

**OPEN HEARING: NOMINATIONS OF CHRISTOPHER
C. MILLER TO BE DIRECTOR OF THE NATIONAL
COUNTERTERRORISM CENTER AND PATRICK
HOVAKIMIAN 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 SIXTEENTH CONGRESS
SECOND SESSION

WEDNESDAY, JULY 22, 2020

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OPEN HEARING: NOMINATIONS OF CHRISTOPHER C. MILLER TO BE DIRECTOR OF THE NATIONAL COUNTERTERRORISM CENTER AND PATRICK HOVAKIMIAN TO BE GENERAL COUNSEL OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

WEDNESDAY, JULY 22, 2020

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

The Committee met, pursuant to notice, at 10:10 a.m., in Room SR-325, Russell Senate Office Building, Hon. Marco Rubio (Acting Chairman of the Committee) presiding.

Present: Senators Rubio, Burr, Risch, Collins, Blunt, Cornyn, Sasse, Warner, Feinstein, Wyden, Heinrich, King, Harris, and Bennet.

**OPENING STATEMENT OF HON. MARCO RUBIO, ACTING
CHAIRMAN, A U.S. SENATOR FROM FLORIDA**

Chairman RUBIO. I'd like to call the hearing to order.

I would like to welcome Christopher C. Miller, President Trump's nominee to be the next Director of the National Counterterrorism Center, and Patrick Hovakimian, President Trump's nominee to be the next General Counsel for the Office of the Director of National Intelligence. Congratulations to both of you for your nominations, and thank you for your willingness to serve.

Our goal for this hearing is to enable this Committee to have a thoughtful and deliberate consideration of your qualifications for the positions that you've respectively been nominated to fill.

The witnesses have provided written responses to questions from the Committee, from its Members, which you all will have. And this morning, Members will be able to ask any additional questions they have and hear directly from the nominees.

As you'll see, Mr. Miller graduated from George Washington University. He was commissioned as an infantry officer through ROTC in 1987. He has a Master's in Arts degree in national security studies from the Naval War College, and he's also a graduate of the Naval College of Command and Staff and the Army War College.

He began his military career as an enlisted infantryman in the Army Reserve in 1983, and also served in the District of Columbia National Guard. In 1993, Christopher transferred to Special Forces

and served with the 5th Special Forces Group. He participated in combat operations in Afghanistan and Iraq.

Upon retiring from the Army in 2014, he worked as a defense contractor before serving as the Special Assistant to the President, and Senior Director of Counterterrorism and Transnational Threats at the National Security Council. He currently serves as the Deputy Assistant Secretary of Defense for Special Operations and for Combating Terrorism.

Mr. Hovakimian graduated from Occidental College and received his law degree from Stanford University in 2010. He then served as a law clerk on the United States Court of Appeals for the 11th Circuit. Thereafter, he entered private practice for several years before joining the U.S. Department of Justice as an Assistant U.S. Attorney for the Southern District of California.

During this time, Patrick served multiple roles here in Washington, to include during his time with DOJ, he served in multiple roles here in Washington, to include as the Department's Director of Counter Transnational Organized Crime. Mr. Hovakimian currently serves as the Associate Deputy Attorney General and Chief of Staff to Deputy Attorney General Jeffrey Rosen.

Gentlemen, you've been asked to lead NCTC and the ODNI's Office of General Counsel, respectively, at a time when we are engaged in a debate—in a robust debate about the Intelligence Community and our collection tools and authorities. At the same time, however, the Nation continues to confront a growing array of threats from state and nonstate actors. Navigating this tension will require judgment, wisdom, integrity, and I expect that you will both provide sound counsel and advice to the Director of National Intelligence Ratcliffe as he takes on these complex and at times divisive challenges.

The satisfaction of this Committee's oversight mandate will at times require transparency and responsiveness from your respective offices, should you be confirmed. You can expect us to ask difficult and probing questions of you and of your staff. And in turn, we will expect honest, complete, and timely answers.

That said, we also want you to feel free to come to the Committee with situations that necessitate our working in partnership with you. I look forward to supporting your nominations and ensuring their consideration without delay. I thank you both for being here, for your years of service to our country, and for your willingness to continue in that service. And I look forward to your testimony.

I recognize the Vice Chairman.

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

Vice Chairman WARNER. Well, thank you, Mr. Chairman. And I want to also join in welcoming Mr. Miller and Mr. Hovakimian. I had the opportunity to talk with both of them prior to this hearing.

Congratulations on your respective nominations to serve as Director of the National Counterterrorism Center and General Counsel for the Office of the DNI. Both of these positions are important positions in the Intelligence Community during a time of unprecedented national challenge and peril.

The National Counterterrorism Center was created to prevent these kind of efforts of the bad guys listening into our meetings. It was created in the wake of 9/11 to connect the dots and ensure a terrorist attack never again occurs on our soil. The ODNI's General Counsel is critical to ensuring that the Intelligence Community abide by the laws of this Country, including protecting Americans' civil liberties and privacy interests.

The job of America's Intelligence Community is to uncover and anticipate threats, and to provide warning to the Nation. The Intelligence Community is first and foremost America's eyes and ears against foreign threats. And you, just as all of the professional men and women of the IC, are mandated to be nonpolitical and to speak truth to power. Making those difficult calls based not on what those in power wish to hear, but on the facts.

Unfortunately, under this President, the men and women of the Intelligence Community have increasingly come under attack, not only from abroad, but without justification from within the leadership of our very own government. Those who've had the temerity to do what all Americans expect of them, simply to tell the truth, have found themselves similarly dismissed, disparaged on Twitter, and retaliated against.

Because this President so often finds the truth unwelcome, he has fired DNI Coats, Acting DNI Admiral Maguire, his Acting Deputy DNI Mr. Hallman, Deputy DNI Sue Gordon, and IC Inspector General Michael Atkinson. Acting NCTC Director Russ Travers, a 40-year intelligence veteran, was dismissed by Mr. Trump's Acting DNI. Intelligence professionals, who volunteer to do difficult, dangerous jobs, including those who risk their lives every day around the world, must know that our country's leaders have their backs. Instead, they have been subject to disrespect.

For a significant period of this year, there was not a single Senate-confirmed senior official at the office of the DNI. This alarms me and it should alarm the American public.

The leadership roles you've agreed to undertake are challenging under the best of circumstances.

Mr. Miller, our terrorist adversaries have not simply disappeared. Those of us on this Committee know that plots continue every day. American men and women deployed in harm's way in Syria, Iraq, Afghanistan, and elsewhere are terrorist targets. And some never made it back to their families.

I look forward to hearing from you today with your thoughts as to how to confront the evolving and increasingly sophisticated threat from ISIS and other rogue organizations you'll take on in this role, and how you will define success, should you be confirmed. In particular, I'd like to hear what you think about the role of the NCTC in confronting these threats and how you plan to make sure the Center is sufficiently resourced to carry out its job.

Mr. Hovakimian, the General Counsel advises the DNI on the letter and spirit of the law, including the legal mandate to keep the intelligence committees fully and currently informed, and to ensure Americans' civil liberties are protected. But as we saw with the Ukraine whistleblower, those who complied with their obligations to inform Congress have faced consequences.

I expect to engage with you today on your perspective of what whistleblowers and in particular your perspective on the involvement of the Office of Legal Counsel at the Department of Justice. Unfortunately, because of how this Administration has approached the IC, your already difficult responsibilities will be even more challenging.

In addition to asking how you will undertake these responsibilities today, I will also wish to hear how you will stand up to political pressure, how you will ensure that analysis is apolitical and performed without fear or favor. How you'll reassure your workforce that they will not face consequences for simply doing their jobs, and how you'll make sure that this Committee is fully and currently informed.

Former DNI Dan Coats, a former Member of this Committee, set a high bar for telling truth to power, even in public when necessary, for which he was eventually fired. I will want to understand how you plan to live up to his example.

Thank you again, both, for agreeing to take up these challenging positions during a difficult time. I look forward to today's hearing.

Thank you, Mr. Chairman.

Chairman RUBIO. I understand the President Pro Tempore of the Senate, Senator Grassley, is here to introduce and speak on behalf of Mr. Miller.

Senator Grassley, please proceed.

**OPENING STATEMENT OF HON. CHUCK GRASSLEY, A U.S.
SENATOR FROM IOWA**

Senator GRASSLEY. Thank you very much, Mr. Chairman and Mr. Vice Chairman, for the opportunity to introduce to the Committee a native of my home state of Iowa, Mr. Christopher Miller.

I congratulate both of the nominees for their appointment. It is not every day that an Iowan with such a distinguished service record comes before the Senate for consideration. So it's a special privilege for me to give this introduction.

Chris' parents and much of his family still live in Iowa City and/or Eastern Iowa. I'm sure his family is very proud that he will be testifying before this Committee today and be recognized for his accomplishments and service to our country.

Chris was raised in Iowa City. After graduating from City High School, he attended George Washington University where he majored in history and enrolled in the ROTC program. He graduated from George Washington in 1987, and then immediately accepted a commission in the U.S. Army as an infantry officer.

In the Army, Chris had an impressive and distinguished career. He served in Afghanistan in 2001 and Iraq in 2003. And in the following years, like a lot of other military people, he served on numerous additional deployments to both of those countries. On behalf of the people of Iowa, we thank you and other people for your service to the country, particularly in those difficult times.

Following his time in the Army, Chris went on to become a Deputy Assistant Secretary of Defense for Special Operations in Combating Terrorism, where he is currently performing the duties of the Assistant Secretary of Defense for Special Operations. Whether as a member of the Armed Forces or in public service, Chris has

given the best of himself for the American people and the defense of our country. Of course, that should be no surprise. After all, he's got Iowa roots.

I'm certain that this Committee will give him a proper review of his record and his service and how that fits into his new position. I believe he is fully qualified, being nominated now to be director of the National Counterterrorism Center, Office of the Director of National Intelligence.

So now, it is again my pleasure to introduce to this Committee Mr. Christopher Miller. Congratulations.

Thank you, Mr. Chairman.

Chairman RUBIO. Thank you, Senator Grassley.

So before we begin, Mr. Miller and Mr. Hovakimian, would you please each stand and raise your right hand?

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

Mr. HOVAKIMIAN. I do.

Mr. MILLER. I do.

Chairman RUBIO. Thank you. Please be seated.

Gentlemen, before we move to your statements, I want to ask you to answer the five standard questions that we ask of every nominee who appears before us. They generally require a simple yes or no answer. The only reason why we need to hear it is so it can be transcribed. So from each of you, make sure your microphones are on.

The first question is, do you agree to appear before the Committee here or in any other venues when invited?

Mr. HOVAKIMIAN. Yes.

Mr. MILLER. I do, yes.

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

Mr. HOVAKIMIAN. Yes.

Mr. MILLER. Yes.

Chairman RUBIO. Do you agree to provide documents or any other materials requested by the Committee, in order for it to carry out its oversight and legislative responsibilities?

Mr. HOVAKIMIAN. Yes.

Mr. MILLER. Yes.

Chairman RUBIO. Will you ensure that your office and your staff provide such material to the Committee when requested?

Mr. HOVAKIMIAN. Yes.

Mr. MILLER. Yes.

Chairman RUBIO. And finally, do you agree to inform and fully brief to the fullest extent possible all Members of this Committee of intelligence activities and covert actions, rather than only the Chairman and the Vice Chairman?

Mr. HOVAKIMIAN. Yes.

Mr. MILLER. Yes.

Chairman RUBIO. Thank you very much. We will now proceed to your opening statements, after which I'll recognize Members. I believe we'll go by order of seniority today.

Christopher, I understand you're going to go first. So the floor is yours.

**STATEMENT OF CHRISTOPHER C. MILLER, NOMINEE TO BE
DIRECTOR, NATIONAL COUNTERTERRORISM CENTER**

Mr. MILLER. Thank you, Senator. I wanted to highlight what a thrill it was for me to hear Senator Grassley make those opening comments. My folks are in Iowa City watching. I hope they've got C-SPAN 2 up. I was a little bit worried, but I'm sure my sister helped them out.

My Uncle Floyd Booth and Aunt Arlene of Alburnett, Iowa, I know are smiling down. They were huge supporters of Senator Grassley. When I was 14 years old, I went to an event at their farm in Alburnett. I will admit that I did not hear his remarks. I was out along the fence line plinking with my BB gun, but it was awfully special.

Senator Warner, with highest regards, I am now a citizen of the Commonwealth. But when people ask me where I'm from, I proudly say that I'm from Iowa. And I really—words can't describe how honored I am, and all the work that Senator Grassley has done for the state of Iowa and his leadership.

Acting Chairman Rubio, Vice Chairman Warner, and distinguished Members of the Committee, thank you for taking the time today to consider my nomination to be the director of the National Counterterrorism Center. I appreciate the opportunity to appear before you. It is both humbling and surreal to sit before you today as the President's nominee for this position. I am grateful to have the support and confidence of President Trump and Director of National Intelligence Ratcliffe.

Along with the overwhelming privilege to lead and command America's sons and daughters in combat as an Army Special Forces officer, being considered for this position is the distinct honor of my professional life. When Al-Qaeda declared war on the United States in 1997, and attacked us in force on September 11, 2001, I like many of my generation, answered the call to fight and defeat them. It was not a war we sought, but in the defense of this Nation, we selflessly sacrificed our youth and our innocence.

Many dear friends and comrades also sacrificed their health, their marriages, and in some cases their lives. We have no regrets. The war has been long, but our efforts have been remarkably successful. The commitment of tens of thousands of professionals has taken the fight to the enemy, protected the United States, and developed a global network of partnerships that have prevented another cataclysmic attack.

When we set out on this journey as a country, we envisioned our campaign against violent extremist organizations as a generational war, not a multigenerational war. It would be, in my view, the height of irresponsibility to leave this conflict for our children to fight.

It is my life's goal, whether confirmed for this position or in another capacity, to defeat Al-Qaeda and its affiliates, transition this war to a sustainable effort laser focused on monitoring terrorist threats to the United States, attacking those that generate the will and capability to do us harm, developing and nurturing the next generation of counterterrorism professionals and technologies, and expanding relationships with like-minded partners around the

world who are committed to the elimination of this scourge to peaceful coexistence.

I still see myself as a kid from Iowa who wanted nothing more than to serve his country and make his parents proud. My father believed strongly in the nobility of public service, and I try every day to follow in his footsteps. In addition to my mother's wisdom and example of citizenship, that's what my sister and I aspire to emulate in all facets of our lives.

Most importantly, I want to recognize my wife Kate and our three children that are here with me today. Kate stood steadfastly with me through this 32-year odyssey, and raised our three children into magnificent adulthood. Their character, optimism for the future, and goodness are my motivation. They give me hope for the continued greatness of this wonderful experiment that is the United States of America.

If confirmed, I will lead the patriotic men and women of the National Counterterrorism Center with honor and integrity; advocate for the no-fail requirements of our counterterrorism enterprise; and provide my frank, honest, and unvarnished opinions and advice to the President, the DNI, this Committee, and other policymakers and leaders in order to guarantee that we never again experience the indescribable loss of September 11, 2001.

Mr. Acting Chairman, Mr. Vice Chairman, and Members of this Committee, thank you for your unparalleled leadership in protecting the United States. I look forward to responding to your questions.

[The prepared statement of Mr. Miller follows:]

Mr. Christopher Miller

Nominee for the Position of
Director of the National Counterterrorism Center

Statement for the Record
Before the Senate Select Committee on Intelligence

July 22, 2020

Acting Chairman Rubio, Vice Chairman Warner, and distinguished members of the Committee. Thank you for taking the time today to consider my nomination to be the Director of the National Counterterrorism Center (NCTC). I appreciate the opportunity to testify today.

It is both humbling and surreal to sit before you today as the President's nominee for this position. I am grateful to have the support and confidence of President Trump and DNI Ratcliffe. Along with the overwhelming privilege to lead and command America's sons and daughters in combat as an Army Special Forces officer, being considered for this position is the paramount honor of my professional life.

I still see myself as a kid from Iowa who wanted nothing more than to serve his country and make his parents proud. My father believed strongly in the nobility of public service, and I try every day to follow in his footsteps. In addition, my mother's wisdom and example of citizenship are what I aspire to emulate in all facets of my life. I would also like to take a moment to recognize my wife and three children. My wife graciously stood with me through this 32-year odyssey and raised our three children into magnificent adulthood. Their character, optimism for the future, and goodness are my motivation. They give me hope for the continued greatness of this wonderful experiment that is the United States of America.

I've been a member of the counterterrorism and Special Forces communities for over 30 years. In my experience, there is no more successful organization in this field than NCTC. The Center's ability to protect the American people by fusing pools of voluminous, disparate data, in a way that protects the privacy and civil liberties of our citizens, is the envy of the world. The tactics, techniques, and procedures pioneered by NCTC over the past 16 years transformed the way the Intelligence Community coordinates and shares information. NCTC's spirit and culture

of innovation, discipline, rigor, and its respect for the Constitution serve as a shining example of the genius of our democracy.

When we set out on this journey as a country, we envisioned our campaign against violent extremist organizations as a “generational war,” not a “multi-generational war.” It would be, in my view, the height of irresponsibility to leave this conflict for our children to fight. It is my life’s goal, whether confirmed for this position or in another capacity, to defeat Al Qaida and its affiliates, and transition this war to a sustainable effort laser-focused on monitoring terrorist threats to the United States, attacking those that generate the will and capability to do us harm, developing and nurturing the next generation of counterterrorism professionals and technologies, and expanding relationships with like-minded partners around the world who are committed to the elimination of this scourge to peaceful coexistence.

When Al Qaida declared war on the United States in 1997 and attacked us in force on September 11, 2001, I, like many of my generation, answered the call to fight and defeat them. It was not a war we sought, but, in defense of this nation, we selflessly sacrificed our youth and our innocence. Many dear friends and comrades also sacrificed their health, their marriages, and in some cases, their lives. We have no regrets. The war has been long, but our efforts have been remarkably successful. The commitment of tens of thousands of professionals have taken the fight to the enemy, protected the United States, and developed a global network of partnerships that have prevented another cataclysmic attack.

I recognize and appreciate that many Americans are fatigued by this war. Some in the United States Government have rightfully recognized that we need to focus on new threats. This, to me, is a testimonial to the dedication of the steadfast counterterrorism professionals that have so successfully reduced the severity of the terrorist threat. This was our goal – that we

would degrade the capability of terrorist organizations to the extent that terrorism simply became another national security challenge rather than the sole national security priority. While this war is not over, I believe we are in the final phase.

I have at times been criticized for declaring that we can defeat Al Qaida. While we cannot defeat terrorism as a concept, we absolutely can defeat an entity like Al Qaida and its affiliates. If confirmed, and in concert with my counterterrorism colleagues across the federal, state, local, tribal and international partners, that is exactly what I intend to accomplish.

Our record thus far is impressive. Al Qaida is on the run trying to survive with degraded command and control. ISIS has been decisively defeated on the battlefield, their caliphate destroyed and their leadership severely attrited. ISIS's perversion of the Islamic faith has been exposed for what it is – a craven effort to gain power by manipulating the aspirations and dreams of a small group of people searching for greater meaning and fellowship. Although our success bought us the space for a more fulsome debate about prioritization and resourcing, our gains remain fragile and we must remain vigilant. There is only one fundamental Counterterrorism “truth” – to prevent the enemy from plotting, training, and launching attacks, you must maintain pressure on their networks. It is indicators and warnings from the Intelligence Community, and NCTC first and foremost, that prevents strategic surprise and drives operations.

NCTC is and must continue to focus on preventing strategic surprise. The men and women of the NCTC serve as sentinels, standing guard 24-hours-a-day, seven-days-a-week, 365-days-a-year. NCTC is our nation's “center of excellence” for bringing together the greatest minds in government, the private sector, and academia to think through terrorist threats and how to organize the government to respond. The character and resiliency of the American people is beyond question and serves as a source of strength for our Nation – that was the fatal

miscalculation of Al Qaida and ISIS. The genius of NCTC, and those responsible for its creation, is its amplification of that resiliency to guarantee that the American government has the plans, programs, and capabilities in place to respond effectively to the unexpected.

My commitment to you, if confirmed, is that I, along with the legion of our nation's counterterrorism professionals, will wake up every morning committed to excellence, committed to the Constitution, committed to protecting our service members and citizens, and ultimately dedicated to winning this war.

If confirmed, I promise to work with you, building on NCTC's strong relationship with this Committee, to proactively foster a partnership that facilitates your mandate to oversee the Intelligence Community. I will work to keep you fully and currently informed and be a meaningful partner in matters of oversight and legislation. If we are to be victorious in this conflict, and end it before our children take up the fight, NCTC needs your continued support.

If confirmed, I will lead the patriotic men and women of the NCTC with honor and integrity; advocate for the no-fail requirements of our counterterrorism enterprise; and provide my frank, honest, and unvarnished opinions and advice to the President, the DNI, this Committee, and other policy makers and leaders in order to guarantee that we never again experience the indescribable loss of September 11, 2001.

Mr. Acting Chairman, Mr. Vice Chairman, and Members of the Committee, thank you for your unparalleled leadership in protecting the United States. I look forward to responding to your questions.

Chairman RUBIO. Thank you.
Mr. Hovakimian.

STATEMENT OF PATRICK HOVAKIMIAN, NOMINEE TO BE GENERAL COUNSEL OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

Mr. HOVAKIMIAN. Acting Chairman Rubio, Vice Chairman Warner and distinguished Members of the Committee, thank you for taking the time this morning to consider my nomination to serve as General Counsel for the Office of the Director of National Intelligence. I am honored to appear before you today.

I also extend my thanks to the President for the opportunity to serve, to Director Ratcliffe for his confidence in me, and to my current bosses, Attorney General Bill Barr and Deputy Attorney General Jeff Rosen, for their support throughout this nomination process.

Acting Chairman Rubio and Vice Chairman Warner, I am a first-generation American and a proud civil servant. My background and my family experiences shape who I am today, and they compel me to put my hand up when called upon to serve. This great country of ours has given me everything.

My parents, Eric Ara Hovakimian and Lida Hovakimian, came to the San Francisco Bay area. They built a life. They raised two boys. And they instilled in me a deep appreciation of the freedom and rights our country provides, and an equally strong duty to serve. Without their love and support, I simply would not be here today. I thank my mom who is watching from home, my dad who I know is watching from above, my entire extended family, and the many close friends both from back home in California and those from later in life who have supported me and lived life beside me through the years.

I've been fortunate in my career. After graduation from law school, I joined an international law firm where I worked alongside and learned from some of the finest lawyers anywhere in the world. After a few years at the firm and after clerking for Judge J.L. Edmondson on the Eleventh Circuit, I accepted what I thought could well be the last job I ever had.

As an AUSA in San Diego, I worked alongside talented Federal agents and prosecutors, building cases from the ground up. I handled matters in diverse context and across the Federal criminal code. For the last couple of years, I served as a prosecutor. I worked primarily on a series of cases involving a former foreign defense contractor, his firm, and the U.S. Navy.

Investigating and litigating these multinational defense procurement fraud and bribery cases was rewarding work, to say the least. It implicated our national security interests and those of our military. Working hand-in-hand with law enforcement agents and military personnel, it felt like we were standing up for the interests of the United States. It felt righteous, because it was.

I look back on those days fondly, and I carry the experiences with me. They motivate me to continue to serve. Just as I have great respect for the dedicated professionals who comprise our Federal law enforcement agencies, I have tremendous respect for the members of our IC. They, too, do righteous work. They work every

day on behalf of the United States, often in unheralded, if not completely anonymous, ways.

I am here because I want to support them and their mission. I am here because I want to do what I can, particularly at this consequential time, to ensure that the women and men of the IC get the support they need to help keep our country safe and secure.

I've seen the IC's work in action. Serving as DOJ's Director of Counter Transnational Crime, I was an avid consumer of IC products. I participated in FBI and CIA briefings on counternarcotics efforts, terrorism finance, country-specific and region-specific threats, and the various interconnections between nation-states and organized crime around the globe.

As I worked to implement the substance of these briefings into action, I experienced firsthand the value the IC provides and the mission-critical nature of the work that they do. I've also seen firsthand the way the law interacts with the activities of the IC. As an Associate Deputy Attorney General, I regularly participate in counterintelligence and counterterror briefings, consult on operational matters, and review investigation and litigation strategy in national security cases.

Senators, the General Counsel position that I've been nominated for is, at its core, of course, a legal job. In addition to the everyday tasks that any CLO would perform, I regard the overarching duties of the ODNI GC to be in principle threefold.

First, the GC must speak truth to decision-makers. Everything else flows from that basic proposition. The only legal advice I will ever give is that which comports entirely with the Constitution of the United States and the laws of the United States. Even when it results in outcome or advice that others may not want to hear, I will only ever deliver what I consider to be lawful, objective, clear, and complete advice and counsel. My oath to the Constitution, if I'm confirmed, would require it, and my professional judgment and moral compass demand it.

Second, the General Counsel must promote transparency, because the IC must keep Congress fully and currently informed of its intelligence activities. For me, cultivating a relationship with the Congressional intelligence committees is of paramount importance. Oversight provides the American people, through their elected representatives, a channel through which to review and evaluate. Specifically with regards to the intelligence activities of the IC, robust and thorough Congressional oversight is vitally important.

The IC engages in activity critical to the national security of the country and with implications on many other important values that we rightly prize, like civil liberties and privacy. If confirmed, I'll work with the Director and other senior leaders to facilitate and maintain a cooperative process with this Committee.

Third, the General Counsel is uniquely situated to promote collaboration across the IC offices, and should do so. The GC should take a leading role in promoting collaboration and ensure that the IC activities are conducted lawfully, and that the full panoply of statutory rights are protected for IC employees.

I'll close by saying public service is a high privilege. I remember standing in court and saying for the first time, "Good morning, your Honor. Patrick Hovakimian on behalf of the United States."

That feeling never got old. If I'm confirmed, I'll have a different but similarly significant opportunity to serve. I look forward, if confirmed, to working with the talented professionals of the IC.

So Acting Chairman Rubio, Vice Chairman Warner, and Members of the Committee, thank you for your consideration of my nomination. I look forward to your questions.

[The prepared statement of Mr. Hovakimian follows:]

Mr. Patrick Hovakimian

Nominee for the Position of
General Counsel, Office of the Director of National Intelligence

Statement for the Record
Before the Senate Select Committee on Intelligence

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Acting Chairman Rubio, Vice Chairman Warner, and distinguished Members of the Committee, thank you for taking the time this morning to consider my nomination to serve as General Counsel for the Office of the Director of National Intelligence. I am honored to appear before you today.

I also extend my thanks to the President for the opportunity to serve, to Director Ratcliffe for his confidence in me, and to my current bosses, Attorney General Bill Barr and Deputy Attorney General Jeff Rosen, for their support throughout this nomination process.

Acting Chairman Rubio and Vice Chairman Warner, I am a first-generation American and a proud civil servant. My background and family experiences shape who I am today and compel me to put my hand up when called upon to serve. This great Country of ours has given me everything. My parents, Eric Ara Hovakimian and Lida Hovakimian, came to the San Francisco Bay Area, built a life, raised two boys, and instilled in me a deep appreciation of the freedom and rights our Country provides, and an equally strong duty to serve. Without their love and support, I simply would not be here today. I thank my mom, who is watching from home; my dad, who I know is watching from above; my entire extended family; and the many close friends – both from back home in California and those from later in life – who have supported me and lived life beside me through the years. Many wrote, called, and expressed a wish to be here today. To them I say thank you, and I will do my very best not only today, but always, to make you proud.

I've been fortunate in my career. After graduation from law school, I joined an international law firm, where I worked alongside and learned from some of the finest lawyers anywhere in the world. And after a few years at the law firm and after clerking for Judge J.L. Edmondson of the Eleventh Circuit, I accepted what I thought could well be the last job I ever

had. As an Assistant U.S. Attorney in San Diego, I worked alongside talented federal agents and prosecutors, building cases from the ground up. I handled matters in diverse contexts and across the federal criminal code, including investigating international drug trafficking organizations and white-collar and public-corruption matters. For the last couple of years I served as a prosecutor, I worked primarily on a series of cases involving a former foreign defense contractor, his firm, and the United States Navy.

Investigating and litigating this multinational defense procurement fraud and bribery series of cases was rewarding work, to say the least. It implicated our national security interests and those of our military. Working hand-in-hand with law enforcement agents and military personnel, it felt like we were standing up for the interests of the United States. It felt righteous, because it was.

I look back on those days fondly, and I carry the experiences with me. They motivate me to continue to serve. Just as I have great respect for the dedicated professionals who comprise our federal law enforcement agencies, I have tremendous respect for the members of our Intelligence Community. They too do righteous work. They work, every day, on behalf of the United States, often in unheralded if not completely anonymous ways. I am here because I want to support them and their mission. I am here because I want to do what I can, particularly at this consequential time, to ensure that the women and men of the IC get the support they need to help keep our Country safe and secure.

I've seen the intelligence community's work in action. Serving as the Department of Justice's director of Counter-Transnational Organized Crime, I was an avid consumer of IC products. FBI and CIA briefings on counternarcotics efforts, terrorism finance, country-specific and region-specific threats, and the various interconnections between nation-states and organized

crime around the globe. As I worked to implement the substance of these briefings into action, I experienced firsthand the value the IC provides and the mission-critical nature of the work they do.

I've also seen firsthand the way the law interacts with the activities of the Intelligence Community. As an Associate Deputy Attorney General, I regularly participate in counterintelligence and counterterrorism briefings, consult on operational matters, and review investigation and litigation strategy in national-security cases.

The General Counsel position that I have been nominated for is at its core, of course, a legal job. In addition to the everyday tasks that any chief legal officer would perform, I regard the overarching duties of the ODNI General Counsel to be, in principal, threefold.

First, the General Counsel must speak truth to decision makers. Everything else flows from that basic proposition. The only legal advice I will ever give is that which comports entirely with the Constitution of the United States and the laws of the United States. Even when it results in outcomes or advice that others may not want to hear, I will only ever deliver what I consider to be lawful, objective, clear, and complete advice and counsel. My oath to the Constitution, if I'm confirmed, would require it, and my professional judgment and moral compass demand it.

Second, the General Counsel must promote transparency because the IC is statutorily obligated to keep Congress fully and currently informed of intelligence activities. For me, cultivating a relationship with the congressional intelligence committees is of paramount importance. Congressional oversight provides the American people, through their elected representatives, a channel through which to review and to evaluate. Specifically with regard to the intelligence activities of the IC, thorough and robust congressional oversight is vitally

important. The IC engages in activities critical to the national security of the United States and with implications on many of the other important values – civil liberties and privacy, for example – that we as Americans rightly prize. As such, the congressional intelligence committees must have direct and thorough oversight of the IC’s intelligence activities and practices. If confirmed, I will work with the Director and other senior leadership to facilitate and maintain a cooperative process and relationship with this Committee.

Third, the General Counsel is uniquely situated to promote collaboration across IC legal offices, and should do so. Consistent with and in furtherance of the ODNI’s intelligence-integration mission, close collaboration among IC general counsel offices is essential to ensure IC activities are conducted lawfully and to protect the full panoply of statutory rights for IC employees. The General Counsel should take a leading role in promoting this collaboration. If confirmed, I will attempt to do just that.

Public service is a high privilege. I remember standing in court and saying, for the first time, “Good morning your Honor. Patrick Hovakimian, on behalf of the United States.” That feeling never got old. If I am confirmed, I’ll have a different but similarly significant opportunity to serve. I look forward, if confirmed, to leading ODNI’s Office of the General Counsel and working together with the talented professionals of the Intelligence Community.

Acting Chairman Rubio, Vice Chairman Warner, and Members of the Committee, thank you for your consideration of my nomination. I look forward to your questions.

Chairman RUBIO. Thank you both. I'm going to defer my opening questions till the back end of the hearing. And I'll recognize Senator Burr to begin.

Senator BURR. Thank you, Mr. Chairman. Mr. Miller. Mr. Hovakimian?

Mr. HOVAKIMIAN. Hovakimian, Sir, close.

Senator BURR. Hovakimian. I've got a question for both of you, but I want to make a statement if I can at the beginning. Most on this Committee were intricately involved in creating not just NCTC, but the DNI. So they have their own vision of what the responsibility and the mission of both were.

I've had an opportunity to sit down with Mr. Miller, and I've looked at Patrick's background in his resume. I'm not sure that we could have two more qualified people to fill the roles that they've been nominated for than these two individuals.

And given that many on this Committee crafted these agencies in legislation, it is absolutely crucial that we have people that can fulfill the mission that we thought NCTC was there to do, and that we can have somebody interpret the correct law in an agency that is still in its embryo stage.

So I encourage Members that if there were ever a time where I would really like to see us expedite these nominees, and hopefully get away from acting and have permanent, it would be before we leave for the next break.

Mr. Miller, as CT mission manager for the IC, how do you plan to ensure that the Intelligence Community's counterterrorism mission is operated as efficiently as possible, given the limited resources and growing focus of hard-target countries?

Mr. MILLER. Thank you, Senator, for that question. I hope everyone can hear me.

It's so important as rightfully, we've had enormous success against countering violent extremist organizations. And I really see that we're having this conversation about resourcing and prioritization for counterterrorism at this time. It's a real testament to the success that we've had. But the war's not over yet. Al-Qaeda and its affiliates still are committed to attacking us.

First 30 days, get in there, look under the hood, see what's going on, determine what our resourcing strategy is and how we are, Senator, and then take action after that. I feel right now, we're in a pretty good place. I looked at the macro perspective of the budget in my last job. However, it's something we have to pay attention to and we can't overcorrect too soon, Senator.

Senator BURR. Let me ask you a follow-up, if I can.

How do you plan to reduce any analytic duplication that's going on currently?

Mr. MILLER. Senator, as you know, 17 intelligence organizations within our federated enterprise presents challenges. I have some of the same concerns when I see products that are written and, they're like, that kind of contradicts another one. That's kind of one of the challenges, but that's the beauty of our federated enterprise. We have competitive analysis. The question is, how much?

And I know we currently, within the counterterrorism business, every day we have a meeting where we make sure we're not doing that. I'm going to take that very seriously, because duplication is

all right to a point. But to use tax dollars correctly, we don't need too much, and that's always the challenge. And I'm going to take that one on loud and clear, Sir.

Senator BURR. Thank you.

Patrick, the Intelligence Community is often faced with the use of cutting-edge technology in novel situations. Without a lot of precedent for us to draw on, what experience do you have in crafting legal solutions for cutting-edge technology problems that have no legal precedent?

Mr. HOVAKIMIAN. Senator, it's a great question and one that, in many ways, as you've rightfully pointed out, will define the IC and the process of providing considered legal judgments to the IC in the near future.

Working at DOJ, I've had the opportunity to consult and work with FBI and the National Security Division on matters relating to artificial intelligence and other cutting-edge technologies like that. There are crosscutting legal issues that apply. Luckily, the IC is comprised of a number of talented GC offices. I would draw upon their experience and expertise. I would work with this Committee and the professional staff. I would engage, as appropriate, industry and other stakeholders. And I would do my best to render complete, thorough, and accurate legal advice, no matter how novel the context.

Senator BURR. Thank you for that.

Mr. Chairman, I yield.

Chairman RUBIO. Vice Chairman.

Vice Chairman WARNER. Thank you, Mr. Chairman. And let me again say I've really enjoyed my opportunity to meet with both of you gentlemen before this hearing. And I would echo what Senator Burr said, that you both bring, I think, very strong qualifications. But you'd be taking on these jobs in an extraordinarily difficult time when I personally fear that the IC is under constant assault.

I've got a couple of questions—not implying that you wouldn't—but I want to get these for the record.

Will you commit to report to Congress any evidence of political pressure on analysts or politicization of any of the intelligence?

And will you report to Congress any evidence of the use of so-called purge lists or loyalty tests within your respective areas?

Mr. MILLER. Yes, I will.

Mr. HOVAKIMIAN. Yes, Senator. Politics has no place in the intelligence activities of the United States.

Vice Chairman WARNER. What will each of you do to reassure your workforce that you won't allow the NCTC or, for that matter, the ODNI writ large, not just within the General Counsel's office, that intelligence professionals will not face repercussions if they do their job and tell the truth?

Mr. HOVAKIMIAN. Senator, I'm a proud civil servant. I've worked alongside career public servants for the majority of my career now. I consider myself to be among them. If I'm confirmed for this job, I will engage with them daily. I will tell them that I'm the leader of the office, but that doesn't mean that I'm not their peer. I am their peer. They can come to me and talk to me.

And I'd expect and anticipate that if confirmed, I'd have an open and collaborative relationship with the professionals in OGC, and

that we would work through the tough issues together. And they would have my full support.

Vice Chairman WARNER. Mr. Miller.

Mr. MILLER. Vice Chairman Warner, a really important question. The thing that I'm drawn to with the counterterrorism enterprise is it is literally apolitical, nonpartisan. We used to have a statement, as many of us recall, that politics ended at the water's edge. It's the same way with counterterrorism. A dedicated, mission-focused group of professionals. I will absolutely lead with integrity and—as I have throughout my career—and be very conscious of that and set the example in every way I can.

Vice Chairman WARNER. Thank you both.

Mr. Hovakimian, I've got a couple more questions for you, and again, we talked a little bit about this in our meeting.

In your answers to the Committee's prehearing questions, you noted that you were not familiar with the specific intelligence underlying the January 2017 ICA assessment of the Committee's assessment that Russia interfered in the 2016 Presidential election to then help candidate Trump.

You're Chief of Staff to the Deputy Attorney General, which would seem to me that you would have had some access to that information, particularly since it appears that there are some within the Attorney General's office that are trying to undermine the conclusions of this Committee and of the ICA.

Do you have any doubts that Russia interfered in 2016, and continues to interfere or attempt to interfere in our 2020 elections?

Mr. HOVAKIMIAN. Senator, I do not. As Director Ratcliffe said during his confirmation hearings, it's clear that the Russians interfered in 2016. It's clear they interfered in 2018. And it's clear they are, or are attempting to, this year. Some of the things they did were extensive social media disinformation campaigns, some forms of hacking, and other efforts aimed at sowing general discord and undermining our democracy. So I think it's clear.

Vice Chairman WARNER. Do you have any questions about the unanimous consent assessment of the Intelligence Community and of this Committee's report that in 2016, they had a favorite candidate?

Mr. HOVAKIMIAN. Senator, as I noted in the response to the prehearing questions, I haven't had a chance to look at that intelligence. I don't know what it says. I don't know what's there and what isn't there. But what I can say is sitting here today, I have no reason to doubt the ICA of January 2017, nor this Committee's confirmation of it.

Vice Chairman WARNER. I think that is a careful answer. And I know you're applying to be a lawyer, but I am concerned about that. Let me get one last question, and I think my colleagues will press you on that.

One of the things that I found maybe most outrageous was when the Inspector General, Mr. Atkinson's, efforts were undermined by the OLC's opinion that basically said that the ODNI has the ability to stop the ICIG from reporting a whistleblower matter of urgent concern to Congress, which I believe is clearly opposite to the plain letter intent of the law.

Have you had a chance to review any of those activities, and would you see going forward that if an Inspector General was pursuing a matter in your role as GC for the ODNI, would you try to impede or stop any Inspector General effort?

Mr. HOVAKIMIAN. Senator, I have great respect for all acts of Congress, and among those chiefly is the enactment government-wide of whistleblower protection acts, and including the one that applies to the IC. If confirmed, Senator, I will ensure that whistleblowers receive all protections under the law to which they are entitled. I will work closely with the Director and with other senior officials.

I don't know the new ICIG, Mr. Monheim, but I know him by reputation. He's a dedicated, decades-long public servant, and if confirmed, I look forward to working with him, his office, and all lawyers at OGC to ensure that whistleblowers are afforded all the legal protections that they are entitled to.

Vice Chairman WARNER. Thank you, Mr. Chairman.

Chairman RUBIO. Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

Mr. Miller, as you know from our conversations on the phone, I have a very special interest in the NCTC because it was created by the Intelligence Reform and Terrorism Protection Act of 2004, which I drafted with Senator Lieberman. And we always considered NCTC, as well as the creation of the DNI, as to the chief components of that wide-ranging bill.

I am, therefore, concerned about Russ Travers' recent comments in which he outlined his concerns that NCTC does not have the resources that are required to fulfill its mandate under IRTPA. He has communicated similar concerns to my staff and to this Committee.

I've also noted in recent years that it seems that agencies are no longer sending their very experienced analysts to the National Counterterrorism Center. And so in some ways, we've gone back to the pre-NCTC days when President Bush first set up TTIC to try to do this kind of interagency analysis to ensure that we connect the dots.

Do you believe that the NCTC has sufficient resources to fulfill its legal mandate?

Mr. MILLER. Senator, first off, thank you for your visionary leadership with Senator Lieberman in establishing the National Counterterrorism Center, which responded to the failures we had, of course, prior to September 11, 2001.

Russ Travers is a dear friend and a mentor. And fundamentally, I actually very much agree with the broad outlines of Russ' public statements. I've not, of course, seen anything. I understand he might have done an Inspector General complaint, or however you termed that.

We don't want to return to pre-2001 stovepipes. We want to make sure we are resourced correctly. You know, the other thing is the degree between centralization and decentralization. And that's a really important question that we have to get right. And, of course, Russ' last thing is like let's have a public discussion about that, which we're having here today.

I don't want to speak for Russ Travers. I need to go in there and look. I know that the general budget lines and analytical capacity, it's something that is important. And I know that there is stress on pulling analysts out of counterterrorism and moving them to other accounts that are of higher priority.

I haven't seen that at the macro level yet, ma'am. As I said, I kind of look at the gross numbers. It's a huge concern. We can't return back to the problems we had in the past. But I just don't have a level of detail, and I look forward to talking to Russ Travers again as soon as I can to get more specificity of that. And, of course, I'll talk to all of the—talk to a bunch of them—all the former directors, to get their views, too.

Senator COLLINS. Thank you. I think that's really important. We intended for the dots to be connected after reading the 9/11 Commission's report, which suggested that the 20-some intelligence agencies each had some information that perhaps, had it been pooled, might have led us to be able to thwart the 9/11 attack. And as we shift toward a focus more on China and Russia, we cannot forget that the terrorist threat is still very real. So I appreciate your commitment.

Mr. Hovakimian, I didn't do as well as the Chairman on that.

Mr. HOVAKIMIAN. That's very close, Senator, thank you.

Senator COLLINS. Last year, the DNI received a whistleblower complaint that the Intelligence Community Inspector General decided was credible and of an urgent concern. Despite a legal requirement to transmit the complaint to this Committee within seven days, the ODNI did not do so.

Under what circumstances do you believe that it's appropriate to not send a whistleblower complaint to Congress that the ICIG decides is credible and an urgent concern?

Mr. HOVAKIMIAN. Senator, generally speaking, all whistleblower complaints should be forwarded to Congress. If confirmed—I've said it in other contexts and I'll say it again—I will do everything I can to ensure that whistleblowers are afforded all the statutory rights to which they are entitled. And I will do everything I can to work with the career professionals, both in the Inspector General's office and the General Counsel's office, to ensure that the Whistleblower Protection Act is applied fairly and consistently.

Senator COLLINS. Thank you.

Thank you, Mr. Chairman.

Chairman RUBIO. Thank you.

Senator Feinstein. Senator Feinstein, you're next.

Senator FEINSTEIN. Thanks very much, Mr. Chairman. You're very young, and back in 2014 this Committee—

Chairman RUBIO. Which one?

Senator FEINSTEIN. Not you, Sir.

[Laughter.]

Sorry, I couldn't resist that.

Back in 2014, this Committee put out a study, a report on the CIA's detention and interrogation program. That was very important to me. I was Chairman of the Committee at the time.

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

Mr. HOVAKIMIAN. I've reviewed the executive summary of the report that was released while you were Chairman. It is a very detailed and thorough report, and really from my perspective and where I sit, a model of Congressional oversight.

Senator, the law today is clear. The National Defense Authorization Act of 2016 says that only interrogation techniques that are authorized in the Army Field Manual are legal, and only those techniques. I support that law fully. And if confirmed, I will ensure that that law is complied with.

Senator FEINSTEIN. Good, you've done your homework. Let me ask you about the Detainee Treatment Act, which is the set of conditions and techniques that really can be used. Have you read that?

Mr. HOVAKIMIAN. I've reviewed it, Senator, yes.

Senator FEINSTEIN. Because that's the standard that is used, is my understanding. And so as chief legal counsel for the most important intelligence office, I'm really very interested in what your position on torture would be. You're very young.

Mr. HOVAKIMIAN. Senator, torture is wrong. And if confirmed, I will enforce the law. I will ensure that the law is complied with. I've read the executive summary of the report that your Committee put together when you were Chairman. I found it to be illuminating and terrifying at the same time, Senator.

Senator FEINSTEIN. Good. Thank you. Let me ask, if confirmed as General Counsel in the ODNI, how would you approach questions about using Title 50 intelligence authorities domestically as part of law enforcement operations?

Mr. HOVAKIMIAN. Senator, a bedrock principle of our country is that Americans who are engaging in activities that are entirely protected by the First Amendment or other parts of the Constitution ought not to be targeted or surveilled solely on the basis of that protected activity.

So, although in Executive Order 12333, there's a section that allows for certain coordination, technical assistance, things like that, between IC elements and domestic law enforcement. In a word, that kind of stuff happening here, not to be too colloquial about it, is very serious.

And to answer your question directly, I would review it soberly. I would look at activities like that with a skeptical eye, and I would work with the career professionals at OGC and across the Intelligence Community to ensure that the law and of course, of paramount concern, the Constitution is complied with in all contexts.

Senator FEINSTEIN. Are you aware of the President's firings of recent Inspector Generals, to include Inspector General Michael Atkinson?

Mr. HOVAKIMIAN. I am aware of that, Senator, yes.

Senator FEINSTEIN. Well, do you see any issues in that firing that would undermine the IC's confidence in whistleblower protections?

Mr. HOVAKIMIAN. Senator, I'm familiar with Mr. Atkinson being fired. I don't know all the facts there. What I do know is that there is a dedicated and committed core of civil servants who work both in the IC and across the United States Government. I'm proud and honored to be among them. And, you know, my experience has been: nothing shakes these folks. They just do their job on behalf

of the United States, day in and day out. And I anticipate that if confirmed, I will have their back and help them do just that.

Senator FEINSTEIN. I'm sorry, I missed that. You will have the back of whom?

Mr. HOVAKIMIAN. I will have their back. I will support them in their mission on behalf of the United States.

Senator FEINSTEIN. Well, do you see any issues with the recent firing of ICIG Michael Atkinson that would undermine the IC's confidence in whistleblower protections?

Mr. HOVAKIMIAN. Senator, whistleblower protections are of paramount importance. It's important that the rights of all whistleblowers are protected. I was a prosecutor. I worked with confidential informants. They are like whistleblowers in many ways. They put everything on the line.

Sometimes they work at a company and they have a job and a career and a family, and they put everything on the line to come forward and tell what they believe to be the truth, and to disclose what they see as wrongdoing. It is important to protect whistleblower rights. And I know the dedicated servants of the IC and across [inaudible] work to do just that. And if confirmed, I look forward to helping them do that.

Senator FEINSTEIN. Thank you.

Thank you, Mr. Chairman.

Mr. HOVAKIMIAN. Thank you, Senator.

Chairman RUBIO. Senator Cornyn.

Senator CORNYN. Mr. Hovakimian, I'm surprised nobody's asked you about what I consider to be one of the greatest scandals that's affected the Intelligence Community, including the FBI, in American history, where the resources of the FBI and the Intelligence Community were directed against a candidate for President of the United States. And obviously, produced a long and lengthy narrative about Russian collusion—ultimately resulted in the appointment of special counsel and a report from Mr. Mueller.

And now, we're learning, as a result of declassifications of a lot of previously classified materials, about the nature of the fraud being committed on the FISA court, and securing FISA warrants. Abuse of the FBI's authorities to conduct counterintelligence investigations, which are very, very important. And frankly, reckless disregard at the highest levels of the FBI during the previous Administration for the rules and procedures governing fair and impartial investigations of—

I wonder, if you would, if you could characterize your reaction to the revelations that we've seen, recognizing, of course, there are some ongoing investigations by Mr. Durham, and we are anticipating his report. But it strikes me that this is one of the greatest scandals in American history.

Mr. HOVAKIMIAN. Senator, all I can say is that I was shocked, as were many Americans, when I read Inspector General Horowitz's report on the FISA situation. As a lawyer and as a public servant, the idea that just, for example, an Office of General Counsel lawyer would alter an email, and then that altered email would serve as the basis, even partly, for an affiant in a FISA application, it's deeply, deeply troubling. The Attorney General has called it an abuse.

Senator, I will say over the course of my career as a prosecutor and now as an employee of main Justice, I've had the pleasure and honor of working with any number of FBI agents and law enforcement personnel. They, too, seek to do the right thing, by and large, on a daily basis. They help protect this country. I'm honored to work with them.

I know Director Wray and FBI leadership are implementing reforms and changes to address the situation that Mr. Horowitz described in his report. It's an ongoing and important conversation, and thank you for the question.

Senator CORNYN. Senator Feinstein raised the issue of enhanced interrogation and the investigation that was made. Unfortunately, the report ended up being a minority report and a majority report on partisan lines. And indeed, there was not a fulsome investigation in terms of talking—actually interviewing witnesses, as opposed to reviewing paper and reports.

But clearly, this was a novel legal challenge for the Department of Defense and for the Intelligence Community. The CIA and other aspects of the Intelligence Community had to adapt to a novel situation, and try to get actionable intelligence to save American lives and hopefully preempt future terrorist attacks.

Could you just describe for us how you as the chief lawyer for the Director of National Intelligence would approach these sort of novel legal questions? Because we know exactly what happens. Once the officials responsible for protecting the American people act, consistent with the legal advice provided at the time, there is invariably a second-guessing and an attempt then to hang those very people out to dry when they have tried to do the very best they can in a novel circumstance to understand what the law is and follow the law.

Can you address how you would approach those sort of novel legal questions?

Mr. HOVAKIMIAN. Yeah. Senator, as I said in my opening, I want to do this job because I believe in the mission of the IC. I believe in the mission of those who are deployed overseas who are fighting on behalf of this country every day—some in unheralded, if not completely anonymous, ways.

Senator, if confirmed, I would talk to, consult, and work with personnel in the Intelligence Community, and people who've sort of been there, done that, and seen it. Because I believe that legal advice is informed and is best delivered when it takes into account facts on the ground, in addition to principles of law that are inviolable and can't be violated. There are facts that can help guide analysis in situations.

So, you know, I try to be a lawyer at all turns, who operates on a fully informed basis, and talking to all those who have skin in the game, so to speak, and to those who have at times their back up against a wall. I do believe facts inform legal judgments. If confirmed, I will work every day to ensure that I give the best legal advice I can.

Chairman RUBIO. Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman.

Mr. Hovakimian, my hometown of Portland has been invaded by militarized Federal law enforcement. These Federal forces are beat-

ing, tear-gassing, and detaining my neighbors. On Monday, Donald Trump promised to expand this invasion to other cities. If the line is not drawn in the sand right now, America may be staring down the barrel of martial law in the middle of a Presidential election.

Now, Mr. Hovakimian, you're a senior Justice Department official. You're in a position to know what's going on. And as you know, I informed you in advance that I would be asking questions this morning about the legality of what is happening in my hometown.

So my first question is, do you believe that Federal forces can patrol American cities over the objections of state and local officials and away from Federal buildings?

Mr. HOVAKIMIAN. Senator, I understand Portland is your hometown, and I understand there's a lot going on there right now. So I do extend my best wishes to your friends and family and constituents there.

Senator, I will stand firm on the idea that Americans' right to free speech, to free assembly under the First Amendment, are absolutely sacrosanct. Neither law enforcement nor the Intelligence Community should target or surveil Americans who are engaged in activity that's entirely protected by the First Amendment. This is a bedrock principle of our democracy. It's one that I stand by.

Senator, peaceful protest is one thing, and violence is another. And from where I sit, you know, law enforcement helping to quell violence—

Senator WYDEN. My time is short.

Mr. HOVAKIMIAN. Yes, Senator.

Senator WYDEN. Nobody condones violence, and I have repeatedly said that. That's not the issue. The issue is whether that's a smoke screen for a Federal takeover of local authority and local law enforcement.

So what is your reaction to what is going on in my hometown? Because I believe it is unconstitutional, and I believe the country needs government lawyers who aren't going to use the law as a smoke screen to justify this unconstitutional invasion over the objections of local officials.

Mr. HOVAKIMIAN. Senator, as I began my remarks, I noted that the situation in Portland is volatile, and I do extend my, you know, my best wishes to your constituents there. I have to say—

Senator WYDEN. My constituents are interested in more than your best wishes. What they want to know is that these forces can't go wherever they want over the objections of local authorities. That's what they want.

Mr. HOVAKIMIAN. Senator, the Department is committed to enforcing the law, while respecting and promoting the Constitutional rights of all people. On this issue specifically—

Senator WYDEN. I will tell you, the Department is throwing the law in the trash can. This morning, a Republican, the first secretary of the Department, said there is no way, no way he would have allowed, as a governor, the Federal Government to do what is going on in my city.

And you seem to want to extend best wishes to us and the like, and you're for the First Amendment. But I don't see any evidence

that you're going to do anything different. And I'd like to hear that you're going to.

So let me ask you one other question. Do you believe that unidentified Federal forces in unmarked cars can drive around seizing and detaining American citizens? That's a yes or no question.

Mr. HOVAKIMIAN. Senator, I believe in fully protecting the Constitutional rights of American citizens. And I've done that as a prosecutor. I've done that as a DOJ official. And—

Senator WYDEN. That's not what I'm asking. What I'm asking is, do you believe that unidentified Federal forces in unmarked cars can drive around seizing, detaining—seizing and detaining American citizens? That's a yes or no.

Mr. HOVAKIMIAN. Senator, generally—

Vice Chairman WARNER. Can you lean in a little bit more.

Mr. HOVAKIMIAN. Yes, Vice Chairman. My apologies.

Generally speaking, Senator, it's a great idea to identify oneself as a Federal law enforcement officer. I will say that the Department takes the Constitutional rights of Americans very seriously. As you know, the state AG in Oregon has sued the Federal Government. And, as is common, the Federal Programs Branch of the Civil Division of the Department is defending the lawsuit. The marshals are named defendant in the lawsuit. So at this point, there is ongoing litigation and some of the matters you're asking about cut to the heart of that litigation.

Senator WYDEN. That that, again, is ducking the question. These are practices that are going on now over the objection of local officials, and you have equivocated.

I consider these practices a massive invasion of the Constitutional rights of my constituents. I think that these practices are essentially fascist practices that, until recently, would have been unthinkable in America. And your refusal to condemn what is going on in my hometown—and people know all about it. The first Secretary of Homeland Security was very clear about it this morning. These positions are not consistent with the position to which you've been nominated.

Mr. Chairman, I intend to oppose his nomination.

Chairman RUBIO. Senator Heinrich.

Senator HEINRICH. Thank you, Chairman.

Mr. Hovakimian, in your current capacity at the Justice Department, I have a few questions that I'd like you to take for the record. You don't have to answer them today. They're fairly detailed, but I would appreciate a quick response.

The U.S. Attorney for New Mexico told me yesterday that Federal law enforcement agents will be sent to Albuquerque as part of the expansion of Operation Legend. The Justice Department states on its website that this initiative is intended to, quote, fight this sudden surge of violent crime. But as Albuquerque Police Chief Geier has pointed out, homicides are down this year, and protests in our city have been mostly peaceful. The DOJ initiative is also intended to work in conjunction with state and local law enforcement officials, and yet the mayor and the chief of police were not consulted.

I'd like to ask you: why now? What is the driving reason to send these agents to Albuquerque at this time? How is this initiative dif-

ferent than last year's Operation Relentless Pursuit? How will DOJ work with city officials such as the chief of police and the mayor to ensure cooperation, coordination, and some legal guardrails? Because we don't want the Portland model coming to the city of Albuquerque, frankly. And finally, what will this operation actually look like on the ground? If it's not intended to monitor protests, how exactly will these forces be utilized?

Now, I'd like to get to some questions that I would appreciate your answers to today. On June 26th, the President issued an executive order on protecting American monuments, memorials, and statues and combating recent criminal violence. According to two public reports this week, an unclassified Department of Homeland Security memo, which we have—which I have requested—authorizes DHS Office of Intelligence and Analysis to engage in intelligence gathering against ordinary American citizens who may be participating in local protests.

I'd like to ask you if you believe that the threat to property damage to monuments and statues specifically is a significant enough homeland security threat, not a local law enforcement threat, but homeland security threat, to warrant intelligence analysis and collection by Federal agents.

Mr. HOVAKIMIAN. Senator, with respect, I can't necessarily speak to what the Department of Homeland Security is or isn't doing. I can say that American's right to free speech and free expression, including free speech and free expression around statues and monuments, is of paramount importance to me. Those are bedrock principles.

Senator HEINRICH. In your personal judgment, do you believe that the threat of vandalism to particular monuments or statues rises to the level of necessitating intelligence analysis, especially given the fact that that comes at an opportunity cost if we're gathering information on protesters at monument sites, we're not gathering information about white supremacy groups or other groups that have actually—that have threatened violence.

Mr. HOVAKIMIAN. Senator, I understand the question. My goal always as a lawyer, both in my current job and if confirmed in my future job, would be to provide considered legal judgments. And to do that, I need all the facts on the ground. You know, it's difficult to opine categorically on hypotheticals, because—

Senator HEINRICH. It seems to me, though, you answered pretty straightforwardly Senator Feinstein's question about Title 50 authorities. And this is the next logical step. This is the Title 50 authorities in action, right? So why is it hard to connect the dots for you between those two things?

Mr. HOVAKIMIAN. Senator, there's a lot happening in the country right now. And there's a lot of facts on the ground in different cities. And your question was specifically about vandalism near monuments and statues.

Senator HEINRICH. My question is specifically about gathering intelligence about protesters.

Mr. HOVAKIMIAN. Senator, generally speaking, intelligence should not be gathered against Americans who are engaged in activity entirely protected by the First Amendment.

Senator HEINRICH. Thank you, Mr. Chairman.

Chairman RUBIO. Senator Risch.

Senator RISCH. Thank you, Mr. Chairman. I've got questions, but I'm going to reserve them for a closed session. They're not matters to be taken out in public.

Chairman RUBIO. Okay. Thank you.

Senator HARRIS.

Senator HARRIS. Thank you, Mr. Chairman.

In your current role at the Department of Justice, have you reviewed, approved, or supervised the deployment of Federal law enforcement officers to these protests?

Mr. HOVAKIMIAN. The deployment of Federal law enforcement officers—

Senator HARRIS. Well, let's not parse words. Were you in any way involved in the decision to send Federal officers to these locations?

Mr. HOVAKIMIAN. Senator, I'm a current DOJ official. There's a lot happening right now and—

Senator HARRIS. Please, if you can do a yes or no answer, that would be helpful.

Mr. HOVAKIMIAN. Senator, I advise the Attorney General and the Deputy Attorney General on any number of topics.

Senator HARRIS. Have you advised on this topic? Let's focus on the subject that I've raised.

Mr. HOVAKIMIAN. Yes, Senator. I have sightlines into a great many of the things DOJ does. This does not happen to be one of them. It's, you know—

Senator HARRIS. So you were not involved in any of these decisions. Is that what you're saying?

Mr. HOVAKIMIAN. Well, like any major big organization, there's a division of labor at the Department.

Senator HARRIS. I'm aware of that, Sir. But it's a very specific question I'm asking you.

Were you involved in any way in the decision to deploy Federal law enforcement officers to the various cities we've been discussing during the protests?

Mr. HOVAKIMIAN. Senator, my understanding is that DOJ's involvement has been relatively limited vis-à-vis that of DHS.

Senator HARRIS. Can you answer the question: were you involved or not?

Mr. HOVAKIMIAN. Senator, there are ongoing law enforcement operations around the country, and you know, to protect the—

Senator HARRIS. So you're not going to answer this question directly, Sir? I can move on if you're not going to. Or you can answer the question.

Mr. HOVAKIMIAN. I'm attempting to answer the question, Senator.

Senator HARRIS. Were you involved?

Mr. HOVAKIMIAN. Senator, I advise the Attorney General and the Deputy Attorney General on everything under the sun. And I always bring to the table respect for Constitutional rights and the First Amendment. That is something I turn to frequently when advising them.

Senator HARRIS. Were you involved in the decision to remove peaceful protesters that were gathered in front of the White House? The incident in Lafayette Square.

Mr. HOVAKIMIAN. In early June?

Senator HARRIS. Yes.

Mr. HOVAKIMIAN. Senator, I don't know anything about who made that decision or when it was done.

Senator HARRIS. So you were not involved?

Mr. HOVAKIMIAN. Well, I just don't know who made the decision and what happened.

Senator HARRIS. Were you involved in that decision?

Mr. HOVAKIMIAN. Senator, I think I had a question for the record prehearing on that topic and I answered, no, I was not.

Senator HARRIS. And press reports indicate in June that DOJ granted the DEA extensive new authority to conduct covert surveillance. I think that's what my colleague was speaking about earlier. Were you involved in the decision to grant these new authorities to DEA?

Mr. HOVAKIMIAN. Senator, I'm not entirely sure. I know I got some questions for the record on that, prehearing also.

Senator HARRIS. You're not sure if you were involved?

Mr. HOVAKIMIAN. No, no, I'm not sure exactly what it is that you're referring to. DEA is a Federal law enforcement agency. And under the United States Code, there are delegations that are available to be made. I'm just giving you my—

Senator HARRIS. Were you involved in that decision?

Mr. HOVAKIMIAN. I'm just giving you my understanding of the law. Again, I have sightlines into a great number of things DOJ does. This, generally speaking, is not one of them.

Senator HARRIS. In your role at DOJ, were you involved in any manner in the decision to fire Geoffrey Berman?

Mr. HOVAKIMIAN. No. Geoff Berman—

Senator HARRIS. You were not?

Mr. HOVAKIMIAN. Geoff Berman was the U.S. Attorney up in New York. I knew Geoff Berman. I had worked with him on a number of things. The Department has made statements on that and those will speak for themselves.

Senator HARRIS. The previous ODNI General Counsel consulted with the Department of Justice regarding a whistleblower complaint that had been filed with the Intelligence Community's Inspector General.

In your capacity at DOJ, did you have any awareness of this whistleblower complaint? And the question of whether it should be shared with Congress?

Mr. HOVAKIMIAN. Senator, you're referring to the whistleblower complaint from the late summer and early fall of last year that resulted in all of the proceedings. Is that right?

Senator HARRIS. Right. Were you involved in that decision in any way?

Mr. HOVAKIMIAN. Senator, that was something that occurred, and the Nation watched it. You know—

Senator HARRIS. Sir, were you involved in that decision in any way?

Mr. HOVAKIMIAN. In what decision precisely, Senator?

Senator HARRIS. The decision to not share the whistleblower complaint with Congress.

Mr. HOVAKIMIAN. Senator, my understanding was that the whistleblower complaint was shared with Congress at some point.

Senator HARRIS. At some point, but there was also at some point a decision not to share it with Congress.

Mr. HOVAKIMIAN. Oh.

Senator HARRIS. And my question to you, Sir, is, were you involved in that decision?

Mr. HOVAKIMIAN. Well, I guess my point in bringing that up, Senator, is that I'm not exactly sure which decision you're referring to because I don't know who made it, if it was even made. I don't know that there was a decision made not to share it with Congress because it was, in fact, shared with Congress.

Senator HARRIS. And do you have any information, or were you involved in any way in any of the decisions that were made around the Department of Justice's decision in the Michael Flynn case or the Stone case?

Mr. HOVAKIMIAN. Senator, the matter involving General Flynn is in active litigation. It's before the D.C. Circuit en banc.

Senator HARRIS. So were you involved in that decision in any way?

Mr. HOVAKIMIAN. Well, Senator, as a lawyer and an official at DOJ, it's very difficult for me to comment on an ongoing matter.

Senator HARRIS. What about the Stone case?

Mr. HOVAKIMIAN. Senator, Roger Stone—that matter was litigated over the course of years. The Department took positions in court filings.

Senator HARRIS. Were you involved in that decision?

Mr. HOVAKIMIAN. The Attorney General has made public statements about that case, and I will allow those to speak for themselves.

Senator HARRIS. Thank you, Mr. Chairman. My time is up.

Chairman RUBIO. Thank you.

Since I deferred my questions to the end, I have three.

Let me start with Mr. Miller. You know, the NCTC has an arrangement in which the major—a lot of its workload is taken up by detailees from other agencies, in an era in which increasingly our foreign policy and therefore our intelligence work and frankly, multiple areas of U.S. policy, including geopolitics, trade, commerce, diplomacy, are increasingly focused on China and Russia and Iran and North Korea.

And the concern, of course, is that even as we focus on these things, and rightfully so, that it could somehow detract from the role of—or the importance of—counterterrorism, which remains an active threat and in many ways has metastasized and moved into different theaters.

What is your view of this arrangement in which the NCTC relies—the counterterrorism mandate relies heavily on detailees from other agencies whose increased workload in these other four areas, you know, great power competition, the like, could potentially place a strain on our ability to focus on the counterterror mission?

Mr. MILLER. Thank you, Acting Chairman Rubio. Great question. I really think the model works when resources are bountiful, and

everyone is committed to the mission. I think it's something that the beauty of that model was you were constantly rotating in new folks with new views, and you kept a degree of energy and individual thinking going.

My gut instinct right now is we need to relook at that because I'm concerned, as you note, that as resources get further constrained or other priorities take the fore, that we really need to think if that's the right model because I've done this one before where you're trying to get borrowed labor and wow, it works great. But then, until it doesn't. And I think we might be kind of getting to that point, Sir.

Chairman RUBIO. And just to be clear, it's not the aspect of having new people come into the role. It is the question of numbers and workload. If an agency is being told, we need more product, we need more work, we need more focus on North Korea, they may not be able to part with detailees is at the same scale than in the past. The bigger concern is the numbers, not necessarily the fact that it's new people rotating in.

Mr. MILLER. Yes, Senator. I also think the National Counterterrorism Center is doing some cutting-edge work on using artificial intelligence and machine learning. I think we're kind of baby steps right now. We're a long way as a government, writ large, to exploiting those. But I'm really hopeful that they continue to be best in class at that and figure out whether there are efficiencies that can be gained, because that's the goal in this. But right now, I completely hear what you're saying, and I'm going to look at that really closely, if confirmed. And am concerned as well.

Chairman RUBIO. We're in this unprecedented situation where certain Foreign Intelligence Surveillance Act, FISA authorities, expired in March, and it's leading the Intelligence Community and the Department of Justice without FISA business records, lone wolf roving surveillance authorities. This question really is for both of you.

What concerns do you have with the current expired status of these authorities?

Mr. MILLER. Thank you, Acting Chairman Rubio, for another kind of really important question.

I'm not an expert on 702 and FISA. I will say this from an operations standpoint better. I think this is—one of the things we learned from the horrendous attacks in 2001 is, typically speaking, it's better to have tools and not need them than need and not have after the fact. Once again, I'm not an expert on FISA. I understand the broad outlines, and more tools are better, generally speaking, as long as they comport with the Constitution, with our laws and with, you know, AG guidelines.

Chairman RUBIO. Yeah. And more specifically, my question is not so much about the legal arguments surrounding it or the political arguments, but whether it's an impediment to our counterterrorism, the current status, if it carries forward, whether that's an impediment to the counterterror mission. Your answer is obviously the more tools, the better. But how critical are those tools, or have they been historically, in your view?

Mr. MILLER. Senator, I know the National Security Agency has some thoughts on that and, of course, support the operational ele-

ments. However, once again, I can't speak specifically right now to what the impacts are on our intelligence take in regard to counterterrorism. But certainly, more is better. And I'll look at that if confirmed, Sir.

Chairman RUBIO. Mr. Hovakimian, do you have any insights?

Mr. HOVAKIMIAN. Senator, yes. The provisions of FISA that expired on March 15th of 2020 have been very important and useful to law enforcement and to the national security community. And as Mr. Miller said, it's always better to have more tools and not necessarily need to use them.

One of those provisions, in fact, I think DIC has said has never been used in history, but that doesn't mean there aren't a set of circumstances under which it would be useful. So if confirmed, I look forward to collaborating with this Committee and with the legislative affairs professionals across the government to reauthorize those provisions.

Chairman RUBIO. All right. We're going to follow up if any Members have any questions. I know the Vice Chairman has one.

Vice Chairman WARNER. Yes. Mr. Hovakimian, I'm pretty disappointed about how you answered a number of my colleagues' questions or failed to answer. But the one that really bothered me the most, because we talked about it—

Mr. HOVAKIMIAN. Yes, Sir.

Vice Chairman WARNER [continuing]. Before Senator Harris came in, was we had a discussion during my questions about the OLC's opinion that ruled, I think, totally and appropriately, that the OLC could, in a sense, intervene—stop the IG from making a report to Congress. We talked about that. You said you thought it was very important that Congress gets the IG's report and that you left me with the impression that you thought that was inappropriate. And yet you wouldn't even respond to Senator Harris, whether you were involved in that matter at all and acted like you didn't know what she was talking about.

Mr. HOVAKIMIAN. Yes, Senator, I think—sorry for any misunderstanding. I think what I was referring to was when the decision was made not to send the report over. That didn't compute for me because, of course, the complaint did eventually make its way over.

Vice Chairman WARNER. The complaint got over, but not through appropriate channels, and was stopped. And the Inspector General stopped from continuing the investigation that he was rightfully required to do by law. And so if you're not willing to answer her, will you answer me?

Were you involved in that in any way?

Mr. HOVAKIMIAN. Senator, I was not. That decision was made by the Office of Legal Counsel. It was a considered—

Vice Chairman WARNER. In your effort of having sight lines into all different things the Attorney General is involved in, were you involved in that through your various sight lines?

Mr. HOVAKIMIAN. Senator, I'm not quite sure what you mean. I was at—

Vice Chairman WARNER. Sir, if you don't understand what I mean, then I'm not sure you're dealing with me or dealing with this Committee in an appropriate straight manner. I really enjoyed our conversation earlier. I think you are a bright young man, to

quote my colleague. But I would like to get a written response from you on this subject.

Mr. HOVAKIMIAN. Yes, Senator. I'm committed to ensuring the rights under the statute of all whistleblowers. I believe in it. I believe that whistleblowers serve an important role in the government. I believe Congress spoke to that. And, you know, I've worked with confidential informants as a prosecutor, and they are, in many ways, like whistleblowers. I respect whistleblowers and their statutory rights. And if confirmed, I will do my very best to respect those rights as I always have in every position, including my positions at DOJ.

Vice Chairman WARNER. Thank you, Mr. Chairman.

Chairman RUBIO. I want to give you an opportunity because there was confusion, it appears, on your part about the question, so let me just try to ask it a different way.

I think the question at its core that I believe they're asking is obviously, as you have sight lines, you work in an office, you understand that different things are going on in different places. If I understand the question, and that may be what you want to respond to in writing, but as I understand the question is when the decision, whatever decision was made by the Office of Legal Counsel or the like, were you involved in that deliberative processing and giving legal advice as to what the outcome should be?

Mr. HOVAKIMIAN. No. No, Senator.

Vice Chairman WARNER. Can I amend?

Chairman RUBIO. Yes.

Vice Chairman WARNER. Mr. Chairman, I think that is right, and this is why you may want to take this for the record: my understanding was that you had OLC, I believe in some consultation with the Attorney General, reaching that conclusion, which then was referred to the IC, in a sense—the IG, I'm sorry—the IG Inspector General was then stopped from performing his duties, which at least some of us thought was in clear contradiction of the law. And I do recall the gentleman who had your position before, him coming in and trying to defend that because the ODNI GC tried to defend that, I thought unsuccessfully.

So the clarity here is not whether you are simply—obviously, OLC is not inside the DOJ's Office. But you have left me with the impression that you are avoiding answering directly Senator Harris' question. And if you were involved, particularly after I tried to pose questions on this matter about whistleblowers, you've left me with a very, very unsettled sense. So, whether you want to address it today or in writing—

Chairman RUBIO. It's a question, and I want to give you a chance to answer. You don't have to answer here. Maybe it would be better off in writing because the answer is complex.

But as I understand, the question is, to the extent the Department of Justice was involved in this matter and in reaching some conclusion and determination, was that a process that you were involved in helping reach that determination?

Mr. HOVAKIMIAN. Senator, I'd be happy to take the question for the record and do the best I can, parsing it out and answering it. I will say that there's an OLC opinion that is public. Its reasoning is out there. I am not an attorney who works in the Office of Legal

Counsel. I did not inject myself into their deliberations. I did not try to, you know, steer things one way or another. And I did not try to give legal advice on what that opinion should look like. But I will be happy to take the question for the record and to answer it the best I can.

Vice Chairman WARNER. And again, if you could just address both whether you were involved in or aware of these deliberations at DOJ in terms of consulting with the OLC.

Thank you, Mr. Chairman.

Chairman RUBIO. Anybody else? Senator Burr, did you have a follow-up?

Senator BURR. [Inaudible.]

Chairman RUBIO. Oh, okay.

Well, I want to thank you, everyone, for being here today.

For planning purposes, if any Members wish to submit questions for the record, which sounds like we're going to have some after today's hearing for either of the nominees, please do so by the close of business tomorrow. I think we know at least one of those questions.

Again, I want to thank everybody for being here. And with that, this meeting is adjourned.

[Whereupon, at 11:36 a.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: **Christopher Charles Miller**
OTHER NAMES USED: **None.**
2. DATE AND PLACE OF BIRTH: **15 October 1965, Platteville, Wisconsin**
CITIZENSHIP: **USA**
3. MARITAL STATUS: **Married**
4. SPOUSE'S NAME: **Kathryn Maag Miller**
5. SPOUSE'S MAIDEN NAME IF APPLICABLE: **Kathryn Elizabeth Maag**
6. NAMES AND AGES OF CHILDREN:

<u>NAME</u>	<u>AGE</u>
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INFORMATION REDACTED

7. EDUCATION SINCE HIGH SCHOOL:

<u>INSTITUTION</u>	<u>DATES ATTENDED</u>	<u>DEGREE RECEIVED</u>	<u>DATE OF DEGREE</u>
George Washington University	1983-1987	BA- History	December 1987
Naval War College 2001	2000-2001	MA- National Security Studies	June

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).

<u>EMPLOYER</u>	<u>POSITION/TITLE</u>	<u>LOCATION</u>	<u>DATES</u>
U.S. Army	Officer of Infantry & Special Forces	Various, Worldwide	1987-2014

Various defense contractors	Intelligence & Sensitive Special Operations Advisor	Pentagon	2014-2016
Dept of Defense (DoD)	Intelligence Oversight Officer	Pentagon	2016-2017
DoD- detailed to National Security Council	Senior Director & Special Assistant to the President for Counterterrorism and Transnational Threats	White House	2017- 2019
DoD	Deputy Assistant Secretary of Defense for Special Operations & Combatting Terrorism	Pentagon	2020 - 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).

All government experience listed in 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 my entire adult life working national security issues at all levels of the United States Government. During the course of my career as an Infantry Officer and Special Forces Operator, I received specialized training in, and became a recognized subject matter expert on, the collection, use, and oversight of intelligence at the tactical, operational, and strategic levels for counterterrorism operations. Additionally, as a policy-maker at the National Security Council and in the Department of Defense (DoD), I gained firsthand experience consuming intelligence, utilizing it to inform national security decisions, and helping shape key intelligence requirements for the United States' most pressing counterterrorism-related national security challenges.

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).

Army Reserve Officer Training Corps (ROTC) three-year scholarship awardee; ROTC distinguished graduate; Army Infantry Officer Basic Course honor graduate; Army Ranger School honor graduate and leadership award winner; Naval War College School of Command and Staff honor graduate; Army War College Fellow to the CIA; 3 x Bronze Star for combat service (not for valor); full panoply of military awards culminating with Legion of Merit. Presidential Unit Citation (an award presented to those of us who served with the Army's 5th Special Forces Group (Airborne) in 2001-2002 in Afghanistan).

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).

<u>ORGANIZATION</u>	<u>OFFICE HELD</u>	<u>DATES</u>
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None.

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

No.

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.

No.

- 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.

No.

- 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.

No.

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

No.

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.

None. 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 conflict 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.

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, if necessary. As a current federal employee, however, I do not believe I have any such business arrangements that would require severance.

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.

As a current federal employee, I have no outside business connections or arrangements to sever.

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.

I currently have no plans nor any agreements with any prospective employer.

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.

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.

Yes, my spouse is employed as an office manager for a health and environment lobbying organization. Her employment is unrelated to intelligence and national security issues.

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.

<u>NAME OF ENTITY</u>	<u>POSITION</u>	<u>DATES HELD</u>	<u>SELF OR SPOUSE</u>
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None.

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.)

<u>DESCRIPTION OF PROPERTY</u>	<u>VALUE</u>	<u>METHOD OF VALUATION</u>
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Please see my OGE Form 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.)

<u>NATURE OF OBLIGATION</u>	<u>NAME OF OBLIGEE</u>	<u>AMOUNT</u>
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None.

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.

Virginia.

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 not an attorney, accountant, or other professional.

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.

I do not believe I have any such holdings. However, if confirmed, I will execute and abide by an agreement with the ODNI to avoid any conflict of interest under the applicable statutes and regulations.

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?

I filed once in 2019 while at the National Security Council and once in 2020 in my current position. Yes, I will provide copies of any requested documents.

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.

Yes, I have completed polygraph examinations as a requirement to serve in various capacities in the DoD and the Intelligence Community.

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 DIRECTOR OF THE NATIONAL COUNTERTERRORISM CENTER AND THE INTELLIGENCE COMMITTEES OF THE CONGRESS, RESPECTIVELY, IN THE OVERSIGHT PROCESS.

Congressional Oversight is the essence of the Founding Father's vision of our Republic to separate and balance powers. 50 USC 3091-93 requires the President, and by extension the Intelligence Community, to keep the congressional intelligence committees "fully and currently informed" of its activities. This requirement is fulfilled through a variety of means, including annual budget submissions, hearings, briefs, and both formal and informal congressional notifications. The Congress, led by the Senate and House Intelligence Committees, oversee and examine the intelligence and intelligence-related programs and activities of the U.S. Government to ensure those activities conform with the Constitution and U.S. law. If confirmed, I would fully support the congressional intelligence committees' oversight of any intelligence activities under my responsibility through the proper reporting requirements so established and consistent engagement with the committees.

49. EXPLAIN YOUR UNDERSTANDING OF THE RESPONSIBILITIES OF THE DIRECTOR OF THE NATIONAL COUNTERTERRORISM CENTER.

The Director is a servant of the American people, requiring the effective and efficient use of the resources provided by them. The Director's responsibilities are detailed in Title 50 USC 3056: "National Counterterrorism Center." Among its provisions, the law directs that NCTC:

- Serve as the primary US Government entity for analyzing and integrating intelligence possessed or acquired by the US Government pertaining to terrorism and counterterrorism, except those circumstances related exclusively to domestic terrorism and counterterrorism;
- Conduct strategic operational planning for counterterrorism activities, including the integration of related elements of national power including intelligence, military, homeland security, diplomatic, financial and law enforcement activities within and among partner agencies;
- Share and provide access to all-source intelligence support necessary to execute counterterrorism plans or to perform independent alternative analysis;
- Administer on behalf of the US Government, a central and shared knowledge repository on known or suspected terrorists, as well as their goals, strategies, capabilities, and networks.

In addition, the law also directs the NCTC Director to advise the Director of National Intelligence on the extent to which program and budget recommendations for counterterrorism activities for departments, agencies, and elements of the US Government conform to the priorities set forth by the President.

TO THE CHAIRMAN, SELECT COMMITTEE ON INTELLIGENCE:

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

SIGNATURE OF CHRISTOPHER C. MILLER

Date: June 5, 2020

AFFIRMATION

I, **CHRISTOPHER C. MILLER**, DO SWEAR THAT THE ANSWERS I HAVE PROVIDED TO THIS QUESTIONNAIRE ARE ACCURATE AND COMPLETE.

June 5, 2020
(Date)

SIGNATURE OF CHRISTOPHER C. MILLER

SIGNATURE OF NOTARY

SELECT COMMITTEE ON
INTELLIGENCE

UNITED STATES SENATE



**Additional Prehearing Questions
for
Christopher C. Miller
upon his nomination to be the Director of the
National Counterterrorism Center**

Responsibilities of the Director of the National Counterterrorism Center

The National Security Intelligence Reform Act of 2004 created the National Counterterrorism Center (NCTC) and the position of Director of NCTC.

QUESTION 1: What is your understanding of the unique role of NCTC within the Intelligence Community (IC)?

ANSWER: The National Counterterrorism Center (NCTC) plays an important role within the Intelligence Community (IC) in securing the homeland, and is critical to the U.S. Government's ability to counter terrorism. The Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA) serves as the statutory basis for NCTC's unique role within the IC, and directs that NCTC, among other functions:

- Serve as the primary organization of the U.S. Government for analyzing and integrating all intelligence possessed or acquired by the U.S. Government pertaining to terrorism and counterterrorism (CT), excepting exclusively domestic terrorists and domestic CT;
- Conduct strategic operational planning for CT activities, integrating all instruments of national power, including diplomatic, financial, military, intelligence, homeland security, and law enforcement activities within and among agencies;
- Ensure agencies have appropriate access to and receive all-source intelligence support necessary to execute CT plans or perform independent alternative analysis; and
- Serve as the central and shared knowledge bank on known or suspected terrorists (KSTs) and international terror groups, as well as their goals, strategies, capabilities, and networks of contacts and support.

The law also directs the Director of NCTC to advise the Director of National Intelligence (DNI) on the extent to which the CT program recommendations and budget proposals of the departments, agencies, and elements of the U.S. Government conform to the priorities established by the President. NCTC plays a unique, cross-government role in strategic operational planning.

As the only federal office to have access to all terrorism-related information—both foreign and domestic—NCTC uses this information to conduct all-source analysis and maintain the database that underpins all government watchlisting. No other CT component of the IC has this scope of statutorily-mandated information access and responsibilities.

QUESTION 2: What is your understanding of the specific statutory responsibilities of the Director?

ANSWER: My understanding aligns closely with the way past Directors have described their responsibilities in confirmation hearings, as set out in Section 1021 of IRTPA. The law requires the Director to report to the President of the United States when exercising the Center’s whole-of-government strategic operational planning functions, and to the DNI for all other activities and functions. NCTC’s mission, and therefore the mission of its Director, is focused on the prevention, detection, and disruption of acts of terrorism directed against the United States and its interests both at home and abroad.

NCTC and its Director are responsible for ensuring that federal departments and agencies are provided with all-source intelligence support to execute assigned CT activities. Under the IRTPA, NCTC is the primary organization in the federal government for analyzing and integrating all intelligence pertaining to terrorism and CT. NCTC’s unique statutory authorities allow its personnel to draw upon both foreign and domestic intelligence to produce integrated analysis. In addition to supporting federal departments and agencies in the Executive Branch, NCTC also supports Congress with information and analysis, and—in close partnership with FBI and DHS—provides terrorism information and analysis to state, local, tribal, and territorial partners. NCTC also provides support to FBI and DHS on purely domestic terrorism issues when assistance is requested.

By law, the Center serves as the U.S. Government’s central and shared knowledge bank on known and suspected terrorists and international terror groups as well as their contacts and support networks. In order to accomplish this mission, NCTC designs, operates, and maintains a classified database known as the Terrorism Identities Datamart Environment (TIDE). Following watchlisting guidance developed and approved by the relevant departments and agencies, NCTC provides identifying information on a subset of TIDE identities that includes KSTs to the

FBI's Terrorist Screening Center to support watchlisting and screening by other federal departments and agencies.

QUESTION 3: Have you discussed with Director Ratcliffe his expectations of you, if confirmed as Director, and his expectations of NCTC as a whole? If so, please describe these expectations.

ANSWER: I met with DNI Ratcliffe, and we discussed, in general, his expectations for me and for NCTC. We share an enormous gratitude for the opportunity to serve the Nation, and discussed the solemn obligation of leaders of the IC to provide policy makers the highest quality analysis and assessments in today's enormously complex and challenging international security environment. First and foremost, we must focus on guaranteeing that the intelligence professionals of the IC are recognized and rewarded, since the foundation of the IC is the extraordinary talent and selfless service of its people. Regarding NCTC specifically, DNI Ratcliffe noted that our struggle against international terrorism remains a critical national security priority and, if confirmed, he would rely on me to provide unbiased assessments and input about ways to enhance the proven capabilities of NCTC to continue to protect the United States from strategic surprise. He also encouraged me to focus on implementing cutting edge technological solutions to transform the watchlisting and intelligence production process.

QUESTION 4: How do you view your role as NCTC Director as compared to the Director of CIA's CTMC?

ANSWER: As prescribed in statute and based on my perspective during my time on the National Security Staff, NCTC and the CIA Counterterrorism Mission Center (CTMC) enjoy unique and complementary roles. The Director of CTMC has responsibility to execute CIA's CT mission on behalf of the Director of CIA including collection and analysis of foreign intelligence, intelligence production, and field operations. CIA's analysis reflects CIA's perspective. If confirmed, my role as the Director of NCTC, as prescribed in the IRTPA, would be to integrate and analyze all CT intelligence—foreign and domestic—and to ensure that NCTC's analysis reflects coordinated perspectives from the broader CT intelligence community. In addition, I understand that NCTC is responsible for ensuring that the right information gets to intelligence consumers so that they can perform their missions. As the CT mission manager within the IC, I would be responsible to ensure that overall coordination, collaboration, and efficient use of

resources occurs throughout the community. Finally, the NCTC Director has the unique role of performing strategic operational planning for the whole of the U.S. CT community in support of the President through the National Security Council Staff.

NCTC Mission

NCTC was designed to serve as the primary organization in the U.S. Government for integrating and analyzing all intelligence pertaining to terrorism and counterterrorism and to conduct strategic operational planning by integrating all instruments of national power.

QUESTION 5: What is your assessment of NCTC's current strengths and weaknesses?

ANSWER: If confirmed, I expect to fully assess on an ongoing basis NCTC's strengths and weaknesses as I work with my leadership team to direct its future course.

It's been my experience that NCTC's greatest strengths are its dedicated, integrated, diverse workforce and its unique access to terrorism-related data. NCTC's workforce is drawn from across the IC and broader interagency, which creates a collaborative, inclusive atmosphere of professionals with varying experiences and expertise. Additionally, NCTC's strong relationship with IC counterparts and its position as the only IC entity with access to all foreign and domestic terrorism data streams allows this unique workforce the ability to provide comprehensive, coordinated all-source analysis. I would also note that NCTC does not engage in, or direct, operations, and I see this as a strength that allows NCTC a neutral perspective for CT analysis and strategic operational planning for the IC.

One area in which the government can always do better is management and full exploitation of the data to which it has access. To fulfill its mission, I believe NCTC must continue to invest in technology-based tools to power more comprehensive data analysis, increase the speed of information sharing and collaboration, and automate production workflows. Such new technology and data analytic tools will also enhance IC efficiencies and offsets for competing priorities.

Finally, I believe that as the public face of the United States' CT efforts, I can

assist in providing the American people information about our ongoing campaign against those international terrorist groups with whom we are at war. I think it is important that the American people are aware of the dramatic successes we have had in diminishing these terrorist groups due to the remarkable dedication of CT professionals.

QUESTION 6: What do you believe are the greatest challenges facing NCTC?

ANSWER: From my perspective, NCTC's greatest challenge is maintaining the ability to innovate and adapt as quickly as our adversaries. Terrorists continue to make technological advances in fields like encrypted communications and use of social media that make it more difficult to "connect the dots" in identifying and enhancing our understanding of terrorist communication and networks.

I believe one way to stay ahead is to maintain a diverse and skilled workforce including data scientists and making smart and strategic decisions on sourcing new technology. I understand NCTC is taking steps to further ensure its readiness to meet these challenges as the Administration assesses the renewed importance of allocating resources to address great power competition. If confirmed, I look forward to working with NCTC staff to advance the Center's ability to meet its "no fail" mission.

QUESTION 7: Please explain your vision for NCTC, including your views on its current and future priorities and what the organization should look like five years from now.

ANSWER: In my view, NCTC has made significant progress in fulfilling the vision set out by the 9/11 Commission and Congress in 2004. To ensure NCTC preserves the progress it has made, and to position NCTC for the complex, evolving, and diverse threats we face, it must continue to prioritize its people, its partnerships, information sharing, and data management. If confirmed, I will seek to build on the successes of my predecessors in each of these foundational areas to evolve and improve the Center's capacity to accomplish mission objectives.

NCTC's ability to succeed in its mission goals correlates directly to its ability to continue recruiting and retaining the best and the brightest. If confirmed, I will continue to focus on recruiting qualified individuals, from within both the IC and the private sector. I will also ensure the NCTC management team seeks new ways

to help our workforce grow, develop, and continue contributing to our nation's CT efforts.

Next, I've been impressed with the robust partnerships NCTC has with foreign partners as well as state, local, tribal, territorial and private sector partners. If we are to sustain gains made over the past 16 years reducing the threat of terrorism to the United States and our interests, we must not lose sight of the importance of CT partner relationships, both at home and abroad. NCTC alone cannot eradicate terrorist threats, and if confirmed, I would seek to build on the success of my predecessors by seeking additional ways to deepen relationships and collaborate with key CT partners and stakeholders.

Although NCTC has matured greatly and largely embraced its position as a recognized leader in our nation's CT efforts, we in the CT community continue to face new and difficult challenges. In today's information age, complex data management and technical challenges make information analysis and sharing increasingly difficult. The collection, use, and management of new types and greater quantities of data remains a challenge across the federal government - and NCTC is no exception. NCTC's watchlisting, screening, and all-source analytic efforts rely on modern, cutting-edge tools and clear, consistent data management policies to keep pace with the evolving terrorist threats of today. If confirmed, I would work to ensure NCTC retains a cadre of highly-skilled, technology-focused professionals like data scientists, who can help bring valuable knowledge about the challenges of rapidly evolving technology and its impact on our ability to analyze and manage CT data.

More broadly, it is important to note that the terrorism threat we face has evolved significantly since NCTC's establishment. Today, the reduced capacity of many prominent terrorist groups and resurgence of threats from prominent state actors is causing many in national security circles to reexamine national security priorities. If confirmed, I will ensure that NCTC serves as an honest broker in responsibly coordinating the CT enterprise's shift to support a national security strategy that focuses on meeting the challenges of state competitors while maintaining the ability to protect the American homeland and people from terrorist threats.

If the threat of terrorism to the United States and our interests at home and abroad remains elevated over the next five years, I envision NCTC will further solidify its position as the leader and integrator of the national CT effort, with sustained focus

on achievements in recruiting and retaining personnel, developing partnerships, and the “big data” arena that could be applied across other mission areas. NCTC would also play a well-established and central coordinating role in ensuring that the efforts of the CT enterprise support and are informed by broader national security and foreign policy aims.

Having said that, the status quo is not the only option. The war against Islamist fundamentalist terrorist groups, which NCTC was structured to lead since its creation, is indeed a generational struggle – but it is not a multi-generational one. I believe we are nearing the end of that generation. My goal is to finish that fight and help NCTC translate the remarkable tradecraft, process improvements, and coordination procedures into a model for countering other transnational security threats. If the United States is truly successful in eliminating terrorist threats to the American way of life over the next five years, NCTC must evolve to fit the size and scale of its new and enduring CT mission. If confirmed, I intend to assess our progress against the threat landscape, and foster a robust and substantive discussion about how to apply lessons learned to the new threats we face today.

QUESTION 8: What specific benchmarks should be used to assess NCTC’s performance?

ANSWER: NCTC is assessed on its most important metric every single day, and the “score card” is binary: success is preventing strategic surprise by terrorist groups and not allowing terrorist attacks to affect our way of life.

Recognizing we fight a thoughtful and adaptive enemy that is constantly seeking ways to gain advantage, NCTC should also be assessed on its ability to posture the U.S. Government to respond effectively to attacks with the full weight and power of the United States. I understand that in its role as the CT mission manager, NCTC uses several benchmarks to assess progress for the IC and these can, at least in part, be applied to measure NCTC’s progress and complement internal Center benchmarks.

Some of these benchmarks include evaluating the IC’s progress against high priority CT intelligence gaps and customer satisfaction with overall CT intelligence.

NCTC hosts experts at the end of each fiscal year to identify and develop CT

priority intelligence gaps, which are topics that deserve particular analytic attention during the course of the year, and measures IC progress to fill these gaps. NCTC also annually surveys a broad range of customers from five customer segments—DoD/Warfighter, Homeland Security, Law Enforcement, Policy and non-Departmental Intelligence—to determine its satisfaction with CT intelligence support.

These metrics combined with internal performance assessments of NCTC’s support to key customer needs in counterterrorism intelligence, terrorism identities intelligence, and situational awareness services and readership and feedback analytics from NCTC products online through its “Current” portal, also provide a useful “scorecards” for the Center.

QUESTION 9: What is your assessment of how well NCTC is fulfilling its mission as mandated by the IRTPA to serve as the “primary organization” in the U.S. Government for analyzing and integrating all intelligence possessed or acquired by the U.S. Government pertaining to terrorism and counterterrorism, excepting intelligence pertaining exclusively to domestic terrorists and domestic counterterrorism?

ANSWER: NCTC has made significant progress in fulfilling the vision set out by the 9/11 Commission and Congress in 2004, and I believe that NCTC has become a recognized leader in the CT community. NCTC’s role as the “primary organization” in the U.S. Government for analyzing and integrating international and transnational terrorism information, and its corresponding responsibility to ensure that agencies have appropriate all-source intelligence support, are central to the CT enterprise’s ability to protect the homeland. NCTC has come a long way in integrating CT intelligence through strong partnerships, vision, and determination. That said, work to fulfill a mission so immense and significant is never done and there is always room for innovation, creativity, and greater efficiency and effectiveness. If confirmed, ensuring NCTC is best equipped to fulfill this mission will be among my chief priorities.

Mission Manager

QUESTION 10: As NCTC Director you will also serve as the CT Mission Manager.

- a. What changes in authorities or resources do you believe should be made to make the CT enterprise more effective and efficient?

ANSWER: I am not immediately aware of any need for major changes with regard to resources or authorities. If confirmed, I would conduct a more detailed assessment of priorities, policy, and resource allocation across the enterprise, and report back with any findings.

- b. What more do you believe needs to be done to reduce duplication in analysis between NCTC, CTMC, and other members of the CT community?

ANSWER: If confirmed, in my role as the CT mission manager, I would be responsible for ensuring that overall coordination, collaboration, and efficient use of resources occurs throughout the community. I would continue the efforts started by Director Maguire and Acting Director Travers to diligently assess duplication of effort in analysis and production and, as needed, identify ways to best harness the unique contributions of each member of the CT community in intelligence analysis and production.

Directorate of Strategic Operational Planning

QUESTION 11: The Directorate of Strategic Operational Planning often operates as an extension of the National Security Council. What are your views on DSOP's contributions to the NSC and the CT enterprise?

ANSWER: The Directorate of Strategic Operational Planning (DSOP) is a national treasure and one of the most innovative and capable organizations in the U.S. Government. In many ways, DSOP is an internal "think tank" and "consulting firm" for the CT enterprise. I had the distinct privilege of working directly with the Directorate of Strategic Operational Planning (DSOP) during my tenure on the National Security Council (NSC) Staff in 2018 and 2019, specifically in crafting the President's "National Strategy for Counterterrorism," and I saw first-hand the value-add that the relatively small office had to my office at the NSC and individual agencies within the CT Enterprise. They embody the "secret sauce" of NCTC by serving as an analytical, non-partisan, unbiased forum for solving the most intractable problems in the national security realm. DSOP's authorities and mission are unique within the national security community. The collection of ODNI cadre and detailees from across the IC and Policy community provide an

important service in drafting and coordinating interagency strategies and proposals for NSC consideration, directly supporting agencies in identifying and addressing implementation challenges to those strategies, and serving as honest brokers in conducting substantive and budget assessments of the CT enterprise.

Staffing

QUESTION 12: NCTC operates a joint manning model, taking in detailees from across the IC. Do you believe this model is still the best way to staff the Center?

ANSWER: I strongly believe that NCTC's staffing model helps drive its success. NCTC depends on the talent and expertise of officers from across the IC to accomplish its critical mission. Interagency officers facilitate the Center's ability to tie in seamlessly with CT partners, whether in a crisis, or in day to day coordination and operations. The regular rotation of talented, dedicated, CT-focused staff provides a regular influx of fresh perspective and opportunities for enhanced coordination with detailees' home agencies.

That said, I understand that in recent years, detailee numbers at NCTC have steadily declined, and this pattern is likely to continue as agencies increase staffing to competing priorities. While I remain committed to a robust detailee presence at NCTC, if confirmed, I will make it a priority to re-evaluate NCTC's manning model to ensure that the Center is well postured to accomplish its mission.

State and Local Governments

QUESTION 13: What is the role of NCTC in producing and disseminating intelligence for state, local, and tribal partners?

ANSWER: IRTPA established NCTC to ensure that agencies receive all-source intelligence support needed to execute their CT plans and that such agencies have access to and receive intelligence needed to accomplish their assigned activities. IRTPA also stipulates NCTC, in coordination with FBI and DHS, will produce and disseminate terrorism and CT intelligence for state, local, tribal, territorial and private sector partners (SLTTP).

NCTC's primary activities in identifying, producing, and disseminating relevant intelligence to these consumers are conducted through the Joint Counterterrorism

Assessment Team (JCAT), an organization staffed by NCTC, DHS, and FBI and located at NCTC. JCAT's mission is to improve information sharing by producing clear, relevant federally-coordinated threat information on significant international terrorism or terrorism-related events that have the potential to enhance local or regional public safety conditions in the United States. JCAT Fellows ensure terrorism-related information intended for SLTTP entities is presented in a usable format that is, to the extent possible, unclassified, to facilitate further dissemination. They also conduct outreach in coordination with Domestic Representatives placed across the United States and who serve as the front-line liaisons for NCTC through multi-faceted engagements with SLTTP partners. In FY2019, for example, NCTC's Domestic Representatives delivered more than 500 tailored briefings on a wide range of terrorism topics to thousands of SLTTP partners with roles in CT.

Separately, NCTC's Operations Center produces two situational awareness products for domestic first responders, international partners, and the private sector—the Unclassified//For Official Use Only (U//FOUO) Counterterrorism Weekly and the Unclassified Counterterrorism Digest. These products compile international and domestic news to provide a common threat picture of counterterrorism events from around the globe. The Center's Directorate of Intelligence also produces products at the FOUO and unclassified levels for state, local, and tribal partners, including the semi-annual magazine "Alliance" and for private sector partners, "The Beacon."

QUESTION 14: How is that role different than that of the FBI and the Department of Homeland Security?

ANSWER: The FBI and DHS have independent statutory missions to provide terrorism information directly to state, local, and tribal governments. In compliance with its statutory charter, the IRTPA, and the National Security Act of 1947, NCTC supports FBI and DHS in carrying out their missions. NCTC has access to the full range of U.S. Government CT intelligence to inform products for state, local, tribal, territorial and private sector customers, in support of FBI and DHS. As the primary organization in the U.S. Government for analyzing and integrating all intelligence possessed or acquired by our federal departments and agencies in regard to terrorism and counterterrorism, NCTC is uniquely qualified to ensure DHS and FBI have access to and receive all-source intelligence support to execute their missions.

QUESTION 15: What is your understanding of the amount and nature of cooperation among NCTC, FBI, and DHS?

ANSWER: I understand that NCTC works closely with DHS and FBI, on a daily basis, to support CT programs and collaborate on a range of terrorism-related intelligence production. For example, NCTC regularly co-authors intelligence assessments with FBI and DHS, particularly on threats to the U.S. Homeland; collaborates with DHS and FBI to develop whole-of-government CT plans, strategies, and assessments; and deploys representatives throughout the United States who work hand-in-hand with DHS and FBI field elements.

NCTC's Operations Center is collocated with FBI's CT Watch and the JCAT, and it hosts a Homeland desk staffed by specially-trained DHS officers knowledgeable of DHS resources and data. NCTC also integrates DHS and FBI officers into the Center and NCTC officers support DHS and FBI. This collocation of people, resources, and information ensures robust and continuous interaction, communication, and cooperation between NCTC, FBI, and DHS. Lastly, DHS and FBI have senior representatives assigned to NCTC, ensuring close coordination at the most senior levels.

QUESTION 16: If confirmed, what priority would you give coordination between these entities?

ANSWER: If confirmed, ensuring that NCTC, DHS, and FBI continue to work together to provide state, local, tribal, territorial and private sector partners with timely and accurate information on terrorism would be a top priority. These partners serve on the front lines of our CT efforts in the domestic space, and effective information and intelligence sharing with these partners enhances their ability to recognize and effectively respond to suspected terrorism and violent extremism activities, while simultaneously protecting our privacy and preserving our civil liberties.

Strategic Operational Planning

QUESTION 17: What unique role does strategic counterterrorism analysis conducted at NCTC play, as compared to the analysis produced by other components of the IC?

ANSWER: NCTC serves as the central and shared repository for all CT information within the U.S. Government. As such, it has an ability unique in the federal enterprise to analyze and integrate all sources of intelligence pertaining to terrorism and CT. NCTC coordinates all of its intelligence assessments with other IC partners, enabling its products to serve as a single voice that reflects the opinions of the entire CT community. And lastly, since it is not charged to collect intelligence or execute CT operational activities, NCTC is able to preserve analytic objectivity in its assessments.

QUESTION 18: To what extent does the Directorate of Strategic Operational Planning develop interagency plans for counterterrorism operations?

ANSWER: The Center's DSOP develops whole-of-government CT plans to engage in cross-agency collaboration as directed by the NSC to support policy implementation. NCTC plans address a variety of CT objectives to include regional and functional CT issues, such as terrorism prevention and weapons of mass destruction. The strategic operational planning process integrates all phases of the planning cycle—developing a plan, monitoring its implementation, and assessing its effectiveness and resource allocations—and creates communities of interest to coordinate and integrate implementation. DSOP-led plans and strategies generally incorporate all instruments of national power—which may include CT operations—as lines of effort within broader CT strategies and plans.

QUESTION 19: To what extent does the Directorate coordinate or integrate the strategic planning of components of the Intelligence Community, the Department of Defense, and other components of the U.S. Government?

ANSWER: When DSOP is designated as the lead planning entity by the NSC staff, DSOP staff coordinate with and incorporate the inputs of the intelligence, strategic planning, policy, and other components of U.S. Government departments and agencies. DSOP has engaged and involved more than 20 departments and agencies as it developed strategic operational plans in recent years, including IC elements, the Department of Defense, and organizations such as the Departments of Education and Health and Human Services that are not traditionally viewed as national security entities.

DSOP ensures representatives from all departments and agencies provide the

elements of national power that are necessary to achieve the objectives for a particular planning effort. Upon approval by the White House, DSOP-led strategies and plans help guide the implementation of departments' and agencies' CT plans and efforts. Once in effect, DSOP assesses progress against the goals and objectives of interagency plans as well as the extent to which resources are in place to achieve the effort.

QUESTION 20: Please describe your assessment of the challenge presented by this responsibility and what should be done to improve NCTC's performance of it.

ANSWER: My assessment is similar to those of Directors before me in confirmation hearings. Terrorism in all of its forms is becoming increasingly diffuse and complex, making DSOP and its interagency partners' efforts to develop effective strategies and plans more challenging. The complexity of the threat has also led to a greater number and diversity of CT partners and interagency tools to integrate and coordinate.

Since its creation, DSOP has worked with its interagency partners to integrate U.S. Government activities to counter the CT threats we face. DSOP is an honest and willing broker that helps coordinate issues among departments and agencies to integrate all elements of national power in support of our nation's CT objectives. Based on my experience working closely with DSOP, the brilliance of their architecture, systems, and procedures is that they understand the culture and equities of each organization and are able to integrate competing needs and requirements in a coherent fashion that provides executable, coherent, and measurable solutions. Obviously, the nature of our federated system of intelligence creates healthy competition between departments and agencies. If confirmed, I would look for ways to improve NCTC's strategic operational performance and work expeditiously to implement solutions.

QUESTION 21: What is the role of the Director of NCTC in developing the National Intelligence Priorities Framework (NIPF) with regard to counterterrorism?

ANSWER: The Director of NCTC is responsible for overseeing the development and implementation of the NIPF-CT priorities, which informs IC decisions on collection, analysis, and resource allocation. These priorities are updated on a quarterly basis with support from IC elements and integrated into the ODNI's

overall NIPF process. If confirmed, to the maximum extent possible, I would ensure that NIPF-CT priorities provide clear guidance to the IC without conflicting with other IC priorities to ensure the most effective and efficient allocation of our critical, limited resources.

QUESTION 22: What is your view of the proper role of Congress in overseeing the activities of the Directorate of Strategic Operational Planning?

ANSWER: Congress is obligated to exercise its oversight role over NCTC activities, including those activities undertaken by DSOP. If confirmed, I will work with the Congress to facilitate its oversight function in keeping with any necessary accommodations that NCTC and the Committee agree upon.

National Intelligence Manager

As the Counterterrorism Mission Manager for the IC, the Director of NCTC identifies intelligence gaps and resource constraints and sets collection and analytic priorities.

QUESTION 23: What is your vision of the Director of NCTC in the role of mission manager?

ANSWER: My vision of the Director's role as mission manager aligns closely with that of prior Directors in confirmation hearings. The role of mission manager allows the Director of NCTC to be a proactive leader in the IC and CT community. If confirmed, my top priority would be to ensure that the CT community remains alert to the terrorism threat, especially given the increasingly diversified threat landscape and competing national security concerns.

The role of the mission manager is to be an honest broker who can work across the CT enterprise to balance risks, find efficiencies and opportunities for collaboration, and communicate difficult options for senior policymaker decisions. In the IC, there is a tremendous demand placed on our limited national collection platforms, analytic resources, and other capabilities that are shared with other vital national security priorities. This role is important because of its vital role to work across our community, as partners, to ensure we all understand how we are efficiently and effectively using our collective resources.

Having well-drafted strategies that are monitored and assessed is important. Our priorities and overall approach for the IC are set by the National Security Strategy, the National Strategy for Counterterrorism, the National Strategy for Countering Weapons of Mass Destruction Terrorism, and the National Intelligence Strategy. To effectively execute these strategies, I will promulgate a Unifying Intelligence Strategy for CT that sets our priority issues and the plan of action for addressing them. This strategy will also support the development of recommendations to the DNI that provide a basis for his resource guidance to the IC.

QUESTION 24: What is the role of the Director of NCTC in providing guidance with regard to the allocation of resources among, and within elements of the IC? Please also describe how the Director of NCTC should identify unnecessary or less critical programs and seek to reallocate funding, within resource constraints.

ANSWER: Similar to the views expressed by prior Directors in confirmation hearings, I believe the role of the mission manager is to provide resource guidance to the CT community and serve as the principal adviser to the DNI for counterterrorism priorities. To fulfill this role, outlined in the IRTPA, the Director of NCTC is charged to collaborate with CT program managers across the IC to understand resource priorities, shortfalls, and redundancies. The Director must have the ability to identify critical resource investments and be an effective advocate and leader for the CT community within the intelligence planning, programming, budgeting and execution process. If confirmed, I will ensure close collaboration with interagency partners in order to achieve one CT enterprise that protects the country.

QUESTION 25: What are the most important counterterrorism gaps or shortfalls across the Intelligence Community?

ANSWER: History has proven that terrorism is an adaptive threat, and the U.S. Government's ability to identify gaps and shortfalls in a timely and efficient manner is vital to our continued success. Along these lines, three issues are particularly concerning: adapting to the rapid pace of technology; managing and efficiently exploiting large volumes of IC data; and improving screening and vetting capabilities.

First, while the rapid pace of technology has supported NCTC's mission, it has also provided our adversaries with new capabilities to use against us. In order to

stay ahead of our adversaries, NCTC must find ways to appropriately acquire and adapt new technologies while mitigating the threat of terrorist use of technology.

Second, the IC has the benefit of large datasets; however, it must identify solutions to effectively standardize, integrate, and process increasingly large holdings. This “big data” management solution must include innovative approaches to information sharing and access. Data management and integrity is vital to NCTC’s efforts supporting watchlisting and other screening mechanisms and providing our international partners the timely and actionable information they need to keep terrorists from reaching the U.S. Homeland.

Additionally, there are myriad challenges related to screening and vetting. For example, the challenge of integrating biometric data, such as fingerprints and facial images, into screening of biographic data. We need to move from a name-based system to a persona-based system of performing identity intelligence.

Finally, I have learned that CT is a “team sport” and so many of our capabilities are symbiotic and intertwined that when one element makes a decision, like shifting capabilities or force structure from one area to another, the second and third order effects with other CT entities that depend on that partner can have significant impact.

All of these issues require continued focus and serious investments in time and resources, and remain critical for continued IC success against terrorism and keeping the homeland safe.

Congressional Oversight

QUESTION 26: What do you understand to be the obligation of the Director of NCTC, in support of the DNI, to keep the congressional intelligence committees fully and currently informed about matters relating to compliance with the Constitution and laws?

ANSWER: Congressional oversight is an essential part of our constitutional system of checks and balances, and I believe it is critical to the success of ODNI, NCTC, and the IC.

Under Section 502 of the National Security Act, the DNI and the heads of

departments and agencies involved in intelligence activities are required to keep the congressional intelligence committees fully and currently informed of intelligence activities. Previous DNIs have issued IC-wide directives on the subject of congressional notifications to ensure timely reporting to Congress consistent with Section 502. If confirmed as the Director of NCTC, I would abide by these and other applicable requirements. I would also ensure that I remain responsive to the congressional oversight process, ensure congressional notifications are timely, accurate, and complete, and support the DNI in the same.

Professional Experience

QUESTION 27: Please describe specifically how your experiences will enable you to serve as the Director of NCTC.

ANSWER: I have been directly and viscerally involved in our Nation's fight against international terrorism since 1998, from the tactical combat level as an Army Special Forces officer to the strategic-policy level as the Special Assistant to the President and Senior Director for CT and Transnational Threats on the National Security Council. I produced and co-wrote, in close partnership with NCTC's DSOP, the President's October 2018 "National Strategy for Counterterrorism," and I am intimately familiar with all of the United States' CT capabilities and key issues. Additionally, over the course of my career, I have met and developed strong working relationships with the leaders of the CT community domestically and internationally, both in and out of government.

During my first career in the Army, I successfully led diverse organizations from 12-2,000 members consisting of U.S. and international military men and women, civilians and contractors. Since retirement from the military in 2014, in addition to my two years leading our government's CT enterprise at the NSC noted above, I honed my craft as an advisor to the Undersecretaries of Defense for Intelligence & Security and Policy, as well as a DoD Intelligence Oversight official, working directly on the most sensitive intelligence and special operations activities in the DoD. I currently serve as the Secretary of Defense's senior official for CT as his Deputy Assistant Secretary of Defense for Special Operations and Combating Terrorism.

Simply put, I know the CT business from the ground up. I served as a Special Operations leader in Afghanistan and Iraq for Army Special Forces, DoD special

mission units, and paramilitary elements of the U.S. Government. I was a key planner for our initial operations in Afghanistan in 2001, and I participated in those operations that drove the Taliban government from power. I am a proven and capable leader of diverse organizations operating in high pressure environments requiring maturity, vision, and political adeptness. Combined with my tactical and operational experience, I am extremely conversant with CT in the strategic-policy-political realm. I understand the nature of war and our campaign against terrorists; I have proven success leading large organizations; and I know how to develop and implement policy. I believe all these factors will position me for success as Director of NCTC, should I be confirmed.

QUESTION 28: On April 8, 2019, the administration announced the designation of Iran's Islamic Revolutionary Guard Corps (IRGC), including its Qods Force, as a Foreign Terrorist Organization (FTO).

- a. What do you see as the pros and cons of designating state entities as FTOs?

ANSWER: FTO designations play a critical role in our fight against terrorism and are an effective means of curtailing support for and pressuring groups to cease terrorist activities.

- b. What do you see as NCTC's responsibilities related to the designation, in terms of allocating analytical resources to countering IRGC and the inclusion of IRGC personnel and contacts in the Terrorist Identities Datamart Environment (TIDE) database?

ANSWER: NCTC provides analytic support to the Department of State and the policy community to inform determinations on whether or not an entity meets the legal threshold for designation under Department of State authorities. In this capacity, NCTC produces and consolidates IC-coordinated assessments on state entities supporting terrorism. NCTC works with IC counterparts to help drive terrorism-related collection requirements for these entities, in addition to requirements levied by country political and military analysts across the IC.

Designation as a terrorist organization requires NCTC to allocate sufficient analytic resources to identify and watchlist terrorists and those who provide material support, analyze changing and emerging threats from the

organization, and provide IC coordinated assessments—prioritizing threats to the Homeland—using all source intelligence analysis and our unique access to terrorism data.

I understand that, since the FTO designation of IRGC, NCTC has performed analysis of Iran’s terrorism-related activities as it had previously with respect to IRGC-Qods Force (IRGC-QF). However, NCTC continues appropriately to defer to IC partners for broader coverage of Iranian activities.

- c. What are the resource implications to NCTC’s mission to counter non-state terrorists and terrorist organizations arising from an expanded mission that includes state actors?

ANSWER: Efforts to detect, monitor, and deter state sponsors of terrorism have long been an important part of the broader CT mission, for NCTC and across the IC. My understanding is that NCTC’s mission prioritization is directed through the NIPF. If confirmed, I will ensure that NCTC’s resources are appropriately and responsibly allocated consistent with this prioritization.

- d. How should NCTC work with other elements of the Intelligence Community and FBI responsible for collection and analysis on state actors, including analysts and collectors responsible for counterintelligence threats?

ANSWER: In my view, NCTC should continue to closely coordinate with IC elements covering state actors to ensure a logical and mutually understood delineation of responsibility that takes into account the capacity in which a designated group is acting. For example, if a designated state actor were to act as a sponsor, facilitator, or ally to other terrorist groups and proxies, those activities would be of direct concern to NCTC’s mission and responsibilities.

- e. How should NCTC work with foreign allies and partners with relationships with state actors designated by the United States as FTOs?

ANSWER: In my experience in the CT community, our international CT partnerships are vital to achieving shared CT goals. Foreign partnerships are

a critical strength and asset in the CT community. I understand that engagements are, and should continue to be, closely coordinated to best effectuate U.S. national security and foreign policy objectives.

QUESTION 29: In April 2019, a White House spokesperson stated that the administration was considering the designation of the Muslim Brotherhood as an FTO and that the designation was “working its way through the internal process.” (“Trump Pushes to Designate Muslim Brotherhood a Terrorist Group,” *The New York Times*, April 30, 2019.)

- a. Do you support the designation of the Muslim Brotherhood and do you believe the Muslim Brotherhood meets the definition of a terrorist organization?

ANSWER: If confirmed, I will ensure that NCTC continues to provide analytic support to the Department of State and the policy community to inform Department of State determinations concerning whether particular organizations satisfy the designation criteria.

- b. What do you see as the pros and cons of designating political organizations, or networks of political organizations, as FTOs? Do you see distinctions between Muslim Brotherhood and designated FTOs such as HAMAS and Hezbollah?

ANSWER: If confirmed, I believe my role would be to ensure that NCTC continues to provide analytic support to the Department of State and the policy community to inform its determination whether particular organizations satisfy the designation criteria and to weigh the national security and foreign policy effects of those determinations.

- c. What do you see as NCTC’s responsibilities related to the designation of political organizations, in terms of allocating analytical resources to countering them, and the inclusion of their personnel and contacts in TIDE?

ANSWER: My understanding is that when organizations are designated, NCTC allocates sufficient analytic resources to identify and watchlist members of those organizations as appropriate, analyze changing and emerging threats from the organization, and provide IC coordinated

assessments using all source intelligence analysis and our unique access to consolidated terrorism data.

- d. How should NCTC work with other elements of the Intelligence Community responsible for collection and analysis on political organizations?

ANSWER: One of NCTC's statutory responsibilities as set forth in the IRTPA is to ensure that U.S. Government departments and agencies have access to and receive intelligence needed to accomplish their assigned activities. I believe NCTC should work closely and collaboratively with IC partners, including by continuing to ensure that its all-source intelligence products are whole of community resources.

- e. How should NCTC work with foreign allies and partners that recognize political organizations designated by the United States as FTOs?

ANSWER: Foreign partnerships are a critical strength and asset on the CT community. I understand that engagements with foreign partners are, and should continue to be, closely coordinated to best effectuate U.S. national security and foreign policy objectives.

QUESTION 30: On April 7, 2020, the Department of State designated the Russian Imperial Movement (RIM), a white supremacist terrorist group, and members of RIM's leadership as Specially Designated Global Terrorists. The October 2018 National Strategy for Counterterrorism refers to other white supremacist and neo-Nazi groups, specifically the Nordic Resistance Movement and the National Action Group, which was banned by the United Kingdom in 2016.

- a. What is your view of the threat posed by white supremacist and neo-Nazi groups to the United States, to U.S. interests overseas, and to U.S. allies?

ANSWER: Violence committed by racially or ethnically motivated violent extremists (RMVEs) is a concerning terrorism threat faced by the United States and many of our allies. Regrettably, this isn't anything new. RMVEs have posed both a direct threat to US citizens overseas, such as those present during the 2019 Yom Kippur attack against a synagogue in Halle, Germany, though thankfully no U.S. citizens were injured, and to partners more

generally such as the lone RMVE actor attack last year in Christchurch, New Zealand.

The FBI and DHS deserve credit for recognizing the increased threat posed by these groups and proactively shifting resources towards RMVEs and violence prevention prior to the horrendous attack in El Paso, Texas. I am confident that our domestic agencies at all levels are well postured to address this threat. I also know that the experts at NCTC will provide support to their efforts and provide unbiased, professional analysis and assessments.

- b. What is your view of the appropriate level of NCTC resource allocation toward white supremacist and neo-Nazi organizations and individuals?

ANSWER: RMVE is a significant concern for the Administration, as reflected in the National Counterterrorism Strategy, and I understand that the FBI considers RMVE a national threat priority. While NCTC is not a lead agency for countering domestic terrorism, if confirmed, I would ensure that the support NCTC provides to FBI and DHS is commensurate with the threat to the homeland posed by RMVE actors and in line with the President's overall national intelligence and counterterrorism priorities.

QUESTION 31: The IRTPA, in describing the primary missions of NCTC, excludes "intelligence pertaining exclusively to domestic terrorists and domestic counterterrorism."

- a. How should NCTC interpret this exception to its primary mission? What indicia of a transnational nexus should be sufficient for NCTC to deem a terrorist threat as part of its primary mission?

ANSWER: Generally speaking, under the IRTPA, NCTC's role concerning domestic terrorism is one of support to the FBI and DHS, as the primary agencies responsible for protecting the homeland against domestic terrorist threats, and includes ensuring that U.S. Government agencies have access to and receive all-source intelligence support needed to execute their counterterrorism plans or perform independent, alternative analysis.

With its unique access to all terrorism-related information, and in

partnership with its IC counterparts, I believe NCTC is well poised to identify the transnational nature of terrorist threats where they exist. While the nature and degree of a nexus to transnational terrorism may fluctuate based on the particular circumstances, I believe NCTC's analysts are equipped with the training, experience, and support necessary to make those analytic judgments and provide the appropriate support.

- b. In the absence of intelligence indicating a transnational nexus, what role should NCTC play in searching for such a nexus or in otherwise supporting law enforcement investigations into domestic terrorist threats?

ANSWER: I believe NCTC is uniquely equipped to assist its IC and law enforcement partners in identifying potential nexuses to transnational terrorism. This includes NCTC's responsibility to ensure that U.S. Government agencies have access to and receive all-source intelligence support needed to execute their CT plans or perform independent, alternative analysis. Where no nexus to transnational terrorism is identified, it is my understanding that NCTC would defer to FBI and DHS, as the primary agencies charged with combating domestic terrorism, for their determination that a particular event is an act domestic terrorism.

QUESTION 32: IRTPA includes among NCTC's primary missions "[t]o serve as the central and shared knowledge bank on known and suspected terrorists and international terror groups, as well as their goals, strategies, capabilities, and networks of contacts and support."

- a. As counterterrorism data becomes more voluminous, what new policies and technological approaches and investments are necessary to manage TIDE? Are new privacy policies necessary to keep up with the expansion of TIDE?

ANSWER: As I understand it, NCTC's technological modernization efforts over the past few years have focused on enhancing the correlation, exploitation, and sharing of CT knowledge. This includes technological modernization in identity resolution and the advanced use of biometrics to support the U.S. Government's screening architecture and provide support to CT partners focused on securing US borders and pursuing threats to their source. If confirmed, I will continue to advocate strongly for technological advancements.

As NCTC identifies new ways to ingest data into TIDE, I believe it is important for NCTC to continue to work closely with the community and with Civil Liberty and Privacy officers to identify any policy or privacy issues that may arise from new processes, the use of machine learning, or the application of new technologies. For example, I understand that NCTC policies seek to align the technological advances of TIDE while improving the Center's ability to provide enhanced oversight on how the data is used. This ensures that TIDE users have reliable access to more relevant data in the near term, under appropriate privacy policies.

- b. Should U.S. persons or persons in the United States who are not known or suspected terrorists be included in TIDE? If so, what standards and guidelines should apply?

ANSWER: As the U.S. Government's classified repository for identity information relating to terrorism, TIDE includes individuals with connections to terrorism who do not meet the definition of a KST, including some U.S. persons. These identities can provide valuable analytic and investigatory leads, but we must ensure that U.S. person information in TIDE is handled appropriately. U.S. person information in TIDE is clearly identified and NCTC works closely with its Civil Liberties and Privacy Officer and General Counsel in this regard.

NCTC is dedicated to the proper handling and protection of this information, and has a well-established, robust compliance program that includes mandatory annual training on the proper handling and protection of information; NCTC's legal authorities for the access, use, and retention of U.S. person information; and NCTC's agreements with its data providers.

If confirmed, I will endeavor to advance a compliance mindset within NCTC by ensuring these activities continue and are properly staffed, that new IT systems and advanced analytic techniques account for proper data handling and information protection from the design phase forward and that all TIDE users treat U.S. person information with the same stringent protections as required by Center policy.

QUESTION 33: If you or other NCTC personnel were to make a public statement

that was inaccurate, do you commit to correcting the public record?

ANSWER: Yes. If I become aware of inaccurate information that I or other NCTC personnel convey in a public statement, I would take the appropriate steps to correct the record. If I were not able to make a public correction due to requirements to protect classified information and sensitive intelligence sources and methods, I would inform the Committee of the inaccuracy in a classified setting.

QUESTION 34: Do you believe that NCTC is appropriately organized and staffed to counter the current and emerging terrorist threat? If not, what do you think needs to be changed to better address the threat?

ANSWER: In May, the Acting DNI announced several changes at NCTC to increase efficiency and expand support and burden sharing with IC partners. These changes include the creation of a surge-capable workforce that postures NCTC to address the increasingly diverse terrorist threat picture. I am confident that these changes will enable NCTC to be even more effective in its mission to protect and serve the American people. If confirmed, I will monitor the Center's progress to ensure that the Center remains appropriately organized and staffed to achieve its mission. If I see any cause for concern with regards to NCTC's organizational structure or staffing resources, I will prioritize addressing those concerns and work with Congress as appropriate to do so.

QUESTION 35: How do you envision synchronizing NCTC's efforts with other counterterrorism-focused organizations in the Intelligence Community to reduce unnecessary duplication of efforts and to enhance the US Government's ability to fight terrorism?

ANSWER: In an environment of competing priorities and resource constraints, minimizing any redundancy—analytic or otherwise—is critical, and NCTC is well-positioned to identify redundancy in terrorism analysis across the IC and to work with the ODNI and the broader IC to reduce such instances.

In an effort to reduce duplication in analysis and promote collaboration, I understand NCTC recently implemented a daily, interagency review of planned CT production with key partners and initiated a recurring, IC-wide CT production coordination meeting. If confirmed, I will evaluate the effectiveness of these

efforts and look for additional ways to reduce analytic duplication.

QUESTION 36: How do you view NCTC's role and mission with respect to warning of and countering domestic terrorism?

ANSWER: My understanding is that generally speaking, under the IRTPA, NCTC's role concerning domestic terrorism is one of support, and includes ensuring that primary federal agencies and state, local, and tribal partners have access to and receive all-source intelligence support needed to execute their CT plans or perform independent, alternative analysis. In addition, the IRTPA further provides that NCTC may, at the direction of the President, and consistent with applicable law and guidelines, receive "intelligence pertaining exclusively to domestic counterterrorism from any Federal, State, or local government or other source necessary to fulfill its responsibilities and retain and disseminate such intelligence." It is my understanding that per the IRTPA, NCTC can support the White House by providing strategic operational CT plans for the whole of government across agency boundaries, both inside and outside the United States.

QUESTION 37: What are your priorities for the Directorate of Strategic Operational Planning in terms of improving the US Government's efforts to combat terrorism?

ANSWER: If confirmed, my first priority for the DSOP would be to leverage their work on the 2018 National Strategy for Counterterrorism and its 2019 Strategic Implementation Plan to ensure proper governance of the CT Enterprise in an era of shifting national priorities. I believe that the Strategy is the manifestation of the maturation of our CT enterprise. It represents the "lessons learned" gained through 19 years of hard experience, and aligns our government's functions and priorities in a coherent manner. We must also continue to focus on terrorist efforts to develop or procure WMD, and constantly refresh our collection strategies and plans. It is important that as priorities shift, resources are reallocated in a transparent and efficient manner. This will require DSOP's unique interagency authorities to gather data, conduct assessments, and convene interagency bodies to track and analyze resource reallocations. I will also assess our global campaign against Al Qaida and ISIS to guarantee that we are sequencing our collection and operations to guarantee maximum effectiveness and efficiency and update our measures of effectiveness. Finally, I would expect DSOP to continue to play a role in strategy and planning for novel and cross-cutting issues such as Identity

Intelligence and the use of battlefield evidence to support domestic and international prosecutions of terrorism suspects.

QUESTION 38: How will you ensure that NCTC recruits the best and brightest officers to the organization, and how will you seek to retain those officers?

ANSWER: Having the right people with unique knowledge, skills, and backgrounds is critical to fulfilling NCTC's mission. While NCTC is lucky to draw thousands of qualified applicants through the external hiring process, drawing detailees from other departments and agencies has become more challenging as agencies shift staff to address competing priorities. If confirmed, I will focus on attracting and retaining detailees by building strong relationships with my interagency partners and conveying the value of building a robust, interagency CT workforce at NCTC.

NCTC also has a robust recruitment and training program that brings entry-level employees into the organization to expand the knowledge, skills, and abilities of its workforce and address the evolving terrorist threat. Many of these employees have gone on to perform admirably on external rotations throughout the government and on foreign deployments; experiences that provide value to both the Center and to the employees themselves. Lastly, NCTC regularly seeks input from staff on ways to address the needs of its workforce and encourages staff to "lead from where they are" to make positive changes in their teams and at the Center.

QUESTION 39: Based on your professional experience, how important are our foreign partners in advancing U.S. counter-terrorism objectives? To what extent should other national security objectives be considered in forming, maintaining, and growing such partnerships? If confirmed, how do you plan to approach U.S. partners on these problems?

ANSWER: My experience fighting in Afghanistan and Iraq and supporting partners worldwide validated for me Churchill's aphorism, "There is only one thing worse than fighting with allies, and that is fighting without them." Foreign partner relationships are crucial to our shared success against terrorism. Working with global partners and allies, I believe the CT community has made tremendous progress in our ability to detect and disrupt multi-actor, sophisticated terrorist attacks. NCTC must work closely with foreign CT partners to improve information sharing and to assist in capacity building.

In my experience, throughout the CT community, our international counterterrorism partnerships are vital to achieving our counterterrorism goals. To this end, we should remain committed to helping partners develop the capacity and willpower to pursue our shared objectives.

In particular, our efforts can help professionalize the military, intelligence, law enforcement, and judicial systems of key partners so they are able to effectively counter terrorists. We expect significant contributions from our foreign partners so that they appropriately share the burden of the CT effort. To get ahead of the terrorism problem, we must continue to empower stakeholders to build prevention architectures to thwart the appeal of terrorism. In concert with our partners, we will apply sustained pressure to disrupt, degrade, and prevent the reconstitution of terrorist networks. If confirmed, this will be one of my major emphasis areas.

Additional Pre-Hearing Question from Sen. Wyden

Question: On May 25, 2020, then-acting DNI Grenell announced changes to NCTC. The public announcement highlighted changes to the Directorate of Strategic Operational Planning and the Directorate of Terrorist Identities, “aligning resources and eliminating certain redundancies,” “consolidating support and enabling functions,” and the building of a “surge-capable workforce.” Please provide your views on these changes and any other changes made by the then-acting DNI with which you may be familiar.

Response: As I understand it, ODNI has conducted several studies of its enterprise to identify efficiencies and cost savings at the request of Congress and Intelligence Community partners. The changes to NCTC that then-acting DNI Grenell announced on May 25 reflect the conclusions of those studies. I understand that these changes are designed to enhance integration with the broader ODNI, expand NCTC support to IC partners, and increase internal efficiencies to be good stewards of U.S. Government resources.

**Questions for the Record
Senate Select Committee on Intelligence
Nomination Hearing
July 22, 2020**

Questions for the Record for Mr. Christopher C. Miller

[From Vice Chairman Warner]

1. Have you reviewed the DNI's Senior Advisory Group's report on NCTC that was completed in 2019? What were your conclusions regarding its six findings and recommendations?

Response: I have not read the full report. However, I received an initial brief on the study's findings. I agree with most of them, however, I need more information to better understand the data behind some of the study's findings.

As I stated in my response to Question 11 of the pre-hearing questionnaire, I believe the Directorate of Strategic Operational Planning (DSOP) is one of the most innovative and capable organizations in the U.S. Government. I had the distinct privilege of working directly with the DSOP during my tenure on the National Security Council Staff (NSC) in 2018 and 2019, specifically in crafting the President's National Strategy for Counterterrorism, and I saw first-hand the value-add of the relatively small office. They embody the "secret sauce" of NCTC by serving as an analytical, non-partisan, unbiased forum for solving the most intractable problems in the national security realm.

However, some of the key information from the study, as briefed to me, is inconsistent with my experience. For example, I believe NCTC's statutory authorities in implementing Presidential guidance are appropriately leveraged. While serving as the Senior Director for Counterterrorism and Trans-national Threats on the NSC from March 2018 to January 2020, I relied exclusively on the NCTC to lead the development of the President's October 2018 "National Strategy for Counterterrorism" and accompanying "Strategic Implementation Plan" as well as a multitude of interagency forums and planning efforts on regional and functional challenges. I also relied on NCTC to provide the intelligence assessment for every one of the approximately 150 NSC-led "Counterterrorism Security Group" (CSG) meetings I chaired (the Assistant Secretary-level interagency forum). Finally, the NCTC serves an essential role in managing the three times daily CT threat indicators and warnings meetings with every CT element of the USG being present. My assessment is that the NCTC's role as the "honest broker" is more important than ever to support the NSC and interagency decision makers.

If confirmed, I would look forward to reviewing the full report in order to form a more considered opinion on the findings and recommendations.

2. Do you find merit in the critique that Russ Travers offered regarding NCTC in the Politico article dated July 10, 2020, and the NPR story that aired on July 21, 2020?

Response: As I stated in the hearing, I know former NCTC Acting Director Russ Travers, and I consider him both a mentor and friend. I agree with Russ' general theme that we cannot return to a pre-2001 approach to counterterrorism. I understand Russ' concerns center on resourcing, specifically budget, IT systems, and manpower. Taken on their own, these types of concerns are likely shared among program managers across the federal government. But in the context of our nation's CT program, the stakes are too high to ignore. Following nearly 20 years of intense focus on and tremendous success against Al Qaeda, ISIS, and other terrorist threats, national security priorities are inevitably beginning to shift. However, we cannot lapse and return to a pre-2001 approach to counterterrorism.

The U.S. Government has spent tens of billions on CT since September 11, 2001. Each year since then, CT programs across the federal space have seen annual increases in both funding and manpower, and NCTC is no exception. At the macro level, I have not yet seen major shifts in budgeting away from CT. I believe we are at the beginning stages of that discussion, and I understand NCTC is taking steps to further ensure its readiness to meet these challenges as the Administration assesses renewed importance of allocating resources to address great power competition, a position which I believe is shared with the congressional intelligence committees. If confirmed, I intend to take a closer look at NCTC's mission requirements, and work with the ODNI Chief Financial Executive and the IC Chief Financial Officer to ensure resources requested are sufficient to meet NCTC's "no fail" mission needs.

Next, although NCTC has matured greatly and largely fulfilled its role as a recognized leader in our nation's CT efforts, we in the CT community continue to face new and difficult challenges. In today's information age, complex data management and technical challenges make information analysis and sharing increasingly difficult. NCTC's watchlisting, screening, and all-source analytic efforts rely on modern, cutting-edge tools and clear, consistent data management policies to keep pace with the evolving terrorist threats of today. While IT modernization can be easy to postpone in favor of other priorities, it is increasingly crucial to NCTC's ability to fulfill its mission requirements. If confirmed, I would work to get a better sense of NCTC's IT infrastructure, work with the dedicated professional staff to understand and prioritize mission critical updates, and advocate for those priority IT updates through the budget and programming process.

Finally, NCTC's ability to succeed in its mission goals correlates directly to its ability to continue recruiting and retaining the best and the brightest. My sense is that the detailee staffing model has actually contributed greatly to NCTC's success. But, having heard Russ' concerns and the concerns of this Committee, it is worth taking a look at the appropriate balance between cadre and detailee positions. If confirmed, I will take the first 30 days, as I always have when taking a new position, to delve into

the details and listen to the work force and other experts to allow for a more knowledgeable and meaningful critique.

3. Should NCTC have a senior military officer in its leadership to ensure it remains adequately connected to the Department of Defense?

Response: I think there is merit in having a senior military officer at NCTC to provide insight and expertise about global U.S. military presence, efforts, and capabilities. I understand DNI Ratcliffe recently announced the establishment of a Director's Advisor for Military Affairs (DAMA) at the ODNI, and that the office will be led by the three-star billet formerly assigned as the head of the ODNI's National Security Partnerships Directorate. If confirmed, I would seek to establish a close working relationship with the DAMA to ensure the NCTC is able to leverage DoD expertise and resources in our shared counterterrorism mission. I would also work with DoD to determine how best to leverage any additional expertise specifically for NCTC.

4. If you were to look back on your tenure a year from now as Director NCTC, how do you define whether your tenure has been a success?

Response: As I stated in response Question Eight of the pre-hearing questionnaire, the NCTC's most important metric is assessed every single day, and it is binary: success is preventing strategic surprise by terrorist groups and not allowing terrorist attacks to affect our way of life. If confirmed, this would be my primary metric for success.

Recognizing also that we fight a thoughtful and adaptive enemy that is constantly seeking ways to gain advantage, NCTC can also be assessed on its ability to posture the U.S. Government to respond effectively to attacks with the full weight and power of the United States. If confirmed, in my role as the CT mission manager, I would work with the NCTC leadership team and our partners across the IC to set benchmarks and periodically assess progress against our ability to identify and close high priority CT intelligence gaps and enhance satisfaction across NCTC's five customer segments with overall CT intelligence.

These metrics combined with internal performance assessments of NCTC's support to key customer needs in counterterrorism intelligence, terrorism identities intelligence, and situational awareness services and readership and feedback analytics from NCTC products online through its "Current" portal, also provide a useful metrics for the Center. If confirmed, I would consider myself successful if were able to build on our progress on all of these fronts.

5. How do we keep our intelligence edge against terrorist organizations with a more limited forward presence in places like Syria and Afghanistan?

Response: Potential reductions in forward presence in places like Syria and Afghanistan underscore the importance of the allied foreign partnerships the United States continually works to expand and strengthen. In addition, U.S. efforts to adopt a more agile and expansive approach against the terrorist threat - as called for by our national counterterrorism strategy - by integrating intelligence with other instruments of national power such as diplomacy, law enforcement, strategic communications, and counterterrorism finance are vital. Robust partnerships with host nation services and allied foreign governments have enabled us to share burdens and draw from their specialized knowledge, relationships, and capabilities to degrade terrorist infrastructure in Syria and Afghanistan. Maintaining these alliances will sustain counterterrorism pressure and would enable us to provide a rapid contingency response in the event of a terrorism-related crisis. Our national CT strategy recognizes that the United States faces more geographically-diverse and adaptive terrorist groups, underscoring the continued need to stay ahead of the enemy through technological innovation and investments in our workforce to increase their skills and capabilities. NCTC's role in monitoring and assessing the effectiveness of our strategic counterterrorism efforts, chartered in legislation and executive order, also positions us as an "honest broker" to help inform interagency decisions to prioritize U.S. government actions and priorities against terrorists who possess the intent and capability to attack the Homeland and our overseas interests.

6. What is the state of al-Qaida and ISIS? Do you see any danger of a resurgence as the US has drawn down in Syria and as we are drawing down in Afghanistan?

Response: Al Qaeda and ISIS are in trouble. Their combat capabilities are severely diminished, their ability to project power is limited, and their doctrine and approaches have proven inept. However, both groups retain the intent and desire to attack U.S. interests and kill Americans to gain adherents and resources. Both groups still have the ability to generate plotting and external operations capabilities in secrecy, although I don't believe they are currently able to conduct a strategically-significant attack. If pressure is maintained through our integrated campaign, I'm hopeful that we are on the verge of transitioning to a partner-led, U.S.-enabled approach with the goal of rendering them a local actor no longer capable of attacking the United States.

While the caliphate has, for practical purposes, been defeated, ISIS remains intact as a centrally-led organization that will continue to threaten U.S. and Western interests globally. Over the past year, the group suffered a series of setbacks, most notably the death of its former leader Abu Bakr al-Baghdadi. However, ISIS's structure and cohesion probably has allowed it and its thousands of fighters to sustain a level of influence in some areas despite ongoing CT pressure. We also must recognize the challenge we will face long-term from the thousands of foreign fighters imprisoned in Syria by the Syrian Democratic Forces (SDF) – this “foreign fighter issue” is orders of magnitude greater than that resulting from the Soviet-Afghan War of the 1980s.

For its part, al Qaeda continues to function as a global network committed to attacking U.S. and Western interests with varying degrees of capability and access. International cooperation to strengthen security and disrupt, degrade, and dismantle the group have helped constrain the group's ability to plan and execute plots. Over the past year, al Qaeda also suffered a series of major setbacks, including the removal of three affiliate emirs. However, the group's affiliates and allies remain an enduring threat to the United States. For example, al Qaeda in the Arabian Peninsula (AQAP) claimed responsibility for the shooting in Pensacola, Florida in December 2019, and in April, the FBI confirmed AQAP's ties to the attacker.

I believe ISIS and al Qaeda will use any long-term lapses in pressure to strengthen their networks, rebuild their ranks, and restart external operations plotting. In Iraq and Syria, ISIS remains committed to its long-term goal of establishing an Islamic caliphate. If pressure from pro-regime forces or other opposition groups escalate in northwest Syria, al Qaeda elements could move to other spaces in Africa and Asia they perceive as safer operation environments. Al Qaeda in Afghanistan is probably incapable of conducting independent complex attacks because U.S. CT pressure since 2001 has depleted its ranks and facilitation infrastructure. However, the remaining membership and leaders continue to encourage attacks and have transnational goals beyond Afghanistan. The group's elements in Afghanistan may seek to exploit potential lapses in pressure there to advance their goals and encourage attacks in country.

- When the United States withdrew most of its military forces from Syria, did this create an opening for ISIS and other terrorist groups to bounce back?

Response: No. We have maintained effective CT pressure, unilaterally and with partners, that has not allowed ISIS to mass in any meaningful way. The "Defeat-ISIS" campaign that includes over 80 members is designed for U.S. forces to withdraw during this phase and for other coalition members to assume lead for recovery and rebuilding. Although ISIS has maintained a steady pace of operations in Syria over the past year, which have been concentrated in Kurdish-held areas as well as some larger-scale attacks against Syrian regime forces in the eastern desert, their efforts have been of an insurgent nature. The group's networks in eastern Syria face continued pressure from the SDF, who work with the International Coalition to conduct raids to clear local ISIS cells and arrest their members. The group has lost a number of key senior leaders in the last year, particularly in Syria, which may prevent it from rapidly advancing its operational momentum there.

- What happened to the thousands of ISIS detainees held by Kurdish forces in northern Syria? Given U.S. forces' withdrawal, are we able to track their whereabouts or even if they are still in custody, especially given the Turkish focus on fighting the Kurdish forces in northern Syria (YPG), not ISIS?

Response: I have seen estimates indicating Syrian Kurdish Security Forces are detaining thousands of ISIS fighters, some of whom are ISIS foreign fighters from more than 50 countries, as well as Syria and Iraq. To date, the United States has assisted the SDF in negotiating the repatriation of a small number of these fighters. There are also reports that a smaller number of ISIS members escaped from prisons affected by Turkish military activity during the Turkish incursion in October 2019. Although we lack details on their current statuses and whereabouts, the vast majority of the imprisoned ISIS fighters being held have been biometrically enrolled in international databases.

- Turkish and Russian forces have filled the gap in the region after the US withdrawal: are they as focused on CT and fighting ISIS or is this a lower priority for these countries?

Response: As a general rule, the strategic priorities of other foreign governments, especially Turkey and Russia, do not necessarily align with U.S. CT objectives. My sense is that they likely give greater priority to preserving the regime in Syria, or countering perceived Kurdish separatism, for example. That said, there are likely some situations where it may be in Russia's and Turkey's best interests to support the Syrian regime's CT operations. For example, it may be that Russia may support Syrian CT efforts where they are aimed at reducing the group's facilitation activities and insurgent operations against pro-regime military targets. This is probably likely less of a priority for Turkey. ISIS operates in areas of Syria controlled by Turkish forces and Turkish-supported opposition, where the group benefits from Turkey's focus on cementing its influence against the regime in the northwest and countering the Kurds in the northeast.

7. In April 2019, the administration designated Iran's Revolutionary Guards Corps (IRGC) as a foreign terrorist organization (FTO) – the first time any such government entity has been so designated.

- Is it NCTC's responsibility to now track and provide analysis on the IRGC, and should it be provided with the resources to do so? From where would these resources be taken? Against which other priorities / terrorist groups should NCTC reduce resources if extra resources are not appropriated by Congress?

Response: As I stated in response to Question 28 in the pre-hearing questionnaire, designation as a terrorist organization may require NCTC to allocate analytic resources to identify and watchlist terrorists and those who provide material support, analyze changing and emerging threats from the organization, and provide IC coordinated assessments-prioritizing threats to the Homeland using all-source intelligence analysis and our unique access to terrorism data.

I am aware that following the FTO designation of the IRGC, NCTC performed analysis of Iran's terrorism-related activities as it had previously with respect to IRGC-Qods Force (IRGC-QF), while continuing to appropriately defer to IC partners for broader coverage of Iranian activities. My understanding is NCTC has so far been able to address this emerging requirement within the limits of its authorized and appropriated resource levels. If confirmed, I would take a closer look at how NCTC allocates resources against the full spectrum of CT intelligence requirements, and if necessary, work through the budgeting and programming process to advocate for additional resources.

- Is there any difference in how NCTC should approach analysis of non-state terrorist groups like al-Qaida or ISIS and the IRGC, which is part of a government?

Response: In my view, this is an area where the IC must set clear lanes in the road to avoid unnecessary analytic duplication. NCTC must continue to closely coordinate with IC elements covering state actors to ensure a logical and mutually understood delineation of responsibility that takes into account the capacity in which a designated group is acting. For example, if a designated state actor were to act as a sponsor, facilitator, or ally to other terrorist groups and proxies, those activities would be of direct concern to NCTC's mission and responsibilities.

8. In May, the President said that United States would designate "Antifa" as a terrorist organization, even though none of those charged with serious federal crimes stemming from recent protests have been linked to Antifa. FBI Director Wray told the Judiciary Committee last month that the FBI "considers Antifa more of an ideology than an organization." Given that Antifa is not an actual organized group, how would such a terrorism designation work? Has this designation been made? Is there a plan to do so?

Response: It is my understanding that NCTC provides analytic support as appropriate to the Department of State and the policy community to inform determinations on whether or not an entity is designated, but I would respectfully defer to the agencies with that designation authority to describe the process by which such a designation may occur.

From Senator Bennet:

1. We are approaching 20 years since the attacks on 9/11. How have terrorist threats have evolved since the conception of NCTC? Based on your experience, does NCTC need to evolve to meet those threats and keep Americans safe?

Response: As I stated in my response to Question Seven of the pre-hearing questionnaire, I believe the terrorism threat we face has evolved significantly since NCTC's establishment. Today, the reduced capacity of many prominent terrorist groups and resurgence of threats from prominent state actors is causing many in national security circles to reexamine national security priorities. If confirmed, I will ensure that NCTC serves as an honest broker in responsibly coordinating the CT enterprise's shift to support a national security strategy that focuses on meeting the challenges of state competitors while maintaining the ability to protect the American homeland and people from terrorist threats.

The war against Islamist fundamentalist terrorist groups, which NCTC was structured to lead since its creation, is indeed a generational struggle – but it is not a multi-generational one. I believe we are nearing the end of that generation. My goal is to finish that fight and help NCTC translate the remarkable tradecraft, process improvements, and coordination procedures into a model the U.S. government can use to effectively counter other transnational security threats. For the United States to be truly successful in eliminating terrorist threats to the American way of life, NCTC must evolve to fit the size and scale of its new and enduring CT mission.

However, if the threat of terrorism to the United States and our interests at home and abroad remains elevated, NCTC must further solidify its position as the leader and integrator of the national CT effort, with sustained focus on achievements in recruiting and retaining personnel, developing partnerships, and the “big data” arena that could be applied across other mission areas. NCTC must also continue to play a central coordinating role in ensuring that the efforts of the CT enterprise support and are informed by broader national security and foreign policy aims.

If confirmed, I intend to assess our progress against the threat landscape and foster a robust and substantive discussion about how to apply lessons learned to the new threats we face today.

2. How do you view other transnational challenges, such as international white supremacist extremists or violent extremist organizations? What type of coordination with domestic law enforcement may be required on these threats?

Response: I believe transnational security challenges pose a growing CT threat to the United States and our interests. By statute, NCTC serves as the primary organization for analyzing all CT information, except CT information that is exclusively domestic. My understanding is that NCTC identifies and monitors international and transnational trends across a range of violent extremist actors, including those motivated by racially or ethnically motivated violent extremism (RMVE), and works closely with relevant counterparts to address these threats.

Domestically, NCTC can provide appropriate support to the FBI and DHS consistent with legal authorities and its Attorney General-approved guidelines for protecting the

privacy, civil rights, and civil liberties of U.S. persons. As the hub for U.S. Government CT information, NCTC is uniquely positioned to identify links to international terrorism previously unknown to FBI or DHS by leveraging its extensive data holdings to identify transnational connectivity between domestic terrorism actors that FBI or DHS have identified and terrorist actors overseas. NCTC provides intelligence information based on those relevant requirements to FBI and DHS in support of their counterterrorism investigatory and operational responsibilities. Also, NCTC, jointly with FBI and DHS, produces unclassified and "For Official Use Only" counterterrorism intelligence and information for state, local, territorial, and tribal law enforcement entities for dissemination through FBI and DHS distribution channels.

3. Based on your experience, do we need to invest in analysis of how methods of radicalization may be passed between extremist organizations?

Response: Yes. This, in my view, is precisely the type of strategic analysis and thinking that the NCTC is designed and chartered to undertake within the Directorate of Strategic and Operational Planning. Understanding radicalization is critical to mitigating the overarching terrorist threat over the long term. The CT community has spent years seeking further understanding of the extremist mindset and radicalization processes of Sunni violent extremists who join, support, or are inspired by groups like al Qaeda, ISIS and others. I understand NCTC is currently working to compare radicalization processes across violent extremist ideologies. I believe this kind of research can help us gain better insight into what drives individuals' decisions to radicalize and hopefully inform strategies for intervention. If confirmed, I would work to apply lessons learned into NCTC's analytic tradecraft and share the results of our analysis with CT partners better positioned to identify and mitigate pre-radicalization activity.

4. Based on your experience, how important are allies in confronting terrorist threats?

Response: As I stated in response to Question 39 of the pre-hearing policy questionnaire, my experience fighting in Afghanistan and Iraq and supporting partners worldwide validated for me Churchill's aphorism, "There is only one thing worse than fighting with allies, and that is fighting without them." Foreign partner relationships are crucial to our shared success against terrorism. Working with global partners and allies, I believe the CT community has made tremendous progress in our ability to detect and disrupt multi-actor, sophisticated terrorist attacks. NCTC must work closely with foreign CT partners to improve information sharing and to assist in capacity building.

In my experience, throughout the CT community, our international counterterrorism partnerships are vital to achieving our counterterrorism goals. To this end, we should remain committed to helping partners develop the capacity and willpower to pursue our shared objectives.

In particular, our efforts can help professionalize the military, intelligence, law enforcement, and judicial systems of key partners so they are able to effectively counter terrorists. We expect significant contributions from our foreign partners so that they appropriately share the burden of the CT effort. To get ahead of the terrorism problem, we must continue to empower stakeholders to build prevention architectures to thwart the appeal of terrorism. In concert with our partners, we will apply sustained pressure to disrupt, degrade, and prevent the reconstitution of terrorist networks. If confirmed, this will be one of my major emphasis areas.

From Senator Wyden:

1. Do you believe NCTC has any role to play, coordinating with or supporting the Departments of Homeland Security or Justice, in connection with protests against racism and police abuses? If yes, please elaborate.

Response: By statute, NCTC serves as the primary U.S. Government organization for analyzing and integrating all counterterrorism information, except counterterrorism information that is exclusively domestic. Generally, NCTC can provide appropriate support to the FBI and DHS in the conduct of their domestic counterterrorism missions, consistent with its legal authorities and Attorney General-approved guidelines for protecting the privacy, civil rights, and civil liberties of U.S. persons, as I noted in further detail in response to Senator Bennet's Question Two. I do not believe any intelligence authorities can or should be used to surveil Americans engaged solely in constitutionally-protected activities.

2. Which IC entities have been the most supportive of the NCTC in terms of providing detailees and assignees, and which have been the least supportive?

Response: So far, I have not been intimately involved in manning discussions with NCTC's mission partners, and I do not have insight at an agency-by-agency level of detailee staffing commitments. If confirmed, I commit to working collaboratively with my counterparts at the committing agencies on this issue.

3. Do you believe that agreements from IC entities to provide detailees and assignees to NCTC should be enforced? If so, how and by whom?

Response: In general, I believe agencies should strive to honor commitments made to each other as it relates to detailee staffing agreements. It is my understanding that there are ongoing discussions between NCTC and its partner organizations on how to ensure NCTC's mission critical detailee billets are staffed. As the Committee is aware, NCTC's partner organizations also face resource challenges and emerging priority requirements. I am committed to working with them to take their own resource concerns into account while ensuring that NCTC fulfills its statutory mandate.

4. In your responses to pre-hearing questions, you wrote that “NCTC also provides support to FBI and DHS on purely domestic terrorism issues when assistance is requested.” In terms of resource allocation, how should NCTC prioritize its responses to these requests? Specifically, what do you see as the primary “domestic terrorism” threats against which NCTC resources should be applied?

Response: NCTC leverages its unique access to foreign and domestic terrorism information to identify the nature of and origin of emerging threats as they occur. My understanding is that NCTC provides domestic counterterrorism assistance to FBI and DHS consistent with NCTC’s authorities, commensurate with the threat to the homeland, and in line with the President’s overall national intelligence and counterterrorism priorities. As the lead agencies responsible for domestic counterterrorism, my understanding is that FBI and DHS set the priorities and that FBI considers racially and ethnically motivated violent extremism (RMVE) a national threat priority.

From Senator King:

1. Over the last several years, the IC has been moving away from the kind of counterterrorism posture we were on since 9/11. This is a measure of the success of the CT community, including NCTC. This means that resources are flowing away from the CT mission as we move to focus more on great power competition with Russia and China.
 - What will you prioritize in an era of shrinking resources, while ensuring that we still do all we can to detect and prevent terrorist plots?

Response: If confirmed, I will maintain a laser-like focus on those individuals, groups, and organizations that have displayed the intent to conduct strategically-significant attacks against U.S. citizens and infrastructure. As noted previously, we remain a target of a plethora of creative and adaptive antagonists that mean us harm and, despite our best efforts, their attacks will sometimes be successful. But the American people have proven remarkably resilient and understand the nature of the threat. Put colloquially, the enemy has “thrown the kitchen sink” at us, and we have withstood their attacks and responded with a fury that they did not imagine we were capable of that has eliminated their sanctuaries and disaggregated their fighting formations. However, they remain virulent and we must maintain specific, unrelenting focus on their efforts to develop or acquire weapons of mass destruction.

As I stated in response to Question Seven of the pre-hearing questionnaire, NCTC must continue to prioritize its people, its partnerships, information sharing, and data management. If confirmed, I will seek to build on the successes of my predecessors in each of these foundational areas to evolve and improve the Center’s capacity to accomplish mission objectives.

NCTC's ability to succeed in its mission goals correlates directly to its ability to continue recruiting and retaining the best and the brightest. If confirmed, I will continue to focus on recruiting qualified individuals, from within both the IC and the private sector. I will also ensure the NCTC management team seeks new ways to help our existing workforce grow, develop, and continue contributing to our nation's CT efforts.

Next, I've been impressed with NCTC's robust partnerships with foreign partners as well as state, local, tribal, territorial and private sector partners. If we are to sustain gains made over the past 16 years reducing the threat of terrorism to the United States and our interests, we must not lose sight of the importance of CT partner relationships, both at home and abroad. NCTC alone cannot eradicate terrorist threats, and if confirmed, I would seek to build on the success of my predecessors by seeking additional ways to deepen relationships and collaborate with key CT partners and stakeholders.

Although NCTC has matured greatly and largely embraced its position as a recognized leader in our nation's CT efforts, we in the CT community continue to face new and difficult challenges. In today's information age, complex data management and technical challenges make information analysis and sharing increasingly difficult. The collection, use, and management of new types and greater quantities of data remains a challenge across the federal government - and NCTC is no exception. NCTC's watchlisting, screening, and all-source analytic efforts rely on modern, cutting-edge tools and clear, consistent data management policies to keep pace with the evolving terrorist threats of today. If confirmed, I would work to ensure NCTC retains a cadre of highly-skilled, technology-focused professionals like data scientists, who can help bring valuable knowledge about the challenges of rapidly evolving technology and its impact on our ability to analyze and manage CT data.

More broadly, it is important to note that the terrorism threat we face has evolved significantly since NCTC's establishment. Today, the reduced capacity of many prominent terrorist groups and resurgence of threats from prominent state actors is causing many in national security circles to reexamine national security priorities. If confirmed, I will ensure that NCTC serves as an honest broker in responsibly coordinating the CT enterprise's shift to support a national security strategy that focuses on meeting the challenges of state competitors while maintaining the ability to protect the American homeland and people from terrorist threats.

- What is the state of AQ and ISIS... do you see any danger of an unexpected resurgence as the US has drawn down in Syria and as we are drawing down in Afghanistan?

Response: Please see my responses above to Vice Chairman Warner's Question Six.

- How do we keep our intelligence edge with a more limited forward presence?

Response: Please see my response above to Vice Chairman Warner's Question Five.

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: Patrick Hovakimian
OTHER NAMES USED: N/A
2. DATE AND PLACE OF BIRTH: June 16, 1983; San Francisco, CA
CITIZENSHIP: USA
3. MARITAL STATUS: Single
4. SPOUSE'S NAME: N/A
5. SPOUSE'S MAIDEN NAME IF APPLICABLE: N/A
6. NAMES AND AGES OF CHILDREN: N/A
7. EDUCATION SINCE HIGH SCHOOL:

<u>INSTITUTION</u>	<u>DATES ATTENDED</u>	<u>DEGREE RECEIVED</u>	<u>DATE OF DEGREE</u>
Stanford Law School	2007-2010	Juris Doctor	2010
University of Oxford	2005-2007	Master of Philosophy	Requirements met in 2007, degree conferred in 2008
Washington Semester Program, American University	Spring 2004	N/A	N/A
Occidental College	2001-2005	Bachelor of Arts	2005

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).

<u>EMPLOYER</u>	<u>POSITION/TITLE</u>	<u>LOCATION</u>	<u>DATES</u>
U.S. Department of Justice	Associate Deputy Attorney General	Washington, DC	5/2019-Present

Office of the Deputy Attorney General	Chief of Staff Director, Counter-Transnational Organized Crime		
U.S. Department of Justice Office of the Deputy Attorney General	Associate Deputy Attorney General Director, Counter-Transnational Organized Crime	Washington, DC	10/2018-5/2019
U.S. Department of Justice U.S. Attorney's Office Southern District of California	Assistant U.S. Attorney	San Diego, CA	7/2014-3/2019
U.S. Department of Justice Office of the Deputy Attorney General	Associate Deputy Attorney General	Washington, DC	7/2018-10/2018
U.S. Department of Justice Office of the Associate Attorney General	Deputy Associate Attorney General	Washington, DC	1/2018-7/2018
U.S. Department of Justice Office of the Associate Attorney General	Senior Counsel to the Associate Attorney General	Washington, DC	5/2017-1/2018
Latham & Watkins LLP	Associate	Costa Mesa, CA	9/2012-7/2014
U.S. Court of Appeals, Eleventh Circuit	Law Clerk	Atlanta, GA	8/2011-8/2012
Latham & Watkins LLP	Associate	Costa Mesa, CA	11/2010-7/2011
Professor George Fisher Stanford Law School	Research Assistant	Stanford, CA	3/2010-11/2010
Santa Clara County District Attorney's Office	Law Clerk	San Jose, CA	9/2009-12/2009
Latham & Watkins LLP	Summer Associate	Los Angeles, CA	6/2009-7/2009
Latham & Watkins LLP	Summer Associate	Costa Mesa, CA	5/2009-6/2009
U.S. Department of Justice U.S. Attorney's Office Northern District of California	Law Clerk	San Francisco, CA	5/2008-8/2008
Senator John McCain U.S. Senate	Intern	Washington, DC	6/2006-8/2006
Republican National Committee	Intern	Washington, DC	5/2005-8/2005

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).

In addition to the positions listed in Question 8, I serve as a part-time Member of the Foreign Claims Settlement Commission of the United States, an independent federal agency which is administratively part of the U.S. Department of Justice. I began serving in this capacity in June 2018, upon nomination by the President and confirmation by the Senate.

From March 2016 to May 2018, I served as a part-time, volunteer Commissioner of City of San Diego Human Relations Commission. I was appointed to this role by the Mayor of San Diego and confirmed to the position by the City Council.

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

My various roles as a career civil servant at the Department of Justice have allowed me to build significant experience handling national security and intelligence-related matters. As Associate Deputy Attorney General and Chief of Staff to the Deputy Attorney General, I work closely with the FBI, DOJ's National Security and Criminal Divisions, as well as the U.S. Attorneys' offices in the investigation and prosecution of national security-related federal crimes. Often, these investigations and prosecutions implicate the activities of the U.S. Intelligence Community and involve receiving briefings from law enforcement agencies and our IC partners. Following counterterrorism, counterintelligence, and similar briefings, I work with DOJ leaders to collaborate with and provide strategic direction to these agencies. Serving as a principal advisor to DOJ leadership, I work with our national-security components and IC partners to develop strategies not only for various law-enforcement efforts, including investigations, prosecutions, and operations, but also for setting U.S. government-wide policy. Relatedly, I regularly work with DOJ components and advise DOJ leadership on matters pertaining to the Committee on Foreign Investment in the United States and on interagency matters called by the National Security Council.

In addition, I have served as DOJ's Director of Counter-Transnational Organized Crime. In this capacity, I routinely interacted with the Intelligence Community, receiving briefings on counternarcotics efforts as well as country-specific and region-specific intelligence. Working closely with FBI and DEA, we developed law-enforcement operational plans and policy priorities to combat the national-security threats posed by transnational organized crime. Along with helping to set law enforcement priorities, I also represented DOJ in the interagency process and worked with Treasury (including the Office of Foreign Assets Control and the Financial Crimes Enforcement Network), State, DOD, CIA, and ODNI, among other agencies, to effectuate a whole-of-government approach to fighting transnational crime. These counter-transnational crime efforts comprise a key national security priority and necessarily entail close collaboration with the Intelligence Community.

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).

U.S. Attorney's "Getting it Done" Award, Southern District of California, 2016

Wiley W. Manuel Certificate for Pro Bono Legal Services, State Bar of California, 2013

Stanford Law Review, Distinguished Editor Award, 2009

Best Oral Advocate, Stanford Law School Criminal Prosecution Clinic, 2009

Stanford Law School Summer Public Interest Grant, 2008

Hilmer Oehlmann, Jr. Award for Legal Research and Writing, Stanford Law School, 2007

Marshall Scholarship (national award), 2005

Occidental College Politics Department Award, named Top Graduate, 2005

Mortar Board National Honor Society member, 2005

Truman Scholarship (national award), 2004

Phi Beta Kappa (elected as a junior), 2004

Lilly Endowment Grant, 2004

Dean's List, 2001—2005

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).

<u>ORGANIZATION</u>	<u>OFFICE HELD</u>	<u>DATES (est.)</u>
State Bar of California	Member	2010-Present
Stanford Alumni Association	Member	2010-Present
Association of Marshall Scholars	Member	2007-Present
Oxford Alumni Association	Member	2007-Present
Federalist Society for Law & Public Policy	Member	2007-Present
Truman Scholars Association	Member	2004-Present
City of San Diego Human Relations Commission	Member	2016-2018
Hon. William B. Enright Inn of Court	Member	2016-2017
Federal Bar Association, San Diego, California	Member	2015-2016
Lincoln Club of San Diego County	Member	2014-2016
San Diego County (CA) Bar Association	Member	2014-2016
Association of Business Trial Lawyers, Orange County (CA)	Member	2011, 2012-2014
Federal Bar Association, Orange County (CA)	Member	2011, 2012-2014
Orange County (CA) Bar Association	Member	2010-2011, 2012-2014
Hon. William A. Ingram Inn of Court	Member	2009-2010
<i>Stanford Law Review</i>	Member/Senior Editor	2008-2010

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:

As a DOJ attorney, I participated in trainings for federal law enforcement officials, informal question-and-answer sessions as well as outreach efforts to students through, for example, the United States District Court for the Southern District of California. In addition, as a campaign volunteer, over the years I have delivered informal remarks to various groups. I have searched my files to identify as many of these events as possible. I do not recall preparing text for these remarks. Instead, I spoke extemporaneously or otherwise referred to a PowerPoint presentation or perhaps an outline. To the extent that I have access to these PowerPoint presentations or outlines, if asked, I will provide them to the Committee.

March 29, 2019: Speaker, Education and Career Development-oriented Discussion with Baylor University Undergraduate Students, Washington, DC.

November 26, 2018: Speaker, Education and Career Development-oriented Discussion with Baylor University Undergraduate Students, Washington, DC.

October 30, 2018: Panelist, Discussion on Transnational Organized Crime in the Americas, hosted by American Enterprise Institute and the Federalist Society for Law and Public Policy, Washington, DC.

August 6, 2018: Speaker, Education and Career-Oriented Discussion with Summer Interns, Washington, DC.

February 2, 2018: Master of Ceremonies, United States Department of Justice Human Trafficking Summit, Washington, DC.

January 23, 2017: Panelist, Discussion with High School Seniors on Legal Careers and Service as a Federal Prosecutor, San Diego, CA.

May 26, 2016: Speaker, "Meet and Greet" Event Hosted by Point Loma Republican Women Federated Chapter of California Federation of Republican Women, San Diego, CA.

March 17, 2016: Speaker, Discussion with High School Students on Legal Careers and Service as a Federal Prosecutor, San Diego, CA.

December 2, 2015: Speaker, Training for U.S. Department of Homeland Security, Homeland Security Investigations Special Agents Regarding Liquid Methamphetamine and Fentanyl, San Diego, CA.

October 28, 2015: Speaker, Training for U.S. Department of Homeland Security, Customs and Border Protection Officers Regarding Liquid Methamphetamine and Fentanyl, San Ysidro, CA.

October 27, 2015: Speaker, Training Session for U.S. Department of Homeland Security, Homeland Security Investigations Special Agents Regarding Liquid Methamphetamine and Fentanyl, El Centro, CA.

February 19, 2011: Speaker, Retirement Celebration for Dr. Larry T. Caldwell, Cecil H. and Louise Gamble Professor in Political Science, Occidental College, Los Angeles, CA.

Publications:

As an undergraduate, I occasionally wrote news articles for the student newspaper, the Occidental Weekly, from about 2002 to about 2003. I do not have copies of these articles.

In addition, as a member of the Foreign Claims Settlement Commission of the United States since 2018, I have signed many decisions rendered by the Commission involving claims made by U.S. nationals. The Commission's

decisions are published online and are available at <https://www.justice.gov/fcsc/final-opinions-and-orders-5>.

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)

My professional experiences have provided opportunities for me to develop the necessary judgment and experience to serve successfully as the General Counsel for ODNI. As set forth in my response to Question 10, I have extensive experience from my time in government, particularly at the Department of Justice. As a career attorney and a principal advisor to DOJ leadership, I advise the Attorney General and the Deputy Attorney General on oversight and management of law enforcement and national security matters. I work regularly with FBI, the National Security Division, the Criminal Division, and the U.S. Attorney community on significant national security-related matters, often in a highly time-sensitive context. Working under time pressure and in the context of many matters carrying wide-ranging implications, I frequently apply legal analysis to a diverse set of difficult circumstances.

In addition to regularly advising decision-makers, I have managed and directed a staff of approximately 25 attorneys as Chief of Staff in the Office of the Deputy Attorney General. Working with these attorneys and with others in the leadership offices, we oversee the work of tens of thousands of attorneys and law enforcement agents across all of DOJ's national security, civil, criminal, policy, and law enforcement components. Providing strategic direction to these attorneys on both legal and policy matters as well as oversight of the litigation and investigations throughout DOJ prepares me well to similarly manage the activities of the Office of the General Counsel and interface with attorneys across the USIC, if I am confirmed to serve.

In addition to attorneys and staff at DOJ, I have also had the pleasure of working closely with career professionals throughout the federal government. Given the role ODNI plays in coordinating the USIC, my experiences in the interagency process prepare me well for service as General Counsel, if confirmed. My direct experience working with civil servants at all levels throughout the federal government also translates into a deep appreciation for the work these dedicated civil servants perform on a daily basis. If confirmed, I look forward to working collaboratively with these national security professionals – as I have done in my current and past roles – to better integrate and coordinate the functions of the federal government in this vitally important area.

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).

Member, Republican Party, 2001-Present (registered as a Republican upon turning 18 years of age)

Volunteer, George "Duf" Sundheim's U.S. Senate Campaign, 2016 (advised Mr. Sundheim during his campaign to serve as a U.S. Senator for California)

Member, Lincoln Club of San Diego County, 2014-2016 (paid membership dues of approximately \$750 per year)

Republican Party of Orange County, California, 2013 (contribution of approximately \$250)

Volunteer, Lawyers for Mitt Romney, 2012 (on standby for travel to Nevada on and around Election Day 2012)

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.

No.

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.

No.

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.

No.

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

No.

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. I have never been a registered lobbyist or engaged in lobbying activity.

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.

None. 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 conflict 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.

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, if necessary. As a current federal employee, however, I do not believe I have any such business arrangements that would require severance. Instead, if confirmed, I intend to resign from the U.S. Department of Justice.

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.

As a current federal employee, I have no outside business connections or arrangements to sever. As described in my OGE Form 278e, I anticipate keeping an old 401k plan sponsored by Latham & Watkins LLP, but there have been no contributions to that plan since 2014 and I do not anticipate any future contributions being made.

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.

I currently have no plans, agreements, understandings, or options with any employer concerning employment after leaving government service.

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.

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.

Not applicable; I am unmarried.

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.

<u>NAME OF ENTITY</u>	<u>POSITION</u>	<u>DATES HELD</u>	<u>SELF OR SPOUSE</u>
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None.

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 visiting Washington, DC, around March 2017, friends whom I have known since 2007, when I was a graduate student, took me to a concert at the John F. Kennedy Center for Performing Arts and dinner afterwards. The same friends took me and a group of people to dinner in April 2018 and also in December 2018, both times in Washington, DC.

Occasionally during the past five years, friends from high school, college, or graduate school have invited me to sports events, mostly when I lived in California, if they had an extra ticket. Sometimes the value of those tickets and any associated meals exceeded \$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.)

<u>DESCRIPTION OF PROPERTY</u>	<u>VALUE</u>	<u>METHOD OF VALUATION</u>
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Please see my OGE Form 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 Form 278e.		
<p>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.</p>		
No.		
<p>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.)</p>		
<p>INFORMATION REDACTED</p>		
<p>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?</p>		
Yes.		
<p>33. LIST ALL JURISDICTIONS IN WHICH YOU AND YOUR SPOUSE FILE ANNUAL INCOME TAX RETURNS.</p>		
<p>For the past few years, I have filed annual income tax returns in California and Washington, DC. For the tax year ending on December 31, 2020, however, I anticipate only filing in Washington, DC.</p>		

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 California. Since 2014, I have served as a full-time federal employee. I have therefore not billed more than \$200 worth of services during the past five years to any clients or customers.

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.

As a career employee of the U.S. Department of Justice for the previous nearly six years, I have ensured my financial holdings meet U.S. Government requirements, and I do not believe any current holding would present a conflict of interest. If confirmed, I will execute, and abide by, an agreement with the ODNJ to avoid any conflict of interest under the applicable statutes and regulations.

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?

2019 Annual Report, U.S. Department of Justice
2018 Annual Report, U.S. Department of Justice
2017 New Entrant Report, U.S. Department of Justice

Yes, if asked I will provide the Committee with 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, 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.

When I was about 16 or 17 years old, a friend and I played a prank involving a giant gumball machine at a Blockbuster Video store. The local police department investigated the prank, concluding the investigation within, as I understand it, a matter of hours. No one was held, arrested, or charged.

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.

My former wife and I engaged in informal mediation, negotiated a settlement, and finalized our divorce without litigation. The settlement agreement was entered by the Orange County, California, Superior Court in June 2016.

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 plays a vital role in the functioning of our system of government. Congressional oversight provides the American people, through their elected representatives, a channel through which to review and evaluate the operations and performance of the Executive Branch.

Specifically, with regard to the intelligence activities of the USIC, thorough and robust congressional oversight is of paramount importance. The USIC engages in activities critical to the national security of the United States and with implications on many of the other values – civil liberties, for example – that we as Americans rightly prize. As such, the elected representatives in Congress ought to have direct and thorough oversight of the USIC’s intelligence activities and practices.

The ODNI General Counsel should work collaboratively with the intelligence committees of the Congress to facilitate robust and effective oversight. The General Counsel should engage with and address requests from the Congressional committees in a timely and comprehensive fashion. Requests should be addressed promptly, with extensive consultation with the career professionals who work within the Office of the General Counsel and the USIC at large. Applicable law also requires, in certain instances, congressional notification of significant intelligence activities. The General Counsel should work with ODNI leadership and staff to proactively communicate and notify the Congressional committees of such matters, as appropriate.

If confirmed as ODNI General Counsel, I will assist the Director in engaging with the Congressional intelligence committees to facilitate a collaborative process, which provides the committees with the information required by law, enabling the Congress to carry out effective oversight.

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 “[t]he General Counsel shall perform such functions as the Director of National Intelligence may prescribe.” If confirmed, I anticipate that my chief responsibility will be to provide the Director and other ODNI senior leadership with the legal advice needed to carry out their responsibilities in a lawful manner, particularly the responsibility under section 102A(f)(4) of the National Security Act to “ensure compliance with the Constitution and laws of the United States” by the Intelligence Community. If confirmed, I anticipate working closely with General Counsels of all elements of the Intelligence Community as well as General Counsels at Cabinet agencies to address interagency legal issues and other coordination issues that may arise.

I also anticipate that, if confirmed, I would serve as a key member of the Director’s management team. My duties and function would include providing him not only with sound legal advice, but also with advice on a variety of policy and operational questions. Such a role would necessitate close coordination with other senior executives at ODNI, across the USIC, and indeed throughout the federal government. If confirmed, I would also assist the Director in responding to Congressional oversight, as discussed in my answer to Question 48.

In addition, if confirmed, I would make it a priority to promote collaboration and cooperation across the Intelligence

Community's legal offices. Consistent with and in furtherance of ODNI's intelligence-integration mission, the Office of General Counsel at ODNI is well positioned to contribute significantly to the overall effective functioning and coordination of the legal offices within the Intelligence Community.

Finally, as the chief legal officer for ODNI, the General Counsel has and ought to have a primary role in ensuring that ODNI operates and functions lawfully at all times, in accordance with the Constitution and the laws of the United States. If I am confirmed to serve as General Counsel, ensuring such compliance would be of paramount importance.

AFFIRMATION

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

JUNE 3, 2020
(Date)

SIGNATURE OF PATRICK HOVAKIMIAN

SIGNATURE OF NOTARY

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 OF PATRICK HOVAKIMIAN

Signature

Date: June 3, 2020

**SELECT COMMITTEE ON
INTELLIGENCE**

UNITED STATES SENATE



**Additional Pre-Hearing Questions for
Mr. Patrick Hovakimian upon his nomination to be
General Counsel for the Office of the Director of National Intelligence**

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 (DNI) 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 (ODNI) 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: My understanding aligns closely with the way past General Counsels have characterized the obligation during their confirmations. Section 502 of the National Security Act requires the DNI, and the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities, to keep the two intelligence committees “fully and currently informed” of all U.S. intelligence activities (excepting covert actions that are covered in section 503), including “significant anticipated intelligence activities” and “significant intelligence failures.”

Previous DNIs have issued IC-wide directives on the subject of congressional notifications to ensure timely reporting to Congress consistent with Section 502. In keeping with these directives, Director Ratcliffe stated during his confirmation that he expects all Intelligence Community (IC) elements to follow both the laws and policies that are in place within the IC concerning congressional notification.

As the chief legal officer for the ODNI, the General Counsel assists the Director in carrying out his legal obligations, and, if confirmed, I will help to ensure IC elements follow all applicable laws and policies.

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 [.]” Although I do not believe this provision limits the obligation to keep the intelligence committees fully informed, I do understand it to mean that the DNI has a degree of latitude in deciding how he will bring extremely sensitive matters to the committees’ attention. My understanding is that, where exceptional circumstances have required limited congressional notifications, it has been the case that committee leadership would work with the Executive Branch to determine when to expand access to the information to the full Committee.

Priorities of the Director of National Intelligence

QUESTION 2: Have you discussed with the DNI 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: Director Ratcliffe and I have discussed the expectation that all officials in the ODNI act with the utmost integrity and adherence to the Constitution and the rule of law. If confirmed, I will do precisely that. In addition, the Director has specifically noted his appreciation for the work of the career professionals in the Office of General Counsel and discussed the need to empower the attorneys and staff in the Office of General Counsel to fulfill their critical mission of providing sound, timely, and relevant legal advice to ODNI and to the IC. I fully concur with the Director's views and expectations in this regard, and, if confirmed, I plan to work to effectuate this end.

The Office of the General Counsel

QUESTION 3: The Office of the General Counsel of the ODNI has many roles and responsibilities. What are your expectations for the Office?

- a. Do you have any preliminary observations on its responsibilities, performance, and effectiveness?
- b. If confirmed, will you seek to make changes in the numbers or qualifications of attorneys in the office, or the operations of the office?

ANSWER: My expectations align closely with those expressed by past General Counsels during their confirmations. By statute, the ODNI General Counsel is the chief legal officer of ODNI and performs such functions as the DNI may prescribe. The Office of General Counsel supports the General Counsel carrying out these duties, to include by providing expert legal counsel to ODNI leadership and the Agency's personnel, ensuring that all personnel assigned to the ODNI act in accordance with the Constitution and laws of the United States.

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 the Office of General Counsel lawyers to be experts in their particular areas of responsibility and to engage cooperatively with their counterparts in the IC and interagency and, where appropriate, to lead efforts to resolve cross-cutting legal issues that may arise. 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.

If confirmed, I look forward to leading the office and ensuring that it provides valuable legal services to the ODNI. To date, I have had only limited interactions with lawyers in the office's current management and others who have worked for, or interacted with, the office. I have been impressed with the competence, experience, knowledge and dedication of the lawyers I have met so far. The office appears to be capable, effective, and well respected within ODNI and the larger legal community. Similarly, all of the interactions I have had with the Office of General Counsel lawyers and staff while serving as a Department of Justice official have been productive and I have been impressed with their professionalism and dedication to the mission. If confirmed, I would consult with the current management and staff before determining whether changes in numbers or qualifications of attorneys in the office or the operations of the office would benefit the mission.

QUESTION 4: Please describe who or what you understand to be your client or clients in the position of General Counsel of the Office of the Director of National Intelligence (ODNI/GC). As part of your answer, please address how that will guide your relationship with and obligations to the ODNI, the DNI, the Intelligence Community (IC) as a whole, and the President.

ANSWER: The principal clients of the ODNI General Counsel are the DNI, ODNI leadership, and the other personnel assigned to the ODNI. By statute, the ODNI General Counsel is the chief legal officer of the ODNI and performs such functions as the DNI may prescribe. The Office of General Counsel supports the General Counsel carrying out these duties, to include by providing expert legal counsel to ODNI leadership and the Agency's personnel and ensuring that all personnel assigned to the ODNI act in accordance with the Constitution and laws of the United States. If confirmed, I would also expect lawyers in the office to engage cooperatively with their counterparts in the IC and interagency and, where appropriate, to lead efforts to resolve cross-cutting legal issues that may arise, which I see as an important part of ODNI's community management role.

QUESTION 5: Please explain how you would respond to each of the following scenarios:

- a. If the President or a White House official asks you to perform an action that is in the President's interest, but contrary to the interests of the IC and/or the ODNI.
- b. If you become aware that the President or a White House official has asked the DNI to perform an action that is in the President's interest, but contrary to the interests of the IC and/or the ODNI.

ANSWER: If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that all IC activities are carried out in accordance with the Constitution and applicable federal law. The DNI's foremost responsibility is to ensure that the President and his team receive the best intelligence possible on which to base policy decisions that provide for the best interests of the American people. The mission of the ODNI and the IC is of paramount importance and, if confirmed, in all instances my objective will be to enhance that mission and my loyalty will be to the Constitution and to the rule of law.

QUESTION 6: Describe your understanding of the responsibilities of the DNI and the GC/ODNI in reviewing, and providing legal advice on, the work of the Central Intelligence Agency (CIA), including covert action undertaken by the CIA.

ANSWER: My understanding aligns closely with the way past General Counsels have characterized these responsibilities during their confirmations. The DNI is the head of the IC and has significant authority to oversee the work of all IC elements, including the CIA. This includes responsibilities over budget requests and appropriations for the National Intelligence Program, oversight of intelligence priorities and taskings, and governance of national intelligence activities. In addition, the DNI has a specific mandate to ensure that all IC elements conduct activities, including covert action undertaken by the CIA, in compliance with the Constitution and the laws of the United States. The ODNI General Counsel plays a central role in helping the DNI carry out this responsibility, including working closely with the General Counsel of the CIA to ensure that CIA's intelligence activities are carried out in a manner consistent with the Constitution and applicable federal law.

QUESTION 7: Explain your understanding of the role of the ODNI/GC in resolving conflicting legal interpretations within the IC.

ANSWER: My understanding aligns closely with the way past General Counsels have characterized the role during their confirmations. Section 102A(f)(4) of the National Security Act provides that the DNI shall ensure compliance with the Constitution and laws of the United States by the CIA and by other elements of the IC "through the host executive departments" of those elements. As noted in my response to question 6, it is my understanding that the ODNI General Counsel plays a significant role in helping the Director carry out this requirement. As such, the ODNI General Counsel works closely with the General Counsels across the IC to identify and resolve cross-cutting legal issues or conflicting legal positions. It is also my understanding that the ODNI General Counsel often presents the consensus views of the IC legal community to the broader Federal Government. If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to identify and address conflicting legal interpretations whenever they arise.

Guidelines under Executive Order 12333

QUESTION 8: One of the fundamental documents governing the activities of the IC 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, please update the Committee on the principal matters to be addressed by each of the required Attorney General-approved guidelines or procedures, any issues you believe need to be resolved, and your perspective on where things stand at present.

ANSWER: My understanding with respect to each of these questions aligns closely with what was communicated by past General Counsels during their confirmations.

- 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 IC, 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 IC's access to, or use of, information collected by Federal Government departments and agencies outside the IC and that these guidelines should implement the provision of section 1.5(a) directing the heads of Executive Branch departments and agencies to "[p]rovide 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 IC, has access to relevant information possessed by the Federal Government. The sharing of such information may present legal and policy issues that are specific to a particular circumstance. It is my understanding that the IC has addressed these issues on a case-by-case basis relying on a combination of guiding documents, including, most notably, the Attorney General-approved procedures for the collection, retention, and dissemination of information concerning U.S. persons required by section 2.3 of Executive Order 12333. If confirmed, I will review this approach and consider whether additional Attorney General-approved procedures are necessary.

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

ANSWER: It is my understanding that, under section 1.3(b)(18), the DNI may provide advisory tasking to departments, agencies, and establishments of the United States Government that are not elements of the IC in order 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 procedures for implementing and monitoring responsiveness to advisory taskings because relevant information may be effectively obtained through existing interagency processes. If confirmed, I will review this approach and consider whether additional Attorney General-approved procedures are necessary.

- 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 IC elements to participate in the development of procedures 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 IC elements' Attorney General-approved procedures for the collection, retention, and dissemination of information concerning U.S. persons required by section 2.3 of Executive Order 12333.

- d. Regulations under section 1.7(g)(1) for collection, analysis, production, and intelligence by intelligence elements of the Federal Bureau of Investigation (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 DNI, 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 IC element to determine where the information is relevant to its responsibilities.

ANSWER: IC elements' Attorney General-approved U.S. person procedures establish the parameters under which IC 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 issue new or updated procedures. 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. 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, former Director Clapper issued these procedures on January 3, 2017, with the approval of former Attorney General Lynch. These procedures identify the circumstances under which such disseminations may occur and require that recipient IC 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 IC 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 IC 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. It is my understanding that most elements have addressed the requirements of this section within their Attorney General-approved procedures for the collection, retention, and dissemination of information concerning U.S. persons required by section 2.3 of Executive Order 12333. It is my understanding that, in conjunction with 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. 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 IC 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 IC elements have

incorporated the section 2.9 procedures into their Attorney General-approved procedures for the collection, retention, and dissemination of information concerning U.S. persons required by section 2.3 of Executive Order 12333. It is my understanding that, in conjunction with 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 2.9. If confirmed, I will ensure that the office remains closely involved in the development of any future procedures under this section.

Foreign Intelligence Surveillance Act

QUESTION 9: The FISA Amendments Reauthorization Act of 2017 (P.L. 115-118) was enacted on January 19, 2018 (hereinafter, the Act). Under section 702, the Attorney General and the DNI may authorize jointly, for a period 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. Section 702(l) also provides for semiannual or annual assessments and reviews.

ANSWER: My understanding with respect to each of these questions aligns closely with what was communicated by past General Counsels during their confirmations.

- a. Describe your understanding of the matters that the Attorney General and DNI, with the assistance of the ODNI/GC, should evaluate in order to determine whether there should be revisions in the substance or implementation of (1) targeting procedures, (2) minimization procedures, (3) querying procedures, and (4) guidelines required, to ensure both their effectiveness and their compliance with any applicable constitutional or statutory requirements.

ANSWER: Under Section 702 of the Foreign Intelligence Surveillance Act (FISA), the Attorney General and the DNI make annual certifications that authorize IC elements to target non-U.S. persons reasonably believed to be 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 DNI must make certain representations regarding the legal sufficiency of the procedures and guidelines required under the statute, including that the procedures and guidelines are consistent with the requirements of the Fourth Amendment to the Constitution of the United States. In making these representations, it is my understanding that the Attorney General and the DNI rely on the information they have learned over the course of the year in their roles as overseers of the program. This information includes the regular and extensive oversight performed by the Department of Justice and the ODNI, including attorneys within the ODNI Office of General Counsel, of targeting decisions, querying activities, and minimization practices of each element that participates in the program. I understand that this extensive oversight informs both the Attorney General's and the DNI's representations in the Section 702 certifications and their recommendations on whether

the relevant certifications, including underlying procedures and guidelines, should be revised to ensure the effective implementation of this authority in a manner that comports with all Constitutional and statutory requirements. If confirmed, I will ensure that ODNI Office of General Counsel remains closely involved in these oversight activities.

- b. Describe how the semiannual or annual assessments and reviews required by the 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 Act, including in applicable targeting and minimization procedures and guidelines.

ANSWER: Section 702(m) requires the Attorney General and the DNI to assess compliance with the procedures and guidelines adopted pursuant to the statute. The Attorney General and the DNI must submit these assessments to the Foreign Intelligence Surveillance Court (FISC) and the relevant congressional oversight committees at least once every six months. I understand this statutory requirement also informs the Attorney General's and the DNI's representations in the Section 702 certifications to the FISC and their conclusion regarding whether revisions are necessary to ensure the effective implementation of this authority and consistency with the Constitution and the statute. If confirmed, I will ensure that ODNI Office of General Counsel remains closely involved in these oversight activities.

- c. In addition to the matters described in the 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 Act?

ANSWER: I have not had occasion to form an opinion on additional matters that should be evaluated by the Attorney General or the DNI in relation to their oversight of activities conducted pursuant to Section 702 of FISA. 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 should be considered in conducting such oversight to ensure the lawful and effective administration of the Act.

QUESTION 10: The USA FREEDOM Act of 2015 (P.L. 114-53) reauthorized three national security tools – Business Records collection, Roving Surveillance, and the Lone Wolf provision – that expired on March 15, 2020.

- a. Given your experience at the Department of Justice, what concerns do you have with the expiration of these authorities?
- b. If confirmed as ODNI/GC, what efforts would you undertake to address these concerns?

ANSWER: The provisions of FISA that expired on March 15, 2020, include important authorities that have greatly assisted investigations involving terrorists or spies who pose a threat to U.S. national security. If these provisions are not reauthorized the government will be unable to use them in future investigations, leaving us all more vulnerable. If confirmed, I look forward to working with Congress to reauthorize these expired provisions.

Other Surveillance Matters

QUESTION 11: Section 4 of PPD-28 calls on each IC element to update 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 IC continues to post these policies and procedures as well as any modifications, superseding policies and procedures, or significant interpretations?

ANSWER: As Director Ratcliffe stated during his confirmation, the publication of the policies and procedures established pursuant to Presidential Policy Directive 28 (PPD-28) in a manner that protects sources and methods but considers the public interest to the maximum extent feasible, is a critical aspect of the IC's transparency efforts. If confirmed, I will work with the Director and senior leadership to ensure that the IC continues to follow all legal requirements related to PPD-28 implementation policies and procedures, along with any modifications or superseding policies and procedures, consistent with longstanding Executive Branch confidentiality interests.

QUESTION 12: Are there any circumstances in which an element of the IC 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: If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that all IC activities are carried out in accordance with the Constitution and applicable federal law, as well as Presidential directives such as Executive Order 12333. It is my understanding that IC elements' Attorney General-approved U.S. person procedures for the collection, retention, and dissemination of information concerning U.S. persons required by section 2.3 of Executive Order 12333 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.

Transparency

QUESTION 13: 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.

QUESTION 14: 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 and appropriately coordinated with the relevant policy and public affairs personnel within the Executive Branch. 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 intelligence committees of the inaccuracy in a classified setting.

Evaluation of Office of the Director of National Intelligence

QUESTION 15: 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: I have not had occasion to form an opinion on the relative strengths or weaknesses of ODNI’s current authorities as they apply to its mission. If confirmed, I will consider this question closely throughout my tenure as ODNI General Counsel and I will work closely with the Committee to address any areas where the ODNI would require additional authorities.

QUESTION 16: Members also have expressed concerns that the ODNI’s bureaucracy has resulted in inefficiencies. Do you have any preliminary observations on strengths or weaknesses of the authorities of the Office with respect to the ability of the General Counsel’s office to function within the ODNI bureaucracy? If so, please describe.

ANSWER: I have not had occasion to form an opinion on the relative strengths or weaknesses of ODNI’s current authorities as they apply to the function of the Office of General Counsel. If confirmed, I will consider this question closely throughout my

tenure as ODNI General Counsel and I will work closely with the Committee to address any areas where the ODNI would require additional authorities.

Intelligence Community Whistleblowers

QUESTION 17: Do you believe that IC whistleblowers currently have all the protections they need to interact directly with the congressional intelligence committees?

- a. If not, what legal authorities are required to ensure these protections?
- b. If so, what legal authorities provide the basis for those protections?

ANSWER: As Director Ratcliffe stated during his confirmation, whistleblowers serve a vital role within the IC by promoting government accountability, maintaining the integrity of the workforce, and addressing allegations of wrongdoing without improperly disclosing classified information. If confirmed, I commit to ensure that every complaint is handled in compliance with all legal requirements and whistleblowers are afforded all legal protections to which they are entitled. I have not had occasion to form an opinion on the sufficiency of existing authorities that provide for protection of whistleblowers. If confirmed, I intend to consider this question closely throughout my tenure as ODNI General Counsel and I will work closely with the intelligence committees to address any areas where additional authorities may be appropriate.

QUESTION 18: What is your view of the ODNI/GC's role relative to advancing an IC "whistleblower" complaint to Congress, pursuant to the Intelligence Community Whistleblower Protection Act?

ANSWER: The foremost responsibility of the ODNI General Counsel is to provide expert legal counsel to the DNI and senior leadership to ensure that the DNI and senior leadership conduct their activities in accordance with the Constitution and laws of the United States, including applicable provisions of the Intelligence Community Whistleblower Protection Act that govern transmittal of whistleblower complaints to Congress. If confirmed, I commit to ensure that every complaint is handled in compliance with all legal requirements and whistleblowers are afforded all legal protections to which they are entitled.

QUESTION 19: Under what circumstances would you judge it appropriate to intercede in advancing a whistleblower complaint to Congress?

ANSWER: The foremost responsibility of the ODNI General Counsel is to provide expert legal counsel to the DNI and senior leadership to ensure that the DNI and senior leadership conduct their activities in accordance with the Constitution and laws of the United States, to include applicable provisions of the Intelligence Community

Whistleblower Protection Act that govern transmittal of whistleblower complaints to Congress. If confirmed, I commit to ensure that every complaint is handled in compliance with all legal requirements and whistleblowers are afforded all legal protections to which they are entitled.

QUESTION 20: How would you address a situation in which you disagree with the IC Inspector General’s determination that a whistleblower complaint qualifies as an “urgent concern,” for the purposes of advancing a complaint to Congress?

ANSWER: The foremost responsibility of the ODNI General Counsel is to provide expert legal counsel to the DNI and senior leadership to ensure that the DNI and senior leadership conduct their activities in accordance with the Constitution and laws of the United States, to include applicable provisions of the Intelligence Community Whistleblower Protection Act that govern transmittal of whistleblower complaints to Congress. If confirmed, I commit to ensure that every complaint is handled in compliance with all legal requirements and whistleblowers are afforded all legal protections to which they are entitled.

QUESTION 21: Under what circumstances would you inform a party named in a whistleblower complaint that he or she is the subject of the complaint?

ANSWER: As Director Ratcliffe stated during his confirmation, whistleblowers serve a vital role within the IC by promoting government accountability, maintaining the integrity of the workforce, and addressing allegations of wrongdoing without improperly disclosing classified information. If confirmed, I commit to ensure that every complaint is handled in compliance with all legal requirements and whistleblowers are afforded all legal protections to which they are entitled.

Executive Branch Oversight of Intelligence Activities

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

ANSWER: My understanding aligns closely with what was communicated by past General Counsels during their confirmations. All three branches of government conduct oversight of intelligence activities. Within the Executive Branch, this oversight is conducted from entities inside IC elements, such as offices of general counsel, agency civil liberties and privacy officials, and inspectors general, as well as by independent entities like the Privacy and Civil Liberties Oversight Board and the Intelligence Oversight Board that play a critical role in overseeing the IC’s activities. The Department of Justice also conducts oversight of activities under FISA. Finally, under section 102A(f)(4) of the National Security Act, the DNI also has a specific statutory

obligation to ensure compliance with the Constitution and laws of the United States by elements of the IC. It is my understanding that the ODNI General Counsel plays a significant role in helping the Director to carry out this requirement. I cannot say at this point whether improvements in the structure or function of Executive Branch oversight activities are needed. If confirmed, I will consider this question closely throughout my tenure as ODNI General Counsel and I will work closely with the Committee to address any areas where I identify needed improvements.

Relationship with Other Officials

QUESTION 23: What should be the relationship of the ODNI/GC with respect to the following officers of the IC?

- a. General Counsel, CIA;

ANSWER: As I stated in my response to questions 6 and 7, the ODNI General Counsel works closely with the General Counsels across the IC, including the CIA General Counsel, to identify and resolve cross-cutting legal issues or conflicting legal positions. These strong partnerships across the IC legal community, and in particular CIA, are important as the ODNI General Counsel plays a significant role in helping the Director to carry out his statutory oversight function. It is my understanding that, with regard to the relationship between the ODNI General Counsel and the General Counsel of the CIA, 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 IC. 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 IC, 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. Maintaining this close, collaborative relationship is necessary because of the number of areas where the DNI 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 DNI. Likewise, activities under Section 702 of FISA must be jointly authorized and overseen by the Attorney General and the Director.

- c. Inspector General, ODNI; and

ANSWER: I fully support a strong, independent Inspector General of the Intelligence Community (IC IG) and believe that the ODNI General Counsel must have a strong

working relationship with the IC IG because, along with the ODNI Civil Liberties Protection Officer, they form the core group of officials responsible for overseeing ODNI's activities. If confirmed, I will seek to maintain what I understand to be a close working relationship with both the IC IG and the IG's legal counsel.

d. Civil Liberties and Privacy Officer, ODNI.

ANSWER: The ODNI's Civil Liberties Protection Officer, who heads the ODNI Office of Civil Liberties, Privacy, and Transparency, reports directly to the DNI by statute. In addition, he serves as the Chief Transparency Officer for the ODNI, and in that capacity, coordinates the implementation across the IC 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.

QUESTION 24: Do you see the ODNI/GC in a supervisory role in relation to other IC agency General Counsel?

ANSWER: The ODNI General Counsel does not have a supervisory relationship with respect to other IC agency General Counsels; however, it is my understanding that the ODNI General Counsel often plays a lead role in identifying cross-cutting legal issues or conflicting legal positions among the IC elements and facilitating resolution of those issues. It is also my understanding that the General Counsel often presents the consensus views of the IC legal community to the broader Federal Government. In addition, and as indicated in my response to question 7, Section 102A(f)(4) of the National Security Act provides that the DNI shall ensure compliance with the Constitution and laws of the United States by the CIA and by other elements of the IC "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.

QUESTION 25: Do you see the ODNI/GC in a supervisory role in relation to the Inspector General of the IC?

ANSWER: No, by statute, the IC IG reports directly to, and is under the supervision of, the DNI.

QUESTION 26: What is your understanding of the relationship between the ODNI/GC and the White House Counsel's Office (WHCO)? When do you believe it is appropriate to include WHCO in your legal deliberations?

ANSWER: The foremost responsibility of the ODNI General Counsel is to provide expert legal counsel to the DNI, ODNI leadership, and other personnel assigned to ODNI, to ensure that the agency conducts its activities in accordance with the Constitution and

laws of the United States. Direct and open collaboration between the ODNI Office of General Counsel and the White House Counsel's Office is critical to fulfilling this function and supporting the DNI in his roles as the head of the IC and the principal advisor to the President for intelligence matters related to the national security.

QUESTION 27: What do you believe the relationship is between the Office of General Counsel at ODNI and the Office of Legal Counsel (OLC) at the Department of Justice? Do you consider OLC opinions to be binding on the ODNI/GC? Please describe the circumstances under which you believe soliciting an opinion from OLC is appropriate.

ANSWER: The foremost responsibility of the ODNI General Counsel is to provide expert legal counsel to the DNI, ODNI leadership, and other personnel assigned to ODNI, to ensure that the agency conducts its activities in accordance with the Constitution and laws of the United States. Direct and open collaboration between the ODNI Office of General Counsel and OLC is critical to fulfilling this function and supporting the DNI in his roles as the head of the IC and the principal advisor to the President for intelligence matters related to the national security.

By delegation from the Attorney General, OLC provides legal advice to the President and all Executive Branch agencies. In effect, the Office serves as outside counsel for the other agencies of the Executive Branch, and its opinions are generally understood to be binding on Executive Branch agencies. The Office drafts legal opinions of the Attorney General and provides its own written opinions and other advice in response to requests from the various agencies of the Executive Branch. Such requests typically deal with legal issues of particular complexity and importance or those about which two or more agencies are in disagreement.

Recruitment to the ODNI Office of General Counsel

QUESTION 28: What are your plans to recruit and retain top talent in the Office of General Counsel at ODNI? Do you plan to offer additional detailee options at all career levels so that attorneys from other agencies can bring their expertise to ODNI and, in turn, bring ODNI experience back to their home agency?

ANSWER: I have been impressed with the competence, experience, knowledge and dedication of the lawyers in the office that I have met so far. The office appears to be capable, effective, and well respected within ODNI and the larger legal community. Similarly, all of the interactions I have had with the Office of General Counsel lawyers and staff—both permanent ODNI employees and detailees—while serving as a Department of Justice official have been productive, and I have been impressed with their professionalism and dedication to the mission. I currently have only limited knowledge of the specifics, but if confirmed, I would anticipate consulting the current management

and staff before determining what types of recruiting efforts or detailee options would benefit the mission. If confirmed, I look forward to leading the office and ensuring that it provides valuable legal services to the ODNI and the IC.

Executive Privilege

QUESTION 29: Please describe your understanding of Executive Privilege: its general contours; to whom it can apply; and the time period during which it may apply. Please include your understanding of when the privilege can be waived.

ANSWER: My understanding is that executive privilege is a Constitutionally-based privilege that protects certain confidential information within the Executive Branch against compelled disclosure. Examples of such confidential information that may be protected by executive privilege include Presidential communications, deliberative communications, law enforcement information the disclosure of which might compromise open criminal investigations, and information relating to foreign relations and national security. These components of executive privilege exist to preserve the President's ability to perform his Constitutional functions, including his responsibility to take care that Executive Branch departments and agencies are able to faithfully execute the laws. The privilege generally should only be invoked after the Constitutionally-mandated accommodation process has failed to reach a resolution.

QUESTION 30: Please define the phrase "executive branch confidentiality interests." What are "executive branch confidentiality interests" and when/how do they differ from a claim of Executive Privilege?

ANSWER: My understanding is that the phrase, "executive branch confidentiality interests" refers to those confidentiality interests that the executive privilege exists to protect against compelled disclosure.

QUESTION 31: At what point would you refer information or material to WHCO to review for executive privilege issues?

ANSWER: My understanding is that when agencies within the Executive Branch identify information that is sought, for example, by a co-equal branch of government and may implicate Executive Branch confidentiality interests, those agencies will seek to engage in an accommodation process that is intended to accommodate the legitimate interests of the co-equal branch, while safeguarding Executive Branch confidentiality interests. In such cases, it is not uncommon for agencies to consult other elements of the Executive Branch, including the White House Counsel's Office and/or the Department of Justice in order to enlist their assistance in identifying information that may be subject to privilege.

Professional Experience

QUESTION 32: For each of the following, describe specifically how your experiences will enable you to serve effectively as the ODNI/GC. Include within each response a description of issues relating to the position that you can identify based on those experiences.

- a. U.S. Department of Justice, Office of the Deputy Attorney General;

ANSWER: My various roles as a career civil servant at the Department of Justice, Office of the Deputy Attorney General, have allowed me to build significant experience handling national security and intelligence-related matters. As Associate Deputy Attorney General and Chief of Staff to the Deputy Attorney General, I work closely with the Federal Bureau of Investigation, the Department of Justice's National Security and Criminal Divisions, as well as the U.S. Attorneys' offices in the investigation and prosecution of national security-related federal crimes. Often, these investigations and prosecutions implicate the activities of the IC and involve receiving briefings from law enforcement agencies and our IC partners. Following counterterrorism, counterintelligence, and similar briefings, I work with Department of Justice leaders to collaborate with and provide strategic direction to these agencies. Serving as a principal advisor to Department of Justice leadership, I work with our national-security components and IC partners to develop strategies not only for various law-enforcement efforts, including investigations, prosecutions, and operations, but also for setting U.S. government-wide policy. Relatedly, I regularly work with Department of Justice components and advise Department of Justice leadership on matters pertaining to the Committee on Foreign Investment in the United States and on interagency matters coordinated by the National Security Council.

In addition, I have served as the Department of Justice's Director of Counter-Transnational Organized Crime. In this capacity, I routinely interacted with the IC, receiving briefings on counternarcotics efforts as well as country-specific and region-specific intelligence. Working closely with personnel across Department of Justice components, we developed law-enforcement operational plans and policy priorities to combat the national-security threats posed by transnational organized crime. Along with helping to set law enforcement priorities, I also represented the Department of Justice in the interagency process and worked with Treasury (including the Office of Foreign Assets Control and the Financial Crimes Enforcement Network), State, DOD, CIA, and ODNI, among other agencies, to effectuate a whole-of-government approach to fighting transnational crime. These counter-transnational crime efforts comprise a key national security priority and necessarily entail close collaboration with the IC.

In addition, I have managed and directed a staff of approximately 25 attorneys as Chief of Staff in the Office of the Deputy Attorney General. Working with these attorneys and

with others in the leadership offices, we oversee the work of tens of thousands of attorneys and law enforcement agents across all of the Department of Justice's national security, civil, criminal, policy, and law enforcement components. Providing strategic direction to these attorneys on both legal and policy matters as well as oversight of the litigation and investigations throughout the Department of Justice prepares me well to similarly manage the activities of the Office of General Counsel and interface with attorneys across the IC, if I am confirmed to serve.

b. U.S. Department of Justice, U.S. Attorney's Office, Southern District of California; and

ANSWER: Upon joining the Department of Justice in 2014, I began serving as a career federal prosecutor, investigating and litigating criminal matters in the Southern District of California. As a federal prosecutor, I spearheaded Grand Jury investigations, debriefed witnesses, drafted search warrants and other investigatory tools, provided operational and litigation-risk-based advice to federal law enforcement agents, and managed a proactive practice to ensure public safety. I handled matters in diverse substantive contexts, including investigating transnational drug trafficking organizations and various white-collar and public-corruption criminal matters. I served as point-of-contact in the Southern District of California for liquid methamphetamine and fentanyl importation cases and developed inter-agency protocols for prosecution of the importation or distribution of these deadly controlled substances.

A significant part of my active criminal caseload was comprised of a series of cases involving a former foreign defense contractor, his company, and the U.S. Navy. Some commentators have called this matter the largest and most widespread corruption matter in the history of the United States military. Serving as co-lead counsel, I led teams of federal law enforcement agents, marshaled evidence, debriefed witnesses and defendants, interfaced with other agencies and Federal Government components, negotiated with defense counsel, and actively litigated in federal court. The investigation and litigation of this series of cases frequently necessitated close cooperation with foreign law enforcement counterparts and other overseas investigatory steps. These experiences involved delving deeply into legal and factual issues (many of which implicated significant national interests and the interests of our military), navigating complex legal frameworks, and providing sound and timely legal analysis to agents and to my superiors at the Department, and then implementing the legal analysis into action vis-à-vis investigation or enforcements actions. These experiences and challenges as a line prosecutor developing and managing (along with other lawyers and federal law enforcement agents) a complex, multi-faceted, international law enforcement operation and series of ensuing litigations prepares me well to serve alongside the professional attorneys and staff of the IC, if I am confirmed to serve.

c. Latham & Watkins, LLP.

ANSWER: During my practice with Latham & Watkins LLP, I regularly counseled officers and directors of public and private companies as well as financial institutions seeking to navigate federal and state securities laws. In addition to advising clients on downstream litigation risk pertaining to transactional matters, I litigated challenges to strategic transactions and other complex commercial matters. Apart from litigation, I also participated in fact-gathering and internal investigations, as well as defending enforcement actions. In brief, my time at Latham & Watkins afforded me many occasions to handle challenging—and often entirely novel—factual and legal issues under time-pressure and then to provide sound and timely legal advice to decision-making clients. These experiences generally prepared me to provide sound legal advice across a diverse and broad set of circumstances—experience that will be useful and applicable if I am confirmed to serve as General Counsel.

QUESTION 33: 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: Because I have been a career federal civil servant and have not been in private practice for about six years, I do not anticipate that any conflicts might arise from my past private practice. In the course of the nomination process, I have consulted with ODNI's Designated Agency 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 conflict 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. If confirmed, I will continue to consult with ODNI and U.S. Government ethics officials and will recuse myself from any matter in which it is required. In all circumstances, I will comply with all applicable statutes, regulations, policies, and practices relating to this office.

ADDITIONAL QUESTIONS FROM SENATOR FEINSTEIN

QUESTION 1: On June 2, 2020, BuzzFeed reported that the DEA requested and obtained expanded authority to engage in covert surveillance and share intelligence without any nexus to crimes related to drugs.

- a. Is it appropriate for law enforcement agencies with a specific statutory mission like the DEA to engage in more general intelligence-related activities like covert surveillance?
- b. What protections in law or policy would prevent the DEA from abusing this authority?
- c. Do you believe these activities would be subject to the requirement in Executive Order 12333 that any collection of intelligence about U.S. persons by an element of the intelligence community be pursuant to guidelines approved by the Attorney General in coordination with the DNI?

ANSWER: I am not familiar with the specifics of this article. If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that all IC activities are carried out in accordance with the Constitution and applicable federal law.

QUESTION 2: Under what circumstances, in your view, would intelligence community elements with foreign intelligence missions be authorized to provide intelligence, technical, or other support to law enforcement agencies engaging in covert surveillance activities within the United States for law enforcement purposes? What limitations would apply to that support?

ANSWER: In accordance with Section 2.6 of Executive Order 12333, the IC is authorized to provide support to law enforcement and other civil authorities, but such support is limited. IC support within the U.S. for law enforcement purposes may include activities to protect IC employees, information, property, and facilities. Further, IC elements may participate in law enforcement activities to investigate or prevent clandestine intelligence activities by foreign powers, or international terrorist or narcotics activities. However, any support provided by the IC must still be within the scope of that IC element's mission and authorities under statute and Executive Order 12333, and must not be otherwise precluded by federal law or Executive Order.

QUESTION 3: As the General Counsel at ODNI, what steps would you take to ensure that all elements of the intelligence community, including ODNI, operate under U.S. persons procedures as required by Executive Order 12333? More generally, what steps

would you take to ensure activities like the covert surveillance of U.S. persons exercising their constitutional rights of free speech and assembly are properly regulated to avoid abuse?

ANSWER: If confirmed, I am committed to working closely with the Department of Justice and IC colleagues to expeditiously finalize all procedures governing the collection, retention, and dissemination of U.S. persons information that have not already been approved by the Attorney General in accordance with EO 12333. I believe that such guidelines must incorporate specific restrictions on collecting intelligence solely for the purpose of monitoring activities protected by the First Amendment or the lawful exercise of other rights secured by the Constitution or federal law. I also believe that such guidelines must ensure that authorized IC activities fully integrate the protection of freedoms, civil liberties, and privacy rights guaranteed by the Constitution and federal law. For those IC elements with approved procedures, I will work with their General Counsels to ensure that such protections are fully and consistently implemented.

QUESTION 4: As you are aware, Congress has not yet passed legislation reauthorizing certain sections of the FISA, including the so-called “business records” provision as it was amended by section 215 of the USA PATRIOT Act, in part because of lingering concerns about the use of that provision to spy on Americans’ internet search and web browser histories without a FISC order finding probable cause that the information will yield foreign intelligence information. The House and the Senate have, however, passed separate bills that would restrict the use of section 215 when a person has a reasonable expectation of privacy and a warrant would be required in a criminal context.

- a. Do you think individuals have a reasonable expectation of privacy in their internet search and web browser histories, and do you think a warrant is required to search them? Why or why not?
- b. More generally, as General Counsel at ODNI, what steps would you take to ensure that the provisions of FISA, including the business records provision, are executed by IC elements in a manner consistent with the expectations of the American public when it comes to the protection of their personal information like internet search and web browser histories?

ANSWER: If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that all IC activities are carried out in accordance with the Constitution and applicable federal law. My understanding is that, under the law as it existed prior to March 15, 2020, the government was only permitted to obtain an order to compel production of business records that could otherwise be obtained through a grand jury subpoena.

ADDITIONAL QUESTIONS FROM SENATOR WYDEN

QUESTION 1: According to a memo from the Acting Administrator of the Drug Enforcement Administration (DEA) to the Deputy Attorney General, the DEA sought the authority to conduct “covert surveillance” in connection with recent protests and to “share intelligence with federal, state, local and tribal counterparts.” Was this authority granted? If so, please describe:

- a. how the surveillance was conducted;
- b. the nature of the information collected;
- c. the authorities under which the surveillance was conducted;
- d. any recipient federal, state, local, municipal or tribal entities;
- e. any minimization procedures that apply to such sharing or dissemination;
and
- f. the use of the information by the recipients’ entities.

ANSWER: I am not familiar with the specifics of this matter. If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that all IC activities are carried out in accordance with the Constitution and applicable federal law.

QUESTION 2: On May 30, 2020, the Attorney General announced that the Federal Bureau of Investigation, the U.S. Marshals Services, the Bureau of Alcohol, Tobacco, Firearms and Explosives, as well as the DEA, were all participating in law enforcement activities in connection with the protests. The Federal Bureau of Prisons has also been involved. For each of these agencies (or any other agencies of the Department involved), please describe:

- a. how the surveillance was conducted;
- b. the nature of the information collected;
- c. the authorities under which the surveillance was conducted;
- d. any recipient federal, state, local, municipal or tribal entities;
- e. any minimization procedures that apply to such sharing or dissemination;
and

f. the use of the information by the recipients' entities.

ANSWER: I am not familiar with the specifics of this matter. If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that all IC activities are carried out in accordance with the Constitution and applicable federal law.

QUESTION 3: The Attorney General's May 30, 2020, statement attributed incidents of violence and property damage to "[g]roups of outside radicals and agitators," adding that, "in many places, it appears the violence is planned, organized, and driven by anarchistic and far left extremists, using Antifa-like tactics, many of whom travel from out of state to promote the violence." On June 1, 2020, President Trump stated that "our nation has been gripped" by, among others, "professional anarchists" and "antifa." President Trump further described violence and property damage as "acts of domestic terrorism." Do you agree with these assessments? If so, please provide detailed and specific information to support them.

ANSWER: I am not familiar with the specifics of the cited statements. If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that all IC activities are carried out in accordance with the Constitution and applicable federal law.

QUESTION 4: On March 31, 2020, President Trump announced that "[t]he United States will be designating ANTIFA as a Terrorist Organization." Please describe the implications of this designation, in terms of policy, resource allocation, or investigative and surveillance authorities.

ANSWER: I am not familiar with actions taken, if any, following the President's statement.

QUESTION 5: Did you play any role or participate in any conversations related to the clearing of Lafayette Square on June 1, 2020? If yes, please describe that role or those conversations.

ANSWER: No.

QUESTION 6: Have you participated in any conversations about the proposed invocation of the Insurrection Act? If yes, please describe those conversations.

ANSWER: The Attorney General has publicly acknowledged conversations on this issue. However, I was not a participant in any such conversations.

QUESTION 7: Do you believe that Section 215 of the USA PATRIOT Act should be used to collect “tangible things” if they do not pertain to:

- a. a foreign power or an agent of a foreign power;
- b. the activities of a suspected agent of a foreign power who is the subject of an authorized investigation; or
- c. an individual in contact with, or known to, a suspected agent of a foreign power who is the subject of an authorized investigation?

If yes, under what specific circumstances do you believe the application for a Section 215 order could be based on the “relevance” standard without satisfying any of the above three requirements for presumptive relevance?

ANSWER: I believe it is important for the IC to use its authorities appropriately against valid intelligence targets. The amendments to Title V of FISA made by Section 215 of the USA PATRIOT Act expired on March 15, 2020 and, to date, have not been reauthorized.

QUESTION 8: Does the government collect web browsing and internet search history pursuant to Section 215? If so, what are or should be any limitations on such collection or the dissemination and use of such information? Does the government collect web browsing or internet search history pursuant to FISA Pen Register/Trap and Trace authorities?

ANSWER: I believe it is important for the IC to use its authorities appropriately against valid intelligence targets. The amendments to Title V of FISA made by Section 215 of the USA PATRIOT Act expired on March 15, 2020 and, to date, have not been reauthorized.

QUESTION 9: During his confirmation process, Assistant Attorney General for National Security John Demers was asked about the prohibition on reverse targeting in Section 702. He responded:

As I understand it, determining whether a particular known U.S. person has been reverse targeted through the targeting of a Section 702 target necessitates a fact specific inquiry that would involve consideration of a variety of factors. For example, as the Privacy and Civil Liberties Oversight Board noted in its 2014 report, 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.

How should this “fact specific inquiry” be implemented through the Section 702 nominations and querying processes of Intelligence Community entities?

ANSWER: My understanding aligns closely with what was communicated by past General Counsels during their confirmations. Section 702 of FISA specifically prohibits intentionally targeting a person reasonably believed to be located outside the United States if the purpose of such acquisition is to target a particular, known person reasonably believed to be in the United States (i.e., 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 IC 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. 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.

QUESTION 10: Do you believe Section 702 of FISA authorizes the collection of communications known to be entirely domestic?

ANSWER: Section 702 specifically prohibits intentionally acquiring 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. If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that collection activities conducted pursuant to Section 702 of FISA are carried out in accordance with the Constitution and applicable Federal law.

QUESTION 11: The 2018 legislation reauthorizing Section 702 of FISA codified limitations on the use of U.S. person information in criminal proceedings.

- a. Do you believe these limitations should be extended to other provisions of FISA?
- b. The limitations include an exception for “transnational crime, including transnational narcotics trafficking and transnational organized crime.” Please describe the full scope of “transnational crime” in this context.

ANSWER: I have not had occasion to consider whether additional changes to Section 702 are necessary or appropriate or to implement the provisions of Section 706 of FISA, as amended. If confirmed, I will consider this question closely throughout my tenure as

ODNI General Counsel and I will work with the Committee to address any areas where amendments to the law may be appropriate.

QUESTION 12: 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. Prior to the reauthorization of Section 702 in 2018, the government stated that it had “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. Is that still the case?
- b. 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 a product, regardless of whether the government files a motion to compel compliance?
- c. Will you commit to notifying Congress of any such directive?

ANSWER: I have not had occasion to be involved in the implementation of these provisions of FISA. If confirmed, I will consider this question closely throughout my tenure as ODNI General Counsel and ensure that the DNI keeps the congressional intelligence committees fully and currently informed of all intelligence activities, consistent with the requirements of the National Security Act and other applicable federal law.

QUESTION 13: Title 50, section 1812, provides for exclusive means by which electronic surveillance and interception of certain communications may be conducted. Do you agree that this provision is binding on the President?

ANSWER: As set forth in Section 112 of FISA, with limited exceptions, FISA constitutes the exclusive statutory means by which electronic surveillance, as defined in FISA, and the interception of domestic wire, oral, or electronic communications for foreign intelligence purposes may be conducted. If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that IC activities are carried out in accordance with the Constitution and applicable federal law.

QUESTION 14: Do you believe that intelligence surveillance and collection activities covered by FISA can be conducted outside the FISA framework? If yes, please specify which intelligence surveillance and collection activities, the limits (if any) on extra-

statutory collection activities, and the legal authorities you believe would authorize those activities.

ANSWER: As set forth in Section 112 of FISA, with limited exceptions, FISA constitutes the exclusive statutory means by which electronic surveillance, as defined in FISA, and the interception of domestic wire, oral, or electronic communications for foreign intelligence purposes may be conducted. If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that IC activities are carried out in accordance with the Constitution and applicable federal law.

QUESTION 15: What would you do if the Intelligence Community was requested or directed to conduct such collection activities outside the FISA framework? Would you notify the full congressional intelligence committees?

ANSWER: If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that IC activities are carried out in accordance with the Constitution and applicable federal law. In addition, and as discussed in response to Question 1 in the “Keeping the Intelligence Committee Fully and Currently Informed” portion of this questionnaire, I would work with the Director to ensure that all IC elements comply with their statutory obligation to keep Congress fully and currently informed.

QUESTION 16: Do you believe the Intelligence Community can purchase information related to U.S. persons if the compelled production of that information would be covered by FISA? If yes, what rules and guidelines would apply to the type and quantity of the information purchased and to the use, retention and dissemination of that information? Should the congressional intelligence committees be briefed on any such collection activities?

ANSWER: As Director Ratcliffe stated during his confirmation, elements of the IC are authorized to collect, retain, or disseminate information concerning U.S. persons only in accordance with procedures approved by the Attorney General. Any intelligence activity not governed by FISA would be regulated by the Attorney General-approved procedures that govern the intelligence activities of that IC element. If confirmed, I would ensure that the DNI keeps the congressional intelligence committees fully and currently informed of all intelligence activities, consistent with the requirements of the National Security Act and other applicable federal law.

QUESTION 17: Is it legal for an element of the Intelligence Community to seek intelligence from a foreign partner or source on a U.S. person that that entity is not legally entitled to collect directly?

ANSWER: No element of the IC may request any person, including any foreign partner or source, to undertake activities forbidden by the Constitution, federal law, or Executive Order, including E.O. 12333. As Director Ratcliffe stated during his confirmation, the IC has a solemn obligation to conduct intelligence activities in a manner that fully protects the legal rights of all United States persons, including freedoms, civil liberties, and privacy rights guaranteed by federal law. If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that all elements of the IC adhere to these requirements and engage with foreign partners in a manner wholly consistent with U.S. law and with robust protections for the privacy and civil liberties of U.S. persons.

QUESTION 18: 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: No element of the IC may request any person, including any foreign partner or source, to undertake activities forbidden by the Constitution, federal law, or Executive Order, including E.O. 12333. As Director Ratcliffe stated during his confirmation, the IC has a solemn obligation to conduct intelligence activities in a manner that fully protects the legal rights of all United States persons, including freedoms, civil liberties, and privacy rights guaranteed by federal law. If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that all elements of the IC adhere to these requirements and engage with foreign partners in a manner wholly consistent with U.S. law and with robust protections for the privacy and civil liberties of U.S. persons.

QUESTION 19: Do you believe that communications data collected in transit are or should be treated differently than communications data at rest? Please address any distinctions as they may apply to FISA, Executive Order 12333, PPD-28, and USSID 18.

ANSWER: If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that IC activities are carried out in accordance with the Constitution and applicable federal law, as well as Presidential directives such as Executive Order 12333 and its implementing procedures and PPD-28.

QUESTION 20: NSA Director Nakasone has stated that, absent consent of the U.S. person or certain emergency situations, U.S. person queries of communications collected under Executive Order 12333 “normally must be approved by the Attorney General on a case-by-case basis after a finding of probable cause.” Do you believe such limitation should apply to other elements of the Intelligence Community?

ANSWER: If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that all IC activities are carried out in accordance with the Constitution and applicable federal law. It is my understanding that IC 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.

QUESTION 21: In March 2019, the Department of Justice Inspector General released its "Review of the Drug Enforcement Administration's use of Administrative Subpoenas to Collect or Exploit Bulk Data." Do you believe that the subpoena authorities in question, and 21 U.S.C. 876(a) in particular, allow for bulk collection?

ANSWER: I have not had occasion to be involved in the implementation of these statutory provisions. If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that all IC activities are carried out in accordance with the Constitution and applicable federal law.

QUESTION 22: Do you believe it is acceptable to forward a whistleblower complaint determined to be an "urgent concern" by the Intelligence Community Inspector General to the Department of Justice or the White House? If so, under what circumstances?

ANSWER: If confirmed, I commit to ensure that every whistleblower complaint is handled in accordance with all legal requirements and that whistleblowers are afforded the legal protections to which they are entitled.

QUESTION 23: Do you agree that the reports of the Privacy and Civil Liberties Oversight Board should be released to the public?

ANSWER: Consistent with the requirement to protect classified information and sensitive intelligence sources and methods, I support appropriate transparency, including with respect to reports of the Privacy and Civil Liberties Oversight Board, that enhances the public's understanding about the IC's mission; the laws, directives, authorities, and policies that govern the IC's activities; and the framework that ensures intelligence activities are conducted in accordance with the applicable rules.

QUESTION 24: 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: Consistent with the requirement to protect classified information and sensitive intelligence sources and methods, I support appropriate transparency that enhances the public's understanding about the IC's mission; the laws, directives,

authorities, and policies that govern the IC's activities; and the framework that ensures intelligence activities are conducted in accordance with the applicable rules.

QUESTION 25: 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 by the President?

ANSWER: I have not had occasion to be involved in addressing such a circumstance.

QUESTION 26: Do you believe that any of the CIA's former enhanced interrogation techniques are consistent with the Detainee Treatment Act, the U.S. statutory prohibition on torture, the War Crimes Act, or U.S. obligations under the Convention Against Torture or Common Article 3 of the Geneva Convention?

ANSWER: My understanding is that the law governing interrogation has evolved significantly since the CIA last employed enhanced interrogation techniques. Today the law is clear. Section 1045 of the National Defense Authorization Act for Fiscal Year 2016 provides that any individual "in the custody or under the effective control of an officer, employee, or other agent of the United States Government" may only be interrogated (other than by federal law enforcement) using the techniques authorized by the Army Field Manual 2-22.3. I fully support this statute.

QUESTION 27: On February 21, 2020, the Department of Defense announced that the Under Secretary for Intelligence & Security would review Army Field Manual (FM) 2-22.3, Human Intelligence Collector Operations. That review will include consultation with the DNI. Do you agree that the CIA's former enhanced interrogation techniques should be prohibited under the Field Manual and, if so, should that prohibition be explicit?

ANSWER: Please see my response to question 26. I do not support interrogation techniques not authorized pursuant to Army Field Manual 2-22.3.

QUESTION 28: Section 1045 of the National Defense Authorization Act for Fiscal Year 2016 prohibits the use of any interrogation technique or approach or treatment related to interrogation not authorized by the Army Field Manual. Is this provision of law absolutely binding on the President?

ANSWER: Yes, and if confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that all IC activities are carried out in strict accordance with the Constitution and applicable federal law, including section 1045 of the National Defense Authorization Act for Fiscal Year 2016.

QUESTION 29: Please describe your view of the legal 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: As Director Ratcliffe stated during his confirmation, the Federal Government takes matters of use of force very seriously, particularly in the rare instance when a U.S. person has taken up arms against the United States. If confirmed, I will work in partnership with the National Security Council, Department of Justice, Department of Defense, and Intelligence Community colleagues to ensure that use of force against a U.S. person is justified and within our legal authorities. I will work with federal partners to provide as much transparency to the U.S. public as possible.

QUESTION 30: On May 18, 2020, Newsweek ran a story entitled “Trump’s Secret New Watchlist Lets His Administration Track Americans Without Needing a Warrant.” The story described a database of individuals associated with transnational organized crime.

- a. Which entity is responsible for the database?
- b. What is the purpose of the database and what entities are its primary customers?
- c. What is the standard for inclusion in the database?
- d. Are U.S. persons in the database? If so, please provide any guidelines, regulations or Privacy Impact Assessments governing their inclusion.
- e. What information populates the database and what entities provide it? Does the database include classified intelligence, unclassified information, or both?
- f. How is “Transnational Organized Crime” defined for purposes of inclusion in the database?
- g. How many entries are in the database?

ANSWER: I am not familiar with the specifics of this article. If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that all IC activities are carried out in accordance with the Constitution and applicable federal law.

QUESTION 31: Does the Terrorist Identities Datamart Environment (TIDE) database include U.S. persons or persons inside the United States who are not known or suspected terrorists? If so, please describe the basis for their inclusion.

ANSWER: My understanding is that by law the ODNI's National Counterterrorism Center (NCTC) serves as the government's central and shared knowledge bank on known and suspected terrorists and international terror groups, as well as their contacts and support networks. As a part of this critical mission, NCTC maintains the Terrorism Identities Datamart Environment (TIDE), which is the government's classified repository for identity information relating to terrorism, created pursuant to the Intelligence Reform and Terrorism Prevention Act of 2004. My understanding, based on information publicly available on NCTC's website, is that TIDE includes identity information regarding individuals who are known or suspected terrorists or who otherwise support or solicit support for terrorists. My understanding is that NCTC operates TIDE under a robust compliance program to ensure the proper handling and protection of any U.S.-person information, consistent with the Constitution, federal law, and Attorney General-approved U.S. person procedures and in furtherance of the IC's overall counterterrorism mission. However, I am not familiar with the details of the operation of TIDE. If confirmed, I look forward to learning more about NCTC's administration of TIDE.

QUESTION 32: The January 2017 Intelligence Community Assessment concluded that Russia interfered in the 2016 election to benefit Donald Trump, an assessment confirmed by the Senate Select Committee on Intelligence. Do you agree with this assessment?

ANSWER: As Director Ratcliffe communicated to the Committee during his confirmation, Russia engaged in unprecedented efforts to interfere in the 2016 U.S. Presidential election to sow discord and undermine faith in our democracy. In addition, as has been publicly reported and as Director Ratcliffe also communicated during his confirmation, active measures by the Russian government included successful hacking and attempts to compromise computer networks of political targets, as well as an extensive disinformation campaign through social media accounts. I am not familiar with the specific intelligence underlying the January 2017 Intelligence Community Assessment or the Committee's confirmation of that assessment. If confirmed, I look forward to the opportunity to review the assessment and the intelligence on which it is based, and to render any feedback to the Committee, if requested.

**Questions for the Record
Senate Select Committee on Intelligence
Nomination Hearing**

July 22, 2020 - updated on July 27, 2020 with an additional question from Senator Wyden (#15)

Questions for the Record for Mr. Patrick Hovakimian

[From Vice Chairman Warner]

You currently serve as Chief of Staff to the Deputy Attorney General, the second-highest ranking official at the Department of Justice. In your testimony, you told the Committee that you have “sight lines” into a variety of issues that come before the Deputy Attorney General and Attorney General, for whom you are a senior advisor. However, you were unable to answer several “yes” or “no” questions about the nature and extent of your involvement in a number of high-profile matters at the Department. If you are confirmed, the Committee must have trust in your candor and judgment, so I ask that you respond to the following questions again, this time in writing.

1. As Chief of Staff to the Deputy Attorney General, please explain your awareness of and/or involvement in the following matters:

Response: As an Associate Deputy Attorney General and Chief of Staff to the Deputy Attorney General, I lead and manage a team of legal professionals who provide counsel and advice to senior Department leadership on a wide range of issues addressed by the Department. To that end, I have a general awareness of a broad range of matters that come to the attention of the Deputy Attorney General and the Attorney General every day. While I may have broad awareness of many matters, the scope of my personal involvement in any particular matter varies widely, and I am personally and substantially involved in providing substantive legal advice and counsel to senior Department leaders in only a relatively small number of these matters.

- The prosecution of Roger Stone, including decisions made about sentencing recommendations and clemency.

Response: By virtue of my position in a Department management office, I was generally aware of the Department’s prosecution of Roger Stone, including the sentencing. I did not personally and substantially participate in the particulars of the matter. I was not aware of nor did I participate in the clemency decision.

- The dismissal of the prosecution of Michael Flynn, and decisions related to the provision of information to defense counsel in that case following his two guilty pleas.

Response: By virtue of my position in a Department management office, I was generally aware of the prosecution of Michael Flynn. I did not personally and substantially participate in the particulars of the matter, including the motion to dismiss or decisions relating to the provision of information to defense counsel.

- The clearing of peaceful protesters who were exercising First Amendment rights from Lafayette Square in DC on June 1, so that the President could pose for a photograph.

Response: As I responded in my answer to a Senator Wyden’s pre-hearing Question 5, and as I also stated at the hearing, I was not aware of nor did I participate in the decision pertaining to Lafayette Square on June 1.

- The termination of Geoffrey Berman as U.S. Attorney for the Southern District of New York.

Response: As I stated at the hearing, I was not aware of nor did I participate in the departure of former U.S. Attorney Geoffrey Berman from the Department.

- The deployment of federal law enforcement in American cities without the consent of or coordination with local officials, including Portland, Albuquerque, and elsewhere, or the management of those operations on the ground.

Response: By virtue of my position in a Department management office, I am generally aware of federal law enforcement deployments and operations in connection with instances of civil unrest around the country and in order to combat rises in violent crime in some places. I did not personally and substantially participate in decisions pertaining to such deployments nor the management of the operations on the ground.

- The handling of the IC whistleblower complaint related to Ukraine by the Department of Justice, including any investigation of the allegations in the complaint, the opinion of Office of Legal Counsel regarding the “urgent concern” provision and prompt transmittal of the complaint to Congress, or any related issue. The appointment of U.S. Attorney John Durham to investigate matters relating to the Intelligence Community’s handling of Russian interference in the 2016 U.S. elections.

Response: By virtue of my position in a Department management office, I was generally aware of the Criminal Division’s investigation of factual allegations in the complaint, which the Department has previously publicly acknowledged, and I understood OLC to be considering a legal question on the topic. As I stated at the hearing, “I am not an attorney who works in the Office of Legal Counsel. I did not inject myself into their deliberations. I did not try to steer things one way or another. And I did not try to give legal advice on what that opinion should look like.” I similarly did not inject myself into the Criminal Division’s investigation or deliberations. My response to the question about U.S. Attorney Durham is below.

- The appointment of U.S. Attorney John Durham to investigate matters relating to the Intelligence Community’s handling of Russian interference in the 2016 U.S. elections.

Response: I was not aware of nor did I participate in the appointment of U.S. Attorney John Durham to investigate matters relating to the Intelligence Community's handling of Russian interference in the 2016 U.S. elections.

2. At any point, before, during or after these events or decisions, did you convey any concerns to any Department of Justice officials regarding the event or decision? If not, why not?

Response: I always provide my candid and frank advice and judgment when asked—and sometimes when not asked. Any specific advice that I may have given to senior Department officials on any matter before the Department must necessarily be confidential, consistent with longstanding Department practices, across Administrations. While I cannot speak to any specific advice I provided, I reiterate here, as discussed at the hearing, that my approach to advising on any question or issue must necessarily start with the Constitution, the laws of the United States, and a full understanding of the facts. As I also stated at the hearing, the only legal advice I will ever give is that which comports with the Constitution and laws of the United States. Even when it results in outcomes or advice that others may not want to hear, I have only ever—and will only ever—deliver what I consider to be lawful, objective, clear, and complete advice and counsel. My oath to the Constitution, if I am confirmed, would require it, and my professional judgment and moral compass demand it.

3. Please provide a specific example of a time, in your current role at the Department of Justice, when you “spoke truth to power” by expressing a view or providing advice that conflicted with the opinion of more senior officials.

Response: I always provide my candid and frank views and advice to more senior officials in my current role at the Department. Particularly when advising in the context of the interagency process, there have been many instances where my view or advice was that other agencies or Cabinet Departments had better arguments than did the Department or were otherwise better suited to fulfill a particular function or role. Advising, in effect, for the Department to take a more limited role or to defer to the views of a different agency is not always a popular piece of advice, particularly in the context of the interagency process where, of course, every agency is a repeat participant. As I have said in other contexts, even when it results in outcomes or advice that others may not want to hear, I have only ever—and will only ever—deliver what I consider to be lawful, objective, clear, and complete advice and counsel.

4. What law enforcement officers or other federal forces have DOJ and/or its subordinate entities deployed against ongoing protests in Portland, Albuquerque, Chicago and elsewhere?
 - Where have DOJ and/or its subordinate entities deployed those forces?
 - What additional or extraordinary authorities have DOJ and/or its subordinate entities given these forces?

- How are have DOJ and/or its subordinate entities ensuring that these forces are respecting protesters' legal and constitutional rights?

Response: As I have noted, by virtue of my position in a Department management office, I am generally aware of federal law enforcement deployments and operations in connection with instances of civil unrest around the country and in order to combat rises in violent crime in some places. I did not personally and substantially participate in decisions pertaining to such deployments nor the management of the operations on the ground.

Although I do not necessarily have personal and specific knowledge of these matters, I am aware that the Attorney General addressed many of these topics in his July 28, 2020, testimony to the House Judiciary Committee, including in his written statement (available at <https://www.justice.gov/opa/speech/opening-statement-attorney-general-william-p-barr-house-judiciary-committee>). In particular, the Attorney General testified that, "in select cities where there has been an upsurge in violent crime, we are stepping up and bolstering the activities of our joint anti-crime task forces, which have been successful in the past. In those cities, we are adding experienced investigators, firearms and ballistics analysts, and experts at apprehending violent fugitives. We are also offering funding to support more police who can be assigned to these anti-crime task forces."

In addition, the Department has released several public statements on these topics, a selection of which include the following:

<https://www.justice.gov/opa/pr/attorney-general-william-p-barr-announces-launch-operation-legend>

<https://www.justice.gov/opa/pr/attorney-general-william-p-barr-joins-president-donald-j-trump-announce-expansion-operation>

<https://www.justice.gov/opa/pr/operation-legend-expanded-cleveland-detroit-and-milwaukee>

<https://www.justice.gov/opa/pr/attorney-general-william-p-barr-joins-president-donald-j-trump-announce-expansion-operation>

<https://www.justice.gov/opa/pr/operation-legend-expanded-cleveland-detroit-and-milwaukee>

[From Senator Feinstein]

1. Do you believe that any of the CIA's former enhanced interrogation techniques are consistent with U.S. obligations under the Convention Against Torture and other treaty obligations?

Response: I understand that, during her confirmation hearing, the current Director of the Central Intelligence Agency (CIA), Gina Haspel, informed this Committee that she would not permit the CIA to restart the detention and interrogation program. I support and share Director Haspel's commitment.

While I have not conducted my own analysis of the application of various U.S. laws and treaty obligations to CIA's past practices, as I wrote in response to Question 26 of the Committee's pre-hearing questionnaire, my understanding is the law governing interrogation has evolved significantly since the CIA last employed enhanced interrogation techniques. Today the law is clear. Section 1045 of the National Defense Authorization Act for Fiscal Year 2016 provides that any individual "in the custody or under the effective control of an officer, employee, or other agent of the United States Government" may only be interrogated (other than by federal law enforcement) using the techniques authorized by the Army Field Manual 2-22.3. I fully support this statute.

2. Do you believe there are any circumstances in which current law could be interpreted to justify the use of interrogation practices by an intelligence agency other than those listed in the U.S. Army Field Manual?

Response: No. The law is clear. Section 1045 of the National Defense Authorization Act for Fiscal Year 2016 provides that any individual "in the custody or under the effective control of an officer, employee, or other agent of the United States Government" may only be interrogated (other than by federal law enforcement) using the techniques authorized by the Army Field Manual 2-22.3. I fully support this statute.

3. Do you understand U.S. law and existing treaty obligations to prevent the United States from transferring a detainee to the custody of another country for the purposes of that country forcibly interrogating or torturing the detainee in an effort to acquire intelligence?

Response: Yes. No element of the IC may request any person, including any foreign partner or source, to undertake activities forbidden by the Constitution, federal law, or Executive Order.

4. The McCain-Feinstein amendment to the FY16 Defense Authorization Act also required the U.S. Government to notify the International Committee of the Red Cross of any detainee in U.S. custody and to provide the ICRC with timely access to detainees. If confirmed, will you agree to ensure that all IC agencies are complying with this requirement and notify the Committee of your findings?

Response: Yes, if confirmed, I would work with the Department of Justice and the General Counsels throughout the Intelligence Community (IC) to ensure that all IC activities are carried out in strict accordance with the Constitution and applicable federal law, including section 1045 of the National Defense Authorization Act for Fiscal Year 2016, and that IC elements are meeting their obligations to keep the intelligence committees fully and currently informed.

[From Senator Heinrich]

Federal agents are being sent to Albuquerque as part of the expansion of Operation Legend. According to the Justice Department, the initiative is intended to “fight the sudden surge of violent crime.” But according to Albuquerque Police Chief Geier, homicides are down this year, and protests have been mostly peaceful in the city.

The DoJ initiative is also intended to work in conjunction with state and local law enforcement officials, and yet the mayor and chief of police were not consulted.

Please provide answers to the following questions:

1. What is the driving reason to send these agents to Albuquerque at this particular time? What are the criteria for determining which cities have a problem that raises to federal intervention?

Response: As I noted in my responses to Vice Chairman Warner’s Question One, by virtue of my position in a Department management office, I am generally aware of federal law enforcement deployments and operations in connection with instances of civil unrest around the country and in order to combat rises in violent crime in some places. I did not personally and substantially participate in decisions pertaining to such deployments nor the management of the operations on the ground.

Although I do not necessarily have personal and specific knowledge of these matters, I am aware that the Attorney General addressed many of these topics in his July 28, 2020, testimony to the House Judiciary Committee, including in his written statement (available at <https://www.justice.gov/opa/speech/opening-statement-attorney-general-william-p-barr-house-judiciary-committee>). In particular, the Attorney General testified that “in select cities where there has been an upsurge in violent crime, we are stepping up and bolstering the activities of our joint anti-crime task forces, which have been successful in the past. In those cities, we are adding experienced investigators, firearms and ballistics analysts, and experts at apprehending violent fugitives. We are also offering funding to support more police who can be assigned to these anti-crime task forces.”

In addition, the Department has released several public statements on these topics, including in relation to law enforcement initiatives in Albuquerque, a selection of which include the following:

<https://www.justice.gov/opa/speech/attorney-general-william-p-barr-delivers-remarks-during-operation-legend-expansion>

<https://www.justice.gov/opa/pr/attorney-general-william-p-barr-joins-president-donald-j-trump-announce-expansion-operation>

2. What authority do federal law enforcement agents have to deploy into a community?

Response: Please see my response to the previous question.

3. How is this initiative different than last year's Operation Relentless Pursuit? If merely a rebranding, why was that necessary?

Response: Please see my response to Senator Heinrich's Question One.

4. How will the Justice Department work with city officials to ensure cooperation and coordination and legal guardrails?

Response: Please see my response to Senator Heinrich's Question One. In particular, as described in the Department's public statements cited above, "federal investigators will work closely with the Albuquerque Police Department and the Bernalillo County Sheriff's Department, along with other local partners, through pre-existing task forces directed at combatting violent crimes." "[T]hese investigators will complement the work already underway by existing joint federal, state, and local task forces focused on combating violent gangs, gun crime, and drug trafficking organizations."

In addition, the Department has announced specific collaborative measures with local partners in Albuquerque. The Department has announced that it has "made available over \$1.5 million in COPS Hiring Grants to the Bernalillo County Sheriff's Department to onboard five deputies and to support additional federal task force officers committed to violent crime reduction efforts" and "made \$9.74 million available to the Albuquerque Police Department to fund the hiring of 40 officers." Finally, the Department has also announced that it has made funds available to the Bernalillo County Sheriff's Office and the Albuquerque Police Department through the Bureau of Justice Assistance and the Joint Law Enforcement Operations fund.

5. Which agencies are represented on the ground? How many of each? How will they be deployed? What are their rules of engagement?

Response: Please see my response to Senator Heinrich's Question One.

[From Senator Bennet]

1. I am concerned about the way in which the Ukraine whistleblower complaint unfolded and the ways in which that has affected the environment for future whistleblowers. I worry that some of the events in the past year have raised questions—whether true or not—about whether protections for whistleblowers are really there.
 - Would you agree that recent events might make the decision to come forward as a whistleblower more difficult for an intelligence community employee?
 - How will you work to restore confidence in the intelligence community workforce that they will be protected, should they choose to come forward, in decisions that may put their careers—or life—on the line?

- What role should the DNI General Counsel play in this dynamic?

Response: Whistleblowers serve a vital role within the IC by promoting government accountability, maintaining the integrity of the workforce, and addressing allegations of wrongdoing without improperly disclosing classified information. Whistleblowers always face a difficult decision when they choose to come forward, and they must have confidence that they will be protected as required by law. I believe strongly in the statutory provisions, including those codified in the Intelligence Community Whistleblower Protection Act (ICWPA), that encourage Federal employees and government contractors to report truthful allegations of wrongdoing in accordance with the law. I also take seriously the obligation to protect lawful whistleblowers from retaliation. If confirmed, I would work with the IC Inspector General to support efforts to educate employees and contractors within the ODNI and across the IC about their right, and their responsibility, to report allegations of waste, fraud, or abuse, and to inform the professionals of the IC of the protections they are entitled to under the law.

As I wrote in response to Question 17 of the Committee's pre-hearing questionnaire, if confirmed, I commit to ensure that every complaint is handled in compliance with all legal requirements and whistleblowers are afforded all legal protections to which they are entitled. Under the ICWPA, the Director of National Intelligence (DNI) is responsible for transmitting, or directing the transmission, to Congress of complaints that fall within the statutory framework. The role of the General Counsel is to provide expert legal counsel to the DNI in the discharge of his statutory obligations. If confirmed, I would do just that, guided exclusively by the facts and the applicable law.

2. In order to ensure the independence of the intelligence community, the men and women of the intelligence community must be able to deliver objective intelligence free from political pressure. And, they need to know if they choose to report wrongdoing, they will be protected in accordance with whistleblower laws and policies.
 - If confirmed, what steps would you take to take to ensure the men and women of the intelligence community can deliver objective analysis free from political pressure, real or perceived?
 - What do you believe is the greatest threat to the independence of our intelligence community?

Response: Policymakers depend on the IC to provide timely, objective, and independent analysis based on policies and standards to ensure analytic independence. Politics has no place in the IC or the analytic process, and we should vigilantly guard against the threat of any such interference. And, as discussed in my response to the previous question, I would work tirelessly with the professionals at ODNI and throughout the IC to ensure that the professionals of the IC are apprised of their rights under the law and afforded all legal protections to which they are entitled when reporting allegations of waste, fraud, or abuse in accordance with the law.

3. In responding to this Committee's pre-hearing questions, you stated "I am not familiar with the specific intelligence underlying the January 2017 Intelligence Community Assessment or the Committee's confirmation of that assessment."

The January 2017 Intelligence Community Assessment concluded that Russia interfered in the 2016 US presidential election to benefit then-candidate Donald Trump. This committee has publicly confirmed that assessment on a bipartisan basis.

- Do you question the Intelligence Community Assessment's findings, as confirmed by this committee on a bipartisan basis? If so, please state the reason.
- What message do you think equivocation or doubt about intelligence community assessments sends to adversaries, such as Russia right now, as we are less than 4 months from the 2020 elections?

Response: As I stated at the hearing and as I wrote in response to Question 32 of the Committee's pre-hearing questionnaire, Russia engaged in unprecedented efforts to interfere in the 2016 U.S. Presidential election to sow discord and undermine faith in our democracy. In addition, as has been publicly reported and as Director Ratcliffe also communicated during his confirmation, active measures by the Russian government included successful hacking and attempts to compromise computer networks of political targets, as well as an extensive disinformation campaign through social media accounts. As I stated at the hearing, while I am not familiar with the specific intelligence underlying the January 2017 Intelligence Community Assessment, I have no reason to doubt the analysis reflected in that Assessment or the Committee's findings with respect to that analysis. If confirmed, I look forward to the opportunity to review the assessment and the intelligence on which it is based, and to render any feedback to the Committee, if requested.

[From Senator Wyden]

1. Please provide detailed information on which Department of Justice entities have deployed to Portland, Oregon, in connection with recent protests against racism and police abuses. For each such entity, please indicate:
 - The number and roles of deployed personnel.
 - Whether those entities have engaged in crowd control, arrests and detentions, facility protection, or other active law enforcement operations. For each such entity, please describe its chain of command as well as its training and safety protocols.
 - Any directives or guidance with regard to arrests and detentions.
 - Coordination with local authorities and law enforcement.

- Coordination among, and relative roles of DOJ entities and entities of the Department of Homeland Security deployed to Portland.

Response: Please see my responses above to Vice Chairman Warner's and Senator Heinrich's questions.

2. Please provide information on any federal government surveillance and other collection activities in Portland, to include:
 - The federal government entities conducting the surveillance and collection.
 - How the surveillance or collection has been conducted.
 - The nature of the information collected.
 - The authorities under which the surveillance or collection has been conducted.
 - Dissemination and minimization requirements related to such surveillance or collection.
 - The use of such surveillance or collection.

Response: As I have noted, by virtue of my position in a Department management office, I am generally aware of federal law enforcement deployments and operations in connection with instances of civil unrest around the country and in order to combat rises in violent crime in some places. I did not personally and substantially participate in decisions pertaining to such deployments nor the management of the operations on the ground. I do not have personal and specific knowledge of the matters the question references.

If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that all IC activities are carried out in accordance with the Constitution and applicable federal law.

3. Please describe in detail any guidance from the Department of Justice related to the law enforcement operations of entities of the Department of Homeland Security in Portland. Please detail how that guidance has been implemented.

Response: As I have noted, by virtue of my position in a Department management office, I am generally aware of federal law enforcement deployments and operations in connection with instances of civil unrest around the country and in order to combat rises in violent crime in some places. I did not personally and substantially participate in decisions pertaining to such deployments nor the management of the operations on the ground. I am, however, not personally aware of any such guidance.

4. Has the Office of Legal Counsel or any other element of the Department of Justice produced any opinions related to federal government law enforcement or surveillance that apply to operations in Portland? If yes, please provide.

Response: As I have noted, by virtue of my position in a Department management office, I am generally aware of federal law enforcement deployments and operations in connection with instances of civil unrest around the country and in order to combat rises in violent crime in some places. I did not personally and substantially participate in decisions pertaining to such deployments nor the management of the operations on the ground. I am not in a position to provide any internal legal opinions from the Department of Justice. I am, however, not personally aware of any opinions on these subjects.

5. Under what circumstances, if any, can federal law enforcement personnel patrol and make arrests without identifying themselves or the federal entities for which they work? Please detail your statutory and constitutional analysis.

Response: As I have noted, by virtue of my position in a Department management office, I am generally aware of federal law enforcement deployments and operations in connection with instances of civil unrest around the country and in order to combat rises in violent crime in some places. I did not personally and substantially participate in decisions pertaining to such deployments nor the management of the operations on the ground. I have not had occasion to conduct a detailed statutory or Constitutional analysis on this topic.

6. Under what circumstances, if any, can federal law enforcement personnel patrol and make arrests over the objections of state, local, municipal and tribal authorities, and away from federal buildings and property? Please detail your statutory and constitutional analysis.

Response: As I have noted, by virtue of my position in a Department management office, I am generally aware of federal law enforcement deployments and operations in connection with instances of civil unrest around the country and in order to combat rises in violent crime in some places. I did not personally and substantially participate in decisions pertaining to such deployments nor the management of the operations on the ground. I have not had occasion to conduct a detailed statutory or Constitutional analysis on this topic.

7. Under what circumstances, if any, do federal entities have authorities to enforce non-federal laws? Do those circumstances change if state, local, municipal and tribal authorities object to federal enforcement? Please detail your statutory and constitutional analysis.

Response: As I have noted, by virtue of my position in a Department management office, I am generally aware of federal law enforcement deployments and operations in connection with instances of civil unrest around the country and in order to combat rises in violent crime in some places. I did not personally and substantially participate in decisions pertaining to such deployments nor the management of the operations on the ground. I have not had occasion to conduct a detailed statutory or Constitutional analysis on this topic.

8. Accounts in the press have described an unclassified document entitled “Job Aid: DHS Office of Intelligence and Analysis (I&A) Activities in Furtherance of Protecting American Monuments, Memorials, Statues, and Combatting Recent Criminal Violence.” Please review the document and indicate whether it is consistent with your understanding of the appropriate role of an Intelligence Community entity.

Response: I am not familiar with the specifics of this matter beyond generally what has been reported in the press. It is my understanding that IC 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. It is my expectation that IC elements will consult with the ODNI and the Department of Justice regarding novel or significant interpretations of their Attorney General-approved procedures, particularly when the activities in question touch on the Constitutionally-protected rights of our citizens. If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that all IC activities are carried out in accordance with the Constitution and applicable federal law, as well as Presidential directives such as Executive Order 12333 and its implementing procedures.

9. Under what circumstances are public monuments, memorials or statues critical infrastructure for purposes of intelligence collection and analysis?

Response: My understanding is that Presidential Policy Directive 21 (PPD-21) identifies 16 critical infrastructure sectors and establishes national policy on critical infrastructure security and resilience. If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that all IC activities are carried out in accordance with the Constitution and applicable federal law.

10. What limitations should apply to the various Intelligence Community entities with regard to the review, collection, analysis, and dissemination of social media of U.S. persons?

Response: It is my understanding that IC 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. If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that all IC activities are carried out in accordance with the Constitution and applicable federal law, as well as Presidential directives such as Executive Order 12333 and its implementing procedures.

11. Is identification with “ANTIFA,” absent indication of intent to commit violence, protected by the First Amendment? Is such identification sufficient as a basis for collection?

Response: The Supreme Court has held that the rights guaranteed by the First Amendment include freedom of speech, freedom of association, as well the right to engage in peaceful protest and public assembly. It is my understanding that IC elements’ Attorney General-approved U.S. person procedures incorporate specific restrictions on collecting intelligence solely for the

purpose of monitoring activities protected by the First Amendment or the lawful exercise of other rights secured by the Constitution or federal law. If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that all IC activities are carried out in accordance with the Constitution and applicable federal law as well as Presidential directives such as Executive Order 12333 and its implementing procedures.

12. Is criticism of, or support for the removal of, particular public monuments, memorials or statues, absent indication of intent to commit violence, protected by the First Amendment? Is such criticism or support sufficient as a basis for collection?

Response: The Supreme Court has held that the rights guaranteed by the First Amendment include freedom of speech, freedom of association, as well the right to engage in peaceful protest and public assembly. It is my understanding that IC elements' Attorney General-approved U.S. person procedures incorporate specific restrictions on collecting intelligence solely for the purpose of monitoring activities protected by the First Amendment or the lawful exercise of other rights secured by the Constitution or federal law. If confirmed, I would work with the Department of Justice and the General Counsels throughout the IC to ensure that all IC activities are carried out in accordance with the Constitution and applicable federal law as well as Presidential directives such as Executive Order 12333 and its implementing procedures.

13. If your chain of command, to include the DNI, the Principal Deputy DNI and the President, were to lie or make a misleading or inaccurate statement to the Committee or the American people about intelligence matters in a public comment or report, what is your obligation to notify the Committee and the American people?

Response: During his confirmation hearing, Director Ratcliffe made clear that he is committed to ensuring that all information shared with the Committee and the American people is accurate and factual. I support and share that commitment. If, for some reason, he or another ODNI official inadvertently made a statement that was inaccurate, I would work with the appropriate official to inform the intelligence committees of the inaccuracy and—consistent with the requirement to protect classified information and sensitive intelligence sources and methods—to publicly correct that statement.

14. Will you commit to notifying this Committee and the American people of any such lie or misleading or inaccurate statement so that the American people will know that the Intelligence Community speaks truth to power?

Response: Please see my response to the previous question.

15. A whistleblower complaint from a Senior Department of Justice Trial Attorney at the Organized Crime and Drug Enforcement Task Forces, Mr. Mark McConnell, alleges improper use of intelligence at the Joint Interagency Task Force South in domestic drug prosecutions. You are alleged to have attended at least two meetings on the resultant discovery issues, on January 11, 2019, and January 29, 2019.

- For both meetings, please list the attendees.

- Please describe what positions you took on the matter, any direction you provided, any follow-up you engaged in, and the final disposition of the issues at hand.
- Please describe any further conversations you have had with regard to the issues described in the allegation or the treatment of the whistleblower.

Response: Along with representatives from federal agencies from the Joint Interagency Task Force South, I attended at least two relatively large interagency meetings in January 2019 relating to classified information and possible criminal discovery issues. I worked with interagency partners and senior Department officials towards addressing any issues. It is my understanding that the issues pertaining to classified information and discovery were also forwarded to the Inspectors General of the Department of Justice and the Department of Defense, and possibly others. I am unaware of what review or investigation, if any, these inspector general offices engaged in. In all contexts, I worked with senior career Department officials and the Justice Management Division's Office of General Counsel to ensure appropriate consideration and treatment in all regards.

From Senator King:

1. How did you come to be nominated? Can you please describe the process of how and why you were put forward as the nominee?

Response: As a career civil servant, I will always put my hand up to serve my Country. Having worked on national security-related investigations and litigation strategy while at the Department, and having served as the Department's Director of Counter-Transnational Crime, I had some experience working alongside the IC. I have tremendous respect for the work that they do. After inquiring about possible opportunities to continue public service, I was asked if I would be interested in serving in this position. I will always serve my Country when called upon, and, if confirmed, my loyalty will always be to the Constitution and to the rule of law.

2. I was unable to discern a meaningful statement in your response to prehearing questions 18, 19 and 20. Please respond again in a way that directly addresses the questions posed, rather than the vague statements previously provided.
 - What is your view of the ODNI/GC's role relative to advancing an IC "whistleblower" complaint to Congress, pursuant to the Intelligence Community Whistleblower Protection Act?
 - Under what circumstances would you judge it appropriate to intercede in advancing a whistleblower complaint to Congress?
 - How would you address a situation in which you disagree with the IC Inspector General's determination that a whistleblower complaint qualifies as an "urgent concern," for the purposes of advancing a complaint to Congress?

Response: I appreciate the opportunity to clarify my responses to these questions. Whistleblowers serve a vital role within the IC by promoting government accountability, maintaining the integrity of the workforce, and addressing allegations of waste, fraud, or abuse without improperly disclosing classified information. I believe strongly in the statutory provisions, including those codified in the Intelligence Community Whistleblower Protection Act (ICWPA) that encourage Federal employees and government contractors to report allegations of waste, fraud, or abuse in accordance with the law. As discussed in my responses to Senator Bennet's questions, if confirmed, I would work with the IC Inspector General to support efforts to educate employees and contractors within the ODNI and across the IC about their right, and their responsibility, to report allegations of waste, fraud, or abuse and to inform the professionals of the IC of the protections they are entitled to under the law.

I also take seriously the obligation to protect lawful whistleblowers from retaliation and would work very closely with ODNI leadership and the IC Inspector General to ensure that whistleblowers are afforded all legal protections to which they are entitled under the law.

I understand these questions to concern the specific role of the General Counsel in implementing the requirements of the ICWPA. Under that statute, the DNI is the official responsible for transmitting, or directing the transmission, to Congress of complaints that fall within the statutory framework. The role of the General Counsel is to provide expert legal counsel to the DNI in the discharge of his statutory obligations. If confirmed, I would work to do just that, as guided exclusively by the facts and the applicable law.

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?

"The 2018 National Strategy for Counterterrorism: A Synoptic Overview," American University National Security Law Brief (2019).

Yes, I will provide copies of any requested documents.

PART B - QUALIFICATIONS

14. QUALIFICATIONS (DESCRIBE WHY YOU BELIEVE YOU ARE QUALIFIED TO SERVE AS THE DIRECTOR OF THE NATIONAL COUNTERTERRORISM CENTER).

My first experience with Counterterrorism (CT) occurred in 1999 when the Army unit I commanded was tasked to track down and report on Osama Bin Laden. I was a combatant, or provided direct support to fighting elements from 2001 to 2014 as a Special Forces Officer. More specifically, I planned and led high-risk counterterrorism operations in Afghanistan, Iraq, and the broader Middle East from 2001 - 2014.

During my service, I spent three years detailed from the DoD to the Intelligence Community (IC). As a military staff officer, I oversaw the S11B United States Special Operations Command (USSOCOM) budget and 55,000 personnel. Following uniformed service, I was a contracted advisor to the Under Secretary of Defense for Intelligence for intelligence activities conducted by USSOCOM.

I returned to government service as an Intelligence Oversight Officer for the DoD, where I inspected DoD intelligence organizations for compliance with all applicable laws and policies. While a civil servant, I was selected by the National Security Advisor to serve in a variety of CT and Transnational Threat Network capacities at the National Security Council, culminating with a commission as the Special Assistant to the President for Counterterrorism and Transnational Threats. In that capacity, I provided key input to the October 2018 "National Strategy for Counterterrorism of the United States," and concomitant "Strategic Implementation Plan." I was responsible for overseeing and synchronizing all CT elements of the United States Government, requiring daily interaction with the National Counterterrorism Center, and monitoring the almost \$100 billion of funding allocated to CT activities across the United States Government. I also served as the United States' senior CT interlocutor with a multitude of foreign partners. I currently serve as the Deputy Assistant Secretary of Defense for Special Operations and Combatting Terrorism, where I oversee all DoD CT programs, policies, activities, and budgets.

In regards to leadership and management competencies, I successfully led organizations from 12 – 3,500 people engaged in activities of strategic importance and competing against a violent adversary in chaotic and dangerous environments.

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.