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SELECT COMMITTEE ON INTELLIGENCE

UNITED STATES SENATE



Additional Prehearing Questions
for
Mr. John O. Brennan
upon his nomination to be
the Director of the
Central Intelligence Agency

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Functions of the Central Intelligence Agency

QUESTION 1: What do you consider to be the most important missions of the CIA (e.g., collection of foreign intelligence information, all-source analysis, counterterrorism, counterintelligence, covert action, etc.)?

The areas listed capture CIA missions quite well, although I would add others, such as counterproliferation and open source exploitation, and view all of CIA's mission areas as inter-related and mutually supportive.

- How well do you think the CIA has performed recently in each of these missions?

I think the CIA has performed admirably in helping to protect the United States from threats, such as regional instability, terrorism, weapons of mass destruction, and counterintelligence, especially in the increasingly dynamic and complex world we face. I believe the CIA will need to constantly examine and refine its methods, approaches, and structures given these complexities, and we may not in the future see "solution sets" to protect the national security interests of the United States that fall neatly into single mission areas.

- If confirmed, do you expect to direct the CIA to focus more on any of these missions over others?

I would note that collection and all-source analysis are the underpinning for nearly everything the CIA does, and so I would focus heavily from the start on these areas if I were to be confirmed. I would also note that the CIA will face trade-offs as budgets tighten or decline, and so I would seek to ensure CIA is investing most effectively and efficiently in innovative and powerful techniques to collect, analyze, correlate, and disseminate the massive amounts of information available worldwide.

- Do you believe the CIA places enough emphasis on counterintelligence in light of the Khowst suicide bombing incident and other CIA counterintelligence failures of the past?

Khowst was a tragic incident that resulted in death and injury to brave men and women of the CIA who took on the risks of operating in a complex and

dangerous environment. The CIA cannot and will not shy away from such risks, but it must be able to identify the nature and scope of such risks and be alert for changes that alter the level of risk. I am a regular recipient of CIA counterintelligence briefings, and I have been impressed with the quality of the work underway. Nevertheless, if confirmed as Director, I will take a close look at CIA's CI effort, to include the personnel, resources, technology, and priority given to it.

QUESTION 2: What do you consider to be the appropriate role for the CIA in the collection of human intelligence, given that human intelligence also is collected by the Department of Defense and other parts of the Intelligence Community?

The CIA has two principal roles in HUMINT collection: First, to clandestinely collect intelligence in response to DNI determined national requirements – such as threats to the United States, the development and proliferation of weapons of mass destruction, and other matters of national security – and second, to manage and coordinate HUMINT collection throughout the IC.

U.S. Government HUMINT efforts encompass the activities of multiple departments and agencies and include the most sensitive clandestine operations. No one agency or department is positioned to respond to all the intelligence requirements facing the U.S. Government nor does any have the resources or expertise to do so. In many instances, a department's or agency's HUMINT collection is especially well suited to help fill that department's or agency's specific requirements and may also be able to respond to the requirements of others. For example, DIA and each of the Services have specialized intelligence elements that are responsible for collecting against Defense and military requirements.

QUESTION 3: What do you consider to be the appropriate role for the CIA in all-source analysis of foreign intelligence information, given that all-source analysis also is conducted by the Department of Defense and other parts of the Intelligence Community?

The CIA's analytic mission is to provide objective, all-source analysis to those who make and execute policy, including the President and his national security team. The Directorate of Intelligence (DI) also provides all-source analysis that informs and helps drive CIA operations. DI analysts serve in all of CIA's

Centers, including the Counterproliferation Center, the Counterterrorism Center, and the Information Operations Center. The DI is the U.S. Government's only all-source analytic unit that does not reside in a policy department, and it is one of only a handful of analytic units that are all-source (many others focus on a single discipline of intelligence.) This unique role is vital to U.S. national security.

QUESTION 4: How do you view the responsibilities of the CIA to collect and analyze both tactical intelligence to support military operations in theaters of war and strategic intelligence for policy makers?

I see these two efforts – support to policymakers and support to the warfighters – as complementary rather than contradictory. While the CIA's charter assigns the Agency primary responsibility for providing strategic intelligence for the President and senior policymakers, CIA has for decades increasingly supported military operations in theaters of war. I believe CIA's primary mission and resources should be dedicated to the organization's core responsibility to provide the best possible strategic intelligence to the nation's most senior policymakers, but I also value the Agency's commitment and capability to apply these same resources to supporting our warfighters in harm's way. Moreover, the best strategic assessments often come from a thorough tactical knowledge of the situation.

- How are these two efforts currently prioritized and resourced?

I do not have good insight into how those efforts are currently prioritized and resourced within the Agency but will look closely at this issue if confirmed.

- Do you believe this current prioritization and resource allocation to be appropriate?

I would be happy to provide the Committee my views if confirmed as Director and after I conduct a review of the two efforts.

QUESTION 5: Under what circumstances is it appropriate for the CIA to serve as the "Executive Agent" for an intelligence function across the Intelligence Community?

There are a variety of circumstances in which it may be appropriate for CIA to serve in this capacity. E.O. 12333 designates various IC element heads to serve as “Functional Managers” for the DNI to advise on resource management, collection capabilities gaps, technical architectures, and other issues and activities the DNI determines. The Director of CIA is one such designee as the Functional Manager for Human Intelligence. In addition, the Director has been designated as the Functional Manager for Open Source Intelligence by the DNI.

- Should the CIA serve this role for any new functions or cease serving this role for existing functions?

I have not been briefed on all of CIA’s activities in this regard. That said, I am satisfied with the CIA’s role as Functional Manager to the DNI for the two very important intelligence functions of Human Intelligence and Open Source Intelligence. I am open to further review and discussion, but I have no reason at this time to question the Executive Agent functions the CIA has.

QUESTION 6: What principles should govern the division of responsibilities between the CIA in the conduct of covert action under Title 50 and the Department of Defense in the conduct of any similar or related activities under Title 10?

I think several of the key principles that should govern the division of responsibilities between the CIA and DOD relative to each agency's specific authorities are as follows: (1) Ensuring the successful accomplishment of U.S. national security objectives as ordered by the President; (2) Ensuring that activities between CIA and DOD are conducted in a well coordinated and efficient manner to advance both the intelligence and military missions; (3) Ensuring full compliance with all applicable statutes relative to authorities and prohibitions; and (4) Keeping Congress fully and currently informed of these activities.

- What specific criteria are considered when deciding whether to allocate responsibilities to the CIA or the Department of Defense in these areas?

The CIA and DOD must be ready to carry out a mission at the direction of the President. The President must have the ability to select which element is best suited for the particular mission. Factors to be considered in the selection of the

personnel and authorities include the capabilities needed, the material required, and whether the activity must be conducted covertly.

- How often should those divisions of responsibility be re-evaluated?

I think the divisions of responsibility are considered continuously based on the mission and operation at hand, and should be formally re-evaluated as often as the President determines necessary.

QUESTION 7: What role do you see for the CIA in paramilitary-style intelligence activities or covert action?

The CIA, a successor to the Office of Strategic Services, has a long history of carrying out paramilitary-style intelligence activities and must continue to be able to provide the President with this option should he want to employ it to accomplish critical national security objectives.

- How do you distinguish between the appropriate roles of the CIA and elements of the Department of Defense in paramilitary-style covert action?

As stated in my response to Question 6 above, the CIA and DOD must be ready to carry out missions at the direction of the President. The President must be able to select which element is best suited. Factors that should be considered include the capabilities sought, the experience and skills needed, the material required, and whether the activity must be conducted covertly.

QUESTION 8: What are your views on what some have described as the increased “militarization” of the CIA mission following the September 11, 2001, attacks?

In my view, the CIA is the Nation’s premier “intelligence” agency, and needs to remain so. While CIA needs to maintain a paramilitary capability to be able to carry out covert action as directed by the President, the CIA should not be used, in my view, to carry out traditional military activities.

- Do you think this is a fair assessment of how the CIA mission has evolved?

The CIA's mission has not changed; the Agency continues to collect foreign intelligence, provide all-source analysis, and, as it has since it was created out of the Office of Strategic Services, conduct covert action as directed by the President and notified to and funded by Congress. As foreign threats to the United States and its interests evolve over time, CIA's intelligence activities adjust accordingly. I believe the Agency's intelligence activities and capabilities in 2013 are appropriate given the current state of foreign threats to the United States.

- Do you envision the CIA becoming more or less “militarized” in its mission, should you be confirmed?

The evolution of foreign threats will determine how the CIA adjusts its intelligence activities in the future. If I were to become the Director, I would plan to carry out CIA's crucial missions, including collecting foreign intelligence, providing all-source analysis, conducting robust counterintelligence, and carrying out covert actions as directed by the President. If confirmed, I would not be the Director of a CIA that carries out missions that should be carried out by the U.S. military.

QUESTION 9: The Arab Spring reinforced the need for timely intelligence on countries of interest to the United States that may not be at the top of the National Intelligence priorities. Do you agree that the CIA needs to maintain global coverage? What do you believe is reasonable for policymakers to expect the CIA, and other intelligence agencies, to be able to anticipate in terms of major geopolitical events?

U.S. national security depends on a global CIA presence. The Agency's unique collection capabilities and responsibilities as well as its extensive and deep rooted liaison relationships with intelligence and security agencies worldwide provide an advance warning system that can identify and highlight developments that have a direct bearing on the political, economic, and geostrategic interests of the United States. With billions of dollars invested in CIA over the past decade, policymaker expectations of CIA's ability to anticipate major geopolitical events should be high. Recent events in the Arab World, however, indicate that CIA needs to improve its capabilities and its performance still further.

QUESTION 10: Several articles by the Associated Press in 2011 described a personnel arrangement between the CIA and the New York Police Department. Were you aware of the arrangement at the time? What is the appropriate role for the CIA to support state and local organizations?

Yes, I was aware of the arrangement at the time.

The CIA plays a critically important role supporting state and local law enforcement, first responder, and homeland security entities by providing, along with other federal departments and agencies, intelligence, all source analysis, and expertise that enhances the safety and security of the homeland. The majority of support relates to counterterrorism and other threats to the homeland, and takes place at the Joint Terrorism Task Forces, where relevant foreign intelligence is shared and coordinated. All such interactions and exchanges are done in conformity with applicable U.S. law, and pursuant to Agency regulations and in coordination with FBI. I believe that the current process permits us to effectively and efficiently provide key support to the appropriate state and local entities. However, if confirmed, I will work with the DNI to determine if problems exist and work with my counterparts at the FBI and elsewhere to resolve them expeditiously.

QUESTION 11: What role, if any, should the CIA play in the development of national cyber policies?

The Executive and Legislative Branches are in the process of developing laws and policies needed to deal with the rapidly evolving cyber threat facing our Nation. In order to do so effectively, CIA's clandestine collection capabilities, technical and scientific expertise, and analytic excellence need to be fully leveraged to provide policymakers and legislators full insight into the scope and nature of the cyber challenge we confront today as well as in the future.

Management of the Central Intelligence Agency

QUESTION 12: Based on your experience as a CIA officer and in the White House, how would you manage and lead the CIA workforce if confirmed?

I have been very fortunate to have held senior leadership positions at CIA, the National Counterterrorism Center, the private sector, and the White House. Those experiences taught me the dual responsibility of leading people and managing resources. To lead a workforce effectively, one needs to show a keen understanding of the organization's mission and priorities; interact extensively and regularly with all strata of the workforce; set an example of integrity, hard work, and dedication to mission; and, articulate a vision for the organization's future as well as for opportunities for professional development of the entire workforce. At the same time, if confirmed as Director, I would take a hard and early look at the Agency's resource base to ensure there is a clear path forward for the Agency to fulfill its vital intelligence functions at a time of budgetary constraints. For the Director of CIA, leading people and managing resources both require the full attention and support of the Agency's leadership team to be effective.

QUESTION 13: In what ways can the Director achieve sufficient independence from political considerations to serve the nation with objective and dispassionate intelligence collection and analysis? Given your current role as a senior advisor to the President, how will you ensure independence from the White House?

Throughout my 25-year CIA career and four years as Assistant to the President, I have been an ardent advocate of a strong, independent, and apolitical DCIA who should not adopt policy positions on national security matters. Maintaining that policy neutrality, in my view, is essential in order for CIA intelligence and analysis to be – and to be viewed as – objective and unbiased. As someone who has had the great fortune to work on both sides of the intelligence-policy divide, I feel strongly that the role and function of intelligence must be independent of any political influence, including from the White House. When President Obama told me that he wanted to nominate me to be Director of CIA, I told him that I would do my best to lead an exceptional organization and that, at CIA, I would always provide him with the most objective intelligence possible and do what I thought was best for the Nation. He said he would expect nothing less.

QUESTION 14: What do you understand to be the responsibilities of the Director of the CIA as National HUMINT Manager? If confirmed, how do you intend to exercise those responsibilities?

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My understanding fits exactly with the responsibilities as laid out in Executive Order 12333 and a Director of National Intelligence-issued Intelligence Community Directive that designates the Director of the CIA as the Functional Manager for Human Intelligence and as the National HUMINT Manager (NHM) respectively.

E.O. 12333 states that Functional Managers:

...shall report to the Director (of National Intelligence) concerning the execution of their duties as Functional Managers, and may be charged with developing and implementing strategic guidance, policies, and procedures for activities related to a specific intelligence discipline or set of intelligence activities; set training and tradecraft standards; and ensure coordination across intelligence disciplines and Intelligence Community elements and with related non-intelligence activities.

E.O. 12333 further states that the Director of the Central Intelligence Agency:

...shall coordinate the clandestine collection of foreign intelligence collected through human sources or through human-enabled means and counterintelligence activities outside the United States...

Under the direction and guidance of the Director (of National Intelligence)...coordinate the implementation of intelligence and counterintelligence relationships between elements of the Intelligence Community and the intelligence or security services of foreign governments or international organizations.

These Executive branch authorities faithfully implement Section 104(d)(3) of the National Security Act, which states the Director of the CIA shall--

provide overall direction for and coordination of the collection of national intelligence outside the United States through human sources by elements of the intelligence community authorized to undertake such collection and, in coordination with other departments, agencies, or elements of the United States Government which are authorized to undertake such collection, ensure that the most effective use is made of resources and that appropriate

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account is taken of the risks to the United States and those involved in such collection.

If confirmed as Director, I would exercise these responsibilities to the best of my ability and in a manner that best protects and enhances the national security interests of the United States.

QUESTION 15: What do you understand to be the responsibilities of the Director of the CIA in relationships with foreign governments and liaison services? If confirmed, how do you intend to exercise those responsibilities?

- What is your understanding of the role of U.S. chiefs of mission in the coordination and approval of intelligence activities?

The coordination of the Intelligence Community's relationships with foreign intelligence and security services is a core statutory responsibility for the CIA. The Intelligence Reform and Terrorism Prevention Act of 2004 requires the Director of CIA to coordinate these important intelligence relationships between IC elements and the intelligence and security services of other countries. The statute further states the Director will do so in a manner consistent with 22 USC 3927.

As the President's representatives, and consistent with the provisions of 22 USC 3927, Chiefs of Mission (COMs) are to be kept fully and currently informed of the activities of other U.S. Government entities, including intelligence organizations, in the COM's country or area of responsibility. The State Department and CIA are longstanding good partners and have an arrangement in place to implement their respective responsibilities.

QUESTION 16: Please describe how you intend to fill key positions in the Office of the Director, and elsewhere within CIA, if confirmed, in order to ensure that those individuals who are part of your management team have significant and appropriate intelligence experience.

Strong leadership is a prerequisite for any effective and successful organization. The CIA needs strong leaders who understand the Agency's history, culture, and mission. It needs leaders who uphold its core values with integrity and by

example and who have the foresight and ingenuity to help the Agency adapt to meet new challenges and emerging threats.

The Agency's current management team is led by a consummate intelligence professional, Michael Morell, who epitomizes the type of leader I want throughout the Agency. Any individuals from outside the CIA who would join my team would need to understand the Intelligence Community, be dedicated to the Agency's mission, and uphold the Agency's high standards and values.

QUESTION 17: What is your assessment of the strengths and weaknesses of the accountability system that has been in place at the CIA and what actions, if any, should be taken to both strengthen accountability and ensure fair process at the CIA?

I am not familiar enough with CIA's accountability system—having been away from CIA for 10 years now—to assess its strengths and weaknesses. Notwithstanding that, I am familiar with some of the mechanisms that CIA has regarding accountability—which is not simply a matter of imposing disciplinary action on individuals, but also involves broader assessments of Agency programs and determination of lessons learned to improve and inform CIA activities, training, decision-making, and operations. For example, allegations of criminal wrongdoing are, of course, referred to the Department of Justice. Agency internal regulations are clear that all managers are expected to fully exercise management responsibility in monitoring and evaluating employee behavior, providing counseling or referrals as needed, and otherwise ensuring U.S. law and Agency regulations for standards of conduct and access to classified materials are met. Further, I would consider it a priority to ensure, if I were to become the Director, that we look for opportunities to strengthen accountability wherever appropriate.

QUESTION 18: Foreign language proficiency often is a crucial enabler of the CIA's intelligence activities. In your opinion, has the CIA been successful in developing the foreign language capabilities of its workforce? If confirmed, what steps will you take to improve the foreign language capabilities of the CIA workforce?

Yes, I believe the CIA has been successful in this area. The Agency appears to have made robust progress growing its language capable workforce, particularly

since the inception of the Congressionally-funded CIA 2015 Language Initiative in May 2009. Bolstering foreign language capability through hiring and developing foreign language skills, including in mission-critical languages, remains a programmatic imperative for the CIA. I understand that in FY 2012, CIA continued to improve language capability across its workforce and, specifically, in key occupations targeted by the Language initiative.

If confirmed, I will continue to support the Agency's effort in advancing foreign language capabilities and be a strong advocate for the criticality of foreign language skills in accomplishing CIA's intelligence mission.

QUESTION 19: The Committee believes it is vital for the CIA to examine critically its failures and successes to develop "lessons learned" to ensure mistakes are not repeated and best practices are propagated institutionally. This is especially important since over half of CIA officers have ten or fewer years of service. Do you believe the CIA's current "lessons learned program" is sufficiently capturing and passing on the lessons needed for the current and future officers of the CIA?

This is an important issue for the CIA. I think it is fair to say that, in the past, the Agency tended to rely more on individual know-how than on systematically passing along institutional knowledge. I think that culture is changing, however, and I believe there is now more interest than ever in learning lessons and sharing best practices—in all Agency components.

I have been informed by Agency officers that much of the change is due to the work done by the Center for the Study of Intelligence (CSI), which created the Agency's first formal lessons learned program. The CIA's Lessons Learned Program has steadily expanded its efforts to capture and share important knowledge about Agency programs and activities. It is my understanding that this committee has always supported CSI's work, especially its lessons learned program, and that support appears to be paying dividends.

Relationship with the Director of National Intelligence

QUESTION 20: What do you understand to be the proper relationship between the Director of the CIA and the Director of National Intelligence (DNI)?

Director Clapper and I have a longstanding friendship and relationship that goes back many years. We both agree that the DNI and CIA—as is the case with all of the U.S. Intelligence Community elements—need to work together as a team to ensure that U.S. intelligence capabilities are effectively applied to national security priorities. Director Clapper and I are in agreement concerning our relative missions.

QUESTION 21: Have you discussed with DNI Clapper your nomination to be the Director of the CIA? Do you have a shared understanding of what your relationship would be, if you are confirmed? What is that understanding?

Yes, Director Clapper and I have discussed my nomination on several occasions. I have known Director Clapper for many years and have been fortunate to have developed an even closer relationship with him while I have been at the White House. We both believe strongly that the Intelligence Community is most effective in serving policymakers when its agencies work together as a team. In the coming years, I believe that leveraging interagency capabilities and resources will be even more important given the Nation's fiscal realities and the anticipated decline in IC budgets. In turn, it will be even more important for the DNI's and CIA's priorities to be synchronized to advance broader U.S. foreign policy objectives.

I intend to have full transparency and openness with the DNI, and to require that my management team takes the same approach. Furthermore, if confirmed, I anticipate maintaining frequent communication with Director Clapper, as well as with the heads of other IC agencies.

Information Sharing

QUESTION 22: The sharing of intelligence information has been a topic of considerable concern for many years. What is your general assessment as to how well the Intelligence Community is sharing information?

Over the past four years, I have seen, and been the beneficiary of, the tremendous strides the Intelligence Community has made—and continues to make—on information sharing. These accomplishments are not only confined to internal IC information sharing. From my perspective, IC collaboration with

the Department of Defense, with DHS and its state, local, tribal, and private sector partners, and with other departments and agencies is at an all time high and being carried out responsibly. Further, I have been equally impressed with the IC's emphasis on sharing capabilities within the U.S. Government as well as with state, local, and international partners to search and analyze information.

- Is the Intelligence Community striking the right balance between "need to know" and "need to share"?

I believe so, yes. There will always be a tension between these two principles, but over the past several years the IC has developed a sophisticated framework by which to sort through these issues. This framework, together with improvements in technical safeguards, permits sharing of information that would have been unthinkable just a few short years ago. Many of these ideas and principles served to inform the development of the *National Strategy for Information Sharing and Safeguarding* the President signed last year.

- If confirmed, how will you achieve and maintain the right balance between "need to know" and "need to share" for CIA data?

In fact, the CIA is a key contributor to the DNI's—and the President's—information sharing and safeguarding initiatives. The CIA is one of several IC elements developing and deploying information technology environments that promote collaborative analysis across the community. The Agency is recognized as a leader in the development of tools, technologies, and practices that serve to strike the right balance between sharing and safeguarding. The balance between protection of sources and methods and sharing is continuously evolving, and if confirmed as Director, I would be committed to ensuring that the appropriate balance is achieved and sustained.

- What is the appropriate relationship between the CIA and the Congress in sharing information? What, if any, information collected or analyzed by the CIA, or about the CIA, do you believe should not be shared with the congressional oversight committees?

The National Security Act provides the following language: as the "head of an ...agency... of the United States Government involved in intelligence activities," the DCIA, pursuant to Section 502, is responsible for keeping the

two intelligence committees “fully and currently” informed of the Agency’s intelligence activities, including any “significant anticipated intelligence activity” and any “significant intelligence failure.” If confirmed, then, it is my intent – as well as an obligation by law – to inform the committees if CIA undertakes significant activities and to report significant developments.

Relationship with Congress

QUESTION 23: Please describe any involvement you have had in the Administration's responses to the Committee's requests for the strategies produced by the Directorate of Strategic Operational Planning, including whether you personally made any decision or recommendation regarding the Committee's access to such strategies and, if so, providing the specific legal basis for your decision or recommendation.

In my capacity as Assistant to the President for Homeland Security and Counterterrorism, I have conferred with NCTC Director Matt Olsen on how to determine what elements of those NSS-led counterterrorism implementation plans that NCTC’s Directorate of Strategic Operational Planning (DSOP) has contributed to should be shared with the Committee. DSOP supports the NSS in helping to draft and coordinate some—not all—CT implementation plans and to compile related department and agency activities. These documents often contain policy-focused information from the NSS that is deliberative in nature; include information on non-intelligence-related activities that departments and agencies may be pursuing; and, in some cases, access to the documents is limited by the NSS due to security sensitivities around the CT planning/implementation effort. I have worked with Director Olsen to share with the SSCI those plans or parts of plans that are not deliberative in nature and that involve intelligence activities. I have supported NCTC’s decision to respond to SSCI requests for briefings/information on the non-deliberative, intelligence-related aspects of particular plans and would support SSCI requests for briefings/information from other parts of the intelligence community, including CIA, as it relates to particular plans.

QUESTION 24: Please describe any involvement you have had in the Administration's responses to the Committee's requests for the emails relating to the development of the unclassified talking points prepared subsequent to the

attacks on our facilities in Benghazi on September 11, 2012, including whether you personally made any decision or recommendation regarding the Committee's access to such emails and, if so, providing the specific legal basis for your decision or recommendation.

I have not been involved in decisions taken in response to the Committee's requests for emails relating to the development of the talking points, but I am aware of the ongoing discussions. I understand that the DNI has provided a briefing for this Committee on the development of the talking points. I also understand that the interagency team involved is working to accommodate your requests, while preserving the Executive Branch's important, longstanding, institutional interests.

QUESTION 25: What is your view of the Intelligence Community's, including the CIA's, obligation to respond to requests for information from Members of Congress? In your opinion, should the White House have any role in determining whether, or to what extent, the Intelligence Community responds to Members of Congress? If so, please describe what you believe that role should be. If confirmed as the Director of the CIA, will you respond fully to requests for information from Members of Congress?

In my view, and as noted in my response to Question 22, the Intelligence Community and the CIA are obliged to respond to requests for information from Members of Congress as fully as possible, but to no extent less than required by Title V of the National Security Act of 1947, as amended. However, the law recognizes the President may, under specific circumstances, limit access to a covert action finding to select Members of Congress if he determines that "extraordinary circumstances affecting vital interests of the United States" require limited dissemination. This does not provide blanket authority for CIA to withhold notice from the committees. Rather, I understand that it affords the President flexibility, regarding the timing and manner in which CIA provides notice, in order to protect especially sensitive intelligence sources and methods.

In terms of a White House role, under the Act, the President shall ensure that initial notice of a covert action program (by means of a Finding), and subsequent notice of a significant change or a significant undertaking (by means of a Memorandum of Notification), are reported to the intelligence committees.

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In addition, the White House ensures that the intelligence committees are provided the information necessary for oversight while preserving Executive Branch institutional interests. More generally, the President, as the head of the Executive Branch, has the ultimate authority over the disclosures of Executive Branch information, both to ensure disclosures are made when the law requires, and to take such measures as he deems necessary to protect the national security and preserve the privileges and confidences necessary to faithfully execute the responsibilities of his Office.

If confirmed, I will work with the intelligence committees to respond fully to requests for information.

QUESTION 26: In many instances, legal opinions issued by the Department of Justice's Office of Legal Counsel (OLC) provide the best and most detailed discussion of the law governing intelligence activities of the CIA. These opinions can be invaluable for the congressional intelligence committees that are responsible for conducting oversight of CIA activities, including the legality of such activities. This is especially true when the congressional intelligence committees conduct oversight of covert actions for which judicial review is generally unavailable. Upon request, would you provide the congressional intelligence committees with OLC opinions provided to the CIA that analyze the legality of CIA activities?

If confirmed, I commit to you that I would provide the Committee with the information it needs concerning covert action, as required under Section 503 of the National Security Act of 1947, including information on the legal basis upon which a covert action is being conducted. We will and should provide you with an explanation of why certain conduct was or is consistent with applicable law. I cannot commit, however, to the disclosure of legal opinions drafted by the Department of Justice's Office of Legal Counsel, as any decision to disclose such opinions to the congressional intelligence committees would require interagency consultation and would not be my decision.

QUESTION 27: What is the responsibility of the CIA to correct the record if it identifies occasions when inaccurate information is provided to the congressional intelligence committees?

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CIA in all instances should convey accurate information to Congress. When an inaccurate statement is made and the CIA is aware of the inaccuracy, it must immediately correct the record, and certainly would do so if I were the Director.

Disclosures of Classified Information

QUESTION 28: The unauthorized disclosure of classified information, particularly "leaks" to the media, is a perennial problem. As the Director of the CIA what steps would you take to prevent, deter, investigate, and punish unauthorized disclosure of classified information?

Safeguarding classified information at CIA, across the Intelligence Community, and throughout the U.S. Government, is of paramount importance to U.S. national security and it remains the responsibility of all those who are granted access. In January 2012, the CIA Office of Inspector General conducted an audit of "CIA's Process for Investigating Leaks of Classified Information" for the stated purpose of "determining whether the CIA's process for identifying, investigating and reporting leaks of classified information is effective." That report included several significant recommendations. If confirmed as Director, I would look forward to reviewing the Inspector General's report and its recommendations, and I would consider all options to build upon focused efforts currently underway at CIA to address unauthorized disclosures of classified information.

QUESTION 29: Do you believe there are circumstances in which it is lawful and appropriate for cleared government personnel, including cleared contractors, to disclose national intelligence or intelligence related to national security to persons affiliated with the media and entertainment industries? If so, please describe those circumstances.

- Are there circumstances where it is lawful and appropriate for such disclosures to include classified information?

Generally speaking, classified national intelligence or intelligence related to national security may only be disclosed to authorized recipients and not persons affiliated with the media and entertainment industries.

In exceptional circumstances, however, it may be necessary to acknowledge

classified information to a member of the media or to declassify information for the very purpose of limiting damage to national security by protecting sources and methods or stemming the flow of additional classified information. Such conversations would involve only the most senior Agency officials or their designees and must be handled according to any applicable regulations.

QUESTION 30: The Public Interest Declassification Board (PIDB) recently issued a report that described the classification and declassification system as "outdated," adding that the "[t]he classification system must be modernized as a dynamic, easily understood and mission-enabling system and one that deters over-classification and encourages accountability." Do you agree with the PIDB's conclusions?

I would say that the classification system is perhaps outdated in some respects and the recommendations from the PIDB report warrant further consideration. If confirmed as Director, I would review the PIDB's conclusions and would be glad to get back to the Committee with my views.

- As the Director of the CIA, what steps would you take to modernize the classification and declassification system at the CIA?

If I were to become the Director, I would work with the PIDB and the White House to implement changes resulting from the President's decisions.

QUESTION 31: Is the CIA appropriately transparent about its operations, given the nature of its classified work?

Staying true to our Nation's values requires that we uphold the transparency upon which our democracy depends. At the same time, it is critically important to strike the appropriate balance between security and transparency, as the Agency must be able to protect its sensitive sources and methods to retain the capability to do its job. The Agency supports the President's Open Government Initiative. That said, sensitive intelligence sources and methods should not be sacrificed in an effort to increase transparency.

QUESTION 32: Please detail your interactions with reporters and media consultants, since January 2009, relating to classified intelligence matters.

- Please describe any specific instance in which you were authorized to disclose classified information to a reporter or media consultant, including the identity of the individual authorizing such disclosure and the reason for such disclosure.
- Were any communications between you and any reporter or media consultant recorded in any format? If so, please provide official transcripts of any oral recordings and any official written records.

In my role as Assistant to the President for Homeland Security and Counterterrorism, I am often called upon to interact with the media regarding matters of national security, whether to explain our strategy for combating terrorist organizations around the globe or to describe what we are doing to protect the American people against threats to the homeland. Throughout those interactions, I remain vigilant about not disclosing classified intelligence matters with unauthorized persons, including reporters or media consultants.

Detention, Interrogation, and Rendition Issues

QUESTION 33: As a senior CIA official during the beginning of the CIA's detention and interrogation program, you were aware of the program and had access to communications and information about it. What was your involvement in the detention and interrogation program at the time?

Yes, I was aware of the program but did not play a role in its creation, execution, or oversight. As the Deputy Executive Director, I was primarily responsible for helping manage the day-to-day running of the Agency, to include support, logistics, IT, budget, personnel resources, facilities, IG recommendations, and the like.

QUESTION 34: In a letter to President Obama dated November 25, 2008, you wrote that you were "a strong opponent of many of the policies of the Bush Administration such as ... coercive interrogation tactics, to include waterboarding." Please describe when, how, and to whom you expressed your opposition to these policies.

I had significant concerns and personal objections to many elements of the EIT program while it was underway. I voiced those objections privately with

colleagues at the Agency. When I left the Agency, I spoke publicly about those concerns. When I was named the President's CT advisor, I was put in a position to influence decisions related to EITs, such as how we handle interrogations, and I strongly support the President's ban on such techniques.

- In your opinion, what role, if any, should the CIA play in the detention, interrogation, and rendition of international terrorists?

The CIA is out of the detention business and it should stay that way. I believe CIA's subject matter expertise should be leveraged for the effective interrogation of individuals who are lawfully held in U.S. custody or in the lawful custody of a foreign government. I believe that CIA's role in the rendition of an international terrorist should be primarily limited to providing intelligence to assist U.S. or foreign government departments or agencies in transporting these terrorists to a location where they will stand trial for their terrorist crimes.

- In a 2007 CBS interview about the so-called "enhanced interrogation techniques," you said, "There have been a lot of information that has come out from these interrogation procedures that the agency has in fact used against the real hard-core terrorists. It has saved lives. And let's not forget, these are hardened terrorists who have been responsible for 9/11, who have shown no remorse at all for the deaths of 3,000 innocents." In your opinion, were the so-called "enhanced interrogation techniques" previously used by the CIA during interrogations of certain terrorist detainees effective in producing reliable intelligence that saved lives?

I think a lot of information, both accurate and inaccurate, came out of interrogation sessions conducted by CIA, including those where EITs were employed. My belief is that these techniques, even though the Department of Justice indicated at the time that EITs did not violate the law, are counterproductive to our overall efforts against AQ and other terrorists. These techniques would not be used again by the CIA if I were the Director.

QUESTION 35: On December 13, 2012, the Committee approved its report on CIA's detention and interrogation program and subsequently provided a copy to the President. Have you reviewed the Committee's report? What comments do

you have on the report? How would your review of the report influence your management of the CIA, if you are confirmed?

I will review the Report's conclusions before my hearing. If confirmed as Director, I would make it a matter of highest priority to closely review the report as well as the Executive Branch's comments. It would then be incumbent on me to come back to this Committee with my views and to take follow-up actions I deem appropriate.

QUESTION 36: In a September 16, 2011, speech at Harvard Law School, you stated that "whenever it is possible to capture a suspected terrorist, it is the unqualified preference of the Administration to take custody of that individual so that we can obtain information that is vital to the safety and security of the American people." In that same speech, you confirmed that no more individuals would be sent to the detention facility at Guantanamo Bay, Cuba. Where do you believe that individuals detained by the United States should be held? If criminal charges cannot be brought against an individual, but intelligence information shows the individual to be a threat, where should the individual be detained?

Let me begin my response by confirming that since the President issued Executive Order 13491 on January 22, 2009, the CIA has been out of the detention business, and I do not foresee that changing if I am confirmed as Director. Further, the Director of the CIA has no policymaking role. Thus, while the Agency will continue to provide intelligence to senior decision-makers relevant to detention policy, if confirmed, I will not have a policy-making role with reference to detainee issues.

I can confirm, however, that my views are fully aligned with the President's policy and his pragmatic approach to such issues. Although this Administration has not encountered a scenario in which extended law of war detention for an individual captured outside of Iraq or Afghanistan has been necessary, if such a circumstance arose and the individual could not be prosecuted in our federal courts, I am certain the national security team would examine the specific facts and circumstances of the case and make a disposition decision consistent with the law and our national security interests. The Administration has been clear that all legally available tools in our arsenal should be used to protect our national security.

Targeted Killing/Use of Force

QUESTION 37: In a September 16, 2011, speech you gave at Harvard Law School, you stated that "[t]he United States does not view our authority to use military force against al-Qa'ida as being restricted solely to 'hot' battlefields like Afghanistan. Because we are engaged in an armed conflict with al-Qa'ida, the United States takes the legal position that – in accordance with international law – we have the authority to take action against al-Qa'ida and its associated forces without doing a separate self-defense analysis each time." You stated that the question of when and where the United States may use military force turns principally on the question of whether the threat posed to the United States is "imminent."

- How does the United States Government establish when individuals and entities are "associated" with al-Qa'ida and when the threat posed by such individuals and entities is sufficiently "imminent" to justify the use of military force? What role do intelligence agencies play in determining which individuals and entities are "associated" with al-Qa'ida and which threats are "imminent"?

Determinations about whether individuals or entities are “associated” with al-Qa’ida and whether a threat is “imminent” are made on a case-by-case basis through a coordinated interagency process that involves intelligence, military, diplomatic, homeland security, and law enforcement professionals, as well as lawyers from appropriate departments and agencies.

The concept of an “associated force” has been upheld by the courts in the detention context and is based on the well-established concept of co-belligerency in the law of war. See, e.g., *Hamlily v. Obama*, 616 F.Supp. 2d 63, 74-75 (D.D.C. 2009). An “associated force,” as we have interpreted the phrase, has two characteristics to it: (1) an organized, armed group that entered the fight alongside al-Qa’ida, and (2) a co-belligerent with al-Qa’ida in hostilities against the United States or its coalition partners.

“Imminence” is also a highly fact-specific determination. As the Attorney General has stated: “[t]he evaluation of whether an individual presents an ‘imminent threat’ incorporates considerations of the relevant window of

opportunity to act, the possible harm that missing the window would cause to civilians, and the likelihood of heading off future disastrous attacks against the United States.”

The Intelligence Community participates in the interagency review process to provide intelligence information, analysis, and assessments to assist policymakers in making the determination whether individuals or entities are “associated” with al-Qa’ida and whether a threat is “imminent.”

- Do you foresee the United States engaging in future armed conflicts with terrorist organizations other than al-Qa’ida and associated forces?

I hope not. However, we live in a dangerous world, and I cannot say we will never face another armed conflict with a terrorist organization.

- Would you describe the United States as being presently engaged in an armed conflict with terrorist organizations other than al-Qa’ida and associated forces? If so, which terrorist organizations?

No, but we face threats from terrorist organizations other than al-Qa’ida and its associated forces, and we confront those threats using a variety of diplomatic, economic, homeland security, law enforcement, intelligence, and military authorities and tools.

QUESTION 38: In an April 30, 2012, speech you gave at the Woodrow Wilson Center in Washington, D.C., you defended the “legality,” “ethics,” and “wisdom” of conducting “targeted strikes against specific al-Qaida terrorists, sometimes using remotely piloted aircraft.” In that speech you stated that “[g]oing forward, we’ll continue to strengthen and refine the[] standards and processes [for conducting targeted strikes]” and “look to institutionalize our approach more formally so that the high standards we set for ourselves endure over time, including as an example for other nations that pursue these capabilities.” What steps do you envision to institutionalize standards for the conduct of targeted strikes? What use of targeted strikes do you envision in the future?

- Would you support legislation to authorize the use of force outside of “hot” battlefields and codify the standards for the conduct of targeted strikes, including through the use of remotely piloted aircraft? Why or why not?

As you know, the United States has publicly acknowledged that it sometimes uses remotely piloted aircraft to conduct targeted strikes against specific al-Qa'ida terrorists in order to prevent terrorist attacks on the United States and to save American lives. These strikes are conducted in full compliance with the law. In fact, extraordinary care is taken to ensure that they conform to the law of war principles of (1) necessity – the requirement that the target have definite military value; (2) distinction – the idea that only military objectives may be intentionally targeted and that civilians are protected from being intentionally targeted; (3) proportionality – the notion that the anticipated collateral damage of an action cannot be excessive in relation to the anticipated concrete and direct military advantage; and (4) humanity – a principle that requires us to use weapons that will not inflict unnecessary suffering.

As I have noted publicly, using remotely piloted aircraft for targeted strikes can be a calibrated choice because of their ability to fly hundreds of miles over the most treacherous terrain, strike their targets with astonishing precision, and then return to base. Moreover, they dramatically reduce the danger to U.S. personnel and to innocent civilians, especially considered against massive ordnance that can cause injury and death far beyond the intended target.

We must, however, use these technologies carefully and responsibly. The President has, in fact, demanded that we hold ourselves to the highest possible standards and that, at every step, we be as thorough and deliberate as possible. Consequently we apply rigorous standards and a rigorous process of review, which I provided a general sense of in the April 2012 speech cited in your question. As I noted there, we are working to refine, clarify, and strengthen this process and our standards.

Finally, on your question about whether I would support legislation to authorize the use of force outside of “hot” battlefields, I believe we currently have the authority to take action in such circumstances against al-Qa'ida and associated forces. As Jeh Johnson, the former General Counsel of the Department of Defense, indicated in a lecture at Yale Law School in February of last year, the 2001 Authorization for the Use of Military Force does not contain a geographical limitation. Consequently I do not believe additional legislation along these lines is necessary.

QUESTION 39: A *New York Times* article in November 2012 stated that, “the administration is still pushing to make the rules formal and resolve internal uncertainty and disagreement about exactly when lethal action is justified.” The article went on to say there is a “draft rule book for drone strikes that has been passed among agencies.” Was the *New York Times* article correct that there is a draft rule book and, if so, has it been finalized?

There are, as I have previously indicated publicly, rigorous standards and a rigorous process for the review of targeted strikes, aspects of which are reflected in various documents throughout the government, which continue to be refined and improved over time.

QUESTION 40: In a statement provided to the *New York Times* in August 2011, you said, “Fortunately, for more than a year, due to our discretion and precision, the U.S. government has not found credible evidence of collateral deaths resulting from U.S. counterterrorism operations outside of Afghanistan or Iraq, and we will continue to do our best to keep it that way.” Have any follow-up assessments been made since August 2011 that would amend this statement for the time period of August 2010 to August 2011?

- Have there been any indications of collateral deaths during that time period? If so, what are they? What do you consider “credible evidence”?
- Have all intelligence agencies concurred with these statements about collateral deaths?
- Have any assessments been made concerning the period from August 2011 to the present? If so, what findings were made?

Collateral casualties of any kind, especially deaths of innocent civilians, are something that the U.S. Government seeks to avoid if at all possible. We do everything in our power to avoid civilian casualties. Indeed, as I noted in my Wilson Center speech on April 30, 2012, there have been times when a strike was not conducted in order to avoid the death or injury of innocent civilians, and the standard that we hold ourselves to when conducting these kinds of operations is higher than that required by international law on a battlefield.

In the wake of every one of these operations, we harness our relevant intelligence capabilities to assess whether, despite our best efforts, any

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collateral casualties occurred. This includes analysis from any relevant military or IC component, media reports, and a myriad of other sources of information. As has been acknowledged by the President and myself, there have been instances when, regrettably and despite our best efforts, civilians have been killed. It is exceedingly rare, and much, much rarer than many allege. When it does happen, however, we not only take account of the human tragedy, but we also go back and review our actions and examine and modify our practices where appropriate, so that we are doing everything possible to prevent the loss of innocent life in the future.

Finally, the Executive Branch stays in close touch with Members of the Congress specifically charged with oversight on these issues, and one of the issues of most importance to those involved from the Executive Branch and the Congress is possible civilian casualties, of course. I strongly support this ongoing dialogue and if confirmed, you have my commitment to continue it.

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