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OPEN HEARING ON THE NOMINATION OF MICHAEL ATKINSON TO BE INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY AND JASON KLITENIC TO BE GENERAL COUNSEL OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

HEARING

BEFORE THE

SELECT COMMITTEE ON INTELLIGENCE

OF THE

UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

WEDNESDAY, JANUARY 17, 2018

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WEDNESDAY, JANUARY 17, 2018

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC.

The Committee met, pursuant to notice, at 11:32 a.m. in Room SH–216, Hart Senate Office Building, Hon. Richard Burr (Chairman of the Committee) presiding.

Committee Members Present: Senators Burr, Warner, Risch, Collins, Blunt, Lankford, Feinstein, Wyden, Heinrich, King, Manchin, and Harris.

OPENING STATEMENT OF HON. RICHARD BURR, CHAIRMAN, A U.S. SENATOR FROM NORTH CAROLINA

Chairman BURR. I'd like to call this hearing to order. I'd like to welcome our witnesses today: Jason Klitenic, President Trump's nominee to be the next General Counsel for the Office of Director of National Intelligence; and Michael Atkinson, President Trump's nominee to be the next Inspector General of the Intelligence Community.

Gentlemen, congratulations to both of you on your nominations. I'd like to start by recognizing the families that you've brought with you today. Jason, I understand you have your wife Kate—wave; good.

[Kate Klitenic waves.]

As well as your children Amelia, Hazel, and Clark; your Mother, Joyce—Joyce, where are you?

[Joyce Klitenic waves.]

I know you're proud.

Michael, I believe you have your wife, Kate. Have you guys got something going on here?

[Laughter.]

Your sons Ian and Chris; and your parents, Nelson and Janice.

Welcome to all of the family members. This is a very special day.

Kate, your parents are here, John and Ellen Cameron; and your brother-in-law and sister-in-law Scott and Beth Atkinson. Good.

Thank all of you for your support of Jason and Michael. I'm confident that they would not be here today if it were not for your years of love, encouragement, and, potentially more important, your patience.

Our goal in conducting this hearing is to enable the Committee to consider both nominees' qualifications and to allow for thoughtful deliberation by our Members. The witnesses each have already provided written responses to over 40 questions presented by the Committee and its Members. Today, of course, Members will be able to ask additional questions and hear directly from the nominees.

Mr. Klitenic graduated from Johns Hopkins University and received his law degree from the University of Baltimore Law School. Jason then served as Deputy Associate Attorney General at the Department of Justice, where he oversaw antitrust, civil rights, and environmental law. Thereafter, from 2003 to 2005 he served as the Deputy General Counsel of the Department of Homeland Security. Following his government service, Jason worked in the private sector, most recently as a partner at the law firm Holland & Knight.

Mr. Atkinson earned his undergraduate degree from Syracuse University, his law degree from Cornell. After his time in the private sector as a partner at Winston & Strawn, Michael served as a trial attorney in the Fraud Section of the Department of Justice Criminal Division from 2002 through 2006.

From 2006 to 2016, Michael served as Assistant U.S. Attorney in the U.S. Attorney's Office for the District of Columbia. During that time, he was Deputy Chief of the Fraud and Public Corruption Section and Acting Chief of the Fraud and Corruption Section. Michael currently serves as the Acting Deputy Assistant Attorney General and Senior Counsel to the Assistant Attorney General of the Department of Justice National Security Division.

Jason, you've been asked to be the lead counsel for the Office of the Director of National Intelligence at a time we're facing threats from state and non-state actors and are engaged in a robust debate at home on the scope and scale of intelligence collection and what authorities are right and appropriate and lawful. I trust that you will provide sound legal counsel and judgment and will speak truth to power as the Director of National Intelligence works through some incredibly complex and divisive issues.

Michael, independent and empowered inspectors general are critical to the integrity and the efficient management of the intelligence community. I trust that you will lead the Inspector General of the Intelligence Community's Office with integrity and will ensure that your officers operate lawfully, ethically, and morally.

The Committee will ask for your responsive, transparent, and timely responses in our interactions, a necessary condition for us to conduct effective oversight. As I have mentioned to other nominees during their confirmation hearings, I can assure you that this Committee will continue to faithfully follow its charter and conduct vigorous and real-time oversight over the intelligence community, its operations, and its activities. We will ask difficult and probing questions of you, and your staff, and we expect honest, complete responses.

I enjoyed meeting both of you and discussing your qualifications and the reasons for pursuing continued public service. I look forward to supporting your nominations and ensuring their consideration without delay. I want to thank you both again today for being here, for your years of service to our country. I look forward to your testimony, and I now recognize the Vice Chairman for any comments he might have.

OPENING STATEMENT OF HON. MARK R. WARNER, A U.S. SENATOR FROM VIRGINIA

Vice Chairman WARNER. Thank you, Mr. Chairman.

Welcome, Mr. Atkinson and Mr. Klitenic. Congratulations on your nominations to serve as Intelligence Community Inspector General and General Counsel for the Office of the DNI. Both of these positions are critically important to ensuring the intelligence community runs efficiently and effectively, that it abides by the laws of this country, and that the IC protects against waste, fraud, and abuse.

One of the most important attributes that both of you, if you're confirmed, will have to bring to these roles is the willingness to speak truth to power. For this reason, I'll be asking each of you to uphold your principles, to always provide unbiased, unvarnished, and timely advice to both the Director of National Intelligence and to the Congress.

You're also aware that this Committee is leading the review into the Russian interference in the 2016 U.S. presidential election. During this hearing I want to hear assurances from both of you that you will fully cooperate with this review and provide this Committee with all the information requested in a timely fashion.

Mr. Atkinson, as the Inspector General of the Intel Community your job is especially critical because of the nature of the material that they handle every day, whistleblowers within the IC generally can't go public to expose misbehavior and misuse of official resources. We the Congress and the American people will depend upon you as an independent agent of accountability for the Office of the DNI and, for that matter, for the whole intel community.

While you don't have previous experience as an inspector general, I look forward to hearing your plans for the righting of the ship at the IC's IG when it comes to both whistleblower protections and investigations. I'm very concerned by the significant number of open cases that I believe have lingered too long. If confirmed, I will ask you to make the whistleblower program a priority. This is an area that cuts across party lines and committee jurisdictions.

Senators Grassley, Wyden, Collins, and I together have requested a GAO study to review IC-wide whistleblower policies and procedures. This study, when completed, will help inform your approaches and ours as we seek to address some of the gaps.

Mr. Klitenic, your job will be to give Director Coats the best possible legal counsel possible, even when doing so, as we discussed, might be inconvenient or even uncomfortable. I value your commitments that you have made to me and I hope you'll reiterate some of those commitments publicly. One, that you will ensure that all of the work of the ODNI and the IC is consistent, is constitutional and consistent with the law; that, again, that you'll speak truth to

power regardless of political considerations or the willingness of those in power to hear that truth; that you will see your legal obligation to keep the intelligence oversight committees—and this is terribly important—fully and currently informed of all significant intelligence activities, as just the bare minimum of our engagement; that as chief lawyer for the intelligence community, I believe you'll have to make sure, as we touched on as well, that policies like issues that particularly Senator Feinstein has been a champion of, of making sure that interrogation practices—that we don't go back to the past.

To both of our nominees, again echoing the Chairman, congratulations. It's an honor that you've been nominated to serve our country. I want to thank you for accepting these opportunities and these positions and look forward to the opportunity to question you.

Thank you, Mr. Chairman.

Chairman BURR. Thank You, Vice Chairman.

Mr. Klitenic and Mr. Atkinson, would you please stand. I'm going to ask you to raise your right hand.

Do you solemnly swear to give the Committee the truth, the full truth, and nothing but the truth, so help you God?

Mr. KLITENIC. Yes.

Mr. ATKINSON. Yes.

Chairman BURR. Please be seated.

Jason and Michael, before we move to your statements I'll ask you to answer five standard questions that the Committee poses to each nominee who appears before us. They just require a simple yes or no response.

Do you agree to appear before the Committee here or in any other venue when invited?

Mr. ATKINSON. Yes.

Mr. KLITENIC. Yes.

Chairman BURR. If confirmed, do you agree to send officials from your office to appear before the Committee and designated staff when invited?

Mr. ATKINSON. Yes.

Mr. KLITENIC. Yes.

Chairman BURR. Do you agree to provide documents or any other materials requested by the Committee in order for us to carry out our oversight and legislative responsibilities?

Mr. KLITENIC. Yes.

Mr. ATKINSON. Yes.

Chairman BURR. Will you both ensure that your office and your staffs provide such materials to the Committee when requested?

Mr. KLITENIC. Yes.

Mr. ATKINSON. Yes.

Chairman BURR. Do you agree to inform and fully brief to the fullest extent possible all Members of the Committee of the intelligence activities and covert action, rather than only the Chair and Vice Chairman, where appropriate?

Mr. ATKINSON. Yes.

Mr. KLITENIC. Yes.

Chairman BURR. Thank you very much.

We'll now proceed to your opening statements, after which I'll recognize Members by seniority for up to five minutes of questions. Jason, I'll ask you to begin, followed by Michael.

STATEMENT OF JASON KLITENIC, NOMINATED TO BE GENERAL COUNSEL, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

Mr. KLITENIC. Chairman Burr, Vice Chairman Warner, Members of the Committee: Thank you for providing me the opportunity to appear before you today as you consider my nomination to be General Counsel of the Office of the Director of National Intelligence.

I also want to thank the President and Director Coats for placing their confidence in me. If confirmed, I commit to working every day to maintain this confidence and to demonstrate to them and to each of you that I will uphold the highest standards of the office.

With your indulgence, I would like to recognize my family, without whose love and support I would not be here. Joining me today are: my mother, Joyce Klitenic; my sister Jenny Whittaker; my brother-in-law John Whittaker; my brother-in-law Evan Howell; and my sister-in-law Helen Wray. I would also like to recognize my sister, Sarah Wear, who is back home with her husband awaiting the birth of their child, which I believe to be imminent.

Also seated behind me are four more very important people in my life: my wife of 24 years, Kate; and our three children, Amelia, Clark, and Hazel. In a setting such as this, it is difficult to explain how grateful I am to my family for their never-ending support. And thank-you to my close friends and colleagues who took time out of their busy days to join us here today.

Additionally, I want to remember someone who is not with us today. My father, Earl Klitenic, passed away three years ago. I think about him each day as I strive to live up to the high standards that he and my mother set for me.

By way of background, I grew up in the Washington, D.C., area, fortunately in a house with parents who loved me and who from the beginning taught me the difference between right and wrong, the importance of unyielding integrity, and the value of hard work. My parents also taught me how lucky I am to be an American and that I should never take the attendant freedom for granted.

They taught me about patriotism, democracy, security, free speech, and the rule of law, and that the role of our government is to keep us safe from harm while protecting the civil liberties that enable us to live in a free, open, and diverse society. Millions of people throughout the world suffer under regimes that provide neither security nor freedom. Here we are blessed to have both.

My parents also taught me the importance of public service. They were career government civil servants. My father served in the Department of Defense, the Justice Department, and the United States Information Agency. Before retiring, my mother spent the bulk of her career at the Justice Department, where she served in the Office of Intelligence Policy Review and, after its creation, the National Security Division.

Following in my parents' footsteps, I have had the privilege to serve both in the Justice Department and the Department of Homeland Security. I've been among and around the national secu-

rity community throughout my life, both personally and professionally.

I have the highest regard for the men and women who serve in the intelligence community. Both in private practice and while serving in government, I have had the opportunity to work closely with the people who protect us from our adversaries and in doing so preserve our values as a Nation. These people, who work outside the limelight and beyond the scope of credit and accolades, each day perform their jobs with discipline, attention to detail, and unrelenting dedication to the mission. If confirmed, it would be an honor for me to serve with them again on behalf of our country.

My past experience has prepared me well for this position. During my tenure at DHS and DOJ, I worked on complex legal issues involving counterterrorism, cyber security, data privacy, and government-wide information-sharing initiatives, work that I believe helped keep this Nation safe while preserving our civil liberties.

Through my past government service, I also gained significant management experience and became adept at navigating the interagency processes that are integral to the effective functioning of our government. In all this work, I stressed the importance of working together across the government to do what was lawful and what was right.

Once public service is in your blood, you can never truly step away from it. In private practice, I lead my firm's homeland security team and continue to work closely and collaboratively with the people who serve in our national security agencies.

The General Counsel position for which I have been nominated is, of course, a legal position, an important legal position. If confirmed, my allegiance would be to the constitution and my vow would be to uphold the rule of law. Based on my prior government experience, I am keenly aware that legal advice cannot be given in a vacuum. By that I mean, while I may be opining on a legal issue within the safe and comfortable confines of the headquarters office, the ultimate end consumer of my advice might be a career analyst or operator out in the field. When I render legal advice, I will be thinking of people whom I may never meet, but who are relying on my views in the course of performing difficult and dangerous jobs on behalf of our country.

I never want to fail those people. It is important to me that they be able to rely upon my legal advice with the full confidence that it is timely, clear, actionable, and fully supported by law. There is no corner-cutting in this line of work.

I also believe strongly in my responsibility, if confirmed, to keep Congress fully and currently informed and my responsibility to support your oversight over the IC. The IC's unique missions are often practiced in secrecy to protect critical sources and methods in support of our national security. That secrecy makes my relationship and engagement with this Committee all the more important. I pledge to build open relationships of trust with this Committee and your House counterparts, as I recognize the critical role that you play in representing the American people for these sensitive matters.

In closing, I want to stress that, if confirmed, I would very much look forward to working with each of you and your staffs. I am

mindful of this Committee's important oversight role and I would hope that you would find me to be a trusted resource and dependable public servant.

I look forward to answering your questions.

[The prepared statement of Mr. Klitenic follows:]

Statement for the Record of Jason Klitenic

Nominee to be General Counsel of the Office of the Director of National Intelligence

Before the Senate Select Committee on Intelligence

January 17, 2018

Chairman Burr, Vice-Chairman Warner, Members of the Committee, thank you for providing me the opportunity to appear before you today as you consider my nomination to be General Counsel of the Office of the Director of National Intelligence.

I also want to thank the President and Director Coats for placing their confidence in me. If confirmed, I commit to working every day to maintain this confidence and to demonstrate to them, and each of you, that I will uphold the highest standards of the office.

With your indulgence, I would like to recognize my family, without whose love and support I would not be here. Joining me today are my mother, Joyce Klitenic, my sister, Jenny Whittaker, my brother-in-law, John Whittaker, my brother-in-law Evan Howell, and my sister-in-law, Helen Wray. I would also like to recognize my sister, Sarah Wear, who is back home with her husband awaiting the birth of their child.

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My parents also taught me the importance of public service. They were career government civil servants. My father served in the Department of Defense, the Justice Department and the United States Information Agency. Before retiring, my mother spent the bulk of her career at the Justice Department, where she served in the Office of Intelligence Policy Review and, after its creation, the National Security Division.

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My past experience has prepared me well for this position. During my tenure at DHS and DOJ, I worked on complex legal issues involving counterterrorism, cyber security, data privacy and government-wide information sharing initiatives—work that I believe helped keep this nation safe while preserving our civil liberties. Through my past government service I also gained significant management experience and became adept at navigating the inter-agency processes that are integral to the effective functioning of our government. In all this work, I stressed the importance of working together across the government to do what was lawful and what was right. Once public service is in your blood, you can never truly step away from it.

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When I render legal advice I will be thinking of people whom I may never meet but who are relying on my views in the course of performing difficult and dangerous jobs on behalf of our country. I never want to fail those people. It is important to me that they be able to rely upon legal advice with the full confidence that it is timely, clear, actionable and fully supported by law—there is no corner-cutting in this line of work.

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In closing, I want to stress that, if confirmed, I would very much look forward to working with each of you and your staffs. I am mindful of this Committee's important oversight role and I would hope that you would find me to be a trusted resource and dependable public servant.

I look forward to answering your questions.

Chairman BURR. Jason, thank you very much.

Michael, the floor is yours.

STATEMENT OF MICHAEL ATKINSON, NOMINATED TO BE INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY

Mr. ATKINSON. Chairman Burr, Vice Chairman Warner, Members of the Committee: Thank you for scheduling this hearing to consider my nomination to be the Inspector General for the Intelligence Community. I am honored to have been nominated for this position by President Trump, with the support of the Director of National Intelligence, Dan Coats.

I first want to thank and recognize my family members and friends who are here today and watching remotely. Here with me today are: my wife Kate; and our two sons, Ian and Christopher; my parents, Nels and Jan Atkinson; my wife's parents, John and Eileen Cameron; and my youngest brother and his wife, Scott and Beth Atkinson.

I also see friends and colleagues in the audience and I thank them for their support. I also want to thank my family and friends who are watching this hearing remotely.

The prehearing materials that I submitted to the Committee summarize my background and experience. I want to take just a few minutes to add some context to those materials and to recognize additional people who have helped me to be here today.

After graduating from law school at Cornell University, I went to work as an associate at Winston & Strawn here in Washington, D.C., where I stayed for 11 years and was elected partner. Winston & Strawn provided me with good, excellent legal training, superb mentors and colleagues, and challenging legal experiences in complex civil litigation and white collar criminal defense matters. I was fortunate to have such an enjoyable start to my legal career.

But I also felt that some things in my professional life were missing. I wanted more challenges, greater responsibilities, and different rewards. After the September 11th attacks, I decided to seek public service work. In 2002, I was delighted when the leaders in the Criminal Division in the United States Department of Justice offered me a position as a trial attorney in the Fraud Section.

The Fraud Section filled the professional gaps I had been feeling in private practice. I was able to work exclusively on complex white collar criminal fraud matters, with talented and experienced prosecutors and law enforcement agents from around the country. I was given greater responsibilities, including an opportunity to try my first jury trial. Thankfully, I was paired with a hard-working and much more experienced trial partner, as we were up against some of the best defense attorneys in the country. I am thankful that one of those defense attorneys, Reid Weingarten, was gracious enough to write a letter of recommendation for me in support of my nomination.

While at the Department of Justice, I also had the opportunity to experience the different professional rewards I had been seeking. My sense of professional accomplishment was never higher. For that I also have to thank my wife, who remained in private practice and made her own personal and professional sacrifices to help me realize my professional goals.

I left the Fraud Section in 2006 to become an Assistant United States Attorney in the United States Attorney's Office for the District of Columbia. The U.S. Attorney's Office provided me with all the challenges and rewards that I had come to enjoy at the Fraud Section, but with some added benefits. I was able to reduce the amount of time I was on the road and to spend more time in the area as my wife and I raised our two sons.

Becoming an AUSA also gave me an opportunity to become part of a new family at the U.S. Attorney's Office and to experience an extraordinary camaraderie with colleagues, special agents, and investigators. I am grateful to them for their work ethic, professionalism, and friendship, which allowed me to be part of a highly effective team in helping to root out fraud and public corruption here in our Nation's capital.

I left the U.S. Attorney's Office after ten years to take on greater responsibilities within the Department of Justice in an area of the law that I did not have much experience, national security. I joined the Department's National Security Division in 2016 and began to learn in detail about cyber security, export controls, and sanctions, economic espionage, unauthorized disclosures, and foreign direct investment.

I thank my colleagues at the National Security Division for their patience and support in helping me to learn these complex areas of the law, especially for helping someone like me, who once had to pay a $75 fine as a teenager for illegally spearing fish to understand that illegal spear phishing in today's world typically has nothing to do with fish.

I believe that my prior experiences and substantive knowledge suit me well for my next challenge, which, if confirmed, would make me the Intelligence Community Inspector General, or the IC IG.

As I have made my rounds through your offices during the past several weeks, meeting with the Chairman, the Vice Chairman, several other Committee Members, Senator Grassley, and numerous professional staff members, I've been left with two primary impressions about the Office of the IC IG. I want to share those impressions, and I particularly want to share them with any current employees of the IC IG who may hear or read my statement.

First, I am left with the impression that this Committee and other members of the Senate are unified in their desire to see the IC IG succeed as an office. As was the case when Congress created the IC IG in 2010, there are many contentious issues within the intelligence community, but the need for an IC IG is not one of them. My impression is that the Committee remains unified in its support for an IC IG that can identify problem areas and find the most efficient and effective business practices required to ensure that critical deficiencies are addressed before it is too late, before we have an intelligence failure.

There also remains strong bipartisan support for an Inspector General of the Intelligence Community who, as the Chair of the IC IG Forum, works together with the intelligence community IGs to build a strong coalition, identify issues of common interest, and initiate cross-jurisdictional reviews. Such unified support is a good

thing for any organization and is especially good for a relatively new governmental organization in today's budget climate.

But this goodwill must not be taken for granted, because it can be squandered. This brings me to my second impression. My second impression about the Office of the IC IG is not nearly as favorable. I do not believe I am revealing any confidences when I share my impression that there is a broad view among the Committee, its staff, and other Members that the Office of the IC IG is not currently functioning as effectively as Congress intended. It is not difficult to find some of the sources for this view. One recent press article reported that the Office of the IC IG is "in danger of crumbling," "barely functioning," "on fire," and "gutted."

Now, perhaps things inside the Office of the IC IG are not as bad as the press and others portray them. I for one certainly hope so. And as a prosecutor and former defense attorney, I know there are at least two sides to nearly every story. Nevertheless, real or not, this is an ultimately unsustainable impression for the Committee to have of the IC IG.

The impression is also that the current problems are internal. This needs to change before the IC IG loses the support of this Committee and the Congress as a whole. Simply put, it appears that the IC IG needs to put its house in order, and the sooner the better.

My experience has taught me that the effectiveness of any team is dependent first and foremost on having the right people on the team, with a shared set of goals and values. I see no reason to believe that an Office of Inspector General is any different. My first objective as Inspector General, if confirmed, will be to make sure that the IC IG's house is in order. This will involve making sure the right people are in the IC IG. I am confident there are right people for the IC IG already there, people with a commitment to integrity, discipline, excellence, and independence, and I hope they stay.

If I'm confirmed, the IC IG will work together as a team to achieve Congress' most ambitious intentions for the office. In the near term, we will work together to encourage, operate, and enforce a program for authorized disclosures by whistleblowers within the intelligence community that validates moral courage without compromising national security and without retaliation.

Over the long term, if confirmed, we will work together and with the IC IG Forum members to look across the intelligence landscape, as Congress and this Committee intended, to help improve management, coordination, cooperation, and information-sharing within the intelligence community. Throughout my tenure, we will work together to be responsive to this Committee so that you are able to fulfill your oversight obligations and to ensure that U.S. intelligence activities meet our Nation's security needs, respect our laws, and reflect American values.

I thank you for your time in listening to me, and I appreciate the opportunity to answer your questions.

[The prepared statement of Mr. Atkinson follows:]

Statement of Michael K. Atkinson
Nominee for Inspector General of the Intelligence Community

Before the United States Senate
Select Committee on Intelligence

January 17, 2018

Chairman Burr, Vice Chairman Warner, and Members of the Committee:

Thank you for scheduling this hearing to consider my nomination to be the Inspector General of the Intelligence Community and for inviting me to make this opening statement. I am honored to have been nominated for this position by President Trump, with the support of the Director of National Intelligence Dan Coats.

I first want to thank and recognize my family members and friends who are here today and watching remotely. [Recognition of family members and friends to follow.]

The pre-hearing materials that I have submitted to the Committee summarize my background and experience. I will take just a few minutes to add some context to those materials and to recognize some more people who have helped me to be here today. After graduating from law school at Cornell University, I went to work as an associate at an international law firm, Winston & Strawn, in Washington, D.C., where I stayed for eleven years and was elected partner. Winston & Strawn provided me with excellent legal training, superb mentors and colleagues, challenging legal experiences in complex civil litigation and white collar defense matters, and generous financial compensation. I was fortunate to have such an enjoyable start to my legal career. But I also felt that some things in my professional life were missing. I wanted more challenges, greater responsibilities, and different rewards.

After the September 11th attacks, I decided to seek public service work. In 2002, I was delighted when the leaders in the Criminal Division at the United States Department of Justice offered me a position as a Trial Attorney in the Fraud Section, which, unbeknownst to me at the time, would be the start of my now fifteen year career with the Department.

The Fraud Section filled the professional gaps I had been feeling in private practice. I was able to work exclusively on complex white collar criminal fraud matters, with talented and experienced prosecutors and law enforcement agents from around the country. I was given greater responsibilities, including an opportunity to try my first jury trial. Thankfully, I was paired with a hard-working and much more experienced trial partner, as

we were up against some of the best defense attorneys in the country. I am thankful that one of those defense attorneys, Reid Weingarten, was gracious enough to write a letter of recommendation for me in support of my nomination.

While at the Department of Justice, I also had the opportunity to experience the different professional rewards I had been seeking. Although my annual salary was reduced by nearly two-thirds from my time at the law firm, my sense of professional accomplishment was never higher. For that I also have to thank my wife, who remained in private practice, and made her own personal and professional sacrifices, to help me realize my professional goals.

I left the Fraud Section in 2006 to become an Assistant United States Attorney in the United States Attorney's Office for the District of Columbia. I owe appreciation to John Roth, who was then the Chief of the Fraud and Public Corruption Section at the U.S. Attorney's Office, for having faith in me as a prosecutor and recommending me for a position as an AUSA. John, as many of you know, was the Inspector General at the Department of Homeland Security until his retirement last year. I also appreciate John for his thoughtful letter of recommendation in support of my nomination.

The U.S. Attorney's Office provided me with all of the challenges and rewards that I had come to enjoy at the Fraud Section, but with some added benefits. Most immediately, I was able to avoid travel to provide more support to my wife as we raised our two sons. Over the longer term, becoming an AUSA gave me an opportunity to become part of a new family at the U.S. Attorney's Office, and to experience an extraordinary comradery with colleagues, special agents, and investigators. I am grateful to them for their work ethic, professionalism, and friendship, which allowed me to be part of a highly effective team in helping to root out fraud and public corruption here in our Nation's capital. I am also grateful to former United States Attorney Ron Machen, for his trust in me as a prosecutor and a supervisor, as well as for his kind letter of recommendation in support of my nomination.

I left the United States Attorney's Office after ten years to take on greater responsibilities within the Department of Justice in an area of the law where I did not have much experience: national security. I joined the Department's National Security Division in 2016 and began to learn in detail about cybersecurity, export controls and sanctions, economic espionage, unauthorized disclosures, and foreign direct investment. I thank my colleagues at the National Security Division for their patience and support in helping me to learn these complex areas of the law, especially for helping someone like me, who once had to pay a $75 fine as a teenager for illegally spearing fish, to understand that illegal spearfishing in today's world typically has nothing to do with fish.

I believe that my prior experiences and substantive knowledge suit me well for my next challenge, which, if confirmed, would make me the Intelligence Community Inspector General or IC IG. As I have made my rounds through your offices during the past several weeks, meeting with the Chairman, the Vice Chairman, several other Committee members, Senator Grassley, and numerous professional staff members, I have been left with two primary impressions about the Office of the IC IG. I want to share these impressions, and I particularly want to share them with any current employees of the IC IG who may hear or read my statement.

First, I am left with the impression that this Committee and other members of the Senate are unified in their desire to see the IC IG succeed as an Office. As was the case when Congress created the Office of the IC IG in 2010, there are many contentious issues within the Intelligence Community, but the need for an IC IG is not one of them. There remains bi-partisan support for an Inspector General of the Intelligence Community who can look across the intelligence landscape to help improve management, coordination, cooperation, and information sharing among the sixteen agencies that comprise the Intelligence Community. My impression is that the Committee remains unified in its support for an IC IG that can identify problem areas and find the most efficient and effective business practices required to ensure that critical deficiencies are addressed before it is too late – before we have an intelligence failure. Such unified support is a good thing for any organization, and it is especially good for a relatively new governmental organization in today's budget climate. But this goodwill must not be taken for granted, because it can be squandered. This brings me to my second impression.

My second impression about the Office of the IC IG is not nearly as favorable. I do not believe I am revealing any confidences when I share my impression that there is a broad view among the Committee, its staff, and other Members that the Office of the IC IG is not currently functioning as effectively as Congress intended. It is not difficult to find some of the sources for this view. One recent press article reported that the Office of the IC IG is "in danger of crumbling," "barely functioning," "on fire," and "gutted."[1]

Now, perhaps things inside the Office of the IC IG are not as bad as the press and others portray them. I, for one, certainly hope so. And, as a prosecutor and former defense attorney, I know there are at least two sides to nearly every story. Nevertheless, real or not, this is a poor and an ultimately unsustainable impression for the Committee to have of the IC IG. The impression is that the cause of these current problems is internal. This

[1] "A Turf War is Tearing Apart the Intel Community's Watchdog Office," Foreign Policy (Oct. 18, 2017) (available at http://foreignpolicy.com/2017/10/18/turf-war-intelligence-community-watchdog-falling-apart/).

needs to change before the IC IG loses the support of the Committee and the Congress as a whole. Simply put, the IC IG needs to get its own house in order. The sooner, the better.

Although I do not have prior experience working for an Inspector General's office, my experience has taught me that the effectiveness of any team that I have been a part of is dependent, first and foremost, on having the right people on the team, with a shared set of goals and values. I have no reason to believe the Office of an Inspector General is any different. My first objective as Inspector General, if confirmed, will be to make sure the IC IG's house is in order. This will involve making sure the right people are in the IC IG, with the proper values, discipline, and work ethic. A natural corollary will be to get any of the wrong people out of the IC IG. I am confident there are right people for the IC IG already there, and I hope they stay.

As a result, if I am confirmed, we will work together as a team to achieve Congress's most ambitious intentions for the Office. In the near term, if confirmed, we will work together to encourage, operate, and enforce a program for authorized disclosures by whistleblowers within the Intelligence Community that validates moral courage without compromising national security and without retaliation. Over the long term, if confirmed, we will work together to look across the intelligence landscape, as Congress intended, to help improve management, coordination, cooperation, and information sharing among the Intelligence Community. Throughout my tenure, if confirmed, we will work together to be responsive to this Committee to allow you to fulfill your oversight obligations and to ensure that U.S. intelligence activities meet our nation's security needs, respect our laws, and reflect American values.

I thank you for your time in listening to me, and I appreciate the opportunity to answer your questions.

Chairman BURR. Thank you to both of you for your testimony.

Members should know that I'll recognize Members based upon seniority for up to five minutes after the Chair and the Vice Chair. I recognize myself.

Jason, the Committee's access to legal analysis is sometimes crucial to our ability to assess the intelligence community's collection tools. If confirmed, can our Committee be assured that you or your designee will keep us appropriately informed of any and all legal opinions and interpretations that your office performs as to intelligence tools?

Mr. KLITENIC. Yes.

Chairman BURR. If asked by the Committee, will your office provide briefings and assessments of the intelligence community's views and findings on legal matters?

Mr. KLITENIC. Yes.

Chairman BURR. Michael, to you: The Committee's timely access to intelligence is crucial to our ability to conduct vigorous oversight over the intelligence community and meet our Congressional obligations. We view the IC Inspectors General as partners in oversight. We rely on Inspectors General to identify problems and to bring issues to this Committee's attention. If confirmed, can our Committee be assured that you or your designee will keep us appropriately informed of any significant complaints received by your office?

Mr. ATKINSON. Yes.

Chairman BURR. If asked by the Committee, will you provide the interview subjects or methodologies behind your office's finished reports and assessments?

Mr. ATKINSON. Yes.

Chairman BURR. One last question on my behalf to you, Mr. Atkinson. As you mentioned in your statement for the record, the IC IG is an office with some reported challenges, particularly regarding the whistleblower program that has been frequently reported about in the media over the past few months. Strong whistleblowers are essential. Further, ensuring the IC workforce understands and believes in the whistleblower program is paramount.

Tell the Committee what you plan to do to address these issues we're hearing about and how you're going to work to reassure the workforce that the IC IG has a well-functioning program that they can trust?

Mr. ATKINSON. Mr. Chairman, the intelligence community understands the importance of cultivating and protecting sources of information, and that includes whistleblowers. Whistleblowers play an important role in safeguarding the Federal Government against waste, fraud, abuse, and mismanagement.

In terms of what the IC IG can do as an office, it can do three things primarily: first, provide organizational support and encouragement for whistleblower programs for lawful, authorized disclosures; second, it can disseminate information and make sure that there's appropriate training across the intelligence community to make the workforce aware of the authorized ways to make lawful disclosures and report unethical or illegal conduct; and third, it can enforce a safe program where whistleblowers do not have fear of retaliation and where they're confident that the system will treat

them fairly and impartially, so that we can secure national security and allow whistleblowers to make their complaints of unethical or illegal behavior without risking unauthorized disclosures.

Chairman BURR. Great.

Vice Chairman.

Vice Chairman WARNER. Thank you, Mr. Chairman.

I'll start with you, Mr. Klitenic. As you know, the SSCI is continuing its work to investigate the Russian interference in the 2016 presidential election. Can you commit to ensuring that this Committee will be provided with all information requested pursuant to our ongoing Russia investigation?

Mr. KLITENIC. Yes.

Vice Chairman WARNER. Thank you.

Let me also editorially comment that I very much appreciate what you talked to me about and reiterated in your public statement, that you're going to be asked to render legal opinions from the relatively ivory tower of a certain office in Northern Virginia, but that those, your legal opinions, will have huge ramifications for people in the field and across the country and across the world.

Do you want to add any more on that? That's obviously one of the things you talked about in terms of your willingness to make sure that we adhere to the law in thinking through how you make those legal opinions.

Mr. KLITENIC. Yes, thank you. As it relates to providing legal advice, I take it both professionally and personally. Some of the people who are running around all corners of the globe so we can sleep safely at night, some of those people are my friends. Some of them are former colleagues. Some of them are other associates. Again, from my perspective, I think it's always important to keep in mind the context of the legal advice that you're providing and knowing that it's not simply an academic exercise.

Vice Chairman WARNER. One of the things you also mentioned in your opening statement was you understood the statutory obligation to keep this Committee fully and currently informed. Do you want to drill down a little bit more on how you define "currently"?

Mr. KLITENIC. Yes, thank you. I view the duty to keep the Committee currently and fully informed—there's obviously the 502 statutory requirement, but, quite frankly, as a working matter I view this Committee—and I'm saying this respectfully and in the context of understanding that you are United States Senators and, if confirmed, I would simply be agency counsel. But I view this Committee to be my friend. This Committee is not my foe. My foe, our foes, are the people out there across the globe who wish us ill.

So my view as an attorney, when I'm provided with information that I believe this Committee should have, I will be viewing it from the perspective of how can I get this information to the Committee, as opposed to looking at it from the perspective of, okay, how can I keep this from the Committee?

In terms of the timeliness of it, from my perspective notification has little to no value, more likely no value, if it is not timely.

Vice Chairman WARNER. Thank you.

Mr. Atkinson, my questions were similar to the Chairman's, and I just want to reiterate—and I appreciate the fact that in your opening comments you did allude to the fact that there have not

been as strong a working relationship between the current IG's Office and this Committee. You made quite clear your intent to improve that and you said you felt that there were the appropriate people in the IG's Office that were already there.

If there are people that need to be removed, I'd like to hear whether you will take on that responsibility as well?

Mr. ATKINSON. Yes, Senator. In terms of managing any organization, the key is getting the right people into the organization. That also involves getting any of the wrong people out of the organization and then, once the right people are in the organization, getting the right people in the right positions.

So yes, to the extent there are wrong people in the IC IG, we will work to either improve their performance or, if necessary, remove them.

Vice Chairman WARNER. Let me also reiterate so we make sure that everybody gets their time. You don't have to respond to this. But let me also echo the Chairman's comments in terms of the importance of the whistleblower program. I think there needs to be greater protections and, should you be confirmed, I look forward to working with you to make sure that those protections are increased and improved.

Thank you, Mr. Chairman.

Chairman BURR. Senator Risch.

Senator RISCH. Mr. Chairman, first of all let me say I think both of these nominees come with a strong, strong background and obviously come with also very good recommendations. I've had the opportunity in a different setting to get my questions answered, which I appreciate. I feel very good about these two and at the present time I'm a strong supporter of them, so I'm going to pass on questions.

Thank you, Mr. Chairman.

Chairman BURR. Thank you.

Senator Feinstein.

Senator FEINSTEIN. Thanks very much, Mr. Chairman.

Mr. Atkinson, the IC IG is not an easy position in my view. You can't get sucked in. You have to be independent, and you have to be able to call them as you see them and run an office that's going to be effective to the overall goal. Are you prepared to do this?

Mr. ATKINSON. Yes, Senator. I think that my training as a prosecutor helps in terms of having a commitment to independence and integrity, as well as discipline, and understanding that there is a need to speak truth to power. The hardest part sometimes is finding the truth. The truth—as a prosecutor in a criminal case, it's difficult. I expect it will be even more difficult dealing with secret organizations.

So I certainly appreciate the challenge that is out there for me. But in terms of the independence and integrity required of the position, I think my training as a prosecutor will come in very handy.

Senator FEINSTEIN. I think that's probably true, and I thank you very much for those comments.

Having an open, honest IG is really very important to the functioning of what is a highly secret intelligence-gathering organization. I know you can see that.

To both of you, I'm sorry, I didn't have a chance to meet with you before. You tried and my schedule got overly complicated. But I would hope that we would have a chance to sit down, because there are a couple of things that I'd like to mention to both of you.

One of them is the area in which I believe the IC did get out of control, and that was during the 1990s, particularly on the subject of interrogation and detention. This Committee over six years did a report. There is a 500-page summary of that report; and before you come to see me, I would ask that each of you read that summary, which has been published. Will you do so?

Mr. KLITENIC. Yes.

Mr. ATKINSON. Yes, Senator.

Senator FEINSTEIN. Thank you very much.

I think that I'd like to ask the IC IG: What do you see as the most essential and effective tool of an Inspector General overseeing an intelligence agency?

Mr. ATKINSON. I think it goes back to the people, Senator. I think you have to have the right people with the right skill set to try to handle the task that's before it. The effectiveness of the intelligence community is in large part a function of its secretiveness, and so in terms of trying to find the truth or audit programs, investigate whistleblower complaints, inspect other agencies, you need the right people.

There's plenty of tools available in terms of subpoena power and the ability to come to this Committee and to this Congress to provide reports. But ultimately, in terms of the most powerful tools that the office will have, in my view it has to be the people.

Senator FEINSTEIN. Mr. Klitenic, because of the position you're going to be in as General Counsel and your background, you're clearly qualified and I have no questions of you. But I would hope that you would feel free when there are issues to bring them before this Committee as well.

I don't think anybody does a service to stifle truth or not bring forward problems. I think you'll find that the Committee is really a very good one. We pay attention. We put in a lot of time, and we care very deeply about the appropriate functioning of the agencies that you're going to be in charge of.

So thank you very much.

Thank you.

Mr. KLITENIC. Thank you, Senator.

Chairman BURR. Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

Mr. Klitenic, whom do you view as your client if you are confirmed as the General Counsel?

Mr. KLITENIC. Thank you, Senator. That frequently is the—sometimes that can be a difficult question for lawyers. The first question is: Who is the client? I think as it relates to being the General Counsel to the ODNI, the agency is the client, embodied by the leadership. So it would be the Director of National Intelligence. I would not be representing anyone in his or her personal capacity. Then ultimately my client—I would view my client to be the people of the United States.

Senator COLLINS. That's the right answer.

One of the greatest challenges for the intelligence community is that it's very difficult for the public to separate out fact from fiction in certain press reports. If confirmed, you will be in an important position to be fully aware of what the IC is doing, while also being responsible for ensuring that its activities are lawfully conducted.

There are two aspects of this problem. First, if you uncover misinformation about the lawfulness of the intelligence community's activities as reported in the press, what would you do about that?

Mr. KLITENIC. Thank you, Senator. Yes, there definitely would be a tension. Obviously, one of the fundamental principles of the intelligence community is to protect sources and methods. So a challenge would be if there were an instance where, if you're reading something in the paper that you know to be untrue or, let's just say, a nation-state is putting out information about things that are happening in our own country that we know to be untrue, and if that information is classified that would present a challenge.

So if that were to arise, that's something that, if confirmed, I would take a serious look at, work with the people that I would need to consult with, and make sure that in correcting the information, if it needed to be corrected, it would be done in a way that again preserved sources and methods and other sensitive information.

Senator COLLINS. Let's take a situation where the opposite is the case and you uncover activity in the intelligence community that is not lawful. Obviously, you would report it to the ODNI. What is your obligation to report beyond the Justice Department and the ODNI with respect to the oversight committees of Congress, in particular our Committee?

Mr. KLITENIC. I would view that I—that we, the ODNI, if confirmed, would have the obligation to report it to the Committee. I believe that the Section 502 notification requirements also talk about intelligence failures, so perhaps there would be an argument that this would be a form of failure. But again, it would be done in a way to protect sources and methods. I would view this Committee to be an ally of mine and I would just want to make sure that you have access to the same information to which I have access.

Senator COLLINS. Thank you.

Mr. Atkinson, you have heard many of us talk about the importance of whistleblowers, and I just want to follow up on a question that the Ranking Member asked you since I joined in the letter of the Vice Chairman and the Co-Chairs of the Senate Whistleblower Protection Caucus requesting that the GAO conduct an audit of whistleblower programs and activities conducted by the offices of the inspector general within the IC.

It's important that you know that we sent this letter because we began to perceive discrepancies in the way that each IG approached whistleblower protection and we wanted an independent look at what recommendations could be made to ensure that whistleblowers are willing to come forward.

So, first I encourage you, if you're confirmed, as I believe you will be, to use this GAO audit as an opportunity for you to learn about the state of whistleblower complaints within the IC.

But my question is this: Do you commit to ensuring that the IC Inspector General remains a place where whistleblowers feel confident that they can come forward, disclose allegations of waste, fraud, abuse, mismanagement, illegal activity, and they can be confident that their concerns will not fall on deaf ears?

Mr. ATKINSON. Yes, absolutely, Senator. I look forward to reading the GAO report. I welcome GAO's assistance if confirmed, given the subject matter expertise they bring to it and the force multiplier that they can be, particularly in auditing.

In terms of the whistleblower protection, I talked about a commitment to integrity and that to me is what is essential so that whistleblowers have trust in the process. That does two things. One, it makes sure that the disclosures go to the right people; and second, it really takes away an excuse that some people have used that: I would have made an authorized disclosure, but I didn't know how to do it, or I didn't have faith in the process. So yes, absolutely, if confirmed, the commitment to integrity will be to make the whistleblower program effective and objective and impartial.

Senator COLLINS. Thank you.

Chairman BURR. Senator King.

Senator KING. Thank you, Mr. Chairman.

Mr. Klitenic, I love your characterization of the Committee as your friend. I hope a year from now you hold to that.

Mr. KLITENIC. Yes, sir.

Senator KING. That idea.

I consider your two positions two of the most important in the United States Government, for the following reason. It's an anomaly in a free society to have secret agencies that don't operate in the ordinary open air of controversy and reporting and interest groups and all of those kinds of things. Our system—we're always talking about checks and balances of the courts and the Congress, but there are lots of other checks and balances. One of them is public disclosure and transparency, and yet we understand the necessity for secrecy and for defending our national security.

Therefore, one of the checks and balances that's invisible is the rule of law. You gentlemen more than any others in these agencies have the responsibility for upholding the rule of law. Like my colleague from Maine, I was going to ask, who is your client? Your client is the Constitution, it seems to me. Your client is the people of the United States. It's not a particular director, it's not a particular president, it's not a particular agent. It is the—this is in the essence of the checks and balances that otherwise just aren't there for these agencies.

The natural tendency of an agency that operates outside of the public view in some cases is to abuse its authority. I would urge you—again, I'm echoing my colleague Senator Feinstein—to read that summary of the torture report, because what comes through is not people who were evil and who were setting out to do harm. They were people who were genuinely concerned about the future of the country, but they did things that they should not have done; and the lawyers did things that they should not have done. And that's where it becomes hard.

So I hope you will read that report. It's a stunning piece of work and I think it will help guide your work, because it'll make you realize how hard these decisions are.

Now, what actions would you take, Mr. Atkinson, if a senior IC official said: Let's not go into this investigation, let's not do this audit; there's a lot of heavy-duty national security here and it could result in a serious compromise of something that we're trying to accomplish on behalf of the country?

Mr. ATKINSON. Well, I'd do a couple things. First, I would talk with that senior official to try to understand the reasoning behind the request. If I thought that the investigation or review was necessary or in the best interests of the United States, I would pursue it. If other senior officials within the intelligence community still were advising me to stop, I would continue to talk to them and try to convince them that in my view, in my independent view, this review or assessment was necessary and in the best interests of the United States.

I would take that—I would have that discussion all the way up to the Director of National Intelligence if necessary. By statute, he does have the authority to prevent an investigation or an examination if he deems that that's necessary or vital to United States national security.

I would also talk to this Committee if that situation arose to that level, to keep you informed about those events.

Senator KING. If you were prevented by the Director or by some other official from pursuing an investigation that you thought was important, significant, and represented a potential abuse of the agency, would you consider resignation?

Mr. ATKINSON. The answer is yes, but in context. The Congress has given the Director of National Intelligence the authority, the statutory authority, to prevent the Inspector General from conducting a review if the Director determines that that's in the vital interest of the United States. And there's a process in place where he then has to inform the Committee, the Congress, the oversight committees, of his decision. And I as the Inspector General would also have an opportunity to come to the Committee and talk to you about the decision that was made and my own views.

So I would consider it, but I think the process is in place that people who—can disagree without necessarily having to resign. But if I felt strongly enough and it really went to a core principle, yes, I would consider resigning. That would be part of my thought process.

Senator KING. I think the hard part here is that these are not going to be easy black-and-white questions. They're not going to be presented—it's always—and again I go back to the torture report. It's always going to be people thought there's going to be a second attack and we have to prevent it and we have to move aside some of these rules and regulations in order to do so. That's the context in which these decisions have to be made and that's why they're so difficult.

Mr. Klitenic, your thoughts on this issue?

Mr. KLITENIC. I guess what I would say, Senator, is as an attorney it's not unusual to be facing a situation where you're trying to advise someone on the law or the parameters of the law, and then

also not unusual to occasionally get pushback. The way I am hardwired, I probably am more of a fighter than a quitter, but if I were ever—if I exhausted all my remedies and there was nowhere else to go but to resign, then that is an action I would seriously consider.

Senator KING. Well, I appreciate both of your willingness to undertake this important responsibility. I've been impressed in our discussions and with your answers here today, and I look forward to supporting your nominations when they come to the floor. I just hope you will continually remember and realize what a solemn and heavy responsibility this is in this particular setting. Not that the IG of the Department of Agriculture isn't important, but there are lots of other people watching the Department of Agriculture. There are very few other people watching the agencies that you are working with, that are crucial to our national security.

Thank you.

Thank you, Mr. Chairman.

Mr. ATKINSON. Thank you, Senator.

Mr. KLITENIC. Thank you.

Chairman BURR. Senator Manchin.

Senator MANCHIN. Thank you, Mr. Chairman.

Thank both of you for attending and being here and willing to serve, which I appreciate very much, and for your families that are supporting you. I also appreciate our discussions we had in the office when you both came in. It was very good and very enlightening.

I would like to hear, with your previous experience at the Department of Justice, can you tell the Members of this Committee your views on the pending reauthorization of the 702 FISA, Section 702 of FISA? If you could, either one? Mr. Atkinson, you can start if you will.

Mr. ATKINSON. Well, as a member of the National Security Division of the Department of Justice, I know that the Department feels very strongly about reauthorizing Section 702.

Mr. KLITENIC. It's my understanding it's an incredibly important tool in the toolkit of the intelligence community and the law enforcement community. It's also my understanding it may be the most important tool. So obviously, from my perspective, at this point I am an outsider, but I would strongly support it.

Senator MANCHIN. Do you have concerns of the invasion of privacy for the American citizens? Do any of you have that concern? Have you looked into it that much or have you been brought up to speed on it?

Mr. KLITENIC. I guess what I would say is that, as it relates to 702, that provision, that Act, that section of the Act, has been—I would defer to the courts, and the courts have reviewed it and my understanding is and my reading of it is that each court that has reviewed the 702 program has found it to be constitutional.

Now, as with everything, you always want to—again, in my earlier comments they were sincere about providing for the national defense and the national security, but also protecting our civil rights and civil liberties. I don't think that's just a throwaway line. But as it relates to the 702 program, I would defer to the courts, and again they have upheld the constitutionality of it.

Senator MANCHIN. Mr. Atkinson, you'll serve as the chair of the Intelligence Community Inspector Generals Forum. How do you plan to implement the necessary oversight that comes with your office without becoming too intrusive to the other organizations' inspector general activities?

Mr. ATKINSON. That is a real challenge to this office, Senator. It's actually one of the things, though, that was most appealing to me about it, is there's no other inspector general that serves in that sort of chair role and has the ability to coordinate other inspector generals such as the IC IG does as the chair of the IC IG Forum.

I think the challenge is balancing out the autonomy of action that the individual IGs need to have to fulfil their duties and responsibilities with the unity of effort that we all need to have collectively so that we maximize our efficiency and effectiveness. I think that part of that in terms of ways to maximize the efficiency and effectiveness of the group, it goes to relationships, meeting with the folks on a regular basis, both at the IG level as well as at the committee levels for the investigators, the auditors, and the inspectors. I look forward to meeting with all of the IC IG Forum members as soon as possible if I'm confirmed.

Senator MANCHIN. Mr. Klitenic, how do you view your break from government, your departure there and then coming back? Do you feel that it was a positive or a negative as you prepare to assume your new duties?

Mr. KLITENIC. I would view it as a positive. Being in the private sector has given me a perspective that I wouldn't have if I had spent the balance of these years in government service. I do very much miss government service, but there is something about working closely with industry and seeing it from that perspective, and it relates to a whole variety of issues, relating to, for example, the protection of our Nation's critical infrastructure, 85 percent of which is in private hands. So seeing some of the challenges that industry experiences when working with the government, I would view that to be helpful.

Another added benefit—I can't quantify this, but I am not coming from any particular member of the IC and to that extent I would view—I'm not beholden to any particular agency, and I would just view my role to again to continue to play things straight and provide counsel on issues that come before me.

Senator MANCHIN. This will be one for both of you. If asked by the President, would you render your professional assessment regardless if that assessment is counter to what the Administration has been espousing or what the President may feel?

Mr. KLITENIC. Yes.

Mr. ATKINSON. Yes, Senator.

Senator MANCHIN. I think what we're all talking about, no matter who the President, he or she may be, truth to power is something that we have to have professionals such as yourself be willing to speak up and protect the citizens in this great country of ours and the Constitution we all hold so near and dear.

Thank you both. I look forward to supporting both of you. Thank you.

Mr. ATKINSON. Thank you, Senator.

Mr. KLITENIC. Thank you.

Chairman BURR. Senator Lankford.

Senator LANKFORD. Thank you, Mr. Chairman.

Gentlemen, thank you again for going through this laborious process. Very few Americans understand just how painful and long and difficult this process and how many documents you had to turn over, how many interviews you had to have to even get to this desk. Then there is still the process to get through the long filibusters on the floor of the Senate, as last year the Senate faced literally a record number of nominees that were delayed.

So there are still more delays to come to actually go through the process. So I want to say to you: Thank you for stepping up and going through this very long, difficult process, because our Nation needs people to both be good counsel for the intelligence community and to be good inspectors general for that community. So thank you for stepping up to be able to do that.

A lot of folks that are some pretty remarkable professionals are going to count on your advice and they're going to look towards your insight on that. So buckle up. We're ready for you to be able to get into that spot.

Let me ask you several questions on this. Mr. Atkinson, let me ask specifically for you: The IC role of the Inspector General is exceptionally difficult in this setting, because most everything that we handle is secret and classified and is compartmentalized. But the Inspector General has a very unique role to be able to step in and not only check for efficiency—are we spending the right money in the right places; are there recommendations to be able to do that; do we have the right personnel in the right spot? That takes a lot of relationships and a lot of tenacity to go after the information that's needed.

But the American people need individuals on this dais to provide oversight and they definitely need an Inspector General to be able to do that as well. What's your plan to be able to engage, to be able to make sure we have good recommendations, but also you have the information you need to do it?

Mr. ATKINSON. Well, as I said in my opening statement, Senator, I think it begins with people, getting the right people in the office to be able to perform the difficult tasks that we have to perform, whether it's inspections, audits, or investigations.

It also—as you talked about relationships, it also has to deal with getting relationships with the other intelligence community inspectors general, the individual elements, working with them to maximize their efficiency and effectiveness, so that together as a group we multiply our forces rather than dividing them. So that's what I would look forward to doing if confirmed, is working with the IC IG Forum to maximize all of the resources that we have available to tackle these very serious challenges that you've mentioned.

Senator LANKFORD. What will you need to be the eyes and ears of the American people, to provide—on the multiple layers of oversight on 702 specifically, what will you need that you don't know if you have access to now, to be able to make sure that's there? 702 already has oversight from DOJ. It has oversight from the inspectors general. It has oversight within the Department. It has oversight by this Committee. There is a Civil Liberties Board that we

have added to it to provide another layer of oversight into it. So there's already multiple layers of oversight on that.

Is there anything that you know of that you don't have access to to provide the oversight that's needed for that in your responsibility?

Mr. ATKINSON. Senator, I don't know the answer to that. I'm not an expert on 702. I'm familiar with the statute as a prosecutor and being in the National Security Division of the Department of Justice. But I don't know all the challenges associated with it. I look forward, if confirmed, to learning about them and working with this Committee and with the other IC IG Forum members to understand if there are additional tools that we need to help the Committee perform its functions.

Senator LANKFORD. This Committee would have an expectation that if there are things you do not have access to, that you need access to for oversight, that you would come back to us.

Mr. ATKINSON. That's my expectation as well, Senator, that I would come back.

Senator LANKFORD. Terrific.

Let me ask you about a hard question on this dealing with leaks and classified information leaks or individuals that are leaking that information. The FBI has told us it's one of the most difficult areas to be able to prosecute. I want to know from you, what do you need to do to be able to help us not have leaks of information, both from a document or from someone telling information that is classified, and how do we clamp down on that?

Mr. ATKINSON. I think there's a lot in that question. But the whistleblower protection program is essential and, as Senator King talked about, secrecy—the United States intelligence community is largely effective because of its secretiveness, but secrecy is a grant of trust, it's not a grant of power. So the whistleblowers play an important role in making sure that the trust given to the intelligence community is not abused or mismanaged.

So you want to do what you can, everything possible, to make sure that when hard-working government employees or contractors identify waste, fraud, or abuse, that there are avenues available to them and they have trust in those avenues, that they will disclose that type of unethical or illegal conduct. You want to make sure as part of that program that they don't have a fear of reprisal. So they need to trust the process and they need to be protected.

So as a prosecutor, I understand deterrence and I understand that investigations have to be timely, they have to be thorough, and they have to be effective. If you find a whistleblower that's been retaliated against, there need to be consequences.

Senator LANKFORD. Thank you. Thank you both.

Chairman BURR. Senator Wyden.

Senator WYDEN. Mr. Chairman, I know I'm senior by technicality. With your leave, Mr. Chairman—I think I see you over there—could Senator Harris go first and then I follow her?

Chairman BURR. Absolutely.

Senator Harris.

Senator HARRIS. Thank you, Senator Wyden.

Mr. Klitenic, I appreciate your comments about the nobility of public service, and you so clearly care about the men and women

of the IC and I really do appreciate that. So thank you for those comments and the spirit behind them.

During the 2016 presidential election, then-candidate Donald Trump said, I quote: "I would bring back waterboarding and I'd bring it back a hell of a lot worse than waterboarding." End quote. In your opinion, is waterboarding illegal?

Mr. KLITENIC. Thank you, Senator. The short answer is, as it relates to today, the enhanced interrogation techniques, the law is through the Defense Authorization Act, the techniques that are authorized are found in the Army Field Manual. So as an attorney, I would go to the Army Field Manual and see if that was a technique that is approved.

Senator HARRIS. Have you consulted the Army Field Manual?

Mr. KLITENIC. I have.

Senator HARRIS. And in your opinion, based on that review, is waterboarding illegal?

Mr. KLITENIC. Thank you. I have not seen anything in the Army Field Manual that would persuade me that waterboarding is permitted under the Army Field Manual.

Senator HARRIS. Can you guarantee this Committee that you would so advise the members of the IC if you were confirmed in this position?

Mr. KLITENIC. Yes, that's definitely an issue I would—that would get my attention.

Senator HARRIS. And that you would express——

Mr. KLITENIC. Yes. Yes, Senator, yes.

Senator HARRIS. Thank you.

Do you believe it is appropriate for the FBI to search information on Americans' communications without a warrant when that information was collected through an authority such as Section 702 of FISA and does not permit the targeting of U.S. persons, which we know it does not?

Mr. KLITENIC. My understanding again of the 702 program—and I think we're now getting into queries—my understanding is that's been reviewed by the courts. It has been reviewed by the courts and was found to be——

[Room lights blink.]

Senator HARRIS. There's a light flashing.

Mr. KLITENIC. Yes. I'm hopefully not accountable for a power outage. Things do happen on my watch, but hopefully this is not attributable to me, Senator.

But my understanding is that that aspect of the program has been reviewed by the courts and has been found to be constitutional.

Senator HARRIS. And the IC has consistently declined to produce an estimate of the number of Americans who have been impacted by Section 702 in terms of their privacy. Do you see any legal barriers to generating that estimate?

Mr. KLITENIC. That is an issue, Senator, I would have to look at. I do not have a security clearance and so all I can tell you is, if confirmed, that's an issue I would certainly explore and spend time on.

Senator HARRIS. If confirmed to this position, can you commit to the Committee that you will take a look at that and return to us

with your perspective on whether there is a legal barrier to providing that estimate to this Committee?

Mr. KLITENIC. Yes. Again, the answer is I do not have a clearance and so if I commit something to the Committee I want to make sure I can stand by it. But it is something I would look at, and I would also look to see if there were any legal impediments as well.

Senator HARRIS. And come back and report?

Mr. KLITENIC. Yes. Yes, Senator.

Senator HARRIS. If the IC lacks the technical expertise or resources to generate such an estimate and you do determine that it is legally permissible for them to offer that estimate to this Committee, as has been requested, do you see any legal barriers to bringing in outside experts like academic researchers to help generate such an estimate?

Mr. KLITENIC. The honest and short answer is I don't know the answer to that question. But that is something I would certainly look at.

Senator HARRIS. And will you, again, report back to this Committee, if confirmed, about your perspective on bringing in outside experts to help generate the information that gives us an estimate of how many Americans have been impacted by 702 queries?

Mr. KLITENIC. I would look and see if there were—if it was appropriate and lawful to have experts review the issue. Again, I don't have a clearance, so I don't want to commit something to you that for some reason I would be precluded from reporting back on. But if it were legally permissible for me to report back to you on it, I absolutely would.

Senator HARRIS. I appreciate it. And I should premise all of these questions by stating that I agree completely with your testimony that 702 provides a very important tool to our intelligence community and it is something that should be preserved, but of course with striking a balance with the protections and privacy protections that Americans deserve to receive in terms of their private information.

I'm especially concerned with the issue where the IC appears to lack a uniform and written policy to ensure that Americans receive appropriate notice of Section 702 surveillance. Can you commit to promulgating such a policy if confirmed in this position?

Mr. KLITENIC. Senator, that's something I would have to look closer into. As I sit here today, I can't speak to the notification requirements of 702. But again, I do promise, if confirmed, I would look very closely at that and then report my findings to the Committee.

Senator HARRIS. I want to emphasize that the concern specifically is that there is not a uniform written policy within the IC. So I'd appreciate you looking into that if confirmed, and thank you.

Thank you.

Mr. KLITENIC. Thank you.

Chairman BURR. Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman.

Mr. Atkinson, I appreciated our discussion in the office. I feel strongly that the current acting leadership of the IC Inspector General's Office has seriously damaged its whistleblower mission. We

talked about your cleaning house. Tell me how you're going to do it?

Mr. ATKINSON. We did talk about cleaning house, and let me say this about that. As I said in my opening statement, the whistleblower protection program, like any other part of the office, is dependent on having the right people in the office. As we talked about in your office, my first priority is to get the right people in the office, get any of the wrong people out of the office, and then get the right person or people running the whistleblower protection program within the IC IG.

Senator WYDEN. So how are you going to protect whistleblowers from reprisals? I think whistleblowers want to know they're going to be encouraged. They want to know their complaints are going to be followed up expeditiously, but they're especially interested in having the leadership at the top make it clear how they're going to be protected from reprisals.

So this is really part of the new day, cleaning house. How are you going to protect whistleblowers from reprisal?

Mr. ATKINSON. Similar to the way we protect witnesses in criminal cases. We're going to take their case, treat it very seriously, treat it impartially, follow the facts, wherever they lead, protect the witnesses to the extent permitted by law, do what we can to——

Senator WYDEN. What's your understanding of what the law offers? Because they're going to say: Okay, you're saying I'm going to be protected to the extent of the law; what does that really mean? Give me an example of what you're talking about?

Mr. ATKINSON. That they will not be reprised against, they will not suffer demotion or any sort of pay cut or any negative job factor because of their willingness to come forward and make an authorized disclosure.

Senator WYDEN. And you will make it clear you see that part of your new day, that they're not going to face pay cuts, they're not going to face demotions? That's the message you want to send?

Mr. ATKINSON. That is the message I want to send. As a prosecutor, I see the unauthorized disclosures and I see the harm that they do, and I understand how critically important it is for people to have trust in the authorized disclosures.

Senator WYDEN. Mr. Klitenic, let me ask you a question about the law. If an intelligence operation is inconsistent with the public's understanding of the law, that is a prescription for trouble, and we have faced that in the past with the Patriot Act, where people would go to a coffee shop and they'd read the Patriot Act and they wouldn't hear about how it has been contorted into something where you'd collect millions of phone records on law-abiding people, which was the reason that we passed a reform bill.

I talked to you about secret law. It's a doctrine that we really developed here, that says: Look, if there's a secret interpretation that's different than what people read in the coffee shop, that's what we ought to be concerned about. So tell me what you would do to declassify secret law? As you know, I made the distinction between sources and methods, which have to be classified, but the law, which always ought to be public.

What are you going to do to declassify secret law?

Mr. KLITENIC. Thank you, Senator. As we discussed, there will be instances where there will be legal opinions or there may be FISA Court opinions that within them necessarily contain information that is classified, and that classified information may be classified because it is to protect sources and methods.

Also when we met, we also talked about my belief in transparency. I think transparency is important for any number of different reasons. One of the fundamental reasons why I think transparency is so important is because I think as the American people learn more about what the intelligence community is doing on their behalf they would have even greater confidence in the community.

As it relates to declassifying certain portions of legal opinions or FISA Court opinions, again that's something I would, as I told you in our meeting, I would very much commit to taking a hard look at. For me that is something——

Senator WYDEN. Would you make that a priority? Because secret law has been a problem for years and it remains one to this day. I want to see somebody come in there and say: Look, we've got a job to do; sources and methods are sacred; you don't mess with them, because if you do people die. But the public has a right to know what the law is.

I'd really like to see somebody in your position, consistent with protecting this country's security, say this is going to be a priority. Will you do that?

Mr. KLITENIC. Senator, I'm very comfortable telling you that, yes, I would make that a priority.

Senator WYDEN. Thank you.

Thank you, Mr. Chairman.

Chairman BURR. Senator King.

Senator KING. A brief follow-up on a different topic. Mr. Atkinson, part of your role as IG, of course, isn't always about high policy; it's about fiscal responsibility, prudent expenditures, and those kinds of things. There is a huge force multiplier out there that's available to you called the GAO. Unfortunately, in the past the intelligence community has resisted utilizing the resources of the GAO, even though they have clearances and those kinds of things. In fact, two years ago or three years ago Senator Coburn and I had to literally get an Act of Congress to get the IC to use the GAO to analyze utilization of facilities.

Do you view the GAO as an asset to your work and will you commit that you will utilize them as a resource in the analysis that you do of things like fiscal prudence, efficiency, utilization of resources, staffing, and those kinds of things?

Mr. ATKINSON. Yes, absolutely, Senator. I think that one of the challenges for the IC IG as I understand it is on the auditing side of the house and getting qualified, cleared auditors within the IC IG to look at the intelligence community's programs and activities. So it makes perfect sense to make use of GAO, since they have subject matter experts, in auditing.

So yes, I see them as a force multiplier and I would use them as much as possible.

Senator KING. Good. Thank you.

Thank you, Mr. Chairman.

Chairman BURR. Thank you, Senator King.

Seeing no other Members wishing to ask questions, let me thank both of you on behalf of the Committee. Let me thank you for your service in the past, for your willingness to serve in the capacity you're here nominated by the President, and thank you for your honest testimony and candid testimony today.

I'll end where I started: The Committee takes oversight extremely serious. The two roles that you'll be in are absolutely crucial to our ability to implement that oversight properly and effectively.

We're grateful to you. We look forward to the process as your nominations move out of Committee and to the floor. But as of this time, enjoy the next little bit with your families, who are here to support you.

This hearing is adjourned.

[Whereupon, at 12:48 p.m., the hearing was adjourned.]

Supplemental Material

SELECT COMMITTEE ON INTELLIGENCE

UNITED STATES SENATE

QUESTIONNAIRE FOR COMPLETION BY PRESIDENTIAL NOMINEES

SELECT COMMITTEE ON INTELLIGENCE
UNITED STATES SENATE

QUESTIONNAIRE FOR COMPLETION BY PRESIDENTIAL NOMINEES

PART A - BIOGRAPHICAL INFORMATION

1. FULL NAME: Jason Klitenic
   OTHER NAMES USED: N/A

2. DATE AND PLACE OF BIRTH: February 6, 1967; Baltimore, Maryland
   CITIZENSHIP: US

3. MARITAL STATUS: Married

4. SPOUSE'S NAME: Catherine (Kate) Howell Klitenic

5. SPOUSE'S MAIDEN NAME IF APPLICABLE: Catherine Caro Howell

6. NAMES AND AGES OF CHILDREN:

NAME	AGE
INFORMATION REDACTED	

7. EDUCATION SINCE HIGH SCHOOL:

INSTITUTION	DATES ATTENDED	DEGREE RECEIVED	DATE OF DEGREE
Johns Hopkins University	1985-1989	Bachelor of Arts	1989
University of Baltimore School of Law	1989-1993	Juris Doctor	1993

8. EMPLOYMENT RECORD (LIST ALL POSITIONS HELD SINCE COLLEGE, INCLUDING MILITARY SERVICE. INDICATE NAME OF EMPLOYER, POSITION, TITLE OR DESCRIPTION, LOCATION, AND DATES OF EMPLOYMENT).

EMPLOYER	POSITION/TITLE	LOCATION	DATES
Law Office of Stephen L. Miles	Law Clerk	Baltimore, MD	9/1989-6/1990
U.S. Department of Justice – Antitrust Div.	Paralegal Specialist	Washington, D.C.	6/1990-5/1995

Alston & Bird LLP	Associate	Atlanta, GA	5/1995-11/2001
Alston & Bird LLP	Partner	Atlanta, GA	11/2001-1/2002
U.S. Department of Justice	Deputy Associate Attorney General	Washington, D.C.	1/2002-10/2003
U.S. Department of Homeland Security	Deputy General Counsel	Washington, D.C.	10/2003-8/2005
McKenna Long & Aldridge LLP (now Dentons)	Partner	Atlanta, GA & Washington D.C.	8/2005-5/2007
Klitenic Robertson PLLC	Principal	Washington, D.C.	5/2007-3/2010
KR Security PLLC	Principal	Washington, D.C.	5/2007-3/2010
Holland & Knight LLP	Partner	Washington, D.C.	3/2010-Present

9. GOVERNMENT EXPERIENCE (INDICATE EXPERIENCE IN OR ASSOCIATION WITH FEDERAL, STATE, OR LOCAL GOVERNMENTS, INCLUDING ADVISORY, CONSULTATIVE, HONORARY, OR OTHER PART-TIME SERVICE OR POSITION. DO NOT REPEAT INFORMATION ALREADY PROVIDED IN QUESTION 8).

Please see response to Question 8.

10. INDICATE ANY SPECIALIZED INTELLIGENCE OR NATIONAL SECURITY EXPERTISE YOU HAVE ACQUIRED HAVING SERVED IN THE POSITIONS DESCRIBED IN QUESTIONS 8 AND/OR 9.

I have spent much of my career working on national security and law enforcement sensitive matters, both during my government service and while in private practice. Shortly after 9/11, I resigned from my law firm in Atlanta, Georgia (Alston & Bird LLP) and along with my family moved to Washington, D.C., to serve as a Deputy Associate Attorney General of the U.S. Department of Justice. From January 2002 to October 2003, I served among DOJ senior leadership and worked on a number of terrorism and other national security-related matters (including terrorist financing cases involving the USA PATRIOT Act and IEEPA), as well as national security-related immigration litigation. In doing so, I worked closely with attorneys from DOJ, Treasury, State and other federal agencies, including other IC members.

In connection with the formation of the U.S. Department of Homeland Security, I moved from DOJ to DHS to become the first Deputy General Counsel of that new agency, where I served from October 2003 to August 2005. During my tenure at DHS, I worked on a wide variety of matters that largely mirrored the agency's mission, including counterterrorism, cybersecurity, data privacy, information sharing, incident response, government procurement, transportation security, classification issues, and infrastructure protection. During the course of my service at DHS, I worked closely with my colleagues in DHS component agencies (e.g., CBP, ICE, USCIS, TSA, U.S. Coast Guard, U.S. Secret Service), including those serving intelligence functions, and colleagues in headquarters offices, such as the DHS Office of Intelligence and Analysis. I also worked closely with my counterparts at other federal agencies and worked on a number of interagency initiatives, as well as international information sharing agreements.

Since leaving government service in 2005, my law firm practice has focused upon advising clients on security-based laws and regulatory frameworks (e.g., aviation security requirements, export control regulations, cybersecurity standards), and traditional corporate compliance matters. Additionally, because of my past DOJ and DHS experience, much of my practice involves representing corporations and individuals in immigration matters. While some of my immigration-related matters at Holland & Knight are routine (e.g., assisting a foreign executive with a family move to the U.S., or helping a school or student comply with DHS Student and Exchange Visitor Program

requirements), many other immigration matters feature national security or other law enforcement issues. For a number of my matters I have continued to work closely with DHS, FBI, State Department and other federal agencies on behalf of clients who voluntarily provide law enforcement sensitive information to the U.S. government. Some of these clients are U.S. and foreign corporations who seek to report suspicious activity to the U.S. government, while many others are individual foreign nationals who voluntarily provide sensitive information to the government in an effort to address concerns that the U.S. government may have regarding them or their associates. Typically, these individuals learn of U.S. government concerns in the context of visa denials and revocations, as well as secondary inspections. In other instances, I represent individual foreign national clients who proactively seek to contact U.S. government agencies in an effort to further U.S. national security and law enforcement interests.

11. HONORS AND AWARDS (PROVIDE INFORMATION ON SCHOLARSHIPS, FELLOWSHIPS, HONORARY DEGREES, MILITARY DECORATIONS, CIVILIAN SERVICE CITATIONS, OR ANY OTHER SPECIAL RECOGNITION FOR OUTSTANDING PERFORMANCE OR ACHIEVEMENT).

NCAA Division III First-Team All-American (Baseball) (1989)

U.S. Department of Justice Antitrust Division Outstanding Contribution Award (1994)

12. ORGANIZATIONAL AFFILIATIONS (LIST MEMBERSHIPS IN AND OFFICES HELD WITHIN THE LAST TEN YEARS IN ANY PROFESSIONAL, CIVIC, FRATERNAL, BUSINESS, SCHOLARLY, CULTURAL, CHARITABLE, OR OTHER SIMILAR ORGANIZATIONS).

ORGANIZATION	OFFICE HELD	DATES
American Bar Association	Vice Chair ABA Committee on Homeland Security and National Defense	2006-2010
American Bar Association	Chair ABA Criminal Justice Section Committee on Homeland Security	2012-2013

(Please note that I have been affiliated with and a member of the ABA during varying stages of my legal career. I have been unable to identify the years of past membership but I most recently rejoined the ABA in September 2017.)

DACOR (Diplomatic and Consular Officers Retired)	Member	2014-Present
District of Columbia Bar	Member	1996-Present
State Bar of Georgia	Member	1993-Present

13. PUBLISHED WRITINGS AND SPEECHES (LIST THE TITLES, PUBLISHERS, BLOGS AND PUBLICATION DATES OF ANY BOOKS, ARTICLES, REPORTS, OR OTHER PUBLISHED MATERIALS YOU HAVE AUTHORED. ALSO LIST ANY PUBLIC SPEECHES OR REMARKS YOU HAVE MADE WITHIN THE LAST TEN YEARS FOR WHICH THERE IS A TEXT, TRANSCRIPT, OR VIDEO). IF ASKED, WILL YOU PROVIDE A COPY OF EACH REQUESTED PUBLICATION, TEXT, TRANSCRIPT, OR VIDEO?

Remarks:

(Please note that I do not recall drafting prepared text for these remarks but in certain instances I created PowerPoint presentations, some of which I have access to and could provide.)

U.S. Department of Homeland Security: Customs and Immigration Priorities of the New Administration; Global Logistics Council of Manufacturers Alliance for Productivity & Innovation (MAPI), Orlando, Florida, April 18, 2017

Enforcement Priorities for the Trump Administration: Cross-Border Concerns for Canadian Companies Borden Ladner Gervais LLP, April 4, 2017

Confronting Systemic Threats: Cybersecurity, Pandemic and Terrorism Moderator, The Next Era of American Healthcare System Transformation Symposium and Roundtable, February 8, 2017

7th Annual IP Trademark, Copyright and Licensing Counsel Forum Global Risk and Investigations, November 3-4, 2015

Financial Services IT – Avoidance of Risks Cybersecurity and Financial Institutions: A Public-Private Partnership; Vendor Service Providers to Financial Institution, Practising Law Institute, May 21, 2014

Overview of U.S. Department of Justice Organizational Structure and Legal Authority; Pepperdine University School of Law - Washington, D.C. Program, February 19, 2014

White House Cybersecurity Executive Order Implementation Holland & Knight Webinar, March 14, 2013

Cyber Security and Privacy Holland & Knight Webinar, January 17, 2013

American Legal System: Best Practices International Symposium for Justice and Law, U.S. Embassy in the United Arab Emirates and the Dubai Judicial Institute, Dubai, UAE, November 11-14, 2012

Cyber Attacks – Prevention, Detection and Response ALM Corporate Counsel Forum, The Harvard Club, New York, NY, October 24, 2012

Cybersecurity: Managing Outsourcing Risks The New Outsourcing Global Delivery Model, Holland & Knight, June 28, 2012

Cyber liability: New Exposures, New Challenges Holland & Knight Institute, May 1, 2012

SHRM Management Conference, An Overview of the Foreign Corrupt Practices Act, May 2, 2012

American Bar Association Annual Homeland Security Law Institute, Emerging Compliance Issues for Government Contractors: An In-House Perspective, March 2012

Traps for the Unwary - A Spotlight on FCPA and Arms Export Control, American Bar Association 6th Annual Homeland Security Law Institute, Washington, D.C., March 2011

Chemical Facility Anti-Terrorism Standards: U.S. Department of Homeland Security Inspection Authority, American Chemistry Council, Washington, D.C., December 2010

Homeland Security - Managing the War on Terrorism from the White House Executive Branch, American Bar Association 5th Annual Homeland Security Law Institute, Washington, D.C., March 2010

American Bar Association 4th Annual Homeland Security Law Institute, Washington, D.C., Program Moderator, February 2009

American Bar Association 3rd Annual Homeland Security Law Institute, Washington, D.C., Program Moderator, January 2008

Transportation and Supply Chain Security, 2nd Annual American Bar Association Homeland Security Institute, Washington, D.C., January 2007

Border, Maritime and Port Security, 2006 Homeland & Global Security Summit, Washington, D.C., April 2006

The Department of Homeland Security: A Brief History, Guest Lecturer, Georgia Tech Sam Nunn School of International Affairs, Atlanta, GA, April 2006

Executive Branch Revolving Door Restrictions, U.S. Chamber of Commerce, Washington, D.C., March 2006

Protecting Critical Infrastructure and the SAFETY Act, International Monetary Fund, Washington, D.C., March 2006

Homeland Security 101, 1st Annual American Bar Association Homeland Security Law Institute, Washington, D.C., January 2006

Sarbanes-Oxley: Trends in Enforcement and Compliance Presenter, Oxley Direct Seminar, Atlanta, GA, October 2005

Combating Fraud and Abuse in Post-Hurricane Katrina Contracting, Washington, D.C., September 2005

Publications:
White House Issues Cybersecurity Executive Order; Holland & Knight Alert, February 14, 2013

Establishment of a Permanent Global Entry Program: Expedited Clearance for Trusted Air Travelers; Emerging Issues Analysis, Matthew Bender & Co., Inc., December 2009

The Terrorism Risk Insurance Act; Homeland Security Deskbook, Matthew Bender & Co, Inc., December 2009

PART B - QUALIFICATIONS

14. QUALIFICATIONS (DESCRIBE WHY YOU BELIEVE YOU ARE QUALIFIED TO SERVE AS THE GENERAL COUNSEL FOR THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE).

I believe that I have the requisite judgment and experience to serve as General Counsel of the Office of the Director of National Intelligence. As I described in response to Question 10, I have spent much of my legal career working on national security matters. In doing so, I believe I have a firm understanding of the issues that I would likely face if confirmed and that my prior government experience would serve me in good stead. While at DOJ and DHS, I became accustomed to confronting and responding to weighty legal matters in a time-sensitive highly-pressurized setting. I also became comfortable making difficult legal decisions and advising senior administration officials on the strict parameters of the law; while maintaining credibility during my government service.

Given the nature of ODNI's inherent interagency coordinating role, I also believe that my proven ability to work well with others in a variety of environments will enable me, if confirmed, to navigate through the important interagency process. Moreover, my strong working relationships with a number of my would-be-peers throughout the various relevant agencies should afford me the opportunity to be an effective advocate for and contributor to the Intelligence Community.

As for management experience, while I was Deputy Associate Attorney General at DOJ, I was responsible for overseeing and coordinating matters arising throughout DOJ's various litigating divisions, and advising senior leadership on those matters. Then, as the Deputy General Counsel of DHS, I served as the second-ranking legal officer of an 180,000 employee agency and oversaw the daily operations of the 1,500 lawyer Office of General Counsel. In this environment I learned to become conversant in a wide variety of complex legal issues that arose throughout the agency on daily basis, while managing a myriad of personnel, ethics, budget and other administrative matters.

Although I left government service in 2005, I have continued to engage in security-related matters where I believe that I have been of assistance not only to my clients, but also to our government.

PART C - POLITICAL AND FOREIGN AFFILIATIONS

15. POLITICAL ACTIVITIES (LIST ANY MEMBERSHIPS OR OFFICES HELD IN OR FINANCIAL CONTRIBUTIONS OR SERVICES RENDERED TO, ANY POLITICAL PARTY, ELECTION COMMITTEE, POLITICAL ACTION COMMITTEE, OR INDIVIDUAL CANDIDATE DURING THE LAST TEN YEARS).

Since joining Holland & Knight in 2010, I have each year contributed $1,000 to our firm's PAC (Holland & Knight Committee for Effective Government)

Mitt Romney for President, Inc. – contribution of $250 (October 2012)

Liz Cheney for Wyoming – contribution of $500 (November 2013)

John McCain 2008 – contribution of $500 (July 2008)

McCain Victory – contribution of $500 (July 2008)

Trump for America, Inc. (Presidential Transition Team) – contribution of $1,000 (November 2016)

Donald J. Trump Presidential Transition Team / Volunteer (September 2016 – January 2017)

16. CANDIDACY FOR PUBLIC OFFICE (FURNISH DETAILS OF ANY CANDIDACY FOR ELECTIVE PUBLIC OFFICE).

None

17. FOREIGN AFFILIATIONS

(NOTE: QUESTIONS 17A AND B ARE NOT LIMITED TO RELATIONSHIPS REQUIRING REGISTRATION UNDER THE FOREIGN AGENTS REGISTRATION ACT. QUESTIONS 17A, B, AND C DO NOT CALL FOR A POSITIVE RESPONSE IF THE REPRESENTATION OR TRANSACTION WAS AUTHORIZED BY THE UNITED STATES GOVERNMENT IN CONNECTION WITH YOUR OR YOUR SPOUSE'S EMPLOYMENT IN GOVERNMENT SERVICE.)

A. HAVE YOU OR YOUR SPOUSE EVER REPRESENTED IN ANY CAPACITY (E.G. EMPLOYEE, ATTORNEY, OR POLITICAL/BUSINESS CONSULTANT), WITH OR WITHOUT COMPENSATION, A FOREIGN GOVERNMENT OR AN ENTITY CONTROLLED BY A FOREIGN GOVERNMENT? IF SO, PLEASE FULLY DESCRIBE SUCH RELATIONSHIP.

In 2007 and 2008 I represented a U.S.-allied foreign government in connection with a detention and removal proceeding brought by the U.S. Department of Homeland Security. The subject of the legal proceeding was a citizen of the foreign government client. I provided legal advice to the foreign government client on U.S. immigration law and assisted the government client in providing information to the U.S. Department of Homeland Security lawyers in connection with the immigration proceeding.

I was at the law firm of McKenna Long & Aldridge (MLA) from August 2005 to May 2007. In connection with my potential nomination I performed a FARA registration search of myself. (I do not have access to my billing records from when I was at MLA). I found FARA registration documents reflecting that in September 2006 I was part of a firm team, led by a former U.S. Ambassador to Canada, that represented four Canadian Provinces (Manitoba, Quebec, New Brunswick and Ontario) in connection with the U.S. government's Western Hemisphere Travel Initiative. I do not specifically recall working on this matter but the subject matter is consistent with the type of issue I would have worked on back then. The publicly available FARA filings reflect that I was removed from the engagement in April 30, 2007, around the time I left MLA.

At Holland & Knight I do not believe that I have represented any foreign governments. I have provided legal services to airlines that I understand are controlled, at least to some extent, by foreign governments. I have listed those airlines here:

- Etihad Airways (UAE)
- Qatar Airways
- Singapore Airlines
- South African Airways
- Turkish Airlines

Please know that because Holland & Knight does not track clients based on whether they are foreign government-controlled, it is possible that I have done work for a foreign government-controlled entity without being aware of the foreign-government nature of that client. Also, because I do not have access to records at two of my previous law firms, MLA (2005-2007) and Alston & Bird (1995-2002), it is possible that I represented a government-controlled entity while at those firms, but I do not recall having done so.

B. HAVE ANY OF YOUR OR YOUR SPOUSE'S ASSOCIATES REPRESENTED, IN ANY CAPACITY, WITH OR WITHOUT COMPENSATION, A FOREIGN GOVERNMENT OR AN ENTITY

CONTROLLED BY A FOREIGN GOVERNMENT? IF SO, PLEASE FULLY DESCRIBE SUCH RELATIONSHIP.

My current employer, Holland & Knight LLP, has approximately 1,200 attorneys and 27 offices in four different countries. The firm represents or has represented most foreign governments, as well as numerous foreign-government controlled entities throughout various industry sectors (e.g., financial services, energy, transportation and telecommunications). In the course of responding to this question I have learned that the firm client database does not track current and former clients based on their foreign-government nature. Therefore, in an effort to provide an accurate response to Question 17.B, I have reviewed our firm's FARA filings and consulted with certain law partners who, because of their international law practices, have visibility into some of the firm's current and past representations of foreign governments and foreign-government controlled entities, particularly the types of traditional legal services engagements that would not be reflected in a FARA registration (e.g., serving as transactional, litigation or regulatory counsel).

In addition to the below-identified engagements for which Holland & Knight has registered under FARA, I understand that the firm performs, or has performed, legal work for a substantial number of all foreign governments (including government-controlled entities) with which the U.S. has diplomatic relations. I am told that a wide variety of firm practice areas throughout Holland & Knight have handled these legal matters, which include serving as legal counsel in real estate and land use matters for most embassies in Washington, D.C., providing legal advice associated with large infrastructure projects on behalf of developing world nations, and serving as regulatory counsel for numerous foreign-government controlled air carriers, including the foreign airlines that I identified in response to Question 17.A.

Holland & Knight FARA Registrant Clients (1993 – October 2017):

Former Holland & Knight FARA Registrant Clients:
•Jamaica (Aid/Bi-lateral Relations)
•Senegal (Aid/Bi-lateral Relations)
•Trinidad and Tobago (Bi-lateral Relations)
•Costa Rica (Central America Free Trade Agreement)
•Central American Bank for Economic Development (founding countries: Guatemala, Honduras, El Salvador, Nicaragua and Costa Rica.) (Central America Free Trade Agreement)
•El Salvador (Aid/Bi-lateral Relations)
•Bahrain (Free Trade Agreement)
•Thailand (Human Rights and Labor Issues)

Current Holland & Knight FARA Registrant Clients
•United Kingdom (Defense Trade)
•Gibraltar (Bi-lateral Relations)
•Japan (Trade)
•South Korea (Trade)

C. DURING THE PAST TEN YEARS, HAVE YOU OR YOUR SPOUSE RECEIVED ANY COMPENSATION FROM, OR BEEN INVOLVED IN ANY FINANCIAL OR BUSINESS TRANSACTIONS WITH, A FOREIGN GOVERNMENT OR ANY ENTITY CONTROLLED BY A FOREIGN GOVERNMENT? IF SO, PLEASE PROVIDE DETAILS.

None other than as listed above.

D. HAVE YOU OR YOUR SPOUSE EVER REGISTERED UNDER THE FOREIGN AGENTS REGISTRATION ACT? IF SO, PLEASE PROVIDE DETAILS.

Yes. Please see Canada-related FARA filing identified in 17.A. response.

18. DESCRIBE ANY LOBBYING ACTIVITY DURING THE PAST TEN YEARS, OTHER THAN IN AN OFFICIAL U.S. GOVERNMENT CAPACITY, IN WHICH YOU OR YOUR SPOUSE HAVE ENGAGED FOR THE PURPOSE OF DIRECTLY OR INDIRECTLY INFLUENCING THE PASSAGE, DEFEAT, OR MODIFICATION OF FEDERAL LEGISLATION, OR FOR THE PURPOSE OF AFFECTING THE ADMINISTRATION AND EXECUTION OF FEDERAL LAW OR PUBLIC POLICY.

None

PART D - FINANCIAL DISCLOSURE AND CONFLICT OF INTEREST

19. DESCRIBE ANY EMPLOYMENT, BUSINESS RELATIONSHIP, FINANCIAL TRANSACTION, INVESTMENT, ASSOCIATION, OR ACTIVITY (INCLUDING, BUT NOT LIMITED TO, DEALINGS WITH THE FEDERAL GOVERNMENT ON YOUR OWN BEHALF OR ON BEHALF OF A CLIENT), WHICH COULD CREATE, OR APPEAR TO CREATE, A CONFLICT OF INTEREST IN THE POSITION TO WHICH YOU HAVE BEEN NOMINATED.

In the course of the nomination process, I have consulted with ODNI's Designated Ethics Official, who in turn, consulted with the Office of Government Ethics to identify potential conflicts of interest. Any potential conflict of interest will be resolved consistent with the conflicts of interest statutes, standards of conduct, and the terms of the Ethics Agreement that I have executed and which has been provided to the Committee. Consistent with the Ethics Agreement and the ethics pledge set forth in Executive Order 13770, if confirmed, I will not personally and substantially participate in any particular matter in which I know I have a financial interest, in which I know a former client of mine is a party or represents a party, or in which I know that Holland & Knight LLP is or represents a party.

20. DO YOU INTEND TO SEVER ALL BUSINESS CONNECTIONS WITH YOUR PRESENT EMPLOYERS, FIRMS, BUSINESS ASSOCIATES AND/OR PARTNERSHIPS, OR OTHER ORGANIZATIONS IN THE EVENT THAT YOU ARE CONFIRMED BY THE SENATE? IF NOT, PLEASE EXPLAIN.

If confirmed, I intend to resign from Holland & Knight LLP as described below.

21. DESCRIBE THE FINANCIAL ARRANGEMENTS YOU HAVE MADE OR PLAN TO MAKE, IF YOU ARE CONFIRMED, IN CONNECTION WITH SEVERANCE FROM YOUR CURRENT POSITION. PLEASE INCLUDE SEVERANCE PAY, PENSION RIGHTS, STOCK OPTIONS, DEFERRED INCOME ARRANGEMENTS, AND ANY AND ALL COMPENSATION THAT WILL OR MIGHT BE RECEIVED IN THE FUTURE AS A RESULT OF YOUR CURRENT BUSINESS OR PROFESSIONAL RELATIONSHIPS.

If confirmed, I will resign from Holland & Knight. As described in my OGE 278e, I may be eligible for a performance based discretionary bonus for services rendered in 2017 up to the date of my departure. This bonus amount would be paid prior to my assuming the positon of General Counsel to the ODNI. As also explained in my OGE 278e, I anticipate keeping my 401k plan, but there will be no further contributions following my separation from Holland & Knight LLP.

22. DO YOU HAVE ANY PLANS, COMMITMENTS, OR AGREEMENTS TO PURSUE OUTSIDE EMPLOYMENT, WITH OR WITHOUT COMPENSATION, DURING YOUR SERVICE WITH THE GOVERNMENT? IF SO, PLEASE PROVIDE DETAILS.

No.

23. AS FAR AS CAN BE FORESEEN, STATE YOUR PLANS AFTER COMPLETING GOVERNMENT SERVICE. PLEASE SPECIFICALLY DESCRIBE ANY AGREEMENTS OR UNDERSTANDINGS, WRITTEN OR UNWRITTEN, CONCERNING EMPLOYMENT AFTER LEAVING GOVERNMENT SERVICE. IN PARTICULAR, DESCRIBE ANY AGREEMENTS, UNDERSTANDINGS, OR OPTIONS TO RETURN TO YOUR CURRENT POSITION.

None.

24. IF YOU ARE PRESENTLY IN GOVERNMENT SERVICE, DURING THE PAST FIVE YEARS OF SUCH SERVICE, HAVE YOU RECEIVED FROM A PERSON OUTSIDE OF GOVERNMENT AN OFFER OR EXPRESSION OF INTEREST TO EMPLOY YOUR SERVICES AFTER YOU LEAVE GOVERNMENT SERVICE? IF YES, PLEASE PROVIDE DETAILS.

Not Applicable.

25. IS YOUR SPOUSE EMPLOYED? IF YES AND THE NATURE OF THIS EMPLOYMENT IS RELATED IN ANY WAY TO THE POSITION FOR WHICH YOU ARE SEEKING CONFIRMATION, PLEASE INDICATE YOUR SPOUSE'S EMPLOYER, THE POSITION, AND THE LENGTH OF TIME THE POSITION HAS BEEN HELD. IF YOUR SPOUSE'S EMPLOYMENT IS NOT RELATED TO THE POSITION TO WHICH YOU HAVE BEEN NOMINATED, PLEASE SO STATE.

No.

26. LIST BELOW ALL CORPORATIONS, PARTNERSHIPS, FOUNDATIONS, TRUSTS, OR OTHER ENTITIES TOWARD WHICH YOU OR YOUR SPOUSE HAVE FIDUCIARY OBLIGATIONS OR IN WHICH YOU OR YOUR SPOUSE HAVE HELD DIRECTORSHIPS OR OTHER POSITIONS OF TRUST DURING THE PAST FIVE YEARS.

NAME OF ENTITY	POSITION	DATES HELD	SELF OR SPOUSE

INFORMATION REDACTED

27. LIST ALL GIFTS EXCEEDING $100 IN VALUE RECEIVED DURING THE PAST FIVE YEARS BY YOU, YOUR SPOUSE, OR YOUR DEPENDENTS. (NOTE: GIFTS RECEIVED FROM RELATIVES AND GIFTS GIVEN TO YOUR SPOUSE OR DEPENDENT NEED NOT BE INCLUDED UNLESS THE GIFT WAS GIVEN WITH YOUR KNOWLEDGE AND ACQUIESCENCE AND YOU HAD REASON TO BELIEVE THE GIFT WAS GIVEN BECAUSE OF YOUR OFFICIAL POSITION.)

While at Holland & Knight, on April 4, 2017, friends from a Canadian law firm that I do work with took me to dinner and a hockey game in Toronto.

While at Holland & Knight, on October 4, 2014, a client took me to a Major League Baseball playoff game in Washington, D.C. The same client gave me two tickets to a World Series game on October 26, 2014, in San Francisco, and took my son and me to dinner afterward.

Also, a few times a year colleagues of mine at Holland & Knight invite me to hockey games in Washington if they have an extra ticket, and I reciprocate if I have an extra ticket. Sometimes the value of those tickets exceeds $100.

28. LIST ALL SECURITIES, REAL PROPERTY, PARTNERSHIP INTERESTS, OR OTHER INVESTMENTS OR RECEIVABLES WITH A CURRENT MARKET VALUE (OR, IF MARKET VALUE IS NOT ASCERTAINABLE, ESTIMATED CURRENT FAIR VALUE) IN EXCESS OF $1,000. (NOTE: THE INFORMATION PROVIDED IN RESPONSE TO SCHEDULE A OF THE DISCLOSURE FORMS OF THE OFFICE OF GOVERNMENT ETHICS MAY BE INCORPORATED BY REFERENCE, PROVIDED THAT CURRENT VALUATIONS ARE USED.)

DESCRIPTION OF PROPERTY	VALUE	METHOD OF VALUATION

Please see my OGE 278e.

29. LIST ALL LOANS OR OTHER INDEBTEDNESS (INCLUDING ANY CONTINGENT LIABILITIES) IN EXCESS OF $10,000. EXCLUDE A MORTGAGE ON YOUR PERSONAL RESIDENCE UNLESS IT IS RENTED OUT, AND LOANS SECURED BY AUTOMOBILES, HOUSEHOLD FURNITURE, OR APPLIANCES. (NOTE: THE INFORMATION PROVIDED IN RESPONSE TO SCHEDULE C OF THE DISCLOSURE FORM OF THE OFFICE OF GOVERNMENT ETHICS MAY BE INCORPORATED BY REFERENCE, PROVIDED THAT CONTINGENT LIABILITIES ARE ALSO INCLUDED.)

NATURE OF OBLIGATION	NAME OF OBLIGEE	AMOUNT

Please see my OGE 278e.

30. ARE YOU OR YOUR SPOUSE NOW IN DEFAULT ON ANY LOAN, DEBT, OR OTHER FINANCIAL OBLIGATION? HAVE YOU OR YOUR SPOUSE BEEN IN DEFAULT ON ANY LOAN, DEBT, OR OTHER FINANCIAL OBLIGATION IN THE PAST TEN YEARS? HAVE YOU OR YOUR SPOUSE EVER BEEN REFUSED CREDIT OR HAD A LOAN APPLICATION DENIED? IF THE ANSWER TO ANY OF THESE QUESTIONS IS YES, PLEASE PROVIDE DETAILS.

No.

31. LIST THE SPECIFIC SOURCES AND AMOUNTS OF ALL INCOME RECEIVED DURING THE LAST FIVE YEARS, INCLUDING ALL SALARIES, FEES, DIVIDENDS, INTEREST, GIFTS, RENTS, ROYALTIES, PATENTS, HONORARIA, AND OTHER ITEMS EXCEEDING $200. (COPIES OF U.S. INCOME TAX RETURNS FOR THESE YEARS MAY BE SUBSTITUTED HERE, BUT THEIR SUBMISSION IS NOT REQUIRED.)

INFORMATION REDACTED

INFORMATION REDACTED

32. IF ASKED, WILL YOU PROVIDE THE COMMITTEE WITH COPIES OF YOUR AND YOUR SPOUSE'S FEDERAL INCOME TAX RETURNS FOR THE PAST THREE YEARS?

Yes.

33. LIST ALL JURISDICTIONS IN WHICH YOU AND YOUR SPOUSE FILE ANNUAL INCOME TAX RETURNS.

Maryland and Georgia.

34. HAVE YOUR FEDERAL OR STATE TAX RETURNS BEEN THE SUBJECT OF AN AUDIT, INVESTIGATION, OR INQUIRY AT ANY TIME? IF SO, PLEASE PROVIDE DETAILS, INCLUDING THE RESULT OF ANY SUCH PROCEEDING.

No.

35. IF YOU ARE AN ATTORNEY, ACCOUNTANT, OR OTHER PROFESSIONAL, PLEASE LIST ALL CLIENTS AND CUSTOMERS WHOM YOU BILLED MORE THAN $200 WORTH OF SERVICES DURING THE PAST FIVE YEARS. ALSO, LIST ALL JURISDICTIONS IN WHICH YOU ARE LICENSED TO PRACTICE.

I am an active member of the District of Columbia Bar and the State Bar of Georgia.
Below are clients for whom I performed more than $200 worth of legal services during the past five years (November 2012 – Present):
ACTEX (Bosda) Enterprises
AeroTurbine, Inc.
Air Canada
AirMap Inc.
Akal Group
American Chemistry Council
American Real Estate Partners LLC
Axon Enterprise, Inc.
Balearia Caribbean Ltd., Corp.
Bimbo Bakeries USA Inc.
Blount Small Ship Adventures Inc.
Business Management Associates Inc.
CAE SimuFlite, Inc.
California Cartage Company
California Manufacturing Technology Consulting
Cargolux Airlines International S.A.
Case Western Reserve University

Catholic Diocese of St. Augustine
Cellular Dynamics International, Inc.
City of Edinburg, TX
City of Phoenix
City Refrigeration Holdings LTD
Clarivate Analytics (U.S.) LLC
Clean Wind Energy, Inc.
CNA Corp.
Commodities & Minerals Enterprise Ltd.
Commonwealth of Dominica Maritime Registry
Concesionaria Vuela Compania de Aviacion (Volaris Airlines)
Condor Flugdienst GmbH
CSX Corporation
CyTech Services, Inc.
De La Fontaine Industries
Des Plaines, City of
Dezer Development LLC
DOF Subsea USA
Duty Free World
Environmental Systems Research Institute
Etihad Airways
Focus on the Family
FOTP, LLC
Fulcrum IT Services LLC
Gard (North America) Inc.
Garson & Shaw LLC
Georgia-Pacific Corporation
H. Lee Moffitt Cancer Center
HCOA Management Services, LLC
High Ridge Brands Co.
Ijet Technologies, Inc.
Infosys Limited
Inmark, Inc.
Innovative Wireless Technologies
International Technological University
INVISTA S.à r.l.
Jack Cooper Logistics, LLC
Janome America, Inc.
Japan Tobacco International U.S.A., Inc.
Joseph Ribkoff USA Inc.
JR Plastics Corporation
JSC Norvik Banka
Juiceco, LLC
K2 Construction Consultants, Inc.
Kemet Electronics Corporation
Koch Industries, Inc.
LeapPoint, LLC
Lennar Homes, LLC
Maui Jim, Inc.
Michigan City Paper Box Company
Mitsubishi Corporation
Mutual Trading Co., Inc.
National Fisheries Institute
National Strategies, LLC
NetWrix Corporation
New Stetic, S. A.

Norfolk, City of
NOW Health Group
Offender Smartphone Monitoring, LLC
One Town Center, LLC
OSI Systems, Inc. (Rapiscan Systems, Inc.)
OSM Aviation, Inc.
PCI Security Standards Council, LLC
Plastic Surgery Innovations, Inc.
Ports America Inc.
PositiveID Corporation
Qatar Airways
Quarterline Consulting Services, LLC
Quick N Clean VI, LLC
Raytheon Company
Rochester Institute of Technology
Royal Caribbean Cruises Ltd.
Ruby Tuesday, Inc.
Salient CRGT, Inc.
San Manuel Band of Serrano Mission Indians
Sanaproperty2, LLC
SCR Pharmatop
Secure Mission Solutions, LLC
Selex ES Ltd.
Southwest Airlines Co.
SPE Development U.S. Inc.
Starwood Hotels & Resorts Worldwide, Inc.
State Farm Mutual Automobile Insurance
The W.I.N.N. Group, Inc.
The World of ResidenSea II Ltd.
Thomson Reuters
Tradewind Aviation, LLC
Triumph Enterprises, Inc.
U.S. Fence Solutions Company
United Parcel Service
USI Inc.
W&O Supply, Inc.
Worldwide Flight Services

In addition, I have represented clients in non-public matters whose identities I am not disclosing because of state bar ethics rules. These confidential clients are almost exclusively individuals, and as described in response to Question 10, my representation of these clients is in most cases known to the U.S. government.

36. DO YOU INTEND TO PLACE YOUR FINANCIAL HOLDINGS AND THOSE OF YOUR SPOUSE AND DEPENDENT MEMBERS OF YOUR IMMEDIATE HOUSEHOLD IN A BLIND TRUST? IF YES, PLEASE FURNISH DETAILS. IF NO, DESCRIBE OTHER ARRANGEMENTS FOR AVOIDING ANY POTENTIAL CONFLICTS OF INTEREST.

No. As described in my Ethics Agreement, if confirmed, I will divest certain identified investments and other assets that could give rise to a conflict of interest and invest those proceeds in a diversified mutual fund or other non-conflicting asset.

37. IF APPLICABLE, LIST THE LAST THREE YEARS OF ANNUAL FINANCIAL DISCLOSURE REPORTS YOU HAVE BEEN REQUIRED TO FILE WITH YOUR AGENCY, DEPARTMENT, OR BRANCH OF GOVERNMENT. IF ASKED, WILL YOU PROVIDE A COPY OF THESE REPORTS?

Not applicable.

PART E - ETHICAL MATTERS

38. HAVE YOU EVER BEEN THE SUBJECT OF A DISCIPLINARY PROCEEDING OR CITED FOR A BREACH OF ETHICS OR 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, PLEASE PROVIDE DETAILS.

No.

39. HAVE YOU EVER BEEN INVESTIGATED, HELD, ARRESTED, OR CHARGED BY ANY FEDERAL, STATE, OR OTHER LAW ENFORCEMENT AUTHORITY FOR VIOLATION OF ANY FEDERAL STATE, COUNTY, OR MUNICIPAL LAW, REGULATION, OR ORDINANCE, OTHER THAN A MINOR TRAFFIC OFFENSE, OR NAMED AS A DEFENDANT OR OTHERWISE IN ANY INDICTMENT OR INFORMATION RELATING TO SUCH VIOLATION? IF SO, PLEASE PROVIDE DETAILS.

No.

40. HAVE YOU EVER BEEN CONVICTED OF OR ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE TO ANY CRIMINAL VIOLATION OTHER THAN A MINOR TRAFFIC OFFENSE? IF SO, PLEASE PROVIDE DETAILS.

No.

41. ARE YOU PRESENTLY OR HAVE YOU EVER BEEN A PARTY IN INTEREST IN ANY ADMINISTRATIVE AGENCY PROCEEDING OR CIVIL LITIGATION? IF SO, PLEASE PROVIDE DETAILS.

No.

42. HAVE YOU BEEN INTERVIEWED OR ASKED TO SUPPLY ANY INFORMATION AS A WITNESS OR OTHERWISE IN CONNECTION WITH ANY CONGRESSIONAL INVESTIGATION, FEDERAL, OR STATE AGENCY PROCEEDING, GRAND JURY INVESTIGATION, OR CRIMINAL OR CIVIL LITIGATION IN THE PAST TEN YEARS? IF SO, PLEASE PROVIDE DETAILS.

No.

43. HAS ANY BUSINESS OF WHICH YOU ARE OR WERE AN OFFICER, DIRECTOR, OR PARTNER BEEN A PARTY TO ANY ADMINISTRATIVE AGENCY PROCEEDING OR CRIMINAL OR CIVIL LITIGATION RELEVANT TO THE POSITION TO WHICH YOU HAVE BEEN NOMINATED? IF SO, PLEASE PROVIDE DETAILS. (WITH RESPECT TO A BUSINESS OF WHICH YOU ARE OR WERE AN OFFICER, YOU NEED ONLY CONSIDER PROCEEDINGS AND LITIGATION THAT OCCURRED WHILE YOU WERE AN OFFICER OF THAT BUSINESS.)

No.

44. HAVE YOU EVER BEEN THE SUBJECT OF ANY INSPECTOR GENERAL INVESTIGATION? IF SO, PLEASE PROVIDE DETAILS.

No.

PART F - SECURITY INFORMATION

45. HAVE YOU EVER BEEN DENIED ANY SECURITY CLEARANCE OR ACCESS TO CLASSIFIED INFORMATION FOR ANY REASON? IF YES, PLEASE EXPLAIN IN DETAIL.

No.

46. HAVE YOU BEEN REQUIRED TO TAKE A POLYGRAPH EXAMINATION FOR ANY SECURITY CLEARANCE OR ACCESS TO CLASSIFIED INFORMATION? IF YES, PLEASE EXPLAIN.

No.

47. HAVE YOU EVER REFUSED TO SUBMIT TO A POLYGRAPH EXAMINATION? IF YES, PLEASE EXPLAIN.

No.

PART G - ADDITIONAL INFORMATION

48. DESCRIBE IN YOUR OWN WORDS THE CONCEPT OF CONGRESSIONAL OVERSIGHT OF U.S. INTELLIGENCE ACTIVITIES. IN PARTICULAR, CHARACTERIZE WHAT YOU BELIEVE TO BE THE OBLIGATIONS OF THE GENERAL COUNSEL FOR THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE AND THE INTELLIGENCE COMMITTEES OF THE CONGRESS, RESPECTIVELY, IN THE OVERSIGHT PROCESS.

Congressional oversight is essential to ensuring the lawful conduct of U.S. intelligence activities. This important oversight function can serve to reassure the American public that the U.S. Intelligence Community conducts its activities lawfully and with due regard for Americans' privacy and civil liberties, without fraud, waste and abuse. In addition to these critical functions, congressional oversight can improve the operation of the Intelligence Community.

The congressional intelligence committees, in particular, carry out this oversight function. Title V of the National Security Act of 1947 contains several congressional notification requirements. For example, section 502 of the National Security Act requires the Director of National Intelligence to keep the two intelligence committees "fully and currently informed" of all U.S. intelligence activities, including "significant anticipated intelligence activities" and "significant intelligence failures." As the chief legal officer for the Office of the Director of National Intelligence, the General Counsel assists the Director in carrying out this obligation. If confirmed as the General Counsel, I expect to assist the Director in ensuring that the IC works cooperatively with Congress and the intelligence committees on all matters and provides the intelligence committees with timely notices under Title V.

49. EXPLAIN YOUR UNDERSTANDING OF THE RESPONSIBILITIES OF THE GENERAL COUNSEL FOR THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

Section 103C(d) of the National Security Act provides that "the General Counsel shall perform such functions as the Director of National Intelligence may prescribe." If confirmed, I expect that my primary responsibility will be to provide the Director with the legal advice he needs to carry out his responsibilities in a lawful manner, particularly his responsibility under section 102A(f)(4) of the National Security Act to "ensure compliance with the Constitution and the laws of the United States" by the Intelligence Community. In addition, I understand that the General Counsel must opine on the full range of legal and ethical issues that the Office of the Director of National Intelligence faces.

I also expect that, if confirmed, my role as General Counsel would not be limited to advising the Director on purely legal questions but would also include providing him counsel on the wide variety of policy questions that he faces as the head of the Intelligence Community and the principal adviser to the President on intelligence matters.

Lastly, if confirmed, I would seek to contribute to the Office of the Director of National Intelligence's overall intelligence integration mission by promoting collaboration in the Intelligence Community legal community. I understand that there are many ways by which the General Counsel can do this, such as by supporting joint duty initiatives, convening interagency forums, and consulting with my counterparts in the Intelligence Community.

AFFIRMATION

I, **JASON KLITENIC**, DO SWEAR THAT THE ANSWERS I HAVE PROVIDED TO THIS QUESTIONNAIRE ARE ACCURATE AND COMPLETE.

November 20, 2017 **SIGNATURE**
(Date)

SIGNATURE

CHAUNCEY ERIC DEWAYNE FORBES
NOTARY PUBLIC
REGISTRATION # 367756
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES
OCTOBER 31, 2021

TO THE CHAIRMAN, SELECT COMMITTEE ON INTELLIGENCE:

In connection with my nomination to be the General Counsel for the Office of the Director of National Intelligence, I hereby express my willingness to respond to requests to appear and testify before any duly constituted committee of the Senate.

SIGNATURE

Dated: November 20, 2017

Keeping the Intelligence Committee Fully and Currently Informed

QUESTION 1: Section 502 of the National Security Act of 1947 provides that the obligation to keep the congressional intelligence committees fully and currently informed of all intelligence activities applies to the Director of National Intelligence and to the heads of all departments, agencies, and other entities of the U.S. Government involved in intelligence activities. What is your understanding of the standard for meaningful compliance with this obligation by the Office of the Director of National Intelligence and the heads of all departments, agencies and other entities of the U.S. Government involved in intelligence activities to keep the congressional intelligence committees, including all their Members, fully and currently informed of intelligence activities? Under what circumstances do you believe it is appropriate to brief the Chairman and Vice Chairman and not the full committee membership?

ANSWER: Section 502 of the National Security Act requires the Director of National Intelligence to keep the two intelligence committees "fully and currently informed" of all U.S. intelligence activities, including any "significant anticipated intelligence activity" and "significant intelligence failure." I understand the standard for meaningful compliance with this obligation to mean that congressional notifications must be timely, accurate, and complete to be effective. Director Coats has committed that he will comply not only with the letter of the law, but also its spirit. Like Director Coats, I believe that when the Intelligence Community works together to inform Congress, and proper oversight can be conducted, both the Intelligence Community and the American people will benefit.

As the chief legal officer for the Office of the Director of National Intelligence, the General Counsel assists the Director in carrying out his legal obligations, and, if confirmed, I will expect all Intelligence Community elements to follow both laws and policies that are in place within the Intelligence Community concerning congressional notification. I will further expect the General Counsels of the Intelligence Community elements to fulfill their congressional notification obligation regarding significant legal interpretations affecting the intelligence activities of their elements. If confirmed, I expect to assist the Director in ensuring that the Intelligence Community works cooperatively with Congress and the intelligence committees and provides the intelligence committees with timely notices under Section 502 subject only to limitations necessary to protect specific

operational details about sources, tradecraft, and other exceptionally sensitive information.

Section 502 also provides that congressional notification must be made "[t]o the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters." Section 503 states that a presidential finding or notification about a covert action "may be reported to the chairmen and ranking minority members of the congressional intelligence committees, the Speaker and minority leader of the House of Representatives, the majority and minority leaders of the Senate, and such other member or members of the congressional leadership as may be included by the President," "[i]f the President determines that it is essential to limit access" to the finding or notification in order "to meet extraordinary circumstances affecting vital interests of the United States."

Although I believe that these terms do not limit the obligation to keep the intelligence committees fully informed, I take these provisions to mean that the Director of National Intelligence has a degree of latitude in deciding how he will bring extremely sensitive matters to the committees' attention. As Director Coats told this committee during his confirmation hearing, limiting access for non-covert actions would be rare and often a matter of timing, and, in his experience, the committee leadership has worked in concert with the Executive Branch to determine when to expand access to the information in question. If confirmed, I expect to assist the Director in pursuing this process when it is required.

Priorities of the Director of National Intelligence

QUESTION 2: Have you discussed with the Director of National Intelligence his specific expectations of you, if confirmed as General Counsel, and his expectations of the Office of the General Counsel as a whole? If so, please describe those expectations.

ANSWER: I have met with Director Coats and he expressed his expectations for me, if I am confirmed as General Counsel, and for the Office of General Counsel as a whole. Director Coats expressed the value he places on having a strong legal team and stated that he expects me, and the office as a whole, to provide him

with sound legal advice and policy counsel on the full range of issues that both he and the ODNI face. Beyond that, though, he stressed to me the absolute importance of integrity, and that he expects integrity to be the guiding principle in my work and the work of the Office of General Counsel.

The Office of the General Counsel

QUESTION 3: The Office of the General Counsel of the Office of the Director of National Intelligence has a myriad of roles and responsibilities. What are your expectations for the Office?

ANSWER: Fundamentally, the Office of General Counsel must ensure that the ODNI conducts its activities in accordance with the Constitution and laws of the United States. To do that, I expect the lawyers in the office to identify legal issues proactively and to provide timely, sound advice on the law related to those issues. I also expect the office to provide helpful policy counsel on ODNI's activities and to be able to distinguish that counsel from legal advice.

More broadly, I expect lawyers in the office to be experts in their particular areas of responsibility and to engage cooperatively with their counterparts in the Intelligence Community and interagency and, where appropriate, to lead efforts to resolve cross-cutting legal issues that may arise. I see this as an important part of ODNI's community management role. Finally, just as the DNI expects absolute integrity from me, if confirmed, I will expect the same of every attorney in the Office of General Counsel.

a. Do you have any preliminary observations on its responsibilities, performance, and effectiveness?

ANSWER: My observations on the Office of General Counsel to date have been limited to several unclassified briefings by lawyers in the office and several discussions with the office's current management and others who have worked for, or interacted with, the office. My impression is that the office is staffed by capable lawyers tasked with addressing a broad range of legal and policy questions. It appears that in many cases lawyers in the office lead or coordinate the resolution of legal issues affecting the entire Intelligence Community and not just the ODNI.

b. If confirmed, will you seek to make changes in the numbers or qualifications of the attorneys in the office, or the operations of the office?

ANSWER: At this point, I cannot say whether I will seek to make such changes if confirmed. I will, however, seek to gain a more in-depth understanding of the office's operations, organization, and people to determine whether any changes are necessary. If confirmed, I look forward to leading the office and ensuring that it provides valuable legal services to the ODNI.

QUESTION 4: Describe your understanding of the responsibilities of the Director of National Intelligence and the General Counsel of the Office of the Director of National Intelligence (GC/ODNI) in reviewing, and providing legal advice on, the work of the Central Intelligence Agency, including covert action undertaken by the Central Intelligence Agency.

ANSWER: The Director of National Intelligence is the head of the Intelligence Community and is responsible for the provision of intelligence to the executive and legislative branches of government. As the head of the Intelligence Community, the Director has significant authority to oversee the work of all Intelligence Community elements, including the Central Intelligence Agency. This includes responsibilities over budget requests and appropriations for the National Intelligence Program, oversight of intelligence priorities and taskings, governance of national intelligence activities, and a specific mandate to ensure that all Intelligence Community elements conducts activities in compliance with the Constitution and the laws of the United States, including covert action.

The Central Intelligence Agency is a critical component of the Intelligence Community. The Director of National Intelligence's role in overseeing the activities of the agency requires that the ODNI General Counsel work closely with the General Counsel of the Central Intelligence Agency to ensure that its national intelligence activities are carried out in a legal and ethical manner. I believe that direct and open collaboration between the two General Counsel's offices is critical to support the Director of National Intelligence's role as the head of the Intelligence Community and overseer of the Central Intelligence Agency.

QUESTION 5: Explain your understanding of the role of the GC/ODNI in resolving conflicting legal interpretations within the Intelligence Community.

ANSWER: Section 102A(f)(4) of the National Security Act provides that the Director of National Intelligence shall ensure compliance with the Constitution and laws of the United States by the Central Intelligence Agency and by other elements of the Intelligence Community "through the host executive departments" of those elements. It is my understanding that the ODNI General Counsel plays a significant role in helping the Director carry out this requirement. Although the ODNI General Counsel lacks the authority to make the final decision over the legal position that governs a particular element of the Intelligence Community, it is my understanding that the General Counsel often plays a lead role in identifying cross-cutting legal issues or conflicting legal positions among the Intelligence Community elements and working to resolve those issues. It is also my understanding that the General Counsel often presents the consensus views of the Intelligence Community legal community to the broader Federal Government. If confirmed, I will work actively and cooperatively with my counterparts across the Intelligence Community to identify and resolve conflicting legal interpretations within the Intelligence Community and to advocate for those positions with other federal government departments and agencies.

Guidelines under Executive Order 12333

QUESTION 6: One of the fundamental documents governing the activities of the Intelligence Community is Executive Order 12333. Under Executive Order 12333, as amended in July 2008, there are requirements for Attorney General-approved guidelines. For each of the following requirements, describe the principal matters to be addressed by each of the required Attorney General-approved guidelines or procedures, the main issues you believe need to be resolved in addressing these guidelines or procedures, and your understanding of the schedule and priorities for completing them (or indicate whether the existing named guidelines or procedures are deemed sufficient).

a. Guidelines under section 1.3(a)(2) for how information or intelligence is provided to, or accessed by, and used or shared by the Intelligence Community, except for information excluded by law, by the President,

or by the Attorney General acting under presidential order in accordance with section 1.5(a).

ANSWER: It is my understanding that section 1.3(a)(2) addresses the Intelligence Community's access to, or use of, information collected by Federal Government departments and agencies outside the Intelligence Community and that these guidelines should implement the provision of section 1.5(a) directing the heads of executive branch departments and agencies to "provide the Director access to all information and intelligence relevant to the national security or that otherwise is required for the performance of the Director's duties, to include administrative and other appropriate management information, except such information excluded by law, by the President, or by the Attorney General acting under this order at the direction of the President[.]"

Section 1.5(a) of the executive order is intended to ensure that the Director, and by extension the Intelligence Community, has access to relevant information possessed by the Federal Government. The sharing of such information, however, presents a number of legal and policy issues that, in many cases, are specific to a particular type of information based on the laws and policies that govern it. It is my understanding that the Intelligence Community has addressed these issues on a case-by-case basis relying on a combination of guiding documents, including, most notably, the Attorney General-approved guidelines that govern particular elements' collection, retention, and dissemination of information concerning U.S. persons. If confirmed, I intend to review this approach and whether additional Attorney General-approved guidelines are necessary.

b. Procedures under section 1.3(b)(18) for implementing and monitoring responsiveness to the advisory tasking authority of the Director of National Intelligence for the collection and analysis directed to departments and other U.S. entities that are not elements of the Intelligence Community.

ANSWER: The Director of National Intelligence, under section 1.3(b)(18), may provide advisory tasking, in essence asking a federal government agency that is not part of the Intelligence Community to collect information that is relevant to the national intelligence mission. Section 1.5(d) provides that the heads of

executive branch departments and agencies shall provide such support to the Director as he may request, to the maximum extent permitted by law and to the extent consistent with that department's or agency's mission. This would include responding to any advisory tasking by the Director. It is my understanding that the ODNI has not prioritized the issuance of Attorney General-approved guidelines for implementing and monitoring responsiveness to advisory taskings because relevant information may be effectively obtained through existing interagency processes. If confirmed, I will review whether these guidelines are necessary and, if so, prioritize them accordingly.

c. Procedures under section 1.6(g) governing production and dissemination of information or intelligence resulting from criminal drug intelligence activities abroad if the elements of the IC involved have intelligence responsibilities for foreign or domestic criminal drug production and trafficking.

ANSWER: Section 1.6(g) directs the heads of Intelligence Community elements to participate in the development of guidelines approved by the Attorney General to govern the production and dissemination of intelligence resulting from criminal drug intelligence activities abroad. It is my understanding that these activities are governed by Intelligence Community elements' Attorney General-approved guidelines for the collection, retention, and dissemination of information concerning U.S. persons required by section 2.3 of Executive Order 12333 and discussed in more detail in my response to question 7.e, below.

d. Regulations under section 1.7(g)(1) for collection, analysis, production, and intelligence by intelligence elements of the FBI of foreign intelligence and counterintelligence to support national and departmental missions.

ANSWER: It is my understanding that the Federal Bureau of Investigation issued the procedures called for by section 1.7(g)(1) with the approval of the Attorney General, in coordination with the Director of National Intelligence, on September 29, 2008.

e. Procedures under section 2.3 on the collection, retention, and dissemination of United States person information and on the dissemination of information derived from signals intelligence to enable an Intelligence Community element to determine where the information is relevant to its responsibilities.

ANSWER: Intelligence Community elements' Attorney General-approved U.S. person procedures establish the parameters under which elements' may lawfully collect, retain, and disseminate information concerning U.S. persons in a manner that protects privacy and civil liberties. It is my understanding that, since the 2008 amendment to Executive Order 12333, a number of elements have engaged in a process to update their procedures, which in some cases were decades old, and other, newer Intelligence Community elements have similarly engaged in a process to issue new procedures. This process has resulted in the Intelligence Community elements of the Department of Defense, the Central Intelligence Agency, the Office of Intelligence and Analysis in the Department of Homeland Security, and the Office of Intelligence and Counterintelligence in the Department of Energy issuing new or updated procedures within the last two years. The National Counterterrorism Center also issued procedures in 2012. It is my understanding that the ODNI Office of General Counsel has been substantially involved in developing these procedures and has primarily sought to ensure that their requirements are consistent with each other to the greatest extent possible, accounting for elements' unique missions and authorities. Other elements continue to work on new or updated procedures and, if confirmed, I will continue to make engagement in this process a priority for the ODNI Office of General Counsel.

With regard to the signals intelligence procedures called for by section 2.3, the former Director of National Intelligence issued these procedures on January 3, 2017, with the approval of former Attorney General Lynch. Before the 2008 amendment to the executive order, section 2.3 had provided that the National Security Agency could not disseminate raw signals intelligence to other Intelligence Community elements. The 2008 amendment enabled the National Security Agency to disseminate raw signals intelligence to other Intelligence Community elements, but only subject to procedures issued by the Director of National Intelligence and approved by the Attorney General. These procedures identify the circumstances under which such disseminations may occur and

require that recipient Intelligence Community elements apply protections to the raw signals intelligence that are comparable to those applied by the National Security Agency to the same information. It is my understanding that these procedures were the product of several years of interagency coordination led by the ODNI Office of General Counsel. If confirmed, I intend to ensure that the office remains closely involved in their implementation and use.

f. Procedures under section 2.4 on the use of intelligence collection techniques to ensure that the Intelligence Community uses the least intrusive techniques feasible within the U.S. or directed at U.S. persons abroad.

ANSWER: Section 2.4 of Executive Order 12333 limits the use of certain collection techniques, such as physical surveillance, and establishes the governing principle that Intelligence Community elements shall use the least intrusive collection techniques feasible when conducting collection activities within the United States or when collection activities are directed at U.S. persons abroad. This provision recognizes that certain collection techniques are inherently more intrusive than others and thus require specific rules governing their use. Most elements have addressed the requirements of this section within their Attorney General-approved procedures under section 2.3, which, among other things, provide guidance on the collection of information concerning U.S. persons. It is my understanding that, like the process for developing procedures required by section 2.3, the ODNI Office of General Counsel has been closely involved in the development of procedures under section 2.4 since the 2008 amendment and, if confirmed, I will ensure that the office remains closely involved in the development of any future procedures under this section.

g. Procedures under section 2.9 on undisclosed participation in any organization in the United States by anyone acting on behalf of an IC element.

ANSWER: Section 2.9 of Executive Order 12333 is intended to regulate undisclosed participation in any organization in the United States by anyone acting on behalf of an Intelligence Community element and is one of the key privacy and civil liberties protections found in the executive order. Like the procedures required by section 2.4, most Intelligence Community elements have

incorporated the section 2.9 procedures into their Attorney General-approved procedures established under section 2.3. My understanding is that, like the procedures discussed in subsections e. and f. of my response to this question, the ODNI Office of General Counsel has been closely involved in developing these procedures and, if confirmed, I will ensure that the office continues to prioritize these issues.

Implementation of the FISA Amendments Act of 2012

QUESTION 7: Under section 702 of the Foreign Intelligence Surveillance Act, as added by the FISA Amendments Act of 2008 (FISA Amendments Act), the Attorney General and the DNI may authorize jointly, for a period of up to one year from the effective date of the authorization, the targeting of persons reasonably believed to be located outside the United States to acquire foreign intelligence information. The FISA Amendments Act was signed into law in July 2008 and reauthorized for five years in December 2012. The FISA Amendments Act also provide for semiannual or annual assessments and reviews as described in section 702(l) of FISA.

a. Describe your understanding of the matters that the Attorney General and DNI, with the assistance of the GC/ODNI, should evaluate in order to determine, on the basis of your experience with the FISA Amendments Act (and annually thereafter), whether there should be revisions in the substance or implementation of (1) targeting procedures, (2) minimization procedures, and (3) guidelines required by the FISA Amendments Act, in order to ensure both their effectiveness and their compliance with any applicable constitutional or statutory requirements.

ANSWER: Under Section 702, the Attorney General and the Director of National Intelligence make annual certifications that authorize Intelligence Community elements to target non-U.S. persons reasonably believed to located outside the United States to acquire specific categories of foreign intelligence information. As part of that annual certification, by statute, the Attorney General and the Director of National Intelligence must make a number of attestations, including:

- That the targeting procedures "are reasonably designed to . . . ensure that an acquisition authorized under . . . [Section 702] . . . is limited to targeting persons reasonably believed to be located outside the United States" and "prevent the intentional acquisition of any communication as to which the sender and all intended recipients are known at the time of the acquisition to be located in the United States." *See* 50 U.S.C. 1881a(g)(2)(A).

- That the minimization procedures "are reasonably designed in light of the purpose and technique of the particular surveillance to minimize the acquisition and retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information" and also "require that nonpublicly available information, which is not foreign intelligence information . . . shall not be disseminated in a manner that identifies any United States person, without that person's consent, unless such person's identity is necessary to understand foreign intelligence information or assess its importance." *See* 50 U.S.C. 1881a(g)(2)(A)(ii) (citing to 50 U.S.C. 1801(h)).

- That both sets of procedures are consistent with the requirements of the Fourth Amendment. *See* 50 U.S.C. 1881a(g)(2)(A).

In making these attestations, it is my understanding that the Attorney General and the Director of National Intelligence rely on the information they have learned over the course of the year in their roles as overseers of the program. The Department of Justice and the ODNI, including attorneys within the ODNI Office of General Counsel, are engaged in comprehensive and rigorous oversight of the elements' implementation of the Section 702 program, which involves regular oversight reviews of targeting decisions, querying activities, and minimization practices of each element that participates in the program. The Department of Justice and the ODNI also play a central role in identifying, reporting, and ensuring remediation of any instances of non-compliance. I understand that this extensive oversight informs both the Attorney General's and the Director of National Intelligence's attestations in the Section 702 certifications and their recommendations on whether the relevant certifications, including

underlying targeting and minimization procedures, should be revised to ensure the effective implementation of this authority in a manner that comports with all constitutional and statutory requirements.

b. Describe how the semiannual or annual assessments and reviews required by the FISA Amendments Act should be integrated, both in substance and timing, into the process by which the Attorney General and DNI consider whether there should be revisions for the next annual authorization or authorizations under the FISA Amendments Act, including in applicable targeting and minimization procedures and guidelines.

ANSWER: Section 702(l) requires the Attorney General and the Director of National Intelligence to assess compliance with the targeting and minimization procedures and identify any compliance trends. The Attorney General and the Director of National Intelligence must submit these assessments to the Foreign Intelligence Surveillance Court and the relevant congressional committees at least once every six months. I understand that the statutory requirement to identify and assess the Intelligence Community's implementation of the targeting and minimization procedures, identify compliance trends, and make recommendations on the program, also informs the Attorney General's and the Director of National Intelligence's attestations in the Section 702 certifications to the Foreign Intelligence Surveillance Court and their conclusion regarding whether revisions are necessary to ensure the effective implementation of this authority to ensure compliance with the Constitution and the statute. If confirmed, I look forward to learning more about how the ODNI and Department of Justice conduct their oversight of this program and assess these compliance trends.

c. In addition to the matters described in the FISA Amendments Act for semiannual or annual assessment or review, are there additional matters that should be evaluated periodically by the Attorney General or the DNI to improve and ensure the lawful and effective administration of the FISA Amendments Act?

ANSWER: Although I have not yet had the opportunity to work on issues arising under Section 702, if confirmed I look forward to engaging with both ODNI and

Department of Justice staff to assess whether there are additional topics or issues that we should consider in conducting oversight. If confirmed, I will be committed to working to ensure that the Intelligence Committee fully and faithfully complies with the Constitution and U.S. law, including through its implementation of the Section 702 program.

QUESTION 8: In 2015, the Department of Justice issued a memorandum entitled "Restriction Regarding the Use of FISA Section 702 Information in Criminal Proceedings Against United States Persons." The current Administration has confirmed that the memorandum remains in effect.

a. Do you believe there should be any restrictions on the use of information from Section 702 other than as evidence in criminal proceedings, i.e. as part of criminal investigations or as part of administrative or civil investigations or proceedings?

ANSWER: I was not involved in the drafting of the 2015 policy and, therefore, I am not personally aware of what factors the government may have considered when deciding its scope and applicability. As such, I am not currently in a position to meaningfully assess whether the scope of the 2015 policy should be changed. If confirmed, I fully expect to be briefed further on Section 702, including on the development and implementation of this policy.

b. The limitations in the 2015 policy include an exception for "transnational crime." Do you support this exception and, if so, what do you believe should be considered a "transnational crime"?

ANSWER: Although I was not involved in the drafting of the 2015 policy referenced above, I understand that, to date, the only criminal cases in which information obtained or derived from Section 702 has been used against an aggrieved person have been prosecutions for terrorism-related offenses. I understand that no such determination has yet been made regarding "transnational crime." In the event the government seeks to use such information in a prosecution for a transnational criminal offense, a determination will be made at that time regarding the types of specific offenses that fall within the listed category. If confirmed, I would expect to be part of these discussions.

QUESTION 9: In his responses to Questions for the Record, John Demers, the nominee to be Assistant Attorney General for the National Security Division at the U.S. Department of Justice, wrote that whether a U.S. person has been reverse targeted under Section 702 was a "fact specific inquiry that would involve consideration of a variety of factors." As an example, Mr. Demers stated that "if a Section 702 tasking resulted in substantial reporting by the Intelligence Community regarding a U.S. person, but little reporting about the Section 702 target, that might be an indication that reverse targeting may have occurred."

a. Do you agree that substantial reporting regarding a U.S. person and little reporting about the foreign target could be an indication that reverse targeting may have occurred?

ANSWER: Section 702 prohibits reverse targeting. It is my understanding that the determination of whether a particular, known U.S. person has been reverse targeted is fact-specific and necessitates evaluation of a variety of factors. In its 2014 report regarding the government's use and implementation of Section 702, the Privacy and Civil Liberties Oversight Board noted that if a Section 702 tasking resulted in substantial reporting by the Intelligence Community regarding a U.S. person, but little reporting about the Section 702 target, that might be an indication that reverse targeting may have occurred. I agree that one possible indication of reverse targeting of a U.S. person could be the existence of substantial reporting about that U.S. person, but little to no reporting about the foreign target.

b. Are there other factors, such as the number or frequency of queries involving U.S. persons, that could be an indication of reverse targeting?

ANSWER: As indicated above, it is my understanding that a reverse targeting determination is a fact-specific inquiry that would involve consideration of a variety of factors. As the Privacy and Civil Liberties Oversight Board noted in its 2014 report, cited above, it found no instances of intentional misuse of Section 702 authority. That notwithstanding, if confirmed, if I become aware of instances of reverse targeting through ODNI's Section 702 oversight function, I will work with the Department of Justice to determine the cause and implement solutions to ensure the problem does not recur.

Encryption

QUESTION 10: Under Section 702 of FISA, the government can direct an electronic communications service provider to provide "assistance necessary to accomplish the acquisition." Under Section 702(h)(5), if a provider does not comply with a directive, the government may seek an order from the FISA Court to compel compliance. The government has stated that it has "not to date sought an order pursuant to Section 702(h)(5) seeking to compel an electronic communication service provider to alter the encryption afforded by a service or product it offers."

a. Do you believe that the government should inform the FISA Court when it issues a directive to a provider to alter the encryption afforded by a service or product, regardless of whether the government files a motion to compel compliance?

ANSWER: Section 702(h) permits the Attorney General and the Director of National Intelligence to "direct . . . an electronic communication service provider to . . . immediately provide the Government with all information, facilities, or assistance necessary to accomplish the acquisition in a manner that will protect the secrecy of the acquisition and produce a minimum of interference with the services that such electronic communication service provider is providing to the target of the acquisition." 50 U.S.C. 1881a(h)(1). Under Section 702(h)(5), the Attorney General may file a petition for an order to compel the provider if the provider fails to comply with a directive. 50 U.S.C. 1881a(h)(5)(A). I am not familiar with whether Section 702(h) could be used to compel an electronic service provider in the situation you describe, but I imagine it would depend in large part upon the facts of the case, and would defer to the Department of Justice. It is my understanding that the Foreign Intelligence Surveillance Court would receive a Title VII directive only if a service provider challenged the lawfulness of the directive or if the Attorney General moved to compel a provider.

b. Will you commit to notifying Congress of any such directive?

ANSWER: If confirmed, I commit to working with Director Coats, the Department of Justice, and all Intelligence Community elements, to ensure that the ODNI complies with the obligations both in the National Security Act and the Foreign

Intelligence Surveillance Act to keep the intelligence committees informed of intelligence activities.

Other Surveillance Matters

QUESTION 11: Section 4 of PPD-28 calls on each Intelligence Community element to update existing or issue policies and procedures to implement principles for safeguarding all personal information collected through SIGINT. Those policies and procedures are currently posted publicly. Will you ensure that the Intelligence Community continues to post these policies and procedures as well as any modifications, superseding policies and procedures, or significant interpretations?

ANSWER: If confirmed, I will ensure that the Intelligence Community continues to publicly post its PPD-28 implementation procedures, along with any superseding procedures, consistent with the need to protect sensitive intelligence sources and methods. I will likewise endeavor to ensure that any significant interpretations of these procedures are made public, consistent with the need to protect sensitive intelligence sources and methods.

QUESTION 12: Are there any circumstances in which an element of the Intelligence Community may not conduct a warrantless search for a U.S. person of communications that have been collected pursuant to Section 12333? If so, please describe.

ANSWER: Executive Order 12333 sets forth the goals, directions, duties, and responsibilities for United States intelligence efforts, including describing the structure and authorities of the Intelligence Community, and sets certain rules for the conduct of intelligence activities. Section 2 of the order addresses the collection of information concerning U.S. persons, including a delineation of particular collection techniques, and also requires that Intelligence Community elements collect, retain, or disseminate information concerning United States persons only in accordance with procedures established by the head of the Intelligence Community element concerned (or by the head of a department containing such element) and approved by the Attorney General after consultation with the Director of National Intelligence. Because I have not yet had the opportunity to see how these Attorney General-approved procedures

would apply in practice, particularly with regard to the collection of communications, I am not in a position to comment on Intelligence Community elements' particular practices regarding queries of already-collected data for information concerning U.S. persons.

Detention and Interrogation

QUESTION 13: Have you read the declassified, redacted Executive Summary of the Study?

ANSWER: Yes.

QUESTION 14: If confirmed, will you commit to reading portions of the full, classified Study relevant to the legal analysis of the program and the ODNI?

ANSWER: My understanding is that, at the present time, the ODNI does not possess a copy of the full, classified Study or any portion of it. If confirmed, I do commit to reading any portions of the full, classified Study made available to me.

Transparency

QUESTION 15: Executive Order 13526 (December 29, 2009) provides that: "In no case shall information be classified, continue to be maintained as classified, or fail to be declassified in order to: (1) conceal violations of law, inefficiency, or administrative error; (2) prevent embarrassment to a person, organization, or agency; (3) restrain competition; or (4) prevent or delay the release of information that does not require protection in the interest of national security." Executive Order 13292 (March 25, 2003) and Executive Order 12958 (April 17, 1995) prohibited classification based on the same factors. Do you agree with the prohibitions in these Executive Orders?

ANSWER: Yes, I agree with the prohibitions and limitations set forth in section 1.7 of Executive Order 13526.

QUESTION 16: Should the reports of the Privacy and Civil Liberties Board be made public?

ANSWER: I believe that the Privacy and Civil Liberties Oversight Board's reports should be made public consistent with the Board's enabling statute that provides that its reports should be "made available to the public to the greatest extent that is consistent with the protection of classified information and applicable law."

The Privacy and Civil Liberties Oversight Board is an independent agency within the executive branch and it performs important advice and oversight functions. I understand that the Board worked very closely with the Intelligence Community to ensure that its report on Section 702 could be released in a wholly unclassified manner. The report performed a public service by providing an extensively detailed and readily understandable description of the Section 702 program. If confirmed, I intend to support this close working relationship.

QUESTION 17: If, for any reason, you make a public statement that is inaccurate, do you commit to making a public statement correcting the record?

ANSWER: If confirmed, I intend to ensure that any public statements that I make are entirely accurate. However, if for some reason I inadvertently make a public statement that is inaccurate, I will – consistent with the requirement to protect classified information and sensitive intelligence sources and methods – publicly correct that statement. If I am not able to make a public correction because of a requirement to protect such information, I will inform the Committee of the inaccuracy in a classified setting.

Chiefs of Mission

QUESTION 18: If a U.S. Ambassador directs the Intelligence Community to cease a particular program or operation in the country where the ambassador is serving, is the Intelligence Community obligated to do so, absent or pending intervention from the president?

ANSWER: 22 U.S.C. 3927 states that: "Under the direction of the President, the chief of mission to a foreign country . . . shall have full responsibility for the direction, coordination, and supervision of all Government executive branch

employees in that country . . . ." In practice, I believe that it is important for the Intelligence Community to work collaboratively with the State Department to proactively anticipate and resolve disagreements and, if confirmed, I will work with the Legal Adviser to the State Department to do that.

Media Policies

QUESTION 19: On July 12, 2013, the Department of Justice released a Report on Review of News Media Policies. Which aspects of that Review do you agree with, and which would you advise be modified?

ANSWER: I have reviewed the report and the regulation promulgated thereto at 28 CFR 50.10. My understanding is that it primarily involves internal Department of Justice policies and practices governing how law enforcement conducts criminal and civil investigations involving members of the news media. Sections (c)(4)(vi) and (c)(5)(v) of the regulation require certain certifications from the Director of National Intelligence in investigations or prosecutions of unauthorized disclosures. I am not aware of whether the Director has ever issued such certifications or, more generally, how the policy has been applied in practice and, therefore, it would be premature for me to assess whether those sections should be modified. If confirmed, I will review the report and policy in light of any information not available to me now.

Evaluation of the Office of the Director of National Intelligence

QUESTION 20: Members of the Committee have expressed concern that the ODNI does not have all of the legal authorities necessary to fulfill congressional expectations for the office. Do you have any preliminary observations on strengths or weaknesses of the authorities of the Office with respect to a successful mission of the ODNI? If so, please describe.

ANSWER: In my interactions with ODNI staff, I have observed that the ODNI has a wide-ranging set of responsibilities that frequently involve the equities of other federal government departments and agencies. I have not yet formed an opinion, however, on the relative strengths or weaknesses of ODNI's current authorities as they apply to its mission. If confirmed, I intend to consider this question closely throughout my tenure as ODNI General Counsel and I will work with the

Committee to address any areas where the ODNI would require additional authorities.

Pending Legislation

QUESTION 21: The Senate and House of Representatives have considered legislation over the course of several Congresses on subjects such as providing conditions for the federally compelled disclosure of information by certain persons connected with the news media, the state secrets privilege, and whistleblower protections. In your view, what evidence and issues should be considered by the Administration and by Congress in the consideration of whether legislation on these subjects should be enacted? Please discuss each subject separately.

ANSWER: The subjects described in the question: the compelled disclosure of information by certain persons connected with the news media; the state secrets privilege; and whistleblower protections are overlapping to an extent in that they involve the sometimes competing, but important, interests of public transparency and the protection of information for national security purposes. In my view, the Administration and Congress should therefore consider evidence and issues tied to these two interests in considering legislation addressing these subjects. With regard to the news media, legislation requiring or limiting compelled disclosure in certain cases could raise constitutional issues both from the standpoint of the president's obligation to protect national security and the constitutionally protected freedom of the press. Legislation regarding the state secrets privilege would similarly require an assessment of the president's constitutional obligations and authorities and appropriate resolution of civil litigation matters. Consideration of these issues would also benefit from careful review of the implementation of laws and policies already in place. For example, it is my understanding that, with regard to whistleblower protections, the provisions of Intelligence Community Directive 120, Intelligence Community Whistleblower Protection, have already been incorporated into law.

Executive Branch Oversight of Intelligence Activities

QUESTION 22: Are there improvements, in terms of resources, methodology, and objectives that you believe should be considered concerning Executive Branch oversight of the intelligence activities of the United States Government?

ANSWER: All three branches of government conduct oversight over intelligence activities. In the Executive Branch, this oversight is conducted from entities inside Intelligence Community elements, such as offices of general counsel, agency civil liberties and privacy officials, and inspectors general. In addition, independent entities like the Privacy and Civil Liberties Oversight Board and Intelligence Oversight Board play a critical role in overseeing the Intelligence Community's activities. The Department of Justice also conducts oversight of activities under the Foreign Intelligence Surveillance Act.

I cannot say at this point whether improvements in the structure or function of Executive Branch oversight activities are needed. However, if confirmed I will carefully consider whether they are and work to make any such improvements accordingly. I view oversight to be a significant responsibility of the ODNI General Counsel given his or her role as the chief legal officer of the ODNI and the Director of National Intelligence's statutory obligation under section 102A(f)(4) of the National Security Act to "ensure compliance with the Constitution and laws of the United States."

Relationship with Other Officials in the Intelligence Community

QUESTION 23: What should be the relationship of the General Counsel of the Office of the Director of National Intelligence with respect to the following officers of the Intelligence Community:

a. General Counsel, Central Intelligence Agency

ANSWER: As I stated in my response to question 4, above, the Director of National Intelligence exercises oversight of the Central Intelligence Agency and, as the chief legal officer of the ODNI, the ODNI General Counsel plays a significant role in helping the Director carry out this function. It is my understanding that, with regard to the relationship between the ODNI General Counsel and the

General Counsel of the Central Intelligence Agency, this has meant that, in practice, both general counsels work together closely on significant matters of legal interpretation or legal issues that otherwise have implications for the broader Intelligence Community. If confirmed, I will seek to maintain what I understand has been an open and collaborative working relationship between past general counsels for the two agencies.

b. Assistant Attorney General for National Security, Department of Justice

ANSWER: Although the National Security Division of the Department of Justice is not part of the Intelligence Community, it is my understanding that the ODNI General Counsel and the Assistant Attorney General for National Security have had a close working relationship, mirrored by close working relationships among members of their respective offices. This close relationship is necessary because of the number of areas where the Director of National Intelligence and Attorney General share responsibilities. For instance, many of the procedures and guidelines required by Executive Order 12333 must be approved by the Attorney General in consultation with the Director. Activities under the Section 702 of the Foreign Intelligence Surveillance Act must be jointly authorized and overseen by the Attorney General and the Director. If confirmed, I will seek to maintain this close, collaborative relationship.

c. Inspector General, Office of the DNI

ANSWER: The ODNI General Counsel must have a close relationship with the Inspector General because, along with the ODNI Civil Liberties Protection Officer, they form the core group of officials responsible for overseeing ODNI's activities. The Inspector General has his or her own legal counsel to help carry out the IG's statutory obligations under section 103H of the National Security Act and, if confirmed, I will seek to maintain what I understand to be a close working relationship with both the IG and IG's legal counsel.

d. Civil Liberties and Privacy Office, Office of the DNI

ANSWER: The ODNI's Civil Liberties Protection Officer, who heads the ODNI Civil Liberties, Privacy, and Transparency Office and whose duties are outlined in Section 103D of the National Security Act reports directly to the Director of

National Intelligence by statute. In addition, he serves as the Chief Transparency Officer for the ODNI, and in that capacity, coordinates the implementation across the Intelligence Community of the *Principles of Intelligence Transparency*. It is my understanding the Civil Liberties Protection Officer and ODNI General Counsel, and their respective offices, have had a very close working relationship and, if confirmed, I will seek to maintain that relationship.

Professional Experience

QUESTION 24: For each of the of the following, describe specifically how your experiences will enable you to serve effectively as the General Counsel for the Office of the Director of National Intelligence. Include within each response a description of issues relating to the position that you can identify based on those experiences.

a. Partner, Holland & Knight, LLP:

ANSWER: Since joining Holland & Knight as a partner in March 2010, my practice has focused on assisting clients to comply with U.S. laws designed to protect our nation's critical infrastructure against acts of terrorism, including customs enforcement and border security matters. In doing so, I have worked closely and cooperatively with U.S. government attorneys and other officials, including those from the U.S. Department of Homeland Security, Federal Bureau of Investigation, and State Department. I also advise clients on issues relating to government procurement and compliance with federal acquisition requirements.

b. Deputy General Counsel, U.S. Department of Homeland Security

ANSWER: From October 2003 to August 2005, I served as the first Deputy General Counsel of the U.S. Department of Homeland Security. During my tenure, I worked on a wide variety of matters, including counterterrorism, cybersecurity, data privacy, information sharing, incident response, government procurement, transportation security, classification issues, and infrastructure protection. During the course of my service at the department, I worked closely with my colleagues across both DHS component agencies and headquarters components offices.

While at the Department of Homeland Security, I regularly worked on a number of cross-cutting interagency matters and issues, and represented the agency at senior-level meetings held at the White House or other federal agencies. This experience provided me a strong understanding of the interagency process, which I believe will be valuable, if confirmed, as ODNI General Counsel, given the agency's significant coordinating role.

Finally, as the Deputy General Counsel and the agency's second-ranking legal officer, I had significant management responsibility for the nearly 1,500 DHS attorneys. In that supervisory role I gained deep day-to-day management and administrative experience attendant to helping oversee an office of that size. While I understand that the ODNI Office of General Counsel has significantly fewer attorneys, the management skills I obtained during my tenure at DHS will be helpful to my service at ODNI.

c. Deputy Associate Attorney General, U.S. Department of Justice

ANSWER: From January 2002 to October 2003, I was Deputy Associate Attorney General, where I reported to the Associate Attorney General – the department's third-ranking official. The Office of the Associate Attorney General oversaw matters arising throughout the various civil litigating divisions of the Justice Department. During my tenure, I worked on certain national security related matters, including civil litigation regarding terrorist financing, government sanctions, and immigration enforcement. I worked closely with attorneys from multiple DOJ components, Treasury, State, and the Intelligence Community. I also coordinated with staff of the National Commission on Terrorist Attacks Upon the United States (the "9/11 Commission") to provide access to requested information and other assistance as needed.

In addition to working on certain national security matters, I also oversaw cases involving government contracting, corporate fraud, environmental issues, and international treaties. During my tenure, I also served as a senior member of a DOJ strategic management task force responsible for reorganizing and streamlining agency resources consistent with post-9/11 priorities.

QUESTION 25: What, if any, conflicts might arise from your private practice if you are confirmed as General Counsel, and how would you address these conflicts.

ANSWER: In the course of the nomination process, I have consulted with ODNI's Designated Ethics Official, who in turn, consulted with the Office of Government Ethics to identify potential conflicts of interest. Any potential conflict of interest will be resolved consistent with the conflicts of interest statutes, standards of conduct, and the terms of the Ethics Agreement that I have executed and which has been provided to the Committee. Consistent with the Ethics Agreement and the ethics pledge set forth in Executive Order 13770, if confirmed, I will not personally and substantially participate in any particular matter in which I know I have a financial interest, in which I know a former client of mine is a party or represents a party, or in which I know that Holland & Knight LLP is or represents a party.

QUESTION 26: Please provide copies of the publications in your responses to the Committee's Questionnaire for Completion by Presidential Nominees.

ANSWER: I have provided herewith copies of the three documents that I identified under the heading of "Publications" in response to Question 13 of the Committee's Questionnaire for Completion by Presidential Nominees.

Section 702 of FISA

QUESTION 1: Can the government use Section 702 of FISA to collect communications the government knows are entirely domestic?

ANSWER: Section 702 has a number of statutory limitations to ensure that the government only targets non-U.S. persons outside of the United States to acquire foreign intelligence. Please know that I do not have a security clearance and have not had the opportunity to be briefed on the intricate details of the program. If confirmed, I would welcome the opportunity to meet with you personally to discuss this or any other question you have on the implementation of Section 702.

Encryption

QUESTION 2: When the government mandates that companies weaken the encryption of the products used by the American public, it comes at serious cost to the security of Americans. Moreover, recent events such as the Office of Personnel Management breach and election-related Russian hacking have demonstrated that weak encryption is a serious national security problem. If you are confirmed, what will be your position with regard to policies or legislative proposals to permit the government to mandate weaknesses in strong encryption?

ANSWER: At this time, I can provide only my preliminary observations. However, I believe that Americans benefit from having their personal information secure and that strong encryption helps secure that information. I also believe that Americans' security depends on the government being able to conduct effective national security and law enforcement investigations. Government access to personal information is sometimes a key component of these investigations. Policies or legislation on this issue should account for both of these points.

Other Surveillance Matters

QUESTION 3: What limitations do you believe should apply to the receipt, use or dissemination of communications of U.S. persons collected by a foreign partner or source? How should those limitations address instances in which the foreign partner or source specifically targeted U.S. persons or instances in which the foreign partner or source has collected bulk communications known to include those of U.S. persons?

ANSWER: It is my understanding that the rules governing Intelligence Community elements' collection and subsequent use of information concerning U.S. persons apply whether that information was collected directly by an Intelligence Community element or was collected by an Intelligence Community element from a cooperating foreign partner. These rules include the Attorney General-approved procedures for collecting, retaining, and disseminating information concerning U.S. persons that are established in accordance with Executive Order 12333. Executive Order 12333 also provides, in section 2.12, that: "No element of the Intelligence Community shall participate in or request any person to undertake activities forbidden by this Order." In other words, we cannot ask our foreign partners to do what we cannot do ourselves regarding the collection of U.S. persons information.

QUESTION 4: Do you believe that communications data collected in transit are or should be treated differently than communications data while at rest? Please address any distinctions as they may apply to FISA, Executive Order 12333, PPD-28, and USSID 18.

ANSWER: This is an area of policy and law with which I am currently unfamiliar. If confirmed, I expect that I will have the opportunity to consider this question more closely and that my review of it could be informed by additional information. That said, I believe that data should be treated with the appropriate legal and policy protections for individuals' privacy and civil liberties, regardless of whether in transit or at rest.

Detention and Interrogation

QUESTION 5: Do you believe that any of the CIA's former enhanced interrogation techniques are consistent with the Detainee Treatment Act?

ANSWER: The current state of the law is clear. Section 1045 of the National Defense Authorization Act for Fiscal Year 2016 provides that only techniques authorized by and listed in the U.S. Army Field Manual on Interrogation may be applied to individuals in U.S. custody. If confirmed, I will seek to ensure that the Intelligence Community follows the law.

QUESTION 6: Do you believe that any of the CIA's former enhanced interrogation techniques are consistent with the War Crimes Act?

ANSWER: As I stated in my response to question 5, above, the law now governing the CIA's use of interrogation techniques is clear. If confirmed, I will seek to ensure that the Intelligence Community follows the law.

QUESTION 7: Do you believe that any of the CIA's former enhanced interrogation techniques are consistent with U.S. obligations under the Convention Against Torture, Common Article 3 of the Geneva Convention and other U.S. treaty obligations?

ANSWER: Please see my response to question 6, above.

QUESTION 8: The National Defense Authorization Act for Fiscal Year 2016 (P.L. 114-92): (1) prohibited interrogation techniques not authorized by the Army Field Manual; (2) prohibited revisions to the Army Field Manual that involve the use or threat of force; (3) required that the Army Field Manual be public; and (4) required ICRC notification of and prompt access to detainees. Are you fully supportive of all of these statutory requirements?

ANSWER: Yes.

Transparency

QUESTION 9: Will you support the declassification and public release of any interpretation of law that provides a basis for intelligence activities but is inconsistent with the public's understanding of the law?

ANSWER: I firmly believe in the value of public transparency and am familiar with the Intelligence Community's *Principles of Intelligence Transparency.* In addition, I have met with the ODNI's Civil Liberties Protection Officer who leads the Intelligence Community's transparency efforts to discuss these principles. In providing the public with transparency regarding intelligence activities, however, the Intelligence Community must also protect its sensitive sources and methods. Accordingly, if confirmed, I will support public release of such legal interpretations consistent with the protection of intelligence sources and methods.

Legal Authorities

QUESTION 10: Please describe your view of the legal and policy implications of targeting or otherwise knowingly killing a U.S. person in a U.S. Government lethal operation. What additional public transparency do you believe would be warranted in that situation?

ANSWER: The 2001 AUMF provides a domestic legal framework for targeting enemy forces in the context of hostilities. Under long-standing legal principles, U.S. persons who are part of an enemy force are not immunized from becoming targets of lethal operations. However, prior to targeting a U.S. person, I understand that the Department of Justice conducts a rigorous review to ensure that lethal action would be consistent with the Constitution and U.S. law. My understanding is that the role of the Intelligence Community in this process is to ensure that the Department of Justice and operational decision-makers are provided accurate and relevant information to assist in making targeting determinations. If confirmed, I will work with my counterparts in the Intelligence Community and the rest of the executive branch to assess whether additional transparency is warranted, consistent with the protection of intelligence sources and methods.

QUESTION 11: On December 2, 2015, now-President Trump stated the following: "The other thing with the terrorists is you have to take out their families, when you get these terrorists, you have to take out their families. They care about their lives, don't kid yourself. When they say they don't care about their lives, you have to take out their families." Do you agree that this would be a violation of U.S. and international law?

ANSWER: Intentionally targeting a person not presenting a threat to the United States or its allies, or persons who are not otherwise lawful targets under existing law, would implicate a variety of laws. If confirmed, I will work to ensure that all activities of the Intelligence Community fully and faithfully comply with the Constitution and U.S. law and will assist the Director of National Intelligence in carrying out his obligations under section 102A(f)(4) of the National Security Act, as amended, to ensure compliance with the Constitution and U.S. law.

SELECT COMMITTEE ON INTELLIGENCE

UNITED STATES SENATE

QUESTIONNAIRE FOR COMPLETION BY PRESIDENTIAL NOMINEES

SELECT COMMITTEE ON INTELLIGENCE
UNITED STATES SENATE

QUESTIONNAIRE FOR COMPLETION BY PRESIDENTIAL NOMINEES

PART A - BIOGRAPHICAL INFORMATION

1. NAME: Michael Kevin Atkinson
2. DATE AND PLACE OF BIRTH: May 16, 1964; Oswego, New York
3. MARITAL STATUS: Married
4. SPOUSE'S NAME: Kathryn Cameron Atkinson
5. SPOUSE'S MAIDEN NAME IF APPLICABLE: Cameron
6. NAMES AND AGES OF CHILDREN:

NAME	AGE
INFORMATION REDACTED	

7. EDUCATION SINCE HIGH SCHOOL:

INSTITUTION	DATES ATTENDED	DEGREE RECEIVED	DATE OF DEGREE
Syracuse University	1982-1986	B.A.	May 1986
Cornell University	1988-1991	J.D.	May 1991

8. EMPLOYMENT RECORD (LIST ALL POSITIONS HELD SINCE COLLEGE, INCLUDING MILITARY SERVICE. INDICATE NAME OF EMPLOYER, POSITION, TITLE OR DESCRIPTION, LOCATION, AND DATES OF EMPLOYMENT.)

EMPLOYER	POSITION/TITLE	LOCATION	DATES
Laventhol & Horwath	Office Assistant	Washington, D.C.	07/1986 (est.) - 08/1986 (est.)
David, Hagner and Harvey	Office Assistant	Washington, D.C.	08/1986 (est) – 10/1986 (est.)

Wiley, Rein and Fielding	Project/Legal Assistant	Washington, D.C.	11/1986 (est.)–07/1988
Mike-N-Ike's Beach Bike Rentals	Co-Manager	Virginia Beach, VA	05/1989-08/1989
Bishop Cook Purcell & Reynolds[1]	Summer Associate	Washington, D.C.	05/1990-08/1990
Winston & Strawn LLP	Associate	Washington, D.C.	09/1991-1999
Winston & Strawn LLP	Partner	Washington, D.C.	1999-08/2002
U.S. Department of Justice, Criminal Division, Fraud Section	Trial Attorney	Washington, D.C.	09/2002-03/2006
U.S. Department of Justice, United States Attorney's Office, District of Columbia	Assistant U.S. Attorney	Washington, D.C.	03/2006-03/2016
U.S. Department of Justice, National Security Division	Acting Deputy Assistant Attorney General, National Asset Protection	Washington, D.C.	03/2016-06/2016
U.S. Department of Justice, National Security Division	Senior Counsel to the Assistant Attorney General	Washington, D.C.	07/2016-Present

9. GOVERNMENT EXPERIENCE (INDICATE EXPERIENCE IN OR ASSOCIATION WITH FEDERAL, STATE, OR LOCAL GOVERNMENTS, INCLUDING ADVISORY, CONSULTATIVE, HONORARY, OR OTHER PART-TIME SERVICE OR POSITION. DO NOT REPEAT INFORMATION ALREADY PROVIDED IN QUESTION 8):

See Information Provided in Question 8.

10. INDICATE ANY SPECIALIZED INTELLIGENCE OR NATIONAL SECURITY EXPERTISE YOU HAVE ACQUIRED HAVING SERVED IN THE POSITIONS DESCRIBED IN QUESTIONS 8 AND/OR 9.

I have acquired intelligence and national security experience as an Acting Deputy Assistant Attorney General and Senior Counsel to the Assistant Attorney General in the National Security Division at the U.S. Department of Justice, as an Assistant United States Attorney at the U.S. Attorney's Office for the District of Columbia, and as a Trial Attorney with the Criminal Division at the U.S. Department of Justice. As an Acting Deputy Assistant Attorney General and Senior Counsel to the Assistant Attorney General in the National Security Division, I have provided supervisory and management oversight of a staff of lawyers and non-lawyers within the Division's Counterintelligence and Export Control Section and Foreign Investment Review Staff, who handle extremely sensitive matters of significance to the National Security Division, including, but not limited to: cybersecurity and counterintelligence-related matters; export control and sanctions; protection of classified information; reviews of foreign acquisitions of domestic entities that might affect national security; tracking and monitoring of transactions that have been approved and identifying unreported transactions that might merit review; and responding to Federal Communication Commission (FCC) requests for the Department's views relating to the national security implications of certain transactions relating to FCC licenses. As an Assistant United States Attorney at the U.S. Attorney's Office for the District of Columbia and as a Trial Attorney with the Criminal Division at the U.S. Department of Justice, I gained intelligence and national security experience working on matters related to espionage, sanctions, the Foreign Agents Registration Act, and the Foreign Corrupt Practices Act.

[1] The firm merged with Winston & Strawn LLP in or around 1991.

While in these positions at the Department of Justice, I have also prosecuted or supervised the prosecutions of a wide variety of white-collar crime and public corruption offenses, including bribery and illegal gratuities, procurement fraud, corporate and securities fraud, conflicts of interest, mail and wire fraud, cybercrime, election fraud, tax fraud, identity theft, health care fraud, and money laundering. I have worked on a regular basis with a variety of federal law enforcement agencies, the Intelligence Community, and many Inspectors General's offices.

11. HONORS AND AWARDS (PROVIDE INFORMATION ON SCHOLARSHIPS, FELLOWSHIPS, HONORARY DEGREES, MILITARY DECORATIONS, CIVILIAN SERVICE CITATIONS, OR ANY OTHER SPECIAL RECOGNITION FOR OUTSTANDING PERFORMANCE OR ACHIEVEMENT):

Attorney General's Award for Distinguished Service (2012);

Council of the Inspectors General on Integrity and Efficiency, Gaston L. Gianni, Jr., Better Government Award (2012);

Council of the Inspectors General on Integrity and Efficiency, Award for Excellence (2012);

United States Attorney's Office Award for Exceptional Performance by an Assistant United States Attorney (2013); and

Executive Office for United States Attorneys' Director's Award for Superior Performance by an Assistant United States Attorney (2014).

12. ORGANIZATIONAL AFFILIATIONS (LIST MEMBERSHIPS IN AND OFFICES HELD WITHIN THE LAST TEN YEARS IN ANY PROFESSIONAL, CIVIC, FRATERNAL, BUSINESS, SCHOLARLY, CULTURAL, CHARITABLE, OR OTHER SIMILAR ORGANIZATIONS):

ORGANIZATION	OFFICE HELD	DATES
District of Columbia Bar Association	Member	1991-Present
Sigma Chi Fraternity	Member	1987-Present
Kenwood Country Club	Member	2006-Present

13. PUBLISHED WRITINGS AND SPEECHES (LIST THE TITLES, PUBLISHERS, BLOGS AND PUBLICATION DATES OF ANY BOOKS, ARTICLES, REPORTS, OR OTHER PUBLISHED MATERIALS YOU HAVE AUTHORED. ALSO LIST ANY PUBLIC SPEECHES OR REMARKS YOU HAVE MADE WITHIN THE LAST TEN YEARS FOR WHICH THERE IS A TEXT, TRANSCRIPT, OR VIDEO.) IF ASKED, WILL YOU PROVIDE A COPY OF EACH REQUESTED PUBLICATION, TEXT, TRANSCRIPT, OR VIDEO?

While an associate at Winston & Strawn, I participated in writing a report by the United States Olympic Committee's Special Bid Oversight Commission. The Commission issued the report on March 1, 1999. The report reviewed allegations of bribery and corruption in the selection of Salt Lake City to host the 2002 Winter Olympics, and it made a series of recommendations to reform both the United States Olympic Committee and the International Olympic Committee that focused on bringing increased transparency and accountability to both organizations. I no longer have a copy of the report.

While an associate at Winston & Strawn, I co-authored an article on the advice of counsel defense. The article generally addressed the factual prerequisites to establish and maintain an advice of counsel defense, the

potential benefits of an advice of counsel defense, and the challenges of successfully relying on an advice of counsel defense. The article appeared in a compendium of articles prepared for a conference on white-collar crime. I no longer have a copy of the article.

PART B - QUALIFICATIONS

14. QUALIFICATIONS (DESCRIBE WHY YOU BELIEVE YOU ARE QUALIFIED TO SERVE IN THE POSITION FOR WHICH YOU HAVE BEEN NOMINATED):

If confirmed, I believe that I have the appropriate background and experience to serve effectively as the Inspector General of the Intelligence Community.

During the past twenty-six years that I have practiced law, encompassing eleven years in private practice at an international law firm and fifteen years in government service as a prosecutor, I have supervised and handled a multitude of complex and sensitive criminal, civil, and administrative investigations. As part of these responsibilities, I have worked on a regular basis with a variety of federal law enforcement agencies, the Intelligence Community, and many Inspectors General's offices. My responsibilities have included supervising and working with other attorneys, investigators, auditors, accountants, and administrative personnel.

Over the course of my fifteen years as a prosecutor at the Department of Justice, predominately in the fields of fraud and public corruption, I have worked to root out waste, fraud, and abuse in government programs and activities in an effort to promote honest and effective government. While at the Department, I have prosecuted and supervised the prosecutions of a wide variety of white-collar crime and public corruption offenses, including bribery and illegal gratuities, procurement fraud, conflicts of interest, mail and wire fraud, cybercrime, election fraud, tax fraud, identity theft, health care fraud, corporate and securities fraud, and money laundering. My work as a prosecutor has included successful prosecutions of public and elected officials, corporate executives, and government contractors, including successfully prosecuting what has been called the largest domestic bribery and bid steering scheme in the history of federal contracting, which secured the convictions of twenty individuals, including the chief executive officers of seven government contracting organizations and three public officials as part of an investigation that uncovered a $30 million bribery scheme and an attempt to steer a $1 billion contract to a corrupt government contractor.

More recently, over roughly the past two years of my career at the Department of Justice, I have served as an Acting Deputy Assistant Attorney General and Senior Counsel to the Assistant Attorney General in the National Security Division, focusing primarily on intelligence and national security matters. I have provided supervisory and management oversight of a staff of lawyers and non-lawyers within the Division's Counterintelligence and Export Control Section and Foreign Investment Review Staff, who handle extremely sensitive matters of significance to NSD, including, but not limited to: cybersecurity and counterintelligence-related matters; export control and sanctions; protection of classified information; reviews of foreign acquisitions of domestic entities that might affect national security; tracking and monitoring of transactions that have been approved and identifying unreported transactions that might merit review; and responding to Federal Communication Commission (FCC) requests for the Department's views relating to the national security implications of certain transactions relating to FCC licenses. As part of these responsibilities, I have been a consumer and user of intelligence from multiple intelligence sources, and I have seen first-hand the benefits to our country when there is a unity of effort by the Intelligence Community to address national security needs.

I have been fortunate to receive multiple awards while at the Department of Justice, including the Attorney General's Award for Distinguished Service, the United States Attorney's Office Award for Exceptional Performance by an Assistant United States Attorney, the Executive Office for United States Attorneys' Director's Award for Superior Performance by an Assistant United States Attorney, and an Award for Excellence and the Gaston L. Gianni, Jr., Better Government Award, by the Council of the Inspectors General on Integrity and Efficiency.

Collectively, I believe these experiences both qualify me for, and would inform my efforts as, the Inspector General of the Intelligence Community, if confirmed.

PART C - POLITICAL AND FOREIGN AFFILIATIONS

15. POLITICAL ACTIVITIES (LIST ANY MEMBERSHIPS OR OFFICES HELD IN OR FINANCIAL CONTRIBUTIONS OR SERVICES RENDERED TO, ANY POLITICAL PARTY, ELECTION COMMITTEE, POLITICAL ACTION COMMITTEE, OR INDIVIDUAL CANDIDATE DURING THE LAST TEN YEARS):

    None.

16. CANDIDACY FOR PUBLIC OFFICE (FURNISH DETAILS OF ANY CANDIDACY FOR ELECTIVE PUBLIC OFFICE):

    None.

17. FOREIGN AFFILIATIONS

    (NOTE: QUESTIONS 17A AND B ARE NOT LIMITED TO RELATIONSHIPS REQUIRING REGISTRATION UNDER THE FOREIGN AGENTS REGISTRATION ACT. QUESTIONS 17A, B, AND C DO NOT CALL FOR A POSITIVE RESPONSE IF THE REPRESENTATION OR TRANSACTION WAS AUTHORIZED BY THE UNITED STATES GOVERNMENT IN CONNECTION WITH YOUR OR YOUR SPOUSE'S EMPLOYMENT IN GOVERNMENT SERVICE.)

    A. HAVE YOU OR YOUR SPOUSE EVER REPRESENTED IN ANY CAPACITY (E.G. EMPLOYER, ATTORNEY, OR POLITICAL/BUSINESS CONSULTANT), WITH OR WITHOUT COMPENSATION, A FOREIGN GOVERNMENT OR AN ENTITY CONTROLLED BY A FOREIGN GOVERNMENT? IF SO, PLEASE FULLY DESCRIBE SUCH RELATIONSHIP.

    While at Winston & Strawn, I do not recall personally representing in any capacity, with or without compensation, a foreign government or an entity controlled by a foreign government.

    Since September 1992, my wife has practiced law at Miller & Chevalier, Chartered, an international law firm. While at Miller & Chevalier, my wife has personally represented the Government of British Columbia, Ministry of Development, Trade, and Tourism, and the Government of Canada, Department of External Affairs, to provide consultation, advice, and representation before U.S. administrative agencies concerning trade and legal issues arising in the context of trade between the United States and British Columbia, and the United States and Canada. Miller & Chevalier closed the matters related to those representations in or around 1997. In addition, in or around 2002, my wife worked less than ten hours on a matter at Miller & Chevalier for a firm client, the Bureau of Foreign Trade of Taiwan (also known as the Taiwan Economic and Cultural Representative Office in the United States or TECRO), in support of questions regarding free trade agreements.

    B. HAVE ANY OF YOUR OR YOUR SPOUSE'S ASSOCIATES REPRESENTED, IN ANY CAPACITY, WITH OR WITHOUT COMPENSATION, A FOREIGN GOVERNMENT OR AN ENTITY CONTROLLED BY A FOREIGN GOVERNMENT? IF SO, PLEASE FULLY DESCRIBE SUCH RELATIONSHIP.

    While at Winston & Strawn, I do not recall personally representing in any capacity, with or without compensation, a foreign government or an entity controlled by a foreign government. Nevertheless, Winston & Strawn, its partners, and/or its associates may have represented a foreign government or an entity controlled by a foreign government while I was employed at the firm. If so, such clients would have paid the firm for its services. As an associate and non-equity partner, I received an annual salary and bonus, but I did not receive any payments directly from any foreign government or an entity controlled by a foreign government.

Miller & Chevalier, my wife's law firm, handles global projects and disputes, including on behalf of foreign governments and entities controlled by foreign governments. In response to Question 17A, I have identified the instances where my wife personally worked on a particular matter for an entity owned, at least in part, by a foreign government.

C. DURING THE PAST TEN YEARS, HAVE YOU OR YOUR SPOUSE RECEIVED ANY COMPENSATION FROM, OR BEEN INVOLVED IN ANY FINANCIAL OR BUSINESS TRANSACTIONS WITH, A FOREIGN GOVERNMENT OR ANY ENTITY CONTROLLED BY A FOREIGN GOVERNMENT? IF SO, PLEASE PROVIDE DETAILS.

During the past ten years, I have not received any compensation from, or been involved in any financial or business transaction with, a foreign government or an entity controlled by a foreign government.

In response to Question 17A, I have identified the instances where my wife, through her law firm, Miller & Chevalier, personally worked on a particular matter for an entity owned, at least in part, by a foreign government. The clients pay the firm for its services. My wife has been a shareholder of the firm since 2002 and, as such, shares generally in any profit or loss of the firm, but she does not receive any payments directly from clients. My wife currently owns a 1.7% shareholder interest in Miller & Chevalier.

D. HAVE YOU OR YOUR SPOUSE EVER REGISTERED UNDER THE FOREIGN AGENTS REGISTRATION ACT? IF SO, PLEASE PROVIDE DETAILS.

I have never registered under the Foreign Agents Registration Act.

On December 3, 1993, before we were married, my wife filed a Short Form Registration Statement pursuant to the Foreign Agents Registration Act of 1938 (FARA), as amended, for the Government of British Columbia, Ministry of Development, Trade, and Tourism, and for the Government of Canada, Department of External Affairs, to provide consultation, advice, and representation before U.S. administrative agencies concerning trade and legal issues arising in the context of trade between the United States and British Columbia, and the United States and Canada. Miller & Chevalier, my wife's law firm, closed the matters related to those representations in or around 1997, and my wife's Short Form Registration Statement for FARA terminated in 1998.

18. DESCRIBE ANY LOBBYING ACTIVITY DURING THE PAST TEN YEARS, OTHER THAN IN AN OFFICIAL U.S. GOVERNMENT CAPACITY, IN WHICH YOU OR YOUR SPOUSE HAVE ENGAGED FOR THE PURPOSE OF DIRECTLY OR INDIRECTLY INFLUENCING THE PASSAGE, DEFEAT, OR MODIFICATION OF FEDERAL LEGISLATION, OR FOR THE PURPOSE OF AFFECTING THE ADMINISTRATION AND EXECUTION OF FEDERAL LAW OR PUBLIC POLICY.

None.

PART D - FINANCIAL DISCLOSURE AND CONFLICT OF INTEREST

19. DESCRIBE ANY EMPLOYMENT, BUSINESS RELATIONSHIP, FINANCIAL TRANSACTION, INVESTMENT, ASSOCIATION, OR ACTIVITY (INCLUDING, BUT NOT LIMITED TO, DEALINGS WITH THE FEDERAL GOVERNMENT ON YOUR OWN BEHALF OR ON BEHALF OF A CLIENT), WHICH COULD CREATE, OR APPEAR TO CREATE, A 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 DNI's designated agency ethics official to identify any potential conflicts of interest. Under applicable statutes and regulations, and as part of an Ethics Agreement that I have entered into with the DNI's designated

agency ethics official, I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver or qualify for a regulatory exemption. In addition, for as long as my wife continues to work for Miller & Chevalier, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of the firm, unless I first obtain a written waiver. I also will not participate personally and substantially in any particular matter involving specific parties in which I know a client of my wife is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d). In addition, if confirmed, for the duration of my appointment to the position of Inspector General of the Intelligence Community, my wife has agreed not to communicate directly with the Office of the Director of National Intelligence on behalf of her employer or any client.

Further, in the process of reviewing my OGE Form 278e and preparing my Ethics Agreement, an agency ethics officer, in consultation with the Office of Government Ethics, has determined that investments by my wife, my children, and me in certain publicly traded companies may give rise to conflicts of interest. If confirmed, the potentially problematic interests will be divested, per my Ethics Agreement, which is attached as Exhibit 1.

20. DO YOU INTEND TO SEVER ALL BUSINESS CONNECTIONS WITH YOUR PRESENT EMPLOYERS, FIRMS, BUSINESS ASSOCIATES AND/OR PARTNERSHIPS, OR OTHER ORGANIZATIONS IN THE EVENT THAT YOU ARE CONFIRMED BY THE SENATE? IF NOT, PLEASE EXPLAIN.

Yes.

21. DESCRIBE THE FINANCIAL ARRANGEMENTS YOU HAVE MADE OR PLAN TO MAKE, IF YOU ARE CONFIRMED, IN CONNECTION WITH SEVERANCE FROM YOUR CURRENT POSITION. PLEASE INCLUDE SEVERANCE PAY, PENSION RIGHTS, STOCK OPTIONS, DEFERRED INCOME ARRANGEMENTS, AND ANY AND ALL COMPENSATION THAT WILL OR MIGHT BE RECEIVED IN THE FUTURE AS A RESULT OF YOUR CURRENT BUSINESS OR PROFESSIONAL RELATIONSHIPS.

None.

22. DO YOU HAVE ANY PLANS, COMMITMENTS, OR AGREEMENTS TO PURSUE OUTSIDE EMPLOYMENT, WITH OR WITHOUT COMPENSATION, DURING YOUR SERVICE WITH THE GOVERNMENT? IF SO, PLEASE PROVIDE DETAILS.

No.

23. AS FAR AS CAN BE FORESEEN, STATE YOUR PLANS AFTER COMPLETING GOVERNMENT SERVICE. PLEASE SPECIFICALLY DESCRIBE ANY AGREEMENTS OR UNDERSTANDINGS, WRITTEN OR UNWRITTEN, CONCERNING EMPLOYMENT AFTER LEAVING GOVERNMENT SERVICE. IN PARTICULAR, DESCRIBE ANY AGREEMENTS, UNDERSTANDINGS, OR OPTIONS TO RETURN TO YOUR CURRENT POSITION.

None.

24. IF YOU ARE PRESENTLY IN GOVERNMENT SERVICE, DURING THE PAST FIVE YEARS OF SUCH SERVICE, HAVE YOU RECEIVED FROM A PERSON OUTSIDE OF GOVERNMENT AN OFFER OR

EXPRESSION OF INTEREST TO EMPLOY YOUR SERVICES AFTER YOU LEAVE GOVERNMENT SERVICE? IF YES, PLEASE PROVIDE DETAILS.

No. There is currently no understanding of post-government employment, implied or otherwise. I have, however, during the past five years explored post-government employment opportunities, none of which still exists nor am I still pursuing. I followed appropriate ethics requirements on these occasions.

25. IS YOUR SPOUSE EMPLOYED? IF YES AND THE NATURE OF THIS EMPLOYMENT IS RELATED IN ANY WAY TO THE POSITION FOR WHICH YOU ARE SEEKING CONFIRMATION, PLEASE INDICATE YOUR SPOUSE'S EMPLOYER, THE POSITION, AND THE LENGTH OF TIME THE POSITION HAS BEEN HELD. IF YOUR SPOUSE'S EMPLOYMENT IS NOT RELATED TO THE POSITION TO WHICH YOU HAVE BEEN NOMINATED, PLEASE SO STATE.

My wife is a Member at Miller & Chevalier, Chartered, a Washington, D.C. law firm, which represents clients with matters before the U.S. Government. She has been employed at Miller & Chevalier since September 1992. She has not represented, and given the nature of her work I do not anticipate that she will represent, clients in intelligence or national security matters involving the Intelligence Community. Further, in my Ethics Agreement, I agreed that, if confirmed, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of the firm, unless I first obtain a written waiver. I also will not participate personally and substantially in any particular matter involving specific parties in which I know a client of my wife is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d). In addition, if confirmed, for the duration of my appointment to the position of Intelligence Community Inspector General, my wife has agreed not to communicate directly with the Office of the Director of National Intelligence on behalf of her employer or any client.

26. LIST BELOW ALL CORPORATIONS, PARTNERSHIPS, FOUNDATIONS, TRUSTS, OR OTHER ENTITIES TOWARD WHICH YOU OR YOUR SPOUSE HAVE FIDUCIARY OBLIGATIONS OR IN WHICH YOU OR YOUR SPOUSE HAVE HELD DIRECTORSHIPS OR OTHER POSITIONS OF TRUST DURING THE PAST FIVE YEARS.

NAME OF ENTITY	POSITION	DATES HELD	SELF OR SPOUSE

INFORMATION REDACTED

27. LIST ALL GIFTS EXCEEDING $100 IN VALUE RECEIVED DURING THE PAST FIVE YEARS BY YOU, YOUR SPOUSE, OR YOUR DEPENDENTS. (NOTE: GIFTS RECEIVED FROM RELATIVES AND GIFTS GIVEN TO YOUR SPOUSE OR DEPENDENT NEED NOT BE INCLUDED UNLESS THE GIFT WAS GIVEN WITH YOUR KNOWLEDGE AND ACQUIESCENCE AND YOU HAD REASON TO BELIEVE THE GIFT WAS GIVEN BECAUSE OF YOUR OFFICIAL POSITION.)

None.

28. LIST ALL SECURITIES, REAL PROPERTY, PARTNERSHIP INTERESTS, OR OTHER INVESTMENTS OR RECEIVABLES WITH A CURRENT MARKET VALUE (OR, IF MARKET VALUE IS NOT ASCERTAINABLE, ESTIMATED CURRENT FAIR VALUE) IN EXCESS OF $1,000. (NOTE: THE INFORMATION PROVIDED IN RESPONSE TO SCHEDULE A OF THE DISCLOSURE FORMS OF THE OFFICE OF GOVERNMENT ETHICS MAY BE INCORPORATED BY REFERENCE, PROVIDED THAT CURRENT VALUATIONS ARE USED.)

DESCRIPTION OF PROPERTY	VALUE	METHOD OF VALUATION

See Schedule A of my OGE Form 278e, dated August 16, 2017, for complete information.

29. LIST ALL LOANS OR OTHER INDEBTEDNESS (INCLUDING ANY CONTINGENT LIABILITIES) IN EXCESS OF $10,000. EXCLUDE A MORTGAGE ON YOUR PERSONAL RESIDENCE UNLESS IT IS RENTED OUT, AND LOANS SECURED BY AUTOMOBILES, HOUSEHOLD FURNITURE, OR APPLIANCES. (NOTE: THE INFORMATION PROVIDED IN RESPONSE TO SCHEDULE C OF THE DISCLOSURE FORM OF THE OFFICE OF GOVERNMENT ETHICS MAY BE INCORPORATED BY REFERENCE, PROVIDED THAT CONTINGENT LIABILITIES ARE ALSO INCLUDED.)

NATURE OF OBLIGATION	NAME OF OBLIGEE	AMOUNT

See Schedule C of my OGE Form 278e, dated August 16, 2017, for complete information.

30. ARE YOU OR YOUR SPOUSE NOW IN DEFAULT ON ANY LOAN, DEBT, OR OTHER FINANCIAL OBLIGATION? HAVE YOU OR YOUR SPOUSE BEEN IN DEFAULT ON ANY LOAN, DEBT, OR OTHER FINANCIAL OBLIGATION IN THE PAST TEN YEARS? HAVE YOU OR YOUR SPOUSE EVER BEEN REFUSED CREDIT OR HAD A LOAN APPLICATION DENIED? IF THE ANSWER TO ANY OF THESE QUESTIONS IS YES, PLEASE PROVIDE DETAILS.

No.

31. LIST THE SPECIFIC SOURCES AND AMOUNTS OF ALL INCOME RECEIVED DURING THE LAST FIVE YEARS, INCLUDING ALL SALARIES, FEES, DIVIDENDS, INTEREST, GIFTS, RENTS, ROYALTIES, PATENTS, HONORARIA, AND OTHER ITEMS EXCEEDING $200. (COPIES OF U.S. INCOME TAX RETURNS FOR THESE YEARS MAY BE SUBSTITUTED HERE, BUT THEIR SUBMISSION IS NOT REQUIRED.)

INFORMATION REDACTED

INFORMATION REDACTED

32. IF ASKED, WILL YOU PROVIDE THE COMMITTEE WITH COPIES OF YOUR AND YOUR SPOUSE'S FEDERAL INCOME TAX RETURNS FOR THE PAST THREE YEARS?

    Yes.

33. LIST ALL JURISDICTIONS IN WHICH YOU AND YOUR SPOUSE FILE ANNUAL INCOME TAX RETURNS.

    Federal and Maryland.

34. HAVE YOUR FEDERAL OR STATE TAX RETURNS BEEN THE SUBJECT OF AN AUDIT, INVESTIGATION, OR INQUIRY AT ANY TIME? IF SO, PLEASE PROVIDE DETAILS, INCLUDING THE RESULT OF ANY SUCH PROCEEDING.

    No.

35. IF YOU ARE AN ATTORNEY, ACCOUNTANT, OR OTHER PROFESSIONAL, PLEASE LIST ALL CLIENTS AND CUSTOMERS WHOM YOU BILLED MORE THAN $200 WORTH OF SERVICES DURING THE PAST FIVE YEARS. ALSO, LIST ALL JURISDICTIONS IN WHICH YOU ARE LICENSED TO PRACTICE.

I am licensed to practice law in the District of Columbia, but I have not billed my clients during the past five years.

36. DO YOU INTEND TO PLACE YOUR FINANCIAL HOLDINGS AND THOSE OF YOUR SPOUSE AND DEPENDENT MEMBERS OF YOUR IMMEDIATE HOUSEHOLD IN A BLIND TRUST? IF YES, PLEASE FURNISH DETAILS. IF NO, DESCRIBE OTHER ARRANGEMENTS FOR AVOIDING ANY POTENTIAL CONFLICTS OF INTEREST.

No. In the process of reviewing my OGE Form 278e and preparing my Ethics Agreement, an agency ethics officer, in consultation with the Office of Government Ethics, determined that investments by my wife, my children, and me in certain publicly traded companies may give rise to conflicts of interest. If confirmed, the potentially problematic interests will be divested, per my Ethics Agreement, which is attached as Exhibit 1.

37. IF APPLICABLE, LIST THE LAST THREE YEARS OF ANNUAL FINANCIAL DISCLOSURE REPORTS YOU HAVE BEEN REQUIRED TO FILE WITH YOUR AGENCY, DEPARTMENT, OR BRANCH OF GOVERNMENT. IF ASKED, WILL YOU PROVIDE A COPY OF THESE REPORTS?

2017 Annual Report, U.S. Department of Justice, National Security Division;

2016 New Entrant Report, U.S. Department of Justice, National Security Division;

2016 Termination Report, U.S. Department of Justice, U.S. Attorney's Office for the District of Columbia;

2016 Annual Report, U.S. Department of Justice, U.S. Attorney's Office for the District of Columbia; and

2015 Annual Report, U.S. Department of Justice, U.S. Attorney's Office for the District of Columbia.

Yes, I will provide a copy of these reports.

PART E - ETHICAL MATTERS

38. HAVE YOU EVER BEEN THE SUBJECT OF A DISCIPLINARY PROCEEDING OR CITED FOR A BREACH OF ETHICS OR 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.

39. HAVE YOU EVER BEEN INVESTIGATED, HELD, ARRESTED, OR CHARGED BY ANY FEDERAL, STATE, OR OTHER LAW ENFORCEMENT AUTHORITY FOR VIOLATION OF ANY FEDERAL STATE, COUNTY, OR MUNICIPAL LAW, REGULATION, OR ORDINANCE, OTHER THAN A MINOR TRAFFIC OFFENSE, OR NAMED AS A DEFENDANT OR OTHERWISE IN ANY INDICTMENT OR INFORMATION RELATING TO SUCH VIOLATION? IF SO, PROVIDE DETAILS.

While a senior in high school, in or around 1982, I paid a $75 fine for violating municipal regulations that prohibited fishing for trout out of season, at night, and with a spear.

40. HAVE YOU EVER BEEN CONVICTED OF OR ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE TO ANY CRIMINAL VIOLATION OTHER THAN A MINOR TRAFFIC OFFENSE? IF SO, PROVIDE DETAILS.

No.

41. ARE YOU PRESENTLY OR HAVE YOU EVER BEEN A PARTY IN INTEREST IN ANY ADMINISTRATIVE AGENCY PROCEEDING OR CIVIL LITIGATION? IF SO, PLEASE PROVIDE DETAILS.

In or around 1993, I was a party in civil litigation in Circuit Court in Fairfax County, Virginia, and successfully recovered a security deposit that a property owner had wrongfully withheld from my former roommates and me at the end of our lease term.

42. HAVE YOU BEEN INTERVIEWED OR ASKED TO SUPPLY ANY INFORMATION AS A WITNESS OR OTHERWISE IN CONNECTION WITH ANY CONGRESSIONAL INVESTIGATION, FEDERAL, OR STATE AGENCY PROCEEDING, GRAND JURY INVESTIGATION, OR CRIMINAL OR CIVIL LITIGATION IN THE PAST TEN YEARS? IF SO, PROVIDE DETAILS.

No.

43. HAS ANY BUSINESS OF WHICH YOU ARE OR WERE AN OFFICER, DIRECTOR, OR PARTNER BEEN A PARTY TO ANY ADMINISTRATIVE AGENCY PROCEEDING OR CRIMINAL OR CIVIL LITIGATION RELEVANT TO THE POSITION TO WHICH YOU HAVE BEEN NOMINATED? IF SO, PROVIDE DETAILS. (WITH RESPECT TO A BUSINESS OF WHICH YOU ARE OR WERE AN OFFICER, YOU NEED ONLY CONSIDER PROCEEDINGS AND LITIGATION THAT OCCURRED WHILE YOU WERE AN OFFICER OF THAT BUSINESS.)

No.

44. HAVE YOU EVER BEEN THE SUBJECT OF ANY INSPECTOR GENERAL INVESTIGATION? IF SO, PROVIDE DETAILS.

No.

PART F - SECURITY INFORMATION

45. HAVE YOU EVER BEEN DENIED ANY SECURITY CLEARANCE OR ACCESS TO CLASSIFIED INFORMATION FOR ANY REASON? IF YES, PLEASE EXPLAIN IN DETAIL.

No.

46. HAVE YOU BEEN REQUIRED TO TAKE A POLYGRAPH EXAMINATION FOR ANY SECURITY CLEARANCE OR ACCESS TO CLASSIFIED INFORMATION? IF YES, PLEASE EXPLAIN.

No.

47. HAVE YOU EVER REFUSED TO SUBMIT TO A POLYGRAPH EXAMINATION? IF YES, PLEASE EXPLAIN.

No.

PART G - ADDITIONAL INFORMATION

48. DESCRIBE IN YOUR OWN WORDS THE CONCEPT OF CONGRESSIONAL OVERSIGHT OF U.S. INTELLIGENCE ACTIVITIES. IN PARTICULAR, CHARACTERIZE WHAT YOU BELIEVE TO BE THE OBLIGATIONS OF THE INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY AND THE INTELLIGENCE COMMITTEES OF THE CONGRESS RESPECTIVELY IN THE OVERSIGHT PROCESS.

I view the concept of Congressional oversight of U.S. intelligence activities as an obligation of Congress and essential to ensure U.S. intelligence activities meet our nation's security needs, respect our laws, and reflect American values. Congressional oversight of U.S. intelligence activities is part of Congress's obligation to fulfill its constitutional responsibilities. Such oversight plays a critical role in building and maintaining efficient and effective intelligence activities, which are essential to our national defense. To this end, because the effectiveness of U.S. intelligence activities is often a function of their secretiveness, congressional oversight is indispensable to ensure that the Intelligence Community remains accountable for the immense trust placed in it by the American people.

To allow the Congress to discharge its constitutional responsibilities, the Intelligence Community has the affirmative duty to keep the congressional intelligence committees fully and currently informed of all intelligence activities, including significant anticipated intelligence activities and significant intelligence failures.

Section 405 of Public Law 111-259, the Intelligence Authorization Act for Fiscal Year 2010, sets forth the legal obligations of the Inspector General of the Intelligence Community to provide information to Congress. This statute requires, among other things, that the Inspector General of the Intelligence Community keep the congressional intelligence committees fully and currently informed of significant problems and deficiencies relating to programs and activities within the responsibility and authority of the Director of National Intelligence, and the necessity for, and the progress of, corrective actions. In addition, this statute lists five specific matters that obligate the Inspector General of the Intelligence Community to immediately notify, and submit a report to, the congressional intelligence committees on the matters and, in some circumstances, to send such a report to other committees of the Senate and of the House of Representatives with jurisdiction on such matters.

If confirmed, I would seek to engage the Select Committee on Intelligence, and other committees of jurisdiction, to strengthen the relationship of the Office of the Inspector General of the Intelligence Community with this Committee and Congress.

49. EXPLAIN YOUR UNDERSTANDING OF THE RESPONSIBILITIES OF THE INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.

I understand that Section 405 of Public Law 111-259, the Intelligence Authorization Act for Fiscal Year 2010, codified at 50 U.S.C. § 3033 *et seq.*, sets forth the general legal responsibilities of the Inspector General of the Intelligence Community. As discussed in response to Question 48, these legal responsibilities require, among other things, the Inspector General of the Intelligence Community to ensure that the congressional intelligence committees and the Director of National Intelligence are kept "fully and currently informed" of significant problems and deficiencies relating to programs and activities within the responsibility and authority of the Director of National Intelligence, and the necessity for, and the progress of, corrective actions. *See* 50 U.S.C. § 3033(b)(3)-(4). The Inspector General of the Intelligence Community also has the following statutory "duties and responsibilities": (1) to provide policy direction for, and to plan, conduct, supervise, and coordinate independently, the investigations, inspections, audits, and reviews relating to programs and activities within the responsibility and authority of the Director of National Intelligence; (2) to keep the

Director of National Intelligence fully and currently informed concerning violations of law and regulations, fraud, and other serious problems, abuses, and deficiencies relating to the programs and activities within the responsibility and authority of the Director, to recommend corrective action concerning such problems, and to report on the progress made in implementing such corrective action; (3) to take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Inspector General, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and (4) in the execution of such duties and responsibilities, to comply with generally accepted government auditing. *Id.* § 3033(g)(1)-(4).

This statute authorizes the Inspector General of the Intelligence Community to receive and investigate, pursuant to 50 U.S.C. § 3033(h), complaints or information from any person concerning the existence of an activity within the authorities and responsibilities of the Director of National Intelligence constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to public health and safety. 50 U.S.C. § 3033(g)(3). Once such a complaint or information has been received from an employee of the intelligence community, (a) the Inspector General of the Intelligence Community shall not disclose the identity of the employee without the consent of the employee, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation or the disclosure is made to an official of the Department of Justice responsible for determining whether a prosecution should be undertaken, and (b) no action constituting a reprisal, or threat of reprisal, for making such complaint or disclosing such information to the Inspector General may be taken by any employee in a position to take such actions, unless the complaint was made or the information was disclosed with knowledge that it was false or with willful disregard for its truth or falsity. *Id.* § 3033(g)(3)(A) and (B).

The Inspector General of the Intelligence Community has the responsibility to serve as the Chair of the Intelligence Community Inspectors General Forum, which serves as a mechanism for informing the members of the Forum of the work of individual members of the Forum that may be of common interest and discussing questions about jurisdiction or access to employees, employees of contract personnel, records, audits, reviews, documents, recommendations, or other materials that may involve or be of assistance to more than one of its members. *Id.* § 3033(h)(2).

The Inspector General of the Intelligence Community has the responsibility, not later than October 31 and April 30 of each year, to prepare and submit to the Director of National Intelligence a classified, and, as appropriate, unclassified semiannual reports summarizing the activities of the Office of the Inspector General of the Intelligence Community during the immediately preceding 6-month period ending September 30 and March 31, respectively. *Id.* § 3033(k).

The Inspector General of the Intelligence Community has the responsibility to report immediately to the Director of National Intelligence whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to programs and activities within the responsibility and authority of the Director of National Intelligence. *Id.* § 3033(k)(1)(C). The Inspector General of the Intelligence Community has the responsibility to notify immediately, and submit a report to, the congressional intelligence committees in the event of certain specified circumstances, *id.* § 3033(k)(3)(A)(i)-(v), and to submit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of each such report under 50 U.S.C. § 3033(k)(3)(A) that involves an investigation, inspection, audit, or review carried out by the Inspector General focused on any current or former official of a component of such department simultaneously with submission of the report to the congressional intelligence committees, *id.* § 3033(k)(3)(B).

In addition, an employee of an element of the intelligence community, an employee assigned or detailed to an element of the intelligence community, or an employee of a contractor to the intelligence community, who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information to the Inspector General. Not later than the end of the 14-calendar day period beginning on the date of receipt from an employee of such a complaint, the Inspector General has the responsibility to determine whether the complaint or information appears credible. Upon making such a determination, the Inspector General shall transmit to the Director a notice of that determination, together with

the complaint or information. *Id.* § 3033(k)(5)(B). The Inspector General has the responsibility to notify an employee who reports such a complaint or information to the Inspector General of each action taken with respect to the complaint or information, and the Inspector General shall provide such notice not later than 3 days after any such action is taken. *Id.* § 3033(k)(5)(E).

In accordance with section 535 of Title 28 of the United States Code, the Inspector General of the Intelligence Community has the responsibility to report expeditiously to the Attorney General any information, allegation, or complaint received by the Inspector General relating to violations of Federal criminal law that involve a program or operation of an element of the intelligence community, or in the relationships between the elements of the intelligence community, and a copy of such report shall be furnished to the Director of National Intelligence. 50 U.S.C. § 3033(k)(6).

The Inspector General of the Intelligence Community has the responsibility to transmit a budget estimate and request to the Director of National Intelligence that specifies for such fiscal year the following: (1) the aggregate amount requested for the operations of the Inspector General; (2) the amount requested for all training requirements of the Inspector General, including a certification from the Inspector General that the amount requested is sufficient to fund all training requirements for the Office of the Inspector General; and (3) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency, including a justification of such amount. *Id.* § 3033(n)(1).

Further, Presidential Policy Directive 19 ("PPD-19"), the subject of which is entitled "Protecting Whistleblowers with Access to Classified Information," and Intelligence Community Directive 120 ("ICD 120"), entitled "Intelligence Community Whistleblower Protection," set forth additional responsibilities of the Inspector General of the Intelligence Community. Under PPD-19, the Inspector General of the Intelligence Community has the responsibility to chair a three-member Inspector General panel, called the External Review Panel. If an employee alleging a reprisal who has exhausted the applicable review process required by Section A or B of PPD-19 requests an external review by the External Review Panel, the Inspector General of the Intelligence Community shall decide, in his or her discretion, whether to convene the External Review Panel, and, if so, shall designate two other Panel members from the Inspectors General of seven identified Inspectors General's offices. If the External Review Panel determines that the individual was the subject of a Personnel Action prohibited by Section A of PPD-19 or an action affecting his or her Eligibility for Access to Classified Information prohibited by Section B of PPD-19, the Panel may recommend that the agency head take corrective action to return the employee, as nearly as practicable and reasonable, to the position such employee would have held had the reprisal not occurred and that the agency head reconsider the employee's Eligibility for Access to Classified Information consistent with national security and with Executive Order 12968. On an annual basis, PPD-19 requires the Inspector General of the Intelligence Community to report the determinations and recommendations and department and agency head responses to the Director of National Intelligence and, as appropriate, to the relevant congressional committees.

Under ICD 120, the Inspector General of the Intelligence Committee has the responsibility to establish procedures for external reviews that are consistent with Section C of PPD-19 and ensure that intelligence community elements and their employees are aware of these procedures. ICD 120 specifies that the External Review Panel shall complete a review of a claim within 180 days. If the Office of the Inspector General of the Intelligence Community receives a Protected Disclosure that is not related to national intelligence, the Inspector General of the Intelligence Community has the responsibility under ICD 120 to refer the Protected Disclosure to appropriate Inspectors General officials outside the intelligence community in accordance with statutory referral mechanisms.

I also understand that, pursuant to Executive Order 13462, the Director of National Intelligence has designated the Office of the Inspector General of the Intelligence Community as an office responsible for notifying the Intelligence Oversight Board, a component of the President's Intelligence Advisory Board, of reportable intelligence oversight matters occurring under the purview of the Office of the Director of National Intelligence.

AFFIRMATION

I, MICHAEL K. ATKINSON, DO SWEAR THAT THE ANSWERS I HAVE PROVIDED TO THIS QUESTIONNAIRE ARE ACCURATE AND COMPLETE.

24 NOV. 2017 SIGNATURE

(Date) (Name)

— Washington, District of Columbia

Subscribed and [illegible] in my presence,

this 24th NOVEMBER 2017

by MICHAEL K. ATKINSON (Notary)

SIGNATURE

My Commission Expires [illegible]

TO THE CHAIRMAN, SELECT COMMITTEE ON INTELLIGENCE:

In connection with my nomination to be the Inspector General of the Intelligence Community, I hereby express my willingness to respond to requests to appear and testify before any duly constituted committee of the Senate.

SIGNATURE

Signature

Date: 24 Nov. 2017

November 17, 2017

Bradley Brooker
Designated Agency Ethics Official
Office of the Director of National Intelligence
Washington, D.C. 20511

Dear Mr. Brooker,

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Intelligence Community Inspector General, Office of the Director of National Intelligence.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

My spouse is currently a partner with the law firm of Miller & Chevalier. For as long as my spouse continues to work for Miller & Chevalier, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of the firm, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1). I also will not participate personally and substantially in any particular matter involving specific parties in which I know a client of my spouse is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d). In addition, for the duration of my appointment to the position of Intelligence Community Inspector General, my spouse has agreed not to communicate directly with the Office of the Director of National Intelligence on behalf of her employer or any client.

Within 90 days of confirmation, I will divest interests in the following entities: Cisco Systems, Inc., Flex Ltd., Microsoft Corp., Pfizer Inc., Constellation Brands, Inc., Qorvo, Inc., Vertex Pharmaceuticals Incorporated, Alibaba Group Holding Limited, Box, Inc., Regeneron Pharmaceuticals, Inc., and Under Armour, Inc. With regard to each of these entities, I will not participate personally and substantially in any matter that to my knowledge has a direct and predictable effect on the financial interests of the entity until I have divested it, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

I understand that I may be eligible to request a Certificate of Divestiture for qualifying assets and that a Certificate of Divestiture is effective only if obtained prior to divestiture. Regardless of whether I receive a Certificate of Divestiture, I will ensure that all divestitures discussed in this agreement occur within the agreed upon time frames and that all proceeds are invested in non-conflicting assets.

If I have a managed account or otherwise use the services of an investment professional during my appointment, I will ensure that the account manager or investment professional obtains my prior approval on a case-by-case basis for the purchase of any assets other than cash, cash equivalents, investment funds that qualify for the exemption at 5 C.F.R. §2640.201(a), obligations of the United States, or municipal bonds.

I understand that as an appointee I will be required to sign the Ethics Pledge (Exec. Order No. 13770) and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this ethics agreement.

I will meet in person with you or the ADAEO after confirmation but not later than 15 days after appointment as Intelligence Community Inspector General, Office of the Director of National Intelligence, in order to complete the initial ethics briefing required under 5 C.F.R. § 2638.305. Within 90 days of my confirmation, I will document compliance with this ethics agreement by notifying the ethics official in writing when I have completed the steps described in this ethics agreement.

I have been advised that this ethics agreement will be posted publicly, consistent with 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with ethics agreements of other Presidential nominees who file public financial disclosure reports.

Sincerely,

SIGNATURE

Michael K. Atkinson

SELECT COMMITTEE ON
INTELLIGENCE

UNITED STATES SENATE

Additional Pre-Hearing Questions for
Mr. Michael Atkinson upon his nomination to be
Inspector General of the Intelligence Community

In these questions, all references to the statutory authorities relating to the Inspector General of the Intelligence Community (IC IG) are to Section 103H of the National Security Act of 1947 (50 U.S.C. § 3033), as amended by Section 405 of the Intelligence Authorization Act for Fiscal Year 2010 (Public Law 111-259).

Qualifications

QUESTION 1: Section 103H(c) provides that the nomination of an individual for appointment as Inspector General shall be made on the basis of qualifications that include "prior experience in the field of intelligence or national security," and "demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or investigations." What qualifies you to perform the duties of the IC IG generally with respect to the oversight of intelligence programs and activities and, specifically, with regard to audit and investigation tools?

ANSWER: If confirmed, I believe that I have the appropriate qualifications, experience, and demonstrated abilities to serve effectively as the Inspector General of the Intelligence Community.

During the past twenty-six years that I have practiced law, encompassing eleven years in private practice at an international law firm and fifteen years in government service as a prosecutor, I have supervised and handled a multitude of complex and sensitive criminal, civil, and administrative investigations. As part of these responsibilities, I have worked on a regular basis with a variety of federal law enforcement agencies, the Intelligence Community, and many Inspectors General's offices. My responsibilities have included supervising and working with other attorneys, investigators, auditors, accountants, and administrative personnel.

Over the course of my fifteen years as a prosecutor at the Department of Justice, predominately in the fields of fraud and public corruption, I have worked to root out waste, fraud, and abuse in government programs and activities in an effort to promote honest and effective government. I have prosecuted and supervised the prosecutions of a wide variety of white-collar crime and public corruption offenses, including bribery and illegal gratuities, procurement fraud, conflicts of interest, mail and wire fraud, cybercrime, election fraud, tax fraud, identity theft, health care fraud, corporate and securities fraud, and money laundering. My work as a prosecutor has included successful prosecutions of public and elected officials, corporate executives, and government contractors. These matters and others have required me to understand how books and records should look, how books and records can be masked to conceal fraud, and the structures and controls that are susceptible to fraud or abuse.

For roughly the past two years of my career at the Department of Justice, I have served as an Acting Deputy Assistant Attorney General and Senior Counsel to the Assistant Attorney General in the National Security Division, focusing primarily on intelligence and national

security matters. I have provided supervisory and management oversight of a staff of lawyers and non-lawyers within the Division's Counterintelligence and Export Control Section and Foreign Investment Review Staff, who handle extremely sensitive matters of significance to NSD, including, but not limited to: cybersecurity and counterintelligence-related matters; export control and sanctions; protection of classified information; reviews of foreign acquisitions of domestic entities that might affect national security; tracking and monitoring of transactions that have been approved and identifying unreported transactions that might merit review; and responding to Federal Communication Commission (FCC) requests for the Department's views relating to the national security implications of certain transactions relating to FCC licenses. As part of these responsibilities, I have been a consumer and user of intelligence from multiple intelligence sources, and I have seen first-hand the benefits to our country when there is a unity of effort by the Intelligence Community (IC) to address national security needs.

My demonstrated abilities in law and investigations have been recognized through my receipt of multiple awards while at the Department of Justice, including the following:

- Attorney General's Award for Distinguished Service, in recognition of the successful prosecution of a former United States Congressman for public corruption offenses.
- United States Attorney's Office Award for Exceptional Performance by an Assistant United States Attorney and the Gaston L. Gianni, Jr., Better Government Award, by the Council of the Inspectors General on Integrity and Efficiency (CIGIE), in recognition of the successful prosecution of what has been called the largest domestic bribery and bid steering scheme in the history of federal contracting.
- Executive Office for United States Attorneys' Director's Award for Superior Performance by an Assistant United States Attorney, in recognition of the successful prosecution of, among others, a former United States Congressman for theft from a campaign account.
- Award for Excellence by CIGIE, in recognition of the successful prosecution of a former White House National Space Council advisor for false claims and tax evasion, which led to the conviction of the same defendant for attempted espionage.

Collectively, I believe these experiences both qualify me for, and would inform my efforts as, the Inspector General of the Intelligence Community, if confirmed.

Duties

QUESTION 2: Section 103(H)(b)(1) provides that the purpose of the IC IG is "to create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independent investigations, inspections, audits, and reviews on programs and activities within the responsibility and authority of the Director of National Intelligence."

a. Please describe your standards for "an objective and effective office" and how, if confirmed, you intend to establish an office that maintains those standards.

Answer: I believe that the Inspector General of the Intelligence Community should establish and maintain within the office a commitment to integrity, excellence, discipline, and independence. If confirmed, I intend to exercise determined leadership to ensure the office has the personnel, training, resources, and overall vision of itself necessary to meet those commitments. To that end, if confirmed, I intend to retain and recruit individuals for the office who share those commitments and who demonstrate the character, professionalism, experience, and skills necessary to meet those commitments. In addition, if confirmed, I will work to ensure that IC IG personnel conduct investigations, inspections, audits, and reviews in accordance with Quality Standards promulgated by CIGIE to keep those activities free from personal, external, and organizational impairments.

b. If confirmed, how do you expect to fulfill the statutory obligation to be "appropriately accountable to Congress"?

Answer: If confirmed, I expect to keep the congressional intelligence committees fully and currently informed in a variety of ways. I expect to fulfill this statutory obligation through the filing of semi-annual reports and by notifying the congressional intelligence committees immediately in the event certain specific circumstances arise, consistent with 50 U.S.C. § 3033(k)(3)(A)(i)-(v). In addition, I will inform the congressional intelligence committees, through the Director of National Intelligence, of any matters of "urgent concern" reported to the IC IG by an employee of an element of the IC, an employee assigned or detailed to an element of the IC, or an employee of a contractor to the IC, consistent with 50 U.S.C. § 3033(k)(5)(B). If confirmed, in addition to these statutory obligations, I would seek to engage on a regular basis the Senate Select Committee on Intelligence, the House Permanent Select Committee on Intelligence, and other committees of jurisdiction to strengthen the relationship of the IC IG with Congress.

c. What is your understanding of the scope of the term "programs and activities within the responsibility and authority of the Director of National Intelligence"?

Answer: The Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA) established the Director of National Intelligence. IRTPA provides that the principal responsibilities of the Director of National Intelligence are to serve as the head of the IC; act as the principal advisor to the President, to the National Security Council, and to the Homeland Security Council for intelligence matters related to the national security; and consistent with section 1018 of the National Security Intelligence Reform Act of 2004, oversee and direct the implementation of the National Intelligence Program. As a result, I understand the scope of the term "programs and activities within the responsibility and authority of the Director of National Intelligence" to be co-extensive to the programs and activities the Director of National Intelligence is authorized by IRTPA (or other applicable federal laws or regulations) to direct or oversee as the head of the IC; as the principal advisor to the President, to the National Security Council, and the Homeland Security Council for intelligence matters related to the national security; and consistent with section 1018 of the National Security Intelligence Reform Act of 2004, in overseeing and directing the implementation of the National Intelligence Program.

QUESTION 3: If confirmed, what standards and procedures would you apply to ensure the appropriate timeliness and responsiveness of the IC IG's completion of inspections, audits, reviews, and investigations?

> **Answer:** If confirmed, I will review the current IC IG standards and procedures used to ensure timely and responsive completion of IC IG inspections, audits, reviews, and investigations. I will also compare the IC IG's current standards and procedures with the Quality Standards established by CIGIE for timeliness and responsiveness for completing audits, investigations, inspections, and reviews. I will work with the current IC IG staff to implement appropriate modifications of the office's current procedures to ensure compliance with CIGIE's standards in the most efficient and effective manner.

Protection of Whistleblowers

Section 103H(g)(3)(B) provides that "no action constituting a reprisal, or threat of reprisal, for making such complaint or disclosing such information to the Inspector General may be taken by any employee in a position to take such actions, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity."

QUESTION 4: What is your understanding of the formal policies and processes in place to inform employees of their right to provide information to the IC IG, and to detect and protect against reprisal for making complaints or disclosing information to the IC IG?

> **Answer:** I have not had the opportunity to examine in detail the formal policies and procedures in place to inform employees at ODNI or within the IC more broadly of the process to provide information to the IC IG and to detect and protect against reprisal for making complaints or disclosing information to the IC IG. In general, I understand that the IC IG uses several methods to inform IC employees of the process to provide information to the IC IG and to be protected from reprisals for making a complaint or disclosing information to the IC IG. For example, the IC IG website provides an overview of how to make a protected disclosure to the IC IG and what whistleblower protections are available for employees and contractors who make disclosures. Presidential Policy Directive – 19 (PPD-19), *Protecting Whistleblowers with Access to Classified Information*, provides protections for IC employees against personnel actions taken in reprisal for lawfully participating in the whistleblowing process. I understand that Intelligence Community Directive 120 (ICD 120), *Intelligence Community Whistleblower Protection*, outlines the procedures for external reviews, in accordance with Section C of PPD-19, and requires the IC IG to ensure that IC elements and their employees are aware of these procedures.

QUESTION 5: If confirmed, what additional policies and processes will you establish to ensure compliance with this provision, and any related provisions that are applicable to elements of the IC, such as the provisions of the IC Whistleblower Protection Act?

> **Answer:** I have not had the opportunity to examine in detail the formal policies and procedures for compliance with this provision or any related provisions. If confirmed, I intend to examine the formal policies and processes in place by the IC IG. If confirmed, as

the Chair of the Intelligence Community Inspector General Forum (IC IG Forum), I will work with the IC IG Forum members to ensure the elements of the IC and the IC IG Forum members fully and effectively inform employees of the process to provide information to the IC IG, and the protections against reprisal for making complaints or disclosing information to the IC IG. Similarly, if confirmed, I also intend to examine the procedures established by the IC IG for external reviews, as required by ICD 120, to ensure those procedures are consistent with Section C of PPD-19, and that the IC elements and their employees are aware of these procedures.

QUESTION 6: Please describe your view of the IC IG's role with regard to whistleblowers. Please address each of the following and provide specifics on actions you would take to improve performance, if confirmed as the IC IG.

Answer: From a statutory and regulatory view, the IC IG has several critical roles to play with regard to whistleblowers. By statute, an employee of an element of the IC, an employee assigned or detailed to an element of the IC, or an employee of a contractor to the IC, who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information to the IC IG. The IC IG has the responsibility to determine whether the complaint or information appears credible. The IC IG also has the responsibility to notify an employee who reports such a complaint or information of each action taken with respect to the complaint or information. 50 U.S.C. § 3033(k)(5)(E).

Further, PPD-19 and ICD 120 set forth additional responsibilities of the IC IG with regard to whistleblowers. Under PPD-19, the IC IG has the responsibility to chair a three-member Inspector General panel, called the External Review Panel. Under ICD 120, the IC IG has the responsibility to establish procedures for external reviews that are consistent with Section C of PPD-19 and ensure that IC elements and their employees are aware of these procedures.

Fundamentally, in the context of these authorities, I view the IC IG's role with regard to whistleblowers as one that reinforces within the IC the importance of cultivating and protecting sources of information, including whistleblowers. The effectiveness of U.S. intelligence activities is often a function of their secretiveness, *i.e.*, protecting the sources and methods of collection activities. In an environment that necessarily puts such a high value on secrecy as well as obedience to authority, particularly in the IC's military elements, there can be a perceived conflict between loyalty to the IC element and disclosing wrongdoing within the element. If confirmed, I will lead the efforts of the IC IG to do its part to address any such perceived conflict by supporting the authorized means available to individuals to report wrongdoing within ODNI and across the IC enterprise without compromising national security. I will have the IC IG spread awareness within ODNI and across the IC enterprise about those authorized means to report wrongdoing. And I will have the IC IG promote fair, impartial, and effective processes to protect individuals who avail themselves of those authorized means from retaliation, including by working to ensure there are meaningful consequences for those who retaliate against individuals who make lawful disclosures. By supporting, operating, and enforcing a program for authorized disclosures that seeks to validate moral courage without compromising national security or

retaliation, I would have the IC IG play a leading role in fostering a culture within the IC that values patriotic dissent while maintaining loyalty to individual IC elements.

a. Outreach and training across ODNI and the IC enterprise with regard to whistleblower rights and access to whistleblower protections;

Answer: Through the IC IG Forum, the IC IG should play a leadership role within ODNI and across the IC enterprise in ensuring consistency and effectiveness in the outreach and training efforts by the IC to inform individuals about their rights and the authorized means to report wrongdoing. The IC IG should play an active and meaningful role in ensuring that workforce training for ODNI encourages managers and employees to make lawful disclosures and informs them of the authorized means to report wrongdoing and their protections against reprisals. In addition, the IC IG should have outreach and training programs to educate IC IG Forum members on protections for lawful disclosures and the authorized means to report wrongdoing. If confirmed, I will discuss with the current IC IG staff the office's current role in outreach and training regarding authorized disclosures, and I will work with them to maximize the effectiveness of their role in informing individuals across ODNI and the IC enterprise, including contractors, of their obligations and opportunities to provide such complaints or information to the IC IG and the authorized means available for them to do so.

b. Timely and thorough investigations of whistleblower complaints;

Answer: In general, timely and thorough investigations of whistleblower complaints by the IC IG and IC IG Forum members are critical for a number of reasons, including the ability to maximize the types, quantity, and quality of the evidence available to fact-finders, establishing and maintaining the credibility of the whistleblower protection program, and facilitating the effectiveness of remedial actions. If confirmed, in coordination with the IC IG Forum members, I will undertake an immediate review of whistleblower complaints being handled currently by the IC IG and other IC IG Forum members to ensure they are receiving appropriate resources, attention, and priority. As part of that review, I will seek to identify any cross-cutting risks, vulnerabilities, or issues with regard to whistleblower complaints across the IC that might be appropriate subjects for future investigations, examinations, inspections, or audits by the IC IG and/or IC IG Forum members.

In addition, as discussed above, the IC IG has a unique statutory requirement to make a credibility determination on a matter of "urgent concern" reported by whistleblowers within fourteen (14) days of receiving such reports. Given the relatively short statutory time frame, the IC IG should have an appropriate intake and evaluation process in place to permit the IC IG to fulfill its statutory obligation.

c. Management of whistleblower caseloads within the IC IG.

Answer: The Inspector General of the Intelligence Community should be a leader in managing whistleblower caseloads within the IC IG and working with the IC IG Forum members to ensure matters of common interest regarding whistleblower caseloads are receiving appropriate attention, resources, and priority. As discussed in my response to Question 6.b, the effective management of whistleblower caseloads requires timely and

thorough investigations. If confirmed, in coordination with the IC IG Forum members, I intend to review current whistleblower caseloads handled by the IC IG and other IC IG Forum members to determine if there are opportunities for increased efficiencies or reallocations of resources, if necessary, to ensure the timely and thorough investigation of whistleblower complaints.

d. Notification to Congress regarding whistleblower complaints and acts of reprisal.

Answer: The IC IG should play a leading role in promoting and facilitating lawful disclosures to Congress through the IC Whistleblower Protection Act. As discussed in my response to Question 6.a, the IC IG should play such a leading role by, among other things, providing outreach and ensuring there is appropriate training to encourage individuals to make lawful disclosures and to inform them of the authorized means to report wrongdoing, including the authorized means to report wrongdoing to Congress, without compromising national security or retaliation. Further, as discussed in my response to Question 6.b, the IC IG has its own unique statutory obligation to notify Congress, through the Director of National Intelligence, regarding matters of "urgent concern" reported by whistleblowers.

QUESTION 7: Do you see any need for additional actions, policies, or processes to protect whistleblowers?

Answer: I have not had the opportunity to examine in detail the formal actions, policies, or processes in place to protect individuals at ODNI or within the IC more broadly who make lawful disclosures of unethical or illegal conduct. If confirmed, in coordination with the IC IG Forum members, I intend to examine the formal actions, policies, and processes across the IC enterprise to ensure that reporting of suspected waste, fraud, and abuse has been appropriately institutionalized, routinized, and protected.

QUESTION 8: What is your view of the role of the IC IG in managing and investigating whistleblower complaints made by employees of ODNI? What is your view of the role of the IC IG with regard to complaints made by IC employees outside ODNI?

Answer: The IC IG has the statutory authority to receive complaints or information from any person concerning the existence of an activity within the authorities and responsibilities of the Director of National Intelligence constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to public health and safety. 50 U.S.C. § 3033(g)(3). As a result of that statutory authority, the IC IG should establish and maintain personnel with the subject matter expertise to investigate and manage whistleblower complaints made both by employees of ODNI and by all IC personnel.

Further, under PPD-19, the IC IG has the responsibility to chair the External Review Panel. Relatedly, under ICD 120, the IC IG has the responsibility to establish procedures for external reviews that are consistent with Section C of PPD-19 and ensure that IC elements and their employees are aware of these procedures.

QUESTION 9: What role do you believe the IC IG has in setting investigative standards and

ensuring consistency in whistleblower investigations across the Intelligence Community?

Answer: I believe that consistency across the IC in timely and thorough whistleblower investigations is essential to ensure a credible and effective whistleblower protection program. I believe, however, that CIGIE may be the most appropriate body to establish Quality Standards for investigations across multiple federal agencies, including whistleblower investigations within the IC. Nevertheless, by statute, the IC IG is authorized to receive the results of whistleblower investigations by other Inspectors General on whistleblower complaints related to programs and activities within the responsibility and authority of the Director of National Intelligence. 50 U.S.C. § 3033(h)(3). Further, under PPD-19, the IC IG has the responsibility to chair the External Review Panel to adjudicate certain appeals by whistleblowers, which provides the IC IG with a formal opportunity to review the investigative methods and results by other Inspectors General of elements within the IC. In addition, as the Chair of the IC IG Forum, the IC IG serves as a mechanism to inform the IC IG Forum members of the work of individual members that may be of common interest. I believe that these legal authorities provide the IC IG with a unique opportunity within the IC to identify potential areas of improvement in the consistency of whistleblower investigations and to communicate those observations and any recommended improvements to the IC IG Forum members.

QUESTION 10: To proactively protect IC employees and contractors from potential retaliation, do you support providing IC employees with the same stay authority that is afforded almost every other federal employee?

Answer: I do not have sufficient experience with the operations of the IC IG to have formed an opinion on whether IC employees should be provided the same stay authority afforded to non-IC employees. If confirmed, as discussed in my response to Question 6, I will explore with the current IC IG staff as well as with the IC IG Forum members their collective views on the effectiveness of the current protections for individuals who make lawful disclosures, and I will work with the IC IG staff, the IC IG Forum, and CIGIE to maximize the effectiveness of those protections, which could include advocating for legislative changes in the future.

QUESTION 11: Do you believe the Whistleblowing and Source Protection Office should be established by statute within the Office of the Inspector General of the Intelligence Community?

Answer: I do not have sufficient experience with the operations of the IC IG to have formed an opinion on whether the Whistleblowing and Source Protection Office should be established by statute within the IC IG. If confirmed, as discussed in my response to Question 6, I will discuss with the current IC IG staff the office's current role in outreach and training across ODNI and the IC enterprise regarding authorized disclosures, and I will work with them to maximize the effectiveness of their role in those efforts, which could include advocating for legislative changes in the future.

QUESTION 12: To your knowledge, have you ever been the subject of a whistleblower complaint? If yes, please provide dates and a brief summary of each complaint of which you are aware?

Answer: To my knowledge, I have never been the subject of a whistleblower complaint.

QUESTION 13: What are your views on the extension of IC whistleblower protections to contractors?

Answer: I do not have sufficient experience with the operations of the IC IG to have formed an opinion on whether IC whistleblower protections should be extended to contractors. If confirmed, as discussed in my response to Question 6, I will assess the current processes and outreach efforts the IC IG staff and the IC IG Forum members have in place to provide information to individuals, within or outside the U.S. Government, on their ability to provide complaints, concerns, or information to the IC IG or their element's OIG. I will also work with the IC IG staff, the IC IG Forum, and CIGIE to maximize the effectiveness of their current whistleblower protections to such individuals, particularly contractors, which could include advocating for legislative changes in the future.

Access to Information

Pursuant to Sections 103H(g)(2)(B) and (C), "[t]he Inspector General shall have access to any employee, or any employee of a contractor, of any element of the intelligence community needed for the performance of the duties of the Inspector General" as well as "direct access to all records, reports, audits, reviews, documents, papers, recommendations, or other materials that relate to the programs and activities[.]"

QUESTION 14: Please describe how, if confirmed, you would address a situation where an agency, U.S. official, or a government contractor refused to provide such access, including what remedies you would pursue in addition to those described in Section 103H(g)(2)(E).

Answer: If confirmed, I would discuss issues regarding access to information with ODNI's leadership and General Counsel. In addition, if the information resided within an IC element other than ODNI, I would discuss the issue regarding access to the information with the particular element's leadership, General Counsel, and Inspector General, as appropriate, and with ODNI's leadership and General Counsel. If the IC employee continued to deny the IC IG with access to the information, and discussions with the element's leadership and General Counsel did not result in the IC IG obtaining access to the information, I would notify the oversight committee if I felt the refusal to provide access to the information impeded the ability of the IC IG to perform its duties and responsibilities. Similarly, if a contractor refused to provide access to information voluntarily, I would discuss with the IC element's management its ability to obtain such information voluntarily from the contractor as part of any contractual obligations owed by the contractor to the U.S. Government. Ultimately, if the contractor failed to comply voluntarily with a request for information, I would issue a subpoena to the contractor.

QUESTION 15: Section 103H(g)(5) provides authority for the authorization and enforcement of subpoenas for the production of information that is necessary in the performance of the duties and responsibilities of the Inspector General. What is your view of the appropriate use of this subpoena authority?

Answer: Subpoenas are a proper and, at times, necessary method for the IC IG to obtain evidence. As a prosecutor and former defense attorney, I understand that enforcement of

OIG subpoenas can be time consuming and resource intensive, but I would not hesitate to issue such a subpoena, if appropriate.

Sources of Complaints

QUESTION 16: Pursuant to Section 103H(g)(3), "[t]he Inspector General is authorized to receive and investigate ... complaints or information from any person concerning the existence of an activity within the authorities and responsibilities of the Director of National Intelligence constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety."

If confirmed, what steps would you take to inform individuals, within or outside of the U.S. Government, including contractors, of their opportunity to provide such complaints or information to the IC IG?

Answer: If confirmed, as discussed in my response to Question 6, and in coordination with the IC IG Forum members, I will assess the current training and outreach efforts the IC IG staff and the IC IG Forum members have in place to provide information to individuals, within or outside the U.S. Government, on their ability to provide complaints or information to the IC IG or their element's OIG. I will also work, if confirmed, with the IC IG staff and the IC IG Forum members to maximize the effectiveness of the collective outreach and training efforts by the IC IG and the IC IG Forum members to provide information on whistleblower protections to individuals, particularly contractors.

Relationship to Other Inspectors General

Section 103H has several provisions on the relationship of the IC IG to other inspectors general with responsibilities in or for elements of the IC, including Sections 103H(h)(1)(A), 103H(j)(4)(C), and 103H(l). To facilitate resolution of questions between or among inspectors general, Section 103H(h)(2) establishes in statute the Intelligence Community Inspectors General Forum, for which the IC IG is to serve as chair.

QUESTION 17: What is your understanding of these provisions on potentially overlapping responsibilities of inspectors general? In answering, please describe your priorities, if confirmed, for the work of the Office of the IC IG in relation to the work of other Inspectors General with responsibilities concerning intelligence programs and activities.

Answer: In the event a matter that may be subject to an investigation, inspection, audit, or review lies within the jurisdiction of both the IC IG and an IG with oversight responsibility for an element of the IC, I understand that the IC IG and such other IG shall expeditiously resolve the question of which Inspector General shall conduct such investigation, inspection, audit, or review to avoid unnecessary duplication of activities of the Inspectors General. In attempting to resolve that jurisdictional question, I understand that the Inspectors General may request the assistance of the IC IG Forum, and that the Director of National Intelligence and the head of the affected department or agency shall resolve the question in the event the Inspectors General are not able to resolve the question with the IC IG Forum's assistance.

In further recognition that matters within the duties and responsibilities of the IC IG will overlap with Inspectors General with oversight responsibility for elements of the Intelligence Community, I understand that Section 103H(h)(2) establishes the IC IG as the Chair of the IC IG Forum. As the Chair, the IC IG provides a mechanism to inform the IC IG Forum members of the work by individual members that may be of common interest and to discuss questions about jurisdiction or matters that may involve or be of assistance to more than one of its members.

If confirmed, as discussed in my response to Question 6, one of my highest priorities will be to review with the IC IG Forum members the outreach and training programs available across the IC enterprise with regard to authorized disclosures. As part of that review, I will discuss with the IC IG Forum members ways to maximize the effectiveness of the IC IG Forum in informing individuals across the IC enterprise, including contractors, of their obligations and opportunities to provide such complaints or information to the IC IG or the IC IG Forum members and the authorized processes available to do so. As part of that review, in coordination with the IC IG Forum members, I will also undertake an immediate review of whistleblower complaints being handled currently by the IC IG and other IC IG Forum members (a) to ensure they are receiving appropriate resources, attention, and priority, (b) to identify any cross-cutting risks, vulnerabilities, or issues related to whistleblower complaints that might be appropriate subjects for future investigations, examinations, inspections, or audits by the IC IG or jointly with other IC IG Forum members, and (c) to discuss any legislative changes that might be appropriate related to authorized disclosures and the protections afforded to them.

QUESTION 18: Please describe your understanding of the IC IG's leadership role vis-a-vis other Intelligence Community Inspectors General? How will you engage this leadership role?

Answer: I understand that as the Chair of the IC IG Forum, the IC IG serves to inform the IC IG Forum members of the work by individual members that may be of common interest and to discuss questions about jurisdiction or matters that may involve or be of assistance to more than one of its members. If confirmed, I will engage this leadership role by attempting to strike the right balance between the autonomy of action required for individual IC IG Forum members to perform their responsibilities and the unity of effort required by the IC IG Forum as a whole to maximize its collective efforts, efficiency, and effectiveness. As the Chair of the IC IG Forum, if confirmed, I will coordinate regularly with other IC IG Forum members, both individually and through the IC IG Forum, and I intend to continue the interactions of the IC IG Forum members through the audit, inspection, investigation, and counsel committee levels as well as the annual IC IG conference.

QUESTION 19: Please describe your goals, if confirmed, concerning the work of the IC IG General Forum and any measures you would recommend to improve its functions, if warranted.

Answer: If confirmed, I will work with the IC IG Forum members to explore additional opportunities for joint reviews by IC IG Forum members in areas that present cross-cutting risks, vulnerabilities, or issues across the IC enterprise in an effort to maximize the effectiveness of such reviews and avoid unnecessary duplication of efforts.

QUESTION 20: Section 103H(j)(4)(C) provides that "[t]he Inspector General of the Intelligence Community may, upon reasonable notice to the head of any element of the intelligence community and in coordination with that element's inspector general ... conduct, as authorized by this section, an investigation, inspection, audit, or review of such element[.]" What is your understanding of this provision, particularly pertaining to the "coordination with that element's inspector general"?

> **Answer:** I understand that the IC IG should provide reasonable notice to the head of the element of the IC and coordinate with the element's inspector general "pursuant to [Section 103H(h)]" in conducting an investigation, inspection, audit, or review that Section 103H authorizes the IC IG to undertake and that is within the jurisdiction of another IC element's inspector general. I understand that "coordination with that element's inspector general pursuant to [Section 103H(h)]" requires the IC IG and the element's inspector general to go through the coordination process, including, if necessary, the de-confliction process provided in Section 103H(h) before either the IC IG or the element's inspector general commences such an investigation, inspection, audit, or review. By coordinating and being aware of investigations, inspections, audits, or reviews happening across the IC, this provision facilitates the role of the IC IG as the Chair of the IC IG Forum to inform the IC IG Forum of the work by individual members of common interest and to avoid unnecessary duplication of activities.

Independence

QUESTION 21: Section 103H(c)(3) provides that "[t]he Inspector General shall report directly to and be under the general supervision of the Director of National Intelligence." Please describe your understanding of both elements of this provision: "report directly to;" and "under the general supervision of the Director of National Intelligence."

> **Answer:** I understand that the IC IG will "report directly to" and be "under the general supervision" of the Director of National Intelligence, which provides a direct line of communication between the Director and the IC IG for purposes of keeping the Director fully and currently informed about the IC IG's performance of its duties and responsibilities. The DNI's "general supervision" of the IC IG is consistent with the IC IG's obligation to conduct "independent investigations, audits, and reviews on programs and activities within the responsibility and authority" of the Director, as provided in 50 U.S.C. § 3033(b)(1). The provision is also consistent with the Director's authority to prohibit an investigation, inspection, audit, or review by the IC IG "if the Director determines that such prohibition is necessary to protect vital national security interests of the United States," as provided in 50 U.S.C. § 3033(f)(1).

QUESTION 22: Section 103H(k)(3) provides that in the event that the IC IG is unable to resolve any differences with the DNI affecting execution of IC IG's duties or responsibilities, the IC IG shall immediately notify and submit a report to the congressional intelligence committees. If confirmed, in addition to this reporting responsibility, please describe what actions you would you take if a senior official of the IC sought to prevent you from "initiating, carrying out, or completing" any audit or investigation within the jurisdiction of the Office of the ICIG.

Answer: If confirmed, I would discuss issues regarding the ability of the IC IG to perform its duties and responsibilities with ODNI's leadership and General Counsel. In addition, if the issue regarding the ability of the IC IG to perform its duties or responsibilities arose from the actions of a senior official within an IC element other than ODNI, I would discuss the issue with the particular element's leadership, General Counsel, and Inspector General, as appropriate, and with ODNI's leadership and General Counsel. If despite these efforts a senior official of the IC continued to prevent the IC IG from initiating, carrying out, or completing any audit or investigation within the jurisdiction of the IC IG, and the Director of National Intelligence did not exercise his authority to prevent the IC IG from conducting the audit or investigation to protect vital national security interests of the United States, as provided in 50 U.S.C. § 3033(f)(1), I would (a) notify the congressional intelligence committees, (b) make a criminal referral to the Department of Justice, if appropriate, and (c) refer the matter to the Director of National Intelligence for appropriate administrative action against the senior official, if and when appropriate.

QUESTION 23: What is your view on the importance of independent hiring authority and contracting authority to ensure the independence of the IC IG?

Answer: Independent hiring authority and contracting authority furthers the independence of Inspectors General, particularly their ability to screen, hire, and retain the best candidates and personnel as well as to avoid compromising the office's independent investigations, inspections, audits, and reviews. Independent hiring authority and contracting authority, however, also consume portions of the limited resources available to Inspectors General and, depending upon the size and needs of the office, may not be the most efficient or effective use of those resources. I do not have sufficient experience with the operations of the IC IG to have formed an opinion on whether the size and needs of the IC IG require it to have independent hiring authority and contracting authority to ensure the independence of the IC IG. If confirmed, I will discuss with the current IC IG staff the needs of the office with regard to hiring authority and contracting authority to assess whether it would be an efficient and effective use of the IC IG's resources to establish and maintain independent hiring authority and contracting authority. In addition, if confirmed, I will discuss the issue with the IC IG Forum members, including whether there are opportunities for members currently without independent hiring authority and contracting authority to use through inter-agency agreements and/or memorandums of understanding the independent hiring authority and contracting authority that other members already possess or might obtain in the future through legislation.

Inspector General Work Plan

Section 103H(g)(2)(A) provides that the IC IG shall make such investigations and reports relating to the administration of programs and activities within the DNI's authorities and responsibilities as are "in the judgment of the Inspector General, necessary, or desirable." This requirement is subject to certain limitations in Section 103H(f), which provides that, subject to congressional notification, the DNI may prohibit the IC IG from carrying out, or completing any investigation, inspection, audit, or review that "is necessary to protect vital national security interests of the United States."

QUESTION 24: Please describe your understanding of these provisions.

Answer: My understanding is that the IC IG has the discretion to investigate, inspect, audit, review, or report on any program or activity within the authority and responsibility of the Director of National Intelligence that is, in the judgment of the IC IG, necessary or desirable, subject only to the Director's statutory authority to prohibit an investigation, inspection, audit, or review by the IC IG "if the Director determines that such prohibition is necessary to protect vital national security interests of the United States," as provided in 50 U.S.C. § 3033(f)(1), and to inform the congressional intelligence committees and the IC IG in the event the Director exercises such authority.

QUESTION 25: If confirmed, how will you determine the investigations and reports that are "necessary or desirable" to complete each year?

Answer: For necessary audits, inspections, and reviews, if confirmed, I will work to ensure that the IC IG sets appropriate priorities to complete on a timely basis the required statutory reporting, Congressionally Directed Actions, and OMB-directed audit requirements. In terms of necessary investigations, if confirmed, I will work to ensure that the IC IG responds to complaints of waste, fraud, or abuse in a timely and thorough manner. In terms of initiating discretionary or "desirable" investigations, inspections, reviews, or audits, if confirmed, I will discuss with the IC IG staff and the IC IG Forum members the programs and activities that are of common interest to multiple elements of the IC and that afford the best opportunity for impactful investigations and reports.

QUESTION 26: If confirmed, would you make it a practice to keep the congressional intelligence committees fully informed of these activities?

Answer: Yes.

Referrals to the Department of Justice

QUESTION 27: Please describe your understanding of the authority and responsibility of the IC IG to report matters to the Department of Justice concerning possible criminal conduct, including the conduct of current or former officials described in Section 103H(k)(3)(A)(iii).

Answer: I understand that, in accordance with section 535 of Title 28 of the United States Code, the IC IG has the responsibility to report expeditiously to the Attorney General any information, allegation, or complaint received by the IC IG relating to violations of Federal criminal law that involve a program or operation of an element of the IC, or in the relationships between the elements of the IC, and a copy of such report shall be furnished to the Director of National Intelligence. 50 U.S.C. § 3033(k)(6). I also understand that the IC IG has the responsibility to notify immediately, and submit a report to, the congressional intelligence committees in the event that a matter requires a report by the IC IG to the Department of Justice on possible criminal conduct by current or former officials described in Section 103H(k)(3)(A)(iii).

QUESTION 28: In your view, what should be the role, if any, of any other office or official, including the Office of General Counsel, in making referrals to the Department of Justice?

Answer: Every IC office and official has a responsibility to report potential criminal

misconduct, and employees may report criminal allegations to the IG and/or the General Counsel. The 1995 Memorandum of Understanding: Reporting of Information Concerning Federal Crimes ("MOU"), which addresses the reporting requirements in Executive Order 12333 and 28 U.S.C. § 535(b), sets forth the procedures the General Counsel should follow in making referrals directly to the Department of Justice. If confirmed, I will encourage the General Counsel to refer such matters to the IC IG for referral to the Department of Justice, if appropriate, given the IC IG's authority to coordinate the referral with the Inspectors General of individual IC elements that may have overlapping jurisdiction or common interests.

Consultations about Reports

QUESTION 29: Under what circumstances, if any, do you believe it would be appropriate for the IC IG to consult with other ODNI officials, or other officials of an IC element outside an office of an Inspector General, before issuing a report, regarding the findings and recommendations in the report?

Answer: I believe it is appropriate for the IC IG to solicit comments and factual corrections by providing draft reports of audits, inspections, or special reviews to appropriate ODNI officials, or to appropriate officials of an IC element to the extent such materials relate to a matter within the jurisdiction of such IC element or in the case of a joint review, which I understand is consistent with CIGIE's standards. In the context of classified audits, inspections, or special projects, I believe that providing drafts of such materials to appropriate ODNI officials or officials of another IC element is also proper to ensure the protection of classified, sensitive, or proprietary information. The IC IG, however, has the ultimate authority to determine the final findings and recommendations.

QUESTION 30: To the extent that you believe such consultation is appropriate, what steps, if any, do you believe the Inspector General should take to keep a record of the consultation and record the results in the text of the report?

Answer: Comments by ODNI officials or officials of another IC element on draft IC IG reports or recommendations should be documented for the record and made part of the report, if appropriate, in accordance with CIGIE's standards.

QUESTION 31: Under what circumstances, if any, do you believe it would be appropriate for senior officials to request that the IC IG not investigate or review a particular matter?

Answer: I can envision circumstances in which senior officials could have valid reasons to request that the IC IG not investigate or review a particular matter, such as a perceived lack of statutory jurisdiction for the IC IG over the matter, to avoid unnecessary duplication of efforts by an Inspector General of another IC component, or to avoid compromising covert intelligence or law enforcement operations. The IC IG should give appropriate consideration to any such valid concerns raised by senior officials and act in the best interests of the United States. Nevertheless, as discussed in my response to Question 24, the IC IG retains the discretion to investigate or review the matter if, in the IC IG's judgment, such investigation or review is "necessary or desirable," unless the Director of National Intelligence determines it is necessary to prohibit the investigation or review "to protect vital national security interests of the United States," as provided in 50 U.S.C. §

3033(f)(1).

QUESTION 32: Under what circumstances, if any, do you believe it would be appropriate for senior officials to request that the IC IG not issue a report on a particular matter?

Answer: As discussed in my response to Question 31, I can envision circumstances in which senior officials could have valid reasons to request that the IC IG not issue a report, delay issuance of a report, or limit dissemination of a report, such as to avoid compromising covert intelligence operations, law enforcement operations, or specially compartmented information. The IC IG should give appropriate consideration to any such valid concerns raised by senior officials and act in the best interests of the United States. Nevertheless, as discussed in my responses to Questions 24 and 31, the only authority to my knowledge that may prevent the IC IG from issuing a report on a particular matter is Section 103H(f)(1), which authorizes the Director of National Intelligence to prohibit the IC IG "from initiating, carrying out, or completing any investigation, inspection, audit, or review if the Director determines that such prohibition is necessary to protect vital national security interests of the United States."

QUESTION 33: Under what circumstances, if any, do you believe it would be appropriate for senior officials to request that the IC IG change findings, recommendations, or other pertinent material in a report on a particular matter?

Answer: As discussed in my response to Question 29, I believe it is appropriate for the IC IG to provide draft reports of audits, inspections, or special reviews to appropriate ODNI officials, or to appropriate officials of an IC element to the extent such materials relate to a matter within the jurisdiction of such IC element or in the case of a joint review, to provide them with an opportunity to conduct classification reviews or to solicit comments, factual corrections, or responses to recommendations. While I would include official management comments as an appendix to a final product, the IC IG has the ultimate authority to determine the final findings, recommendations, or other pertinent material to include in a report on a particular matter.

Major Challenges, Problems, and Priorities

QUESTION 34: In your view, what are the major challenges facing the Office of the IC IG?

Answer: As discussed in my response to Question 6, I believe that one major challenge faced by the IC IG, along with the Inspectors General of the individual IC elements, is to foster a culture across the IC enterprise where reporting wrongdoing in an authorized manner is viewed as a patriotic, legal, and protected duty in the context of very large and powerful organizations that often rely upon secretiveness and obedience to authority for their effectiveness. It is critical to educate the IC workforce on the authorized means to report wrongdoing, and the protections afforded to those who do so, to maximize the IC's effectiveness and to minimize the risk of unauthorized disclosures and harm to our national security.

In addition, as discussed in my response to Question 18, I believe the IC IG faces a major

challenge to strike the right balance between the autonomy of action required for individual IC IG Forum members to perform their responsibilities and the unity of effort required by the IC IG Forum as a whole to maximize its collective efforts, efficiency, and effectiveness.

QUESTION 35: If confirmed, how do you intend to address these challenges and what priorities, including for the selection of subjects for audits, inspections, investigations, and reviews, would you establish to address these challenges?

Answer: As discussed in my response to Question 6, if confirmed, I will lead the efforts of the IC IG to do its part to support and spread awareness about the authorized means available to individuals to report wrongdoing within ODNI and across the IC enterprise without compromising national security. And I will have the IC IG promote fair, impartial, and effective processes to protect individuals who avail themselves of those authorized means from retaliation, including by working to ensure there are meaningful consequences for those who retaliate against individuals who make lawful disclosures.

In addition, as discussed in my response to Question 18, as the Chair of the IC IG Forum, if confirmed, I would coordinate regularly with other IC IG Forum members, both individually and through the IC IG Forum, to lead the efforts to unify the IC IG Forum members to tackle the most pressing challenges and priorities confronting the IC enterprise.

Personnel and Budgetary Resources of the IC /G's Office

Section 103HG)(2)(B) provides that the Inspector General shall ensure that personnel shall have the required training and experience to enable the IC IG to carry out the duties of the IC IG effectively. Section 103HG)(2)(C) provides that the IC IG "shall create ... a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of the duties of the Inspector General."

QUESTION 36: Please describe how, if confirmed, you would create the career cadre sufficient to satisfy these statutory obligations and what, in your view, is necessary to meet these obligations.

Answer: Based on my review of the IC IG's publicly available Semi-Annual Reports and the representations of the IC IG in those Reports, I understand that the IC IG already has established the career cadre sufficient to satisfy and meet the IC IG's statutory obligations. To enhance that career cadre, as discussed in my response to Question 2, I believe that the IC IG should maintain a commitment to integrity, excellence, discipline, and independence. To that end, if confirmed, I intend to retain and recruit the career cadre who share those commitments and who demonstrate the character, professionalism, experience, and skills necessary to meet those commitments and continue to satisfy the IC IG's statutory obligations.

QUESTION 37: If confirmed, what changes, if any, would you expect to consider or make in the present Office of the IC IG, with regard to organization, staff qualifications, training, budget, or other features relevant to the effective performance of the duties of the office?

Answer: I do not currently have sufficient information to determine what changes, if any, I would expect to consider or make, if confirmed, regarding the organization, staff qualifications, training, budget, or other features relevant to the effective performance of the duties of the office. As discussed in my responses to Questions 6 and 34, one of the major challenges that I believe the IC IG faces, along with the Inspectors General of the individual IC elements, is in the area of whistleblowing. If confirmed, I will undertake an immediate review of the IC IG, including by seeking the views of IC IG Forum members and the congressional oversight committees, to assess whether changes are necessary in the IC IG's organization, budget, training, personnel, authorities, or overall vision of itself to meet this challenge.

QUESTION 38: Under what circumstances, if any, do you believe that the use of contractors to perform such functions is appropriate?

Answer: I do not have sufficient information to have formed a view on the appropriate use of contractors to perform IG functions. I understand that it is common practice for OIGs to use contractors to perform financial statement and related audits, including audits pursuant to the Federal Information Security Modernization Act (FISMA). If confirmed, I will consult with the IC IG's career cadre, the IC IG Forum, and CIGIE to obtain their collective views on the efficient, effective, and proper uses of contractors to assist the IC IG to perform its duties and responsibilities.

QUESTION 39: In your view, are there any barriers or disincentives, including any created by personnel policies, which impede the recruitment or retention of qualified IG personnel? If so, please describe them, as well as how, if confirmed, you would address these impediments.

Answer: I do not have sufficient information to assess whether there currently are barriers or disincentives, including any created by personnel policies, which impede the recruitment or retention of qualified IG personnel. If confirmed, I will consult with the IC IG's career cadre, the IC IG Forum members, and CIGIE to obtain their collective views on any such barriers or disincentives. I understand that, generally, hiring and retaining experienced auditors and investigators can be particularly challenging within an OIG. If confirmed, I intend to focus particular attention on these two personnel challenges. For example, regarding experienced investigators, I intend to review with the IC IG and the IC IG Forum, and to benchmark with other CIGIE members, the availability of law enforcement authority for special agents. I understand the Intelligence Authorization Act of 2017 granted the Office of the Inspector General (OIG) for the Central Intelligence Agency (CIA) the authority to designate certain positions held by criminal investigators as law enforcement officers, Office of Personnel Management Series 1811. I understand Congress granted this authority to the CIA OIG to assist it in recruiting and hiring experienced investigators. If confirmed, I intend to explore whether such authority would be similarly beneficial to the IC IG and other IC IG Forum members.

Oversight of Acquisition Programs and Contracts

QUESTION 40: What role, if any, do you believe the IC IG should play in achieving acquisition reform?

Answer: As a prosecutor, I have seen first-hand the ways effective OIG investigations, in particular, can reform the government acquisition process by identifying, exposing, and remediating poor internal controls and procurement practices. If confirmed, the IC IG will play a leading role in achieving acquisition reform (a) through the IC IG's own independent and objective investigations, inspections, examinations, and audits; (b) through joint investigations, inspections, examinations, and audits with other IC IG Forum members; and (c) through the IC IG's role as Chair of the IC IG Forum to inform its members of the work of individual members or joint efforts that are of common interest in the area of acquisition reform.

QUESTION 41: What is your view of the role the IC IG should play in advising the IC and the Congress on the sufficiency of management controls in acquisition programs and the impact that legislative and regulatory proposals could have on such management controls?

Answer: As discussed in my response to Question 40, if confirmed, I believe that the IC IG should play a leading role in advising the IC and Congress on the sufficiency of management controls in acquisition programs (a) through the IC IG's own independent and objective investigations, inspections, examinations, and audits; (b) through joint investigations, inspections, examinations, and audits with other IC IG Forum members; and (c) through the IC IG's role as Chair of the IC IG Forum to inform its members and the congressional intelligence committees of the work of individual members or joint efforts that are of common interest in the area of management controls in acquisition programs.

QUESTION 42: What is your view of the role the IC IG should play in oversight, audit and investigation over contracts in the IC?

Answer: In my view, the IC IG should play a leading role in assisting the Director of National Intelligence and Congress to oversee contracts in the IC (a) through the IC IG's own independent and objective audits and investigations; (b) through joint audits and investigations with other IC IG Forum members; and (c) through the IC IG's role as Chair of the IC IG Forum to inform its members of the work of individual members or joint efforts that are of common interest in the area of IC contracts. If confirmed, I will bring to the IC IG my experience in combatting fraud and public corruption as a prosecutor to ensure the IC IG's Audit and Investigations Divisions, in coordination with the Audit and Investigations Divisions of other IC IG Forum members, work efficiently and effectively to combat procurement fraud.

Professional Experience

QUESTION 43: For each of the following, please describe specifically how your experiences will enable you to serve effectively as the IC IG. Please include within each response a description of issues relating to the position that you can identify based on those experiences:

a. Senior Counsel to the Assistant Attorney General, U.S. Department of Justice, National Security Division

Answer: My experience in helping to coordinate the responses to unauthorized disclosures while serving as the Senior Counsel to the Assistant Attorney General,

U.S. Department of Justice, National Security Division (NSD), should assist me in serving effectively as the IC IG. As part of this position, I have assisted in coordinating the Department's efforts to investigate and prosecute unauthorized disclosures across the IC enterprise. This experience has reinforced for me the important role that fair, impartial, and effective whistleblower protection processes play in maximizing the IC's effectiveness and minimizing the risks of unauthorized disclosures and harm to our national security. As part of this experience, I have also been a consumer and user of intelligence from multiple intelligence sources, and I have seen first-hand the benefits to our country when there is a unity of effort by the Intelligence Community to address national security needs.

b. Acting Deputy Assistant Attorney General, National Asset Protection, U.S. Department of Justice, National Security Division

Answer: My experience in the area of cybersecurity while serving as NSD's Acting Deputy Assistant Attorney General, National Asset Protection, should assist me in serving effectively as the IC IG. This experience has shown me, among other things, how foreign intelligence services and their proxies seek to compromise national security by selling goods and services to the U.S. Government and U.S. companies (also known as supply chain risk). This experience should help to inform my activities as the IC IG, if confirmed, in investigating, inspecting, auditing, and reviewing the acquisition process, in particular.

c. Assistant U.S. Attorney, U.S. Department of Justice, United States Attorney's Office, District of Columbia

Answer: My experience in supervising the investigations of complex government procurement fraud and public corruption matters as an Assistant United States Attorney for the United States Attorney's Office for the District of Columbia should assist me in serving effectively as the IC IG. As part of this experience, I was responsible for ensuring the timely and thorough investigations of such matters that I handled personally and that I supervised as the Deputy Chief and, later, the Acting Chief of the Fraud and Public Corruption Section for the U.S. Attorney's Office for the District of Columbia. This supervisory experience included supervising other attorneys, investigators, auditors, accountants, and support staff personnel.

d. Trial Attorney, U.S. Department of Justice, Criminal Division, Fraud Section

Answer: My experience in investigating and prosecuting complex white-collar fraud matters as a Trial Attorney with the U.S. Department of Justice, Criminal Division, Fraud Section, should assist me in serving effectively as the IC IG. I believe that my experience as a Trial Attorney in working on a regular basis with a variety of federal law enforcement agencies, the Intelligence Community, many OIGs, and other government departments and agencies will serve me well as the IC IG, if confirmed, particularly in working to coordinate with multiple OIGs to act in the best interests of the United States. This experience, together with my prior experience as a white-collar defense attorney, also required me to understand how books and records should look, how books and records can be masked to conceal wrongdoing, and the structures and controls that are susceptible to fraud or abuse.

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