in HR LOB.

#### **IV. Relations with Congress**

57. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?

Yes.

58. Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress if you are confirmed?

Yes.

#### **V. Assistance**

59. Are these answers your own? Have you consulted with OPM or any interested parties? If so, please indicate which entities.

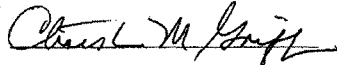
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The Office of Personnel Management has provided background information, which I incorporated into the answers I developed.

## AFFIDAVIT

I, CHRISTINE M. GRIFIN, being duly sworn, hereby state that I have read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.



Subscribed and sworn before me this 9<sup>th</sup> day of July, 2009.



Notary Public

Bobbie Jean Williams  
Notary Public, District of Columbia  
My Commission Expires 11/30/2011

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U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire





United States  
**Office of Government Ethics**  
 1201 New York Avenue, NW., Suite 500  
 Washington, DC 20005-3917

May 20, 2009

The Honorable Joseph I. Lieberman  
 Chairman  
 Committee on Homeland Security  
 and Governmental Affairs  
 United States Senate  
 Washington, DC 20510-6250

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Christine M. Griffin, who has been nominated by President Obama for the position of Deputy Director, Office of Personnel Management.

We have reviewed the report and have also obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert I. Cusick".

Robert I. Cusick  
 Director

Enclosures - REDACTED

**Senator George V. Voinovich**  
**Additional Questions for the Record**  
**Nomination of Christine Griffin**  
**July 16, 2009**

1. In 1961, President Kennedy issued a "Memorandum on the Need for Greater Coordination of Regional and Field Activities of the Government," which led to the creation of Federal Executive Boards (FEBs) to "increase the effectiveness and economy of Federal agencies." Has your previous experience allowed you to interact with FEBs in any instances, or have you studied their roles and responsibilities as part of the nominations process, such that you can tell the Committee about some of the good work FEBs are doing around the country?

During my service as Commissioner at the Equal Employment Opportunity Commission, I have learned about the good work of the Federal Executive Boards in the area of Alternative Dispute Resolution (ADR). Many of the FEB's sponsor ADR/Shared Neutrals Programs that are cooperative arrangements between participating Federal agencies that support the efficient resolution of disputes and formal claims. FEB's provide low or no cost, high-quality mediation services to Federal agencies through these programs that help to avoid costly formal procedures and litigation.

2. In 2007, the Government Accountability Office (GAO) examined "Additional Steps Needed to Take Advantage of Federal Executive Boards' Ability to Contribute to Emergency Operations" and noted that FEBs have no congressional charter and rely on voluntary contributions from their member agencies for funding. GAO recommended that OPM develop a proposal to address the uncertainty of funding sources for FEBs, and OPM submitted such a proposal to the Senate last year. Since February, I have been working with Senator Akaka, GAO and OPM on that proposal and have introduced the Federal Executive Board Authorization Act of 2009 (s. 806) to authorize FEBs, which have existed for almost 50 years as an Executive Branch creation, and set a definite funding stream for FEBs. My legislation draws largely on current OPM and FEB practices, as well as Code of Federal Regulations provisions relating to FEBs. If confirmed, will you work with me to enact S. 806, bipartisan legislation that is based on a GAO recommendation and an OPM legislative proposal?

I will be pleased to work with the Congress to enhance the stability and effectiveness of these under-appreciated entities.

3. Having been a manager, what are your views on any amendments to title 5 that might strengthen the tie between performance and pay?

I have not yet formed any judgments about what, if any, amendments to title 5 may be warranted to strengthen the tie between performance and pay. As a Federal manager, I found that Title 5 does have tools to reward performance, such as Quality Step Increases (QSI's), in the General Schedule system and the incentive awards provisions. I have not had experience with other human resources systems having stronger performance-based

pay components. If confirmed, I will be learning more about such systems and what lessons from them can be applied more broadly.

4. Would you agree that pay should be determined by the productivity, effectiveness, and contributions of employees?

I certainly agree employees should be compensated for the contributions they make to the success of the agency in meeting its mission.

5. What principles will guide your decision making regarding performance management systems?

I will be guided by the principles embodied in the merit system principles, such as—

- fair and equitable treatment in all aspects of personnel management,
- equal pay for work of equal value,
- appropriate incentives and recognition for excellence in performance,
- providing education and training where it will result in better organizational and individual performance, and
- removing employees who cannot or will not meet performance standards.

6. The Office of Personnel Management (OPM) establishes the qualifications, administers the examination, and is responsible for maintaining a listing of qualified candidates for employment by federal agencies as Administrative Law Judges. Administrative Law Judges play a critical role in the adjudication of Social Security disability claims. I remain concerned with the backlog of Social Security disability cases, including in Ohio, where some of my constituents are waiting up to three years for a hearing on their claim. My level of frustration increased when I learned that some Administrative Law Judges are processing less than one case per day. Do you believe ALJs should be given a 15 year appointment subject to renewal, as many federal judges are?

I agree that the independence of ALJs should be preserved to ensure that their decisions are not influenced by political pressure or other improper factors. At the same time, however, it is also important that there be an effective mechanism in place to hold them accountable where their performance is clearly unacceptable, as in the case you raise. I have not had an opportunity to study the competing interests at stake and believe that it would be premature for me to express an opinion about whether establishing a fixed term for ALJs would be an appropriate way to resolve the legitimate concerns that you raise. I know that this issue has been brought to the attention of Director Berry, and that he is interested in addressing the kinds of concerns you have identified. If confirmed, I would look forward to working with him toward that end.

7. Ms. Griffin, you have discussed your interest in bolstering the federal government's efforts to recruit and hire disabled individuals and our nation's veterans. What further policies might you undertake as Deputy Director of OPM?

We have laws, regulations, hiring waivers/flexibilities in place already, yet barriers to employment still exist. I would like the opportunity, if confirmed, to meet with OPM staff to explore exactly how we are supporting the agencies' efforts to recruit and hire from these talent pools and if needed, develop a strategic plan that will address whether regulation and/or policy changes are needed. It is clear to me right now that increased training and clear guidance from OPM are necessary. I understand that Director Berry has already initiated some review of issues affecting the employment of veterans and I look forward, if confirmed, to learning more about and joining that effort.

How will the FY 2010 budget for OPM support your efforts? Do you believe additional funding is necessary?

I fully support the President's FY 2010 budget request to Congress on behalf of the Office of Personnel Management. I am aware that the agency was asked if Director Berry had identified in his initial assessment, any short term needs that were not included in this budget request. The needs ranged from a new phone system to replace the current antiquated, failing system, to the development and implementation of central applicant registries for the top 10 Federal occupations to immediately address hiring complexity issues in those carrier paths. Director Berry is also currently in the process of developing his FY 2011 budget request which will focus on his widely publicized short and long-term agendas.

**Senator Mark Pryor**  
**Additional Questions for the Record**  
**Nomination Hearing of Christine Griffin**  
**July 16, 2009**

1. The federal government is the largest employer in the country and, as you mentioned in your responses to the Committee pre-hearing questionnaire, your role will be to turn the government into the "model employer."

- a. In which employment practices do you believe the government is excelling?

Creating a high performing Federal Government depends on attracting, developing and retaining talented employees and ensuring they have the support and information to contribute to the mission of their agencies. I believe, based on the latest Federal Human Capital Survey results, that Government does an excellent job of conveying a sense of commitment to mission and communicating to employees how their work relates to the agency's goals and priorities. The Government scored very high on Federal employees having the requisite knowledge and skills necessary to get the work done, and there is accountability for achieving results. Also, as most employees will attest, Federal benefits continue to be a significant strength for the Government as an employer. This continues to be an important tool if the Federal Government is going to be competitive in recruiting the best and the brightest.

- b. What practices are hindering the government from becoming a "model employer?"

I believe much work needs to be done in recognizing high performance and dealing with poor performers. Perceptions of a clear link between performance and pay are still low among many Federal employees. We also need to continue to find better ways to attract and recruit people with the right skills for Federal jobs. Although much progress has been made, we still have work to do to make the hiring process more efficient and user-friendly.

- c. Do you believe that making OPM the "model agency" can play a hand in turning the federal government into the "model employer?"

Absolutely! Efforts to make OPM the model agency would go a long way in helping turn the Federal Government as a whole into the model employer. First, these efforts would show that OPM, the Government's personnel office, knows how to actually do what it is recommending the other agencies do. It would also give OPM staff the skills and experience they need to provide guidance to the other agencies. OPM will be viewed more seriously if it can demonstrate that it is progressing towards the goal of being a model agency.

2. The partnership for Public Service conducts a big picture study and releases a report entitled the "Best Places to Work in the Federal Government." The May 2009 report

ranks OPM as 20<sup>th</sup> of the 30 larger federal agencies. The report concluded that for the fourth time in a row the primary driver of job satisfaction is effective leadership. You have shared with us some of your thoughts regarding needed changes in management level positions within the federal government.

- a. What has your experience taught you regarding effective leadership that you can take to OPM?

My experience has taught me that an effective leader works with and listens to staff to develop a shared vision that is clearly and frequently communicated to all employees. A good leader is open and accessible to staff. When goals and expectations about accountability are clearly communicated to employees, the employees are more inspired to work towards achieving the outcomes that leaders expect. Routine feedback on progress is also important for management and staff to hear. I think Director Berry and I share those skills and I expect the next Partnership for Public Service study report will reflect that.

- b. What changes in leadership and management do you hope to oversee that will improve job satisfaction and lead to job retention?

I have not had the opportunity to meet and get to know the leadership and management staff at OPM very well, so it is hard for me to describe changes I would make or oversee. I am hopeful that as a team, we can create an environment at OPM where managers, as well as all other employees, feel that they are part of a big team that is making important contributions to the overall well-being of OPM employees, as well as all Federal employees. As the Partnership study indicates, good leadership and the ability to communicate vision and goals clearly with employees is very important. It is my hope that OPM employees will respect and trust the new leadership team, which will improve job satisfaction and retention.

3. Recruiting federal government employees to fill vacancies, especially at the rate the federal workforce is retiring, has been a concern for some time. Recently, we've seen an increased interest level among recent college graduates wanting to enter federal employment.

- a. How do you plan to maintain this surge of interest in federal employment beyond our current economic situation?

There is no doubt that the economic downturn has created a more favorable condition for agencies to bring in top talent. The Federal Government has a strong presence on campus and is encouraging young people to consider careers in the public sector. OPM will continue to establish and maintain partnerships with academic institutions and professional associations to promote public service.

To remain competitive, though, we need to attract all demographic groups. OPM can do a better job marketing the Federal Government's competitive benefits, work/life

programs, telework, flexible work schedules, career advancement opportunities, training, and other areas where we are especially competitive with the private sector. The Federal Government offers an impressive array of benefits, especially vacations, retirement benefits, and health insurance for retirees. For example, Federal employees have more vacation time (13 to 26 days per year depending on length of service) and more sick leave (13 days a year) than what is provided typically by private sector employers. This is an attractive feature for employees who tend to change jobs more frequently and want to spend more personal time in activities outside work.

Improving the Federal recruitment and hiring process is the key to ensuring Federal agencies have the talent needed to accomplish their missions. I understand that OPM has done much to improve the Federal hiring process for both applicants and Federal agencies in need of talented individuals with the right skills to accomplish their missions. OPM, in collaboration with the Chief Human Capital Officers Council and with input from external stakeholders, has designed an "end-to-end" hiring model for the Federal Government. The model's key components are workforce planning, recruitment, hiring process, suitability/security, and employee orientation. We need to continue with these efforts to make the hiring process easier to use for both applicants and hiring officials.

- b. What types of recruitment activities would you like to see the government pursue?

The Federal Government needs to disseminate information on Federal careers to diverse communities through media outlets and create outreach messages that are inclusive and meaningful to all Americans. We need to raise awareness throughout the country of the wide range of Federal civilian job opportunities. It is important to develop a Government-wide comprehensive media and recruitment campaign to attract highly-skilled candidates for our mission-critical occupations.

We need to maximize use of current technologies to attract and effectively communicate with job seekers. Effective recruiting in the 21st Century will depend on how well we communicate with job seekers. The Internet continues to be the most popular source of information on job opportunities. We need to explore other ways of communicating, such as social media, text messages, and even Twitter. However, we cannot overlook the importance of the "personal touch" in influencing the candidate's decision to join the Federal Government.

Recognizing the importance of attracting the next generation of Federal employees, the Federal Government needs to support scholarships, youth programs and innovative education projects to provide students from elementary school through high school with unique learning experiences and encourage them to pursue higher levels of study in areas the Federal Government will recruit in the future. For

example, the Government needs to attract students with technical and scientific majors who tend to be less interested in public service. Potential strategies to achieve this include sponsoring science and technology competitions and involving these students in state-of-art projects.

Job fairs also offer a unique opportunity for agencies to connect with candidates. The Federal Government could partner with minority and professional organizations to host career fairs.

- c. How can OPM reach out to young adults and other traditionally underrepresented populations to encourage not only entrance into the federal workforce?

I have been informed that OPM is committed to building an effective Federal workforce that draws on the strengths of America's diversity. The Federal Government is making progress in its efforts to recruit minorities and will continue to do so. OPM continues to reach out to diverse pools of talent from Historically Black Colleges and Universities, Hispanic-serving institutions, tribal colleges and universities, women's colleges and other colleges and universities. OPM has developed partnerships with a significant number of minority and professional organizations and actively participates at their conferences to market Federal careers. OPM provides policy guidance to agencies on hiring flexibilities and programs that can be used to recruit and retain talent from all segments of society. In addition, OPM showcases agencies' innovative recruitment, career development and accountability practices in our diversity reports.

I believe OPM is very committed to reaching out to applicants from all segments of society and has encouraged agencies to step up their hiring efforts. For example, this spring OPM held an academic forum with a group of community colleges and vocational schools in the Washington, DC, area to educate them on skills and jobs that will be in demand so they can tailor their courses and curriculums to address those requirements. The Student Educational Employment Program is an important program to develop students and prepare them for entry-level positions. OPM needs to continue encouraging agencies to use all the hiring flexibilities that are available to them to achieve and retain a more diverse workforce.

- d. How do you plan to increase retention rates among current employees?

A key to increasing employee retention rates is ensuring Federal agencies make appropriate and strategic use of current workforce flexibilities. Advancing the use of workplace flexibilities that enhance employee development, such as increased training opportunities, and that help employees maintain a healthy work/life balance, such as telework and flexible work schedules, is essential. In addition, mentoring programs and strategic "onboarding" programs can also help agencies with employee satisfaction, productivity, and retention. These two activities help integrate new hires into their jobs and their agency's mission and culture, and may reduce employee



attrition within the first year. When retention problems are particularly acute, assisting agencies in the careful and strategic use of pay solutions, such as recruitment and retention incentives, student loan repayments, and special rates, will help ensure the Federal Government remains competitive in retaining employees who are critical to agencies' missions. We also need to make sure we are building work environments in which diversity is valued and employees have equal opportunities for advancement.

**OPENING STATEMENT OF STUART G. NASH  
NOMINEE, ASSOCIATE JUDGE, D.C. SUPERIOR COURT  
JULY 16, 2009**

Mr. Chairman, and members of the Committee, I am honored to appear before you today, to have you consider my qualifications for a position as an Associate Judge on the D.C. Superior Court.

Before I begin I would like to introduce my family who are here with me today: my wife, Mary; my children Will, Christopher, and Retta; and my father, Gordon. There are a number of people I need to thank today, but, first and foremost, I would like to express my appreciation to my family, who have nourished me for so many years both emotionally and intellectually, and who have made such substantial sacrifices to allow me to pursue a career in public service.

There are a number of people here in the gallery who have been important role models and colleagues at different stages of my professional career, and while I will not take the time to acknowledge them individually, I would like to express my appreciation to them, not only for being here today, but for sharing their wisdom, their integrity, and their good counsel with me on so many different occasions.

I would like to thank the members of the D.C. Judicial Nomination Commission for recommending me to the White House, and President Barack Obama for nominating me.

Finally, I would like to thank this Committee for acting upon my nomination in such a thorough and timely fashion. Throughout the vetting process, the staff of this Committee has treated me with the utmost professionalism and courtesy, for which I would like to express my deep appreciation.

I feel extraordinarily blessed to be under consideration for a position as a judge in this city that I love so well.

I was born in New York City and raised in northern New Jersey, where I attended the public schools. I received my Bachelor's degree from Duke University, and my law degree from Harvard Law School. I gained my great respect for the judicial vocation while clerking for two exceptional jurists, Chief Judge Sam Ervin of the U.S. Court of Appeals for the Fourth Circuit, and Judge T.S. Ellis, of the Federal District Court in the Eastern District of Virginia.

I worked as a defense attorney for three years at the law firm of Williams & Connolly here in the District of Columbia, and then for over eight years as an Assistant U.S. Attorney for the District of Columbia. In both capacities, I had extensive contact with the D.C. Superior Court, and I came to appreciate the great capacity that exists for dedicated judges on that court to improve the lives of our fellow citizens by presiding over cases fairly, impartially, and with respect for the dignity of the litigants.

For the last four years, I have served in the Office of the Deputy Attorney General of the United States, as an Associate Deputy Attorney General, directing a nationwide task force that targets the most powerful international drug cartels.

As rewarding as it has been to tackle issues with national and international repercussions, I have never lost my love for the place where I first learned the practice of law – D.C. Superior Court. More often than not, our fellow citizens' interactions with D.C. Superior Court come at a time of crisis in their lives. At that particular moment, there is nothing more important to them than the outcomes of their cases. In light of that, there is an opportunity for a dedicated public servant to affect people's lives for the better in a way that is without parallel anywhere else in government. It is truly where the "rubber meets the road."

I am honored to be considered for this position, and I look forward to answering any questions the Committee might have about my qualifications.

Thank you.

**QUESTIONNAIRE RESPONSES OF STUART G. NASH**  
**COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS,**  
**UNITED STATES SENATE**

**I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION**

1. Full name (include any former names used).  
  
Stuart Gordon Nash
2. Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).  
  
United States of America
3. Current office address and telephone number.  
  
Associate Deputy Attorney General  
United States Department of Justice  
Room 4212  
950 Pennsylvania Ave., N.W.  
Washington, DC 20530  
  
(202) 514-8694
4. Date and place of birth.  
  
May 16, 1965  
New York, NY
5. Marital status (if married, include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).  
  
Married  
Wife: Mary Ruppe Nash (maiden name: Mary Speed Ruppe)  
currently fully employed within our home, raising our three children
6. Names and ages of children. List occupation and employer's name if appropriate.

REDACTED

7. Education. List secondary school(s), college(s), law school(s), and any other institutions of higher education attended; list dates of attendance, degree received, and date each degree was received. Please list dating back from most recent to earliest.

Harvard Law School, Cambridge, MA, 1988-1991, J.D., June 1991

(note: my final year of law school, 1990-1991, I attended Boalt Hall School of Law, Berkeley, CA, as a Visiting Scholar)

Duke University, Durham, NC, 1983-1987, A.B., May 1987

Glen Rock High School, Glen Rock, NJ, 1979-1983, High School Diploma, June 1983

8. Employment record. List all jobs held since college, other than legal experience covered in question 16, including the dates of employment, job title or description of job, and name and address of employer. Please list dating back from most recent to earliest. If you have served in the US military, please list dates of service, rank or rate, serial number, and type of discharge received.

Cleary, Gottlieb, Steen & Hamilton, paralegal, 1987-1988

2000 Pennsylvania Ave., NW

Washington, DC 20006

9. Honors and awards. List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

J.D., magna cum laude

A.B., magna cum laude

Phi Beta Kappa

10. Business relationships. List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, or educational or other institution.

None.

11. Bar associations. List all bar associations, legal or judicial-related committees, conferences, or organizations of which you are or have ever been a member, and provide titles and dates of any offices which you have held in such groups.

Bar Association of the District of Columbia  
Edward Bennett Williams Inn of Court

12. Other memberships. List all memberships and offices currently and formerly held in professional, business, fraternal, scholarly, civic, public, charitable, or other organizations, other than those listed in response to Question 11. Please indicate whether any of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.

National Methamphetamine and Pharmaceuticals Initiative, member of the  
Executive Board  
Metropolitan Club of Washington, D.C.  
Chesapeake Bay Foundation  
Sigma Alpha Epsilon social fraternity

To my knowledge, none of these organizations discriminate on the basis of race, sex, or religion.

13. Court admissions. List all courts in which you have been admitted to practice, with dates of admission and lapses in admission if any such memberships have lapsed. Please explain the reason for any lapse in membership. Please provide the same information for any administrative bodies which require special admission to practice.

North Carolina Bar, continuous since August 22, 1992  
District of Columbia Bar, continuous since November 25, 1994  
United States District Court for the District of Columbia, continuous since  
April 3, 1995  
United States Court of Appeals for the D.C. Circuit, continuous since  
July 20, 1997

14. Published writings. List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited.

None.

15. Speeches. List the titles of any formal speeches you have delivered during the last five (5) years and the date and place where they were delivered. Please provide the Committee with four (4) copies of any of these speeches.

Testimony before the United States House of Representatives, Committee on the Judiciary, Subcommittee on Crime, Terrorism and Homeland Security, May 6, 2009, hearing on "Escalating Violence in Mexico and the Southwest Border as a Result of the Illicit Drug Trade"

Testimony before the United States Senate, Committee on Homeland Security and Governmental Affairs, Subcommittee on Investigations, November 14, 2006, hearing on "Failure to Identify Company Owners Impedes Law Enforcement"

Testimony before the United States House of Representatives, Committee on Government Reform, Subcommittee on Criminal Justice, Drug Policy, and Human Resources, May 23, 2006, hearing on "Fiscal Year 2007 Drug Budget, and the Byrne Grant, HIDTA, and other Law Enforcement Programs: Are We Jeopardizing Federal, State, and Local Cooperation?"

16. Legal career.

A. Describe chronologically your law practice and experience after graduation from law school, including:

- (1) Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;
- (2) Whether you practiced alone, and if so, the addresses and dates;
- (3) The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.

Law clerk to the Hon. Sam J. Ervin, III, Chief Judge, United States Court of Appeals for the Fourth Circuit, 1991-92

Law clerk to the Hon. T.S. Ellis, District Judge, United States District Court for the Eastern District of Virginia, 1992-93

Associate, Williams and Connolly, 725 12<sup>th</sup> St., N.W., Washington, DC, 1993-97

Assistant United States Attorney, United States Attorney's Office for the District of Columbia, 555 4<sup>th</sup> St., N.W., Washington, DC, 1997-2005

Counsel, Senate Judiciary Committee, Dirksen Senate Office Building,  
Washington, DC (on detail from my position as an Assistant United States  
Attorney), 2001-02

Counselor to the Attorney General of the United States, 950 Pennsylvania Ave.,  
N.W., Washington, DC (on detail from my position as an Assistant United  
States Attorney), 2004-05

Associate Deputy Attorney General and Director, Organized Crime and Drug  
Enforcement Task Forces (OCDETF), 950 Pennsylvania Ave., N.W.  
Washington, DC, 2005-present

B. Describe the general character of your law practice, dividing it into periods with  
dates if its character has changed over the years.

1991-93 – Law clerk to federal judges at both the trial and appellate level.

1993-97 – Private practice; litigation on behalf of corporate and individual  
clients in the District of Columbia and in federal courts throughout the United  
States; typical clients included Fortune 500 companies, labor organizations,  
and individuals charged with criminal conduct; areas of specialization included  
white collar criminal defense, antitrust, commercial litigation, and some pro  
bono family law representation.

1997-2005 – Assistant United States Attorney; prosecution of criminal cases,  
including murders, violent assaults, RICO, narcotics trafficking, identify theft,  
and fraud, in the District of Columbia Superior Court and the United States  
District Court of the District of Columbia.

2001-02 – Detailed from the United States Attorney's Office to the Senate  
Judiciary Committee to serve as Counsel to the Committee on criminal justice  
policy, including anti-terrorism legislation, cyber-crime issues, DOJ/FBI  
oversight, and campaign finance.

2004-05 – Detailed from the United States Attorney's Office to serve as  
Counselor to the Attorney General of the United States; advised the Attorney  
General on criminal justice issues, including financial crimes, drug  
enforcement, and the death penalty; chaired the Attorney General's Working  
Group on Identity Theft.

2005- present – Associate Deputy Attorney General and Director, Organized  
Crime Drug Enforcement Task Forces (OCDETF); career official within the  
Department of Justice, formulating and implementing policy for the



Department in the areas of money-laundering, asset forfeiture, and drug enforcement; review litigation and approve case dispositions in these areas; manage a multi-agency task force of more than 2000 federal law enforcement agents and 600 federal prosecutors targeting the world's largest drug-trafficking and money-laundering organizations.

- C. Describe your typical former clients and describe the areas of practice, if any, in which you have specialized.

See answer to subsection B, above.

- D. Describe the general nature of your litigation experience, including:

- (1) Whether you have appeared in court frequently, occasionally, or not at all. If the frequency of your court appearances has varied over time, please describe in detail each such variance and give applicable dates.

Since leaving the United States Attorney Office in September 2004, I have appeared in court relatively infrequently, in order to handle sentencings, status hearings, and collateral matters related to my former caseload. In addition to my regular duties, I served as lead counsel in an appellate matter before the United States Court of Appeals for the Ninth Circuit. My current position does require me to supervise litigation, and to make strategic and tactical decisions with respect to litigation, on a constant basis.

Prior to September 2004, I appeared in court regularly, during my tenure as an Assistant United States Attorney. In 2003-04, I had two lengthy trials in the United States District Court for the District of Columbia, each lasting more than two months, during which I was in trial every day. With respect to those two trials, I had a co-counsel with whom I shared all duties equally. In all, between 1997 and 2004, I tried over 50 criminal cases to verdict or judgment, both in D.C. Superior Court and U.S. District Court, as the sole counsel of record. As sole counsel of record, I have handled over a dozen appellate matters in the D.C. Court of Appeals and the D.C. Circuit.

- (2) What percentage of these appearances was in:
- (a) Federal courts (including Federal courts in D.C.);
  - (b) State courts of record (excluding D.C. courts);
  - (c) D.C. courts (Superior Court and D.C. Court of Appeals only);
  - (d) other courts and administrative bodies.

Federal court – 46%  
 State courts (non D.C) – 2%  
 D.C. courts – 50 %  
 Other courts and administrative bodies – 2%

(3) What percentage of your litigation has been:

- (a) civil;
- (b) criminal.

Civil – 10%  
 Criminal – 90%

(4) What is the total number of cases in courts of record you tried to verdict or judgment (rather than settled or resolved, but may include cases decided on motion if they are tabulated separately). Indicate whether you were sole counsel, lead counsel, or associate counsel in these cases.

I have litigated between 50 and 60 cases to verdict or judgment. For the vast majority of these I was sole government counsel. On a small number of matters, I had a co-counsel with whom I shared all duties equally.

(5) What percentage of these trials was to

- (a) a jury;
- (b) the court (include cases decided on motion but tabulate them separately).

Jury – 50%  
 Court – 50%

17. Describe the five (5) most significant litigated matters which you personally handled. Provide citations, if the cases were reported, or the docket number and date if unreported. Give a capsule summary of the substance of each case and a succinct statement of what you believe was of particular significance about the case. Identify the party/parties you represented and describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case, (a) the date of representation; (b) the court and the name of the judge or judges before whom the case was litigated; and (c) the name(s) and address(es) and, telephone number(s) of co-counsel and of the principal counsel for the other parties.

(a) United States v. Corey Ryland (F-902-99) was a first degree murder trial before Judge Lee Satterfield in D.C. Superior Court in March 2000. I served as sole counsel on behalf of the government. Mr. Ryland was represented by Aminata Ipyana and Kelli Irvine of the Public Defender Service, 633 Indiana Ave., N.W., Washington, DC 20004, (202) 628-1200. Mr. Ryland was convicted of all charges, including First Degree Murder, Attempted Armed Robbery, and associated weapons offenses. He was sentenced to an aggregate sentence of 51 years to life. Other than the self-evident seriousness of the charges against Mr. Ryland, the case had particular significance because Mr. Ryland was suspected by the government of having committed a number of other violent offenses, including another murder, for which he had evaded prosecution. Mr. Ryland was convicted despite manufacturing an elaborate alibi defense.

(b) United States v. Adkin Barron (F-3822-99) was a trial in D.C. Superior Court in November 1999 involving a car-to-car drive-by shooting. I was sole counsel for the government. Mr. Barron was represented by Ron Horton of the Public Defender Service, 633 Indiana Ave., N.W., Washington, DC 20004, (202) 628-1200. The trial took place before Judge Michael Rankin. Mr. Barron was convicted of all charges, including Assault with Intent to Kill while Armed, and associated weapons offenses. He was sentenced to 15 years to life. The case had particular significance because of the brazenness of the crime – it involved a shooting in the middle of the day, in broad daylight, at one of the city's busiest intersections.

(c) United States v. Dwayne Cassell (Cr. 00-270) was a trial in U.S. District Court for the District of Columbia in December 2000 involving the defendant's constructive possession of a large cache of assault weapons and crack cocaine. I was lead counsel for the government and handled all in-court aspects of the trial, including pre-trial motions, opening, closing, and examination of all witnesses. Mr. Cassell was represented by Valencia Rainey of the Federal Defender Service, 625 Indiana Ave., N.W., Washington, DC 20004, (202) 208-7500. The trial took place before Judge Ricardo Urbina. Mr. Cassell was

convicted of all felony counts (he was acquitted of a single misdemeanor) and sentenced to 288 months (24 years). The case was significant because it culminated an eighteen month undercover operation that resulted in the arrest and indictment of over 100 individuals. The contraband forming the basis of the conviction was recovered pursuant to one of 20 search warrants that was simultaneously executed by officers of the Metropolitan Police Department. The prosecution was complicated by the fact that the defendant was not present when the contraband was recovered and was not listed as a tenant of the apartment in which it was found.

(d) United States v. George Coumaris (appeal reported at 399 F.3d 343) was a trial in the U.S. District Court for the District of Columbia in November 2002, before Judge Gladys Kessler. I tried this case with co-counsel, AUSA Barbara Kittay, who currently works at Wiley, Rein & Fielding, 1776 K St., N.W., Washington, DC 20006, (202) 719-7488. Ms. Kittay and I equally divided all aspects of the trial. Mr. Coumaris was represented by Bruce Johnson, 4301 Northview Drive, Bowie, MD 20716, (301) 860-1505. Mr. Coumaris was an attorney at the Internal Revenue Service, who used his knowledge and standing within the IRS to facilitate document and identity fraud. Specifically, Mr. Coumaris conspired with another individual to acquire for that individual a false identity, enabling that individual to evade apprehension on outstanding criminal fugitive warrants. Mr. Coumaris was convicted of the conspiracy and sentenced to 48 months' incarceration. The matter was significant to the U.S. Attorney's Office, as it represented a successful resolution to a complicated public corruption matter.

(e) United States v. Calvin Sumler, et al. (reported at 136 F.3d 188) – this case, in the U.S. Court of Appeals for the D.C. Circuit, was the appeal of a four month trial in U.S. District Court. The defendants were accused of establishing and managing a "crew" for the purpose of manufacturing and distributing crack cocaine. The defendants were accused of committing multiple acts of violence, including several murders, in the course of their operations. The three defendants who pursued this appeal had each been convicted of multiple counts of murder, and each had been sentenced to life without possibility of parole. Given the gravity of the case, and the number of issues raised on appeal, the Court of Appeals authorized submission of a 120-page brief on behalf of the government, of which I was the sole author. The Court also extended the usual time limits for oral argument by counsel. I argued the case on behalf of the government. Defendants' convictions were affirmed in all respects (other than the merger of some offenses that were conceded by the government). The panel hearing the case consisted of Judge Harry Edwards, Judge Laurence Silberman, and Judge Karen Henderson. Oral argument was held in February 1998. Defendant Calvin Sumler was represented by Edward Sussman [current address unknown]. Defendant Michael Jefferson was represented by Roberto

Iraolo [current address unknown]. Defendant Gerald Smith was represented by William Garber [current address unknown].

18. Describe the most significant legal activities you have pursued, including significant litigation which did not proceed to trial or legal matters that did not involve litigation. Describe the nature of your participation in each instance described, but you may omit any information protected by the attorney-client privilege (unless the privilege has been waived).

United States v. Freddie Bailey -- this series of cases involved a string of violent offenses perpetrated by a single individual in the Sursum Corda neighborhood of Northwest Washington (the neighborhood for which I served as Community Prosecutor for over a year). I was sole counsel for the government. Mr. Bailey was represented by Billy Ponds, 3218 O St., N.W., Washington, DC 20007, (202) 333-2922. In a short span of time, all in the same neighborhood, Mr. Bailey engaged in a crime spree that included the armed robbery of a video store and its customers, another armed robbery, a shooting, a car-jacking, another shooting (using a machine gun), an attempted car-jacking, and yet another shooting (in which the victim suffered 15 gunshot wounds to all parts of his body, yet miraculously survived). The citizens of the Sursum Corda neighborhood in which these incidents took place were terrorized by this spate of violence. The investigation and indictment of these cases took nearly a year. On the eve of trial, Mr. Bailey entered a plea, before Judge Brooke Hedge, to eight felonies, including Assault with Intent to Kill, Armed Robbery, Aggravated Assault, and Car-jacking. Mr. Bailey was sentenced to an aggregate sentence of 41 years and 8 months to 125 years.

19. Have you ever held judicial office? If so, please give the details of such service, including the court(s) on which you served, whether you were elected or appointed, the dates of your service, and a description of the jurisdiction of the court. Please provide four (4) copies of all opinions you wrote during such service as a judge.

No.

- A. List all court decisions you have made which were reversed or otherwise criticized on appeal.

n/a

20. Have you ever been a candidate for elective, judicial, or any other public office? If so, please give the details, including the date(s) of the election, the office(s) sought, and the results of the election(s).

No.

21. Political activities and affiliations.

- List all public offices, either elected or appointed, which you have held or sought as a candidate or applicant.
- List all memberships and offices held in and services rendered to any political party or election committee during the last ten (10) years.
- Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last five (5) years of \$50 or more.

No offices, memberships, or services rendered.

Political contribution: \$100 to Patrick Mara, candidate for D.C. Council.

22. To your knowledge, have you ever been investigated, arrested, charged, or convicted (include pleas of guilty or nolo contendere) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal law, other than for a minor traffic offense? If so, please provide details.

No.

23. Have you or any business of which you are or were a officer, director or owner ever been a party or otherwise involved as a party in any other legal or administrative proceedings? If so, give the particulars. Do not list any proceedings in which you were merely a guardian ad litem or stakeholder. Include all proceedings in which you were a party in interest, a material witness, were named as a co-conspirator or co-respondent, and list any grand jury investigation in which you appeared as a witness.

No.

24. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar or professional association, disciplinary committee, or other professional group? If so, please provide the details.

No.

## II. POTENTIAL CONFLICTS OF INTEREST

1. Will you sever all connections with your present employer(s), business firm(s), business association(s), or business organization(s) if you are confirmed?

Yes.

2. Describe all financial arrangements, deferred compensation agreements, or other continuing dealings with your law firm, business associates, or clients.

None.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest.

None.

4. Describe any business relationship, dealing, or financial transaction which you have had in the last ten (10) years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest other than while in a federal government capacity.

None.

5. Describe any activity during the last ten (10) years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law or public policy other than while as a federal government employee.

In 2002, in my capacity as a private citizen, I presented testimony to the D.C. Council in favor of an urban ecology initiative to discourage the destruction of mature trees within the boundaries of the District of Columbia.

6. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service as a judge? If so, explain.

No.



7. Explain how you will resolve any potential conflicts of interest, including any that may have been disclosed by your responses to the above items. Please provide three (3) copies of any trust or other relevant agreements.

I do not anticipate any conflicts of interest. Should a conflict arise, I would resolve it in accordance with the Judicial Code of Conduct for the District of Columbia.

8. If confirmed, do you expect to serve out your full term?

Yes.

### III. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

#### IV. DISTRICT OF COLUMBIA REQUIREMENTS

Supplemental questions concerning specific statutory qualifications for service as a judge in the courts of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, D.C. Code Section 11 - 150 1 (b), as amended.

1. Are you a citizen of the United States?

Yes.

2. Are you a member of the bar of the District of Columbia?

Yes.

3. Have you been a member of the bar of the District of Columbia for at least five (5) years? Please provide the date you were admitted to practice in the District of Columbia.

Yes. November 25, 1994.

4. If the answer to Question 3 is "no" --

- A. Are you a professor of law in a law school in the District of Columbia?
- B. Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?
- C. Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?
- D. Upon what grounds is that eligibility based?

n/a

5. Are you a bona fide resident of the District of Columbia?

Yes.

6. Have you maintained an actual place of abode in the greater Washington, D.C. area for at least five (5) years? Please list the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five (5) years.

Yes.

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Washington, DC 20016  
September 2002 – present

(I have been a continuous resident of D.C. for over 16 years.)

7. Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?

No.

8. Have you been a member of either of these Commissions within the last 12 months?

No.

9. Please provide the committee with four (4) copies of your District of Columbia Judicial Nomination commission questionnaire.

Attached.

**AFFIDAVIT**

Stuart G. Nash being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Stuart G. Nash

SUBSCRIBED and SWORN TO before me this 16TH day of JUNE 2009

Rhodora N. Woolner

Notary Public  
**Rhodora N. Woolner**  
 Notary Public for the District of Columbia  
 My commission Expires: April 30, 2010

