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S. HRG. 109–928

NOMINATIONS BEFORE THE SENATE ARMED SERVICES COMMITTEE, SECOND SESSION, 109TH CONGRESS

HEARINGS

BEFORE THE

COMMITTEE ON ARMED SERVICES
UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON

NOMINATIONS OF

HON. PRESTON M. GEREN; HON. MICHAEL L. DOMINGUEZ; JAMES I. FINLEY; THOMAS P. D'AGOSTINO; CHARLES E. McQUEARY; ANITA K. BLAIR; BENEDICT S. COHEN; FRANK R. JIMENEZ; DAVID H. LAUFMAN; SUE C. PAYTON; WILLIAM H. TOBEY; ROBERT L. WILKIE; LT. GEN. JAMES T. CONWAY, USMC; GEN BANTZ J. CRADDOCK, USA; VADM JAMES G. STAVRIDIS, USN; NELSON M. FORD; RONALD J. JAMES; SCOTT W. STUCKY; MARGARET A. RYAN; AND ROBERT M. GATES

FEBRUARY 15; JULY 18, 27; SEPTEMBER 19; DECEMBER 4, 5, 2006

Printed for the use of the Committee on Armed Services

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CONTENTS

CHRONOLOGICAL LIST OF WITNESSES

Page

FEBRUARY 15, 2006

Nominations of Hon. Preston M. Geren to be Under Secretary of the Army; Hon. Michael L. Dominguez to be Deputy Under Secretary of Defense for Personnel and Readiness; James I. Finley to be Deputy Under Secretary of Defense for Acquisition and Technology; and Thomas P. D'Agostino to be Deputy Administrator for Defense Programs, National Nuclear Security Administration 1

Statements of:

Hutchison, Hon. Kay Bailey, U.S. Senator from the State of Texas 2
Allard, Hon. Wayne, U.S. Senator from the State of Colorado 4
Geren, Hon. Preston M., to be Under Secretary of the Army 9
Dominguez, Hon. Michael L., to be Deputy Under Secretary of Defense for Personnel and Readiness 10
Finley, James L., to be Deputy Under Secretary of Defense for Acquisition and Technology 11
D'Agostino, Thomas P., to be Deputy Administrator for Defense Programs, National Nuclear Security Administration 11

JULY 18, 2006

Nominations of Charles E. McQueary to be Director of Operational Test and Evaluation, Department of Defense; Anita K. Blair to be Assistant Secretary of the Air Force for Manpower and Reserve Affairs; Benedict S. Cohen to be General Counsel of the Department of the Army; Frank R. Jimenez to be General Counsel of the Department of the Navy; David H. Laufman to be Inspector General, Department of Defense; Sue C. Payton to be Assistant Secretary of the Air Force for Acquisition; William H. Tobey to be Deputy Administrator for Defense Nuclear Nonproliferation, National Nuclear Security Administration; and Robert L. Wilkie to be Assistant Secretary of Defense for Legislative Affairs 155

Statements of:

Lott, Hon. Trent, U.S. Senator from the State of Mississippi 156
Cox, Hon. Christopher, Former Representative from the State of California 158
Allen, Hon. George, U.S. Senator from the State of Virginia 159
Martinez, Hon. Mel, U.S. Senator from the State of Florida 161
Blair, Anita K., to be Assistant Secretary of the Air Force for Manpower and Reserve Affairs 165
Cohen, Benedict S., to be General Counsel of the Department of the Navy 166
Jimenez, Frank R., to be General Counsel of the Department of the Navy 167
Laufman, David H., to be Inspector General, Department of Defense 168
Payton, Sue C., to be Assistant Secretary of the Air Force for Acquisition 169

Page

Tobey, William H., to be Deputy Administrator for Defense Nuclear Nonproliferation, National Nuclear Security Administration 171
Wilkie, Robert L., to be Assistant Secretary of Defense for Legislative Affairs . 172
McQueary, Hon. Charles E., to be Director of Operational Test and Evaluation, Department of Defense 173

JULY 27, 2006

Nomination of Lt. Gen. James T. Conway, USMC, for Appointment to the Grade of General and to be Commandant of the Marine Corps 327

Statements of:

Conway, Lt. Gen. James T., USMC, for Appointment to the Grade of General and to be Commandant of the Marine Corps 333

SEPTEMBER 19, 2006

Nominations of GEN Bantz J. Craddock, USA, for Reappointment to be General and to be Commander, U.S. European Command; VADM James G. Stavridis, USN, for Appointment to be Admiral and to be Commander, U.S. Southern Command; Nelson M. Ford to be Assistant Secretary of the Army for Financial Management and Comptroller; and Ronald J. James to be Assistant Secretary of the Army for Manpower and Reserve Affairs 367

Statements of:

Craddock, GEN Bantz J., USA, for Reappointment to be General and to be Commander, U.S. European Command 371
Stavridis, VADM James G., USN, for Appointment to be Admiral and to be Commander, U.S. Southern Command 371
Ford, Nelson M., to be Assistant Secretary of the Army for Financial Management and Comptroller 392
James, Ronald J., to be Assistant Secretary of the Army for Manpower and Reserve Affairs 392

DECEMBER 4, 2006

Nominations of Scott W. Stucky to be a Judge of the United States Court of Appeals for the Armed Forces; and Margaret A. Ryan to be a Judge of the United States Court of Appeals for the Armed Forces 495

Statements of:

Stucky, Scott W., to be a Judge of the United States Court of Appeals for the Armed Forces 501
Ryan, Margaret A., to be a Judge of the United States Court of Appeals for the Armed Forces 503

DECMBER 5, 2006

Nomination of Robert M. Gates to be Secretary of Defense 529

Statements of:

Dole, Hon. Robert, Former U.S. Senator from the State of Kansas 535
Boren, Hon. David L., Former U.S. Senator from the State of Oklahoma 536
Gates, Robert M., to be Secretary of Defense 541

DECEMBER 5, 2006

Continuation of the Nomination of Robert M. Gates to be Secretary of Defense 589

DECEMBER 5, 2006

To Consider Certain Pending Civilian and Military Nominations 681

APPENDIX 685

NOMINATIONS OF HON. PRESTON M. GEREN TO BE UNDER SECRETARY OF THE ARMY; HON. MICHAEL L. DOMINGUEZ TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS; JAMES I. FINLEY TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY; AND THOMAS P. D'AGOSTINO TO BE DEPUTY ADMINISTRATOR FOR DEFENSE PROGRAMS, NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEDNESDAY, FEBRUARY 15, 2006

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC.

The committee met, pursuant to notice, at 9:46 a.m. in room SD–106, Dirksen Senate Office Building, Senator John Warner (chairman) presiding.

Committee members present: Senators Warner, McCain, Chambliss, Cornyn, Thune, Levin, and Dayton.

Also present: Senators Allard and Hutchison.

Committee staff members present: Charles S. Abell, staff director; Leah C. Brewer, nominations and hearings clerk; and John H. Quirk V, security clerk.

Majority staff members present: William M. Caniano, professional staff member; William C. Greenwalt, professional staff member; Elaine A. McCusker, professional staff member; David M. Morriss, counsel; Lucian L. Niemeyer, professional staff member; Stanley R. O'Connor, Jr., professional staff member; Kristine L. Svinicki, professional staff member; Diana G. Tabler, professional staff member; and Richard F. Walsh, counsel.

Minority staff members present: Richard D. DeBobes, Democratic staff director; Jonathan D. Clark, minority counsel; Daniel J. Cox, Jr., professional staff member; Madelyn R. Creedon, minority counsel; Gabriella Eisen, research assistant; Richard W. Fieldhouse, professional staff member; Gerald J. Leeling, minority counsel; and Peter K. Levine, minority counsel.

Staff assistant present: Pendred K. Wilson.

Committee members' assistants present: Christopher J. Paul and Paul C. Hutton IV, assistants to Senator McCain; Clyde A. Taylor

IV, assistant to Senator Chambliss; Russell J. Thomasson, assistant to Senator Cornyn; Stuart C. Mallory, assistant to Senator Thune; William K. Sutey, assistant to Senator Bill Nelson; Kimberly Jackson and Luke Ballman, assistants to Senator Dayton.

OPENING STATEMENT OF SENATOR JOHN WARNER, CHAIRMAN

Chairman WARNER. Good morning, everyone. This is a very important day in the lives of four individuals together with their wonderful families who've joined us here this morning. So we'll get underway very promptly. As protocol has it, we always want to start promptly such that our colleagues who've come for purposes of introduction can return to their respective duties.

So this morning we welcome the Honorable Pete Geren who has been nominated to be Under Secretary of the Army, the Honorable Michael Dominguez who has been nominated to be the Principal Deputy Under Secretary of Defense for Personnel and Readiness, better known as Charlie Abell's replacement. We also welcome James L. Finley who has been nominated to be Principal Deputy Under Secretary of Defense for Acquisition and Technology, and Thomas P. D'Agostino, nominee to be the Deputy Administrator for Defense Programs in the National Nuclear Security Administration. We have with us the distinguished Senator from Texas, I think there were two here—oh, there they are, and we'll at this point in time recognize our colleague, Senator Hutchison.

STATEMENT OF HON. KAY BAILEY HUTCHISON, U.S. SENATOR FROM THE STATE OF TEXAS

Senator HUTCHISON. Thank you very much, Mr. Chairman. I am very pleased to be here to be able to support and ask your support for Pete Geren who has been a friend of mine for a very long time. He comes from Fort Worth and I know he is going to do a terrific job as Under Secretary of the Army. He served in Congress. When I first got here, he was serving in Congress representing his district in Fort Worth for four terms and he was a member of the House Armed Services Committee. He did a lot of really good work, particularly in coming up with the first joint Reserve base concept which is now Naval Air Station, Fort Worth, that included units from the Navy, Air Force, Marine Corp, and the Texas National Guard. It really became a model for joint Reserve bases that has been followed throughout the rest of the country.

He then came back to government, couldn't stay away after he retired from Congress voluntarily, I might add, and started working in the Pentagon as an assistant to the Secretary of Defense, really being very low key. He went to Iraq several times to try to be helpful there spending a month at a time per visit. Then when the Secretary of the Air Force position was in flux, he became the acting Secretary of the Air Force and did such a great job in all of these positions that he then was nominated for Under Secretary of the Army.

I know that he knows the military, he knows the Pentagon, he is very familiar with the efforts to modernize our military so that it best serves not only our country but also helps to serve the people in the military as well. I recommend him most highly, and I

hope that you will take an expedited initiative on this so that he can be confirmed and become an official Under Secretary with Senate confirmation.

Chairman WARNER. Senator, we thank you very much. Indeed we did expedite this hearing. We had not intended to have it before the recess, but in consultation with Senator Levin we also felt it very important. Secretary Rumsfeld is quite anxious to get this team in place as is the President, of course, and I compliment both for their selection of outstanding individuals. I've never seen a better panel. We thank you for your remarks and I associate myself with your high regard for this distinguished individual.

Senator Cornyn.

Senator CORNYN. Thank you, Mr. Chairman. It's a pleasure to join my colleague, Senator Hutchison, in introducing Pete Geren to the committee, but obviously he needs no introduction. He's well known to the committee and has done outstanding work over the past 4 years in the Department of Defense, most recently as Acting Secretary of the Air Force. Mr. Chairman, we always focus on the nominees but really this is a family matter——

Chairman WARNER. Would you undertake the honors then.

Senator CORNYN. I'd be delighted. If people will allow me, I'd like to ask for his wife, Becky, and their three daughters, Tracy, Annie, and Mary to stand and be recognized. We're glad to have all of them here, and I know Pete's glad to have them here as well.

Chairman WARNER. We welcome you. This is a very special day because each of you in your respective ways have contributed to making possible this day. Let me just give you a little bit of advice. If he isn't home by around 7:30, forget it, because they have a tendency in the Department of Defense to work into the late hours. I had the privilege of spending many years there myself, and everything done after about 7:30 is changed the next morning so go home. [Laughter.]

Senator CORNYN. That sounds like sage advice, Mr. Chairman. Thank you very much.

Senator LEVIN. I was going to say, Senator Cornyn, that if he's not home by 7:30 blame us because he is probably preparing some report which we demanded. Who are the three daughters here? Which is the wife? [Laughter.]

This is the way I win elections, folks! [Laughter.]

Senator CORNYN. Now we know the winning formula for Senator Levin. Just in conclusion, let me add, Mr. Chairman, our Army, as we all know, is undergoing major changes while fighting the war on terror, and we are, of course, working closely with the Pentagon to ensure that as the Army and our Armed Forces are transformed that it becomes an even more effective fighting machine while we at the same time watch the budget, procurement, and acquisition process very carefully to make sure the taxpayers get all they can for their hard-earned dollars. Secretary Harvey will be fortunate to have such a dedicated public servant as Pete Geren working for him. I want to welcome him to the committee and commend him to you. Thank you.

Senator HUTCHISON. Mr. Chairman?

Chairman WARNER. Oh, yes.

Senator HUTCHISON. Could I reclaim one more minute?

Chairman WARNER. Yes, of course.

Senator HUTCHISON. I'm very remiss not to have mentioned that he is a graduate of the University of Texas and the University of Texas Law School.

Senator LEVIN. How about elementary school? Where did he go? [Laughter.]

Mr. GEREN. You might note that they played in the Rose Bowl last year against Michigan.

Senator HUTCHISON. Yes, I won't mention the Rose Bowl last year, maybe just this year, Senator Levin.

Senator LEVIN. You had my vote until then. [Laughter.]

Chairman WARNER. We enjoy these moments of levity. They often occur in connection with the confirmation process, but I can tell you from my own personal experience, having gone through this process so many years ago that I don't want to mention it, but it's something you'll always remember and your children will remember it. So I thank each of you for bringing your families.

Now, at this point in time, Senator Allard, you've waited very patiently. You're a former member of this committee so you understand the protocol here.

Senator ALLARD. I do, Mr. Chairman, and thank you. Senator Hutchison, I appreciated your introductory remarks. Once a cheerleader, always a cheerleader, I guess.

Chairman WARNER. Oh, you're in trouble. [Laughter.]

STATEMENT OF HON. WAYNE ALLARD, U.S. SENATOR FROM THE STATE OF COLORADO

Senator ALLARD. I've been looking forward to appearing before the committee. It's a great committee, and one of the opportunities you afforded me early on in my serving on the committee was to be chairman of the Personnel Subcommittee and Charlie Abell, at that time, was my staff person. I congratulate him on his duties here now with the committee. I think he's a great person, and I was enthralled that we now have Mike Dominguez who'll be Charlie Abell's replacement, but I'd also want to say that in his own right he deserves to be the Deputy Under Secretary for Personnel and Readiness there in the Office of Secretary of Defense.

I've known Michael Dominguez for nearly 5 years. It's a pleasure for me to be able to introduce him to your committee. I worked with him on a number of personnel issues, even though I wasn't on the Personnel Subcommittee. Because of the Air Force Academy, over the last couple of years, Michael and I have worked together. I've always valued Michael's candor, openness, and willingness to pursue the facts. He grew up in the Air Force as a dependent but later switched services and attended the U.S. Military Academy at West Point. After serving 5 years in the Army, Michael attended Stanford's Business School and later joined the Office of Secretary of Defense (OSD) as an analyst during the Reagan administration. Michael entered the senior executive service in 1991 as the OSD Director of Program Analysis and Evaluation, and in 2001, Michael returned to the Air Force when he was nominated and confirmed to be the Assistant Secretary of the Air Force for Manpower and Reserve Affairs.

I've worked most closely with Michael in solving several difficult challenges at the Air Force Academy involving sexual assault and religious intolerance. Michael took a prominent role in restoring public trust and confidence in the Academy and was willing to consult with concerned Members of Congress. He was wise enough to seek outside expertise, particularly when it came to the difficult issue of sexual assault. I'm pleased to say that the Air Force Academy's sexual assault response has become the model for the other Service academies and for many public universities now.

From March to July 2005, Michael took on the challenging role of Acting Secretary of the Air Force. His expanded role included the Base Realignment and Closure round, the Quadrennial Defense Review, and the restructuring of several major Air Force Space Acquisition Programs. Michael is well-prepared for this new position and understands the importance of leadership. He is willing to tackle the tough issues that can make things happen in the Department of Defense (DOD), and I'm confident that Michael can accomplish his new duties with the same degree of success that he enjoyed elsewhere in his career. I just want to thank you, Mr. Chairman, for the opportunity to introduce Mr. Dominguez and to say hello to you today.

Chairman WARNER. Senator Allard, we thank you very much. You keep a continuing interest in all areas of national security, but you have made a major contribution with regard to the Air Force Academy. Understandably. You're proud that it is in your State, but we must focus on the importance of these academies. They are symbols throughout the educational system of this Nation, and they attract the finest of individuals to come from all over our Nation. It is extremely important that all of us work with these academies to make them the models that America views them as and looks up to them.

Senator ALLARD. Thank you for your comments, Mr. Chairman. I couldn't agree more with you.

Chairman WARNER. Thank you. Now we'll proceed with the regular order here. We thank our colleagues.

Senator DAYTON. Mr. Chairman, if I may make one more introduction, please.

Chairman WARNER. I beg your pardon. Of course, we're delighted to have you.

Senator DAYTON. Thank you.

Chairman WARNER. Yes.

Senator DAYTON. Thank you, sir. I'm honored to introduce James I. Finley from Chanhassen, Minnesota, who has been nominated by the President to be Deputy Under Secretary of Defense for Acquisition and Technology. Accompanying Mr. Finley, and I ask them to stand and be recognized please, are his wife, Sharon, one of his six children, Dan, and Dan's wife, Jessica. Welcome. As true Minnesota natives, Dan and Jessica dug out from about 2½ feet of snow in Connecticut to be here in Washington and join their father today.

Chairman WARNER. We welcome you and that's wonderful.

Senator DAYTON. Mr. Finley is superbly qualified for this key position. He has 30 years of experience in successfully designing and managing acquisition and technology systems in the aerospace in-

dustry. He's held management and senior management positions at General Electric, Singer, Lear Sigler, United Technologies, and General Dynamics where he was a Corporate Officer, President of Information Systems, and Chair of the Business Development Council.

In 2002, Mr. Finley formed his own consulting company, the Finley Group. His biography states that his leadership and strategic planning abilities have led many companies to achieve double-digit financial growth which commends him very well for this position. I told him that we would settle for double-digit improvements in efficiencies for acquisitions, technology, and logistics.

Mr. Chairman, I am pleased to introduce Jim Finley to our committee and also to enthusiastically support his nomination. Thank you.

Chairman WARNER. Senator, that's very important that you've joined in. We thank you very much for that contribution. Given that my colleagues have fairly well introduced three of them, with your permission, I'll introduce you.

Thomas P. D'Agostino is the nominee to be the Deputy Administrator for Defense Programs in the National Nuclear Security Administration (NNSA), which was created by Congress. I remember well participating in establishing that. He currently serves as the Assistant Deputy Administrator for Program Integration in NNSA and directs the Stockpile Stewardship Program. He is responsible for maintaining the safety, security, and reliability of the Nation's nuclear weapons stockpile. That's an extraordinarily important function that you fulfill. That stockpile is carefully monitored by this committee and in the course of our proceedings today I'll direct questions to you about that.

He's a captain in the Navy Reserve, served over 8 years on Active-Duty in the submarine service, and served on the U.S.S. *Skipjack* during Admiral Rickover's tenure as the Director of Naval Nuclear Propulsion Program. When you visited with me, we exchanged our particular reminiscences of that distinguished American, Admiral Rickover, an extraordinary person in the annals of the history of our Nation. During our office call last week, I learned that you served under that Navy legend, Admiral Bulkeley. I knew him so well when I was Secretary of the Navy. He was an extraordinary man. He was a D-Day Congressional Medal of Honor winner, and he stayed on in the Navy many years for the sole purpose of assuring the Navy that no ship went to sea unless it was technically perfect and you learned a lot under that wonderful man. So we congratulate you, sir. Do you have family here today that you would introduce?

Mr. D'AGOSTINO. Yes, Mr. Chairman. I have both my parents, Anne Claude D'Agostino, my mother, my father, Tom D'Agostino, my son, Tommy, and my wife, Beth. They're all here. They live locally and were able to make it for the hearing and are here to look after me.

Chairman WARNER. All right. We thank you very much for coming. Now, Mr. Dominguez, would you introduce your family.

Mr. DOMINGUEZ. Yes, Senator, thank you very much. I have with me here today my wife, Sheila; my daughter, Michelle; and my

brother, who is also serving the Nation as an Assistant U.S. Attorney in the District of Columbia, John.

Chairman WARNER. Delighted to have you. Regarding your brother, I know the audience is weary of hearing about me but I served 5 years in that office and they were marvelous years. That was back in the good old rough and tumble days. I'll insert the balance of my statement for the record.

[The prepared statement of Senator Warner follows:]

PREPARED STATEMENT BY SENATOR JOHN WARNER

I am pleased to have four distinguished nominees before the committee this morning.

We welcome the Honorable Pete Geren, who has been nominated to be the Under Secretary of the Army, and the Honorable Michael L. Dominguez, who has been nominated to be the Principal Deputy Under Secretary of Personnel and Readiness. We also welcome James I. Finley, who has been nominated to be the Principal Deputy Under Secretary of Defense for Acquisition and Technology, and Thomas P. D'Agostino, the nominee to be the Deputy Administrator for Defense Programs in the National Nuclear Security Administration.

I understand our colleagues, Senator Hutchison and Senator Cornyn, will introduce Mr. Geren. Following those introductions, Senator Allard will introduce Mr. Dominguez and Senator Dayton will introduce Mr. Finley.

I now ask our nominees to introduce their family members and guests. Mr. Geren, please start, followed by Secretary Dominguez, Mr. Finley, and Mr. D'Agostino.

We welcome all of you, and thank you for the vitally important support you provide to our nominees. They cannot succeed in these demanding positions without your continued encouragement and support, as I'm sure they all recognize.

As our colleagues from Texas indicated, Mr. Geren has had a very distinguished career in public service. He represented the 12th District of Texas—Fort Worth—for four terms, from 1989 to 1997, serving on the Committees on Armed Services, Science and Technology, and Public Works and Transportation. He joined the Department of Defense in September 2001 to serve as a Special Assistant to Secretary Rumsfeld. On July 29, 2005, Mr. Geren was appointed Acting Secretary of the Air Force and served in that capacity until November 3, when Secretary Wynne assumed that office. Mr. Geren, thank you for your public service, and, in particular, for your assistance to this committee as Secretary Rumsfeld's representative. Congratulations on your nomination for this critically important position.

Michael L. Dominguez has served as Assistant Secretary of the Air Force for Manpower and Reserve Affairs since August 2001. He also served as the Acting Secretary of the Air Force from March 2005 through July 2005. I note that Mr. Dominguez is a 1975 West Point graduate and served on Active-Duty in the U.S. Army with the 509th Infantry (Airborne) and the Southern European Task Force. He will succeed Charlie Abell, current staff director of the Committee on Armed Services, who left the Department in August of last year . . . obviously, for greener pastures. Secretary Dominguez, we thank you for your public service to date and your willingness to continue serving.

James I. Finley has been nominated to be the Principal Deputy Under Secretary of Defense for Acquisition and Technology. Mr. Finley has had a remarkable career in the private sector with over 30 years of multi-national business leadership and management experience. Programs he has headed have included air, land, sea, and space projects for the Department of Defense, NASA, and the FAA. Mr. Finley has demonstrated expertise in the challenges posed by advanced research projects and business transformations, and has most recently headed his own consulting company focusing on all facets of the business cycle. Mr. Finley, welcome.

Thomas P. D'Agostino is the nominee to be the Deputy Administrator for Defense Programs in the National Nuclear Security Administration (NNSA). Mr. D'Agostino currently serves as the Assistant Deputy Administrator for Program Integration in the NNSA and directs the Stockpile Stewardship program, which is responsible for maintaining the safety, security, and reliability of the Nation's nuclear weapons stockpile. Mr. D'Agostino is a captain in the Navy Reserve having served over 8 years on Active-Duty in the submarine service. He served in U.S.S. *Skipjack* during Admiral Rickover's tenure as the Director of the Naval Nuclear Propulsion program. During our office call last week, I learned that Mr. D'Agostino also served under another Navy legend, Vice Admiral John D. Bulkeley, the renowned Medal of Honor

winner, who, for many years headed the Navy's Board of Inspection and Survey. Congratulations on your nomination.

Chairman WARNER. Senator Levin, do you have some comments you'd like to make at this time?

Senator LEVIN. No, Mr. Chairman. I will just join you in welcoming our nominees and their families. As you and others have already pointed out, the families are truly as important as the nominees in terms of getting this work done. We thank particularly the children who are here today. They will not see their dads as often as they would like and your fathers would like but that's part of the territory. That's some of the dedication that you will see and have seen all your life in your parents. So we just want to particularly thank the children, as well as the brothers, fathers, spouses, and others who have contributed to their being here today and to their commitments and to their success.

Chairman WARNER. Thank you, Senator Levin. As in all nominations, again, we commend our President and the Secretary of Defense and others who made it possible to recruit this extraordinary team for public service. We asked you a series of advance policy questions. You have responded to those questions, and without objection they'll be made a part of today's record. There are certain standard questions that the chairman of this committee always propounds to each nominee, and I will do that now and if you will indicate your concurrence or nonconcurrence with these questions. Please do so as a group.

Have each of you adhered to the applicable laws and regulations governing conflicts of interest?

Mr. DOMINGUEZ. Yes.

Mr. FINLEY. Yes.

Mr. D'AGOSTINO. Yes.

Mr. GEREN. Yes, sir.

Chairman WARNER. Have you assumed any duties or undertaken any actions which would appear to presume the outcome of the confirmation process?

Mr. DOMINGUEZ. No, sir.

Mr. FINLEY. No, sir.

Mr. D'AGOSTINO. No, sir.

Mr. GEREN. No, sir.

Chairman WARNER. Will you ensure that your staff complies with deadlines established for requested communications coming from the Congress of the United States, including questions for the record in hearings such as this?

Mr. DOMINGUEZ. Yes.

Mr. FINLEY. Yes.

Mr. D'AGOSTINO. Yes.

Mr. GEREN. Yes, sir.

Chairman WARNER. Will you cooperate in providing witnesses and briefers in response to congressional requests?

Mr. DOMINGUEZ. Yes.

Mr. FINLEY. Yes.

Mr. D'AGOSTINO. Yes.

Mr. GEREN. Yes, sir.

Chairman WARNER. Will those witnesses be protected from reprisal for their testimony or briefings?

Mr. DOMINGUEZ. Yes.
Mr. FINLEY. Yes.
Mr. D'AGOSTINO. Yes.
Mr. GEREN. Yes, sir.
Chairman WARNER. Do you agree, if confirmed, to appear and testify upon request before this committee?
Mr. DOMINGUEZ. Yes.
Mr. FINLEY. Yes.
Mr. D'AGOSTINO. Yes.
Mr. GEREN. Yes, sir.
Chairman WARNER. Do you agree to provide documents, including copies of electronic forms of communications, in a timely manner when requested by a duly constituted committee of the Congress of the United States or to consult with the committee regarding the basis for any good faith delay or denial in providing such documents?
Mr. DOMINGUEZ. Yes.
Mr. FINLEY. Yes.
Mr. D'AGOSTINO. Yes.
Mr. GEREN. Yes, sir.
Chairman WARNER. Thank you very much. That concludes our questions. Now, as you observed, several colleagues came in to introduce an individual or nominee here this morning. I must depart for a few minutes to introduce an individual from my State who's becoming a United States Marshal for the United States, the entire country. To ensure that, if I'm locked up, I'll get good treatment, I'm going to get up there and introduce him. Would you kindly take over?
Senator CHAMBLISS [presiding]. Not that I am a capable replacement for the gentleman from Virginia, but let me extend my personal welcome to each of you here. Pete, it's always good to see you back. You've been here several times before. We're always glad to see you come back. Gentlemen, we'll begin with opening statements at this time and Mr. Geren, we'll start with you.

STATEMENT OF HON. PRESTON M. GEREN, TO BE UNDER SECRETARY OF THE ARMY

Mr. GEREN. Thank you, Mr. Chairman. Mr. Chairman, Senator Levin, members of the committee, I'm honored that the President has nominated me to serve as Under Secretary of the Army and to appear before your committee. I want to thank President Bush and Secretary Rumsfeld for their confidence in me and the members of this committee for your consideration. I particularly want to thank Senator Hutchison for being here this morning and Senator Cornyn, both of them for their very kind and charitable words. They've been great friends over the years, and I appreciate very much their taking the time to be here today. I want to thank Senator Cornyn for recognizing my family. I'm delighted that they could be here. I want to thank Becky and our girls for their love and support. We appreciated the words of Senator Levin and Senator Warner, warm words that they gave to all these family members. Thank you very much.

All of us in public life have people who have helped us along the way, friends and family, people too numerous to mention. There's

one person, however, I'd like to recognize today and thank for his friendship and help with my career. He was one of your colleagues, Senator Lloyd Bentsen. He's not in good health today. I wanted the record to reflect the personal affection, appreciation, and gratitude I hold for him. When I was young, his leadership drew me into politics. He gave me the privilege of working on his Senate staff, and he gave generously of his counsel and his support during my time in elected politics. I want to thank him and his devoted wife, Beryl Ann, for the friendship and generosity they've shown Becky and me over the years. Without them, my life would have taken a different course.

To serve as Under Secretary of the Army at this time in our Nation's history is a daunting and humbling task. If confirmed, I recognize that my success in the job will depend on my ability to reach out to others, to those who have devoted their lives to the Active, Guard, and Reserve components of the Army, to build a team and work effectively with the many stakeholders dedicated to the success of the Army.

I've been asked my top priority. That is an easy one: the soldier and his or her family. Everything the Army must accomplish depends on recruiting, training, equipping, and retaining the finest soldiers in the world, and the family cannot be neglected. The old adage, you recruit the soldier, you retain the family, is more true today than ever before. Our policies and practices must reflect that reality.

As a former Member of the House, I understand fully Article I, Section 8, of the Constitution. If confirmed, I look forward to working with this committee in service to the Army. I stand ready to answer your questions. Thank you, Mr. Chairman.

Senator CHAMBLISS. Thank you, Pete, and I would be remiss because Watson Brown would be curious why you don't have your orange tie on today.

Mr. GEREN. I wore it yesterday.

Senator CHAMBLISS. Mr. Dominguez.

STATEMENT OF HON. MICHAEL L. DOMINGUEZ TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS

Mr. DOMINGUEZ. Thank you, Mr. Chairman, and thank you to this committee for all you do to support the men and women who defend the Nation. I am grateful to Senator Allard for his kind introduction and to Chairman Warner for recognizing my family with me here today. I am also deeply grateful to the President for nominating me to this position and to Secretary Rumsfeld for his confidence in me and his support of this nomination.

For the last 4½ years, I have been privileged to serve as Assistant Secretary of the Air Force for Manpower and Reserve Affairs. These past years have been a time of trial and challenge as well as enormous opportunity. I am proud of the airmen with whom I have served, of their sacrifice, their achievement, and together with their joint service and coalition partners, of the contribution they make to a secure future for people who love peace and freedom. It is a great honor to be offered another opportunity in service to our

soldiers, sailors, airmen, marines, and their families. Thank you, Mr. Chairman. I look forward to your questions.

Senator CHAMBLISS. Thank you. Mr. Finley.

STATEMENT OF JAMES L. FINLEY TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY

Mr. FINLEY. Thank you, Mr. Chairman. Good morning. Mr. Chairman, Senator Levin, members of the Senate Armed Services Committee, I am deeply honored and humbled with the trust and confidence of President Bush to nominate me for the position of Deputy Under Secretary of Defense for Acquisition and Technology. I'm also very appreciative of Secretary of Defense Rumsfeld for his support, trust, and confidence in me throughout this nomination process. I particularly also want to thank Senator Dayton for his introductory remarks.

For me, this is a very special occasion. It will be my first time, if confirmed, to serve in our government. With over 30 years of extensive business leadership, it is with great passion and experience in acquisition and technology systems that I come before you today for consideration of confirmation. I am delighted to have my lovely wife, best friend, Sharon, and my son, Daniel, and his wife, Jessica, from Connecticut to join me here today. Dan is a marine, and needless to say, I feel very safe with a marine at our side.

Mr. Chairman, Mr. Levin, and members of the committee, I have further prepared for this hearing by having read the recently released Quadrennial Defense Review, as well as the Defense Acquisition Performance Assessment Report. I've also read title 8, the 800 series section of the National Defense Authorization Act for Fiscal Year 2006. As an outsider and coming in from Minnesota, it was with great glory to see so much snow here this weekend which helped keep me inside reading, reading, and reading a fair mountain of documentation.

Mr. Chairman, thank you for your kind remarks and the opportunity to appear before this committee. If confirmed, I look forward to working with you and this committee and Congress. I stand ready for your questions.

Senator CHAMBLISS. Thank you.

Mr. D'Agostino.

STATEMENT OF THOMAS P. D'AGOSTINO TO BE DEPUTY ADMINISTRATOR FOR DEFENSE PROGRAMS, NATIONAL NUCLEAR SECURITY ADMINISTRATION

Mr. D'AGOSTINO. Mr. Chairman, Senator Levin, members of the committee, I am both humbled and honored to be the President's nominee for Deputy Administrator for Defense Programs in the National Nuclear Security Administration. I appreciate deeply the confidence that the President, Secretary Bodman, and Ambassador Brooks have placed in me.

If confirmed, I'll work with Congress and the administration as we continue to assure the safety, security, and reliability of our Nation's nuclear stockpile. I am blessed to be entrusted by the President to be his nominee and if confirmed by the Senate, I hope to lead this organization as we continue to move forward in maintaining our Nation's security.

I've been with the Department of Energy's nuclear weapon's program for over 15 years and I've seen great changes in that time. Through the Treaty of Moscow, we will reduce operationally deployed strategic nuclear weapons to about 1,700 to 2,200 warheads by December 2012. In addition, the President took further steps to reduce the size of the stockpile, both deployed and nondeployed. At his direction by 2012, the stockpile will be lower by nearly one-half from the 2001 level, resulting in the smallest stockpile since the Eisenhower administration.

Also, as described in the administration's Nuclear Posture Review, we're in the midst of transforming the nuclear weapons complex to implement a responsive infrastructure and to provide for a deterrent that does not rely on significant number of nondeployed warheads and weapons as a hedge against technical uncertainty or geopolitical changes.

If confirmed, I look forward to working with Congress on the transformation of the stockpile and shift to the responsive infrastructure. This will present challenges that will shape our nuclear forces to reflect the reality that the Cold War is over while at the same time maintaining that credible deterrent consistent with our national security needs. This is the better future for the nuclear weapons program. It's a future of an integrated and responsive nuclear weapons enterprise that is modernized, cost effective, safe, and secure.

Service is important to me, and as Chairman Warner mentioned earlier, I have over 29 years of military service in the United States Navy and 16 years of civil service in the Department of the Navy as well as the Department of Energy (DOE) and National Nuclear Security Administration. As an officer in the United States Navy, I was selected by Admiral Rickover and trained as a submarine officer, and in this capacity, I managed technically complex high hazard operations onboard nuclear submarines. This training instilled in me a commitment to quality, discipline, and integrity that are so vital and important when dealing with nuclear operations.

After over 8 years on Active-Duty in the submarine force, I continued to serve in the national security arena as a Naval Reserve Officer and the civil service as a Propulsion Systems Program Manager for the Seawolf Submarine Program. I then moved to the DOE and worked in a wide variety of technical and management positions in the area of tritium reactor restart, as a Deputy Director for the Office of Stockpile Computing, as the Deputy Director for the Nuclear Weapons Research and Development and Simulation Program, and most recently as the Assistant Deputy Administrator for Program Integration. In that capacity, I reported directly to the Deputy Administrator for Defense Programs to integrate the Stockpile Stewardship Program and budget across our three national laboratories, four production sites, and the Nevada Test Site.

For all my professional life, I have focused on service in support of our Nation's security and with your support I hope to be able to continue this service as a Deputy Administrator for Defense Programs. I'm privileged to have been able to serve my country and am confident that my experience will serve me well, if confirmed.

Along with service, integrity, perseverance, and the proper attitude are important to me. My father taught me that nothing is beyond reach as long as you have these attributes. In 1st Chronicles, King David said, "I know my God that you test the heart and are pleased with integrity. All these things have I given willingly and with honest intent." If confirmed, I will bring all these things to the Deputy Administrator position and to the men and women of Defense Programs who work so hard on the important task of preserving our Nation's security. With your approval, it will be my great privilege to lead Defense Programs as we meet our challenges and work towards a better future. Thank you for your consideration.

[The prepared statement of Mr. D'Agostino follows:]

PREPARED STATEMENT BY THOMAS P. D'AGOSTINO

Mr. Chairman, Senator Levin, and members of the committee, I am both humbled and honored to be the President's nominee as Deputy Administrator for Defense Programs in the National Nuclear Security Administration at the Department of Energy. I appreciate the confidence that the President, Secretary Bodman, and Ambassador Brooks have placed in me. If confirmed, I will work with Congress and the administration as we continue to assure the safety, security and reliability of the nuclear weapons stockpile to meet our national security requirements. I am blessed to be entrusted by the President to be his nominee, and if confirmed by the Senate, I hope to lead this organization as we continue to move forward in the work of maintaining our Nation's security.

I have been with the Department of Energy's (DOE) nuclear weapons program for over 15 years, and have seen great changes in that time. Through the Treaty of Moscow we will reduce operationally-deployed strategic nuclear weapons to 1,700–2,200 by December 2012. In addition the President took further steps to reduce the size of the stockpile, both deployed and nondeployed. At his direction, by 2012, the stockpile will be lower by nearly one-half from the 2001 level, resulting in the smallest stockpile since the Eisenhower administration. Also, as described in the administration's Nuclear Posture Review, we are in the midst of transforming the nuclear weapons complex to implement a responsive infrastructure to provide for a deterrent that does not rely on a significant number of nondeployed weapons as a hedge against technical problems or geopolitical changes.

If confirmed, I look forward to working with Congress on the transformation of the stockpile and the shift to a responsive infrastructure. This will present challenges that will shape our nuclear forces to reflect the reality that the Cold War is over, while at the same time maintaining a credible nuclear deterrent consistent with our national security needs. This is the better future for the nuclear weapons program—a future of an integrated and responsive nuclear weapons enterprise that is modernized, cost-effective, safe, and secure.

Service is important to me. I have over 29 years of military service in the United States Navy and over 16 years of civil service in the Department of the Navy and then the DOE and National Nuclear Security Administration. As an officer in the U.S. Navy, I was selected by Admiral Rickover and trained as a nuclear submarine officer. In this capacity I managed technically complex, high-hazard operations on board nuclear submarines. This training instilled in me a commitment to quality, discipline, and integrity that are so important when dealing with nuclear operations. After over 8 years on Active-Duty in the submarine force, I continued to serve in the national security arena as a Naval Reserve Officer and in the civil service as a propulsion systems program manager for the *Sea Wolf* submarine program. I then moved to the DOE and worked in a wide variety of both technical and management positions, in the areas of tritium reactor restart, as Deputy Director in the Office of Stockpile Computing, as the Deputy Director for Nuclear Weapons Research, Development and Simulation, and most recently, as the Assistant Deputy Administrator for Program Integration. In that capacity, I reported directly to the Deputy Administrator for Defense Programs to integrate the Stockpile Stewardship Program and budget across four production sites, three national laboratories, and the Nevada Test Site.

For all of my professional life I have focused on service in support of our Nation's security. With your support I hope to be able to continue this service as the Deputy

Administrator for Defense Programs. I am privileged to have been able to serve my country and am confident that my experience will serve me well if confirmed.

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Senator CHAMBLISS. Thank you.

Senator Levin.

Senator LEVIN. Mr. Chairman, thank you. First, Mr. Geren, let me ask you a few questions. The Army plans to increase the operational force by about 40,000 people. In your written answers to the committee you wrote that there's a two-phase approach to reduce the institutional Army by first converting a total of 27,000 spaces from military to civilian, and I'm wondering if you can tell us about that plan. Is it progressing?

Mr. GEREN. I don't know the details of the plan, Senator, but the plan is to move 40,000 faces into the operational Army. They intend to meet the needs in the institutional Army three ways: one through military/civilian conversions, another is in some cases discontinuing practices that are determined no longer to be relevant, and the other is through contracting, outsourcing, and other business transformation initiatives. They have, as I understand it, have moved 7,000 or 8,000 already into the operational Army. I don't know the timetable. I'd be glad to furnish the details of it for the record.

[The information referred to follows:]

The Army has been evaluating force requirements within the End Strength Plan outlined by the Secretary of the Army in August 2005. Under this plan, the Army is building an expeditionary, campaign quality force capable of meeting the broad and complex array of challenges while ensuring its forces remain the preeminent land power and ultimate instrument of national resolve. The operational force grew by approximately 20,000 spaces from fiscal year 2004 to fiscal year 2005 (315,000 to 335,000) and is forecasted to grow another 10,000 spaces from fiscal year 2005 to fiscal year 2006 (335,000 to 345,000). The Army will achieve the goal of a 355,000 space operational force in fiscal year 2007. The Army will realize this growth through gaining efficiencies in its institutional force and through Business Process Transformation. The Army's goal is to attain a reduction to 75,000 soldiers in its institutional force and reduce the transients, trainees, holdees, and students (TTHS) to 52,400 Soldiers. The military/civilian conversion plan is a key component of the overall Army End Strength Plan. A two-phase approach to reduce the Institutional Army through military-to-civilian conversion is being executed. Phase I (fiscal year 2005–2009) will convert up to 11,000 positions. Phase II (fiscal year 2008–2011) will convert up to 14,000 additional positions and is under review by major commands. Through fiscal year 2006, we have converted 9,644 Active military positions. Business Process Transformation will streamline or eliminate redundant operations to free up human resources to redirect to the operational force.

Senator LEVIN. Thank you. In your written answers to the committee you wrote that one of your highest priorities would be to work with the Secretary of the Army to enhance the Army's coordination and communication with Members of Congress and staff. As a prior member of the House of Representatives and its Armed Services Committee, I think you have personal experience. Your commitment is very important to us. Do you have any specific rec-

ommendations that you would give to the Secretary of the Army on how to improve the Army's relationship with Congress?

Mr. GEREN. I know that he shares the same commitment to work with the House and with the Senate, and understands fully Article 1, Section 8 of the Constitution. I believe strongly that if we are going to do our jobs well in the DOD or, if confirmed, the United States Army, we cannot do it without being full partners with Congress. The Army has to remain connected to the people that we represent, has to remain connected to the people of the Nation, and in addition to the partnership serving our ability to make the right decisions about the Army and lead the Army properly, Congress helps us stay connected with the American people. The American people must retain faith in the United States Army. They entrust their sons and their daughters to the care of the Army. They send their Army all over the world, and I believe a strong, vital relationship with Congress is key to maintaining that connection to the people.

Senator LEVIN. As Special Assistant to the Secretary of Defense, you were the liaison to Congress on detainee abuse issues. You may know that I have initiated a factfinding effort to fill in some of the gaps in the DOD investigations into detainee abuses and to examine issues of accountability for policies, practices, and activities that may have contributed to such mistreatment. Will you cooperate with me in that effort?

Mr. GEREN. I will cooperate, Senator. As I understand it, the Office of Secretary of Defense has your request under consideration, but I can assure you, sir, as I have over these last 2 years, I worked very hard to be forthcoming and provide transparency and work with you and with your staff in making sure that we answer all your questions and provide you the information you need.

Senator LEVIN. Will you help us get answers from persons that you have some control over or influence with?

Mr. GEREN. Yes, sir, to the extent I can. As I said, the Office of Secretary of Defense is, I believe, taking that issue on and I'll work with them and work with Congress. I know their goal would be to cooperate to the extent possible.

Senator LEVIN. We also would appreciate, not just that kind of support and cooperation, but also prompt responses as well. Can we count on you for that?

Mr. GEREN. I understand the value of promptness, yes, sir.

Senator LEVIN. Are you aware of any additional authority that the Army needs to mobilize the Army National Guard and Army Reserve personnel when they are needed?

Mr. GEREN. Yes, sir. As I understand it, there are a couple of initiatives that the Army would like see enacted to support their mobilization needs. One is, under the President's authority to call up the Guard, we would like to extend it from 270 days to a year, I believe, and also provide the opportunity on a voluntary basis, to make guardsmen available for training in advance of mobilization in excess of 39 days a year. I think those are the priorities for the Army.

Senator LEVIN. Thank you. Mr. Dominguez, the Washington Post a few days ago reported that the Army is projecting a shortage of 3,500 Active-Duty officers in career fields strained by the wars in

Iraq and Afghanistan. They indicated one of the measures the Army is taking to address this shortfall is recalling officers who have completed their Active-Duty commitments and are fulfilling the remainder of their military service obligations in the Individual Ready Reserve. Are you familiar with those alleged shortages in the junior officer ranks?

Mr. DOMINGUEZ. Sir, only generally from my conversations with my counterparts and my reading in the media.

Senator LEVIN. Okay. Now, the Air Force as well as the Navy is downsizing and seeking incentives for excess officers to leave the Service. If confirmed, will you take actions to attempt to ensure that Air Force and Navy officers who have the skills, training, and experience that are in short supply in the Army are encouraged to serve in or with the Army?

Mr. DOMINGUEZ. Oh, absolutely, Senator.

Senator LEVIN. Mr. Chairman, I just have a few questions of our other nominees. With your permission, and if Senator Dayton would allow me; then I'd be able to get on to another commitment that I have, and I would appreciate that.

Secretary Dominguez, there is an article in the Washington Post on February 9, 2006, where the columnist, Robert Novak, asserted that Active-Duty servicemembers are being offered to Republican county chairmen to speak in a duty status about their experiences in Iraq. Are you aware of any such activity?

Mr. DOMINGUEZ. No, Senator, I am not.

Senator LEVIN. Mr. Finley, you've indicated you have read the Defense Acquisition Performance Assessment (DAPA). I'm wondering now if you would tell us what you see as the most serious problems in the DOD's acquisition of major weapons systems and what steps you believe we should take to address those problems, either from that review or from your own personal experience.

Mr. FINLEY. Thank you, Senator Levin. The problems and issues are fairly detailed in the DAPA Report. The number one issue that was identified was oversight, number two issue was acquisition strategy, and the number three issue was the requirements and instability requirements. What I see is bringing my experience from the business world into this arena of requirements creep. Scheduled growth and budgeting would put more stability in what they call the bigger A concept as opposed to just focusing on individual program performance areas.

Senator LEVIN. Mr. Finley, the acquisition of contract services is too often neglected by senior DOD acquisition officials who spend much of their time on major weapons systems. If you are confirmed, can you make it a top priority to improve the management of contract services within the DOD?

Mr. FINLEY. Yes, sir.

Senator LEVIN. All right. I just have one question for Mr. D'Agostino and that has to do with the Robust Nuclear Earth Penetrator (RNEP) Program. Do you know if the budget request for fiscal year 2007 includes any money for RNEP or RNEP-related activities?

Mr. D'AGOSTINO. Senator Levin, there's no money requested or resources requested for the RNEP in the fiscal year 2007 President's budget.

Senator LEVIN. Thank you. Mr. Chairman, again, my thanks to you and to Senator Dayton.

Senator CHAMBLISS. Senator Dayton.

Senator DAYTON. Thank you, Mr. Chairman. I want to thank all four of you for your willingness to serve. Mr. Geren, yesterday we had a hearing with the Secretary of the Army and the Chief of Staff of the Army and a subject that came up frequently was the plans for the National Guard. This occurred in part because of a lack of ongoing communication with the Adjutant Generals and even Governors that led to quite a flurry of contacts between Members of the Senate and the House in the last couple of weeks. Yesterday, both the Secretary and the Chief of Staff made a commitment to involve the Adjutant Generals in ongoing communication about the future plans. I would ask if you'd be willing to make that same commitment and assure us when you arrive in your position that ongoing communication does in fact occur.

Mr. GEREN. Yes, sir, I certainly would.

Senator DAYTON. All right. Thank you. Secretary Dominguez, Senator Allard referenced the situation with the Air Force Academy and the plan, or the program, to combat sexual abuse. I wonder if you could give some particulars because that's a subject of great interest to the members of this committee. What has been done there? What has been instituted? How is it judged to be effective, and why is it a model for the other academies?

Mr. DOMINGUEZ. Yes, sir. Thank you. Senator, my colleagues and I responded aggressively to this challenge. We addressed this problem openly, consulting with Congress and keeping the press informed. We sought, from outside experts, assistance in understanding the problem and in fashioning our attack upon the problem. We focused on prevention through clarified roles and responsibilities, and we improved training. We improved our response capabilities through assignment of full-time sexual assault response coordinators, training for victim advocates, training for first-responders, and, importantly, implementation of a confidential reporting avenue. We regained the trust and confidence of our men and women so that they know when they report this crime they'll be protected and we will seek justice.

Senator DAYTON. Let me ask, how do you know you have their trust and confidence? How do you determine that?

Mr. DOMINGUEZ. Sir, we monitor that through surveys, both incidents of sexual assault as well as surveys of the attitudes of our young men and women regarding their trust and confidence in command. We've seen a major turn-around in that. The openness with which we address it and continue to address it, the specific actions that we took, and the monitoring of that data and putting that data out in front, again, in the open, is one of the ways we do that. If you're interested, Senator, the Academy Board of Visitors will be meeting this week, and they'll see the statistics from the surveys in that public and open forum.

Senator DAYTON. I thank you for your contributions to that. That's a very important, urgent in fact, reform. Thank you.

Mr. Finley, acquisitions and better efficiencies in contracting seems to be the Sisyphus that afflicts the DOD. You've been on the other side in the private sector. Could you identify what you think

are the principal problems and therefore, opportunities for improvements that will make the system process more efficient, save taxpayers dollars? What's going to be critical now is to stretch every defense dollar to go even farther.

Mr. FINLEY. Yes, sir. Senator Dayton, I feel a fundamental common denominator from a business point of view is the workforce. The people in the workforce make things happen, both in the senior management all the way down to the people who clean the floors at night. The first ingredient, I believe, you need to have is good people. Fundamentally, I believe our men and women in uniform, as well as our civilian forces, are good people.

The second requirement is: do they have the right skill sets and have we trained them properly and have we supported them properly to get that training? The third requirement is getting those skilled people in the right place. I believe that is one of management's biggest challenges, and yet an opportunity to stop requirements creep, stop cost growth, get things that are stable from a planning point of view, and push this ability of the people, accountability, responsibility, down to the lowest level.

If confirmed, sir, in OSD, I would see a more value-added approach to business, looking strategically at the services from the standpoint of eliminating duplication and focusing on core competencies of technologies to enable our acquisition systems to be more successful, reducing the cycle of time and meeting or beating the budget requirements.

Senator DAYTON. Thank you. Mr. Chairman, that concludes the questions I have.

Chairman WARNER. Senator Chambliss, thank you, sir, for taking the chair while I had to be upstairs for a minute.

Senator CHAMBLISS. Thank you, Mr. Chairman. Mr. Geren, you and I go back to our days in the House, particularly serving together on the House Armed Services Committee where you were such a strong supporter of our men and women in uniform as well as various weapons systems that they need to make sure that we are the world's strongest military. I can't thank you enough for your service that you gave to them and to people of Texas, both in the House and in DOD.

In your service in the Pentagon since September 2001, I have had the opportunity to work with you on a number of issues but to also observe your commitment to the defense of this country. I thank you for your continued willingness to serve the people of our country.

Mr. GEREN. Thank you for your kind words. I appreciate it very much.

Senator CHAMBLISS. Mr. Dominguez, let me focus on an issue with you that is very critical to the national security of this country. About a year ago, we had an issue in the budget relative to the multiyear purchase of the C–130J airplane. Obviously, coming from Georgia, that program is very important to me from a parochial standpoint, but more significantly, it's been important to me long before it became a parochial issue with me because not one nut or bolt of that airplane was made in my former congressional district.

Last year when the budget coming from the President sought to terminate that multiyear contract, there was a lot of angst raised on Capitol Hill not just by my office but by dozens of Members of the Senate, dozens of Members of the House, and the end result of that was the reinstatement of that multiyear contract. Now, one of the problems we had was the fact that that contract when it was initiated was a commercial contract, which is a little bit unusual from a procurement standpoint, and at the request of Senator McCain and in discussion within this committee, the decision was made to convert that commercial contract back to a more traditional contract.

Would you tell me what your involvement has been from the early days of last year in the conversion of that contract back to the more traditional form of procurement contract?

Mr. DOMINGUEZ. Certainly, Senator. My involvement was or began when I became the Acting Secretary of the Air Force on March 28, 2005, and continued through to July 28 when I handed the baton off as Acting Secretary. So I inherited a budget proposal that was under review by the Secretary of Defense. I also inherited this discussion with Congress over the propriety of terminating the contract and of the propriety of it being a commercial acquisition. We had as you're very aware, Senator, several years of struggle, controversy, between the United States Air Force and Congress of the United States with regard to some of our acquisition programs, and I inherited that as well. I made it my priority, therefore, during my tenure as Acting Secretary, the number one objective I sought was to restore the trust and confidence that the Members of Congress of the United States had in the Air Force leadership and our ability to acquire weapons systems for the use of the Armed Forces of the United States.

With that background and the controversy about the commercial acquisition of that platform, I made the commitment to convert that platform or that multiyear contract into a more traditional acquisition contract. We approached that, again as you pointed out, sir, decision to terminate the contract which was in the President's budget and was reversed by the Secretary of Defense about May 10. About May 11, Congress legislated a prohibition against termination of the contract.

So our efforts focused on modifying the clauses in the contract to acquire the visibility into production costs that would be analogous to the kind of visibility we would have had if back in the 1990s we had started this as a traditional weapons system acquisition. That's the course I set. That journey was continuing at the time I left, but we had not achieved success yet.

Senator CHAMBLISS. Now, were you involved in the original decision to make this a commercial contract?

Mr. DOMINGUEZ. Oh, no, sir.

Senator CHAMBLISS. During the time that you were involved in this, did you ask the question, or what was the answer to the question, of whether or not this had ever been done before?

Mr. DOMINGUEZ. Sir, I knew that this had not been done before. I can't say for sure that I knew before I made the commitment, but I was confident in our acquisition community and in our partners in Lockheed Martin that they could do what needed to be done.

Senator CHAMBLISS. During the course of the work that you've done on this conversion, have you found the Air Force as well as Lockheed Martin to be very open in trying to come to the type of conclusion that this committee mandated in the legislation that was passed in May 2005, and that ultimately, became law in January 2006?

Mr. DOMINGUEZ. Sir, absolutely. As I said, my first priority was restoring trust and confidence of Congress in our leadership and our stewardship. I insisted that we be open, and as a result of that, the Air Force acquisition professionals reached out to the Office of the DOD Inspector General (IG) to bring them into the discussions. They reached out to the Defense Contract Audit Agency to bring them into the discussions. After they had made what they considered sufficient progress and thought they had the target in sight, they reached out to Congress and the staff of this committee to get feedback on their concept.

Senator CHAMBLISS. So the involvement of the Office of Inspector General was initiated by you as opposed to somebody questioning what was happening relative to the conversion?

Mr. DOMINGUEZ. That's correct, sir.

Senator CHAMBLISS. During all of this time that you were involved in this, and tell me again the exact time period that you were so involved.

Mr. DOMINGUEZ. March 28 was when I became the Acting Secretary of the Air Force. About April 13 is when I visited with Senator McCain. General Jumper and I committed to convert this contract to a more traditional acquisition footing, and then July 28 was when I handed the baton as Acting Secretary off to my successor.

Senator CHAMBLISS. So, basically, about a 4-month period was all of the time that you were involved in this and that was at the initial time of the conversion of this contract to the more traditional form.

Mr. DOMINGUEZ. That's absolutely correct.

Senator CHAMBLISS. Now, during that time, what were the comments or findings of the Office of Inspector General relative to the work towards converting this contract?

Mr. DOMINGUEZ. Sir, I don't know of any specific comments during my tenure. I know because in preparation for this hearing I've reviewed the history of what transpired. The consultant that the Air Force acquisition team had working with them through the summer and from the period of about July 28 when I actually left the office through the early fall, that consultant was onboard with the approach the Air Force had proposed. He thought it met the spirit of the congressional intent and was supportive, and I know by participating in the ongoing dialogue with Members of Congress and Congress' staff.

Senator CHAMBLISS. After the meeting that you and General Jumper had with Senator McCain, which I believe you said was April 13, was there any further discussion between you or members of your staff with members of this committee or staff of this committee?

Mr. DOMINGUEZ. No, sir. I think that is my deepest regret at this point, that I did not initiate during my tenure a followup conversa-

tion with the important members of this committee to apprise you of our strategy and the fact that we were, in fact, just modifying clauses in an existing multiyear contract to add the cost visibility.

I did not come back and say, "that was our strategy, are you okay with it?" Nor did I apprise you of the fact that we planned, and to iterate we were going to bring back a product that had never been done before for us all to look at and see if we liked it. But I didn't communicate that clearly, and so there was an unfortunate misunderstanding that erupted downstream as a result of that omission on my part, sir.

Senator CHAMBLISS. Was there ever any intention to deceive this committee relative to the language which was included in the authorization bill in May 2005?

Mr. DOMINGUEZ. Absolutely not, Senator.

Senator CHAMBLISS. By the same token, did you receive any questions relative to the work on this contract during that 4-month period from any member of this committee or staff of a member of this committee?

Mr. DOMINGUEZ. I do not recall, Senator, receiving any communication. I hope that there was communication between our team and the staff but I don't know it. They didn't apprise me of it, and I received no direct inquiry.

Senator CHAMBLISS. Now, was it your intention to carry out the terms of the directive that this committee made in the authorization bill?

Mr. DOMINGUEZ. Yes, sir. I have scrupulously followed the law, the intent of Congress, and the committee reports.

Senator CHAMBLISS. At the time you left on July 28, 2005, did you think that was well underway?

Mr. DOMINGUEZ. Absolutely, Senator. I thought we were making great progress.

Senator CHAMBLISS. Have you had any further involvement in this program or in the transformation of this contract since that time?

Mr. DOMINGUEZ. No, Senator, only the last week of fact-gathering so that I might be able to answer questions at this hearing.

Senator CHAMBLISS. Who replaced you from the standpoint of the Air Force's participation in the conversion of this contract?

Mr. DOMINGUEZ. Sir, I was replaced as the Acting Secretary of the Air Force by the Honorable Pete Geren who, as a result of there not being an Assistant Secretary of the Air Force for Acquisition, also became the Service Acquisition Executive. I handed the baton off to my friend, Mr. Geren.

Senator CHAMBLISS. Were you satisfied at that time that everything requested by this committee was in fact moving forward in accordance with the directions of the legislation that had been passed by this committee?

Mr. DOMINGUEZ. Sir, that was my belief.

Senator CHAMBLISS. Okay. Mr. Geren, let me ask you, you've served as Acting Secretary of the Air Force from April 28 until I believe, sometime that fall.

Mr. GEREN. July to early November.

Senator CHAMBLISS. Tell me what involvement you had with respect to the changing of this contract from a commercial contract to the more traditional form?

Mr. GEREN. I had no involvement with it at all, sir.

Senator CHAMBLISS. Okay. Mr. Chairman, I thank you for your leniency, and I have some documents that I would request I be authorized to enter into the record, particularly the testimony of Under Secretary of Defense for Acquisition, Technology, and Logistics, Ken Krieg, during his confirmation hearing, news release coming out of the Air Force dated April 13——

Chairman WARNER [presiding]. Senator, you just advise the staff and without objection we'll put those in.

Senator CHAMBLISS. Thank you.

[The information referred to follows:]

NEWS RELEASE
United States Air Force

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April 13, 2005

Air Force converting C-130J program from commercial to traditional contract structure

WASHINGTON, D.C.— The Air Force has already begun to implement a more traditional contract structure for the C-130J program. This includes future modification and sustainment. They have also initiated discussions with Lockheed to convert the current multi-year to a more traditional structure.

The FY06 Presidents Budget calls for termination of the C-130J multi-year contract in FY 06. Should that decision be modified, the Air Force will negotiate additional airplanes under FAR Part 15.

For additional information contact Doug Karas at 703-695-0640.

Hearing Date: April 21, 2005
Committee: SASC
Member: Senator Chambliss
Witness: Mr Krieg
Question #7

C-130J

Question: Please estimate the increase in per plane price the Department of Defense paid for C-130J aircraft between 1995 and 2004 resulting from the following factors: initial contractor discount, increase or decrease in production rate, performance enhancements, inflation.

Answer: At this time I do not have direct experience in this area. In order to satisfy the Committee's request, I've coordinated with the current USD (AT&L) who does have the direct experience to answer the question. Mr. Mike Wynne's answer follows.

In 1995, Lockheed Martin used the active C-130H contract and offered the first two C-130Js to the Air Force at the C-130H price of $33.9M each. Several factors have contributed to the increase in the fixed price of the aircraft, which is $66.5M under the multi-year contract that runs from 2003 to 2008. First, the aircraft features performance improvements over previous models. Second, current C-130Js are "stretched" 15 feet to accommodate two additional pallets (a 33% increase in cargo volume). Third, the production rate has significantly decreased since 1995, when the rate was 30 aircraft per year. If the production rate does not reach 16 aircraft for a given year, that year's unit price increases by $750K for each C-130J and $1.55M for each KC-130J, multiplied by the total number of aircraft short of that production goal. The DoD is under contract for 12 aircraft per year, and depends on foreign orders to make up the difference. Finally, inflation has also contributed to the price increase. We estimate that these factors contribute to the increase in price as follows:

Performance improvements	$13.0M[1]
Length increase	$ 5.0M[2]
Production rate decrease	$ 2.5M[3]
Inflation	$12.1M[4]

[1] C-130J features increased speed, range, fuel efficiency, and climb rate; reduced takeoff distance and crew size; plus safety and reliability enhancements.
[2] Based on price difference of $3.0M between commercial Boeing 737-800 and 737-900 (which is 8.5 feet longer)
[3] Estimate is extrapolation of $2.0M incentive in current contract for buying "23 or more" per year
[4] Based on 3% inflation (approximate aircraft industry producer price index)

Hearing Date: April 21, 2005
Committee: SASC
Member: Senator Chambliss
Witness: Mr Krieg
Question #5

C-130J

Question: The DoD IG audit report on the C-130J indicated that as of December 2003, the Air Force conditionally accepted 50 C-130J aircraft and not one aircraft was fully compliant with the contract specifications. The Air Force and the contractor dispute this claim. Specifically, the Air Force determined in 2002 that the Block 5.3 aircraft configuration met the requirements of the 1995 contract, and all 8 aircraft received from that point onward (February 2003) were contract compliant. These aircraft were accepted with "Letters of Temporary Exception" (LOTE's) which can literally be for deficiencies such as a chip in the paint of the airframe. Please explain the use of LOTE's by the Department of Defense, whether funds are withheld from the contractor based on LOTE's, and whether items accepted using LOTE's are considered "contractually compliant".

Answer: At this time I do not have direct experience in this area. In order to satisfy the Committee's request, I've coordinated with the current USD (AT&L) who does have the direct experience to answer the question. Mr. Mike Wynne's answer follows.

An aircraft can be conditionally accepted if it does not fully meet contract specifications, but is deemed sufficiently capable of performing mission requirements. Deficiencies can be very minor or more substantial. Due to the complexity of defense systems, this practice is common for DoD acquisitions. Usually, part of the payment is withheld until the deficiency is corrected. The amounts withheld from the contract price should be sufficient to cover the costs of correcting the deficiencies or completing any unfinished work. The range of C-130J monetary withholds is approximately $250K-$500K per aircraft. Since 2003, all delivered C-130J aircraft have been considered contract compliant. In addition, withhold corrections have been made on 28 of 39 delivered C-130Js.

Chairman WARNER. I'd like to advise the witnesses that I anticipate Senator McCain will be down. He's been very active in this matter, and he will, I hope, have the opportunity to come down and pursue a line of questions on it, but I thank you, I think you inquired into it very thoroughly. It's a matter of concern to the committee, but this is an aircraft that's been a workhorse. It's an essential one for the inventory of our services, and I think it's important that this committee look at the continuing needs and requirements for this aircraft and make a decision. I thank the distinguished Senator for his participation in filling in for a while for me this morning.

Senator CHAMBLISS. Thank you, Mr. Chairman.

Chairman WARNER. I think I'll depart again from formal procedure and recognize our colleague, Senator Thune. You've always been very patient to wait. Why don't you take your opportunity at this time, and then I'll come back in with a series of questions.

Senator THUNE. Thank you, Mr. Chairman. That's the disadvantage of being at the end of this line. I appreciate your leadership on this committee and getting the active participation of all of us here, including the freshmen members.

Mr. Geren, Mr. Dominguez, Mr. Finley, and Mr. D'Agostino, I want to welcome you and thank you for your commitment to public

service, for your records of service, and your careers and all the things you have done for this country, and for your willingness to put your names forward and continue to be involved. I appreciate as well, the opportunities that I've had to visit with you, your responsiveness to questions and issues that we have raised that apply to not only my State but also to this Nation, and the important work that our military is undertaking all over the planet.

Just a couple of questions, and I direct this one to Mr. Geren. The Air Force and the Army have been working since 2004 to create a joint program with the Army's future cargo aircraft which addresses the Army's organic lift gap and the Air Force's light cargo airlift, which addresses the Air Force's gap in intra-theater airlift capability. There have been some reports that, in addition to organic lift, Army wants to take over the intra-theater airlift and that there is supposedly a fight brewing between the Services.

With your time as Acting Secretary of the Air Force, you're probably aware of this issue. I guess my question has more to do with any implications based on which direction this program leads, and how you will work to resolve this issue to meet the needs of both Services.

Mr. GEREN. Thank you for that question. I'm not familiar with the details of the program or the discussions or negotiations. I know organic fixed wing and rotary transport within theater is a high priority for the Army and, if confirmed, it's a matter which I would want to be involved with in advising the Secretary as part of his consideration. Beyond that, I don't have familiarity with details sufficient to offer an opinion at this time. I'd be glad to offer something for the record.

Senator THUNE. Okay. That would be great if you could. We'd welcome that.

Mr. GEREN. Thank you.

[The information referred to follows:]

The Future Cargo Aircraft is a complementary system that fills a gap at the tactical (as opposed to operational or strategic) level; what we refer to as the Last Tactical Mile. The jointness of the program is already reflected in the Acquisition Strategy Report (ASR) for Future Cargo Aircraft (FCA)/Light Cargo Aircraft (LCA). In addition, the Services have developed a draft memorandum of agreement we anticipate will be signed by the Vice Chiefs of Staff no later than May 1, 2006, and a Joint Program Office (JPO) charter that will be signed by the Services' Acquisition Executives about the same timeframe. These two documents will establish the JPO effective October 1, 2006, in Huntsville, Alabama, with the Army as the lead agency. The Army still plans to begin fielding FCA to its aviation force in fiscal year 2008. The USAF plans to field the LCA approximately 2 years later. In summary, we are a joint (Army/Air Force) team working together to field the best equipment possible to meet the combatant commander's needs.

Senator THUNE. Mr. Dominguez, several of these issues I suspect have been touched upon. I don't want to plow ground that's already been covered, but one of the issues that has been raised relates to transforming the force into the modern, lean force of the future. That's been, obviously, a top priority for the Department, and some would argue that that transformation into a smaller force is not feasible when we're fighting a global war on terrorism. We have a lot of airmen, soldiers, marines, and sailors who have served multiple tours supporting the war effort, and I guess my question is how do we effectively cut end strength while simultaneously fighting the war without burning out our troops?

Mr. DOMINGUEZ. Sir, thank you. Senator, that's an important question. The answer to it is likely to be service specific. The Navy and the Air Force, in particular, sir, are platform-centric and technology-driven arms. While we have in the Air Force, for example, some career fields that are challenged as a result of the demands of the global war on terror, many other career fields are not. So it's a question of rationalizing that structure in those Services. With regards to the Army, I am just generally familiar with Secretary Harvey's plan that to move soldiers out of what they call the institutional Army, that part of the Army that runs the infrastructure, runs the training establishment, does the acquisition programs, and try and move soldiers out of that so that those soldiers are freed to meet the needs and demands in the combat force structure. I think that strategy of getting leaner and more efficient in our business operations, getting soldiers out of those jobs that don't require soldiers, and move the soldiers back into the combat structure that'll take the stress out of that component of force structure. I think Secretary Harvey is fairly confident he can accomplish that within the end strength plans that he's shared with this committee.

Senator THUNE. Let me direct one question to Mr. Finley that has to do with acquisition reform. That's something I know that you also probably covered this morning. There are, in that whole process, factors including cost growth and schedule delays that continue to drive a decrease in procurement quantities. I know some of the contributing factors in cost growth are under-estimating programs, technical problems, schedule slips, requirements changes, those sorts of things. I'll take the F–22, and I don't single that out for any particular reason, but originally the Air Force sought to procure, I think it was, over 600, 648 F–22s at a unit cost of approximately $125 million and due to late maturation of technology, costs have skyrocketed and the schedule has slipped. Now the Air Force is procuring, I think the number is 183, F–22s at a unit cost of approximately $361 million. That amounts to 189 percent increase in the cost per unit. Again, just selecting the F–22 for no particular reason other than to demonstrate the extent of the problem. This is not an easy issue to resolve overnight but at the same time we can't take years to get it right. I'd be interested in what your thoughts or observations are on actions that we need to take in the area of acquisition reform.

Mr. FINLEY. Thank you, Senator Thune. I couldn't agree with you more, sir. Great to see you again, sir.

Senator THUNE. Good to see you again.

Mr. FINLEY. I believe these problems are not simple. I think they're complex. Reading a Government Accountability Office (GAO) report over the weekend, I forget the exact title of it, but one of the things that did strike me in the F–22 program in particular was something in the neighborhood of 14 baselines. The ways to solve these problems I think are also complex, but we have to keep them simple. One way is to help get technology maturity faster in the program sooner rather than later. Sooner rather than later on technology maturity affects a lot of things in terms of the fielding and the operational capability of the aircraft. The F–22 is certainly not the only major weapon system. I've now become familiar with a number of them. Getting technology maturity upfront

earlier in the acquisition process, I believe, is absolutely critical as one dimension in stabilizing a program and also firming up requirements so you do not have this situation, requirements creep, over and over again. That needs to be stopped.

If confirmed, sir, it will be a very high priority on my agenda to dig into these details and try to assist and help stop these events from happening.

Senator THUNE. I appreciate your answers to those questions and look forward to working with each of you in your various capacities to make sure that we have the leanest, meanest, most effective warfighter out there and at the best possible cost to the taxpayer. I think it's really important recognizing that it's expensive to be the world's super power and to have the strongest, most lethal military in the world. I know that is something that we have to deal with in terms of budgets and that's obviously something that I, and I think every member of this committee and hopefully most Members of Congress, are incredibly committed to.

At the same time, we also have a responsibility to make sure we're getting the best possible return to the taxpayers to accomplish that objective. So we thank you for your service and look forward to working with each of you. Mr. Chairman, I yield back the balance of my time.

Chairman WARNER. I thank you, Senator, and I'd like to recognize right away Senator McCain and I'll follow with my questions after Senator McCain.

Senator MCCAIN. Thank you very much, Mr. Chairman. For some time, this committee has been concerned with accountability in defense procurement practices. So much so that on May 17, 2005, this committee reported out the National Defense Authorization Bill with a provision which prohibited purchase of C–130J aircraft unless it was a Federal Acquisition Regulation (FAR) Part 15 traditional military procurement contract. The statute which is now law is simple. Any C–130J, KC–130J aircraft procured after fiscal year 2005, including C–130J, KC–130J aircraft procured through a multiyear contract continuing in force, et cetera, et cetera, should be procured through a contract under Part 15 of the FAR relating to acquisition of items by negotiated contract rather through a contract under Part 12 of the FAR. What it means is that we required the C–130J procurement to go through the normal contracting procedures which apply to any major procurement. The Part 12 of the FAR, and I could quote from the law, is for commercial or small business entrance, clearly not applying to the C–130J.

Now, with regard to the same program, I was assured by Mr. Dominguez and General Jumper that in fact the Air Force had begun to clean up its act. However, recent developments have dissuaded me from that conclusion.

Today, Mr. Dominguez, I'd like to talk about your commitments to me about the C–130J contract. Air Force contracting officers and their leadership should never have acquired the C–130J using a commercial item acquisition strategy, but they did. It was done for 10 years. Had it not been for my staff and the DOD Inspector General, not the Air Force Inspector General, you with the advice of your acquisition experts, would have continued to procure the C–

130J aircraft under the multiyear procurement as a commercial item procurement contract.

Mr. Chairman, I don't want to take too much time, but there was a press release put out by the United States Air Force on April 13, 2005, that the Air Force has begun to implement a more traditional contract structure with the C–130J. This is an Air Force press release. This includes future modifications sustainment, they've initiated discussions with Lockheed to convert the multiyear to a more traditional structure. I also met, oh, it's been quite long ago, the Lockheed Martin CEO who assured me that he would be coming forward with information concerning this contract, and I've not heard from him since.

Just a brief chronology: on April 26, 2005, the Airland Subcommittee heard testimony which confirmed the Air Force acquired the C–130J as a commercial item. So we didn't get the cost and pricing information that was to assure it was acquiring this aircraft at a fair and reasonable price. On April 13, 2005, Acting Secretary Dominguez and Chief of Staff of the Air Force Jumper indicated they shared my concerns and in so doing they informed me that the Air Force would convert the C–130J commercial item procurement contract to a traditional military item procurement contract and issued a press release stating the same.

I expressed gratitude at the Air Force receptiveness to the subcommittee's concerns. On May 17, the Armed Services Committee reported out the Defense Authorization Bill, part of the statute I already noted. On June 22, 2005, I wrote Secretary Rumsfeld, reiterating my concerns concerning the C–130J multiyear commercial contract and informed him of the commitment by Acting Air Force Secretary Dominguez and Air Force Chief of Staff Jumper to change the FAR Part 12 commercial item to Part 15. Mr. Dominguez received a copy of that letter. I also requested my office be advised when the C–130J contract would revert to a traditional Part 15 program. On February 13, 2006, I received a letter from Mr. Dominguez. In his letter, he stated he never intended to change the existing commercial item procurement contract and instead pressed ahead with a modification of the current contract as a commercial item procurement contract with FAR Part 15-like clauses added. This statement is fundamentally different from what Mr. Dominguez and General Jumper committed to me on April 13, 2005, concerning the C–130J contract. His position is materially and inexplicably changed.

Furthermore, this statement is in direct contradiction to legislation that this committee drafted, the Senate passed, and the President signed into law last year.

Mr. Dominguez, early yesterday evening, my staff received the Air Force IG's report on matters related to the C–130J program. I wanted to know who authorized using the original FAR Part 12 contract with only some terms and conditions changed instead of changing the original to FAR Part 15 contract. The entire report is based on a false premise that I expected the current contract to be terminated and a new one to be rebid. That's totally false. Accordingly, its conclusion that only I left the meeting last year with you and General Jumper with an understanding that so ending the

Part 12 multiyear contract was required to effect a conversion is nothing more than a strawman.

Equally offensive and ridiculously self-serving is the report's conclusion that Air Force officials found it "impossible to meet with my military legislative assistant." It just so happens he was the one who found out that the Air Force's new proposal was not substantially different from what it had planned to do all along.

I am gratified by Secretary Wynne's recent assurance to me that as of 10 February 2006 the Air Force has executed an undefinitized contract action for the fiscal year 2006 aircraft procurements under FAR Part 15 embracing all the features for audit and cost visibility, but given the IG's report, I need to clear up a few points for the record.

Mr. Dominguez, you and General Jumper met with me in my office on April 13, 2005, is that correct?

Mr. DOMINGUEZ. Yes, Senator.

Senator MCCAIN. During that meeting, you and General Jumper assured me—and we'll get a deposition, and remember that when you testify before this committee you are testifying under oath—during that meeting, you and General Jumper assured me that the Air Force would convert the C–130J Part 12 contract to a Part 15 contract. Now, before you proceed with that answer, I had two staff members in the room taking notes at the time. Now, is that correct?

Mr. DOMINGUEZ. To the best of my knowledge, it is, Senator.

Senator MCCAIN. In providing me that assurance, you never intended that only select terms and conditions in the Part 12 contract be changed, "to provide the government with nearly the same visibility" into the contractor's cost as would be available under a Part 15 approach, is that correct?

Mr. DOMINGUEZ. Senator, I intended to get the cost visibility, the visibility into the cost of production of that airplane that you and I both needed to assure the American people and this committee that we were getting value for the taxpayer dollars, Senator. I absolutely wanted to achieve that goal.

Senator MCCAIN. The Air Force IG alleges that you neither sought nor received any advice on the feasibility of converting the Part 12 contract to a Part 15 version. Is that allegation true?

Mr. DOMINGUEZ. Yes. I relied on General Jumper's assurance to me. He consulted with our acquisition professionals and with the CEO of Lockheed Martin who also agreed that we needed to move in this direction and agreed to cooperate with us to get there.

Senator MCCAIN. Of course, this is a multi-billion dollar procurement contract program we're talking about here. Were you aware that according to the Air Force IG, the legal community at the Air Force said that such a conversion was impossible?

Mr. DOMINGUEZ. I was not, Senator.

Senator MCCAIN. According to the Air Force IG, the Army's conversion of the Future Combat Systems (FCS) Operational Tasking Authority (OTA) to a Part 15 acquisition was "much simpler than the C–130J situation." As you likely know, the $168 billion FCS is probably the most complex weapon system in the history of the Pentagon. By all estimates, the FCS by an order of magnitude more complex than the current $2.4 billion C–130J procurement

program. I'd like to have the production of the December 16, 2005, Memorandum of Understanding between the Air Force and Lockheed Martin on the C–130J procurement program under which, according to the Air Force Inspector General, Lockheed Martin agreed to modify the Part 12 contract to be Part 15 compliant. Can you provide the committee with that?

Mr. DOMINGUEZ. Sir, I don't have the authority to do that.

Senator MCCAIN. Mr. Chairman, I ask that the committee subpoena—it's clearly under the supervision and the oversight of this committee—a Memorandum of Understanding between the DOD and Lockheed Martin on the C–130J procurement program. Why don't you have the authority, Mr. Dominguez?

Mr. DOMINGUEZ. Sir, I am not any longer the Acting Secretary of the Air Force nor the Service Acquisition Executive. I handed those jobs off on July 28, 2005.

Senator MCCAIN. But they happened on your watch.

Mr. DOMINGUEZ. Sir, I was the Acting Secretary from March 28, 2005, until July 28, 2005.

Chairman WARNER. If I might interject, Senator, I think your request is an important one. We'll take it under immediate advisement.

Senator MCCAIN. Mr. Chairman, I'd like to tell my friends at the Pentagon that we went through 3 years on the Boeing tanker scam. People went to jail. It was established that we saved the taxpayers of America $8 billion by pursuing this, and it took us 3 years. I intend to pursue this issue until it is completely resolved, and Lockheed Martin is held accountable for whatever part they played in this disgraceful performance. I do not intend, Mr. Dominguez, to move forward with your nomination until this issue is cleared up.

What has happened here, Mr. Chairman, is the contract—since I used a lot of legalese and Pentagon jargon—but for the record, what has happened here is the C–130J contract was let by individuals who still have not been held responsible under a "commercial contract." Any rational observer knew that there was no possible way that there was going to be any commercial airline going to purchase a C–130J. Indeed, none did, and none has shown any intention of doing so. But using this cover in collusion with Lockheed Martin, the contract was let under FAR Part 12 which relieves both the manufacturing company and the DOD from any accountability of any significant amount. In other words, the regular acquisition checks, the audits, et cetera, are waived because of that kind of contract. Now, we don't know what the cost of a C–130J is going to be. We hear all different kinds of numbers. Then, as a result of the Boeing problem, Mr. Dominguez and General Jumper, then Chief of Staff of the Air Force, come into my office. I said, "look, this isn't right, this isn't right to have this done as a commercial contract when it's clear there's going to be no commercial use for this aircraft." Both Mr. Dominguez and the then Chief of Staff of the Air Force not only told me, but issued a press release that I just quoted from, that they would convert to FAR 15. My staff, looking through the contract, finds out a year later that it was really not changed to FAR 15. We pointed it out to them at that time, and to my knowledge, it is still not. So then we get incredibly, a Department of the Air Force IG report, and this is why we're going

to need a GAO investigation and other organizations looking at this, which by the way, was complicit, the Department of the Air Force IG was complicit in the Boeing deal, that I believed that there was no conversion, or conveyed the impression that there was no requirement to convert from a noncommercial acquisition.

Mr. Chairman, really what this brings up and what we're going to have to concentrate on for the next several years here is that the procurement system in the DOD is badly broken. We've seen the FCS go from $90 billion to $120 billion. In a hearing that had to be cancelled yesterday, the GAO will report that 9 of the 11 major acquisitions were behind schedule and overpriced, and yet received incentive bonuses for being overpriced and behind schedule. We've gone in the 1980s, when we used to have fixed-cost contracts now to cost plus contracts which, of course, in a noncompetitive environment which is basically what we have now due to the consolidation of the defense industry, an unregulated monopoly. Meanwhile, people bounce back and forth from the DOD to the defense industry and back and forth. Where are the David Packards of this world? Where are the Mel Lairds, even, of this world?

Mr. Dominguez, I'm sure you're a good man and I'm sure you're a decent person and you've tried to be very honest with me, but we have to get this cleared up and now we're going to get the C–130J cleared up and we're going to get the FCS cleared up and we're going to get procurement cleared up so that the taxpayers of America can have some kind of confidence that their hard-earned dollars are being spent in an efficient fashion. I thank you for allowing me this time, Mr. Chairman. I have some documents relating to this matter I'd like to submit for the record.

Chairman WARNER. Thank you. Good.

Senator MCCAIN. I look forward to working with you on this and what I'm afraid may be another emerging scandal.

Chairman WARNER. Senator, I'll simply say that this committee was the last stop for the tanker reprogramming after three other committees of the Congress of the United States had approved that program. But in consultation with my longtime friend and associate here, we decided the buck was going to stop on this desk and it did. You have recounted the subsequent history where it was determined that this committee was right, I repeat, absolutely right in stopping that contract and requiring certain other considerations be given to that program. Those considerations revealed the flaws that the Senator and I felt were present.

We will similarly handle the matters that you have just recited. Do bear with us, Mr. Dominguez. I share the Senator's observation that you're a decent and honest man, and you were. You've been called on by the President to perform this duty. At this time, the Senator and I will continue to work as partners until we get to the bottom of this situation. I thank you, Senator.

Senator MCCAIN. Thank you, Mr. Chairman.

[The information referred to follows:]

ADDITIONAL REMARKS OF SENATOR JOHN MCCAIN

For some time now I have been concerned about the Air Force acquiring C–130J aircraft as commercial FAR Part 12, rather than as military FAR Part 15, items. As a result, the Air Force has not required the aircraft's manufacturer to provide it with certified cost, pricing, and profit information it needs in order to assure that

taxpayers are not getting ripped off. Against this backdrop, on February 15, 2005, the aircraft's manufacturer Lockheed Martin agreed to provide me with specific information necessary to alleviate my concerns.

On April 21 and July 7, 2005, Lockheed Martin did supply me with relevant information, regarding cumulative earnings, numbers of C–130Js produced, whom they were sold to, aggregate development and nonrecurring costs, and pricing history of C–130Js. But, while helpful, this information was unfortunately not as responsive to my concerns as I would have liked. Because the C–130J program is a commercial FAR Part 12 contract, Lockheed Martin Corporation is not required, by regulation, to apply the same accounting standards and audit provisions that are required under FAR Part 15 traditional military procurement contracts. This is the basis for my concern.

Last year, Congress took strong action to reverse the Air Force's decision to purchase C–130J aircraft as commercial items and directed them to change the contract to a FAR Part 15 traditional military contract. The National Defense Authorization Act for Fiscal Year 2006 includes two provisions (sections 135 and 803 of Public Law 109–163, attached) regarding commercial item procurements of major weapon systems. One prohibited purchases of C–130J aircraft unless it was under a FAR Part 15 traditional military procurement contract. The other provision would require the express congressional authorization to purchase a major weapon system as a commercial item.

Since then, the Air Force's plan to convert the C–130J multiyear procurement contract from a commercial, to a military acquisition has, regrettably, not proceeded as I expected and in accordance with the National Defense Authorization Act for Fiscal Year 2006. However, Air Force Secretary Wynne has recently assured me that the future procurement of C–130J aircraft will proceed in a manner that fully embraces all the audit and cost visibility features associated with a FAR Part 15 military item procurement contract. I am gratified by this assurance and am hopeful that Lockheed Martin and the Air Force will work together to resolve the substantial difficulties that have beleaguered this program.

SEC. 135. PROCUREMENT OF C–130J/KC–130J AIRCRAFT AFTER FISCAL YEAR 2005.

Any C–130J/KC–130J aircraft procured after fiscal year 2005 (including C–130J/KC–130J aircraft procured through a multiyear contract continuing in force from a fiscal year before fiscal year 2006) shall be procured through a contract under part 15 of the Federal Acquisition Regulation (FAR), relating to acquisition of items by negotiated contract (48 C.F.R. 15.000 et seq.), rather than through a contract under part 12 of the Federal Acquisition Regulation, relating to acquisition of commercial items (48 C.F.R. 12.000 et seq.).

SEC. 803. REQUIREMENT FOR DETERMINATION BY SECRETARY OF DEFENSE AND NOTIFICATION TO CONGRESS BEFORE PROCUREMENT OF MAJOR WEAPON SYSTEMS AS COMMERCIAL ITEMS.

(a) Requirement for Determination and Notification-

(1) IN GENERAL- Chapter 140 of title 10, United States Code, is amended by adding at the end the following new section:

`Sec. 2379. Requirement for determination by Secretary of Defense and notification to Congress before procurement of major weapon systems as commercial items

`(a) Requirement for Determination and Notification- A major weapon system of the Department of Defense may be treated as a commercial item, or purchased under procedures established for the procurement of commercial items, only if--

`(1) the Secretary of Defense determines that--

`(A) the major weapon system is a commercial item, as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)); and

`(B) such treatment is necessary to meet national security objectives; and

`(2) the congressional defense committees are notified at least 30 days before such treatment or purchase occurs.

`(b) Treatment of Subsystems and Components as Commercial Items- A subsystem or component of a major weapon system shall be treated as a commercial item and purchased under procedures established for the procurement of commercial items if such subsystem or component otherwise meets the requirements (other than requirements under subsection (a)) for treatment as a commercial item.

`(c) Delegation- The authority of the Secretary of Defense to make a determination under subsection (a) may be delegated only to the Deputy Secretary of Defense, without further redelegation.

`(d) Major Weapon System Defined- In this section, the term `major weapon system' means a weapon system acquired pursuant to a major defense acquisition program (as that term is defined in section 2430 of this title).'.

(2) CLERICAL AMENDMENT- The table of sections at the beginning of chapter 140 of such title is amended by adding at the end the following new item:

`2379. Requirement for determination by Secretary of Defense and notification to Congress before procurement of major weapon systems as commercial items.'.

(b) Effective Date- The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to contracts entered into on or after such date.

Air Force
Print News
Air Force news from around the world

Air Force transitioning C-130J program from commercial to traditional contract structure

Release Number: 020405

4/13/2005 - **WASHINGTON** -- The Air Force has already begun to implement a more traditional contract structure for the C-130J program. This includes future modification and sustainment. They have also initiated discussions with Lockheed to convert the current multi-year to a more traditional structure.

The FY06 President's Budget calls for termination of the C-130J multi-year contract in FY06. Should that decision be modified, the Air Force will negotiate additional airplanes under a traditional contract structure.

For additional information contact Doug Karas at 703-695-0640.

U.S. Senator
John McCain
Arizona

News Center

Press Releases

SENATOR MCCAIN STATEMENT ON THE ANNOUNCEMENT TO CHANGE THE C-130J PROGRAM TO A TRADITIONAL MILITARY PROCUREMENT

For Immediate Release
Wednesday, Apr 13, 2005

Washington D.C. – Senator John McCain today released the following statement:

"On April 6, 2005, the Airland Subcommittee of the Senate Armed Services Committee heard testimony which indicated that the Air Force acquired the C-130J heavy lift aircraft as a "commercial item." In so doing, the Air Force bargained away its ability to get cost and pricing information that would have assured that it was acquiring this aircraft at a fair and reasonable price and taxpayers' interests would be adequately protected. As a result, the Air Force obtained an aircraft that failed to meet contract specifications and was incapable of performing its intended mission -- at a dramatically higher-than-expected cost.

"In a meeting today with the Senator, Acting Secretary of the Air Force Dominguez and Air Force Chief of Staff Jumper indicated that they shared my concerns. In so doing, they informed me that the Air Force would convert the C-130J "commercial item" procurement contract to a traditional "military item" procurement contract. Thus, for the first time, this program will be subject to provisions typically used to protect taxpayers' interests and help prevent fraud, waste and abuse.

"I am gratified by the Air Force's receptiveness to my concerns about the program and I am looking forward to seeing precisely how the Air Force implements its stated commitment to ensuring that the interests of the of taxpayer are protected."

Where's the Oversight?

The untold tale of the latest Pentagon budget is the wastage and overpricing that continue to lard it up to the tune of perhaps $100 billion—with Congress scarcely paying attention.

WEB-EXCLUSIVE COMMENTARY
By Michael Hirsh
Newsweek
Updated: 11:12 a.m. ET Feb. 13, 2006

Feb. 13, 2006 - From his earliest days in office, George W. Bush has talked a good game about transforming the military. He even hired a corporate turnaround specialist, Donald Rumsfeld, to accomplish the task. But after Bush earlier this month proposed a nearly half-trillion dollar defense budget for fiscal 2007 earlier this month—one that doesn't include many of the costs of the Iraq war—even some of the president's loyalists were appalled. One of them, Kori Schake, who until recently was director of defense strategy on Bush's National Security Council, last Thursday wrote a blistering op-ed in The New York Times headlined "Jurassic Pork." She noted that Rumsfeld's supposedly transformational Quadrennial Defense Review looks little different from four years ago, and that the latest budget "continues programs and practices that have been made obsolete by technology, innovation and field experience."

But that's only part of the story. The untold tale is the wastage and overpricing that continue to lard up the Pentagon budget to the tune of perhaps $100 billion, with Congress scarcely paying attention. In some cases, corporate-welfare-type programs that were launched in the '90s—at a time the Clinton administration felt defense contractors needed help because of post-Cold War budget cuts—are still on the books. And today they are feathering the bottom lines of giant companies like Boeing and Lockheed Martin, even though Big Defense has long since returned to health.

Even some well-meaning reform programs have backfired because of lax oversight by the Pentagon. On Tuesday, Congress will begin hearings on a General Accounting Office report concluding that $8 billion in "incentive fees" given to defense companies over the past three-and-a-half years were largely a waste of taxpayer dollars. The fees were intended as a reward to contractors for delivering faster results and coming in under price. Instead, the GAO says,

companies were given incentive fees on 597 contracts for doing nothing.

One of the most worrying contractor practices is to use—or abuse—a little-known provision in acquisition guidelines that permits companies to escape Pentagon and congressional oversight, officials say. How? By pretending that they are competing in the commercial market for big-ticket goods that in truth are being designed for and sold exclusively to the Pentagon. Boeing, for example, sold the Pentagon the $168 billion Future Combat System under such an arrangement, and it was only under pressure from Sen. John McCain's office that the terms were changed to allow performance, costs and pricing on the program to be monitored.

In another instance, Lockheed Martin used a similar provision, called "Part 12" of the Federal Acquisition Regulation (FAR), to win a multi-billion contract to supply C130J transport planes. The plane has more than doubled in price in less than a decade and, by the Air Force's own admission, the government is paying Lockheed a princely 20 to 25 percent profit. One of Lockheed's subcontractors, engine-builder Standard Aero, is now suing it, claiming the bigger company has grabbed its proprietary information under cover of the contract—and again, without Pentagon oversight—a move that it says could hold up needed transport planes for U.S. troops.

After many months of pressure from McCain beginning last April, Lockheed finally agreed to convert the contract to the regular "Part 15" of FAR, which forces the company to reveal pricing and other data to the Pentagon and Congress. But as of last Friday the Air Force's chief procurement officer, Ken Miller, had still not redrawn the contract. "We're like the little Dutch boy sticking his finger in the dike," says one Senate official. Prodded by McCain, the Defense Department's Inspector General is now looking into these and other allegations regarding the abuse of Part 12, says IG spokesman Gary Comerford.

The FAR Part 12 provision was also well-intended. Enacted in 1994, it was a way of encouraging companies soon to be deprived of contracts because of the "peace dividend" to produce "dual-use" goods, and of pushing the Pentagon to buy better, cheaper commercial items off the shelf rather than building everything, even those infamous $468 hammers, on its own. But the contractors learned to game the system while few people were watching.

And now in some cases, like the C130J contract, contractors are using the provision to actually reduce competition without accountability by "insourcing," or cutting out subcontractors. "Procurement guidelines are so complicated they're beginning to look like the tax code," says a senior government procurement official. "No one knows how much this has cost us." Because Congress and watchdog groups are beginning to catch the companies at disguising military goods as commercial, he adds, "they're being a little cleverer now. They're trying to bring it down to the component level, calling it avionics or engines."

Lockheed spokesmen say the criticism of the company's behavior on Part 12 and the C130J contract is unfair. "We invested over a billion dollars of our money in this thing" at a time, in the '90s, when the Pentagon said it couldn't fund it, said one company official, Tom Jurkowsky. Asked whether the C130 was offered for commercial use, he said that at the time it was developed "there was a belief that market and economic conditions were appropriate and this was good airplane to get, say, from an outlying city in Germany to Frankfort, or to take cargo from northern Africa to Paris. That type of thing." Why didn't it sell to commercial carriers? "Because of various economic conditions it didn't work," Jurkowsky said. In any case, congressional critics say, Lockheed learned years ago the plane was not viable commercially, yet it maintained the same contractual free ride.

A Boeing spokesman, Dan Beck, also denies any company wrongdoing. "We don't believe Boeing has ever tried to engage in price gouging or lack of accountability," he said. Last year, however, a Boeing executive who previously had been the Air Force's chief procurement officer, Darlene Druyun, was imprisoned for favoring Boeing in contracts in exchange for personal favors, including the hiring of her daughter and son-in-law. Mike Sears, Boeing's former chief financial officer, was

also convicted in the scandal. And in a speech last month, Boeing General Counsel Doug Bain warned 250 top Boeing executives that more indictments could be down the road. He also said the company might have to compensate the U.S. government by up to $5 billion to $10 billion.

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JOHN McCAIN
ARIZONA

CHAIRMAN
COMMITTEE ON INDIAN AFFAIRS
COMMITTEE ON ARMED SERVICES
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

United States Senate

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February 16, 2006

VIA FACSIMILE AND FIRST CLASS MAIL

The Honorable Michael W. Wynne
Secretary of the Air Force
1670 Air Force Pentagon
Washington, DC 20330-1670

Dear Secretary Wynne:

Thank you for your letter of February 13, 2006. Just as I appreciated your leadership in providing guidance on the conduct of the analysis of alternatives (AOA) for recapitalization of the tanker fleet, I appreciate your leadership on the troubled C-130J program. In particular, I appreciate your assurance that "[a]s of 10 February 2006, [the Air Force has] executed the Undefinitized Contract Action (UCA) modification number P00031, for the FY06-FY08 aircraft procurements under FAR Part 15, embracing all the features for audit and cost visibility ...." Letter from Air Force Secretary Michael W. Wynne to Senator John McCain, February 13, 2006 at 1 (emphasis added).

By contrast, the Air Force has informed me, as recently as February 13, 2006, that "we had to work within the existing commercial item procurement contract (under Part 12 of the FAR) and amend each relevant clause with language providing the government nearly the same visibility into the vendor's production costs as would have been available to us under the FAR Part 15 approach." Letter from Assistant Secretary of the Air Force Michael L. Dominguez to Senator John McCain, February 13, 2006 at 1 (emphasis added). As you likely know, I have been troubled by such representations, particularly in light of commitments that were originally made to me by then-Chief of Staff General John Jumper and then-Acting Air Force Secretary Michael Dominguez last year.

Negotiating discrete terms and conditions of the original FAR Part 12 contract piecemeal to achieve "nearly the same visibility" into the contractor's cost, pricing, and profit is materially different from what was originally pledged to me. Be that as it may, of these two apparently irreconcilable representations as to the current state of the program, I will accept yours as definitive.

Given the misunderstanding that we have already experienced regarding this program, I want to make sure that I understand fully the implications of the conversion of the C-130J contract to FAR Part 15 on both the prime contract as well as on subcontractors. In your letter you qualify the visibility that will be obtained under the

newly configured contract as "extending to subcontractors where this flow down will result in cost savings and be in the taxpayer's best interest." Letter from Wynne, at 1.

In a meeting with your Special Assistant for Acquisition, Governance and Transparency, Ken Miller, on or about November 30, 2005, my staff asked whether any subcontracts for components of the aircraft that were originally (or typically) provided by the prime were subcontracted to any subsidiary or affiliate of the prime. My goal is to ensure that subcontracts for major components that were (or typically would have been) provided by the prime have not been (or will not be) broken-out and subcontracted by the prime to an affiliate or subsidiary in a manner that would insulate cost, pricing, and profit information from visibility. Accordingly, pursuant to my staff's November 30 request, please indicate whether the manufacture of components of the aircraft that were (or ordinarily would have been) provided by the prime contractor have been subcontracted or otherwise transferred to any subsidiary or affiliate of the prime. Given that the Air Force is now proceeding under a UCA, with the definitive contract to be executed later in the year, please consider this request as continuing.

The Air Force IG's report gives rise to another request. In its report, the Air Force IG found that "[a]fter the meeting with Senator McCain, Secretary Dominguez sat down with Gen. John D.W. Corley and Mr. Timothy A. Bayland to discuss the issue" and "told them to 'go convert the contract.'" But, according to the report, "Secretary Dominguez' direction was never interpreted as requiring a full Part 15 contract." In fact, the report found, "The AQ community's use of the word 'convert' was, from the beginning, shorthand for making the C-130J 'Part 15-like.'" However staff at "the AQ community" may have used the word "convert," in "following" Secretary Dominguez' direction, they drafted an agreement that reflected, in the view of the Department of Defense Office of the Inspector General (DOD-OIG) on January 23, 2006, "[no intent] to require certified cost or pricing data or new negotiated prices for the 60 aircraft on the multiyear contract." There is a problem here. Only after your intervention, was the decision made to execute a UCA for the FY06-08 procurement under FAR Part 15, pending the definitization of a final multi-year contract. Given the foregoing, please provide me with the following:

1. The identity of the most senior Air Force official(s) responsible for implementing Secretary Dominguez' direction to convert the C-130J multi-year procurement contract from FAR Part 12 to FAR Part 15; and

2. Any documents that reflect the "support[ ] of the Air Force's strategy" to convert that contract by any advisor from the DOD-OIG, as of October 27, 2005.

Finally, there are two outstanding items we have asked for that have not yet been produced. In furtherance of my subcommittee's continuing oversight interest in this troubled program, I appreciate your facilitating the production of these items, repeated below, by Friday, March 4, 2005.

1. A copy of the December 16, 2005, Memorandum of Understanding between the Air Force and Lockheed Martin on the C-130J procurement program, under which (according to the Air Force Inspector General) Lockheed Martin agreed to "modify" the Part 12 contract to a Part 15 compliant.

2. An explanation as to why non-recurring engineering costs have been included into the 60 aircraft multi-year procurement contract. My staff was briefed by the Air Force that these costs were in excess of $1.2 billion. Please provide a complete and authoritative documentation of the non-recurring engineering costs.

Once again, thank you for your assistance.

Sincerely,

John McCain
Chairman
Subcommittee on AirLand
Senate Armed Services Committee

JM/cjp

Cc: Honorable John Warner, Chairman, Senate Armed Services Committee
Honorable Carl Levin, Ranking Member, Senate Armed Services Committee
Honorable Gordon England, Deputy Secretary of Defense
Honorable Kenneth Krieg, Under Secretary of Defense for Acquisition, Technology and Logistics
Honorable David Broome, Deputy Assistant Secretary of Defense for Senate Affairs
Mr. Tom Gimble, Acting Inspector General, Department of Defense
Mr. Ken Miller, Air Force Deputy Assistant Secretary for Acquisition, Governance and Transparency

SECRETARY OF THE AIR FORCE
WASHINGTON

13 FEB 2006

The Honorable John McCain
United States Senate
Washington, DC 20510

Dear Senator McCain:

The purpose of this note is to formally advise you on the status of actions regarding the C-130J contract. I have sought the opinion of the Inspector General as to whether my actions satisfy your charge to draw a Bright Line between the Aircraft delivered under a FAR Part 12 and the Aircraft delivered under a FAR Part 15. I have thus far in fact segmented the contracts to the following extent; in each case adhering to the best interests of the taxpayer, and the direction received from Congress. This effort needs to be managed to achieve your goal of contract visibility without penalizing the taxpayer. I believe we will meet both objectives.

As the Air Force Inspector General noted in his report, and as Mr. Dominguez has subsequently verified; we had a misinterpretation of your objective. We have worked very closely with your office since discovering this misinterpretation, and worked collaboratively with the DoD IG to insure that the objective remained clear. Mr. Dominguez certainly deserves credit for initiating the conversion effort in a cooperative fashion, which greatly enhanced the subsequent corrective action in achieving the Bright Line result.

With that as background, the current status is that we have clearly delineated all activities with the FY06-FY08 aircraft in the current the C-130J Multi-Year contract.

The FY03-FY05 aircraft procurements, contract F33657-03-C-2014, retain all the features of the original FAR Part 12 contract, and apply to the initial 23 Aircraft. The last of these will deliver in Sep 2006.

As of 10 February 2006, we have executed the Undefinitized Contract Action (UCA) modification number P00031, for the FY06-FY08 aircraft procurements under FAR Part 15, embracing all the features for audit and cost visibility, particularly at the prime level that we desired; but also extending to subcontractors where this flow down will result in cost savings and be in the taxpayer's best interest.

We still have some work to do to definitize this FAR Part 15 contract. The DCAA auditors must conclude their audit of all submissions, and provide to the contract negotiator the cost rationale for each major segment of cost. This is a normal course of action, and should not affect any of the major contract elements regarding the FAR Part 15 nature of the contract. This activity has a target for conclusion of Oct 2006, but is dependent on the audit agencies being satisfied with the cost visibility they receive.

I thank you for your encouragement of this change. This reflects further reversals of changes made in Acquisition during the decade of the 90's. We are determined to restore the Air Force to its preeminent position of procurement excellence. We are returning Cost Analysis in support of negotiation, hiring engineers to fill key positions, as well as acquisition professionals. We have established significant controls on requirements to allow spiral fielding, and inhibit cost growth in our systems. We are keeping a watchful eye on the integrity of the entire process, and intend to continuously enforce the standards of ethics throughout the acquisition process.

One of my points of emphasis is Knowledge Enabled Airmen with an Accountable Ethic. I know that this fits into one of your tenets well, and I hope to hold it to your standards.

Michael W. Wynne
Secretary of the Air Force

cc: The Honorable John Warner
The Honorable Carl Levin

DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

13 FEB 2006

ICE OF THE ASSISTANT SECRETARY

SAF/MR
1660 Air Force Pentagon
Washington, DC 20330-1660

The Honorable John McCain
United States Senate
Washington, DC 20510

Dear Senator McCain

Thank you for meeting with me this past Tuesday, February 7, 2006. Subsequent to our conversation, I reviewed the history of our effort to convert the C-130J contract to a traditional weapons system acquisition. An Air Force Inspector General Report of Inquiry on this issue has been or soon will be released to the Senate Armed Services Committee. In his conclusion, the Inspector General states, "The AQ [*Air Force Acquisition*] community did its best to follow the guidance Secretary Dominguez provided. Unfortunately, Secretary Dominguez's understanding of what it meant to "convert" the Part 12 contract differed significantly from Senator McCain's." I apologize for not recognizing that there were different views of what "conversion" meant. I accept full responsibility for any conflict and confusion my error produced.

The Inspector General's report also provides some important historical context. "By the time of the 13 April 05 meeting with Senator McCain, the Air Force had been through the PBD 753 analysis that concluded terminating and renegotiating was not economically viable." On May 10, 2005, Secretary Rumsfeld reversed his decision to terminate the C-130J contract. On May 11, the Congress acted to prohibit the Department from spending appropriated resources on termination of the C-130J contract. I assumed from these public events that you and I shared a common understanding of "convert" as it applied to the C-130J—that is we had to work within the existing commercial item procurement contract (under Part 12 of the FAR) and amend each relevant clause with language providing the government nearly the same visibility into the vendor's production costs as would have been available to us under a FAR Part 15 approach. That was an unfortunate assumption on my part.

A second critical aspect of the conversion strategy I approved was to consult with the DoD Inspector General (IG) and the Congressional staff on how much cost visibility was required. Air Force acquisition professionals executing this strategy brought into their team a consultant from the DoD IG's office, and presented the Air Force's initial proposal to the Senate Armed Services Committee staff. They attempted to meet with your staff in July and August, but were unsuccessful. The initial proposals fell short in achieving the necessary cost visibility. Subsequent modifications have achieved a greater degree of success.

In summary, subsequent to our meeting of April 13, I did not ensure you were aware of these two critical aspects of the Air Force strategy—amending the commercial, multi-year contract, and iterating with key stakeholders until we achieved the proper level of visibility. Had I, during my tenure as Acting Secretary (which ended on July 28, 2005), communicated the details of this strategy to you, we would certainly have avoided the recent misunderstanding.

I am available to meet with you again should you desire.

Sincerely

MICHAEL L. DOMINGUEZ
Assistant Secretary of the Air Force
(Manpower and Reserve Affairs)

cc:
The Honorable John Warner, Chairman, Committee on Armed Services, United States Senate
The Honorable Carl Levin, Ranking Member, Committee on Armed Services, United States Senate

INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

JAN 23 2006

The Honorable John McCain
Chairman
Subcommittee on AirLand
Committee on Armed Services
United States Senate
Washington, DC 200510

Dear Senator McCain:

This is a further response to your July 15, 2005, letter asking us to advise you on whether replies from Lockheed Martin were sufficient to determine whether the Government received a fair and reasonable price on the C-130J program.

In November, we met with Mr. Chris Paul of your staff and informed him that the Air Force was not completing all contracting procedures normally expected for a contract negotiated under FAR Part 15. Specifically, the Air Force did not intend to require certified cost or pricing data or new negotiated prices for the 60 aircraft on the multiyear contract. After that meeting, the Air Force agreed to request that the contractor provide certified cost or pricing data and negotiate new prices for aircraft deliveries in FY 2006 through 2008 if the data showed that the current prices were not fair and reasonable. On January 9, 2006, the Air Force informed us that it will start having biweekly meetings to begin converting the contract based on its new agreement. The Air Force had not provided a date for completing the conversion. When the conversion is complete, we will be glad to provide whatever additional assistance that you may need.

We are also completing the audit field work for the review of the estimate of termination costs that the Air Force developed for canceling the C-130J and

JOHN McCAIN
ARIZONA

CHAIRMAN
COMMITTEE ON INDIAN AFFAIRS
COMMITTEE ON ARMED SERVICES
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

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December 2, 2005

VIA FACSIMILE ONLY

The Honorable Gordon R. England
Acting Deputy Secretary of Defense
1010 Defense Pentagon
Washington, D.C. 20301-1010

Dear Secretary England:

On April 13, 2005, then-Acting Secretary of the Air Force Dominguez and then-Air Force Chief of Staff General Jumper informed me that the Air Force was committed to restructuring the C-130J procurement contract from a FAR Part 12 commercial-item contract to a traditional FAR Part 15 military contract. From my conversation with these Air Force representatives, I understood that this decision reflected our common understanding that this would achieve maximum transparency into, and therefore, oversight over this beleaguered program.

After months of repeated assurances that this would be done and recent days of mounting pressure to support this contract, on Tuesday, November 29, 2005, my office learned from Mr. Thomas Gimble, the acting Department of Defense Inspector General that the contract was not restructured to a full FAR Part 15 contract.

On Thursday, December 1, 2005, Mr. Ken Miller, the Air Force Deputy Assistant Secretary for Acquisition, Governance and Transparency, met with my staff about this issue and agreed that the current contract, which the Air Force was prepared to sign, does not appear to be materially different than the commercial contract which began in fiscal year 2003. Mr. Miller attempted to ameliorate concerns by explaining that the objective is now to change "what started as a path towards a contract with minimal oversight, to one that is more traditional in terms of oversight." However, this is fundamentally different from what the Air Force committed to me in April 2005.

I understand that, currently, the Air Force merely intends to add FAR Part 15-type terms and conditions to any new C-130J aircraft and does not intend to restructure the current contract as a whole. This is unacceptable. According to information I have received, for whatever reason, "the Air Force executed the original directive to restructure the contract at the line-item level."

The Air Force's commitment to me regarding the C-130J procurement contract has materially and inexplicably changed. Under the circumstances, I would be very interested in knowing who made the decision not to restructure the current contract, as I had been told, and

when that decision was made. I also respectfully suggest that you direct the Air Force begin to immediately restructure the current contract to a full FAR Part 15 contract, as the Air Force had originally committed, or terminate the remainder of the contract. Finally, I respectfully ask for the opportunity to obtain a full briefing on this procurement contract prior to its execution.

I look forward to your immediate response.

Sincerely,

John McCain
United States Senate

JM/cjp

Cc: Honorable John Warner, Chairman, Senate Armed Services Committee
Honorable Carl Levin, Ranking Member, Senate Armed Services Committee
Honorable Kenneth Krieg, Under Secretary of Defense, Acquisition Technology and Logistics
Honorable Daniel Stanley, Assistant Secretary of Defense, Legislative Affairs
Honorable Michael Wynne, Secretary of the Air Force
Mr. Thomas Gimble, Acting Inspector General, Department of Defense
General T. Michael Moseley, Chief of Staff, U.S. Air Force
Mr. Ken Miller, Air Force Deputy Assistant Secretary for Acquisition, Governance and Transparency

DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

September 2, 2005

The Honorable John McCain
United States Senate
Washington, DC 20510-0303

Dear Senator McCain,

Thank you for your recent letter regarding the KC-135 Replacement Program. You're right. The Request for Information was released, and released without the SECDEF's or my knowledge or approval. It has been rescinded.

The Air Force has been instructed not to pursue any actions on the tanker replacement program until the ongoing Institute for Defense Analyses review and the OSD PA&E sufficiency review of the Analysis of Alternatives are completed. Our goal, like yours, is to ensure that there is complete transparency in this program.

Gordon England
ACTING

Cc: Senator Warner
Chairman, Committee on Armed Services

JOHN McCAIN
ARIZONA

CHAIRMAN
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August 31, 2005

VIA FACSIMILE

The Honorable Donald Rumsfeld
Secretary of Defense
1000 Defense Pentagon
Washington, D.C. 20301-1000

Dear Secretary Rumsfeld:

Prior to his most recent confirmation hearing, General T. Michael Moseley, Air Force Vice Chief of Staff, told me how the Air Force intended to proceed on tanker recapitalization. Specifically, General Moseley said that no steps toward procuring new tanker aircraft would occur until the Institute for Defense Analyses (IDA) completed an independent review and the Department completed its sufficiency review of a completed analysis of alternatives (AoA). This path forward, a completed AoA subjected to independent review inside and outside the DoD, obtained my support.

However, on August 26, 2005, the Air Force inexplicably released a Request for Information (RFI) for the KC-135 Replacement Tanker Aircraft program. Given all of the procedural and substantive concerns associated with the tanker recapitalization program arising from reviews undertaken by the Senate Armed Services Committee, the Senate Commerce Committee, the Department of Defense Office of the Inspector General, the Department of Justice, the Defense Science Board, the National Defense University, the General Accounting Office, the Congressional Research Service, and a myriad others, this development is unacceptable. It is a distortion of the process that was described to me--a process that helped assure confidence in this controversy-plagued program. It does not engender, and is inconsistent with commitments to cooperation and transparency that were made to me by Secretaries England, Dominguez and Wynne as well as General Jumper during, most recently, the Senate Armed Services Committee hearing on June 7, 2005. Accordingly, I am prepared to take all appropriate actions within my position to remedy this matter if you cannot.

On this particular program, the independent review of the AoA has not yet been completed; the DoD has not yet begun its sufficiency review; the AoA on this particularly sensitive program has not yet been delivered to Congress. And yet, the Air Force saw it fit to release an RFI that, I understand, reflects the RAND Corporation's and Project Air Force's conclusion on the tanker AoA. Under these circumstances, the release of this RFI is inappropriate and premature and wholly disregards my serious concerns regarding the AoA which I first brought to your attention in January 2004. It also furthers my continuing concern that the results of both AoA reviews and the independent analysis of DoD may be predetermined.

Given the foregoing, I respectfully suggest that you direct the Air Force to rescind the RFI immediately. I look forward to an immediate response.

Sincerely,

John McCain
United States Senate

JM/cp

Cc: Honorable John Warner, Chairman, Senate Armed Services Committee
Honorable Carl Levin, Ranking Member, Senate Armed Services Committee
Honorable Gordon England, Deputy Undersecretary of Defense
Honorable Kenneth Krieg, Under Secretary of Defense, Acquisition Technology and Logistics
Honorable Daniel Stanley, Assistant Secretary of Defense, Legislative Affairs
Honorable Pete Geren, Acting Secretary of the Air Force
General T. Michael Moseley Vice Chief of Staff, U.S. Air Force

JOHN McCAIN
ARIZONA

CHAIRMAN
COMMITTEE ON INDIAN AFFAIRS
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June 22, 2005

VIA FACSIMILE AND FIRST CLASS MAIL

The Honorable Donald H. Rumsfeld
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Re: C-130J

Dear Mr. Secretary:

In your May 10, 2005, letter to Senate Armed Services Chairman Warner you cited as the compelling reason to complete the C-130J multi-year procurement contract "new information [that] has become available regarding the contract termination costs." In preparation for an upcoming AirLand Subcommittee hearing regarding the Defense Department's recent decision to complete this contract—essentially reversing its previous decision during the Department's fiscal year 2006 budget process, I ask that you provide me completely and fully with this "new information."

In addition, I would appreciate a response to the following questions:

1. In April 2005, Air Force officials testified that terminating the C-130J program would probably result in substantial increases in overhead costs in the F/A-22 "Raptor" program. Please explain why the cost of the F/A-22 program would increase significantly and detail what the specific costs would be to the F/A-22 program if the C-130J program were terminated. Additionally, please explain the determination of overhead rates across each weapon system.

2. Since the C-130J has been acquired as a "commercial item," the government does not have sufficient transparency to be able to determine whether the increase in overhead costs in, for example, the F/A-22 (that are attributable to terminating the C-130J "commercial item") are, in fact, fair and reasonable. Given this difficulty, please explain in detail why the Air Force would enter into a business arrangement or contract, such as the C-130J program and F/A-22 contract, that (1) encourages "price gouging," (2) precludes the government from independently verifying and validating how much terminating one program will have on overhead as it relates to the other, and/or (3) renders the government unable to modify or terminate a program for good cause because doing so may dramatically increase overhead on another unrelated program or contract.

3. Please describe in detail the advantages, if any, to the government of commencing a commercial item procurement strategy for an ACAT I program that includes such items as naval vessels, aircraft or combat vehicles if the contract structure allows for substantial termination liability costs.

4. On April 13, 2005, Acting Secretary of the Air Force Dominguez and Chief of Staff of the Air Force General Jumper informed me that the Air Force intends to change the C-130J program from a FAR Part 12 commercial-item contract to a FAR Part 15 traditional DoD contract. Please advise when the C-130J contract will revert to a traditional FAR Part 15 program. In addition, please provide a schedule for the conversion to a FAR Part 15 contract and provide assurance that DCAA certifies completion of that conversion.

Please provide this information in writing by Tuesday, June 28, 2005. Thank you in advance for your cooperation.

Sincerely,

John McCain
Chairman
Subcommittee on AirLand

JSM/cjp

Chairman WARNER. I'm going to ask Senator Thune if he would chair. I'm on another committee and Secretary Chertoff is about to be the witness, and my presence is needed there. I hope to return here a little later this morning though. Mr. Thune, if you will chair the committee.

Before going though, I do want to ask you one question, Mr. D'Agostino, and that is about the $6 billion for the Stockpile Stewardship Program. We've followed that very carefully.

Mr. D'AGOSTINO. Yes, sir.

Chairman WARNER. When I return, I will press on that question so be prepared to give me a complete answer.

Mr. D'AGOSTINO. Yes, sir.

Chairman WARNER. I thank the witnesses. I thank Senator Thune for taking over for a few minutes.

Senator THUNE [presiding]. All right. We will continue. Chairman Warner has a series of questions that we want to get on the record and so I'll start with those. This is directed at Mr. D'Agostino. The Secretary of Energy Advisory Board recently issued a report titled "Recommendations for the Nuclear Weapons Complex of the Future." This report recommended bold changes, including shutting down many of the current facilities and creating one large consolidated site at a new location. You have been part of a DOE team reviewing this report. Do you believe this report contained recommendations which merit further evaluation or potential adoption by DOE?

Mr. D'AGOSTINO. Mr. Chairman, I do believe the report identified some areas that we should look at. Since last November, I have held meetings, brought a team together, we have looked at the re-

port very closely. There are basically five major recommendations in the report. It turns out we're basically proceeding on four of those five recommendations. The big open question has to do with the consolidated nuclear production complex which you alluded to in your question with respect to closing sites across the complex. It's a very difficult question to address. It's one that we are proceeding on with a certain methodology. The report was clear that there are a lot of details behind their broad recommendations that they have not yet had a chance to examine, and they recommended the Department take a look at the business cases underneath their recommendations. We're in the process of taking a look at those business cases, running them down and putting something together which essentially, as I mentioned in my opening statement, would be a responsive infrastructure that brings a certain amount of integration and interdependency across our production complex. So we are running that down quite seriously and we will be briefing the Secretary probably within the next few weeks on my recommendations to the Secretary, and we'll be, of course, talking and consulting with Members of Congress as well.

Senator THUNE. As that process moves forward, I'm sure this committee would welcome your insights and recommendations with respect to that issue.

For Secretary Dominguez and Mr. Geren, both of you served as Acting Secretary of the Air Force last year and were involved in the formulation of interim religious guidelines, aimed not only at responding to allegations of religious intolerance at the U.S. Air Force Academy, but also at providing useful, practical guidance to commanders, chaplains, and those in positions of authority. How would you assess the initial guidelines and changes that recently were made at the direction of Air Force Secretary Wynne? I'll let you answer that question first and then I'll do a followup question to that. Mr. Geren.

Mr. GEREN. Thank you, Mr. Chairman. I've not had an opportunity to see the final product that Secretary Wynne issued so I can't speak to the details. I'd like to comment on the process though. I think the process was very open. Religious matters for all the Services involves some very difficult issues to work with as a government and as a military, and the Army works with the same issues as well. You have to carefully balance the religious freedom that's guaranteed under our Constitution, as well as make sure that as a Service you don't run afoul of the establishment clause. It's an area that Congress has legislated in. In the mid-1990s the Religious Freedom Act was enacted by Congress which provides the Services guidance, and the Services all have the constitutional mission of protecting and defending the United States, so there's many competing issues that have to be balanced. I think the multiple Secretaries, Acting Secretaries, as well as the current Secretary, work very hard to reach out to many different people, both inside the Service and outside the Service to achieve a proper balance. I have not seen the final product but I commend the Air Force for the process they went thorough. It was open, it was inclusive, and I'm confident that the product was well thought through and well balanced.

Senator THUNE. Secretary Dominguez, do you think that the Secretary of Defense should assume a leadership role in the effort to devise a comprehensive policy? It certainly would appear that the Services are all wrestling with these issues.

Mr. DOMINGUEZ. Senator, as we worked through the issue of guidelines, one of the things that we actually discovered was the Department's policy in this area is actually quite good, and that's really what was necessary, was a conversation to help the force understand how to balance these twin responsibilities of the non-establishment clause and the free exercise clause. I think that we have had a conversation in the Air Force, and between the Air Force and the Nation, because many thousands of people have commented on these guidelines with us. I think that the benefits to the departments now are in taking lessons learned from that conversation and rolling it into our training, our curriculums, and our professional military education so that we don't forget these lessons and then err on one side of that fine balance.

Senator THUNE. Mr. Finley. We have covered some of the issues with respect to procurement and the length of time it's taking to get these weapons systems fielded. We've touched on that a little bit, so I won't necessarily re-ask that question, but I do want to ask you a question about rapid acquisition initiatives. The Department has initiated several technology accelerations in rapid fielding initiatives over the last few years to respond to emergent needs, such as increased armor protection and to counter-improvised explosive device (IED) capabilities. In your view, what are the key lessons learned in technology transition, test and evaluation, production training, and procurement from these processes? I'll let you answer that and I'll have a follow-up question to you.

Mr. FINLEY. Thank you, Mr. Chairman. I'm not particularly familiar with those, the armor initiative nor the IED initiative. In industry, having met with numbers of people to get a perspective on the rapid deployment of technology, in industry, there are very similar processes. As an outsider more or less looking in and not knowing the details, but one of the key ones is to get the technology maturity up to a level that's fieldable for our joint warfighter. If confirmed, sir, I will investigate this as a top area of importance in an open and transparent fashion and make it a high priority to continue the momentum built from those programs, take those lessons learned, and factor them into our processes to make them even more effective and more efficient.

Senator THUNE. I think it's fair to say that, if you are confirmed, those are things that this committee would have a great interest in, in learning about a particular plan of action that you would take to evaluate the long-term application of those expedited processes for rapidly deploying needed equipment. It's something that's been discussed a lot in front of this committee in trying to shorten up the timeframe to get things out there, and to come up with a plan that would accomplish that. So from the committee's standpoint, with regard to the oversight responsibility we have, we're very interested in specifically what you might undertake in order to accomplish that objective.

Mr. FINLEY. Yes, sir.

Senator THUNE. Again, for Secretary Dominguez and Mr. Geren, last year there was strong support in Congress for legislation that was aimed at curtailing the ability of so-called payday lenders to target military personnel for short-term exorbitant interest loans. We've been told by the senior enlisted advisors that financial difficulties at times related to payday loans result in indebtedness, lost security clearances, and so on. What is your assessment of the steps that can be taken within DOD and the Services to put these predatory lenders out of business or at least to limit their ability to take advantage of the most vulnerable service members?

Mr. DOMINGUEZ. Sir, I don't have any detailed knowledge right now of the steps. I acknowledge the nature of the problem. I do know that we have a pretty extensive financial education outreach to the men and women in our Services because their financial readiness is critical. Their financial situation, as you clearly point out, can affect their ability to do their job, so we pay attention to it. We have outreach programs and we limit access to our military installations to institutions that are credible, that we evaluate to ensure that they are not for profit and, in fact, are educational institutions and not selling. So that there's not a "hook and bait and switch operation" going on. I hope that answers the question, sir.

Mr. GEREN. I've not worked in the area in my time in the Pentagon, but I understand the seriousness of the problem and if I'm confirmed look forward to working with this committee and looking into the matter.

Senator THUNE. It's something that there's been a considerable amount written on. There have been a number of reports. The New York Times and other newspapers have sort of exposed what some of these lenders are doing in terms of preying on servicemembers and clearly that's something that I think we want to see addressed. As I said, I assume that somewhere within the Department there are some people who have given some attention to this subject, and we would again welcome as you get an opportunity to further review that, your comments and what might be done. We don't want to see servicemembers who are in tight financial situations being preyed on by financial institutions that are clearly trying to take advantage of them. Some of the interest rates that are charged are exorbitant. There's a lot of that activity and it seems to be congregating very closely around some of the military installations in this country.

Mr. DOMINGUEZ. Senator, if I might followup. That issue in terms of policy and practice is clearly within the portfolio that I have now in the Air Force and that I aspire to, subject to this committee's and the Senate's confirmation. I do want to point out also, as you very well know, some of the best things that can be done are between the installation commander, the commander of the troops, and those local communities, the law enforcement, the mayors, and the administrations. The partnerships that we form with our communities in which we live are invaluable in terms of providing that kind of support and protection to the men and women in those areas. I wouldn't discount that, and I would say that's a huge piece of the solution.

Senator THUNE. This one, again, is for Secretary Dominguez, and Mr. Geren. Another thing that it's been troubling to hear about is

cases in which soldiers are determined to be overpaid and indebted to the Army, often in large amounts, due to pay errors. The old pay systems for National Guardsmen regrettably often contribute to confusion over payment between the State Guard, the Defense Finance and Accounting Service, the Internal Revenue Service, and others who have an interest in pay matters. There appears to be limited ability to quickly assess these cases and rapidly come to a conclusion. Can you comment, either of you, on the experience of the Air Force, Air Force Reserve, Air National Guard, in these matters, and if confirmed, will you give consideration and study to these problems within the Army and try to find a remedy for the many guardsmen who are trying to resolve pay issues?

Mr. GEREN. I know pay issues, confusion, and mixups in the pay system have been a very serious concern of all the Services. I don't have details about efforts to correct it, but we've seen some examples recently on some need for reimbursing soldiers who had been improperly charged with different expenses against their pay. It's a very serious issue. We've asked men and women of our Active-Duty, Guard, and Reserve to leave their families, make great sacrifices on the part of our country, and we have to do everything we can to ensure that they're paid promptly, fairly, and that we have a system in place to correct mistakes quickly and not force the soldiers through a bureaucratic maze that unfortunately, too often, they're forced to contend with these days. It's a very serious matter and, if confirmed, I look forward to working on it, sir.

Mr. DOMINGUEZ. Senator, if I might add to that, I know that all of the Services have worked with the Office of the Secretary of Defense to put task forces in place to work personnel pay issues. In fact, there is a personnel pay council that's running in the DOD to work these issues and there are mechanisms in place to try and get rapid adjudication of the errors. Those are brute force, bandaid solutions to the fundamental problem which is that our basic information technology infrastructure that does the personnel pay business is antiquated. The long-term solution to this problem, Senator, is the deployment of the Defense Integrated Military Human Resources System (DIMHRS), and we in the Air Force are aggressively pursuing that. That system has now been elevated to the personal attention of the Deputy Secretary of Defense and with the committee's continued support, the Department intends to aggressively deploy DIMHRS and that's going to be the long-term solution so we get a 21st century personnel and pay system where it's integrated into one information technology (IT) system and a lot of these problems then will go away.

Senator THUNE. Thank you all for your responses to questions. Chairman Warner may return, and I have other commitments, so what I'm going to do is recess the hearing subject to the call of the chair. If Chairman Warner does not return, there are some questions that we would like to have answered for the record. Again, we appreciate your time here today and your responsiveness to the questions and look forward to working with you. At this point, we will recess. [Recess.]

Chairman WARNER [presiding]. I thank you for your indulgence which you have given us, I appreciate that, and the understanding why so many members could not be with us.

I'd like to return to the stockpile issue because I've taken a particular interest in it. I can remember vividly in this room one day, we had the directors of each of the labs here. This was a critical juncture in this program, and I remember one in particular. He sort of got up and—they're unique people, the directors of those laboratories, they're technically trained, magnificently, and have an enormous responsibility, and they don't care anything about politics or anything else, they just state the facts. I remember one of them saying, "this committee's going to have to exercise a lot of patience, and be careful in its oversight to keep watch on this program, because it's so essential." For those not familiar with it, our Nation, by necessity, has a very large inventory of nuclear weapons.

We'd all like to see all nuclear weapons exterminated from the face of the earth, but the reality is they have thus far proven to be a deterrent to the utilization of that weapon by any nation subsequent to the experiences in World War II which was, in my judgment, having been in uniform at that time, an absolute necessity on behalf of our President and our Government given the circumstances.

Anyway, I won't go into all that. I can assure you our committee's going to keep a watchful eye. We have $6 billion, I repeat that, $6 billion in this budget going to that program. You have a lot of experience in this area, beginning with Admiral Rickover's tutorial and your own experience in the United States Navy, which I would say, having had the privilege of association with that Navy for so many years myself, we've never had a major accident. I want America to understand that.

At one time, I'm trying to think, we had over 100 ships and nuclear operations going on, some ashore, most at sea, and today every one of our submarines with the exception of some test models are powered by nuclear power. Our entire aircraft carrier fleet, save two conventional ships which are being phased out in due course, is operated with that system. I point that out because I hope America can transition to more dependence upon nuclear power to supply our daily needs for electricity and other things derived from that power. It's interesting, France has 85 percent of its power requirements today met by nuclear plants. France spends, I'm told by a very able staff member, and I think you know this fine person, she worked for you or worked with you, 10 percent of France's military budget goes to its own concept of the Stockpile Stewardship Program.

Now, to those following this, what is the purpose of the Stockpile Stewardship Program? One purpose is to monitor these weapons to make sure they're safe in storage. Remember, they're stored in various places throughout the United States. Communities are dependent upon that security. Cities are dependent upon that security. From time to time these weapons have to be transported so that those systems which remain in the state of readiness as a part of our defense mechanism, this country, they have to be safe for transportation. Most significantly, in my view, Congress established the Stockpile Stewardship Program to ensure that the enduring stockpile remains safe, secure, and reliable. This program provides the technical data to support this assurance. We owe a

high obligation to the men and women or the Armed Forces and the civilians who are working with these weapons. So bring us up-to-date on your opinion as to the stockpile, what does the future hold, and why is this enormous sum of $6 billion needed for one program? I'm not questioning it. I support that $6 billion, but I think others would ask that question.

Mr. D'AGOSTINO. Thank you, Mr. Chairman, I'll be happy to answer that question. The $6 billion is indeed a tremendous amount of money. Over time, within that resource, we have taken a renewed focus particularly in the area of physical security of the assets themselves as well as security of the eight sites that we have across the country to maintain these weapons, including the security associated with transporting the weapons and the material between our particular sites, and as we deliver and receive weapons from the DOD, particularly.

So the security budget within the $6 billion you will notice over time has increased and appropriately so given the changing world environment. There is, one could say, close to but not quite 20 percent of our resources devoted to ensuring and protecting the material to protect our citizens, to protect and ensure that these weapons and materials stay in the proper control and custody.

It's more than just the security part of it that makes up this $6 billion. We have three national laboratories that are supported, and they are in charge, as you pointed out earlier, with providing an annual assessment to the Secretaries and ultimately to the President which gets delivered to Congress on an annual basis on asserting the safety, reliability, and security of the stockpile without underground testing. In order to do that large task, because we have not taken underground testing as something that we need to do, we invested a lot of resources in a broad array of scientific tools and computational tools as well as gathered data, material aging data, on our weapons systems themselves and to be able to process that data, to understand how the weapon changes over a period of time.

In addition to developing tools, doing this surveillance activity that gets done on each weapon system, and running them through our tools and simulation tools, we have a periodic set of activities known as limited life component exchanges where there are certain components, in various weapons systems that periodically over time have to be changed out. So jointly, with the DOD, we produce these components at our various plants and transport them for installation by the DOD themselves. There's a supporting the current stockpile aspect of the $6 billion. There is an aspect of the $6 billion that's to ensure the long-term capability for the Nation and the continuance of ensuring ultimately to the President that this stockpile is safe. Then there is the question of maintaining this large infrastructure of three laboratories in the Nevada Test Site as well as four production plants around the country.

Chairman WARNER. When do you think the system will be up and fully operative?

Mr. D'AGOSTINO. I'm assuming the system you're talking about is the Stockpile Stewardship Program.

Chairman WARNER. Yes, yes.

Mr. D'AGOSTINO. In fact, it is fully up and operating right now. We are gathering data, we continue to learn on a daily basis about how our weapons age.

Chairman WARNER. All right. So you think it is, at present, up and fully operating.

Mr. D'AGOSTINO. It's fully operating, however, what I would say is that there are opportunities for efficiency improvements. Where we are right now with the complex is we have a roughly 50-year-old nuclear weapons complex that is at a certain stage in need of capital reinvestment. A question earlier dealt with responsive infrastructure, and we'll be looking at that seriously with you, sir.

Chairman WARNER. I have other questions here. I'll ask all witnesses to provide answers for the record for those questions.

Mr. Finley, in your response to advance policy questions, you noted continued importance of an independent Director of Operational Test and Evaluation (OT&E) to ensure effectiveness and suitability of major weapons systems. This is something this committee has followed very carefully, this subject, because as addressed by Senator McCain, we have to make certain our procurement and our systems are up and running. What are your views on the effectiveness of the Department's test and evaluation process in an era of rapid fielding and proposed new acquisition processes?

Mr. FINLEY. Mr. Chairman, my view is that effectiveness is good. I think we can improve upon the effectiveness by providing a process where the OT&E folks are at the front of the process, not mid-range, not 25 percent of the way through the process. We should bring our testing community right up at the front end of the process where requirements are being defined, and make this an iterative process of making help underpin the requirements, if you will, from an OT&E point of view, so we know going in what our baselines are. That's so we do not get into a catch-22 situation down the pike after Milestone A or even Milestone B, all of a sudden we have ourselves into extremis where the requirements guy says, I'm raising a red flag about a problem, sir. I think the OT&E folks are great. I believe strongly in checks and balances. I believe in the process of open and transparent discussions. Bringing OT&E further up into the process, I believe, will help make our process there even more effective, sir.

Chairman WARNER. That's a very thorough and reassuring response. I thank you, Mr. Finley.

Secretary Dominguez, currently DOD has a policy that limits the involuntary recall of Reserve and National Guard personnel to 24 cumulative months during this period of national emergency. In the Air Force, guardsmen and reservists have performed magnificently in providing air support to the combatant commander but the 24-month clock has run on many of these patriotic airmen. The same is true for Army reservists and national guardsmen. It's an extraordinary chapter in our history, the performance of the Guard and Reserve. I came up through the ranks in that system myself, and I tell you it's far more effective than most realize. In my time, I remember very well when the Korean War sprung upon us, we had to resort to the Guard and Reserve very quickly, and it was extraordinary how quickly in the aviation community our reservists

were in the cockpit flying with the regular forces in a matter of months. Anyway, given the demands on the Reserve and Guard since 2001, what is the impact of this policy on the availability of manpower, in your judgment?

Mr. DOMINGUEZ. Sir, thank you for the question. I also acknowledge the extraordinary achievement and service of our citizen warriors in the Guard and Reserve and their families. You are correct in pointing out, Senator, they have been tested, and they met the test in an extraordinary fashion. This committee can take some credit for that in your stewardship over the years of the Guard and Reserve.

Chairman WARNER. Well, it really started with Secretary Laird who brought about what we call the Total Force concept. He did an admirable job in that and also the discontinuance of the draft which was important. I was a part of the Laird team at the time those decisions were made and this All-Volunteer Force has been extraordinary.

Mr. DOMINGUEZ. It is, Senator. It is extraordinary. Second to none, and it will stay that way.

Chairman WARNER. But it needs the support of the Guard and Reserve.

Mr. DOMINGUEZ. Absolutely. That is essential and that partnership between the Guard and Reserve and the Active-Duty Force is essential. I've seen that partnership in its highest form of evolution, I believe, in the United States Air Force today. The Guard and Reserve are intermixed, and entwined with the Active Force in virtually every mission that force does, forward or back home, and you can't tell those airmen apart by their capabilities.

Now, the 24-month mobilization is a barrier but it's a barrier that, in preparing this Nation and preparing our force for a very long conflict, we have to figure a way through. Secretary Rumsfeld is adamant, at least in my conversations or knowledge of this from in the policy circles in which I operate, that he's not going to budge on that because we can't involuntarily mobilize our way through a 50-year conflict. We have to find mechanisms to bring the volunteers from the Guard and Reserve into the fight or change the nature of their enlistment and participation contracts so that as they come into the Reserve, there's a clear period of when they will be on Active service. We're thinking through all of those things now, sir. But I think Secretary Rumsfeld is right on target. Involuntary mobilization is not the right tool for a very long conflict. We're in a very long conflict, we'll need our citizen warriors or citizen soldiers, airmen, sailors, and marines in this fight and we'll have to find mechanisms to be able to bring them in, in the true spirit of the volunteer force.

Chairman WARNER. All right. I thank you, because it's absolutely essential and needs to be addressed early on.

Mr. DOMINGUEZ. Yes, sir.

Chairman WARNER. Mr. Geren, I commented earlier about the importance of the academies when Senator Allard was making his introduction. It's essential that DOD and the Army leadership continues to support the wounded soldiers throughout their treatment and for those who are medically retired as they return to civilian life. There are many challenges in making the Wounded Warrior

Program or Marine for Life Program and so on successful in ensuring our present day veterans have successful transitions. One area I'm concerned about is ensuring the health care services and rehab to be available for convalescing personnel as needed, even if it means seeing a civilian doctor instead of a military doctor. Will you inquire into these problems as it relates to your department, the Department of the Army, and perhaps you can help others with health care access that wounded personnel receive long after they've left the military system, and determine what improvements we can make?

Mr. GEREN. Yes, sir. If I'm confirmed, I'll consider that a top priority. The Wounded Warrior Program is an excellent program and it is reaching out to service men and women who——

Chairman WARNER. Marine for Life, that's a comparable program.

Mr. GEREN. Yes, sir.

Chairman WARNER. It has a very unique name.

Mr. GEREN. Yes, sir, I understand that, and it's a program that has to remain a top priority. It can't fade from our view when this conflict is in the distant past. We have to maintain that commitment. I know Congress feels that way, the Department of the Army feels that way, and I can assure you if I'm confirmed it will be a top priority for me. I want to see us innovate in that area and do everything we can possibly do.

Chairman WARNER. I opened up on the question about the academies but I realize that was asked by my colleague before he left. That's a very important issue, and you better check on West Point. When I was in the Department of the Navy's Secretary's Office we spent a lot of time working Annapolis and indeed the under secretaries were constituted as a team of three individuals who used to make periodic inspections of the academies to make sure that experience gained in one academy was transferred to the other academy whether it related to education, religion, or preventing sexual harassment and the like. I think it might be well-advised that some day when you're talking to Secretary Rumsfeld to suggest maybe the three under secretaries be constituted as a team to travel periodically and do some oversight for the Secretary on those academies because if one of them has a problem it pops up on the screen right to the top. It was a very effective system that Secretary Laird put in place.

Gentlemen, I thank you very much. I thank your families. The day has been a productive one for all of us and one that will be remembered in many respects. The President has chosen well in selecting you, and I wish each of you well and I'll look to trying to get the confirmation process completed in the Senate as quickly as possible. In your case, Mr. Dominguez, as my distinguished colleague has mentioned, we have a little more to work through but let's hope we can work through that. I'll give you the assurance that I'll do it fairly and objectively.

Mr. DOMINGUEZ. Thank you, Senator.

Chairman WARNER. This meeting is adjourned. Thank you all.

[Whereupon, at 11:54 a.m., the committee adjourned.]

[Prepared questions submitted to Hon. Preston M. Geren by Chairman Warner prior to the hearing with answers supplied follow:]

QUESTIONS AND RESPONSES

DEFENSE REFORMS

Question. The Goldwater-Nichols Department of Defense Reorganization Act of 1986 and the Special Operations reforms have strengthened the warfighting readiness of our Armed Forces. They have enhanced civilian control and the chain of command by clearly delineating the combatant commanders' responsibilities and authorities and the role of the Joint Chiefs of Staff. These reforms have also vastly improved cooperation between the Services and the combatant commanders in the strategic planning process, in the development of requirements, in joint training and education, and in the execution of military operations.

Do you see the need for modifications of any Goldwater-Nichols Act provisions based on your experience in the Department of Defense?

Answer. The Goldwater-Nichols Act has made a profound and positive change within the operation of the Department of Defense. While I believe that the framework established by Goldwater-Nichols has significantly improved interservice and joint relationships and responsibilities, the Department, working with Congress, should continually assess the law in light of improving capabilities, evolving threats and changing organizational dynamics.

Question. If so, what areas do you believe might be appropriate to address in these modifications?

Answer. This milestone legislation is now 20 years old and has served our Nation well. If confirmed, I would like to consider with Congress whether the act should be revised to better address the requirements of the combatant commanders and the needs and challenges faced by the Services in today's security environment. I also would like to assess whether the law could be modified to more effectively allocate roles and responsibilities among the Joint Staff, the military departments, and the Office of the Secretary of Defense. For example, the Department has encountered questions about the proper division of responsibility between the Army and CENTCOM for investigating allegations of misconduct arising in Iraq and Afghanistan. It is critical that the Department is optimally organized to meet the challenges of a dynamic security environment.

DUTIES

Question. Section 3015 of title 10, U.S.C., states the Under Secretary of the Army shall perform such duties and exercise such powers as the Secretary of the Army may prescribe.

Assuming you are confirmed, what duties and powers do you expect to be assigned?

Answer. The Under Secretary of the Army is the Secretary's senior civilian advisor on the effective and efficient functioning of the Army. The Under Secretary carries out those responsibilities and functions specifically delegated by the Secretary. The Secretary has not discussed his plans with me in this regard. The Under's responsibilities also require him, from time to time, to issue guidance and direction to the Army Staff.

What background and experience do you possess that you believe qualifies you to perform these duties?

Answer. I believe that my experience—including serving as a four-term Member of the U.S. Congress, representing the 12th Congressional District of Texas, in the private sector, and most recently as Special Assistant to the Secretary of Defense—has provided me with the knowledge and insight necessary to contribute in a meaningful way to the Army's ability to address the challenges it faces today. I served on the House Armed Services Committee during my tenure in Congress and worked with DOD on a wide range of policy and acquisition matters. My service in the House gave me a profound understanding and appreciation of the important role in national defense matters conferred on Congress by article I, section 8 of the Constitution. My work in the private sector has given me experience in the governance of a large organization that I believe will be valuable in discharging the management responsibilities of the Under Secretary of the Army. My work with the DOD, including serving as Acting Secretary of the Air Force, has enhanced my knowledge and understanding of the unique demands on today's military. Should I be confirmed, I look forward to serving the Nation during this era of change and trans-

formation. If confirmed, I pledge my best effort every day to be worthy of the trust placed in me and to uphold the proud tradition of selfless service that characterizes the United States Army.

Do you believe that there are actions you need to take to enhance your ability to perform the duties of the Under Secretary of the Army?

Answer. If I am confirmed, I will work to further my understanding and knowledge of the Army, its people, the resources necessary to sustain and transform it and the challenges it faces. I will take advantage of the many educational programs available to senior Army officials and draw on the wealth of knowledge and experience available from dedicated professionals, civilian and military, in DOD and throughout the Army family—Active-Duty, Guard and Reserve, Active and retired. I will seek advice and counsel from the many and diverse stakeholders dedicated to the success of the Army, including Members and staff of Congress.

RELATIONSHIPS

Question. If confirmed, what would your working relationship be with:

The Secretary of the Army.

Answer. If confirmed, my relationship with the Secretary of the Army would be close, direct, and supportive. Within the Department of the Army, my responsibilities would also involve communicating the Army Staff's plans to the Secretary of the Army and supervising the implementation of the Secretary's decisions through the Army. In this capacity, my actions would be subject to the authority, direction and control of the Secretary of the Army.

Question. The Chief of Staff of the Army.

Answer. The Chief of Staff of the Army is the Secretary's principal military adviser. If confirmed, I will work closely with the Chief of Staff to supervise the implementation of the Secretary's decisions through the Army Staff and Army commands and agencies. In this capacity, my actions would be subject to the authority, direction and control of the Secretary of the Army. I anticipate working closely and in concert with the Chief of Staff.

Question. The Assistant Secretaries of the Army.

Answer. The Assistant Secretaries of the Army set the strategic direction by formulating and overseeing policies and programs within their functional areas of responsibilities, consistent with statutes and the objectives of the Secretary of the Army. If confirmed, I will establish and maintain close, professional relationships with each of the Assistant Secretaries and seek to foster an environment of cooperative teamwork as we work together on the day-to-day management and long-range planning needs of the Army.

Question. The General Counsel of the Army.

Answer. The General Counsel is the chief legal officer of the Department of the Army. His duties include providing legal and policy advice to all members of the Army as well as determining the position of the Army on any legal question or procedure. If confirmed, I will establish and maintain a close and professional relationship with the General Counsel.

Question. The Vice Chief of Staff of the Army.

Answer. If confirmed, I will cooperate fully with the Vice Chief of Staff to further the Secretary of the Army's policies and to advance the interests of the Army. I will establish a close and professional relationship with the Vice Chief of Staff and communicate directly and openly with him on matters involving the Department of the Army.

Question. The Judge Advocate General of the Army.

Answer. The Judge Advocate General plays a significant role in providing legal advice to the Secretary and Under Secretary of the Army and Department of Army officers, particularly concerning matters of military justice. If confirmed, I will establish and maintain an appropriate and professional relationship with The Judge Advocate General of the Army. This relationship would be grounded in direct and open communication. I will seek his counsel on the important legal issues confronting the Army.

MAJOR CHALLENGES

Question. In your view, what are the major challenges that will face the Under Secretary of the Army?

Answer. As the senior civilian advisor to the Secretary, the Under Secretary will work in support of the Secretary in his duties. Conducting a global war against an asymmetric enemy while simultaneously planning and executing broad strategic transformation efforts presents unprecedented challenges. In my view, the Army's major challenge is to meet the Nation's global land power requirements and sustain

its strategic balance while fighting the global war on terror, synchronizing transformational initiatives, executing Base Realignment and Closure activities, and implementing the Integrated Global Presence Basing Strategy. Force protection should also be an Army top priority as it faces an evolving enemy. Initiating comprehensive Army-wide business transformation will improve overall efficiency and reorient available resources better to support the Army's warfighting capabilities and meet current and future threats. Other major challenges facing the Army are to sustain the All-Volunteer Force and to provide the best possible training and equipment for all of its soldiers. Force protection in irregular warfare poses challenges that require constant attention from senior leadership. The Army must push to develop the techniques, tactics, and procedures to enhance force protection, push research in relevant technology and continue to improve body and vehicle armor.

Question. Assuming you are confirmed, what plans do you have for addressing these challenges?

Answer. Providing ready, relevant land power to meet global commitments now and in the future will require resourcing the Army's requirements for resetting and restructuring the Army to achieve a proper balance of capabilities in all components. It will be necessary to obtain adequate funding to achieve critical recruiting and retention goals needed to sustain the All-Volunteer Force and grow its operational forces. The Army must work relentlessly to improve force protection.

Housing and other Army initiatives to provide predictability and stability for soldiers and their families in both the Active and Reserve components are critical to this effort. The Army must develop training to shape military and civilian leaders to lead in the complex and uncertain 21st century security environment. The Army must continue to support efforts that speed state-of-the-art force protection systems and weapons to its soldiers in the field.

The Army must be funded to execute a synchronized plan to achieve a new global basing posture, implement stationing decisions, execute Base Realignment and Closure decisions, and advance the Modular Force initiative. Adopting management reforms and best business practices are necessary to achieve targeted efficiencies and secure the financial resources needed for operational needs and Army initiatives. Force protection must remain a top priority of the civilian Army leadership with the Secretary and the Under continuing to push the system to make improvements.

RESERVE AND NATIONAL GUARD DEPLOYMENTS

Question. Deployments completed since the attacks of September 11 of the Army National Guard and Army Reserve have significantly depleted the number of soldiers available for involuntary mobilization under the Department's policy limiting involuntary recalls of Reserve personnel to 24 cumulative months.

How should the Army's Reserve component forces best be managed to provide essential support for operational deployments in Afghanistan and Iraq?

Answer. The Army National Guard and the Army Reserve are critical to the success of the Nation in fighting and winning the global war on terrorism. Given the demand of the global war on terror, the use of the Army National Guard and Army Reserve will continue to be necessary. To best manage and meet requirements, the Army is instituting the Army Force Generation Model (ARFORGEN), a rotational system to supply Army units to meet the demands of the national security objectives. This system enables predictable, rotational deployments for soldiers on a 6-year cycle for Army National Guard and Reserve units. The Army must also move toward making the Reserve components more capable to respond to missions in the homeland and abroad. The Army is committed to fully man, train, and equip the Guard units with $21 billion in funding over the POM to address equipment shortfalls. Additionally, the President is committed to funding the National Guard at current manning levels and up to the congressional authorization of 350,000 as the National Guard continues recruiting. To ensure that the Army and Air National Guard are prepared, the President's budget more than doubles the funding for equipment and modernization over the next 5 years. If I am confirmed, I would fully support the President and the Department's commitments in this critical area.

Question. What is your understanding of the Army's plans to avoid excessive demands on personnel and units in low density, high demand specialties whose skills are found primarily in the Reserve, such as civil affairs, military policy, and logistics?

Answer. I understand that the Army plans to rebalance the force and move the Guard toward more high demand skill sets as it transitions six combat brigades into Combat Support, Combat Service Support, and Engineering missions. The Army anticipates that the rebalance will generate more high demand forces to meet requirements. In conjunction with the implementation of the Army Force Generation

Model, a larger pool of critical capabilities is available in a predictable manner, providing the necessary trained and ready units to meet requirements.

RECRUITING AND RETENTION

Question. The Army's Active-Duty recruiting goal for fiscal year 2006 is 80,000. The Army has achieved its monthly recruiting goals so far this fiscal year, but the first quarter has only produced about 11,000 new soldiers. Retention in fiscal year 2005 exceeded the Army's goal, but signs in early fiscal year 2006 have shown some weakening of retention behavior, particularly among soldiers completing their first term of service.

What is your assessment of the Army's ability to reach its Active-Duty recruiting goal by component in fiscal year 2006?

Answer. Although the current recruiting environment remains challenging, the Army is optimistic about achieving Active and Reserve component goals for fiscal year 2006. Mission accomplishment in 06 and follow on years requires greater recruiter productivity, incentives and other resources necessary to meet these goals, effective communication of the Army message to the Nation's youth and influencers, and continued congressional support. Congressional support was evident in the recent passage of the National Defense Authorization Act for Fiscal Year 2006 which provided the crucial foundation for this year's recruiting efforts. The Active component has achieved its recruiting goals for the last 8 months, the Guard the last 5 months, with only the Army Reserve component falling short of its goals.

Question. If the Army is able to achieve its recruiting goal of 80,000 recruits, will the Army meet its authorized end strength for fiscal year 2006 of 512,400 soldiers?

What are the fiscal year 2007 recruiting goals by component?

Answer. I have been informed that the Army's projected Active-Duty end strength for fiscal year 2006 is 500,334 soldiers. As of the end of January 2006, counting Active Army, mobilized Guard and Reserve, Active-Duty special work, and retiree recalls, the Army strength was approximately 574,000 soldiers. The Army's current recruiting goals for fiscal year 2007 are: 80,000 for the Regular Army; 36,500 for the U.S. Army Reserve; and 70,000 for the Army National Guard.

Question. What is your assessment of the impact of multiple deployments of troops to Afghanistan and Iraq having on retention, particularly among young enlisted and officer personnel after their initial obligated service has been completed?

Answer. The Army has not seen a negative impact on the retention of enlisted soldiers who have served in deployments to Afghanistan and Iraq. It is my understanding that the 3rd Infantry Division recently returned from its second deployment to Iraq and achieved 166 percent of their year-to-date initial term retention mission. The 4th Infantry Division and 101st Airborne Division are currently on their second deployment to Iraq and have accomplished 114 percent and 109 percent of their year-to-date initial term retention mission, respectively. As of 31 January 2006, the Army has achieved 109 percent of its year-to-date initial term retention mission and 107 percent of its overall year-to-date retention mission. Recent results are satisfactory, but this matter requires constant attention. It is a barometer of the health of the Army and must be watched, analyzed in whole and in subsets, and understood.

WOMEN IN COMBAT

Question. Section 541 of the National Defense Authorization Act for Fiscal Year 2006 requires the Secretary of Defense to report to Congress not later than March 31, 2006, on his review of the current and future implementation of the policy regarding assignment of women in combat. In conducting the review, the Secretary of Defense must examine Army unit modularization efforts and associated personnel assignment policies to ensure their compliance with the Department of Defense policy on women in combat that has been in effect since 1994.

What lessons have been learned about the feasibility of current policies regarding women in combat from Operation Iraqi Freedom and Operation Enduring Freedom?

Answer. The Department no longer confronts the prospects of a Cold War linear battlefield. The irregular warfare and nonlinear battlefield of today's conflicts raises questions about the application of the policy regarding the assignment of women in combat regions. Women make up about 14 percent of the Active Army, 23 percent of the Army Reserve, and 13 percent of the Army National Guard. Approximately 10 percent of the forces deployed in support of the global war on terrorism are women soldiers. Today, almost 14,000 women soldiers are serving in Iraq and Afghanistan. Forty-seven women soldiers have made the ultimate sacrifice in support of the global war on terrorism. Women soldiers have been killed in action, have suffered wounds from hostile action, and have been held captive by our enemies. The

study requested by Congress and underway at DOD will help the Department understand the implications for and feasibility of current policies regarding women in combat.

Question. How do you anticipate you will participate in the review of the policy required by section 541?

Answer. The Office of the Secretary of Defense has undertaken to complete the comprehensive review requested by this committee and Congress. The Army will support OSD to complete this review. This issue poses complex and critical issues for the Department. If confirmed, I will look to the Secretary for guidance with regard to any role he asks me to undertake in this matter. It is an important study and will inform Department and congressional review of this critical matter. The Army and Congress must work together closely if this matter is to be addressed properly.

MISSILE DEFENSE

Question. In December 2002, President Bush announced the deployment of an initial set of missile defense capabilities, including ground-based interceptors, sea-based interceptors, and additional Patriot PAC–3 units.

In your view, is the Army fielding Patriot PAC–3 missiles in sufficient numbers to meet the threat posed by short-range ballistic missiles?

Answer. I do not have sufficient background in this highly technical area to offer an informed opinion on this matter. The Army has advised me that the Combined Acquisition Program strategy has allocated sufficient numbers of PAC–3 missiles to defeat the short range ballistic missile threat. If confirmed, I will study this further.

Question. Do you support continued development of the multi-national Medium Extended Air Defense System (MEADS) as a follow-on to the Patriot system, and what is the Army's timeframe for fielding of this important capability?

Answer. I do not have sufficient background in this highly technical area to offer an informed opinion on this program. From the information I have received thus far, the direction the Department has taken in the development of the Medium Extended Air Defense System appears reasonable. On July 1, 2004, the Defense Acquisition Board approved Milestone B for all three increments of the Patriot/MEADS Combined Aggregate Program with a MEADS First Unit Equipped date by fiscal year 2015. If confirmed, I will study this further.

Question. What is your understanding of when the Department plans to authorize the transfer of the ground-based midcourse defense (GMD) system from the Missile Defense Agency to the Army?

Answer. I understand that the transfer of the GMD System will be governed by the BMDS Transfer Plan that currently is in staffing between the Missile Defense Agency and the Military Departments. Transfer will be based on technical maturity and demonstrated military utility.

Question. Do you believe the fielding of ground-based interceptors, which began in 2004, is keeping pace with the long-range ballistic missile threat to the United States?

Answer. I do not have sufficient background in this matter to offer an informed opinion. I have been advised by the Army that the pace of missile fielding is consistent with intended defensive capability. If confirmed, I will look into this further.

Question. The Army's Space and Missile Defense Command (SMDC) has been developing laser concepts for application on the battlefield. What are the Army's plans with respect to fielding laser weapons capable of defending against rockets and tactical missiles?

Answer. The SMDC Solid-State Laser (SSL) Science and Technology (S&T) program goal is to develop a SSL demonstrator of at least 100 kW by 2013. The Army intent is to begin the weapon system development process to employ this rapidly emerging SSL technology as soon as it reaches the required maturity level. The Army's current weapon system development goal for fielding a Multi-mission Directed Energy Weapon System (MDEWS) interim capability is 2014, and to attain the MDEWS objective weapon system capability by 2020. These future weapon systems are envisioned to counter the rocket/artillery/mortar (RAM), manportable Air Defense System (MANPADS), and other tactical missile threats.

TRICARE FEE INCREASES FOR MILITARY RETIREES

Question. Press reports indicate that the Department of Defense will recommend significant increases in TRICARE costs for certain beneficiaries, including higher enrollment fees for military retirees and their families.

What is your understanding of the Department's proposals for changes in TRICARE fees for retired soldiers, and, if they are implemented, what do you see as the likely impact of these changes on the Department of the Army?

Answer. I understand that the President's budget is proposing a new fee structure for retirees under 65 that will increase enrollment fees for TRICARE Prime, and assess new enrollment fees and increased deductibles for Standard coverage. I understand that the proposed rebalancing of cost contributions is intended to slow the rate of increase in health care costs and compensate for the increases in covered benefits. Currently, 8 percent of the total DOD budget is spent on health care, with a projection of 12 percent in 2015. This proposal will have no impact on Active-Duty personnel and minimal to no impact on TRICARE for Life beneficiaries.

Question. What is your personal view of the justification for increases in TRICARE enrollment fees for retirees and are there alternatives to such increases you would recommend if confirmed?

Answer. The DOD faces the problem of escalating health care costs shared by everyone in the United States. I do not understand all the implications of the proposal, but the provision in the President's budget appears to me to be a reasonable approach to an undeniable problem. This year's budget and authorization process will not be the final word on this matter. If confirmed, I would work with DOD officials and Congress, learn from the experience in the private sector and other governmental entities, and seek creative solutions to this challenge. There are few issues more difficult to address, both substantively and politically. In my opinion, the Department of Defense must partner with Congress and tackle this problem. The path we are on is unaffordable in the long run.

SEXUAL ASSAULT PREVENTION AND RESPONSE

Question. The Department of the Army is in the process of implementing changes in policy and procedures aimed at preventing and responding appropriately to incidents of sexual assault.

What is your view of the appropriate role for senior military and civilian leaders in the Department of the Army in overseeing the effectiveness of implementation of new policies relating to sexual assault?

Answer. The Army has initiated the Sexual Assault Prevention and Response Program. Support for this program must come from the top and address both the subtle and blatant factors that contribute to the persistence of this problem. Senior leaders in the Department must communicate by word and deed a zero tolerance policy of sexual harassment and must become personally involved in sexual assault prevention programs if they are to succeed in attacking this problem. Sexual assault is a national problem and the most under-reported crime in America. The military should provide a model for the Nation in addressing this issue. While at the Air Force, I worked on this issue and, if confirmed, would consider it a high priority. If confirmed, I will work with the Army leadership to ensure that Army leaders at all levels understand their responsibility to support fully the implementation of this critical program.

Question. What is your view of the confidential reporting options made available to victims of sexual assault as part of the revised policy?

Answer. I support affording victims of sexual assault the confidential reporting options to ensure first and foremost that victims receive the help and care they need as quickly as possible.

UNITED STATES MILITARY ACADEMY

Question. Complaints of sexual assault and harassment at the U.S. Air Force Academy in 2003 demonstrated, among other things, the importance of focused, informed oversight by service civilian and military senior leaders of conditions for female cadets and midshipmen. The Service Academy 2005 Sexual Harassment and Assault Survey completed by the Defense Manpower Data Center in December 2005 found that even with the implementation of corrective measures, sexual assault and harassment continue to be factors negatively affecting female cadets at the military academies and that the highest reported rates by cadets came from the U.S. Military Academy.

What actions would you expect to take, if confirmed, to address the problems of sexual assault and sexual harassment at the U.S. Military Academy and with respect to the Army's programs in this regard?

Answer. Senior Army leaders must communicate clearly and consistently that sexual harassment will not be tolerated and ensure that leaders at the U.S. Military Academy understand the gravity of this matter. If confirmed, I will work to ensure that the Superintendent of the U.S. Military Academy has the resources and sup-

port necessary to advance the Army's commitment to attacking this problem. The Academy must improve support for victims, together with preventive education and awareness efforts. The Academy must continue to evaluate and shape its culture to create an environment in which the cadets understand that sexual harassment is antithetical to everything the Army stands for and will not be tolerated. If confirmed, I will support the Academy's progress toward these goals.

NATIONAL SECURITY PERSONNEL SYSTEM (NSPS)

Question. The National Defense Authorization Act for 2004 provided significant new authorities for the Department of Defense to hire, pay, and manage its civilian workforce.

What is your assessment of the high priority skill needs within the Army's civilian workforce, and, if confirmed, how would you anticipate employing the new authorities of NSPS to achieve a more effective civilian workforce?

Answer. NSPS is a key pillar in the Department of Defense's transformation plans and is essential to creating an environment in which the Total Force (military personnel, civilian employees, and contractors) thinks and operates as one cohesive unit. While retaining the core values of the civil service and merit principles, NSPS allows employees to be paid and rewarded based on performance, innovation, and results. Army civilians must complement and support the military around the world in every time zone, every day. If confirmed, I will seek to leverage authorities within NSPS to promote a performance culture in which the performance and contributions of the civilian workforce are more fully recognized and rewarded. NSPS will allow the Army to be more competitive in setting salaries and afford it the ability to adjust salaries based on various factors, including labor market conditions, performance, and changes in duties. The Army will use the flexibilities provided in NSPS to attract and retain skilled, talented, and motivated people. NSPS will provide greater opportunities for Army civilians by easing the administrative burden routinely required by the current system and providing incentives for managers to turn to them first to accomplish certain vital tasks. This will free Army soldiers to focus on matters unique to the military.

Question. With respect to the Army's Senior Executive Service, what recommendations, if any, do you have to improve professional development and overall management of the Army's senior civilian executives?

Answer. I understand that the Army recently centralized the day-to-day management of its senior executives into a new office that reports directly to the Secretary of the Army. This new organization contains a separate branch dedicated exclusively to the ongoing professional development of its civilian executives. It is the Army's intent to develop these executives in a manner similar to that in which they have historically developed their general officers. This includes implementing a systematic and progressive assignment pattern leading to positions of greater responsibility. Such a program also includes periodic educational experiences to complement such an assignment plan.

SUPPORT FOR ARMY FAMILIES IN THE REBASING INITIATIVE

Question. Plans for the relocation of numerous Army units under the Department's rebasing initiative will present significant challenges to continental United States (CONUS) installations and their surrounding local communities in order to ensure adequate resources, including housing and schools, are made available.

What is your understanding of the steps being taken by the Army to ensure the successful implementation of rebasing for both soldiers and receiving communities?

Answer. Full and open communication between military officials and state and community leaders is the key to successfully implementing rebasing for soldiers. At locations impacted by rebasing, installation and garrison commanders must work closely with state officials, mayors, city managers, county commissioners and school officials to ensure that adequate schools, housing, and child care services are being planned to support an increased military population. The Army must form an effective partnership with all stakeholders to make this a success for soldiers and their families.

Question. What actions will you take, if confirmed, to ensure that the challenges associated with rebasing are met?

Answer. I do not know what my responsibilities would be in this area if I am confirmed. Realizing that rebasing must be resourced and executed over time, the Army has developed a detailed plan that prioritizes the movement and relocation of operational units, schools and headquarters. It is necessary that senior Army leadership work with Congress to ensure that the rebasing initiatives are adequately funded

and supported. I believe that my experience in working in the political arena could be valuable in this effort.

INTERSERVICE TRANSFERS

Question. At the same time that the Army and Marine Corps are working harder than ever to achieve recruiting goals, the Navy and the Air Force are planning for significant reductions in military personnel. Under section 641 of the National Defense Authorization Act for Fiscal Year 2006, an inter-service bonus for transfer of $2,500 was authorized. Additional incentives may be necessary, however, to encourage "blue to green" transfers in order to retain sailors and airmen with valuable military training, skills, and experience.

What is your assessment of the adequacy of existing incentives for interservice transfers?

Answer. This program has not achieved its goals so far and should be re-evaluated to determine what it will take to make it a success. It is in our national defense interest to promote interservice transfers. The Services must work together to make this program a success. Financial incentives alone may not be sufficient to make it succeed. Force shaping tools should be designed to support the effort. This size of the bonus should be reconsidered as, after taxes, it essentially covers only the cost of new uniforms and other expenses related to the transfer. If confirmed, subject to the direction of the Secretary, I will work with Department leadership and Congress to identify and establish programs to attract quality personnel from the other Services.

Question. If confirmed, and given your experience as Acting Secretary of the Air Force, what steps would you take to enhance the number of "blue to green" interservice transfers?

Answer. The program has not worked up to expectations so far. I believe the Army needs additional research to better understand the program's shortcomings and the lack of attractiveness of the interservice transfer option. My experience at the Air Force leads me to believe that there are issues that must be better understood if the program is to succeed and that will not be addressed solely by financial incentives.

QUADRENNIAL DEFENSE REVIEW

Question. The 2005 Quadrennial Defense Review (QDR) is the first major review of defense strategy, policies, and force structure since the attacks of September 11, 2001.

Do you think the review adequately positions the Army to face the future threats to our national security?

Answer. The 2006 QDR provides a sound strategic game plan to guide the Army in meeting the challenges it faces in today's national security environment. The 2006 QDR also recognizes the unique needs of the long global war in which the Army is engaged, including the need to rebalance Active and Reserve capabilities, expand capacity of both multipurpose and Special Operations Forces, and transform the Army Reserves from the strategic Reserve of the Cold War era to an operational force trained and equipped to meet current and future challenges. To ensure Army forces are prepared for anticipated challenges, the QDR endorses robust and continuous modernization, including accelerating the spin-outs of advanced capabilities from its Future Combat Systems into the Army modular force.

Question. Aside from validating the ongoing Army transformation to modularity, are there other structural changes you would suggest resulting from the QDR review?

Answer. Structurally, I think the Army's organizational transformation is sound, including fully manning, equipping, and training its Reserves as an operational force.

Question. Do you see the Army's roles and missions transforming along with the move to modularity?

Answer. The Army's roles and missions continue to expand. In large measure, the Nation's ground forces—multipurpose and special operations, Army and Marine Corps, Active and Reserve—are the principal deterrence force for the challenges the Army will face in the early decades of the 21st century. The roles and missions of the Reserve component is a priority of the Guard and Reserve Commission established by Congress. Future planning for the Reserve component can be enhanced by the Commission's findings.

Question. What are your views regarding the QDR recommendation to increase the role of the combatant commanders in the budget and acquisition process?

Answer. It is my opinion that the budget and acquisition process would benefit from better input from the combatant commands in identifying operational needs that influence departmental priorities; however, the Department must be careful to properly balance short-term and long-term needs. Near-term needs must not be allowed to crowd out necessary long-term investments. Military departments must continue to serve as the developers, integrators, and providers of decisive and interdependent joint capabilities, supporting the needs and priorities of the combatant commands.

ARMY FORCE STRUCTURE AND END STRENGTH

Question. The Army, pursuant to the 2005 QDR, has modified its plan to increase the number of combat brigades in the Active and Reserve components. The Army will increase the Active component force structure to 42 combat brigades and will increase the Army National Guard force structure to 28 combat brigades. This action represents a reduction from previous planning of one Active component combat brigade and six Army National Guard Brigades.

What are your views regarding the QDR recommendation to reduce the number of Army and Army National Guard combat brigades?

Answer. As a result of detailed analysis and the application of the professional judgment of senior leaders across the Department in the context of the 2006 QDR, the Army will continue to expand the capabilities and capacity of Army forces to meet the demands of the National Defense Strategy. The Army is growing capacity and building readily available combat and support forces that are fully manned, equipped, and trained. The rebalanced force will be more relevant and ready for the needs at home and abroad, today and tomorrow. The decision to change the planned 43rd Active component brigade to Special Forces is a reasonable response to the challenges facing our Nation. The Army's plan to fully man, train, and equip the Guard will provide enhanced CONUS and outside CONUS (OCONUS) capability in the Reserve component. The transition of six combat brigades to Engineering, Combat Service and Combat Service Support will provide resources better suited to the homeland and the national defense needs of our Nation.

Question. Do you believe that the QDR has sufficiently taken into consideration the Army National Guard's state mission, especially homeland security and disaster relief?

Answer. Yes, the rebalanced force will significantly increase the forces and capabilities readily available for State missions, and will provide a broader set of capabilities of increased applicability to homeland security and disaster relief operations. The Army is committed to ending the "haves and have nots" paradigm of the past. The ongoing transformation is creating, in all components, combat and support forces that are fully manned, equipped, and trained, posturing its Reserves as a ready and relevant operational force.

Question. The Army has asserted that 43 Active component combat brigades and the 34 Army National Guard combat brigades would ensure the Army could maintain a 17 brigade force deployed with Active component brigades having 2 years between rotations and the Army National Guard combat brigades having 5 years between rotations.

How will fewer combat brigades impact on the anticipated "dwell" time in the U.S. between rotations?

Answer. The current projected force pool will sustain operational commitments over the long-term without compromising the "dwell" time goals of 6:1 and 3:1. The Army Force Generation model (ARFORGEN) was developed to support sustained operations, as well as additional contingencies, and to help manage unit rotations. ARFORGEN will help reduce stress on the force by using a reset-train-deploy cycle that allows units to anticipate deployment timelines.

Question. Despite the continuing pace of operational deployments, the Army does not intend to seek permanent increases to its Active-Duty end strength as part of its overall plan to increase the number of combat brigades that can be operationally deployed.

What is your view of the Active-Duty end strength necessary to support worldwide Army operational deployments, including Operations Iraqi Freedom and Enduring Freedom?

Answer. It appears to me that there is general agreement on the need to increase the size of the pool of soldiers available for world-wide deployments. Some experts advocate a permanent strength increase. The Army leadership has developed a plan to accomplish this goal with a temporary increase in end strength and transformation of all three components of the Army to increase the number of high demand soldiers and assets. Included in this plan is the increase in the size of the

Operational Force from 315,000 to 355,000 and reduction of the size of the Institutional Force. The plan appears sound to me. It will require careful execution and sustained support and funding to be successful. The Army has been evaluating force requirements within the End Strength Plan outlined by the Secretary of the Army in August 2005. Under the Secretary's End Strength Plan, the Army is building an expeditionary, campaign quality force, capable of meeting a broad and complex array of challenges, while ensuring its forces remain the preeminent land power and ultimate instrument of national resolve. Key to this plan is the President's approval of the 30,000 temporary end strength increase above the 482,400 program that allows the operational force to undergo transformation while at the same time deploying to meeting force commitments. The effort has focused on the completion of modular transformation, aligning the force to QDR and BRAC, incorporating institutional force restructuring, to include business practice initiatives, addressing risk in combat support and combat service support structures and continuing the refinement of Active Army and Reserve component balance. The Active Army will revert to a 482,400 force in the later years of the POM.

Question. What is your assessment of the impact on individual state National Guard mission capability of the proposed cut in the Army National Guard force structure and end strength by 17,000 soldiers?

Answer. The Army leadership has committed to Congress to fund the National Guard at its actual troop strength level. This commitment was confirmed by the President Bush in his remarks on February 9. The Army will fund to whatever that level the Guard is able to recruit, up to the statutory limit of 350,000. The Army's plan to train and equip all National Guard brigades and invest $21 billion over the FYDP will enhance the ability of the National Guard to respond to state and national defense missions. This will also enhance mission capabilities and provide skills better suited to mission requirements. The plan builds up to 28 Brigade Combat Teams (BCTs) and retains 78 supporting brigades, for a total of 106. Importantly, this includes the transition of six Guard combat brigades to support and engineering brigades, increasing the number of currently high demand low density assets and personnel. The National Guard plays a central role in homeland security, while simultaneously supporting operational deployments. The Army could not perform full-spectrum operations without the contributions of the Army Guard and Army Reserve. For example, last year the Army National Guard had 10 BCTs and a Division Headquarters serving in Iraq, Afghanistan, and the Balkans for at least a portion of the year. Despite that overseas commitment, the National Guard was still capable of responding with 42,000 soldiers in 7 days to support Hurricane Katrina relief operations, with tens of thousands more National Guard and Army Reserve soldiers available as needed. The Army is committed to balancing its capabilities within and across the Active, Guard, and Reserve components. The work that the Army is doing will increase the quality and effectiveness of its fighting force and create a more capable force across all components. The Army is also increasing its capacity to ensure that the right capabilities are available to support current global operations, prevail in the war on terrorism, and respond to expanded homeland defense requirements by broadening the options available to civil authorities. This effort is essential to having the kinds of current and future capabilities and forces needed across the Army for sustaining the warfight and support to civil authorities.

Question. Based on the current demands on the Army Reserve and existing policies pertaining to involuntary mobilization, what is your view of the justification of proposed cuts in the Army Reserve Force structure and end strength from 205,000 to about 188,000?

Answer. The Army is working to balance force capabilities within and across the Active, Guard, and Reserve to develop a total force with greater capabilities and greater accessibility. This rebalancing is designed to create a larger operational Army and should improve readiness and reduce the impact on Reserve component structure. It is my understanding that the Army is budgeted to go to a 200,000 end strength, and that the Army Reserve will retain 58 supporting brigades.

Question. Based on the current demands on the Army National Guard and existing policies pertaining to involuntary mobilization, what is your view of the justification of proposed cuts in the Army National Guard force structure and end strength from 350,000 to 333,000?

Answer. President Bush and the Army leadership have made the commitment to fund the ARNG to the level it can recruit—up to its Congressionally mandated end strength of 350,000. Within this end strength, the ARNG will retain 28 combat BCTs and 78 supporting brigades.

Question. What is your opinion about the plan to reduce the total number of Active and Reserve brigade combat teams from a total of 77 to 70? Will this provide

an adequate basis for the frequency of rotations planned while still ensuring adequate assurance for successful recruiting, retention, and training?

Answer. The Army is restructuring to form a rotational pool of 70 BCTs and 211 supporting brigades of various types among the 3 components. This effort will increase the quality and effectiveness of the fighting force and create a more capable force across all components. This work also increases Army capacity to ensure that the right capabilities are available to support current global operations, prevail in the war on terrorism, and respond to expanded homeland defense requirements by broadening the options available to civil authorities.

Question. What is your understanding of the overall number of personnel the Army seeks to move from the "institutional Army" to the operational Army and how many soldier billets have already been moved?

Answer. The military/civilian conversion plan is a key component of the overall Army End Strength Plan. The Army plan optimizes the Operational Force, that portion of the Army that deploys to meet world-wide requirements, at 355,000, a growth of nearly 40,000 spaces over the fiscal year 2004 total. A two-phase approach to reduce the Institutional Army through military-to-civilian conversion is being executed. The Phase I (fiscal year 2005–2009) plan to convert 13,000 military positions to civilian fills are currently underway. Phase II (fiscal year 2008–2011) proposes to convert an additional 14,000 military-to-civilian positions and is under review by major commands. Through fiscal year 2006 the Army will have converted 9,644 Active military positions to civilian positions.

Question. What are the means the Army plans to use to accomplish these moves?

Answer. I am advised that the Army intends to accomplish this with military-to-civilian conversion, business process changes, and divestiture of functions.

Question. How does the Army propose to accomplish the functions the military billets being transferred were intended to perform?

Answer. I am advised that the Army intends to accomplish this with military-to-civilian conversion, business process changes, and divestiture of functions.

QUADRENNIAL DEFENSE REVIEW "EXECUTION ROADMAPS"

Question. The Department has announced that it will initiate eight follow-on assessments, or "2005 QDR Execution Roadmaps," following completion of the QDR with the objective of continuing to examine a wide range of key issues, including such topics as DOD Institutional Reform and Governance, Irregular Warfare, Joint Command and Control, and Strategic Communications. You have been designated to lead an assessment of "Authorities," i.e., the need for legislative and regulatory change to ensure operational effectiveness in the face of new threats.

What do you consider to be the most significant recommendations of the QDR relating to necessary changes in existing law and regulationsand what legislative and regulatory areas, in general, do you anticipate your group will explore?

Answer. The tasking of the authorities group is to seek interagency and congressional approval of the legislative proposals endorsed by the QDR. The senior leadership of the Department endorsed the proposals as key to advancing the goals of the QDR. The initiatives are top legislative priorities of the Department. The group is not tasked to consider or develop additional initiatives. The proposals are:

Building Partner Capacity

- Creation of Presidential Security Investment Fund
- Exception to Legislative Restrictions on IMET
- Expansion of COCOM's Initiative Fund
- Extension of CERP-Plus Authority to Every SSTR Operation
- Increase of Funding Cap on Counterterrorism Fellowship Program

Homeland Defense

- Expansion of WMD–CST Operations Across U.S./Canada/Mexico Borders

Human Capital Strategy

- Creation of Operational Reserve Force (15 percent SELRES)
- Expansion of Presidential Reserve Call-Up from 270 to 365 days
- Expansion of Presidential Reserve Call-Up to include response to natural disaster
- Creation of Force Shaping Options for USAF and USN

Medical Transformation

- Expansion of bonuses for Pre-Trained Specialists' Recruitment
- Increase Unspecified Minor MILCON and O&M Construction
- Health care rates

Question. Based on your experience in both the legislative branch and in the Department of Defense, what areas are in need of change?

Answer. The Department would be well served by more interagency collaboration, and early and continuous consultation between DOD and our Nation's Congress. Congress should consider expanding both the Defense and State Departments' authorities to train and equip foreign security forces. The Department should institutionalize authorities from Operations Enduring Freedom and Iraqi Freedom to conduct humanitarian assistance and stability operations. Additionally, increasing opportunities similar to International Military Education and Training (IMET) can assist in shaping relations and developing future partners.

ACQUISITION PROGRAM REFORM

Question. At an Air Force Association conference in Washington, DC, in September 2005, you outlined what you viewed as the "root causes of poor program execution" within the Air Force. You indicated that these included: unstable and expanding requirements; a lack of test community buy-in; inadequate systems engineering; unstable and unpredictable funding levels; and faulty cost estimates for new weapon systems."

Do you believe that these conditions are problems for the Department of the Army?

Answer. Yes, all of the Services face these challenges. Stability of programs is essential to delivering needed capability to the warfighter in a timely manner. This includes the requirements process, the budgeting and funding process, and testing—as well as what the Department thinks of as "traditional acquisition." Without the stability and integration of these aspects, root causes of poor program execution will not be adequately addressed.

Question. If confirmed, what role, if any, would you expect to play in the oversight of the Army's acquisition programs?

Answer. The Secretary has not informed me of his plans for my role in the acquisition process. Reform of major acquisition programs is a priority in the Secretary of the Army's Business Transformation Initiatives. His goal is to streamline or eliminate redundant operations to free financial and human resources to redirect to core warfighting missions. If confirmed, I would enthusiastically support the Secretary's initiative.

DETAINEES

Question. If confirmed, what do you see as your role, if any, with respect to issues pertaining to detainees?

Answer. The Secretary has not told me of his plans for my involvement in detainee matters. The Army is the DOD Executive Agent for administering detainee operations policy. The Secretary of the Army should continue to coordinate with OSD, the combatant commands and Joint Staff, and with other Services to broaden its capability to source and sustain short-term and long-term detainee operations in support of the global war on terrorism. I have worked in this area since May 2004. I believe I could offer relevant experience in this area if asked to by the Secretary.

Question. In addition to corrective actions taken by the Army to correct detention and interrogation policies, what are the leadership lessons the Army learned from incidents involving abuse of detainees, and, in your view, how should these lessons be incorporated into the professional military education of Army officers?

Answer. In post September 11 operations, the Department of Defense experienced a paradigm shift in detainee operations from the Cold War model—in which DOD detained a disciplined, uniformed Enemy Prisoner of War (EPW) population—to the current environment in which DOD detains a complex set of enemy combatants, characterized by high-risk insurgents and terrorists. The Department is adapting to meet these challenges. The Army should continue to leverage the lessons learned in over a dozen strategic detainee assessment and investigative reports. Army leaders must ensure that the Army completes and effectively implements the programmed adjustments to its current doctrine, organizations, training, leadership and education. These adjustments will better enable Army leaders to anticipate, plan, prepare, and execute detainee and detainee interrogation operations.

DOMESTIC SURVEILLANCE

Question. Policies relating to domestic surveillance currently are a matter of intense interest currently as a result of Presidential directives to the National Security Agency following the attacks of September 11, 2001. The activities of Army intelligence components which affect United States persons are governed by Executive

Order 12333, DOD Directive 5240–1 (DOD Intelligence Activities), and Army Regulation 381–10 (U.S. Army Intelligence Activities).

What is your understanding of how the Department of the Army oversees the implementation of its intelligence oversight program?

Answer. The Army employs a number of mechanisms to ensure effective oversight of intelligence activities at all levels of staff and command. The Deputy Chief of Staff, G–2 is responsible for formulating the Army's Intelligence Oversight policy and maintaining its currency and compliance with the laws of the United States. Army policy on intelligence oversight requires that intelligence oversight officers be appointed in all Army organizations with an intelligence mission. The Army General Counsel exercises oversight of Army intelligence activities on behalf of the Secretary of the Army, especially as pertains to the legality and propriety of such. The Inspector General (TIG) of the Army has a cadre of personnel with intelligence expertise who conduct inspections worldwide of Army intelligence organizations for the purpose of ensuring compliance with intelligence oversight directives. The TIG is also responsible for receiving and coordinating reports of questionable intelligence activity in the Army. The Army has mandated annual training on intelligence oversight in all intelligence organizations. The Commander, Intelligence and Security Command, employs staff legal officers at all levels of command to oversee intelligence operation, ensuring legality and propriety.

Question. How does the civilian leadership of the Department maintain effective oversight to ensure compliance?

Answer. The principal mechanism for ensuring compliance with intelligence oversight policy in the Army is the intelligence chain of command, which maintains oversight of intelligence activities through the use of intelligence oversight and staff legal officers embedded in their organizations. In addition, all intelligence personnel, supervisors, and commanders in the Army are required to be familiar with Army policies and to ensure that their intelligence activities are compliant. The Deputy Chief of Staff, G–2 exercises oversight through his staff, which is responsible for ensuring that he is knowledgeable of significant intelligence activities in the Army. Additionally, the Department of the Army Inspector General conducts periodic inspections of intelligence unit oversight programs and processes.

MILITARY ROLE IN DOMESTIC EMERGENCIES

Question. The shortfalls in the emergency response to Hurricane Katrina along the Gulf Coast have resulted in debate about the appropriate role of the Department of Defense and the Armed Forces in responding to domestic emergencies.

In your view, should the Army have a more expansive role in responding to natural disasters?

Answer. The administration and Congress are engaged in a comprehensive review of our Nation's preparedness for domestic disasters in the light of the Katrina response. Until that review is complete, I want to reserve judgment on the question of an expanded Army role. As far as Army capability, the Army plan to invest $21 billion over 5 years in the Guard and transitioning six Guard combat brigades to Engineering, Combat Service and Combat Service Support will enhance the Guard's ability to respond to domestic incidents. The Department of Defense's primary missions are to protect the United States, prevent conflict and surprise attacks, and prevail in war.

Question. What is your assessment of the Army National Guard's ability to meet its state contingency and homeland defense missions, given its operational commitments overseas, current equipment shortfalls, and proposed reductions in force structure and budget?

Answer. The Army National Guard has proven itself capable of meeting its homeland defense mission while providing vital support to international operations, even with the heavy demands placed on it following Hurricane Katrina last year. The Guard has been stretched in responding to the demands placed upon it since September 11, but it has met all of the challenges it has been asked to undertake. As the President recently acknowledged, "Across the world and on every front, the men and women of the Guard are serving with courage and determination, and they're bringing us to victory in the global war on terror." The Army's 5-year plan will further enhance the Guard's ability to meet domestic and international obligations. The Army plans to fully man, train and equip all Guard units and invest $21 billion in equipping the Guard over the next 5 years. By converting six combat brigades to Engineering, Combat Support and Combat Service Support, and increasing the availability of high demand assets and skills, the Guard's ability to respond to domestic and international contingencies will be strengthened. The plan to institute a 1 out of 6-year deployment maximum will provide predictability and stability for

members of the Guard, their families and their employers. I am confident that the Army's plan for the Guard will improve its ability and continue its record of service so vital to security of the country and peace in the world.

AERIAL COMMON SENSOR

Question. On 2 August 2004, the U.S. Army awarded a $879 million system design and development contract for the Aerial Common Sensor (ACS). ACS was intended to serve as the next-generation airborne intelligence, surveillance, reconnaissance (ISR) and target identification system. Furthermore, ACS was designed to replace current aircraft including, the Army's Guardrail Common Sensor, the Airborne Reconnaissance Low aircraft, and the Navy's fleet of E–P3 aircraft. The ACS program was terminated on 12 January 2006.

What is your assessment of the Army's ability to meet the near-term signals intelligence needs given a current shortage of Guardrail Common Sensor systems?

Answer. The Guardrail Common Sensor fleet has been in heavy demand since September 11, providing the tactical maneuver commander with actionable signals intelligence in both Iraq and Afghanistan. The fleet will remain in high demand for the foreseeable future. I understand that the Army is modernizing the system's core capabilities, based on feedback from commanders, better to support the warfighter. Additionally, the Army is modernizing the Airborne Reconnaissance-Low fleet with a modern signals intelligence payload to help prosecute high priority targets in Iraq and relieve demands on the Guardrail fleet.

Question. In your opinion should the Army, and its initial ACS partner, the Navy, continue to collaborate to find a joint service solution to meet the needs of the ISR gap particularly since some Navy EP–3s have already reached retirement age?

Answer. I do not have the knowledge to offer an informed opinion on the value of continued collaboration. I understand that the Army and Navy are in the process of completing the Joint ISR study that was directed by OSD as a result of the ACS contract termination. The study, which will be completed sometime this summer, will help inform the Services' discussions on the best path forward regarding ACS.

SUPPORT FOR WOUNDED SOLDIERS

Question. Wounded soldiers from Operations Enduring Freedom and Iraqi Freedom deserve the highest priority from the Army for support services, healing and recuperation, rehabilitation, evaluation for return to duty, successful transition from Active-Duty if required, and continuing support beyond retirement or discharge.

What is your assessment of the effectiveness of Army programs now in place to care for the wounded, including the Wounded Warrior Program, and programs for soldiers in a medical hold status?

Answer. The U.S. Army Wounded Warrior Program (AW2) is an outstanding program and has been effective, but the Army must always strive to improve services in this critical area. This outreach-driven program provides severely-wounded soldiers and their families with a system of advocacy and personal support from the time of initial casualty notification to return to military service or to the civilian sector. If confirmed, I will be committed to ensuring that injured soldiers receive the best care possible and receive support to address their needs and issues throughout the recovery process and beyond. I will continually assess the effectiveness of this program and would like to work with Congress and the private sector to develop innovative programs tailored to the long-term needs of our severely wounded soldiers.

Question. How does the Army provide follow-on assistance to wounded personnel who have separated from Active service? How effective are those programs?

Answer. I understand that AW2 Soldier Family Management Specialists initiate and maintain contact with Veterans Affairs (VA) personnel providing VA services to soldiers while they are on Active-Duty and through their transition to veteran status. The AW2 and the VA have forged a strong relationship to provide comprehensive assistance to wounded Army personnel. The Army assigns a VA Liaison in the VA Seamless Transition Office to allow the AW2 to ensure wounded soldiers receive optimal and timely services and to close potential gaps that may arise in the transition process. Based on the information I have received thus far, the Army is doing a good job in providing necessary follow on assistance to wounded personnel; however, as stated above, I would like to see DOD (all Services), VA and Congress continue to explore innovative approaches to this challenge.

Question. If confirmed, are there additional strategies and resources that you would pursue to increase the Army's support for wounded soldiers, and to monitor their progress in returning to civilian life?

Answer. If confirmed, I would work with Department leaders, Department of Veteran Affairs (VA) and Congress to continue to seek innovative approaches to this critical challenge. To properly monitor progress of its wounded soldiers, the Army must continue to develop and implement a decision support and soldier tracking system. The Department must also continue strategies that will result in health care advances and promote rehabilitation research for its severely injured soldiers with traumatic injuries. Private industry should be engaged in pursuing strategies for expanded employment opportunities.

JOINT ACQUISITION PROGRAMS

Question. What are your views regarding joint acquisition programs, such as the Joint Tactical Radio System (JTRS) and the Joint Strike Fighter?

Answer. There are great efficiencies to be gained by joint programs as opposed to individual Service procurements. Joint programs have the advantages of: economies of scale, reduction in Service spares inventories, and Service sharing of training costs. However, the critical start-point for a joint program is a "joint" requirement. Without a solid joint requirement, it is doubtful that a joint acquisition program will be cost effective.

The JTRS program has been plagued with problems. The management of the program was not established with a clearly defined chain of command and decision making mechanism. The Army, as executive agent, attempted to manage the JTRS program, but different Service desires, lack of discipline in requirements growth, and the complexity of the program, hampered those efforts. Earlier this year, the Department changed the management structure by establishing a Joint Program Executive Office with the requisite authority to manage the program. I believe this to have been a positive change that will accelerate the development and fielding of the JTRS program.

Question. Do you see utility in encouraging the Services to conduct more joint development, especially in the area of helicopters and unmanned systems?

Answer. Yes, I believe a joint development approach has utility for helicopters and unmanned systems and for all types of systems used by multiple Services. A successful joint program demands that the Services develop a well defined joint requirement as a starting point and vigilant oversight and discipline thereafter.

Question. If so, what enforcement mechanisms would you recommend to implement more joint program acquisition?

Answer. I have not received sufficient information on the scope of the problems and the challenges confronting joint programs acquisition to make fully informed recommendations. If confirmed, I will, pursuant to the Secretary's guidance, work with Army Department acquisition leadership to address this area.

MORALE, WELFARE, AND RECREATION

Question. Morale, welfare, and recreation (MWR) programs are critical to enhancement of military life for members and their families, and must be relevant and attractive to all eligible users, including Active-Duty and Reserve personnel and retirees.

What are the challenges in sustaining Army MWR programs that you foresee, and, if confirmed, what improvements would you seek to achieve?

Answer. I agree that high quality and affordable MWR programs are critical in providing the quality of life that soldiers, their families and retirees deserve. This must be a priority for all the Services and must be properly funded. The challenge is for Garrison Commanders to provide quality programs and effectively compete for and manage resources to maintain viability of Army MWR programs. If confirmed, I will seek to ensure that MWR programs meet the Army's standards for service delivery and satisfy soldiers' priorities and needs.

SOLDIERS' POST-DEPLOYMENT HEALTH CONCERNS

Question. The health-related problems experienced after Operations Desert Shield and Desert Storm led to the Department, at Congressional direction, undertaking extensive efforts to establish a comprehensive health database on deployed forces based on pre- and post-deployment health surveys.

If confirmed, what actions would you expect to take to ensure that the Army uses available data on the health of returning soldiers to ensure that appropriate treatment is available and that all signs of deployment-related illnesses or potential illnesses are identified?

Answer. It is critical that all the Services have in place an effective system to identify deployment-related illnesses as quickly as possible, evaluate and address the adequacy of available behavioral health support services, and address any short-

falls. In an effort to ensure early identification and treatment of emerging deployment-related conditions, the Army has implemented the Post-Deployment Health Reassessment Program. Under this program, soldiers will be evaluated 90–180 days post-deployment in an effort to identify health concerns.

REQUIREMENTS AND PLANNING PROCESSES

Question. For the last several years, the Department of Army has relied on supplemental and reprogrammed funds to help pay for ongoing operations in the global war on terrorism and for Army modularity. Funding for expected ongoing operations and planned Army modernization efforts are not yet part of the Army's annual requirements and planning process.

What changes in the Army's planning process do you view as necessary to mitigate the need for supplemental funding and extensive reprogramming requests?

Answer. Recent years' supplemental funding and reprogramming requests were to support the sustained level of conflict in Iraq and Afghanistan, evolving operational and security requirements, and repair or replacement of the equipment used in those conflicts. Such wartime needs are immediate in nature, unpredictable, and difficult to incorporate in budgets planned a year in advance of their execution. If confirmed, I will work to identify and incorporate better planning tools, recognizing however, that annual budgeting will never accurately anticipate nor fully incorporate the costs of war and obviate the need for supplemental funding.

Question. As rising personnel and operations and maintenance costs expend an increasing portion of the Army's budget authority, and as competing demands for Federal dollars increase in the future years, the Army will have to address the challenges of modernization and transformation with fewer and fewer resources.

What changes would you recommend to the way the Army prioritizes resources to maintain the momentum of Army transformation, while at the same time reducing future force protection shortfalls?

Answer. While I cannot speak to the criteria currently used in Army prioritization, the QDR sets the course for future capabilities and defense forces. The transformation to Army Modular Force structure and continued investments in force protection will be key elements of the Army's role in achieving that force. I believe the roadmap for change in the QDR should provide the overall framework for Army resource priorities. From that will follow sustained transformation momentum and enhanced force protection. I expect budgets will continue to be a struggle in years ahead. The Army must work closely with Congress to ensure that the mission critical needs are funded.

RELATIONSHIPS WITH CONGRESS

Question. Effective coordination and consultation between the Department and the congressional defense committees—especially with regard to force structure issues—continues to be a challenge. Having served four terms in the House of Representatives, as a Special Assistant to Secretary Rumsfeld, and as Acting Secretary of the Air Force, you have extensive knowledge and experience about the manner in which effective legislative and executive branch relationships should be conducted.

If confirmed, what proposals or suggestions for the Department of the Army, if any, would you expect to make?

Answer. If confirmed, one of my highest priorities would be to work with the Secretary of the Army to enhance the Army's coordination and communication with Congress, Members, and staff. Given my background, I understand the constitutional role of Congress in national defense matters and the need for effective, prompt, and accurate communication with Congress. Effective and trusted working relationships with Congress are critical to the success of every Army endeavor.

FUTURE CARGO AIRCRAFT

Question. What is your view of the proper roles and missions for the Army and Air Force in supplying front line troops?

Answer. When it comes to intratheater airlift, specifically at the strategic and operational levels, no one in the world can match the U.S. Air Force's ability to deliver personnel, supplies, equipment, or outsized cargo rapidly across strategic distances. Within a theater of operations, it is necessary that the Army maintain an organic rotary and fixed wing capability to meet the Army's need to transport personnel and mission critical materiel within a theater of operations.

ARMY MODULARITY INFRASTRUCTURE

Question. The Army used emergency authorities in 2004 to procure and install temporary facilities to support modularity units preparing for deployments in support of the global war on terrorism. The cost of installing these temporary facilities will exceed $1.4 billion in combined military construction, procurement, and operations and maintenance funds, resulting in hundreds of trailers at each of ten locations around the country to house and provide work areas for over 40,000 Army personnel for an undetermined amount of time.

If confirmed, what plans would you propose to address the Army's requirement to provide adequate, permanent living quarters and work facilities for personnel affected by the Army's transformation initiatives?

Answer. The Army provided temporary facilities over the last 2 years because permanent Army Modular Force basing decisions were not made until BRAC decisions were approved. The fiscal year 2007 budget requests funding to start providing adequate, permanent facilities at U.S. installations impacted by Army Modular Force transformation initiatives. Soldiers and their families are the foundation of the Army and they must have the quality housing they deserve. If confirmed, I will work to ensure budgets provide sufficient funding to give all personnel and their family's quality living and working conditions.

Question. In your opinion, what policy and guidance should be implemented in order to ensure that the relocation of forces into temporary facilities does not detrimentally affect morale and the quality of life afforded Army personnel and their families?

Answer. Where interim facilities are being used, the Army must continue to ensure that they are quality structures, while at the same time programming and budgeting for permanent facilities. Local commanders must carefully monitor living conditions and the impact on morale and be prepared to address any problems that occur. Senior Army leadership should be prepared to support commanders in their efforts to address concerns. "You recruit the soldier, you retain the family."

HOUSING AND BARRACKS PRIVATIZATION

Question. In recent years, the Department of Defense and Congress have taken significant steps to improve family housing. However, it will take many more years and a significant amount of funding to adequately meet the Department's housing needs. The housing privatization program was created as an alternative way to speed the improvement of military family housing and relieve base commanders of the burden of managing their family housing.

What are your views regarding the privatization of family housing?

Answer. I strongly support using the authorities provided by Congress in 1996 to privatize military family housing. The program continues to demonstrate success in leveraging appropriated funds and housing assets to improve the quality of family housing quickly and economically. As of 1 February 2006, the Army has privatized family housing at 27 locations—over 64,000 homes. At these 27 locations, the scope of work during the initial development period is estimated to be $8.4 billion, of which the Army contributed $562 million in direct support. Although most projects are in the early stages of initial development, the Army has constructed over 4,700 new homes and renovated 6,600 more. I expect the program will continue to show success in improving the quality of life for soldiers and their families.

Question. What are your views regarding the privatization of unaccompanied barracks?

Answer. In light of the successes in family housing privatization, the Army should examine the potential costs and benefits for privatizing unaccompanied personnel housing (including barracks, and single senior noncommissioned officer and officer housing). However, any decision regarding replacing current barracks with privatized apartments must consider: standardization, impact on warrior ethos and unit cohesion, access of non-military personnel, and costs.

Question. If confirmed, how would you recommend that the Army use privatization as a means to address the Army's unaccompanied housing requirements?

Answer. Further study is required before committing to a large scale program. The Army is reviewing some smaller scale projects for possible implementation in the near future.

Question. In addition to MILCON and privatization, do you believe a change in existing unaccompanied housing policy to permit more unaccompanied personnel to reside off base is needed?

Answer. I am not sufficiently familiar with this issue to ascertain whether policy changes are required at this time. In 2005, the Army began allowing unaccompanied personnel in the grade of E–6 to receive basic allowance for housing and reside off-

post. (Personnel in the grade of E–7 and above already were allowed to receive BAH and reside off-post.) Garrison Commanders may authorize unaccompanied junior enlisted soldiers to reside off-post when space is not available on post. I believe that the Army should continue to review its policies to ensure that all soldiers are adequately housed.

OVERSIGHT OF THE ARMY CORPS OF ENGINEERS

Question. In the wake of Hurricanes Katrina and Rita, the U.S. Army Corps of Engineers has assumed a key role in the development and supervision of repairs to our critical infrastructure in the region, in particular, the levee system in New Orleans, Louisiana.

If confirmed, what role do you expect to have in the oversight of activities conducted by the Corps of Engineers?

Answer. Under current Army guidance, the Under Secretary of the Army exercises oversight responsibility for Army Civil Works functions. If confirmed, barring a change in guidance, I would provide this oversight through the Assistant Secretary for Civil Works who is responsible for supervision of the Army Civil Works program, the Corps of Engineers' reimbursable activities in support of other non-Department of Defense agencies, and the Corps international activities other than those directly in support of U.S. forces overseas. If I am confirmed, I would expect to serve as an advisor to the Secretary of the Army on all matters related to these programs that may come to the Secretary's attention.

BASE CLOSURES AND REALIGNMENTS

Question. The 2005 Defense Base Realignment and Closure (BRAC) has concluded and the military services are in the process of developing business plans for the implementation of BRAC decisions.

What do you see as the responsibilities of the Department of the Army in implementing BRAC decisions?

Answer. The Army is responsible for executing both the Army's BRAC recommendations and a portion of the joint cross service group recommendations, as assigned by the Under Secretary of Defense (Acquisition, Technology, and Logistics). For this part of the BRAC recommendations, the Army is developing implementation plans and budget justification materials, and will execute the program in accordance with those plans and the BRAC appropriations.

Question. What do you see as the priorities of the Department of the Army in implementing BRAC decisions?

Answer. I understand that the Army, faced with the Iraq/Afghanistan deployments, the Army plans to invest the bulk of the BRAC funding for fiscal year 2006 and 2007 in the movement of the tactical Army units that are in rotation schedule for deployment to support modularity and the return of overseas forces. The Army also plans to invest in the movement of two schools that train soldiers and the movement of associated headquarters and administrative organizations. While completing these three priorities, the Army will construct 125 Armed Forces Reserve Centers over the 6-year implementation period.

Question. When will the Army have the BRAC implementation plans completed?

Answer. The Army has developed implementation plans and these plans become the basis for the initial BRAC budget justification material for fiscal year 2006–2011. This budget document was submitted to OSD and is currently in review with the Deputy Under Secretary of Defense (Comptroller) and the Deputy Under Secretary of Defense (Installations and Environment).

Question. When will Congress be able to review this plan?

Answer. It is my understanding that DOD will release the Army's volume of the BRAC budget justification materials along with the other component's budget justification materials as part of the fiscal year 2007 President's budget detail. It is also my understanding that the Army does not yet have a release date.

Question. The DOD installation closure process resulting from BRAC decisions has historically included close cooperation with the affected local community in order to allow these communities an active role in the reuse of property. In rare cases, the goals of the local community may not be compatible with proposals considered by the Department of Defense. For example, the recent closure of the Walter Reed Medical Center in Washington, DC, will present opportunities for both the local community and the Federal Government to re-use the land based on potentially competing plans.

If confirmed, what goals and policies would you propose to assist affected communities with economic development, revitalization, and re-use planning of property received as a result of the BRAC process?

Answer. As a Member of Congress, I represented a community that had an Air Force base closed in the 1991 BRAC. I worked extensively on the re-use plan for the facility. If confirmed, and with the guidance of the Secretary, I will work closely with the Office of Economic Adjustment, the Local Redevelopment Authorities, the Governors, and other appropriate State and Local officials to accelerate the property disposal process whenever possible. The Army has completed the initial phase of Federal screening and is in the process of evaluating applications and notifying local communities of the Federal interest in the Army BRAC properties. This process will be complete with the determination of surplus decisions. From there the Local Redevelopment Authorities must submit redevelopment plans that will be folded into the Army property disposal process.

Question. What lessons did the Army learn during the BRAC process that you would recommend be included in future BRAC legislation?

Answer. I believe the Army is generally satisfied with the current BRAC authorities, and, if confirmed, I look forward to working with Congress to execute BRAC 2005.

CONTRACTORS ON THE BATTLEFIELD

Question. More and more of the Department's maintenance and support functions are outsourced. These "contractor logistics support" agreements have resulted in the deployment and employment of civilian contractors in combat areas.

What problems have emerged for the Department as a result of increased numbers of contractors on the battlefield?

Answer. The Department has identified several focus areas, including knowing the exact location of contractor personnel who are deployed with the armed forces; force protection issues and arming of civilians; delineating command/control responsibilities over contractor personnel with contract language; and providing life support for deployed contractors which have proven to be problematic. The Army has developed doctrine and policy to address accountability and force protection for contractor personnel. The Army is working to improve housing, dining facilities and other life support to deployed contractor personnel. If confirmed, I would work to ensure that the Army policies and procedures effectively address these areas.

Question. What is the status of the Department's initiative to review over 300,000 military billets to determine the feasibility of shifting various functions into the civil service and private sector for potential outsourcing?

Answer. The 300,000 military billets are Department-wide. I understand that the Army's goal is to grow the Operational Army from 315,000 to 355,000 soldiers by 2013. The Army plans to rely on military-to-civilian conversions and business transformation to accomplish this change. Through fiscal year 2006, the Army will have converted 9,644 Active military positions and realigned these positions to the operating forces.

INVESTMENT IN WEAPON SYSTEMS ACQUISITION

Question. The investment budget for weapon systems has grown substantially over the past few years to $150 billion per year. An increasing share of this investment is being tied up in "mega systems" like Joint Strike Fighter, Future Combat Systems, and Missile Defense Agency.

How can we sustain this growth at the same time we are covering the increasing costs of operations, Army modularity, and asset recapitalization?

Answer. The DOD cannot sustain the rate of increase and cost overruns in major defense systems that it has experienced over the last decade. Acquisition reform is necessary and should be a top priority of the Department and Congress. I understand that the Army is attempting to mitigate cost growth first by using evolutionary development strategies. The Army plans to reduce costs through standardization, economies of scale, equipment standardization, requirement discipline, and common unit designs. More needs to be done DOD-wide. If confirmed, I would seek to work with Congress in this critical area.

Question. How can the budget absorb this kind of cost growth in mega systems?

Answer. The Army has terminated numerous programs and reinvested the proceeds into FCS and into technologies that could be quickly fielded to current forces. The Army has leveraged technologies developed in these terminated systems into the development of FCS systems such as the Non-Line-of-Sight Cannon. If confirmed, I will continue to leverage resources by examining how the Army could use equipment jointly and multiplying its capabilities through joint networks, such as the Single Integrated Air Picture. I also would seek the reduction of costs in all areas of operations through business transformation initiatives. In my opinion, this

must be a high priority for the Department and for Congress if progress is to be made in this critical area.

FORCE PROTECTION PROGRAMS

Question. Over the past several years, the Army, with the assistance of Congress, has spent billions of dollars on force protection measures (e.g., Interceptor Body Armor, up-armored high mobility multipurpose vehicles, counter-improvised explosive device measures) primarily using supplemental appropriations.

If confirmed, how would you ensure that the Army continues to support and fund force protection programs, even in the absence of supplemental appropriations provisions?

Answer. If confirmed, I would share the view held by Army leadership and place the highest priority on force protection measures in developing the Army budget and support OSD and the other Services in this area. In the area of force protection, the war drove dramatic changes to respond to an adaptive enemy. The Army has worked diligently to provide the best and tested force protection equipment in the world to soldiers, but can never be satisfied and must be relentless in its efforts to do better. Supplemental funding has been required to support the costs associated with quantities, technology, and tactics required to quickly respond to the changes. The effort has received strong support and leadership from Congress, with over $5 billion in funding for Up-Armored HMMWVs and Armor Kits, for over $2 billion in body armor, and millions of dollars for other efforts. While the loss of one soldier is too many, these programs are showing dramatic results in protecting soldiers. For the longer term, the Army is integrating force protection initiatives into the Army at large. Force protection is a broader issue than adequate funding and fielding improved equipment. It requires innovative research and development, evolving training, refinement of tactics, and changes in doctrine to adapt to an adaptive enemy. If confirmed, I am committed to continuing a proactive and aggressive approach to this area.

TECHNOLOGY TRANSITION

Question. The Department's efforts to quickly transition technologies to the warfighter have yielded important results in the last few years. Challenges remain in institutionalizing the transition of new technologies into existing programs of record and major weapons systems and platforms.

What challenges to transition do you see within the Army?

Answer. In fighting the current war on terrorism, the Army has had significant success in fielding improved technology to its soldiers and the other Services as part of the Joint Forces. These include Force Protection technologies, such as the Warlock family of Improvised Explosive Devices countermeasures and the Soldiers' Enhanced Small Arms Protective Inserts. Rapid technology transition challenges are not unique to the Army. The major challenges are technical complexity and maturity, programmatic timing and stable resources. Fielding new technologies has inherent risks. The Army's strategy is to maintain its science and technology (S&T) investments to mature technology sufficiently for rapid transition into its acquisition programs based on operational needs and the flexibility within Programs of Record to accept new technology.

Question. If confirmed, how would you ensure that technologies are rapidly transitioned from the laboratory into the hands of the warfighter?

Answer. If confirmed, I will work with the Secretary and the Chief of Staff to improve the Army's acquisition processes to reduce cycle time for technology transition into useful capability. The Army, with the help of Congress, has embraced the concept of Spiral Technology Development and has applied that to its largest program of record, the Future Combat System. If I am confirmed, I will work to overcome obstacles or inefficiencies and ensure the Army seizes opportunities to insert technology into the Current Force to meet operational needs and improve capability.

Question. What steps would you take to enhance the effectiveness of technology transition efforts?

Answer. If confirmed, I will work with the Army Acquisition and its warfighting requirements professionals to ensure that we identify improvements to warfighting systems capabilities that are offered by new technologies. The decisions to transition these technologies must be based on operational needs. The Army is enhancing technology transition efforts by increasing its use of Technology Transition Agreements between the S&T developers and the FCS Program Manager (PM). These agreements between the technology community and the acquisition PM clearly define the technology "products" relevant to the program and when they are available.

OFFICER PROMOTION SELECTION BOARDS

Question. Under section 506 of the National Defense Authorization Act for Fiscal Year 2006, the Services must provide substantiated adverse information to promotion selection boards for officers in the grades of O–7 and above.

What problems, if any, do you foresee in the Army's ability to implement this requirement?

Answer. At this time, I am informed that the Army does not anticipate problems implementing this requirement. The Army has a system for providing adverse information to General Officer Selection Boards. In the event an officer is selected and adverse information is discovered or substantiated after the board adjourns, the Army has a post-board review process. This process, if necessary, could require the convening of a Promotion Review Board to determine if the adverse information is grounds for changing a board's recommendation.

Question. OSD is preparing guidance for the Services concerning the implementation of this provision and the Army is awaiting specific guidance on any revisions the Army might need to make to its current processes.

If confirmed, what guidance would you provide to promotion selection board members about the manner in which such adverse information should be considered?

Answer. When considering the impact of substantiated adverse information on an officer being considered for promotion, board members must make a determination that the qualifications and potential of that officer outweigh the qualifications and potential of the next officer on the Order of Merit List who was not tentatively recommended for promotion. In applying this standard, board members must keep in mind that the selection of an officer for promotion to (or within) the general officer ranks should be based on the highest standard that exists. The substantiated information must be considered as part of an officer's overall record and performance of duty, and should be weighed to determine how it may reflect on an officer's judgment, integrity, or other qualities necessary to demonstrate potential to perform at a higher grade. Ultimately, board members must endeavor to recommend officers who have consistently demonstrated the highest standards of integrity, personal responsibility, and professional ethics. Board members must be convinced that the selection of an officer with substantiated adverse information is in the Army's best interest. It is their discretion to recommend for promotion a clearly deserving officer despite substantiated adverse information.

INVESTMENT IN INFRASTRUCTURE

Question. Witnesses appearing before the committee in recent years have testified that the military services underinvest in their facilities compared to private industry standards. Decades of underinvestment in installations has led to increasing backlogs of facility maintenance needs, substandard living and working conditions, and has made it harder for the Services to take advantage of new technologies that could increase productivity.

Do you believe the Department of the Army is investing enough in its infrastructure? Please explain.

Answer. Despite the current operations tempo, the Army is making steady progress in reducing the backlog of restoration and modernization with current levels of military construction funding. However, unless the Army is able to maintain these investments through a steady and predictable infusion of sustainment dollars, gains will erode. The Army continues to focus on its most critical needs and balance resources against competing requirements, i.e., quality of life, equipping and resetting the force, military pay, medical care, enlistment/reenlistment incentives. Facilities are a high priority but compete for scarce resources.

BODY ARMOR

Question. Since combat operations began in Afghanistan in 2001, there has been a need to improve individual protection for our service members on the battlefield. As requirements emerge, the Army has responded in several ways, e.g., by speeding up production of the new Interceptor Body Armor (IBA) to replace the older, less capable, Kevlar body armor for everyone in the combat zone, not just the ground combat units. Most recently, as a result of a study done for the Marine Corps, by the Armed Forces Institute of Pathology (AFIP), the Army is in the process of buying side plates to improve the overall effectiveness of the IBA.

Do you believe the Army's programs to protect its soldiers adequately address the requirements for its personnel in combat zones, and if confirmed, what, if anything, would you do to accelerate the program?

Answer. Soldier protection is the highest priority at all levels within the Department and, if I am confirmed, will be my top priority. The Army continually receives input from commanders in the field and rapidly provides solutions to the battlefield commander. As new technologies emerge, the Army must continue to work aggressively with industry to develop, test, produce, and rapidly field the best possible equipment for its soldiers. Body and vehicle armor is only part of the answer. The Department must continue its focus on counter-IED technology and improving operations. The enemy constantly changes its tactics to exploit seams. Techniques, tactics, and procedures must constantly evolve to meet the changing threat. If confirmed, I will, pursuant to the Secretary's guidance, work with Army leadership in support of these efforts.

EQUIPMENT RESET

Question. The ongoing requirements of the global war on terror have significantly increased usage rates on the services equipment. As a result, we know there will be a requirement to "reset" the force once combat operations wind down. However, given the ongoing nature of both the war in Iraq, and the larger war on terror, we need to ensure that our force remains ready to respond to whatever contingencies are required.

Do you think that the Army's equipment reset program meets the requirements of the global war on terror, as well as the requirements for changing to a modular force?

Answer. The Army's budget provides a reset program that meets the equipment requirements for the global war on terror as well as the requirements for changing to a modular force. The Army is committed to ensure that soldiers have what they need to fight and win the global war on terror. The Army's primary supporting effort is transforming to a more agile and lethal force—modularity. The purpose of the total Army's (Active and Reserve) reset program is to restore unit equipment used in the global war on terror to full operational capability. Reset, together with the procurement of new equipment, and the Army's Force Generation Management Model (ARFORGEN), meets the Army's equipment needs for both missions. In order for the Army to continue resourcing its equipment requirements for the global war on terror and transition to Modularity, it is essential that the Army work with Congress to gain its ongoing support.

SPECIAL OPERATIONS CIVIL AFFAIRS UNIT

Question. What is your view on whether all Civil Affairs (CA) units should remain within the Special Operations Command? Please explain.

Answer. In accordance with the QDR 2005 directive, all U.S. Army Reserve Civil Affairs (CA) and Psychological Operations (PSYOP) Forces will transfer from the U.S. Special Operations Command (USSOCOM) to the U.S. Army Reserve Command (USARC). USSOCOM will retain the proponency function for all Army CA and PSYOP capabilities and thereby remain connected to the USAR CA and PSYOP for qualification training, doctrine development, and force structure design. In close coordination, USSOCOM, USARC, and the US Army Special Operations Command (USASOC) are analyzing the requirements and developing the execution plan for this action. USSOCOM will provide the plan to OSD Programs, Analysis and Evaluation by March 30, 2006.

Question. With the goal of maintaining skills and enhancing professional advancement of CA personnel, what advantages and disadvantages do you see in integrating Reserve and Active component units and personnel?

Answer. It has been explained to me that the advantages of integration for Active and Reserve Forces outweigh the disadvantages. Army Modularity and the ARFORGEN model formally link AC and USAR capabilities and doctrine. The proponency and responsibility for all CA and PSYOP is in the Active Army under USSOCOM. This ensures a common baseline standard for qualification, doctrine and force structure. Integrating the AC and USAR Civil Affairs and Psychological Operations capabilities operationally has been shown to be beneficial to both components as they each bring complimentary capabilities to the supported force and receive the benefit of learning from the strengths of the other. Integrating these CA and PSYOP capabilities enhances the overall capability available to the Regional Combatant Commander to address Civil-Military issues from the tactical to the strategic, National Policy, level.

STABILITY OPERATIONS

Question. What do you view as the highest priorities for the Army in implementing the recently issued DOD Directive 3000.05, "Military Support for Stability, Security, Transition, and Reconstruction Operations"?

Answer. I believe that the Department should work toward building strong International and Interagency partnership capabilities to enhance Stability, Security, Transition and Reconstruction Operations. Continued support for existing proven programs, such as IMET, Foreign Military Training, Security Assistance and Cooperation should continue. The Services should also focus on improving planning, information sharing, increasing language and cultural awareness training and education.

CONGRESSIONAL OVERSIGHT

Question. In order to exercise its legislative and oversight responsibilities, it is important that this committee and other appropriate committees of Congress are able to receive testimony, briefings, and other communications of information.

Do you agree, if confirmed for this high position, to appear before this committee and other appropriate committees of Congress?

Answer. Yes.

Question. Do you agree, if confirmed, to appear before this committee, or designated members of this committee, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as the Under Secretary of the Army?

Answer. Yes.

Question. Do you agree to ensure that testimony, briefings, and other communications of information are provided to this committee and its staff and other appropriate committees?

Answer. Yes.

[Questions for the record with answers supplied follow:]

QUESTIONS SUBMITTED BY SENATOR JOHN WARNER

1. Senator WARNER. Mr. Geren, in fiscal year 2005, the Army Reserve achieved less than half of its goal in recruiting physicians, and a quarter of its goal in recruiting dentists. For an Army that relies so heavily on its Reserves for medical support in war, this is a troubling and dangerous situation. Are you aware of the critical shortages in medical personnel?

Mr. GEREN. The Army Reserve is acutely aware of this situation. The Army Reserve provides the bulk of medical support to the total force picture. As an example, the Army Reserve provides 63 percent of the total force's plastic surgeons, a critical specialty with regard to our current operations. The bulk of nurse anesthetists are also within the Army Reserve. Thoracic surgeons, also in high demand, are found primarily within the Army Reserve (61 percent) and over half of the surgical nurses are within the Army Reserve ranks. This highlights the importance of ensuring we get the correct formula for attracting these professionals.

What is troubling about our medical professional recruiting picture is we are in the same place that we were last year (production) and will probably conclude this year in a similar fashion. The numbers show little change in the actual mission number, a mere nine-person difference between fiscal year 2005 and fiscal year 2006 for Army Nurses, for example. Unfortunately, the production rate is stagnant as well. This will not begin to address the critical shortages we are experiencing of these professional personnel. If we continue to approach the problem with the same tools, the trend will continue. We have to be more aggressive in terms of incentives. We are not the only agency competing for their skills. These professionals have several choices. There are both civilian and government entities competing for their skill sets, and many attract these potential candidates with a more appealing incentive package, to include full tuition reimbursement and stipends.

Tuition rates have been rising at double-digit rates for years. Medical, dental, and other health professional students are stuck with crushing debt following their college experience. Two hundred thousand dollars in student loans is not unheard of medical and dental school graduates Our Health Professional Loan Repayment Program doesn't begin to address it with a $50,000 lifetime cap (payable at no more than $20,000 per year on current principal balances) at the end of each year of satisfactory service in the Selected Reserve. We can begin to get realistic by raising the maximum levels from $50,000 to $250,000.

The Specialized Training Assistance Program (STRAP) is another avenue to assist health care professionals in critically short specialties complete their rigorous training programs. This program provides a monthly stipend of $1,279 per month adjusted annually on 1 July (full rate). Due to the critical shortage of company grade Army Nurse Corps officers, we are also able to offer STRAP to Nurse Corps officers that were commissioned with less than a baccalaureate degree in nursing, who will complete that requirement before consideration to Major. Medical and Dental students may also participate in the STRAP-JR program, for a stipend of $1,235 per month. The Army Nurse Candidate program assists those looking to become an Army Nurse with a $1,000 per month stipend.

Realistically, with tuition rates at their current levels, and their rate of inflation, is this enough? No. It is imperative we be flexible with these programs and adjust them when needed. Currently, these programs are only updated when a "crisis" in manning occurs. No intense management occurs unless there is an emergency. This is not a cost-effective way of doing business, nor does it assure we'll have the personnel we need, when we need them.

The Army Reserve provides for a "bonus" incentive for medical professionals through the Health Professions Bonus Program (BONUS) and the Health Professions Bonus Program (Retention). The "Bonus" program pays an annual bonus of up to $10,000, not to exceed $30,000, in return for participation in the Selected Reserve (SELRES).

Payments will be made effective on the date of orders. The specialties included in the BONUS Program are reviewed and revised annually, as needs change and funding is available.

The Health Professional Bonus Program-Retention (HPB–R) may be used as a retention bonus for Medical Corps and Dental Corps officers. Individuals contracting for the HPB-approved Army Reserve critical skills specialties will receive up to $10,000 per year. Participants must choose 1, 2, or 3 years of affiliation with the Army Reserve Selected Reserve (SELRES) at the time of application.

We can recognize the commitment medical professionals are making and the additional sacrifice with the mobilization/deployment schedule we're asking them to take. We can recognize this commitment by establishing a dental special incentive pay, as well as increase the retention bonuses for our health service professionals. There are several actions we are pursuing and will need assistance in getting the authorizations for them.

When soldiers, professional or otherwise, are not content, they speak with their feet and walk, and choose another agency or company to work for. It is imperative we make it more attractive for them to join our ranks as well as stem the tide of losing these professionals.

2. Senator WARNER. Mr. Geren, what authorities or initiatives are needed to remedy this situation?

Mr. GEREN. The Army Reserve provides over half of the Army's assets for nurse anesthetists, thoracic surgeons, operating room and surgical nurses, and occupational therapists. We are looking at several initiatives to address the critical shortfall of medical personnel. First, incentives in the form of retention bonuses and loan repayment will target the significant educational costs incurred by individuals completing their medical education. Most students leave academic institutions with a debt load of over $100,000. Tuition costs have outpaced the inflation rate for several years, usually at a double-digit pace. We can begin to address this by improving the Health Professional Loan Repayment Program (HPLRP). We are asking for an increase in this program to a maximum of $50,000 per year, with a cap at $250,000. This will begin to address the double-digit inflation in tuition rates and the crushing debt these students incur in order to complete their programs of professional education. Our Health Professions Bonus Program currently pays $10,000 annually to a maximum of $30,000 for participation in a Reserve unit. We believe that increasing the Health Professions Bonus from $10,000 per year to $25,000 per year annually, until 15 years of service, will have a positive impact on recruiting.

Competition from the private sector for top quality medical professionals continues to challenge the military's capability to recruit. Without increased bonuses and loan repayment programs that provide substantial reduction in the economic impact of these educational debts, we will continue to be challenged to recruit top caliber officers. With the significant percentage of medical professionals within the Reserve component, we must look to creative recruiting opportunities. Currently, the U.S. Army Recruiting Command is looking at several innovative initiatives, and with congressional support, we believe we can address these critical issues.

WOMEN IN COMBAT REPORT

3. Senator WARNER. Mr. Geren, section 541 of the National Defense Authorization Act for Fiscal Year 2006 codified the Department of Defense (DOD) policy that has been in effect since October 1, 1994, which excludes women from assignment to units or positions—below the brigade level—whose primary mission is to engage in direct ground combat. That provision also required the Secretary of Defense to review current and future implementation of the women in combat policy, and to closely examine personnel policies associated with creating the Army's new modular combat units to ensure compliance with the ground combat exclusion rule. What is your understanding of whether the full report reviewing the Army's current and future assignment policies will be provided to Congress by March 31, 2006?

Mr. GEREN. The Department of Defense plans to provide an initial reply to Congress by the end of February 2006; the final report is targeted for completion within the next 180 days. This report is considerably broader in scope than the question outlined in section 541. The Department of Defense, with the assistance of the Department of the Army, owes Congress, the men and women who serve the military, as well as the American people, an unassailable and comprehensive report which thoroughly examines the current women in ground combat policy and analyzes its implications for the future. That task demands considerable research effort, understanding, and expertise. The RAND Corporation will conduct extensive research regarding women in ground combat policy and its implications given the emerging Army modularity. Thereafter, the Secretary of the Defense will report conclusions to Congress.

SUPPORT FOR ARMY FAMILIES

4. Senator WARNER. Mr. Geren, you understand the importance to readiness and morale of providing support for families of soldiers, particularly those who have deployed to combat zones. We noted, however, that the Army's budget for family center support has declined since 2004. In particular, family support for the Guard and Reserve since that time has declined by half. What is your understanding of the rationale for these reductions?

Mr. GEREN. Senator Warner, funding for Guard and Reserve family support since fiscal year 2004 is as follows: fiscal year 2004-$10 million; fiscal year 2005-$25 million; fiscal year 2006-$41 million; and we are requesting $20 million for fiscal year 2007. Fiscal year 2004–2006 includes additional global war on terror funds in support of family support centers during periods of high operational tempo. If the high operational tempo of family centers continues into fiscal year 2007, additional global war on terrorism funding will be provided to meet the increased needs.

5. Senator WARNER. Mr. Geren, if confirmed, will you determine where the impact of these cuts will be felt and report back to us on your assessment of whether these reductions for family support are justified?

Mr. GEREN. Although there is no intent to decrease funding for family support centers experiencing high rates of operational tempo, I will report back on any reductions, should this occur. Each year, the Army National Guard and Army Reserve will assess requirements for global war on terrorism funding and request the additional funds as necessary to address family center needs.

IMPACT OF BRAC, ARMY MODULARITY, AND REBASING ON LOCAL COMMUNITIES

6. Senator WARNER. Mr. Geren, the Army modular force initiative, restationing of forces from Europe, and base realignment and closure (BRAC), will have a significant impact on local communities which receive large increases in military personnel. Quality education for school-aged children is one important concern for military families affected by these realignments. What is DOD, and the Army in particular, doing to ensure that local school districts are prepared to receive and educate military children when they arrive as a result of the realignment of forces or BRAC?

Mr. GEREN. The Army is working closely with the Department of Defense and Department of Education. The Army has identified the need for an Army School Transition Plan to develop strategies for successful transition of more than 35,000 military-connected students transferring from overseas locations to continental United States schools systems as a result of the Army Modular Force transformation, the Integrated Global Presence and Basing Strategy, and Base Realignment and Closure.

Local education agencies have expressed concerns about adequate school facilities to accommodate the influx of transitioning students. Some communities have moved ahead with bond issues, and others have made contact with the Department of Education and/or Department of Defense to explore new avenues for funding facilities, transportation, teachers, and textbooks.

QUESTIONS SUBMITTED BY SENATOR JOHN MCCAIN

FUTURE COMBAT SYSTEM

7. Senator MCCAIN. Mr. Geren, in the NDAA for Fiscal Year 2006, Congress instructed the Pentagon to report on every program that costs at least 50 percent more than initial projections. The provision was designed to tie programs to their original cost estimates, rather than updated cost and schedule baselines. The Pentagon has been allowed to change its baseline without invoking the penalty. For example, the Army's Boeing-led FCS program has not triggered an official breach despite a $161 billion cost estimate that is more than double its original baseline estimate. What plans do you propose to ensure programs are held to their original baseline figures instead of allowing the current practice of rebaselining?

Mr. GEREN. While the Army's implementation plans for this new requirement will be influenced by guidance from the Office of the Secretary of Defense, the Army intent is full, timely compliance with the law. Oversight of the program baselines will continue through milestone decision reviews and program executive officer updates to the Army Acquisition Executive. Deviation reports using the new criteria outlined in the amendment will be reported using current processes and procedures.

While this amendment does not prohibit the re-baselining of programs, it does hold program managers accountable to the original baseline estimate. By keeping the original estimate as a data point in Selected Acquisition Reports (SAR), the entire Department of Defense acquisition chain is sensitive to the cost growth of the entire program. This is an improvement of the current practice of re-baselining which does not retain the original baseline estimate in official reports.

With respect to the FCS program, the $161 billion figure cited in the question represents the total acquisition cost in then-year dollars, and was reported in the November 2005 SAR. The comparable original baseline figure is $92.2 billion, a 75-percent increase. When calculated using base-year dollars so that the rate of inflation (which is beyond a program manager's control) does not influence the result, the overall increase is 54 percent (from November 2005 SAR: SAR Development Baseline of $77.8 billion; acquisition program baseline objective of $120.15 billion.)

8. Senator MCCAIN. Mr. Geren, how do you plan to implement this new amendment with regard to Nunn-McCurdy specifically as it applies to the FCS?

Mr. GEREN. In compliance with the new amendment, each Selected Acquisition Report (SAR) must reflect the originally established baseline estimate along with the estimate deemed to be the original under this amendment. Under this amendment, the FCS current baseline would be deemed the original baseline estimate. The current FCS acquisition program baseline was signed by the Defense Acquisition Executive on November 2, 2005, and reported in the November 2005 SAR.

Oversight of the program baselines will continue through milestone decision reviews and program manager updates to the Army Acquisition Executive. The Army will not lose sight of the baseline estimate that was originally established for the program in 2003.

9. Senator MCCAIN. Mr. Geren, what is the status of the transition of the FCS contract from an OTA to a FAR Part 15 (traditional military procurement) contract which was enacted in the NDAA for Fiscal Year 2006 and which the Secretary of the Army agreed to do in April 2005?

Mr. GEREN. The Army awarded a System Development and Demonstration (SDD) Federal Acquisition Regulation (FAR)-based letter contract on September 23, 2005, consistent with section 212 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163). The Future Combat Systems (FCS) SDD contract (W56HZV–05–C–0724) is a negotiated, sole source contract in accordance with FAR Part 15. The FCS SDD contract is fully compliant with the Uniform Contract Format (UCF) specified in FAR Subpart 15.2 and includes all appropriate FAR prescribed clauses. The FCS SDD FAR-based letter contract was definitized on March 28, 2006.

KC–135 REPLACEMENT

10. Senator McCain. Mr. Geren, in August 2005, as Acting Secretary of the Air Force, you released a request for information (RFI) for the KC–135 Replacement Tanker Aircraft program prior to an analysis of alternatives (AOA) being completed. Why did you feel it was necessary to release the RFI?

Mr. Geren. The RFI should not have been released prior to the completion of the AOA. After discussion with Senate staff and with DOD officials it was rescinded.

11. Senator McCain. Mr. Geren, please explain why it should be assumed the AOA was not conducted in an unbiased and untainted manner with a predetermined outcome?

Mr. Geren. Based on congressional concern, OSD took extraordinary steps to ensure that an unbiased and objective process was established, to include the creation of an independent, joint Senior Steering Group to provide oversight and guidance on the conduct of the AoA. The 3-star level Senior Steering Group, with members from all Services, the Joint Staff, OSD, and USTRANSCOM, oversaw the study.

In addition to the SSG's oversight, USD(AT&L) contracted with the Institute of Defense Analyses (IDA), another FFRDC, to conduct an independent assessment of the AoA. IDA focused on the RAND methodology and their objectivity. IDA worked closely with RAND for over 18 months as members of AoA Integrated Product Teams and as participants in cost and effectiveness panels. IDA obtained AMC and RAND computer models and ran them independently to substantiate results, suggest new approaches, conduct excursion analyses, and comment on draft versions of the AoA report. IDA's assessment, pending receipt of RAND's formal report, is that the AoA is objective based on study balance; correctness; clarity in explanation; verifiability and traceability; logic and consistency; completeness; and clarity in presentation. IDA stated in their outbrief that they had never seen a more complete and thorough AoA and that the AoA provides a good foundation for the Department's acquisition planning.

OSD(PA&E), after delivery of the draft AoA in August 2005, also performed a sufficiency review of the AoA. PA&E assessed the extent to which the AoA illuminated capability advantages and disadvantages; considered joint operation plans; examined sufficient feasible alternatives; discussed key assumptions and variables; assessed technology risk and maturity; and calculated costs. In addition PA&E worked closely with RAND in a collaborative, transparent environment throughout the entire development of the AoA. PA&E participated in AoA working groups, Integrated Product Teams, and SSG meetings. PA&E made site visits and reviewed and analyzed all of the data, assumptions, models, spreadsheets and programs used in the AoA. PA&E also performed independent research, using outside sources to verify the results of the models used in the AoA through validation of input data, assumptions, and methodology. Their assessment, pending receipt of RAND's formal report, is that the AoA is sufficient. PA&E found that all discrepancies were resolved, the rigor of review and analysis were unprecedented, that the AoA met all guidance provided by USD(AT&L), and that a competitive acquisition strategy based on the AoA results should yield the best value for the Department.

GUIDANCE AT ARMY PRISONS

12. Senator McCain. Mr. Geren, what specific Army guidance will you give to soldiers, military police (MPs), interrogators, translators, intelligence soldiers, etc. at army prisons throughout Iraq and Afghanistan, and at Guantanamo Bay (GITMO)?

Mr. Geren. All members of the U.S. Armed Forces, regardless of specialty or profession, must understand the requirement to treat all detainees humanely at all times and under all circumstances, from the moment a detainee falls under U.S. custody and control to the moment of release or repatriation. A soldiers also must understand their obligation to report any deviation from this standard to the proper authority. These basic concepts of responsibility and accountability are emphasized in the recently published DODD 3115.09, Intelligence Interrogation, Detainee Debriefing, and Tactical Questioning and Medical Program Memorandum, Medical Program Principles and Procedures for the Protection and Treatment of Detainees in the Custody of the Armed Forces of the United States, and in AR 190–8, Enemy Prisoners of War, Retained Personnel, Civilian Internees, and Other Detainees. DOD and the Army are in the process of reviewing and updating other policies, doctrine and training plans to ensure that these core concepts are trained, emphasized, and implemented in each and every military operation in which members of the U.S. Armed Forces are involved.

Current pre- and post-deployment training for all military services, civilians, and contractors is continuously updated, based on training guidance, theater mission requirement, and the Center for Army Lessons Learned (CALL) data, with additional training requirements for contract interrogators. Internment/Resettlement (I/R) mission pre-deployment training for Army and Sister Service units is conducted at Fort Dix, NJ, Fort Lewis, WA, and Fort Bliss, TX. The Combat Training Center (CTC) Program has incorporated detainee operations lessons learned vignettes in all rotations since January 2004. Current Operational training guidance includes increased cultural awareness leader training and country orientation, updated and increased Law of War training, theater specific training that includes handling enemy personnel and equipment, and an introduction to detainee operations using the US Army Military Police School exportable Detainee Operations Training Support Packages. The Army continues to support ongoing training with Mobile Training Teams tailored to meet unit mission requirements.

Additionally, all soldiers deployed to Iraq and Afghanistan are under the combatant command of the U.S. Central Command (USCENTCOM) while they are deployed. Because USCENTCOM organizes and employs forces, assigns tasks, designates objectives, and gives theauthoritative direction necessary to accomplish the missions in Iraq and Afghanistan, it is imperative that deployed soldiers are aware of and follow any AOR specific orders or policies pertaining to detainees which are published by USCENTCOM through the operational chain of command.

13. Senator McCain. Mr. Geren, Major General Geoffrey Miller, who ran the GITMO camp from October 2002 to March 2004 and GITMO-ized Abu Ghraib and has been linked to the abuse scandal in certain reports, is declining to answer questions in two court martial cases involving the use of dogs during interrogations at the camp. I would like to hear your thoughts on this issue and if you are confirmed, what are you going to do about it?

Mr. Geren. I have been informed that Major General Miller has invoked his Article 31 rights under the Uniform Code of Military Justice by declining to answer pretrial questions in a court-martial case involving other service members. It would be inappropriate for me to comment on his invocation of rights. Since General Miller's original declination, I have been informed that he has since met with the service member's attorneys in the ongoing court-martial and answered their questions. I understand that the SASC plans hearings on this matter and the Army will support the committee in its effort.

As far as the Army's review of MG Miller, the Department of the Army Inspector General (DAIG) independently investigated the allegations made against General Miller concerning detainee operations. The DAIG determined the allegations to be unsubstantiated. After multiple reviews, the DAIG report of investigation has been approved by the Army leadership. I have been informed General Miller has cooperated with the DAIG throughout its investigation of the allegations against him.

14. Senator McCain. Mr. Geren, can you provide the current procedures under which DOD makes available to Congress the confidential reports the U.S. receives from the International Committee of the Red Cross concerning U.S.-operated places of detention in Guantanamo Bay, Afghanistan, and Iraq?

Mr. Geren. DOD policy requires that the International Committee of the Red Cross (ICRC) reports received by a military or civilian official of the DOD at any level shall, within 24 hours, be transmitted to the Under Secretary of Defense for Policy (USD(P)). The DOD policy further provides that all ICRC communications shall be marked with the statement "ICRC communications are provided to DOD as confidential, restricted-use documents. As such they will be safeguarded the same as SECRET NODIS information using classified information channels. Dissemination of ICRC communications outside of DOD is not authorized without the approval of the Secretary or Deputy Secretary of Defense."

According to an agreement worked out between DOD and Armed Services Committees leadership, the OUSD(P) has committed to provide the Senate Armed Services Committee (SASC) and House Armed Services Committees (HASC) with access to ICRC working papers, reports, and letters on DOD detention facilities. Under the agreement, OUSD(P) will provide ICRC working papers, reports, and letters to the SASC and the HASC on a quarterly basis. Prior to this hearing on February 15,2006, our last brief on ICRC documents to the SASC occurred in November 2005.

QUESTION SUBMITTED BY SENATOR JOHN THUNE

ARMY/AIR FORCE AIRCRAFT

15. Senator THUNE. Mr. Geren, the Air Force and the Army have been working together since 2004 to create a joint program with the Army Future Cargo Aircraft (FCA) and the Air Force Light Cargo Aircraft (LCA). There have been reports that in addition to organic lift the Army wants to take over the Air Force intra-theater airlift mission as well, which has created some tension between the Services. If confirmed, how will you work to resolve this contentious issue to meet both Services' needs?

Mr. GEREN. There are ongoing discussions and agreements between the Army and the Air Force on the FCA and LCA programs. When it comes to intratheater airlift, specifically at the strategic and operational levels, no one in the world can match the U.S. Air Force's ability. The Army's FCA was never intended to compete with the Air Force's C–17 or C–130 aircraft roles and missions. The FCA is a complementary system that fills a gap at the tactical level. That gap is the movement of time sensitive, mission critical resupply and key personnel transport from the Initial Staging Base or Port of Debarkation (POD) to the brigade combat team (BCT); what we like to describe as the last tactical mile in the end-to-end distribution system. These BCTs are often deployed to austere locations across the noncontiguous battlefield. Today we are mitigating our risk associated with this gap through employment of a combination of tactical wheeled vehicle convoys, CH–47 helicopters, and the use of our smaller, less capable cargo and utility aircraft such as the C–23, C–12, and C–26. The FCA will enable the Army to lighten the heavy burden on our CH–47 (Chinook) helicopter fleet so they can focus on supporting division-level and modular brigade force structure warfighting requirements. Furthermore, the FCA will reduce the risk to soldiers' lives associated with convoy operations and forward arming and refueling points required to support extended CH–47 helicopter long haul cargo operations.

We are in the process of developing a Joint Program Office (JPO) that will be established, at least initially, with an Army lead. The Services anticipate a JPO Charter will be approved by the Services' Acquisition Executives prior to the Army reaching Milestone C on the FCA program. The Army still plans to begin fielding FCA to its aviation force in fiscal year 2008. The USAF will follow with the fielding the LCA approximately two years later.

In summary, we are a Joint (Army/Air Force) team working together to field the best equipment possible to meet the combatant commander's needs.

[The nomination reference of Preston M. Geren follows:]

NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
January 18, 2006.

Ordered, That the following nomination be referred to the Committee on Armed Services:

Preston M. Geren, of Texas, to be Under Secretary of the Army, vice R.L. Brownlee, resigned.

[The biographical sketch of Preston M. Geren, which was transmitted to the committee at the time the nomination was referred, follows:]

BIOGRAPHICAL SKETCH OF PRESTON M. GEREN

Pete Geren joined the Department of Defense in September 2001 to serve as Special Assistant to the Secretary of Defense with responsibilities in the areas of interagency initiatives, legislative affairs and special projects. Mr. Geren served as Acting Secretary of the Air Force from July to November 2005.

Prior to joining the Department of Defense, Geren was an attorney and businessman in Fort Worth, Texas.

From 1989 until his retirement in 1997, Geren was a Member of the U.S. Congress, representing the 12th Congressional District of Texas for four terms. He

served on the Armed Services, Science and Technology, and the Public Works and Transportation Committees during his tenure in Congress.

Geren received his BA degree from the University of Texas in 1974 and his JD from University of Texas Law School in 1978. He and his wife, Beckie, have three daughters: Tracy, Annie, and Mary.

[The Committee on Armed Services requires all individuals nominated from civilian life by the President to positions requiring the advice and consent of the Senate to complete a form that details the biographical, financial, and other information of the nominee. The form executed by Preston M. Geren in connection with his nomination follows:]

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

(202) 224–3871

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior to the hearings and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)
Preston "Pete" Murdoch Geren III.

2. **Position to which nominated:**
Under Secretary of the Army.

3. **Date of nomination:**
January 18, 2006.

4. **Address:** (List current place of residence and office addresses.)
[Nominee responded and the information is contained in the committee's executive files.]

5. **Date and place of birth:**
January 29, 1952; Fort Worth, Texas.

6. **Marital Status:** (Include maiden name of wife or husband's name.)
Married to Rebecca Ray Geren.

7. **Names and ages of children:**
Tracy Elizabeth Geren, 16; Sarah Anne Geren, 12; and Mary Caroline Geren, 9.

8. **Education:** List secondary and higher education institutions, dates attended, degree received, and date degree granted.
Georgia Tech, 1970–1973, no degree.
University of Texas, B.A., 1974.
University of Texas, J.D., 1978.

9. **Employment record:** List all jobs held since college or in the last 10 years, whichever is less, including the title or description of job, name of employer, location of work, and dates of employment.
November 2005–present - Special Assistant to the Secretary of Defense.
July 2005–November 2005 - Acting Secretary of the Air Force.
September 2001–July 2005 - Special Assistant to the Secretary of Defense.

April 1999–August 2001 - Attorney, self-employed - 210 W. 6th Street, Fort Worth, Texas.

January 1997–April 1999 - Management Consultant, Public Strategies, Inc., 2421 Westport Parkway, Fort Worth, Texas.

September 1989–January 1997 - Member of Congress, 12th Congressional District of Texas.

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

D/FW International Airport - Board of Directors, 1999–2001.

Executive Assistant to Senator Lloyd Bentsen, 1983–1985.

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

See SF 278 and Ethics Agreement.

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

Honorary Member, Rotary Club of Fort Worth.
Member, Excahnge Club of Fort Worth.
Member, State of Bar of Texas.
Member, Fort Worth Club.
Member, City Club of Fort Worth.
Member, Rivercrest Country Club.

13. **Political affiliations and activities:**

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

Candidate for U.S. Congress: 1986, 1989, 1990, 1992, 1994.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 5 years.

None.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $100 or more for the past 5 years.

January 5, 2001, Presidential Inaugural Committee, $475.
February 19, 2001, Jim Lane for City Council, $100.
February 26, 2001, Wendy Davis for City Council, $100.
March 20, 2001, Martin Frost for Congress, $250.
March 21, 2001, Frank Moss for City Council, $100.
March 22, 2001, Granger for Congress, $250.
April 25, 2001, Dionne Bagsby for County Commissioner, $150.
June 25, 2001, Blunt for Congress, $500.
October 8, 2003, Charlie Geren for State Representative, $1,000.
December 16, 2003, Friends of the University of Texas PAC, $500.
April 15, 2004, Koehler for School Board, $250.
April 25, 2005, Carter Burdette for City Council, $100.

14. **Honors and Awards:** List all scholarships, fellowships, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

Honorary PhD University of North Texas.
Outstanding Young University of Texas Alumnus.
Distinguished alumnus, University of Texas Law School.

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

None, other than newsletter-type material when I was in Congress. I do not have copies.

16. **Speeches:** Provide the committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

None.

17. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to respond to requests to appear and testify before any duly constituted committee of the Senate?

Yes.

[The nominee responded to the questions in Parts B–F of the committee questionnaire. The text of the questionnaire is set forth in the Appendix to this volume. The nominee's answers to Parts B–F are contained in the committee's executive files.]

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

PRESTON M. GEREN.

This 23rd day of January, 2006.

[The nomination of Preston M. Geren was reported to the Senate by Chairman Warner on February 16, 2006, with the recommendation that the nomination be confirmed. The nomination was confirmed by the Senate on February 17, 2006.]

[Prepared questions submitted to Michael L. Dominguez by Chairman Warner prior to the hearing with answers supplied follow:]

QUESTIONS AND RESPONSES

DEFENSE REFORMS

Question. The Goldwater-Nichols Department of Defense Reorganization Act of 1986 and the Special Operations reforms have strengthened the warfighting readiness of our Armed Forces. They have enhanced civilian control and clearly delineated the operational chain of command and the responsibilities and authorities of the combatant commanders, and the role of the Chairman of the Joint Chiefs of Staff. They have also clarified the responsibility of the Military Departments to recruit, organize, train, equip, and maintain forces for assignment to the combatant commanders.

In your responses to advance questions prior to your previous nomination hearing on July 31, 2001, you indicated that "there are dynamics today different from 15 years ago that may warrant review of some provisions [of Goldwater-Nichols], such as the personnel assignment rules and how we select joint specialty officers." You expressed an interest in exploring these issues to ensure the services have "sufficient flexibility in the management of our personnel resources in a joint environment."

Based on your experience as the Assistant Secretary of the Air Force for Manpower and Reserve Affairs, are there specific modifications to the Goldwater-Nichols Act for which you see a need?

Answer. The Goldwater-Nichols Act deserves credit for creating a strong framework for today's joint warfighting capabilities. Two decades of U.S. military successes bear witness to this. However, while operational jointness has matured, the personnel system for Joint Officer Management has not kept pace. In the global war on terrorism, members are integrated within Joint Task Force organizations, serving various tour lengths on a rotational basis. The intensity of these joint experiences is almost certainly beyond the scope framers of Goldwater-Nichols contemplated. We should build on the foundation established by Goldwater-Nichols and devise mechanisms to recognize joint competencies accrued in these joint operational experiences, as well as those derived from joint training and exercises we now routinely conduct in preparation for combat.

Finally, I believe that "jointness" is no longer a desirable attribute limited merely to the Active component, and the time has come to integrate the Reserve component in this valuable framework, and to recognize the role of senior non-commissioned officers and senior civilians. This means offering joint education, training and experiences that will fully acculturate all of these key contributors to joint performance; which necessarily entails tracking/recognizing joint qualifications. If confirmed, I would enter policy discussions from this general platform.

Question. If confirmed, what actions would you take in the areas you have identified?

Answer. If confirmed, I will work with the Secretary, Joint Staff, combatant commands, military services, and Congress to advance the vision documented in the Department's recently developed Strategic Plan for Joint Officer Management and Joint Professional Military Education.

DUTIES

Question. Section 136a of title 10, U.S.C., provides that the Deputy Under Secretary of Defense for Personnel and Readiness shall assist the Under Secretary of Defense for Personnel and Readiness in the performance of his or her duties.

Assuming you are confirmed, what duties do you expect you will be assigned?

Answer. If confirmed, I will assist the Under Secretary of Personnel Readiness in carrying out every aspect of his responsibilities, functions, relationships, and authorities in law consistent with DOD Directive 5124.2, "Under Secretary of Defense for Personnel and Readiness (USD(P&R))" and DOD Directive 5124.8, "Principal Deputy Under Secretary of Defense for Personnel and Readiness (PDUSD(P&R))." I will be his principal staff assistant and advisor in all matters relating to the management and well-being of military and civilian personnel in the DOD Total Force structure. I will provide oversight for the direction of policies, plans, and programs governing Total Force management as it relates to manpower; force management; planning; program integration; readiness; National Guard and Reserve component affairs; health affairs; training; personnel requirements and management; and compensation. This includes equal opportunity, morale, welfare, recreation, and quality of life matters for both civilian and military personnel and their families.

RELATIONSHIPS

Question. If confirmed, what would your working relationship be with:

The Secretary of Defense.

Answer. If confirmed, I expect to serve the Secretary as an advisor and advocate for the management of human resources in the Department.

Question. The Deputy Secretary of Defense.

Answer. If confirmed, I would expect my relationship with the Deputy Secretary to be fundamentally the same as that with the Secretary of Defense.

Question. The Under Secretary of Defense for Personnel and Readiness.

Answer. If confirmed, I would work directly for the Under Secretary. I would take my direction from Dr. Chu and assist him in carrying out his duties and responsibilities to ensure personnel readiness and quality of life for our military and civilian personnel. I would expect to interact with the Under Secretary on a daily basis and assist him in formulating policies and providing advice and recommendations.

Question. The Assistant Secretaries of Defense for Reserve Affairs and Health Affairs.

Answer. If confirmed, I would anticipate a close working relationship with the Assistant Secretaries toward the achievement of Department objectives with respect to our mutual goals. I would expect each Assistant Secretary to provide expertise and leadership in his or her area of responsibility, to help carry out the responsibilities for which I might be held responsible.

Question. The DOD General Counsel.

Answer. The General Counsel performs a vital function in support of departmental policymaking and the review of myriad decisions. If confirmed, I would anticipate regular communication, coordination of actions, and exchange of views with the General Counsel and the attorneys assigned to focus on personnel policy matters. I would expect to seek and follow the advice of the General Counsel on legal, policy, and procedural matters pertaining to the policies promulgated from the Personnel and Readiness office.

Question. The Service Secretaries.

Answer. If confirmed, I would hope to work closely with the Secretaries of the Military Departments on all matters relating to the management and well-being of military and civilian personnel in the DOD Total Force structure.

Question. The Assistant Secretaries of the Army, Navy, and Air Force for Manpower and Reserve Affairs.

Answer. If confirmed, I would hope that I could look to these officials as partners in carrying out the human resource obligations of the Services.

Question. The Deputy Chiefs of Staff of the Army and Air Force for Personnel, the Chief of Naval Personnel, and the Deputy Commandant of the Marine Corps for Manpower and Reserve Affairs.

Answer. If confirmed, I would hope to have effective working relationships with these officers to ensure that DOD attracts, motivates and retains the quality people it needs.

Question. The Joint Staff, particularly the Director for Manpower and Personnel (J–1).

Answer. If confirmed, I would hope to have a close coordinating relationship and open channels of communication with the Joint Staff regarding manpower and personnel policy issues.

Question. The combatant commanders.

Answer. If confirmed, I would hope to foster mutually respectful working relationships that translate into providing the Total Force capabilities needed to complete combat missions.

MAJOR CHALLENGES

Question. Prior to assuming the duties of Assistant Secretary of the Air Force for Manpower and Reserve Affairs, in responding to advance questions, you anticipated that your top challenges would be "recruitment, retention, civilian force management, and preservation of quality military health care."

What do you consider to be your most significant accomplishments in meeting these challenges?

Answer. Less than a month after my confirmation as Assistant Secretary of the Air Force, our problem set was changed by al Qaeda's attack on the U.S. Homeland. Instead of recruiting and retention, the Air Force's principal force management challenge of the last 4 years has been force shaping—re-sizing career fields within the force to distribute stress equitably and meet the demand for skills needed to fight the global war on terrorism.

In the area of civilian force management, the standout achievement of the last 4 years is authorization by Congress of the National Security Personnel System, and the subsequent design and development of the specific policies that will improve the agility of the Defense Department's civil workforce and emphasize achievement of the Department's national security mission over seniority in setting compensation.

The quality of the Military Health System remains superb, and we should all note with pride the system's astounding achievements in battlefield care and rapid evacuation of casualties. The cost of the system—particularly the rapid increase in costs of care for our retired constituents—remains of concern.

I also look back with pride at achievements in two areas that, in 2001, were not anticipated as problems. First, sexual assaults at the U.S. Air Force Academy highlighted this serious problem in the Air Force. The Air Force's aggressive attack on this crisis laid much of the foundation for the policy architecture the DOD deployed to deal with this tragedy. Second, the war on terror has placed demands on the Reserve components unprecedented in their depth and duration. I am proud to have facilitated and enabled the Air National Guard and the Air Force Reserve in meeting those demands to the greatest extent possible with volunteers, and through the practices they developed, to have defined much of what it means to be an "operational reserve."

Question. What do you anticipate would be the most significant challenges you will face if confirmed as the Deputy Under Secretary of Defense for Personnel and Readiness, and how would do anticipate addressing these challenges?

Answer. Recruiting and retaining quality men and women to serve in the military and as civilians in the Department is a significant challenge. Building and sustaining a correctly shaped and skilled force to meet the validated demands of the combatant commanders will remain a challenge and we will need additional authorities from Congress to ensure success. We must not only attract the people who are able to carry out the duties required of a 21st century Department of Defense, we must retain them by providing appropriate compensation and benefits, predictable deployment schedules, care for their families while they are away, and work environments free of harassment and prejudice. In light of ever-changing threats and operational demands, we must see to it that the Total Force, made up of well-balanced Active and Reserve components, is trained and ready to defeat our adversaries. When these men and women have completed their service, we must help them or their survivors transition to different lives, letting them know that their contributions made a difference and are appreciated. To meet these challenges, I will review current policies and initiatives from the broad OSD perspective and recommend adjustments in order to accomplish the goal of building and maintaining a military and civilian force that can carry out the duties required of a 21st century Department of Defense.

ACTIVE-DUTY END STRENGTH

Question. For fiscal year 2006, the Department of Defense requested an authorized Active-Duty end strength for the Army of 482,400. In order to meet the man-

power demands for current operations, however, the Army's actual Active-Duty end strength on a daily basis has averaged over 495,000, and strong arguments have been advanced that the Army must have substantially more Active-Duty personnel to support transformation and operational demands.

What is your view of the required Active-Duty Army end strength needed to perform its various missions?

Answer. Since 2001, the Army has grown by almost 12,000 soldiers in order to support the current national emergency. However, this does not imply a need to permanently raise the Active end strength of the Army. The Army is taking measures to create a more capable force within its current resources. The measures include:

- Reallocating personnel from low demand skills to those experiencing greater stress.
- Rebalancing skills between and within the Active and Reserve components (70,000 through fiscal year 2005; 55,000 more through fiscal year 2010).
- Converting historically military positions to civilian performance.

The net result of these actions should allow the Army to add additional Brigade Combat Teams to the Force which will increase the combat capability of the Army and reduce operational stress.

Question. The Air Force is under budgetary pressure to reduce its Active-Duty end strength, as well as its Reserve components and civilian workforce by as much as 40,000 individuals.

What is your understanding of the steps that will be taken in 2007 and beyond with respect to the military and civilian employee manning of the Air Force and what impact do you foresee on Air Force readiness?

Answer. I firmly believe that the decisive and timely actions Air Force is taking to shape a stream-lined and more cost effective team of uniformed, civilian and contractor personnel will prevent a future readiness problem. Moreover, the Air Force will achieve its personnel reductions in three broad areas: organizational efficiencies, process efficiencies, and manpower reductions tied to legacy force structure changes. This, in turn, will free up the resources necessary to address compelling recapitalization needs. This manpower realignment will be deliberate and carefully controlled. As we secure our future capabilities we will not sacrifice today's readiness.

Question. If confirmed, what role would you expect to play in assisting the Air Force in balancing its manpower needs against other requirements?

Answer. Manpower is not a requirement in itself. Our manpower investments must complement those in many areas, such as platforms, weapons, maintenance and training, to deliver capabilities (such as combat air dominance or logistics airlift). These capabilities are the real requirements. For manpower we believe it is important to help the Air Force, and all the Services, define their workload requirements such that capabilities can be operationalized in a cost-effective manner. Otherwise we would fail to have adequate funds to pay for other required capability enablers. In addition to helping the Air Force arrive at a fiscally informed Total Force manpower solution, we must work with them to ensure they have the tools to build and shape the cost-effective force we have defined.

RESERVE AND NATIONAL GUARD DEPLOYMENTS

Question. Current policy of the Department provides that under section 12302 of title 10, U.S.C., members of Reserve components shall not be required to involuntarily deploy more than 24 months cumulatively in response to the existing national emergency. This policy has exempted thousands of members of the Selected Reserve from additional involuntary call ups in support of overseas operations in Iraq and Afghanistan.

What is your understanding of the number of members of the Selected Reserve, by Service, who are unavailable for deployment as a result of the 24-month policy?

Answer. As of November 30, 2005, the current Selected Reserve population was 826,171. Of that population, 381,180 (or 46.1 percent) have been or are currently mobilized. Based on the best available data there are 37,007 servicemembers who have served more than 21 months, with the overwhelming majority of these personnel being volunteers.

Question. What is your assessment of the Army's ability to support scheduled troop rotation planning beyond 2006, particularly in combat support and combat service support missions, given the 24-month policy?

Answer. The Army in coordination with the Joint Staff is currently planning for rotations in 2007 and beyond. It is important that we recognize that neither the Army nor the United States are in this conflict alone. The Army's Sister Services,

our coalition partners, or our immensely capable contractor partners can provide capabilities to offset any shortfalls that might emerge.

Question. What measures are being taken in the Department to respond to operational requirements for low density, high demand units and personnel whose skills are found primarily in the Reserve components, e.g., civil affairs, special operations, military police, truck drivers?

Answer. The Services are conducting a "Rebalancing" program where structure that is in low demand or no longer required is converted to skills and capabilities that is in high demand. Over time, rebalancing will help ease the stress on the force caused by repeated deployments in these skill or capability areas. In the near-term, while the Services are conducting rebalancing, the Department is also using Joint solutions to meet Combatant Commander Requirements.

OPERATIONS AND PERSONNEL TEMPO

Question. In your view, what would be the effect on recruiting, retention, and readiness of the Army and Marine Corps of continuation of the current rates of operations tempo and personnel tempo through 2010?

Answer. High tempo is stressful, and protracted high tempo compounds the stress. Recruiting and retaining the right numbers of people in the right skills has always been a challenge and continues to be our challenge today. Yet the Department has well demonstrated, with strong support of Congress, that we can sustain recruiting and retention despite those challenges.

Question. In your judgment, what would be the impact on the current rates of operations and personnel tempo of assigning principal responsibility for crisis and consequence management for natural, domestic disasters to either our Active or Reserve component forces?

Answer. Historically, we have always responded to natural, domestic disasters as a Total Force, employing state or Federal authority, as appropriate. This allows the President and the Secretary of Defense the greatest possible flexibility in meeting both forward defense and defense at home needs. Because future demand in these two conflict domains is uncertain, specialization is apt to be exactly wrong—increasing stress in some areas and creating surplus capacity in others. In my opinion, the Nation is best served with robust general purpose forces in both Active and Reserve components.

INDIVIDUAL READY RESERVE RECALL POLICY

Question. The Department of Defense established a policy in July 2005 mandating the discharge of officers in the Individual Ready Reserve (IRR) who are beyond their military service obligation (MSO) unless the officer specifically requests retention in the IRR. These policies have not been applied to enlisted personnel.

Such a policy cannot be applied to enlisted personnel since they are governed by their enlistment contracts, whereas officers serve indefinitely, even after completion of their MSO. This policy emphasizes communication as a critical aspect in managing the officer corps. It focuses on ensuring that our IRR is a viable military asset comprised of officers who desire to remain available to the military after completing their obligation.

What are your views about policies affecting continued service by officer and enlisted personnel in the Reserve component who have fulfilled their MSO?

Answer. The Department views all service, including that served beyond MSO, for both officers and enlisted members, to be voluntary, and our policies support that view. Simultaneously, we recognize the value of retaining trained and motivated members in the service and we therefore continue to offer opportunities to retain our members.

Question. In your view, should members of the Reserve who are deployed when they reach the end of their MSO be treated differently?

Answer. Department policy treats deployed and nondeployed members the same regarding expiration of their MSO unless a stop-loss policy has been implemented. Currently, only the Army has a stop-loss policy in effect. For Army Reserve component members, this means that they will be retained on Active-Duty for the duration of their mobilization tour plus 90-days to ensure proper post-deployment transitioning. Use of stop-loss policy is sometimes necessary for force stabilization and continuity purposes to ensure the safety and security of units and members.

MOBILIZATION AND DEMOBILIZATION OF NATIONAL GUARD AND RESERVES

Question. In the aftermath of the attacks of September 11, 2001, the National Guard and Reserves have experienced their largest and most sustained employment since World War II. Numerous problems have been identified in the planning and

procedures for mobilization and demobilization, e.g., inadequate health screening and medical readiness monitoring, antiquated pay systems, limited transitional assistance programs upon demobilization, lack of access to members of the Individual Ready Reserve.

What is your assessment of advances made in improving mobilization and demobilization procedures, and in what areas do problems still exist?

Answer. There have been advances in the mobilization and demobilization procedures. Notification lead time for mobilization has a goal of 30 days or greater for individuals and units ensuring individuals have sufficient time to prepare prior to their mobilization. Mobilization lengths are being more closely examined to ensure prudent and judicious use of Reserve component units and individuals. Post mobilization training is more efficient, shortening post mobilization training time without endangering the individuals due to insufficient or incomplete training. Demobilization advances include providing medical screening as soon as possible, sometimes even conducting screening in the theater of operations prior to redeployment. An issue we will be watching as part of the demobilization process is the re-equipping of the Reserve component, particularly the Army Reserve and Army National Guard.

Question. What do you consider to be the most significant enduring changes to the Reserve components aimed at ensuring their readiness for future mobilization requirements?

Answer. Among the most significant and enduring changes for our Reserves in the Total Force is the shift in the paradigm of their use—from the traditional strategic Reserve to today's operational Reserve. As such, our Reserves are an integral part of all service operations across the whole spectrum of conflict. To ensure the maximum readiness of the Reserves, the Department in conjunction with the Services, is actively working a number of initiatives. We are actively reshaping both our Active and Reserve Forces through Rebalancing. We are establishing predictable timetables for Reserve component use. With the "train, mobilize, and deploy" approach to Reserve component employment we are working to capitalize our efforts on scarce resources, reduce cross-leveling of units, and limit unit disruptions. Lastly, the improvements legislated in recent years to improve the timely access to TRICARE for Reserves, both the members and their families, have allowed the Reserves to be ready to be employed with less disruptions.

MEDICAL AND DENTAL READINESS OF THE RESERVES

Question. Medical and dental readiness of Reserve component personnel has been an issue of significant concern to the committee, and shortfalls that have been identified have indicated a need for improved policy oversight and accountability. For example, significant problems occurred when mobilizing and demobilizing soldiers were placed on medical hold for extended periods of time due to lack of coordination and insufficient medical resources. More recently, the threatened cancellation by the Department of Health and Human Services of a contract for health care services for reservists revealed a lack of communication between the Army Reserve, Office of Health Affairs, and Reserve Affairs.

If confirmed, how would you seek to clarify and coordinate reporting on the medical and dental readiness of the Reserves?

Answer. Tracking the medical readiness of the force is an important issue. Health Affairs has established a standardized management framework for quality assurance and a compliance monitoring program to measure Individual Medical Readiness (IMR). On January 3, 2006, DODI 6025.19 was published. It implements responsibilities, and prescribes procedures to improve medical readiness through monitoring and reporting on IMR.

Question. How would you improve upon the Department's ability to produce a healthy and fit Reserve component?

Answer. A fit and healthy Reserve Force is a shared responsibility between the Department and each individual member of the Reserve components. Ensuring a fit and healthy force is of prime importance to the Department and several key initiatives are currently underway to support that goal. Making the reservist a partner in managing and reporting on their physical, medical and dental readiness through periodic health assessments and annual dental screenings is already having a positive effect on individual medical readiness. This approach is not only revolutionary but is proving to be successful.

IMPLEMENTATION OF TRICARE FOR RESERVISTS

Question. The National Defense Authorization Act for Fiscal Year 2006 authorized new categories of eligibility for TRICARE for members of the Selected Reserve, which are required to be implemented by October 1, 2006.

What is your assessment of the Department's ability to timely implement the new benefits and the challenges it will have to overcome?

Answer. In order to implement the expanded TRICARE Reserve Select program on October 1, 2006, we will need to determine the program design and documentation requirements for reservists who are eligible unemployment recipients or not eligible for an employer-sponsored health plan, establish procedures for an open enrollment season, publish regulatory changes, modify the Defense Enrollment Eligibility Reporting System to include new categories of eligible beneficiaries, modify our TRICARE contracts, and work with the Reserve components to educate Selected reservists on their new health care opportunities. This is clearly a daunting set of tasks, but I am confident that it can be accomplished. Last year, through the untiring efforts of many dedicated OSD and Military Department staff members, we implemented the initial TRICARE Reserve Select program in a 6-month timeframe.

Question. If confirmed, what role would you play in coordinating the efforts of the Assistant Secretaries of Health Affairs and Reserve Affairs in the implementing these new benefits?

Answer. As noted, several steps are required to meet the deadline of October 1, 2006 for implementation, and these steps involve several elements within the Personnel & Readiness organization—including Reserve Affairs, Health Affairs, and the Defense Manpower Data Center. My role would involve tracking progress on the needed tasks, coordinating our efforts with those of the Military Departments, and quickly resolving issues.

TRAINING TRANSFORMATION

Question. The Department has implemented its Training Transformation plan and made progress in articulating milestones for establishment of a joint national training capability. Despite the importance of achieving realistic joint training, however, achievement of key goals aimed at supporting joint training, such as establishment of a fully trained Standing Joint Force Headquarters, will not be achieved until October 2009.

If confirmed, what role would you expect to play in overseeing the DOD Training Transformation Implementation Plan?

Answer. Realistic joint training within the DOD is not solely dependent upon Training Transformation (T2). The Department conducts many realistic joint training events. Training Transformation has a key role in accelerating progress toward more effective and efficient joint operations. I, along with my Service and OSD counterparts, have been actively engaged in shaping the strategy and implementing direction since the inception of the T2 Program.

Since we began this program in 2001, the spirit of cooperation and collaboration among the Services, Joint Forces Command, Special Operations Command, the other combatant commands, and the Joint Staff only deepens and broadens. The T2 business process can be described as open, collaborative, incentivized and transparent.

Question. What do you consider to be the greatest challenges to be overcome in establishing realistic and required joint training opportunities?

Answer. DOD must persist and expand in its transformation of joint training and education of the Total Force (Active military, Reserve components, career civilian, and contractor). The goal is to better enable joint force operations. We will also build partner capacity and enable the continuous, capabilities-based transformation of the Department.

The emergence of new joint mission areas and the inevitability that more irregular warfare challenges will surface in the future necessitate innovative, effective, and efficient training and education concepts to address them without increasing the stress on the force. These imperatives require a new approach in providing training and education initiatives to equip civil and military warfighters to overmatch any future opponent. The Department should continue to pursue increased joint training efficiency and capability through live, virtual, and constructive technology tradeoffs and explore alternative business practices to ensure efficient alignment and consolidation of joint training programs and resources with joint training priorities based on mission needs.

Question. How do you evaluate the performance of the services to date in supporting joint training initiatives?

Answer. We have, with your support of the T2 Program and the President's budget, made significant progress in the creation of T2's three supporting joint capabilities: Joint Knowledge Development and Distribution Capability (joint training and education for individuals); Joint National Training Capability (joint unit and collective training), and Joint Assessment and Enabling Capability (assessments to answer the question are we truly transforming training).

The Joint Knowledge Development and Distribution Capability (JKDDC) has fielded its JKDDC.Net website to provide a centralized location for accessing Service and DOD Agency learning management systems, populated with 19 joint courses for wide area distribution on prioritized combatant command needs and with their sponsorship. Another success for JKDDC is their hosting of the Combating Trafficking in Persons course which was developed collaboratively with the Department of State and our Academic Advanced Distributed Learning Co-laboratory at the University of Wisconsin. Over this year the office of primary responsibility for JKDDC will transition from the Chairman of the Joint Chiefs of Staff to Commander, Joint Forces Command.

Joint National Training Capability (JNTC) works to provide realistic distributed joint context to Services' sites and events and to the combatant commands as well. JNTC has already moved from discrete events to one that is venue centric with significantly decreased planning time for the distribution of joint training by moving electrons and not people.

Participation by the Services in Joint National Training Capability (JNTC) events has not interfered with their title 10 responsibilities to train their forces for the combatant commands. JFCOM achieved JNTC Initial Operational Capability in 2004 and we are on track to meet Full Operational Capability in 2009 although we will never really have an end point to transformation. The asymmetric threats in the 21st century will require new, realistic, innovative, and adaptive joint training constructs and capabilities to be able to provide robust joint training prior to deployment in support of the global war on terrorism operations, so that those who serve never experience a joint task in combat for the first time.

The Department is also migrating from the construct under which staff and other collective training was planned and completed in an 18–24 month pre-deployment cycle. JNTC has allowed us to insert appropriate joint training into these Service events and mission rehearsal exercises. Through your support the JNTC program has started to create, for the Department, a Live, Virtual, Constructive (LVC) environment that will support efficient participation of joint forces in appropriate training across the country and around the world. When not utilized for joint training, this LVC environment is being used by the Services to improve their own training capability.

We will, with your help, over the next year expand the persistence of JNTC to be more globally postured. The need to build this capacity to train with our multinational partners is imperative. When we look at the breadth and depth of current and recent operations we have seen the need for a persistent global joint training environment so that the Department can habitually interact with allies and partners in the joint, multinational, intergovernmental, training environment to avoid playing a game of pick up football. JNTC will become a Joint Global Training Capability (JGTC) in the future.

Regarding our Joint Assessment and Enabling Capability they created this past year a T2 performance assessment architecture and used it as a start point for the conduct of a block assessment and balanced scorecard assessment. Our first block assessment, due shortly, will serve as a baseline set of metrics to measure T2. Are we enabling the joint force and are we indeed transforming training? Upon completion of these assessments and outcome measurements of T2 missions and programs we will adapt and revise our strategic guidance and programmatics.

SUSTAINABLE RANGES INITIATIVE

Question. The adverse effects of encroachment pressures, including private development, restrictions imposed by environmental regulation, and growing competition for airspace and frequency spectrum, on the ability to conduct realistic training are well recognized.

The Department has implemented its Sustainable Ranges Initiative as a comprehensive strategic plan at local, State, and national levels aimed at preventing further deterioration of the utility of military training ranges.

What do you consider to be the most serious dangers at present to essential military training as a result of encroachment?

Answer. Encroachment is a many-faceted challenge, and requires the Department pay comprehensive attention to a number of issues. At the root of many of these

issues lies incompatible development and urban growth adjacent to our training ranges or under key airspace or low-level training routes, whether within the U.S. or worldwide. DOD is working to improve its cognizance of land use activities outside our fence line and to partner with States and communities to promote more compatible uses around our installations and ranges. Congress has provided us with valuable tools in this endeavor, such as the authority and funding to partner with conservation organizations and states to secure buffer lands around ranges. Success on land use will also help address many other encroachment concerns, such as noise complaints, further loss of endangered species habitat off DOD lands, and some types of frequency interference, to name a few.

Question. What additional steps are needed, in your judgment, to address problems caused by encroachment of all types to enhance the effectiveness of the Sustainable Ranges Initiative?

Answer. The key to counteracting encroachment is understanding and managing all the diverse issues and their interdependencies. I believe the Department has a comprehensive approach to range sustainment in place that will enable us to stay ahead of encroachment. But we must remain vigilant, and continue to recognize the importance of test and training resources to live training, readiness, and national defense. As resource competition increases and undeveloped lands shrink, we must place a high priority on protecting the land, air, sea, and spectrum resources necessary to prepare our forces for combat. Congress clearly recognizes this need; we ask for your continued support in our efforts to craft encroachment solutions that protect readiness while also safeguarding our environment and the health and welfare of our neighbors.

DEFENSE READINESS REPORTING SYSTEMS

Question. The Department is developing guidelines and procedures for a comprehensive readiness reporting system that evaluates readiness on the basis of the actual missions and capabilities assigned to the forces. DOD Directive 7730.65, "Defense Readiness Reporting System" (DRRS), directed the implementation of a capabilities-based, adaptive, near real-time readiness reporting system. This system is required to measure and report the readiness of military forces and supporting infrastructure to meet missions and goals assigned by the Secretary of Defense.

What is the status of the DRRS, and what advantages over existing systems does it possess?

Answer. DRRS is a single, comprehensive readiness reporting system for the Department of Defense. DRRS achieved initial operating capability in October 2004, and is on schedule to be fully operational by the end of fiscal year 2007. DRRS is data driven, and uses web-based software on DOD's classified internet to provide near real time readiness information. DRRS is mission and capability focused, and provides global visibility of DOD forces. DRRS provides more accurate, thorough, and comprehensive readiness information of DOD force capabilities to aid in war planning, force management, and risk assessment.

Question. Given the importance to the success of DRRS of Department-wide collaboration and cooperation, what is your assessment of the support provided by the stakeholders?

Answer. We have broad DOD support for DRRS. DRRS was fully supported by the Joint Chiefs of Staff at a recent DRRS update briefing. Furthermore, the Secretary of Defense is briefed every other month on the status of DRRS implementation. The combatant commanders are some of the strongest DRRS supporters, with PACOM, STRATCOM, and NORTHCOM leading the way in realizing the DRRS vision.

Question. Under section 117(e) of title 10, U.S.C., a report on the results of the most recent joint readiness review, including current information derived from the readiness reporting system, must be submitted on a quarterly basis to the congressional defense committees.

What steps would you take, if confirmed, to ensure that the readiness information available through DRRS and its web-based reporting system is made available to the congressional defense committees in a timely manner?

Answer. We are currently developing a DRRS module that will greatly reduce the time required to prepare the Quarterly Readiness Report to Congress. We have also used DRRS functionality to assist in answering readiness questions of the congressional defense committees.

DEFENSE PRISONER OF WAR/MISSING PERSONNEL OFFICE (DPMO)

Question. In 2005, the leadership of DPMO came under criticism from survivor family groups who alleged that insufficient attention and resources were being com-

mitted to recovery of U.S. personnel missing from conflicts from World War II to the present.

In view of the mission of the DPMO, do you think that this organization, as well as the U.S. Army Central Identification Laboratory in Hawaii (CILHI) would more appropriately be placed under the proponency of the Under Secretary of Defense for Personnel and Readiness?

Answer. I believe the DPMO program is appropriately aligned within the purview of the Assistant Secretary of Defense for International Security Affairs under the Under Secretary of Defense for Policy (USD(P)). Moreover, the USD(P) can best meet the predictable and often complex challenges associated with the necessity to coordinate with foreign governments for the recovery of remains. Additionally, the USD(P) works, on a daily basis, with the Joint Staff and the combatant commands, to include the Pacific Command, on the worldwide use of military assets. This is important because the utilization of these assets is often central to the planning and conduct of DPMO related operations.

Note: The U.S. Army Central Identification Laboratory no longer exists under that title. In 1993, the Laboratory was merged with Pacific Command's Joint Task Force-Full Accounting. It is now the Joint POW/MIA Accounting Command and remains a Pacific Command asset with a worldwide mission.

Question. Do you believe that the Personnel and Readiness organization should have a larger role in the oversight of the DPMO?

Answer. I believe P&R has an effective relationship with USD(P) and that there is no requirement for a direct P&R oversight role. Indeed, because of the considerations discussed in the previous answer, attempting to inject such oversight in matters dealing with international coordination issues could actually have a negative impact. Having said the above, I am keenly aware of P&R responsibilities to the families of all servicemembers—especially those whose loved ones are missing or deceased. If I am confirmed, I will ensure P&R coordination with DPMO is all that it should be. Moreover, once an individual's remains have been identified through work completed by DPMO, P&R should continue to work with the Military Services to honor the family's desires as to disposition of remains and any military funeral honors.

EMPLOYMENT OF MILITARY SPOUSES

Question. In your view, what progress has been made, and what actions need to be taken to provide increased employment opportunities for military spouses?

Answer. DOD has been committed to helping military spouses start rewarding careers and to remove barriers to career advancement. We have made significant progress in the last 2 years.

We have begun to raise awareness among employers about the value of hiring military spouses and we have increased our efforts at the state level where licensing and certification requirements differ state to state.

In the 9 months since www.military.com/spouse site was launched, over 800,000 spouses have visited the site; over 500,000 have signed up for the newsletter, over 400,000 have visited the chat rooms and over 1.5 million job searches have been conducted. In recent months, DOD has also co-sponsored specialty career fairs that focus employers on severely injured servicemembers and military spouses.

We commissioned research studies to determine which careers were most popular and which States provided the most opportunity for removing these barriers. We were able to determine that teaching, real estate, nursing, and medical assistant positions were popular spouse careers that have State-specific licensing requirements. Since then, we have worked to use the American Board for Certification of Teacher Excellence (ABCTE), a national passport credentialing organization supported by No Child Left Behind, as a beneficial alternative transportable teaching credential for military spouses. Five States have adopted ABCTE's credential and more States with many military families are considering it. We are identifying other career opportunities where employer affiliations will aid spouses in staying on track, such as in real estate; and industries that offer portable credentials, such as computer networking.

FAMILY SUPPORT

Question. In your view, do the Services have adequate programs in place to ensure support for Active and Reserve component families, particularly those who live great distances from military installations?

Answer. Yes, two-thirds of military families do not live on DOD installations. Reserve and Guard families are often long distances from support systems. Therefore, DOD leveraged technology to reach all military families by providing easy access to

accurate and timely information wherever they may live around the world. Every Service and the Reserve components are now plugged into Military OneSource. This is an innovative way of providing information and assistance to troops and families 24 hours a day, 365 days a year by a toll-free number or online, from any place, tailoring services specifically to individuals and families. This service also provides counseling and emotional support when needed by Master's degree level staff.

Each of the military services, including their Reserve components, also has important, unit-based family support programs. These programs provide a human face to families in need, and reinforce the unit commander's role in supporting and caring for the families of those who are serving.

Question. If confirmed, what additional steps would you take to enhance family support?

Answer. The Department has done an excellent job designing flexible family support programs that meet the needs of our servicemembers and their families who live on military installations, near military installations, and those who live at a distance. Spreading the word about these innovative support programs to the members of the Total Force and their families is high on my priority list. Next steps are to make sure everyone knows about the services, uses them to their advantage, and recognizes it is a wise choice to seek help to cope with military life's challenges.

GENERAL AND FLAG OFFICER NOMINATIONS

Question. Under DOD Instruction 1320.4, adverse and alleged adverse information pertaining to general and flag officers must be evaluated by senior leaders in the Services and in the Office of the Secretary of Defense prior to nomination.

If confirmed, what role would you play in the officer promotion system, particularly in reviewing general and flag officer nominations?

Answer. If confirmed, I would perform those duties and responsibilities assigned by the Under Secretary of Defense for Personnel and Readiness. Those duties may include management of compliance with governing statutes and policy, as well as sustainment of consistency in the Department's approaches to major policies.

Question. What is your assessment of the ability of the Services to timely document credible information of an adverse nature for evaluation by promotion selection boards and military and civilian leaders?

Answer. The Military Services are diligent in ensuring that timely documentation is available for evaluation by promotion selection boards, and that it is available to military and civilian leadership who oversee that process. If confirmed, I will promulgate policy guidance to ensure that the newly-enacted provisions of the National Defense Authorization Act for Fiscal Year 2006 are accomplished. That statute directs that all substantiated adverse information be made available to general and flag officer promotion boards convening after October 1, 2006.

NATIONAL SECURITY PERSONNEL SYSTEM

Question. The Committees on Armed Services and Homeland Security and Governmental Affairs have closely monitored the implementation of the National Security Personnel System (NSPS) throughout its first year of development and implementation.

If confirmed, what would your role be in the management, implementation, and oversight of policies relating to NSPS?

Answer. If confirmed, I anticipate that I will continue as the Co-Chair of the NSPS Overarching Integrated Product Team (OIPT) along with George Nesterczuk, our Office of Personnel Management partner. The OIPT is Secretary England's mechanism for providing advice and counsel to the NSPS Program Executive Officer and for quickly resolving design, development and deployment issues that do not require his personal involvement. Secretary England, Dr. Chu, and I are committed to making sure we do this right for the benefit of our people and our national security mission.

Question. How do you evaluate the concerns of employee groups with respect to changes in collective bargaining, content and collaboration over Department of Defense issuances, the independence of the National Security Labor Relations Board, and procedures associated with performance appraisals?

Answer. The unions have raised a variety of concerns, and the Department has done its best to respond to these concerns. Even so, the employee representatives may disagree with how these concerns were addressed.

The continuing collaboration process offers many opportunities for employee representatives to participate. It is a very robust process that provides employee representatives an opportunity for greater involvement in workforce issues, including areas previously excluded by law or other agency rules.

The National Security Labor Relations Board is designed to be independent. Members are appointed by the Secretary to fixed terms of 3 years. Members will be independent, distinguished citizens known for their integrity, impartiality and expertise in labor relations and/or the DOD mission, and/or related national security matters. Finally, members may be removed only for inefficiency, neglect of duty or malfeasance in office, which is a standard similar for removing members of the Federal Labor Relations Authority and the Merit Systems Protection Board.

Based on feedback from a number of stakeholders, including employee representatives, the NSPS Program Executive Office is currently undergoing a redesign effort to simplify the performance management system.

Question. What steps, if any, do you believe the Department should take to address these concerns?

Answer. The Department has already taken extraordinary steps to address these concerns. For example, we revised the final regulations to permit collective bargaining on certain operational matters if the Secretary determines that bargaining would advance the Department's mission accomplishment or promote organizational effectiveness. The proposed regulations did not permit such bargaining. This change was in response to concerns raised by several Members of Congress, as well as the unions.

In response to suggestions raised by employee representatives during the meet and confer process, we revised the final regulations to make clear that each national labor organization with bargaining units affected by an implementing issuance will be provided an opportunity to participate in the continuing collaboration process. We also modified the regulations to make clear that the Department will consider the views and recommendations of employee representatives before taking final action. The Department will provide employee representatives a written statement of the reasons for taking final action regarding an implementing issuance.

In response to concerns by several Members of Congress and employee representatives, we revised the final regulations to require the Secretary to consider labor organization nominations for two of the Board members. This is fair and assures labor organizations a voice in the National Security Labor Relations Board selection process.

In response to concerns regarding the performance management system, the implementing issuances will address the specific processes and practices that will be used within the Department. The Department will ensure that the NSPS performance management system complies with the law. It will establish effective safeguards to ensure that the management of the system is fair and equitable. Continuing collaboration will provide employee representatives the opportunity to provide input as needed.

Question. What metrics do you believe are necessary to assess the impact of NSPS on mission readiness of the Department of Defense?

Answer. The Department's readiness is high. Our employees are effective, dedicated contributors today. NSPS will not change that. It will improve human resource management practices to heighten commander and supervisor attention to their civilian employees' performance, increase employees' and supervisors' confidence in their own and each other's accountability for mission accomplishment, and be more competitive in hiring the people we need in mission-critical occupations and labor markets where we have lagged.

I believe we must monitor employees' satisfaction with working for the Department, their jobs, and leadership. We must monitor how important employees think their work is and how well prepared they and their organizations are to accomplish the mission.

Measuring employee and supervisor opinions of how effectively we deal with poor performers and disruptive employees is as important as accounting for associated management actions. We should measure relative changes in where supervisors, managers, and commanders invest their human resource management time. For example, are they increasingly engaged with employees on performance and mission objectives, while spending less effort on administrative demands like job descriptions, personnel action requests, and answering discovery requests in adverse action appeals?

NSPS effects may be assessed through a combination of job-offer acceptance rates, the speed with which we fill vacancies, and supervisor satisfaction with candidate quality. NSPS should also increase the Department's agility in realigning the workforce to meet changing mission demands emanating from a more dynamic security environment; we'll need to develop measures to see that we have done that. I expect to look at how much use we make of new or more flexible employment authorities for emergency hiring to meet urgent mission demands, and for term or temporary

appointments that help the Department get through transformational periods such as BRAC.

It will take time to see the effects of NSPS—not all authorities will be used heavily or early, and there will be a learning curve. Additionally, many factors contribute to mission readiness. We therefore must use a judicious mix of metrics to assess NSPS impact and be wary of pronouncing on the meaning of the metrics too early.

MANAGEMENT OF SENIOR EXECUTIVE SERVICE CIVILIAN PERSONNEL

Question. Although the Office of Personnel Management has recently approved the Department's performance management and pay system for senior executives, it did so only after finding that the Department's initial performance plan was not satisfactory.

What is your understanding of the status of the DOD transition to performance-based management of Senior Executive Service (SES) personnel?

Answer. OPM approved the Department's Executive and Senior Professional Performance System on April 1, 2005, and it was implemented on June 30, 2005. Since that time, the Department has been on a pay for performance system for its Executives and Senior Professionals. The new Executive and Senior Professional Pay and Performance System made fundamental changes in the way the Department establishes performance requirements, assesses performance, and compensates and rewards senior executives. In our just completed fiscal year 2005 rating cycle, we were able to accurately reflect, assess, and recognize individual and organizational performance using the fiscal year 2005 performance standards, and we were able to make clear distinctions in performance. The Department did very well overall in OPM's 2005 assessment, achieving a score of 100 percent in 4 of the 6 rating areas. It was only in one area in which the Department needed improvement.

Because our Executives and Senior Professionals will have been on a pay for performance system a couple years in advance of the implementation of NSPS, they understand the magnitude of the changes as well as the level of commitment and leadership essential to drive a pay for performance culture. The lessons learned will be invaluable as we move the rest of the Department into a new pay for performance system. Continued training is essential and the Department will be redoubling its efforts to train the Executive and Senior Professionals on the new pay and performance system. We are confident that our executives will be able to lead the way for the Department's transition to a pay for performance culture.

Question. Do you believe that delays in achieving an acceptable plan will have an impact on approval of the performance pay for the SES?

Answer. OPM already approved the Department's Executive and Senior Professional Performance System on April 1, 2005, and DOD implemented it on June 30, 2005. Since that time, the Department has been on a pay for performance system for its Executives and Senior Professionals. The new Executive and Senior Professional Pay and Performance System made fundamental changes in the way the Department establishes performance requirements, assess performance, and compensate and reward senior executives. The Department already made its first pay outs under the pay for performance program.

Question. If confirmed, how would you propose to ensure that performance pay is made in a timely manner, not only for senior executives but for all civilian employees within the NSPS?

Answer. Training is key to the success of moving toward a pay for performance culture. Making our managers comfortable with the new methodology for calculating payouts will ensure that they are completed in a timely manner. Our training plan should be comprehensive and incorporate a robust learning strategy that will prepare our managers to transition to the new pay for performance system. The NSPS implementation plan calls for training of every employee and mock performance assessments and payouts.

MANAGEMENT AND DEVELOPMENT OF THE SENIOR EXECUTIVE SERVICE

Question. Under the NSPS, the Department has broad latitude over the management of its SES personnel.

What is your vision of the approach the Department should take to improve its management of the SES under the authorities provided by the NSPS?

Answer. Today, our senior executives require an extraordinary skill set to meet the challenges of the global war on terrorism. These challenges have accelerated our efforts to make our Department more agile, responsive, and more joint in the way we do our business. I envision an SES Corps that is prepared to lead in a joint environment; has a diverse perspective based upon varied experiences at different levels of DOD and, as necessary, outside the Department; is mobile and ready to assume

leadership responsibilities where needed; has substantive knowledge of national security mission; a shared understanding, trust, and sense of mission with military leaders; and strong leadership and management skills.

To this end, the Department is currently examining its SES corps and will be making recommendations to move toward a more flexible, agile, and joint SES corps. As the Assistant Secretary of the Air Force, I am involved in these efforts, and I expect to see significant progress within the next few months.

Question. Some SES members within the Department have voiced concerns over the lack of professional development and career management efforts for the SES within the Department, in contrast with other Federal agencies. The Air Force, however, has initiated a senior leader management model to enhance and improve management, development, and assignment of SES and general officers.

What is your assessment of how the Air Force program is working?

Answer. The Air Force program is, to the best of my knowledge, unique within the Federal Government, and an unqualified success. About 15 years ago, the Air Force's senior career civilian executives initiated a comprehensive effort to increase the executive competencies of members of the SES serving the Air Force, and a companion effort to deliberately develop and prepare high grade civil servants for executive leadership. Their efforts are now embedded into Air Force culture. Aspirants to the SES know they must learn the business by moving to different positions, different Air Force commands, and even to different functional specialties. More junior Senior Executives know that, should they aspire to more senior levels, they must broaden and deepen their leadership competencies in the same way. Military leaders now embrace members of the SES as peers. The Secretary of the Air Force and the Chief of Staff manage both General Officer and SES assignments. Some Air Force senior leader positions are filled interchangeably with a General Officer or an SES—depending on the best candidate available and the needs of the job. There is now an Air Force SES leading one of the Air Force's major repair depots. The Air Force invests in executive development and provides both General Officers and members of the SES continued professional development opportunities. The concept of competency-based management was pioneered by the Air Force SES, spread into Air Force General Officer management concepts, thence into Joint Officer Management concepts, and now is influencing the Department's Human Capital Strategy.

Please understand that even though I am the Assistant Secretary of the Air Force for Manpower and Reserve Affairs (M&RA), I claim no credit for this "best practice". Career Air Force executives conceived of and implemented this program. It was in full swing when I arrived in August 2001. I have supported and encouraged progress, shared the model with the Departments of the Navy, Army, and the Office of the Secretary of Defense, and championed the extension of that model into the development of joint competencies and joint perspectives in our senior civilian executives.

Question. In your view, should a similar program be designed and expanded throughout the Department?

Answer. We should certainly consider expanding this model more broadly across the Department of Defense. The Department of the Navy is already moving quickly in this direction. As we think about extending this model, we must also be mindful that each component of the Department is different, faces a different set of challenges, and will likely need to tailor application of this executive management "model" to its own circumstances. If confirmed, I would expect to shepherd and encourage this process. I will, in particular, champion the Department's efforts to do for the SES corps what Goldwater-Nichols did for the Department's officer corps—create a powerful imperative for knowing, thinking, and acting joint.

Question. If confirmed, would you support an initiative to require SES members to obtain broadening experiences and assignments in the military departments, the Office of the Secretary of Defense, Joint Staff, combatant commands, and elsewhere? If so, how would you plan to achieve this?

Answer. Yes, if confirmed I would support an initiative that prepares individuals for senior leadership positions in a "joint" environment. We are currently examining a proposed concept of operations for a joint-qualified SES corps as a potential model for the Department. We are bringing a group of our best talent together to review the proposal and make recommendations for a broader, DOD application.

SEXUAL ASSAULT

Question. On February 25, 2004, the Senate Armed Services Committee Subcommittee on Personnel conducted a hearing on policies and programs of the Department of Defense for preventing and responding to incidents of sexual assault in the Armed Forces at which the service vice chiefs endorsed a "zero tolerance" stand-

ard. Subsequently, in response to congressional direction, the Department developed a comprehensive set of policies and procedures aimed at improving prevention of and response to incidents of sexual assaults, including appropriate resources and care for victims of sexual assault.

Do you consider the new sexual assault policies and procedures, particularly those on confidential reporting, to be effective and, what problems, if any, are you aware of in the manner in which this new reporting procedure has been put into operation?

Answer. The Department is fully committed to combating sexual assault and eliminating this societal problem from the ranks of the military. DOD's comprehensive policy provides commanders at all levels the direction and tools necessary to deal with this crime, and the military Services have been vigorously implementing its provisions.

I am unaware of any problems instituting confidentiality, and initial data have been very positive. This provision enables many victims to receive medical care and treatment who previously would not have come forward. Significantly, some of these victims changed from a restricted report to an unrestricted report within weeks of receiving medical care, thereby enabling law enforcement to conduct investigations and increase offender accountability.

We will evaluate and refine, as necessary, our comprehensive policy to ensure it best meets the needs of our servicemembers and becomes the benchmark for other organizations to follow.

Question. What is your vision for the future role of the Joint Task Force for Sexual Assault Prevention and Response, and, if confirmed, what actions would you take to ensure senior management level direction and oversight of departmental efforts on sexual assault prevention and response?

Answer. The Joint Task Force is transitioning into the Sexual Assault Prevention and Response Office (SAPRO), a permanent organization within the Office of the Under Secretary of Defense for Personnel and Readiness. It currently enjoys ready access to senior leadership, and, if I am confirmed, it will have equal access to me.

SAPRO will remain the Department's single point of accountability for sexual assault prevention and response policy. This office will continue to work closely with the Military Services to evaluate and refine sexual assault policies. It will also collaborate with other Federal agencies and be a conduit for advocacy groups to interface with the Department. SAPRO will spearhead the Department's efforts to institute cultural change with the goal of eliminating this societal problem from the military.

If confirmed, I will facilitate SAPRO efforts by ensuring the full commitment of Health Affairs, Reserve Affairs and the Service M&RAs in implementing and resourcing sexual assault policies throughout the Active and Reserve components.

SERVICE ACADEMIES

Question. What do you consider to be the policy and procedural elements that must be in place at each of the service academies in order to prevent and respond appropriately to sexual assaults and sexual harassment and to ensure essential oversight?

Answer. The Department's sexual assault and sexual harassment policies provide the foundation for combating sexual misconduct at the service academies as well as the Active and Reserve components.

The three superintendents have initiated in-depth programs, and we are making progress. While more work remains to achieve our goal of zero sexual assaults, I believe the service academies' programs are setting the standard for collegiate America.

Augmenting the significant efforts of the superintendents are several echelons of oversight to include the Boards of Visitors of each institution.

Question. What is your assessment of corrective measures taken at the U.S. Air Force Academy to ensure religious tolerance and respect, and of Air Force guidelines regarding religious tolerance that were promulgated in August 2005?

Answer. The Air Force Academy is committed to developing leaders of character and to providing cadets with an atmosphere that promotes religious tolerance and respect. I personally tasked the Air Force Deputy Chief of Staff, Personnel, to form a cross-functional team to assess the religious climate at the Academy and the Academy's progress in integrating principles of respect into its character development program. I believe the Academy has implemented an effective program, but it is one it and the senior leadership of the Air Force will continue to monitor and improve.

The realization of the need for guidelines concerning free exercise of religion and non-establishment of religion emerged from our assessment of the Academy. While

we had no evidence of religious tolerance issues in the larger Air Force, we developed the guidelines to ensure the entire Air Force understood its responsibilities in this area. In promulgating the interim religious guidelines, the Acting Secretary of the Air Force recognized that, in spite of how hard we worked developing them, they would not be perfect. He solicited comment, therefore, from a wide range of groups, from Members of Congress, from commanders, and from airmen. The comments received have convinced the current Secretary of the Air Force, the Honorable Michael Wynne, of the need to revise the guidelines to make them simpler and easier to understand, and to more carefully balance our responsibility to promote free exercise of religion, with our responsibility to avoid any appearance of government establishment of religion, and with our national security mission. Secretary Wynne has, in addition, committed to sharing with our sister Services and with senior officials in the Office of the Secretary of Defense, the lessons learned from the national dialog stimulated by the Air Force's interim guidelines. I believe the Air Force and the DOD will derive significant benefit from this dialog. Our understanding of and sensitivity to these responsibilities is and will continue to be much increased. We are, therefore, better servants of the Nation and its Constitution.

TRICARE FEE INCREASES

Question. Recent press reports have described an initiative within the Department of Defense to significantly increase enrollment fees and deductibles for retirees and their families.

What is your view of the need for and the effectiveness of increased beneficiary payments in reducing overall Defense Health Program costs to the Department?

Answer. The Department must continue to modernize and sustain the health benefit program to provide a health benefits package that is effective, efficient, and well suited to the structure of the force. Our Department health care costs have risen from $19 billion to $37 billion in just 5 years. Good stewardship compels us to consider cost-sharing and to evaluate the effects of restoring the balance that existed when TRICARE was established in 1995.

Question. What other changes in infrastructure, benefits, or benefit management, if any, do you think should be examined in order to control the costs of health care?

Answer. The Department has made concerted efforts over the past several years to obtain cost savings wherever possible.

- We have established annual efficiency and productivity targets for our medical treatment facilities and instituted a value based performance system using a prospective payment methodology—which pays these facilities for the actual work they perform.
- In the pharmacy management we seek to achieve considerable savings from our Federal pricing structure.
- We have reduced our supply costs by leveraging modern strategies such as Prime Vendor and "just in time" delivery services with our vendors.
- We have streamlined our managed care support contracts to reduce costs and will continue to do so in future contracts.
- We've worked closely with our Department of Veterans Affairs colleagues to share services and reduce duplication of services, wherever possible.
- We are making tremendous strides in our infrastructure to maintain modern facilities and the recent BRAC efforts will help us consolidate services in key areas such as here in Washington and in San Antonio.

FOREIGN LANGUAGE TRANSFORMATION ROADMAP

Question. A Foreign Language Transformation Roadmap announced by the Department on March 30, 2005, directed a series of actions aimed at transforming the Department's foreign language capabilities, to include revision of policy and doctrine, building a capabilities based requirements process, and enhancing foreign language capability for both military and civilian personnel.

What is your understanding of the status of the actions identified in the Defense Language Transformation roadmap?

Answer. The roadmap outlined 43 actions to support four overarching goals: create foundational language and regional expertise within the Department; create surge capacity; establish a cadre of highly proficient language professionals; and oversee career management of members with language skills. I understand that six major tasks are completed and the remaining tasks are on track for completion within the specified timelines.

Question. If confirmed, what steps would you take to identify foreign language requirements, and to design military and civilian personnel policies and programs to fill those gaps?

Answer. The current roadmap is still quite new. I will maintain a sharp focus on the Roadmap to ensure we maintain momentum, evaluate results, and capitalize on the progress already achieved.

Question. What is your assessment of an appropriate timeframe within which results can be realized in this critical area?

Answer. While considerable progress has been made, I believe this will be a long-term effort. Language acquisition, particularly at advanced levels, takes a long time. This is particularly true in the more difficult languages such as Arabic and Chinese. To improve language proficiency and regional expertise in our officer corps, we need to start early in their careers and grow capability over time. I also expect that our language needs will change with world events and new ones will need to be addressed. Finally, a real key to success rests with a change to our educational system that graduates students, both at high school and college level, with language proficiency. The National Security Language Initiative, announced by President Bush, begins to mobilize the Nation's educational systems toward greater emphasis on foreign languages and culture.

INTELLIGENCE COMMUNITY GROWTH

Question. The Intelligence Community is in the midst of a period of rapid growth and reorganization. The number of flag and general officer billets that must be filled and senior leader positions in the Defense Intelligence Senior Executive Service can be expected to increase. The Department has asked to increase the size of the Defense Intelligence Senior Executive Service (DISES) by 150 employees by the end of fiscal year 2007 and has been given authority to appoint its own Defense Intelligence Senior Leaders.

If confirmed, what role would you play, in coordination with the Services and the Combat Support Agencies, in the management of this growth?

Answer. If confirmed, I will work closely with the Under Secretary of Defense (Intelligence), who has the responsibility for exercising overall supervision and policy oversight of all defense intelligence human capital (to include DISES) to ensure that the defense intelligence components are manned, trained, equipped, and structured to support the missions of the Department and fully satisfy the needs of the combatant commands, the military departments, and the Office of the Director of National Intelligence as appropriate.

Question. In your view, should Defense Intelligence Senior Executive Service personnel and general and flag officers of the Intelligence Community be managed as a single entity more in line with the Air Force model?

Answer. An effective senior leader management system requires selection and assignment of the best candidate for each position in an organization. Thus, it is essential to consider knowledge, skills, and abilities of all senior leaders available to an organization. Moreover, it is imperative that we, as leaders, take measures to ensure that a deep "bench" of superbly qualified candidates is available for each potential vacancy. There are, however, many paths to that goal. If confirmed, I will work closely with the leaders of the Intelligence Community to ensure they have the information, tools, and support necessary to effectively manage this cadre of executives.

ARMED FORCES RETIREMENT HOME

Question. In the aftermath of Hurricane Katrina, hundreds of elderly residents of the Armed Forces Retirement Home (AFRH) in Gulfport, Mississippi, were evacuated and now reside at the Armed Forces Retirement Home facility in Washington, DC.

What is your understanding of the official relationship between the Principal Deputy Under Secretary of Defense for Personnel and Readiness (PDUSD(P&R)) and the Chief Operating Officer of the AFRH?

Answer. The AFRH is an independent establishment in the executive branch. Chapter 10 of title 24, U.S.C., requires the Secretary of Defense to appoint the AFRH Chief Operating Officer, who serves at the pleasure and is under the authority, direction and control of the Secretary of Defense; appoint the Home Directors, Deputy Directors, Associate Directors and members of the Local Boards of each Home; evaluate the performance of the Chief Operating Officer; prescribe pay for the Chief Operating Officer within limits of the Executive Schedule; acquire and dispose of AFRH property and facilities; make available DOD support necessary for the Retirement Home to carry out its functions on a nonreimbursable basis; and transmit a report to Congress on an annual basis on financial and other affairs of the Home. The Secretary of Defense delegated these responsibilities to the USD(P&R) and the PDUSD(P&R) in a memorandum dated March 20, 2003.

Question. If confirmed what steps would you anticipate taking with respect to restoring and improving the AFRH facility in Gulfport, ensuring the financial stability of AFRH funding, and responding to concerns by residents about the conditions at the AFRH facilities?

Answer. If confirmed, I will ensure AFRH carries out its responsibilities. I will establish regular contact with the AFRH Chief Operating Officer to ensure care and services meet or exceed those established in law. I will ensure health care accreditation is maintained and support continued efforts to build the trust fund and seek efficiencies that do not diminish the high quality of care the Home's residents expect and deserve. I will require periodic resident and staff climate assessments and be responsive to complaints and concerns and ensure appropriate corrective actions are taken.

MILITARY QUALITY OF LIFE

Question. In May 2004 the Department published its first Quadrennial Quality of Life Review, which articulated a compact with military families on the importance of key quality of life factors, such as family support, child care, education, health care and morale, welfare and recreation services.

How do you perceive the relationship between quality of life improvements and your own top priorities for military recruitment and retention?

Answer. The Department implemented very successful programs to support OEF/OIF troops and families. I believe these programs have contributed to DOD's impressive retention rates. We should continue to conduct analyses and assessments of these programs, individually and in aggregate, to ensure they are meeting the needs of our servicemembers and are contributing positively to recruiting, retention, and readiness.

Question. If confirmed, what further enhancements to military quality of life would you make a priority, and how do you envision working with the Services, combatant commanders, family advocacy groups, and Congress to achieve them?

Answer. If confirmed, I will aggressively pursue the President's "Managing for Results" agenda, developing the clearest possible understanding of the needs of our force, how our individual and collective programmatic response meets those needs, and how those programs contribute, individually and collectively, to recruiting, retention, and readiness. Gaps or shortfalls will be filled rapidly with the most cost-effective program possible. Results—measured in satisfied, healthy families and combat ready servicemembers—will drive our efforts.

COMMISSARY AND MILITARY EXCHANGE SYSTEMS

Question. Commissary and military exchange systems are critical quality of life components for members of the Active and Reserve Forces and their families.

What is your view of the need for modernization of business policies and practices in the commissary and exchange systems, and what do you view as the most promising avenues for change to achieve modernization goals?

Answer. Commissary System: The Department's strategy remains to sustain the value of the commissary benefit without increasing its cost. The Defense Commissary Agency's (DeCA) re-engineering efforts are aimed at reducing overhead by centralizing support and streamlining store operations. Although still in the early stages of re-engineering, DeCA has demonstrated successes.

Exchange System: All three of the exchange systems are continually trying to modernize their policies and practices in order to remain competitive in a challenging retail market. Force repositioning, BRAC and the global war on terror, with its attendant increased costs to provide the exchange benefit, will continue to challenge Exchange profitability. As the Department has reported to you over the past 2-plus years, we have embarked on a process to cut operational costs within our exchange system by combining backroom functions from all three exchanges into a common provider. We currently estimate a $2-plus billion reduction over 15 years in total operational costs for our three Exchange Services by streamlining process delivery combined with elimination of redundancy. By taking an approach focused on backroom processes only, the service member's relationship to the Exchange is preserved while the total costs he pays to the Exchange are reduced.

Question. In the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Congress required the Secretary of Defense to establish an executive governing body for the commissary and exchange systems to ensure the complementary operation of the two systems.

What is your understanding of the purpose and composition of the executive governing body?

Answer. The Department established the DOD Executive Resale Board as the governing body to provide advice to the USD (P&R) regarding the complementary operation of resale activities. The Board works to resolve issues within the elements of the military resale system. The Board is chaired by the PDUSD (P&R), and members include both the senior military officers and civilians who oversee and manage the commissary and exchanges systems.

Question. If confirmed, what would your role be with respect to the governing body, and what would your expectations be for its role?

Answer. The Secretary designated the PDUSD(P&R) as the chairman of the Executive Resale Board. I envision the Board would continue to meet regularly to review operational areas of mutual interest to the commissary and exchange systems. Matters reviewed by the board include both cooperative efforts and areas of disagreement. The Board should not duplicate the roles of the Commissary Operating Board or the Exchange Boards or Directors. Thus far, the Board has proved to be an effective mechanism to vet operational matters of mutual interest to the exchanges and commissary. The Board provides a forum for seeing that operating decisions are made in the best interests of the patron and of the total resale community.

LEGISLATIVE FELLOWSHIP PROGRAM

Question. Each year, the Services assign mid-career officers to the offices of Members of Congress under the Legislative Fellows Program. Upon completion of their legislative fellowships, officers are supposed to be assigned to follow-on positions in their services in which they effectively use the experience and knowledge they gained during their fellowships.

What is your assessment of the value of the Legislative Fellows program to the Department and the utilization of officers who have served as legislative fellows?

Answer. I support this important training and career development program and believe it has great value to the Department and Congress. The Department's Legislative Fellows program provides an annual opportunity for 22 officers and 5 civilians to broaden their education, experience, and knowledge in operations and organization of Congress. Senior civilian leadership of the Military Departments validate the selection; and in my capacity as Principal Deputy Under Secretary of Defense for Personnel and Readiness, if confirmed, I would approve them on behalf of the Secretary. We place these fellows with members who are in committees with significant relevance to the Department. The Assistant Secretary for Legislative Affairs ensures the right officers are detailed to the right congressional leadership, defense or intelligence oversight committee. Such high-level oversight for this program is entirely appropriate as we seek to develop people capable of sustaining strong and effective dialogue with the legislative branch.

The Legislative Fellows program is now a highly-competitive program, sought after by some of our most promising mid-career leaders. The knowledge they gain from this program will contribute to their personal and professional growth, as well as to the Department's effectiveness, throughout their careers. We should consider, therefore, whether some limited flexibility in the follow-on assignments might be warranted. It would be unfortunate, for example, if a rising star missed an opportunity to command because he or she was selected while a Legislative Fellow and constrained, therefore, in the follow-on assignment. If confirmed, I will look closely at this important area.

CONGRESSIONAL OVERSIGHT

Question. In order to exercise its legislative and oversight responsibilities, it is important that this committee and other appropriate committees of Congress are able to receive testimony, briefings, and other communications of information.

Do you agree, if confirmed for this high position, to appear before this committee and other appropriate committees of Congress?

Answer. Yes.

Question. Do you agree, if confirmed, to appear before this committee, or designated members of this committee, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as the Deputy Under Secretary of Defense for Personnel and Readiness?

Answer. Yes.

Question. Do you agree to ensure that testimony, briefings, and other communications of information are provided to this committee and its staff and other appropriate committees?

Answer. Yes.

[Questions for the record with answers supplied follow:]

QUESTIONS SUBMITTED BY SENATOR JOHN WARNER

1. Senator WARNER. Mr. Dominguez, in fiscal year 2005, the Army Reserve achieved less than half of its goal in recruiting physicians, and a quarter of its goal in recruiting dentists. For an Army that relies so heavily on its Reserves for medical support in war, this is a troubling and dangerous situation. Are you aware of the critical shortages in medical personnel?

Mr. DOMINGUEZ. I am aware that we are experiencing shortages in certain critical wartime medical skills in the Reserve components of the Army. Shortages that are especially troubling are found in emergency services medicine and orthopedics. The Assistant Secretary for Health Affairs is working closely with the military Services to address incentives and policies that may be required to help overcome these shortfalls and avoid such shortages in the future.

2. Senator WARNER. Mr. Dominguez, what authorities or initiatives are needed to remedy this situation?

Mr. DOMINGUEZ. The Department is examining a number of incentive enhancements that may help overcome current trends and avoid shortages in the future. Among them are an increase in the amount we can offer in the health professional loan repayment program and an increase in the Health Professions Scholarship Program student stipend. In the Department's Omnibus program for 2007, we are seeing an increase in the amount of special pay for health professionals in critical skills from $10,000 annually to $25,000. Additionally, we are looking at the Critical Skills Retention Bonus that Congress authorized for the Reserve components in last year's National Defense Authorization Act for ways in which that bonus, with a $100,000 career limit, can be used to assist in meeting our health care professional requirements. As we identify other incentives that may assist us, we will include appropriate legislative proposals in the Department's annual legislative program.

REQUIRED JOINT TRAINING

3. Senator WARNER. Mr. Dominguez, DOD, as part of its Training Transformation, is moving toward the establishment of a joint national training capability, to enhance the ability of the different Services to function in a joint environment. At the moment, this is being implemented, as you mentioned in your responses to the advance policy questions, in a "spirit of cooperation and collaboration" among the Services, the various combatant commands, and the Joint Staff. Under title 10, however, the Services retain their responsibility to train forces. Do you foresee a need to make any changes to those responsibilities in title 10 to support the implementation of the Department's Training Transformation?

Mr. DOMINGUEZ. The Secretary of a military department is responsible for and is tasked to recruit, organize, train and equip the forces assigned to the combatant commanders (title 10, U.S.C., sections 3013(b) and 8013(b)). Training Transformation extends a joint context to the world class training already provided by the Services. We can accomplish everything we need to within the existing authorities of the Secretary of Defense.

PROMOTING JOINTNESS IN THE CIVILIAN WORKFORCE

4. Senator WARNER. Mr. Dominguez, in your answers to the advance policy questions you stated: "I will champion the Department's efforts to do for the Senior Executive Service Corps what Goldwater-Nichols did for the Department's officer corps—create a power imperative for knowing, thinking, and acting joint." If confirmed, what changes in the professional development, training, and assignment of civilians do you think are necessary to achieve your vision for the DOD civilian workforce?

Mr. DOMINGUEZ. Today, our senior executives require extraordinary skills to meet the challenges of the Global War on Terror, a tough and uncertain environment. I envision a senior executive cadre that has an enterprise-wide perspective; is prepared to lead in a joint environment; has strong leadership and management skills; is mobile and ready to assume leadership responsibilities where needed; has substantive knowledge of the national security mission; and has a shared understanding, trust, and sense of mission with military leaders.

The 21st century operating environment and knowledge requirements are changing rapidly and constantly evolving. Thus, continuous learning and professional de-

velopment are essential imperatives to maintaining a state of constant readiness and building a bench of senior leaders to meet current and future DOD requirements.

To this end, the Department is currently examining ways to improve the identification, development, assignment, and management of the Senior Executive Service. The Department intends to rebuild a professional development framework that is purposeful, focused, and experiential. To develop broader senior executive leadership competencies, our approach will consider cross-functional development, lateral movement across fields and parts of the DOD organization, national security education and training, mentoring, coaching, expanded intergovernmental exchanges, executive fellowships, and other opportunities that build a relevant portfolio of career experiences.

We intend to strengthen the current organizational structure to provide a central focus and DOD-level responsibility for policy and accountability of the management and development of senior executives. We envision that the Department will own a top level cadre of executive positions whose senior executives are deliberately identified, developed, assigned, and managed. Finally, through our pay for performance system, we will be able to link bonuses, pay increases, and advancements to demonstrated proficiency in needed competencies and skills.

DOD CIVILIAN WORKFORCE

5. Senator WARNER. Mr. Dominguez, the Quadrennial Defense Review (QDR) envisions the National Security Personnel System (NSPS) as a critical tool in the Department's human capital strategy. What are your NSPS goals for the DOD civilian workforce?

Mr. DOMINGUEZ. NSPS is essential to the Department's efforts to create an environment in which Total Force, uniformed personnel and civilians, thinks and operates as one cohesive unit. It is a results-driven, mission-focused system that emphasizes employee results that contribute to the accomplishment of the Department's national security mission. We understand that in order for NSPS to be successful, we must take care of our most valuable asset—our people. "Mission First" and support of our national security goals and strategic objectives have been and remain paramount, but while also respecting the individual and protecting workers' rights guaranteed by law, including laws pertaining to veterans in the civil service.

NSPS will put a modern, flexible personnel system in place that is also credible, transparent, and fair to our employees. DOD will be able to hire the right people in a more timely manner, and to pay and reward our employees properly, adequately recognizing their contribution to the mission. Pay increases will be based on performance rather than longevity. The Department will become more competitive in setting salaries and able to adjust salaries based on various factors, including labor market conditions, performance, and change in duties. Managers will be held accountable for making the right decisions and for managing their employees—all of their employees.

These are significant changes and are necessary for the Department to carry out its mission and to create a 21st century system that is flexible and contemporary while protecting fundamental employee rights.

6. Senator WARNER. Mr. Dominguez, if confirmed, how will you leverage NSPS to achieve your goals for the DOD civilian workforce?

Mr. DOMINGUEZ. The NSPS has tremendous potential to greatly enhance the way DOD manages its civilian workforce. It is a performance-based system that links employee objectives to organizational goals. It emphasizes and rewards employees based on results that contribute to the accomplishment of the Department's national security mission. The NSPS human resources management system is the foundation for a leaner, more flexible support structure and will help attract skilled, talented, and motivated people, while also retaining and improving the skills of the existing workforce. The new system provides a simplified pay banding structure that includes performance-based pay. This allows managers flexibility in assigning work and it provides greater opportunities for career growth for the Department's civilian workforce. As the Department moves away from the General Schedule system, it will become more competitive in setting salaries and it will be able to adjust salaries based on various factors, including labor market conditions, performance, and changes in duties. The system will retain the core values of the civil service and allow employees to be paid and rewarded based on performance, innovation, and results. A more flexible, mission-driven human resources system will provide a more cohesive Total Force.

QUESTIONS SUBMITTED BY SENATOR JOHN MCCAIN

ACQUISITION WORK FORCE

7. Senator MCCAIN. Mr. Dominguez, according to the Air Force Inspector General (IG), after your meeting with Senator McCain and General Jumper on April 13, 2005, you directed General John Corley and Timothy Bayland to "go convert the contract." Is this true?

Mr. DOMINGUEZ. Yes.

8. Senator MCCAIN. Mr. Dominguez, the Air Force IG also said that your direction "was never interpreted as requiring a full Part 15 contract." In particular, the IG notes, "The Acquisition Work Force's use of the word 'convert' was, from the beginning, shorthand for making the C–130J 'Part 15-like.'" No one in the Army's Acquisition Work Force had a similar understanding regarding the conversion of the Future Combat System (FCS) other transaction agreement (OTA) to a Part 15 acquisition. To exactly whom at the "Acquisition Work Force" is the IG referring?

Mr. DOMINGUEZ. "Acquisition Work Force" meant the entire Air Force AQ team, from the top leadership on down. At the time I gave the orders to "convert" the contract, then Lt. Gen. John Corley was the Military Deputy to the Assistant Secretary for Acquisition. The "Part 15-like" comment in the IG report came from Timothy Beyland, who at the time was the Special Adviser for Acquisition to the Secretary of the Air Force. Generals William Looney and Ted Bowlds served at various times during this period as Program Executive Officer, driving the day-to-day conversion work.

9. Senator MCCAIN. Mr. Dominguez, is Major General Hoffman, the head of the Acquisition Work Force, responsible for not following your direction on this contract?

Mr. DOMINGUEZ. Sir, as you are aware my role as the Acting Secretary of the Air Force and the Service Acquisition Executive ended on 28 July 2005. During the time I served as the Acting Secretary, Lieutenant General (Major General at the time) Hoffman was the Director of Requirements for Air Combat Command and as a result we did not have any discussions involving the C–130J contract conversion. Lt. Gen. Hoffman assumed duties as Military Deputy for Acquisition in August 2005—after I was replaced as Acting Secretary of the Air Force.

As documented in Air Force Inspector General (IG) Report of Inquiry (ROI) (S6649P), which has been provided to this committee, "The AQ community did its best to follow the guidance Secretary Dominguez provided." The report also makes clear that these Air Force acquisition officials ". . . understood that no plan would become final without an indication from he Senate Armed Services Committee, and Senator McCain in particular, that it was acceptable." The Air Force IG ROI "determined that no one knowingly acted to undermine Senator McCain's intent with regard to the C–130J contract."

10. Senator MCCAIN. Mr. Dominguez, what communications, if any, did you have with Major General Hoffman or any other Air Force officials about the conversion of the Part 12 contract?

Mr. DOMINGUEZ. Sir, as you are aware my role as the Acting Secretary of the Air Force and the Service Acquisition Executive ended on 28 July 2005. During the time I served as the Acting Secretary, Lieutenant General (Major General at the time) Hoffman had not assumed his current position. As a result, we did not have any discussions involving the C–130J contract conversion.

I did meet with Lt. Gen. John Corley, who at that time was the Military Deputy to the Assistant Secretary for Acquisition, and Mr. Tim Beyland, who was then serving as my Special Assistant for Acquisition. I gave these two officials the order to convert the contract. Subsequently, I may have received progress updates from either or both of these officials at scheduled staff meetings, but these would not have been detailed discussions. While serving as Acting Secretary of the Air Force, I received no communication from anyone that gave me reason to believe we were not making good progress converting the C–130J contract.

COST OVERRUNS

11. Senator MCCAIN. Mr. Dominguez, in the 2006 National Defense Authorization Act (NDAA), Congress instructed the Pentagon to report on every program that costs at least 50 percent more than initial projections. The provision was designed to tie programs to their original cost estimates, rather than updated cost and schedule baselines. The Pentagon has been allowed to change its baseline without invok-

ing the penalty. For example, you testified in April of last year that the C–130J originally cost $33 million a copy but it now costs over $66 million a copy. How do you plan to implement this new amendment with regard to Nunn-McCurdy violations?

Mr. DOMINGUEZ. In my current position, I have no authority over any DOD acquisition program and will have none if confirmed as Principal Deputy Under Secretary for Personnel and Readiness. However, the Department's acquisition professionals advise us that implementation of this new reporting regime over the long-term is straightforward. For every Major Defense Acquisition Program (MDAP), we currently compare the Program Manager's Current Estimate each quarter to the Acquisition Program Baseline (APB) to determine if the program has breached the Nunn-McCurdy unit cost thresholds. We will add a comparison against the "Original Baseline Estimate" to this analysis. We will be analyzing MDAPs each quarter to determine if there is significant or critical cost growth against both the APB and the "Original Baseline Estimate" using essentially the same procedures we have used in the past to evaluate Unit Cost against the APB.

In the near-term, we are determining the status of programs against their "Original Baseline Estimate" based on the fiscal year 2007 President's budget (fiscal year 2007 PB) submission. The fiscal year 2007 PB was essentially complete on January 6, 2006, when the changes to Nunn-McCurdy were enacted. Programs exceeding the "Original Baseline Estimate" by more than 50 percent will reset their "Original Baseline Estimate" to the cost baseline in their current APB, and the Secretary of Defense will provide a report to Congress on these programs. The Secretary of the Air Force will submit a notification to Congress on programs with cost growth between 30 and 50 percent.

CASUALTY ASSISTANCE

12. Senator MCCAIN. Mr. Dominguez, in the NDAA for Fiscal Year 2006, Congress tasked the Secretary of Defense with developing a comprehensive policy and procedure for casualty assistance to be followed by all branches of the armed services. The deadline for setting the policy is August 1, 2007. The greatest sacrifice that a family can make for its Nation necessarily deserves the best service possible for the surviving family. In this time of war, there is a great urgency for the right policy. The DOD should be working with the Department of Veterans' Affairs (VA) to find the right way to develop a policy of "seamless transition" for survivors. The Gold Star Wives, The Armed Forces Services Organizations, and Tragedy Assistance Programs for Survivors all have first-hand experience in dealing with the needs of survivors. Can you ensure the DOD meets the prescribed timeline and advise once you have coordinated with the aforementioned groups?

Mr. DOMINGUEZ. The Department's policy on casualty assistance, Department of Defense Instruction 1300.18 "Military Personnel Casualty Matters, Policies, and Procedures" is currently under revision. This revision will, among other things, incorporate all the applicable provisions contained in the National Defense Authorization Act for Fiscal Year 2006. Since August 2005, the Departments of Defense and Veterans' Affairs have jointly chaired a Survivors Working Group that reviews and addresses survivor issues. The group consists of representatives from each of the Military Services, Service Relief Agencies, non-governmental agencies (e.g., Gold Star Wives, Tragedy Assistance Program for Survivors (TAPS), National Military Family Association, Veterans Service Organizations), and surviving family members. Each has provided input into the revised instruction and will be part of the formal coordination process. The revised Instruction will be published by August 1, 2006.

QUESTIONS SUBMITTED BY SENATOR JEFF SESSIONS

DEFENSE LABORATORIES

13. Senator SESSIONS. Mr. Dominguez, the DOD laboratories play a critical role in developing technologies that support warfighters, as has been clearly demonstrated in their efforts to support operations in Iraq and Afghanistan. If confirmed, how do you propose to utilize the authorities of the laboratory personnel demonstration programs to enhance the effectiveness of the defense laboratories and ensure that they are technically competitive with their foreign and industrial counterparts?

Mr. DOMINGUEZ. The DOD Science and Technology Laboratories (STRLs) personnel demonstration project authorities were modeled after the first Navy Demonstra-

tion Project in "China Lake" and San Diego started back in 1980. The Department's more than 25 year history with the personnel demonstration projects has proven the value of a more flexible, responsive human resources system. Certainly, design of the new NSPS has benefited from these experiences.

These demonstration projects were initiated to facilitate competitiveness in attracting, recruiting, retaining and rewarding a highly skilled workforce. The personnel management authorities granted to the Secretary for use in STRLs have been, and continue to be, successfully used with encouraging results. When the Office of Personnel Management (OPM) evaluated the STRLs in 2002 (Summative Evaluation 2002), it found many promising results despite the demonstration projects' less than 5 year implementation. For example, OPM found that the flexibility to pay higher starter salaries was helpful and the laboratories were retaining more of their top performers. They also noted that there was a positive effect on motivation and willingness to work harder since the implementation of pay for performance. Research productivity increased significantly in one of the Army laboratories.

The use of flexible personnel management authorities has clearly helped create an environment for technological success and led to bolstered international and industrial competitiveness in the DOD labs. The Department will consider the best long-term human resources management option for the STRLs in a couple of years. Section 9902(c) of title 5, U.S.C., provides that NSPS Human Resources System will apply to the STRLs on or after October 1, 2008, only to the extent that the Secretary of Defense determines that the flexibilities provided by NSPS are greater than those under the STRL demonstration project authority. The Department's report under section 1107 of the 2005 NDAA includes a plan for a fair and thorough comparison of the flexibilities between NSPS and the STRL personnel management demonstration authority. The evaluation is planned for 2008, when NSPS reaches a sufficient level of maturity to make a meaningful comparison. Until then, the STRLs will be able to continue to add, refine, and evolve their demonstration projects.

QUESTIONS SUBMITTED BY SENATOR EDWARD M. KENNEDY

NATIONAL SECURITY PERSONNEL SYSTEM

14. Senator KENNEDY. Mr. Dominguez, on October 7, 2005 United States District Court Judge Rosemary Collyer ruled that the Department of Homeland Security's (DHS) new personnel system was unlawful because it did not provide meaningful collective bargaining rights. The Judge specifically faulted the system because it allowed management unilaterally to nullify a contract term or take an issue off the bargaining table. The NSPS, like the Department of Homeland Security personnel system, allows management unilaterally to declare contract terms null and void or remove issues from the scope of collective bargaining. In preparing the final NSPS regulations, did the Department consider this ruling by Judge Collyer? If not, why not? The lack of advance notice clearly was not the focus of Judge Collyer's determination that the DHS system was illegal.

Mr. DOMINGUEZ. Yes, we were certainly aware of, and informed by, Judge Collyer's decision. However, the statutory authority for NSPS is different than the statutory authority provided to DHS. Ultimately, changes that were made to the final regulations were a result of the many public comments received, as well as input from the unions during the meet and confer process.

15. Senator KENNEDY. Mr. Dominguez, have you done anything to correct the more fundamental problem that the NSPS does not provide enforceable collective bargaining rights because one party is really not bound by the contract? If so, why have you not revised your regulations to comply with the ruling?

Mr. DOMINGUEZ. Collective bargaining agreements will continue to exist under the NSPS and will continue to be important contracts between management and labor. Although those agreements will have to conform to the NSPS regulations and implementing issuances, the Department will not issue a directive simply to override an agreement. The employee representatives have a voice in planning, development, and implementation of implementing issuances through the continuing collaboration process. Also, the Department's authority to override union contracts is not unfettered. The Department's authority for the labor relations provisions will expire in November 2009—unless the Secretary certifies the system. This is a strong incentive to work with employee representatives.

In reference to your questions as to whether any revisions were made to comply with the DHS ruling by Judge Collyer, we were aware of and informed by her decision; however, the statutory authority for NSPS is different than the statutory au-

thority provided to DHS. Ultimately, any changes we made were a result of public comments we received as well as input from the unions during the meet and confer process.

16. Senator KENNEDY. Mr. Dominguez, please explain to me how a system where two parties contract, but one party is not bound by the contract, provides meaningful collective bargaining rights as Congress intended?

Mr. DOMINGUEZ. Employees will continue to have a voice in resolving workplace disputes under the NSPS. The regulation preserves collective bargaining, but restricts the scope of bargaining on certain matters, including implementing issuances. Implementing issuances apply only to policy or procedures implementing NSPS, primarily in the area of human resources management. The regulation concerning collective bargaining attempts to strike a balance between employee interests and DOD's need to accomplish its mission effectively and expeditiously. For example, while the regulation eliminates all bargaining on procedures regarding operational management rights, it does not eliminate all bargaining on procedures. The regulation provides for collective bargaining on certain operational matters that are based on the Secretary's determination that bargaining is necessary to advance the Department's mission or promote organizational effectiveness. The Department bears full accountability for national security; therefore, the Secretary is in the best position to determine when it is appropriate to permit bargaining under these circumstances. The regulation continues to provide for bargaining on procedures for personnel management rights. The regulation also continues to provide for bargaining on impact and appropriate arrangements for all management rights. While the scope of bargaining is restricted compared to what occurs today, the regulation continues to provide many opportunities for the unions to have a voice in workplace issues. Finally, the regulation provides for consultation on procedures regarding the operational management rights, which lie at the very core of how DOD carries out its mission.

QUESTION SUBMITTED BY SENATOR JACK REED

UTILIZATION OF LABORATORY PERSONNEL FLEXIBILITIES

17. Senator REED. Mr. Dominguez, section 1107 of the 2005 NDAA required that the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Under Secretary of Defense of Personnel and Readiness jointly conduct a study to determine how best to utilize the laboratory demonstration authorities to increase the effectiveness of the defense laboratories. This study was supposed to be presented to Congress no later than December 1, 2005 but has not been received by the committee yet. Have you reviewed the findings of this study and if confirmed, how do you propose to implement these findings?

Mr. DOMINGUEZ. The section 1107 report, jointly developed by the Under Secretary of Defense (Acquisition, Technology, and Logistics) and the Under Secretary of Defense (Personnel and Readiness), is in coordination within the Department, and it is expected to be released shortly. As a matter of background, section 9902(c) of title 5, U.S.C., provides that the National Security Personnel System (NSPS) will apply to the designated DOD Science, Technology, and Reinvention Laboratories (STRLs) on or after October 1, 2008, only to the extent that the Secretary of Defense determines that the flexibilities provided by NSPS are greater than those under the STRL demonstration project authority. The Department's report under section 1107 of the 2005 NDAA includes a plan for conducting a fair and thorough comparative evaluation of the flexibilities between NSPS and the demonstration authority. The evaluation is planned for 2008, when NSPS reaches a sufficient level of maturity to make a meaningful comparison. Until then, the STRLs will be able to continue to refine and evolve as needed.

[The nomination reference of Michael L. Dominguez follows:]

NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
December 13, 2005.

Ordered, That the following nomination be referred to the Committee on Armed Services:

Michael L. Dominguez of Virginia, to be Deputy Under Secretary of Defense for Personnel and Readiness, vice Charles S. Abell, resigned.

[The biographical sketch of Michael L. Dominguez, which was transmitted to the committee at the time the nomination was referred, follows:]

BIOGRAPHICAL SKETCH OF MICHAEL L. DOMINGUEZ

Michael L. Dominguez is Assistant Secretary of the Air Force for Manpower and Reserve Affairs, Washington, DC. A political appointee confirmed by the Senate, Mr. Dominguez heads a four division department that deals at the policy level with Air Force manpower and Reserve affairs issues. His areas of responsibility include force management and personnel, equal opportunity and diversity, Reserve affairs and Air Force review boards.

As an Air Force dependent, Mr. Dominguez grew up on bases around the world. After graduating in 1975 from the U.S. Military Academy at West Point, NY, he was commissioned a second lieutenant in the U.S. Army, reported to Vicenza, Italy, then worked varied assignments with the 1st Battalion, 509th Infantry (Airborne) and the Southern European Task Force. After leaving the military in 1980, Mr. Dominguez went into private business and attended Stanford University's Graduate School of Business. In 1983 he joined the Office of the Secretary of Defense as an analyst for Program Analysis and Evaluation (PA&E).

Mr. Dominguez entered the Senior Executive Service in 1991 as PA&E's Director for Planning and Analytical Support. In this position he oversaw production of DOD's long-range planning forecast and its $12 billion in annual information technology investments. He also directed the PA&E modernization of computing, communications, and modeling infrastructure. He joined the Chief of Naval Operations staff in 1994 and assisted in the Navy's development of multiyear programs and annual budgets. Mr. Dominguez left the Federal Government in 1997 to join a technology service organization. In 1999 he began work at the Center for Naval Analyses where he organized and directed studies of complex public policy and program issues. In 2001 he rejoined the staff of the Chief of Naval Operations where he worked until his appointment.

[The Committee on Armed Services requires all individuals nominated from civilian life by the President to positions requiring the advice and consent of the Senate to complete a form that details the biographical, financial, and other information of the nominee. The form executed by Michael L. Dominguez in connection with his nomination follows:]

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

(202) 224–3871

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior

to the hearings and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)
Michael Luis Dominguez.

2. **Position to which nominated:**
Deputy Under Secretary of Defense (Personnel and Readiness).

3. **Date of nomination:**
December 12, 2005.

4. **Address:** (List current place of residence and office addresses.)
[Nominee responded and the information is contained in the committee's executive files.]

5. **Date and place of birth:**
September 4, 1953; Austin, Texas.

6. **Marital Status:** (Include maiden name of wife or husband's name.)
Married to the former Sheila Janet MacNamee.

7. **Names and ages of children:**
Michelle, 24; Michael, 22.

8. **Education:** List secondary and higher education institutions, dates attended, degree received, and date degree granted.
1975 - Bachelor of Science degree, U.S. Military Academy, West Point, NY.
1983 - Master's degree in business administration, Stanford University, Stanford, CA.
1989 - Program for Senior Officials in National Security (certificate), Harvard University MA.

9. **Employment record:** List all jobs held since college or in the last 10 years, whichever is less, including the title or description of job, name of employer, location of work, and dates of employment.
June 1983–September 1988, program analyst, Office of the Assistant Secretary of Defense, Secretary for Program Analysis and Evaluation, Washington, DC.
October 1988–September 1991, executive assistant to the Assistant Secretary of Defense for Program Analysis and Evaluation, Washington, DC.
October 1991–September 1994, Director for Planning and Analytical Support, Office of the Assistant Secretary of Defense for Program Analysis and Evaluation, Washington, DC.
October 1994–April 1997, Associate Director for Programming, Office of the Chief of Naval Operations, Washington, DC.
April 1997–September 1999, General Manager, Tech 2000 Inc., Herndon, VA.
September 1999–January 2001, Research Project Director, Center for Naval Anaylses, Alexandria, VA.
January 2001–August 2001, Assistant Director for Space, Information Warfare, and Command and Control, Office of the Chief of Naval Operations, Washington, DC.
August 2001–present, Assistant Secretary of the Air Force for Manpower and Reserve Affairs, Washington, DC, including serving as Acting Secretary of the Air Force from March 2005 to August 2005.

10. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.
None.

11. **Business relationships:** List all positions currently held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational, or other institution.
Civil Air Patrol Board of Governors, November 2001 to June 2005 including service as chairman of the Audit Committee.

12. **Memberships:** List all memberships and offices currently held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.
U.S. Military Academy Alumni Association, June 1975–present.
Stanford Business School Alumni Association, June 1983–present.
Troop 1570, Boy Scouts of America, Registered Adult Leader, September 1995–September 2001.
Herndon High School Parent Teacher's Association, Member: September 1995–September 2002.
Herndon High School Sports Booster's Club, Member: September 1995–September 2002.

College of William and Mary Track and Field Parent's Association, Member: September 2002–present.

13. **Political affiliations and activities:**

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

None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 5 years.

None.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $100 or more for the past 5 years.

None.

14. **Honors and Awards:** List all scholarships, fellowships, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

1980, Army Commendation Medal.
1988 and 1994, Defense Meritorious Civilian Service Medal.
1993, Defense medal for Civilian Service.
1997, Medal for Superior Civilian Service, Department of the Navy.
1998, Meritorious Executive Presidential Rank Award.
2005, Exceptional Civilian Service Award.

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

[Nominee responded and the information is contained in the committee's executive files.]

16. **Speeches:** Provide the committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

[Nominee responded and the information is contained in the committee's executive files.]

17. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to respond to requests to appear and testify before any duly constituted committee of the Senate?

Yes.

[The nominee responded to the questions in Parts B–F of the committee questionnaire. The text of the questionnaire is set forth in the Appendix to this volume. The nominee's answers to Parts B–F are contained in the committee's executive files.]

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

MICHAEL L. DOMINGUEZ.

This 22nd day of December, 2005.

[The nomination of Michael L. Dominguez was reported to the Senate by Chairman Warner on June 27, 2006, with the recommendation that the nomination be confirmed. The nomination was confirmed by the Senate on June 29, 2006.]

[Prepared questions submitted to James I. Finley by Chairman Warner prior to the hearing with answers supplied follow:]

QUESTIONS AND RESPONSES

DEFENSE REFORMS

Question. The Goldwater-Nichols Department of Defense Reorganization Act of 1986 and the Special Operations reforms have strengthened the warfighting readi-

ness of our Armed Forces. They have enhanced civilian control and clearly delineated the operational chain of command and the responsibilities and authorities of the combatant commanders, and the role of the Chairman of the Joint Chiefs of Staff. They have also clarified the responsibility of the military departments to recruit, organize, train, equip, and maintain forces for assignment to the combatant commanders.

Do you see the need for modifications of any Goldwater-Nichols Act provisions?

Answer. I believe the Goldwater-Nichols Act is one of the most significant pieces of legislation passed by Congress regarding DOD operations and organization and I'm presently unaware of any need to modify its provisions. However, with the passage of time and an ever changing landscape of threats, I believe it is prudent for the DOD to continuously review and innovatively improve our acquisition and technology management systems, including recommending legislation to improve organization, command and control and equipping our military with a decisive advantage.

Question. If so, what areas do you believe might be appropriate to address in these modifications?

Answer. I am not prepared now to recommend any modifications. If confirmed, I will review this closely.

DUTIES

Question. Section 133a of title 10, U.S.C., describes the role of the Deputy Under Secretary of Defense for Acquisition and Technology (DUSD(AT)).

Assuming you are confirmed, what duties do you expect that Secretary Krieg will prescribe for you?

Answer. Mr. Krieg and I have not discussed any additional responsibilities other than those defined in section 133a of title 10. In that respect, if confirmed, my responsibilities would be the principal advisor to Mr. Krieg and Secretary Rumsfeld for matters relating to acquisition and the integration and protection of technology. In addition I would assist Mr. Krieg in the performance of his duties relating to Acquisition and Technology. The DUSD(A&T) responsibilities, functions and authorities are further defined in DOD Directive 5134.13 dated October 5, 2005.

Question. What background and experience do you possess that you believe qualifies you to perform these duties?

Answer. I have extensive background and experience in the aerospace industry with over 30 years of multi-national business leadership and executive management experience in programs that span air, land, sea, and space for the DOD including joint programs. I also have background and experience with the FAA Automatic Surface Detection Radar systems and the NASA Space Shuttle Program. I bring systems and subsystems management experience that includes mission analysis, design, development, and deployment of weapon delivery, flight control, navigation, communications, information management, (C^4ISR), battlespace management and chem/bio defense systems. My background and experience also includes marketing, finance, program management, engineering and manufacturing.

I also have a broad experience base of technology management including international technology transfer, outsourcing, product development, multi-plant operations management, lean manufacturing implementation, demand flow technology programs, six sigma/black belt systems, information technology systems, purchasing, logistics, facilities, security, product support and total quality management. I have participated in many acquisitions and divestitures providing business analysis including strategic fit, organizational alignment, marketing assessments, project evaluations and manufacturing audits.

My education includes a Masters of Business Administration (MBA) and Bachelors of Science in Electrical Engineering (BSEE).

Question. Do you believe that there are any additional steps that you need to take to enhance your expertise to perform these duties?

Answer. No.

Question. Do you believe that any significant changes should be made in the structure and decisionmaking procedures of the Department of Defense with respect to acquisition matters?

Answer. I am aware that several other recent and ongoing reviews address questions such as this. If confirmed, I intend to study the recommendations , keep an open mind, assess historical changes, and work within the DOD and with Congress in an open and transparent manner. My leadership experience indicates that continuous improvement causes effective and efficient change for structure and decisionmaking procedures.

RELATIONSHIPS

Question. In carrying out your duties, what would be your relationship with:

The Secretary of Defense.

Answer. In working with Mr. Krieg I would support Secretary Rumsfeld's priorities in acquisition and technology.

Question. The Deputy Secretary of Defense.

Answer. If confirmed I would work with Mr. Krieg to support Deputy Secretary England and DOD priorities in matters within the purview of acquisition and technology.

Question. The Under Secretary of Defense for Acquisition, Technology, and Logistics.

Answer. Mr. Krieg would be my boss and I would support him to the best of my ability.

Question. The other Under Secretaries of Defense.

Answer. There are many actions that require coordination among the offices of the Under Secretaries of Defense. If confirmed, I would support Mr. Krieg in working with the other Under Secretaries of Defense to best serve the priorities of the Department of Defense.

Question. The Assistant Secretaries of Defense.

Answer. If confirmed I would work with Mr. Krieg to cooperate with the Assistant Secretaries of Defense to best equip the Services and serve Department of Defense priorities.

Question. The DOD General Counsel.

Answer. If confirmed I would work with the General Counsel's office to ensure that our actions are within the bounds of law and regulations.

Question. The Acquisition Executives in the Military Departments.

Answer. There are many issues of mutual concern where communication and coordination are essential for effective and efficient management. If confirmed, I will make communication and coordination a top priority in daily management.

Question. The Vice Chairman of the Joint Chiefs of Staff.

Answer. If confirmed I would support Admiral Giambastiani both as the Vice Chairman and in his role as co-chair to the Defense Acquisition Board (DAB).

MAJOR CHALLENGES AND PROBLEMS

Question. In your view, what are the major challenges that will confront the DUSD(AT)?

Answer. I believe the major challenges and problems include regaining the confidence of our DOD and congressional leadership the acquisition system and reshaping the business enterprise associated with the acquisition and technology community.

Question. Assuming you are confirmed, what plans do you have for addressing these challenges?

Answer. I am aware that several recent and ongoing reviews propose ways to address these challenges. If confirmed, I intend to study the recommendations, keep an open mind, assess historical changes, and work within the DOD and with Congress in an open and transparent manner.

Question. What do you consider to be the most serious problems in the management of acquisition functions in the Department of Defense?

Answer. I believe the top three issues are: (1) oversight, (2) acquisition strategy, and (3) requirements. I believe resolving those issues will serve to put us on the right path to achieve credibility and efficiency in the acquisition community.

Question. What management action and timetables would you establish to address these problems?

Answer. If confirmed, I plan to develop actions that will support achievement of Mr. Krieg's goals. As for timelines, I need to become better acquainted with all the issues before committing to a timetable.

MAJOR WEAPON SYSTEM ACQUISITION

Question. The Government Accountability Office (GAO) has reported that private sector acquisition programs are more successful than DOD acquisition programs, in large part because they consistently require a high level of maturity for new technologies before such technologies are incorporated into product development programs. Section 801 of the National Defense Authorization Act for Fiscal Year 2006 requires the Milestone Decision Authority for a major defense acquisition program to certify to the technological maturity of key technologies before approving an acquisition program.

In your view, would DOD's major acquisition programs be more successful if the Department were to follow the commercial model and mature its technologies with research and development funds before these technologies are incorporated into product development programs?

Answer. I believe a commercial model has already been implemented to a certain extent and is useful. It offers leverage and lessons learned to improve major weapons systems acquisition. We need to continuously learn from all available sectors to maintain technical and operational superiority. DOD must be at the technological forefront. Research and development funds should be used to incubate and mature products to a level where risk is considered manageable.

Question. What steps would you take, if confirmed, to implement section 801 and ensure that the key components and technologies to be incorporated into major acquisition programs meet the Department's technological maturity goals?

Answer. If confirmed, I will work to implement section 801 to ensure incorporation of the key components and technologies into major acquisition programs is consistent with maturity goals. I will also consult with the Service Acquisition Executives and others as appropriate to ensure that the necessary actions and certifications are in place.

Question. DOD weapon systems have generally taken significantly longer and cost more money than promised when they are first developed. GAO has reported that it is not unusual for estimates of time and money to be off by 20 to 50 percent. Section 802 of the National Defense Authorization Act for Fiscal Year 2006 attempts to instill more discipline into the acquisition process by tightening the Nunn-McCurdy provisions in section 2433 of title 10, U.S.C.

What is your view of the changes made by section 802?

Answer. If confirmed, I will review section 802 with particular emphasis on the changes made in an effort to reduce cost and schedule overruns.

Question. What additional steps do you believe the Department can and should take to avoid costly overruns on major defense acquisition programs?

Answer. I believe that enforcing discipline can help minimize requirements "creep" and capabilities "growth" such that cost and schedule increases to major defense programs can be avoided. I also believe that funding stabilization and maintaining baseline funding levels is important to sustaining program performance. An early identification of program critical technologies would enable earlier risk mitigation to allow lead time to accelerate technology maturation, avoid cost, and schedule risk.

IMPACT OF THE BUDGET AND REQUIREMENTS PROCESSES

Question. A recent report by the Center for Strategic and International Studies (CSIS) concludes that "many of the ills attributed to the defense acquisition system are really caused by [the requirements and resource allocation] processes. Instability in the definition of requirements, often referred to as 'requirements creep,' creates a moving target for acquirers as they struggle to make trade-offs among performance, cost, and schedule. Similarly, much, if not most, of the instability in acquisition programs is caused by lack of discipline in the resource allocation process—that is, funding more acquisition programs than the procurement budgets can support and the chronic tendency . . . to take procurement dollars to meet operations and maintenance (O&M) bills."

Do you agree with this assessment?

Answer. I agree that more discipline and integration among all the key decision processes of the DOD would increase stability with outcomes matching expectations.

Question. What steps do you believe the Department should take to address this problem?

Answer. If confirmed, I believe the steps we should take are to understand the drivers and root cause of the problems in the requirements and resource allocation processes.

Question. The Defense Acquisition Performance Assessment (DAPA) recently recommended that the Department address instability in funding for major defense acquisition programs by creating a new "Acquisition Stabilization Account" and establishing a Management Reserve in this account by holding termination liability as a pool at the Service level.

What is your view of these recommendations?

Answer. I have read the DAPA Executive Summary but have not seen the Report. If confirmed, I will read the complete report with particular emphasis on the recommended "Acquisition Stabilization Account." I believe it is important to understand the recommendation in the context of the full report.

Question. The DAPA report also recommends that the Under Secretary of Defense for Acquisition, Technology, and Logistics adjust program estimates for major defense acquisition programs to reflect "high confidence"—defined as an 80 percent chance of a program completing development at or below the estimated cost.

What is your view of this recommendation?

Answer. I have read the DAPA Executive Summary but have not seen the Report. If confirmed, I will read the complete report with particular emphasis on the adjustment of program estimates for "high confidence" recommendation. I believe it is important to fully understand the recommendation in the context of the full report.

Question. If confirmed, what steps, if any, would you take to implement this recommendation?

Answer. If confirmed, I will first read the full report to understand the recommendation. Any implementation will be done within the DOD and with Congress in an open and transparent manner.

ACQUISITION CYCLE TIME

Question. The Department of Defense has attempted to reduce cycle time for major acquisition programs through the use of spiral development and incremental acquisition strategies.

To what extent have these strategies been implemented throughout the Department?

Answer. I do not know the extent to which cycle time reduction has been attempted using spiral development and incremental acquisition strategies throughout the DOD.

Question. How successful do you believe these strategies have been?

Answer. My experience reflects that there is significant value in cycle time reduction utilizing spiral development and incremental acquisition strategies.

Question. What additional steps do you believe the Department can and should take to reduce cycle time?

Answer. My perspective is that there are a lot of success stories in the Department on cycle time reduction. Taking those lessons learned, finding a methodology to institutionalize their respective processes and utilizing lean sigma practices are examples of steps that may help to facilitate an environment of continuous learning resulting in cycle time reduction.

Question. The DAPA report recommends a new approach to acquisition, described as "time certain development," under which "useful military capability" would be delivered to operational forces within approximately 6 years of the Milestone A decision, even if all performance requirements could not be met in that timeframe.

What is your view of this recommendation?

Answer. I have read the DAPA Executive Summary but have not seen the Report. If confirmed, I will read the complete report with particular emphasis on the "time certain development" and "useful military capability" recommendation. I believe it is important to understand the recommendation in the context of the full report .

COMMERCIAL ITEM STRATEGIES

Question. Section 803 of the National Defense Authorization Act for Fiscal Year 2006 requires a determination by the Secretary of Defense and notification to Congress before a major weapon system may be treated as a commercial item. Similarly, section 823 requires a determination by the Under Secretary of Defense for Acquisition, Technology, and Logistics, and notification to Congress before the Department may use "other transaction authority" for a prototype project in excess of $100 million.

Under what circumstances, if any, would it be appropriate, in your view, to treat a major weapon system as a commercial item?

Answer. If confirmed, I will read section 803 and section 823 to fully understand the respective statutory language. I believe there may be certain major defense systems, such as communications satellites or cargo aircraft, that are offered in the commercial market, either off-the-shelf or with minor modifications, that fit the definition of commercial items and could be treated as such.

Question. Under what circumstances, if any, would it be appropriate, in your view, to use "other transaction authority" for a prototype project in excess of $100 million?

Answer. If confirmed, I will read section 823 with regard to "other transaction authority" to fully understand the respective statutory language.

ACQUISITION ORGANIZATION

Question. The DAPA report recommends a number of organizational changes in the acquisition structure of the Department, including: (1) reestablishment of sys-

tems commands headed by four-star officers in each of the military departments; (2) elevation of the positions of the Service Acquisition Executives and Service Under Secretaries to Executive Level III; (3) designation of the Service Acquisition Executives as 5-year, fixed Presidential appointees; (4) creation of a pool of non-career senior executives and political appointees to provide leadership stability in the acquisition process; (5) designation of the Under Secretary of Defense for Acquisition, Technology, and Logistics as a full member of the Joint Requirements Oversight Council; and (6) disestablishment of the Acquisition Integrated Product Teams and replacement with a small staff focused on decisionmaking to support joint programs.

What is your view of these recommendations?

Answer. I have read the DAPA Executive Summary but have not seen the full report. If confirmed, I will read the complete report with particular emphasis on the organizational changes recommendations. I believe it is important to understand the recommendation in the context of the full report.

Question. The CSIS report recommends that "the service chiefs should have primary responsibility for acquisition execution."

What is your view of this recommendation?

Answer. I believe that Goldwater-Nichols has it right in providing for civilian authority in the military departments and acquisition oversight reporting chain. It's my sense that this has worked well. However, I am willing to consider the recommendations from CSIS and other studies and if confirmed, will seek to understand them fully.

LEAD SYSTEM INTEGRATORS (LSI)

Question. In May 2003, the Department approved the transition of the Army's Future Combat Systems program into System Development and Demonstration. The Army has hired a lead system integrator to set requirements, evaluate proposals, and determine which systems will be incorporated into future weapon systems. Section 805 of the National Defense Authorization Act for Fiscal Year 2006 requires the Department of Defense to report to the congressional defense committees on concerns arising out of the use of lead system integrators for the acquisition by the Department of Defense of major weapon systems.

What are your views on the current role and responsibilities of lead system integrators?

Answer. If confirmed, I will research the role of LSIs for the FCS Program as well as other programs to further refine my perspectives. My experience is that the LSI role has evolved from the system-of-systems role that delivers capabilities for joint and combined forces vs. the traditional prime contractor, platform centric role delivering capabilities for a single service.

Question. How would you define the line between those acquisition responsibilities that are inherently governmental and those that may be performed by contractors?

Answer. I believe the line is unchanged. The rules regarding the performance of inherently governmental functions do not vary. The Government retains responsibility for the execution of the program, makes all requirements, budgeting and policy decisions, and does source selections at the prime level.

Question. If confirmed, what steps would you take to ensure that contracting mechanisms which maintain adequate safeguards are put in place to ensure that lead system integrator access to sensitive and proprietary information is not compromised?

Answer. If confirmed, I will look to ensure that contracting mechanisms are in place for LSIs as they are for Prime Contractors to maintain adequate safeguards to protect sensitive and proprietary information from compromise.

Question. What specific steps have—or will—the Department take to monitor the progress of the key technologies for the Future Combat Systems?

Answer. If confirmed, I will investigate the steps taken and planned for monitoring the progress of key technologies for FCS.

Question. What policies are in place to ensure that lead system integrators do not misuse sensitive and proprietary information owned by other contractors and do not unnecessarily limit competition in a manner that would disadvantage the government?

Answer. If confirmed, I will investigate this in detail to ensure polices are in place for the proper use of sensitive and proprietary information as well as for open competition.

Question. What additional steps, if any, do you believe are needed to address this issue?

Answer. If confirmed, I will thoroughly review this issue to determine what additional steps are appropriate. In addition, I understand the National Defense Author-

ization Act for Fiscal Year 2006 requires DOD to do a study on LSIs, which should provide additional perspectives on this subject.

AWARD AND INCENTIVE FEES

Question. The GAO recently reported that the Department of Defense has failed to link award fees to acquisition outcomes. As a result, GAO says, "DOD has paid out an estimated $8 billion in award fees to date on the contracts in our study population, regardless of outcomes." According to GAO, this practice has undermined the effectiveness of fees as a motivational tool, marginalized their use in holding contractors accountable for acquisition outcomes, and wasted taxpayer funds.

What is your view of the GAO findings?

Answer. If confirmed, I would read the report and thoroughly investigate the GAO findings.

Question. What steps, if any, do you believe the Department should take to better link the payment of award fees to acquisition outcomes?

Answer. If confirmed, I would take immediate steps to understand the situation with corrective actions where appropriate.

Question. Do you believe that it would be helpful to hold award fees as a pool at the Service level (rather than budgeting them to specific programs) to ensure that contractors have to compete for award fees rather than expecting them as a matter of entitlement?

Answer. If confirmed, I will investigate and thoroughly analyze our business practices on this matter.

TEST AND EVALUATION

Question. The Department has, on occasion, been criticized for failing to adequately test its major weapon systems before these systems are put into production.

What are your views about the degree of independence needed by the Director of Operational Test and Evaluation (DOT&E) in ensuring the success of the Department's acquisition programs?

Answer. As an independent voice, the Director of Operational Test and Evaluation provides operational test and evaluation results to the Secretary of Defense, other decision makers in the Department, and Congress before programs proceed beyond Low Rate Initial Production. I believe that the independence of the DOT&E is necessary for the Operational Test and Evaluation of major weapon systems, and serves to ensure that such systems are operationally effective and operationally suitable.

Question. What initiatives in this regard would you take, if confirmed?

Answer. If confirmed, I would encourage a more integrated approach to T&E, including developmental testing and systems engineering. Developmental and operational testers should be involved as early as possible to ensure an adequate test and evaluation program is defined, addressed, and maintained in both program budget and schedule. This integrated approach will improve the quality of the development phase, and shorten the demonstration phase to meet warfighter requirements.

Question. The Department has used low rate production lots to buy, and in some cases to field, significant quantities of some systems while continuing development to fix performance problems.

What steps do you believe the Department should take to ensure that milestone decision authorities do not field systems before system performance has been adequately demonstrated?

Answer. Where it makes sense, the DOD could take this incremental approach while recognizing the need for future capability improvements. I believe it is possible to have an incremental approach to system development which allows for rapid fielding of mature technology to the warfighter in fully tested increments. Additional development can continue to pursue increased system functionality and performance.

To prevent the fielding of immature systems, we need to increase discipline to assure systems have passed exit criteria and demonstrated a fundamental core capability before fielding.

Question. The GAO recently reported that the DOD acquisition system incentivizes delayed operational testing "because that will keep 'bad news' at bay." According to GAO, program managers have an incentive to suppress bad news and continually produce optimistic estimates, because doing otherwise could result in a loss of support and funding and further damage their programs.

What is your view of the GAO finding?

Answer. I am not familiar with this specific finding. If confirmed, I will fully review this GAO finding to better understand the details and basis of the report. I believe program mergers strive to deliver systems on-time, at cost, and meeting all desired capabilities. I believe that providing sufficient resources, involving testers early, utilizing performance metrics, having proper checks and balances, defining clear exit criteria via the systems engineering process prior to entering Initial Operational Test and Evaluation will help to develop systems that are ready for operational testing.

Question. What steps, if any, do you believe the Department should take to ensure that testing takes place early in enough in the program cycle to identify and fix problems before it becomes prohibitively time-consuming and expensive to do so?

Answer. I believe an emphasis on rigorous systems engineering principles and processes will help to identify and correct problems in a timely manner in the program cycle and provide the foundation for a solid program. These plans and strategies should include the identification of realistic planning, technology maturity verification, and early test and evaluation to include Modeling and Simulation, to allow for the discovery of problems early enough to correct them in the program cycle.

Early involvement of developmental and operational test personnel is essential to ensure the program is defined and identified requirements are meaningful and "testable." It also allows for required resources and test infrastructure to be identified and documented within realistic cost and schedule.

Question. What is your view of these recommendations?

Answer. If confirmed, I will review fully the GAO's findings and recommendations.

SERVICES CONTRACTING

Question. DOD spends over $70 billion a year on services. Concerns raised by the GAO and the DOD Inspector General about the Department's management of these contracts led to a requirement in section 801 of the National Defense Authorization Act for Fiscal Year 2002 for DOD to establish a management structure to oversee services contracting. Because the Department was slow to implement this provision, Congress tightened the requirement for a management structure in section 812 of the National Defense Authorization Act for Fiscal Year 2006.

What steps will you take, if confirmed, to implement section 812 and ensure that the Department has an effective management structure in place for the acquisition of contract services?

Answer. If confirmed, I will review the policies DOD implemented in April 2002 in response to section 801 of the National Defense Authorization Act for Fiscal Year 2002, and our progress in implementing section 812 of the National Defense Authorization Act for Fiscal Year 2006.

Question. What specific steps, if any, do you believe the Department should take in this regard in calendar years 2006 and 2007?

Answer. I believe the Department plans to issue updated policies, procedures and best practices for the acquisition of contract services by the end of 2006. With that foundation in place before the end of this year, if confirmed, I anticipate working with our Service Acquisition Executives to ensure that appropriate training for the workforce and other details are in place in 2007 to complete phased implementation of the targets in section 812.

Question. At the request of the committee, the GAO has performed best practices work on how the private sector manages services. GAO's conclusion is that leading companies have greater visibility and management over their services contracts and conduct so called "spend" analyses to find more efficient ways to manage their service contractors. This recommendation was incorporated into sections 801 and 802 of the National Defense Authorization Act for Fiscal Year 2002 and has been reinforced by subsequent legislation.

What is the status of the Department's efforts to conduct a "spend" analysis, as recommended by GAO and required by statute?

Answer. If confirmed, I will assess the Department's progress in responding to the GAO recommendations and sections 801 and 802 of the National Defense Authorization Act of Fiscal Year 2002, and ensure that appropriate "next steps" are taken.

Question. What specific improvements in the management of service contracts have been made as a result of the Department's efforts to date?

Answer. If confirmed, I will review specific improvements that DOD has made in this area. I believe that the management of service contracts and contracting for services is receiving extremely high level management attention within the Department. If confirmed, I will ensure that the Department develops a coordinated approach to managing service contracts.

Question. What additional steps, if any, do you believe the Department should take to implement the requirement to conduct periodic "spend" analyses for its service contracts?

Answer. If confirmed, I will assess the Department's progress to date in this area and ensure that appropriate "next steps" are taken to attain the goal of efficient, effective management of service contracts.

Question. Section 805 of the National Defense Authorization Act for Fiscal Year 2003 established specific goals for the increased use of performance-based service contracts and competitive awards of task orders under service contracts by the Department of Defense.

What is your view of the utility of performance-based services contracting and the competitive award of task orders?

Answer. I am not yet in a position to express a view on this subject. If confirmed, I will assess the utility of these techniques to the Department.

Question. What is the status of the Department's efforts to achieve the goals established in section 805?

Answer. If confirmed, I will assess the Department's progress in achieving these goals.

Question. What additional steps, if any, do you believe the Department should take to meet the goals established in section 805?

Answer. If confirmed, I will assess the Department's progress in achieving these goals, and ensure that appropriate "next steps" are taken.

TIME AND MATERIALS CONTRACTS

Question. Recent press reports indicate that some contractors may have charged the government one rate under so-called "time and materials" contracts, while paying subcontractors another, substantially lower rate. DOD and other Federal agencies have proposed a change to the Federal Acquisition Regulation to address this practice.

What is your view on this issue and the proposed change to the Federal Acquisition Regulation?

Answer. It is my understanding that the clauses in certain time and materials contracts provide for payment at the single rate or composite rate rather than separate rates for the prime and subcontractors. I believe it is therefore important that the contract clauses clearly delineate the payment terms. If confirmed, I will assess the proposed change to the Federal Acquisition Regulation.

CONTRACT SURVEILLANCE

Question. The GAO and the DOD Inspector General have reported that the Department of Defense has failed to provide adequate resources to monitor contractors' performance of service contracts. As a result, the Department has no assurance that contractors have complied with the terms of their contracts and that the Department has received the best value when contracting for services.

What steps, if any, do you believe the Department should take to address this problem?

Answer. If confirmed, I intend to review the Department's current guidance on quality assurance oversight and the training currently provided to Contracting Officers' Representatives.

INTERAGENCY CONTRACTS

Question. The last decade has seen a proliferation of new types of government-wide contracts and multi-agency contracts. These contracts, which permit officials of one agency to make purchases under contracts entered by other agencies, have provided Federal agencies rapid access to high-tech commercial products and related services. In too many cases, however, it appears that neither agency takes responsibility for making sure that procurement rules are followed and good management sense is applied. As a result, the DOD Inspector General, the GSA Inspector General, and the GAO have identified a long series of problems with interagency contracts, including lack of acquisition planning, inadequate competition, excessive use of time and materials contracts, improper use of expired funds, inappropriate expenditures, and failure to monitor contractor performance.

What steps has the Department taken to address the abuse of interagency contracts and how effective do you believe these steps have been?

Answer. I am not familiar with details of the Department's actions in this area. If confirmed, I will assess and take appropriate action on the problems identified by the DOD IG, the GSA IG and the GAO. I also will assess the progress the De-

partment has made to ensure interagency contracts are properly used and are compliant with statutory requirements.

Question. What additional steps, if any, do you believe are needed?

Answer. If confirmed, I will assess what additional steps are needed.

ACQUISITION WORKFORCE

Question. What is your assessment of the adequacy of the current defense acquisition workforce?

Answer. This is an area that I am very interested to learn about. My understanding is that the Under Secretary of Defense for Acquisition, Technology, and Logistics, has directed a comprehensive review of the acquisition workforce. I believe this is a very important initiative. If confirmed, I plan to be intimately involved and look forward to coming back and working with you.

Question. Should the workforce be increased or decreased, and are there specific categories of the workforce such as systems engineers that in your view need to be increased?

Answer. I am aware that the DOD did experience a workforce drawdown after the Cold War, that included the acquisition workforce. I have not had an opportunity to make specific judgments regarding workforce adjustments. However, I am aware, based on my positions in industry, of the challenges with the scientific and technical workforce. If confirmed, I look forward to working with Congress to best achieve the right shaping of the acquisition workforce.

Question. Does DOD's acquisition workforce possess the quality and training needed to adapt to new acquisition reforms, as well as to the increased workload and responsibility for managing privatization efforts?

Answer. I believe that I will find a very high caliber and dedicated acquisition workforce. Based on recent exposure, it appears that they have world class training and performance support resources. The Under Secretary of Defense for Acquisition, Technology, and Logistics, recently established his number one goal as ensuring a "High-Performing, Agile, and Ethical Workforce." If confirmed, I look forward to supporting him and working with the DOD and Congress on this most important strategic goal.

Question. What are your views regarding assertions that the acquisition workforce is losing its technical and management expertise and is beginning to rely too much on support contractors, FFRDCs, and, in some cases, lead systems integrators and prime contractors for this expertise?

Answer. I am not familiar with the details of these assertions. I believe the technical and management expertise in our workforce is vital to our national security. If confirmed, I will investigate this area in detail and personally champion initiatives that address our skill gaps and improve our competencies.

BUY AMERICA

Question. "Buy America" issues have been the source of considerable controversy in recent years.

What benefits does the Department obtain from international participation in the defense industrial base and under what conditions, if any, would you consider it necessary to impose domestic source restrictions for a particular product?

Answer. I am not familiar with the specific details of the recent issues related to "Buy America." I consider this an important area. If confirmed, I will investigate and formulate my perspectives. I believe international participation promotes defense cooperation among allies and contributes to operational interoperability, an essential ingredient in today's coalition warfare. However, we also need to preserve our options for domestic source considerations.

THE DEFENSE INDUSTRIAL BASE

Question. What is your view of the current state of the U.S. defense industry?

Answer. I believe the current state of the U.S. defense industry is healthy, innovative and competitive from the perspective of traditional business metrics. If confirmed, I would work within the DOD and Congress to support our strategic direction with industry.

Question. Over the last decade, numerous mergers and other business consolidations have substantially reduced the number of major defense contractors.

Do you believe that consolidation in the defense sector has had an adverse impact on competition for defense contracts? If so, what steps should be taken to mitigate those effects?

Answer. I do not believe that consolidation has had an adverse impact on competition for U.S. defense contractors as much as it has had an adverse impact on the U.S. industry workforce.

I believe the Department has worked and should continue to work closely with the antitrust agencies to evaluate defense-related mergers and mitigate potential competitive impacts and to ensure a healthy, innovative, and competitive defense industry.

Question. Do you support further consolidation of the defense industry?

Answer. I neither encourage nor discourage further consolidation. Each proposed transaction must be evaluated on a case-by-case basis. In some cases, consolidation can result in the elimination of excess capacity, reduce costs, strengthen capabilities, and provide better value for DOD and the U.S. taxpayer. At the same time, the Department should not support transactions where consolidation benefits do not outweigh the benefits associated with maintaining effective competition for DOD programs. Competition is healthy.

Question. What is your position on foreign investment in the U.S. defense sector?

Answer. In general, I favor foreign investment in the U.S. defense sector so long as the investment does not pose a threat to national security.

LEASING POLICY

Question. Under what circumstances, if any, do you believe that it is appropriate for the Department to use leases to obtain new capital equipment?

Answer. I believe leasing is an appropriate option to consider. The proper analyses need to be conducted and determination made as to the cost effectiveness of leasing compared to traditional acquisition approaches. I believe both the taxpayer and warfighter can benefit in certain circumstances.

Question. What criteria would you use, if confirmed, in determining whether to support a major lease of capital equipment by the Department of Defense?

Answer. If confirmed, I will investigate our procedures for leasing capital equipment to assure that the process includes proper analyses and a solid business case.

PROCUREMENT ETHICS

Question. The Air Force tanker lease proposal raised a number of issues related to contractor ethics and the revolving door between industry and the Federal Government. At an April 14, 2005, hearing of the Subcommittee on Airland, the U.S. Attorney for the Eastern District of Virginia testified that it has been difficult for him to identify potential ethics violations by former Department officials who go to work for defense contractors, because the Department's records in this area are inadequate. An April 2005 report of the GAO also concluded that monitoring of former Department employees who go to work for defense contractors is limited.

What is your view of the need to provide greater transparency and monitoring of former DOD employees who go to work for the defense industry?

Answer. I am not familiar with the above findings from the Subcommittee on Airland nor the GAO report. If confirmed, I will read those reports and formulate my view with respect to providing greater transparency. I support openness and transparency in our everyday life. I believe and support high ethical standards of conduct and behavior and will do all I can to promote these standards in DOD. I understand this is one of the subjects DOD is considering in the ongoing comprehensive ethics review. If confirmed, I will read the reports and look at this issue in that context as well.

Question. What is your view of the adequacy of the tools and authorities available to DOD to ensure that its contractors are responsible and have a satisfactory record of integrity and business ethics?

Answer. I understand that the current tools and authorities is one of the issues under review. If confirmed, I will review this issue in that context.

SHIPBUILDING INDUSTRIAL BASE

Question. In view of the current low rate of ship construction, how do we ensure a healthy, viable U.S. shipbuilding industrial base, including shipbuilders and second- and third-order supply chains, to meet our national security needs?

Answer. I do not have direct experience in this area. However, I understand the importance and challenges of the Navy shipbuilding programs. If confirmed, I would work with the Navy and Congress to improve the health and viability of the U.S. shipbuilding industrial base, and stabilize the shipbuilding programs as much as possible. In addition, I believe the Department should seek less expensive shipbuilding options. I also believe the Department should contract for ships in a manner that provides incentive for better cost performance and investment in labor-saving

technology, and enables our shipbuilders to be more competitive in the global shipbuilding marketplace.

SHIPBUILDING ACQUISITION

Question. In view of the limited competition for shipbuilding contracts, which often reduces to sole source procurement or allocation following the initial down-select, what incentives would you propose to improve contract performance?

Answer. I believe full and open competition is the preferred shipbuilding procurement strategy. I also believe it is in the best interest of the government to achieve fixed price type contracts in a competitive pricing environment as quickly as possible in our shipbuilding programs.

If confirmed, I will investigate improvement in contract performance. For shipbuilding programs where competitive environments no longer effectively exist, the Department needs to consider reasonable profit incentives on all contract types and appropriate share lines on cost type contracts to improve contract performance.

For example, the performance incentives could be event-based. The incentives and share lines need to motivate the shipbuilder to perform, and provide some measure of protection to the government if program costs rise too much.

Question. One of the greatest challenges the Navy faces in its shipbuilding program is the lengthy timeline that commences with defining the requirement for a new ship class and effectively ends with deploying the first ship of the class—a timeline that has historically run as long as 15 years. This lengthy timeline tends to increase cost, introduces obsolescence issues, and causes lost opportunities while older ship classes remain "on the line" awaiting arrival of their more capable replacements.

What insights can you offer on effective methods to reduce this timeline and accordingly reduce cost while increasing capability of the Fleet?

Answer. I believe the Department should continue to leverage commercial standards and gather the lessons learned and consider ways to provide global shipbuilding with innovation and modernization.

JOINT UNMANNED COMBAT AIR SYSTEM (J–UCAS)

Question. This committee established a goal for DOD that by 2010, one-third of U.S. military operational deep strike aircraft would be unmanned, and by 2015, one-third of all U.S. military ground combat vehicles would be unmanned.

What is your assessment of the Department's commitment to the unmanned deep strike mission? What role will you play, if confirmed, in the oversight of this effort?

Answer. If confirmed, I look forward to reviewing and being an active participant in the Department's commitment to unmanned deep strike mission. It is my understanding that the Department is committed to unmanned systems in a variety of roles.

Question. Over the past year, the Air Force has identified a need for an "interim" or "mid-term" bomber to satisfy deep strike mission requirements in the 2015 to 2018 timeframe.

What is your assessment of the Department's ability and commitment to satisfy the deep strike mission in the 2015 to 2018 timeframe with an unmanned aircraft system?

Answer. I have not had the opportunity to review the programs that would provide this capability.

SCIENCE AND TECHNOLOGY

Question. What, in your view, is the role and value of science and technology programs in meeting the Department's transformation goals and in confronting irregular, catastrophic, traditional, and disruptive threats?

Answer. I believe that the DOD S&T program has a long history of developing superior technologies and capabilities to address the current and future security threats. The Department's investment in S&T has historically given our forces the technological superiority to prevail over predicted threats and the agility to adapt quickly to unanticipated threats. I believe this role is still valid in today's strategic environment. As the pace of global technology availability increases, with a commensurate increase in the pace of threat evolution, the role of a well balanced S&T program is more important than ever.

Question. If confirmed, what direction would you provide regarding funding targets and priorities for the Department's long-term research efforts?

Answer. If confirmed, I will work with Mr. Young as the DDR&E to ensure our S&T investment is balanced. I believe S&T funding is important to our future capa-

bilities, and I would be concerned if funding levels ever became seriously out of balance with the rest of our Defense program.

TECHNOLOGY STRATEGY

Question. The Nation is confronted with a dispersed enemy expert at using relatively simple, inexpensive technology to achieve destructive and disruptive results. Creative prediction and adaptation to continuously changing threats is a focus for this Committee. Past investments in long-term research have resulted in the Department's ability to rapidly pull technologies and solutions from the laboratory to confront emerging threats.

If confirmed, what actions would you take to ensure the Department's continued ability to rapidly respond to unexpected threats?

Answer. If confirmed, I would support close collaboration between the acquisition, technology, and operational communities to identify current needs and to anticipate future operational needs arising from a changing national and world security environment.

Question. How would you direct efforts of the defense research community to develop a responsive research strategy capable of quick reaction but which is also designed to include sustained investments in the development of a set of capabilities based on threat predictions and identification of related technology gaps?

Answer. If confirmed, I will support Mr. Young in his role as the DDR&E to ensure our DOD S&T Program investment is balanced to meet near-term and long-term needs.

TECHNOLOGY TRANSITION

Question. The Department's efforts to quickly transition technologies to the warfighter have yielded important results in the last few years. Challenges remain to institutionalizing the transition of new technologies into existing programs of record and major weapons systems and platforms. The Department's fiscal year 2006 budget includes increases across a spectrum of technology transition programs.

What challenges to transition do you see within the Department?

Answer. One of the principal challenges to transition is the lack of funding flexibility and the extended timelines of our requirements and budget processes. Successful transition requires an appropriately mature technology, a user need, an insertion window in the program of record and budgeted resources for implementation.

Question. If confirmed, what steps would you take to enhance the effectiveness of technology transition efforts?

Answer. If confirmed, I will work with Mr. Krieg and Mr. Young as the DDR&E to identify impediments or process improvements to ensure the Department can effectively and efficiently transition technology to the warfighter.

Question. What is your assessment of the effectiveness of the rapid reaction and quick reaction special projects funds?

Answer. I am not familiar with these funds; however, programs that allow flexibility to fund emergent programs to accelerate technology to the warfighter are important tools. If confirmed, I will work with Mr. Young as the DDR&E to enhance our rapid reaction program and other similar programs to meet warfighter needs.

Question. Are there lessons learned through rapid reaction programs that are applicable to the Department's broader acquisition processes?

Answer. If confirmed, I will work with Mr. Krieg and Mr. Young as the DDR&E to identify lessons learned to ensure our rapid reaction programs continue to be flexible and enhance our acquisition process.

SMALL BUSINESS ISSUES

Question. The Small Business Innovative Research (SBIR) program accounts for approximately $1 billion in defense research grants annually.

What emphasis will you place on participation by the acquisition community in setting research priorities for the SBIR and in accepting new solutions into existing programs of record?

Answer. I believe the SBIR program is an important source of technology for the Department. If confirmed, I will continue to actively involve the acquisition community in identifying its research needs and transition opportunities for all research including SBIR.

CONGRESSIONAL OVERSIGHT

Question. In order to exercise its legislative and oversight responsibilities, it is important that this committee and other appropriate committees of Congress are able to receive testimony, briefings, and other communications of information.

Do you agree, if confirmed for this high position, to appear before this committee and other appropriate committees of Congress?

Answer. Yes.

Question. Do you agree, if confirmed, to appear before this committee, or designated members of this committee, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as the Deputy Under Secretary of Defense for Acquisition and Technology?

Answer. Yes.

Question. Do you agree to ensure that testimony, briefings, and other communications of information are provided to this committee and its staff and other appropriate committees?

Answer. Yes.

[Questions for the record with answers supplied follow:]

QUESTIONS SUBMITTED BY SENATOR JOHN MCCAIN

INCENTIVE FEES

1. Senator MCCAIN. Mr. Finley, per the DOD Award Fee Guide, ". . . an award fee is an amount of money which is added to a contract and which a contractor may earn in whole or in part during performance and that is sufficient to provide motivation for excellence in such areas as quality, timeliness, technical ingenuity, and cost-effective management." A contractor starts with 0 percent of an award fee works for the evaluated fee for each evaluation period. The contractor does not start with 100 percent and get portions deducted along the way. A Fee Determining Officer (FDO) ensures the amount and percentage of an award fee earned accurately reflects the contractor's performance. The award fee guide clearly delineates the roles and responsibilities of the FDO and defines how an award fee plan can be developed to map out the process of how a contractor should be evaluated. The GAO has shown through a recent study that from their sample of 597 contracts the median percentage of available award fees paid was 90 percent. This study clearly demonstrates that not only is the award fee guide not being followed but in some cases it is being blatantly disregarded. Why are our FDOs not using their training and the published guidance when determining award fees and what do you plan to do to rectify this situation?

Mr. FINLEY. FDOs review the performance of the contractor and determine independently the amount of award fee the contractor should receive. The amount of award fee paid on any particular contract is dependent upon the award fee criteria established for that contract and the judgment of the FDO with regard to how the contractor performed against the stated award fee criteria.

In general, I believe the FDOs are using their training and following their Award Fee Guides. Too much subjectivity could be at the root of the guides and requirements which can make performance measurement less than optimum.

Guidance is planned to be provided in support of the GAO Report. This guidance should include the need for award fee plans containing objective measurable criteria when possible, which when combined with the subjective judgment of the FDO should improve the correlation between contractor performance and award fee earned.

2. Senator MCCAIN. Mr. Finley, please clarify how incentive fees are awarded. Do we first, sign a cost-plus contract that puts most of the risk for these major development programs on the government; then offer the contractor the chance to earn an award fee on top of having their costs reimbursed; then, when a program experiences problems, the contractor can still earn millions of dollars in award fees for helping to correct the issues which they are partially responsible for creating?

Mr. FINLEY. Incentive Fee awards are generally tied directly to a contractor's cost performance on a particular contract. Incentive fee contracts can be based upon a single incentive (usually cost) or upon multiple incentives (cost, schedule, and/or technical performance). The range of incentive fee is established at contract award as part of the basic contract. Incentive fees can be used on either cost reimbursement contracts or fixed-price contracts.

A cost-plus-incentive-fee contract is a cost reimbursement contract that provides for an initially negotiated target fee to be adjusted later by a formula based on the relationship of the total allowable cost to the total target cost. A fixed-price incentive contract is a fixed-price contract that provides for adjusting profit and establishing a final contract price by a formula based on the relationship of the final negotiated total cost to total target cost. A fixed-price incentive contract also has an established ceiling price whereby any contract costs in excess of the ceiling price are fully absorbed by the contractor.

"Award Fee" provisions are used, usually, to supplement a "base fee" under a cost-plus award fee contract. The base fee on a cost-plus award fee contract cannot exceed 3 percent of the estimated cost of the contract exclusive of the fee.

The assignment of risk is a matter of negotiation between the Contracting Officer and the contractor. In determining the Government's position with regard to the assumption of risk, the Contracting Officer considers a number of factors which include, but are not limited to: 1) the nature of the work to be performed; 2) the degree of technical uncertainty; and 3) the certainty of contract cost and schedule performance.

When a program experiences problems that are ultimately corrected, or not corrected, as the case may be, the FDO must ascertain what role the contractor played and whether, and to what level, the contractor should be held responsible. It is the responsibility of the FDO to properly reward, or not to reward, a contractor's performance based on the facts and circumstances of each acquisition.

3. Senator MCCAIN. Mr. Finley, what strategies does the private sector use as incentive for their business partners?

Mr. FINLEY. Strategies for business partnership incentives in the private sector start with relationships. Typically, relationships are built, for example, through market opportunities, program experience, and competency gaps. From my experience, we build business cases for partnerships, for example, that identify incentives to provide compelling market entry opportunities, to enhance contract performance or to bridge respective competencies such that there is a multiplier effect of having vs. not having the business partnership.

Business incentives become a part of a business case. Examples of business incentives are summarize as follows:

1. Higher profit
2. Reduced quality control oversight.
3. Share best practices

These incentives, for example, are realized as a result of demonstrating consistent on-time product delivery, lower deliverable defects and best practice implementation over periods of time. Business incentives can be structured for different levels of performance resulting in the motivation to maximize performance. Measurement periods are typically utilized on a continuous basis, with the downside for loss of incentives, if/when there is an interruption of the performance.

Sharing and implementing best practices in the private sector provided significant payoff due to having a horizontal impact for the company vs. any singular program or functional area. Use of Lean Six-Sigma practices that are fully endorsed by executive leadership can provide a culture of continuous learning and proactive process improvement. Although the terminology characterizing performance may change from time to time, the fundamentals of private sector performance (shareholder value, cash flow, earnings, and market share) will improve.

4. Senator MCCAIN. Mr. Finley, what changes do you propose with regard to acquisition reform?

Mr. FINLEY. Deputy Secretary England and Under Secretary Krieg have conducted a comprehensive review of department business practices as part of the recently completed Quadrennial Defense Review. As a result, a number of actions have been initiated that should improve the strategic and tactical acquisition management of the DOD.

I plan to be part of the leadership team for implementation of the above actions and propose that we improve our technology maturity and harden our requirements sooner in the acquisition process.

5. Senator MCCAIN. Mr. Finley, fixed-price contracts shift the risk to the contractor and incentivize the contractor to increase the reliability of the system components. How can DOD return to a more common use of fixed-price contracts?

Mr. FINLEY. The preponderance of DOD contract actions in fiscal year 2004 and fiscal year 2005 were fixed price. In fiscal year 2004, DOD awarded 73 percent of

its contract actions and 60 percent of its dollar obligations under fixed-price contracts. In fiscal year 2005, DOD awarded 93 percent of its contract actions and 61 percent of its dollar obligations under fixed-price contracts.

Fixed price-type contracting is the Department's preferred method of contracting. However, the Federal Acquisition Regulation provides for a wide spectrum of contract types in order to provide the needed flexibility in acquiring the variety of goods and services that the DOD acquires.

Risk needs to be managed and drives the choice of contract vehicles. I believe we can do more in the area of fixed-price contracting as we bring more mature technology and requirements stability reducing the risk to the marketplace faster.

6. Senator McCain. Mr. Finley, please provide your thoughts on FAR Part 12 versus FAR Part 15 contracts for major weapon system procurement.

Mr. Finley. My thoughts are that FAR Part 15 is the appropriate statute for major weapon systems procurement. It provides an appropriate level of rigor to manage and deliver complex products and services such as major weapon systems.

FAR Part 12 can only be considered by DOD for major weapon systems procurement when certain conditions have been satisfied in accordance with section 2379 of title 10, U.S.C. Section 2379 was added by section 803 of the National Defense Authorization Act for Fiscal Year 2006. Section 2379 provides that a major weapon system may be treated as a commercial item, or purchased under procedures established for the procurement of a commercial item, only if the Secretary of Defense determines that the major weapon system is a commercial item, as defined in the Office of Federal Procurement Policy Act; such treatment is necessary to meet national security objectives; and the congressional defense committees are notified at least 30 days before such treatment or purchase occurs. Section 2379 also provides that the authority to make the required determination may be delegated only to the Deputy Secretary of Defense.

[The nomination reference of James I. Finley follows:]

NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
December 20, 2005.

Ordered, That the following nomination be referred to the Committee on Armed Services:

James I. Finley of Minnesota, to be Deputy Under Secretary of Defense for Acquisition and Technology, vice Michael W. Wynne.

[The biographical sketch of James I. Finley, which was transmitted to the committee at the time the nomination was referred, follows:]

BIOGRAPHICAL SKETCH OF JAMES I. FINLEY

Jim has over 30 years of multi-national business leadership and management experience. Programs span air, land, sea, and space for the DOD (all Services and DARPA) and include the FAA Automatic Surface Detection Radar systems and the NASA Space Shuttle Program. Systems and subsystems experience includes mission analysis, design, development and deployment of weapon delivery, flight control, navigation, information management, C^4ISR, battle space management, chem/bio defense systems. His education includes a Masters of Business Administration (MBA) and Bachelors of Science in Electrical Engineering (BSEE).

With a background that includes marketing, finance, program management, engineering and manufacturing, he brings a broad experience base of technology including international technology transfer, outsourcing, product development, multi-plant operations management, lean manufacturing implementation, demand flow technology programs, six sigma/black belt systems, information technology systems, purchasing, logistics, facilities, security, product support and total quality management.

His leadership and strategic planning abilities have led many companies, including large and small operations, to achieve double-digit financial growth. Jim has also participated in many acquisitions and divestitures providing business analysis including strategic fit, organizational alignment, marketing assessments, project evaluations and manufacturing audits.

Jim has achieved significant operational recognition and success through progressive, increasing management responsibilities at General Electric, Singer, Lear Siegler, United Technologies and General Dynamics, where he was a Corporate Officer, President of Information Systems and Chair of the Business Development Council. In 2002, Jim formed his own consulting company, The Finley Group, LLC, that provides business assistance and advice for all facets of the business cycle including start-up, growth, acquisition and divestiture.

He resides in Chanhassen, Minnesota, and enjoys golf, cycling, fishing, reading, and volunteer's work.

[The Committee on Armed Services requires all individuals nominated from civilian life by the President to positions requiring the advice and consent of the Senate to complete a form that details the biographical, financial, and other information of the nominee. The form executed by James I. Finley in connection with his nomination follows:]

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

(202) 224–3871

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior to the hearings and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)
James I. Finley.

2. **Position to which nominated:**
Deputy Under Secretary of Defense for Acquisition and Technology.

3. **Date of nomination:**
December 20, 2005.

4. **Address:** (List current place of residence and office addresses.)
[Nominee responded and the information is contained in the committee's executive files.]

5. **Date and place of birth:**
August 25, 1946; Rockford, IL.

6. **Marital Status:** (Include maiden name of wife or husband's name.)
Married to Sharon Bormann.

7. **Names and ages of children:**
Kathleen O'Malley, 37.
James D. Wood, 35.
Benjamin J. Finley, 34.
Daniel J. Finley, 31.
Christopher J. Finley, 26.
Alexander J. Finley, 23.

8. **Education:** List secondary and higher education institutions, dates attended, degree received, and date degree granted.

California State University, Fresno - MBA, 1974, 1972 to 1974, Masters of Business Administration.

Milwaukee School of Engineering - BSEE, 1968, 1964 to 1968, Bachelor of Science, Electrical Engineering.

9. **Employment record:** List all jobs held since college or in the last 10 years, whichever is less, including the title or description of job, name of employer, location of work, and dates of employment.

President - The Finley Group LLC - Chanhassen, MN, 2002 to Present.

President & CEO - Smartskin Inc. - Chaska, MN - 2000 to 2001.

Corporate Vice President and President - General Dynamics, Information Systems - Bloomington, MN, 1998 to 2000.

Vice President - Computing Devices International, Bloomington, MN - 1996 to 1998.

Vice President - United Technologies, Norden Systems, Norwalk, CT - 1990 to 1996.

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

None.

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

The Finley Group LLC - President.

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

None.

13. **Political affiliations and activities:**

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

None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 5 years.

None.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $100 or more for the past 5 years.

None.

14. **Honors and Awards:** List all scholarships, fellowships, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

Examples of performance awards under my leadership:

Boeing Gold Certification Award,
Honeywell Preferred Supplier Award,
Northrop Grumman Blue Achievement,
Lockheed Martin Best In Class Rating,
Defense Security Service "Outstanding" Assessment,
George Westinghouse Award.

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

Many articles were authored by me which focused on company newspapers. I have also authored an article for the World Radio Communications (WRC) Conference as well as the International Society for Optical Engineering (SPIE).

Examples when President at General Dynamics Information Systems and Vice President at United Technologies Norden Systems Include:

1. General Dynamics Interlink in April 1998 featured the launch of "Bold Prudence." "Bold Prudence" was an across the board cost competitive program in the company that resulted in higher productivity improvements and substantial cost savings.

2. United Technologies Engineering Coordination Activities (UTECA) News featured articles from me as Chairman of UTECA addressing future directions.

3. WRC 2000 in Istanbul, Turkey, had an article by me addressing "Information Management and E-Business with Little LEO (Low Earth Orbit) Systems."

4. SPIE Proceedings in 1998 had an article by me about "An Industry Perspective on Battlespace Digitization."

16. **Speeches:** Provide the committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

None.

17. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to respond to requests to appear and testify before any duly constituted committee of the Senate?

Yes.

[The nominee responded to the questions in Parts B–F of the committee questionnaire. The text of the questionnaire is set forth in the Appendix to this volume. The nominee's answers to Parts B–F are contained in the committee's executive files.]

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

JAMES I. FINLEY.

This 6th day of January, 2006.

[The nomination of James I. Finley was reported to the Senate by Chairman Warner on February 16, 2006, with the recommendation that the nomination be confirmed. The nomination was confirmed by the Senate on February 17, 2006.]

[Prepared questions submitted to Thomas P. D'Agostino by Chairman Warner prior to the hearing with answers supplied follow:]

QUESTIONS AND RESPONSES

DUTIES

Question. What is your understanding of the duties and functions of the Deputy Administrator for Defense Programs?

Answer. There are a number of duties and responsibilities for the Deputy Administrator position. These duties and responsibilities all come together and are focused on the nuclear weapons stockpile and the nuclear weapons complex. This principal duty will be to lead the Defense Programs staff and the senior managers across the nuclear weapons complex to maintain a safe, secure, and reliable nuclear weapons stockpile, to ensure the safe and efficient operations of the nuclear weapons complex, and ensure that capabilities required for future national security needs are maintained.

Question. What background and experience do you possess that you believe qualifies you to perform these duties?

Answer. My background and experience is well suited for these duties. As an officer in the U.S. Navy, I was selected by Admiral Rickover and trained as a nuclear submarine officer. In this capacity I managed technically complex, high-hazard operations on nuclear submarines. This training instilled a commitment to quality, discipline, and integrity that are so important when dealing with nuclear operations. After over 8 years on Active-Duty in the submarine force I continued to serve in the national security arena as a Naval Reserve Officer and as a propulsion systems program manager for the Seawolf (SSN21) submarine. I then moved to the Department of Energy and worked in a wide variety of both technical and management positions, in the areas of tritium reactor restart, as Deputy Director in the Office of Stockpile Computing, as the Deputy Director for Nuclear Weapons Research, Development and Simulation, and most recently, as the Assistant Deputy Administrator for Program Integration. In that capacity, I reported directly to the Deputy Administrator for Defense Programs to integrate the stockpile stewardship program and budget across four production sites, three national laboratories, and a test site.

I have earned a Masters in Business-Finance from John Hopkins University and a Masters in National Security Studies from the Naval War College. I have over 29 years of service as an Active-Duty Naval Officer, a career civil servant, and as an Officer in the Naval Reserve where I have attained the rank of captain. All of my professional experience has been focused on service (military and civilian) in support of our national security. I am privileged to have been able to serve my country and am confident that this combination of service and education qualifies me very well to perform the duties of the Deputy Administrator for Defense Programs.

Question. Do you believe that there are actions you need to take to enhance your ability to perform the duties of the Deputy Administrator for Defense Programs?

Answer. I would focus my action on communications. Clear and effective communications are paramount to success in any organization, and even more important with an organization that is large, geographically dispersed and with high-hazard and technical operations. I would look to increase the amount of time I spend talking to the all levels of management, technical and support staff, in headquarters and the field. My approach has always been to treat everyone with dignity and respect and I never fail to learn something when I take the time to interact directly with the people in the program.

Question. Assuming you are confirmed, what duties and functions do you expect that the Administrator of the National Nuclear Security Administration (NNSA) would prescribe for you?

Answer. If confirmed, I expect the Administrator would have me focus on the primary duties of the Deputy Administrator as I have described above with a focus on leading the transformation of the nuclear weapons complex (people, places, processes, and capabilities) to ensure that a responsive infrastructure—as described in the administration's 2001 Nuclear Posture Review—is fully implemented. Additionally I expect that the Administrator will ask me to help him make the NNSA an organization that is known for excellence, encourages innovation, and fosters dedication by its employees.

Question. If confirmed, how would you work with the following program officials?

Other deputies in the NNSA.

Answer. If confirmed, I will work closely with the other Deputy Administrators and the supporting Associate Administrators. In NNSA, the Administrator has provided expectations for the management team, but we rely on each other and constant communication to achieve the mission. We meet at least weekly as a group in staff meetings, Management Council, or Leadership Council meetings. I will also carry forward a technique that I used as Assistant Deputy Administrator for Program Integration. In that position I established a periodic set of informal one-on-one meetings with some Associate Administrators within the NNSA. I found that one-on-one meetings were very useful in quickly getting to central issues that need attention and resolution.

Question. The Assistant Secretary for Environmental Management.

Answer. If confirmed, I will work closely with the Assistant Secretary for Environmental Management. The Secretary has made it clear that he is interested in a Department that works together and not as a group of disparate organizations. If confirmed, I will focus my work with in the area of nuclear materials disposition and consolidation.

Question. Other Assistant Secretaries of the Department of Energy (DOE).

Answer. Within the context of the NNSA Act I believe it is important to have a proactive working relationship with DOE Assistant Secretaries. If confirmed, other DOE Assistant Secretaries I would expect to work with most are in the areas of Management and Administration; Environment, Safety and Health; and Nuclear Energy. I already have an established working relationship with all of these individuals as a result of my current position as Assistant Deputy Administrator for Program Integration. My approach has been to maintain the principles of honesty and integrity in all matters. As a result of this approach, I have earned a high level of trust and support from others within the Department. It is this level of trust that I feel will assist me if I am confirmed as Deputy Administrator for Defense Programs.

MAJOR CHALLENGES AND PROBLEMS

Question. In your view, what are the major challenges that will confront the Deputy Administrator for Defense Programs?

Answer. There are a number of challenges that will need to be addressed in the upcoming years. In effect they all roll together into the most significant challenge of transforming the nuclear weapons stockpile and infrastructure while continuing to support near-term deliverables to the Department of Defense (DOD). Within this

challenge is the need to establish the viability of the Reliable Replacement Warhead concept as a means of providing a sustainable nuclear deterrent, driving integration within the nuclear weapons complex, implementing an appropriate level of interdependence across our contractors to maximize efficiency of operations, and continuing on the path of developing a responsive infrastructure. This involves also keeping a focus on meeting near-term DOD requirements such as the B61 and W76 Life Extension Program schedules. The Responsive Infrastructure initiative and work authorized for the Reliable Replacement Warhead are in their early stages but hold promise to set the nuclear weapons program on the right course to confidently maintain the Nation's nuclear deterrent well into the future.

Question. Assuming you are confirmed, what plans do you have for addressing these challenges?

Answer. If confirmed, I will focus on working closely with the Department of Defense to ensure that changes considered for the stockpile consider the effects on the nuclear complex infrastructure that supports the stockpile. Where possible we would move away from hard to manufacture items, exotic materials and manufacturing processes, to a stockpile that is easier to manufacture, uses materials that are safer for the environment and our workers, and considers full life-cycle costs in the design, manufacture, maintenance, and disassembly. Focus will be maintained on near-term DOD requirements by providing clear contractor expectations in program plans and in performance evaluation plans. This can be best accomplished by looking at the nuclear weapons program as an integrated whole vice activities being performed across eight different sites. My Navy and program management experience has taught me to approach work in a systematic way. This involves identifying the problem, writing down and agreeing to plans with clear milestones, assigning qualified people, and tracking performance.

Question. What do you consider to be the most serious problems in the performance of the functions of the Deputy Administrator for Defense Programs?

Answer. A problem that I am concerned with deals with the risks inherent in the position of being the Deputy Administrator for Defense Programs. The work in the nuclear weapons complex involves dealing with nuclear weapons, hazardous materials, and complex operations on a daily basis. Dealing with nuclear weapons operations is serious business that involves accepting and managing risk. The Deputy Administrator, similar to the Commanding Officer of a Navy ship, is ultimately responsible for the actions of the program and how those actions affect worker and public health, safety, and security, including managing risk.

Question. If confirmed, what management actions and time lines would you establish to address these problems?

Answer. If confirmed, I will commit my personal involvement and that of Defense Programs management to aggressively work with the national laboratories, production sites, and other interested parties such as Congress and the Defense Nuclear Facilities Safety Board to deal with the issue of managing risk in the nuclear weapons complex. I expect to see a plan in this year to focus attention across the entire nuclear weapons complex that will enable Defense Programs to authorize and continue the work necessary to meet our mission requirements on time, in a safe and secure manner. Additionally, I will work hard to communicate the message that line management must take responsibility for safety and mission performance and not pass this responsibility to the variety of boards, panels, teams, and assessment groups that are charged with assessing performance and safety.

Question. The previous Deputy Administrator, in his confirmation hearing on October 11, 2001, testified that a major challenge confronting the NNSA was "a general view that NNSA presently has too many overlapping functions and assigned personnel at headquarters and field levels, leading to reduced efficiency in the labs and plants. . . . The program planning and management tasks are critically tied to knowing what to do, when to do it, and to making clear assignments for the work. That planning function will be centered at headquarters, with execution in the field. There appears to be a major challenge in clarifying roles and responsibilities for both the planning function and the execution function, with far too much overlap in responsibilities (either assigned or assumed) at the present."

In your view, what progress has been made in addressing this challenge and what progress, if any, remains to be made?

Answer. Significant progress has been made since Dr. Everet Beckner made these remarks. In the past 4 years Defense Programs has established and implemented a new program architecture, an improved planning and programming process, and a revised budget structure for the Stockpile Stewardship Program. Previously, this program was organized around 32 program elements, each independently managed. Program plans that existed for these program elements were inconsistent and did not include milestones that could be tracked over time. Consequently there was lit-

tle linkage between resources and program output, and it was difficult to measure performance. This was a systematic problem that could only be fixed through significant changes. Planning and program management principles were applied that developed a planning structure, defined a program milestone structure, and identified a change control processes. The end result is program and implementation plans that are consistent, as well as a set of level 1 and level 2 milestones that describe the program over a 5-year period. One of the key attributes of changing the programmatic structure was to more closely align the budget to the work being performed in the program.

However, despite these improvements much more can be done. More time and attention should be given towards identifying expectations for the contractor and clearly articulating these expectations into clear, coherent, and challenging contractor performance evaluation plans. I will focus on the theme of "being a demanding customer" in my direction and discussion with Defense Programs managers. The selection of a new management and operating contractor at Los Alamos National Laboratory (LANL) gives us an immediate opportunity to work on being a demanding customer in the operations of the laboratory and the completion of program deliverables.

PRIORITIES

Question. If confirmed, what broad priorities would you establish in terms of issues, which must be addressed by the Deputy Administrator for Defense Programs?

Answer. My highest priority revolves around the people in the nuclear weapons program. It does not matter whether these are Federal, contractor, headquarters or field personnel, the program is successful because we have dedicated and qualified people addressing the needs of our Nation's security. It is important to take care of these people and make sure that decisions that are made are balanced with the impact on the workforce. If confirmed, broad priorities I plan to establish include transforming the nuclear weapons stockpile and the nuclear weapons complex while supporting near-term deliverables to the Department of Defense (DOD). The DOD observes our ability to deliver on commitments through the lens of the production complex. We must focus on continually improving our delivery on commitments to the DOD.

Question. In your view, should cost containment and cost control be a high priority for the Deputy Administrator for Defense Programs?

Answer. Yes, cost containment and control is a high priority for Defense Programs. As the Assistant Deputy Administrator for Program Integration I have been working on this very complex issue for NNSA. For example, I have been concerned with the different methods that are being used by our contractors on managing the costs in the Operations of Facilities program. These different methods make it very difficult for the Federal program manager to be able to compare costs and develop meaningful trends and analysis. To address this, I had directed the review of the Operations of Facilities program to drive cost efficiencies and consistency across the nuclear weapons sites. As a result of that review, Defense Programs will be implementing activity based costing principles for selected key mission critical facilities and standardized accounting using a common work breakdown structure.

RELATIONSHIPS

Question. Please describe your understanding of the relationship of the Deputy Administrator for Defense Programs with the following officials:

The Administrator of the NNSA.

The Secretary of Energy.

The Deputy Secretary of Energy.

The Under Secretary of Energy for Energy and Environment.

The Under Secretary of Energy for Science.

The Under Secretary of Defense for Acquisition and Technology.

The Assistant to the Secretary of Defense for Nuclear, Chemical, and Biological Matters.

The Commander, U.S. Strategic Command.

The Deputy Under Secretary of Energy for Counter-Terrorism.

The Deputy Administrator for Defense Nuclear Nonproliferation.

Answer. My understanding of the relationship of the Deputy Administrator for Defense Programs with other officials is as follows:

1. NNSA Administrator: The Deputy Administrator for Defense Programs reports directly to the NNSA Administrator. The Administrator entrusts the Deputy Administrator with the responsibility of managing the nuclear weapons program.

2. Secretary of Energy: The Deputy Administrator for Defense Programs may also report to the Secretary of Energy, through the NNSA Administrator. The Administrator will likely trust the Deputy Administrator to deal directly with the Secretary on issues in his area of responsibility, with knowledge of the Administrator.

3. Deputy Secretary of Energy: The Deputy Administrator for Defense Programs may also report to the Deputy Secretary of Energy, through the NNSA Administrator. The Administrator will likely trust the Deputy Administrator to deal directly with the Deputy Secretary on issues in his area of responsibility, with knowledge of the Administrator.

4. The Under Secretary of Energy for Energy and the Environment: The Deputy Administrator for Defense Programs would deal with the Under Secretary of Energy and the Environment through the NNSA Administrator. As with the Deputy Secretary and Secretary, the Administrator will likely trust the Deputy Administrator to deal with the Under Secretary for Energy and Environment with knowledge of the Administrator. I do not expect the Deputy Administrator would have much direct dealing with the Under Secretary, but would deal with a number of the Under Secretary's direct reports (Environment, Safety and Health and Nuclear Energy, for example).

5. The Under Secretary of Energy for Science: When the position of Under Secretary of Energy for Science is formalized and filled, I expect that Deputy Administrator for Defense Programs will deal with the Under Secretary on a variety of issues. With the Department's emphasis on science, NNSA will seek to leverage work in the area in the areas of supercomputing, high energy density physics and materials sciences. As with the Deputy Secretary and Secretary, the Administrator will likely trust the Deputy Administrator to deal with the Under Secretary for Science with knowledge of the Administrator.

6. The Under Secretary of Defense for Acquisition and Technology: The Under Secretary of Defense for Acquisition, Logistics and Technology is also the Chairman of the Nuclear Weapons Council (NWC), which is the focal point for Department of Energy (DOE) and Department of Defense relations. While the NNSA Administrator is DOE's NWC member and would most likely deal directly with the Under Secretary of Defense, the Deputy Administrator generally attends NWC meetings and is heavily involved in NWC matters.

7. The Assistant to the Secretary of Defense for Nuclear, Chemical and Biological Matters: The Deputy Administrator for Defense Programs deals with the Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs on a regular basis. The Assistant to the Secretary is the Chairman of the Nuclear Weapons Council (NWC) Standing and Safety Committee, the flag officer or Senior Executive Service "working level" group in the Nuclear Weapons Council system. In this capacity, even though the formal communications path to the Assistant to the Secretary position is through the Principal Deputy Administrator for Military Application in Defense Programs, I expect the Deputy Administrator for Defense Programs will spend a significant amount of time working with the Assistant to the Secretary, particularly during this period of stockpile transformation.

8. The Commander, U.S. Strategic Command: The NNSA Administrator generally deals directly with the Commander of U.S. Strategic Command; however, the Deputy Administrator has significant interaction as well. One of the Commander's most important duties related to NNSA is providing the annual assessment of the safety, reliability and performance of the nuclear weapons stockpile, based on input from advisors and the national laboratories. As the Commander is responsible for deploying the nuclear weapons stockpile, Defense Programs and Strategic Command have a close relationship at many levels. I expect the Deputy Administrator for Defense Programs will spend a significant amount of time working with the Commander, particularly during this period of stockpile transformation.

9. The Deputy Under Secretary of Energy for Counterterrorism: The Deputy Administrator for Defense Programs works closely with the Deputy Under Secretary, especially since the counterterrorism assets—people and equipment and expertise—are supported by Defense Programs.

10. The Deputy Administrator for Defense Nuclear Nonproliferation: The Deputy Administrator for Defense Programs works closely on both programmatic and management issues with the Deputy Administrator for Defense Nuclear Nonproliferation. A common example of cooperation involves arms control and nonproliferation considerations, where Defense Nuclear Nonproliferation may coordinate the NNSA's policy position but Defense Programs is heavily involved due to potential facility or nuclear material implications.

MANAGEMENT ISSUES

Question. The Deputy Administrator for Defense Programs is responsible for activities occurring at NNSA laboratories and production sites across the country.

What are your views on the roles and responsibilities of field managers relative to those of Defense Programs Headquarters managers?

Answer. Headquarters managers, to include the Deputy Administrator, Assistant Deputy Administrators, and Program Managers work with the management and operating contractor managers and site office staff to plan the programs and set expectations (via Program Plans, Implementation Plans, and contractor performance evaluation plans). This is both necessary and appropriate since this brings a "corporate" perspective to prioritization, and the necessary balancing among programs and sites. Program Managers at Headquarters are typically designated by the field contracting officers as Contracting Officers Representatives. These representatives provide direction to the contractor for the performance of programmatic work through the authority of the contracting officers through the Work Authorization Process. If confirmed, I will use the Site Office Managers to help me understand what is happening in the field since they are the closest to the work being performed and should have a better understanding of the local site conditions.

Question. What is your view of Defense Programs' organizational structure?

Answer. Is there a well-delineated and consistent chain of command and reporting structure from the field staff to headquarters staff and from the contractors to Federal officials? The Defense Programs organizational structure works yet I believe that it can be improved. One area for improvement is in the area of management of the Readiness in Technical Base and Facilities program. These responsibilities are now managed in two different Defense Programs organizations. To help meet the goal of having a more responsive and efficient nuclear weapons complex, these two offices should be consolidated. This combined office will be the driving force for transforming the three weapons laboratories, the Nevada Test Site and the four production plants into more agile and cost effective entities in terms of their physical plant and operations. This office will provide integrated program guidance, resources and execution oversight to the site offices and management and operating contractors. This office will develop a more common work breakdown structure for all of the eight contractors, reduce unnecessary and costly variations in tasking, and enable the common monitoring of program and financial performance among the eight sites.

There is a well-delineated and consistent chain of command and reporting structure in place but the implementation of this chain of command needs more attention and discipline. Interaction with the site offices is critical to the organizational structure of Defense Programs. Discipline in using the chain of command is paramount in achieving an organization that is efficient and effective. I will emphasize that communication across the program is important. However, direction to the contractor can only be exercised using the chain of command. During my tenure at DOE and NNSA I have worked within the chain of command as well as serving as one of its leaders. Thus, I have developed a great understanding and appreciation for this responsibility if confirmed.

Question. In your opinion, do the Federal managers in the field at NNSA facilities have enough autonomy and flexibility to work with the contractors at those sites to get work accomplished in a safe and efficient manner?

Answer. Yes, Federal managers in the field at NNSA facilities do have the authority accomplish work in a safe and efficient manner and to stop unsafe operations. These managers can also help identify and resolve issues affecting program work and competing priorities within the site. However, it does require a close working relationship with Headquarters Program Managers. The interdependent nature of our programs, between sites and among the technical programs, drives the need for communication between site office and Headquarters managers.

Question. If you are confirmed, what improvements, if any, would you undertake to strengthen the project management skills of your Federal workforce?

Answer. Defense Programs is working to implement a strong program and project management culture. This resulted in the development and implementation of a Defense Programs Management Manual to guide expectations and actions of Program Managers. The goal is to create a program management organizational culture that values program and project management as a discipline based on qualification, technical competence, and consistent operating policies and procedures. Each program element in the Defense Programs portfolio has a designated Program Manager. These program managers are now recognized across the nuclear weapons complex as the single Federal individual responsible for that particular program area. Defense Programs is completing the definition of Program Manager qualification re-

quirements. This qualification activity is aimed at both existing program managers and staff. All Defense Programs line item projects have qualified Federal Project Directors. If confirmed, I would continue the changes underway.

Question. Does the Office of Defense Programs require its project managers to be credentialed through an accredited project management training program? If not, do you believe such a credentialing requirement should be established?

Answer. I support the existing rigorous credentialing program. Federal Project Directors (project managers) for capital acquisition projects do require credentialing under the DOE Project Manager Career Development Program. This program identifies levels of qualification based on successful completion of a variety of project management related courses and acquisition of experience managing different sizes of projects.

STOCKPILE STEWARDSHIP

Question. Congress established the Stockpile Stewardship Program with the aim of creating the suite of computational capabilities and experimental tools which—when coupled with the necessary human capital—would allow for the continued certification of the nuclear weapons stockpile as safe, secure, and reliable without the need for full scale, underground nuclear weapons testing. The United States has observed a nuclear weapons testing moratorium since 1992.

As the stockpile continues to age, what do you view as the greatest challenges with respect to assuring the safety, reliability and security of the stockpile?

Answer. One challenge will be keeping the right set of skilled workers at the laboratories, production sites, and in the Federal workforce. Keeping the workforce engaged and exercised will be essential in developing a sustaining nuclear deterrent without underground testing. Another challenge is gathering enough of the right data to maintain confidence in our assessments of the safety, reliability, and security of the stockpile. While I am personally satisfied with the rigor of the surveillance program, continued vigilance is required especially as the average age of warheads in the stockpile grows. The Reliable Replacement Warhead (RRW) program may address both of these areas of concern. If, with the agreement of Congress, we proceed beyond the current feasibility study, we intend to more easily assure the safety, reliability, and security of the stockpile without the need for underground nuclear testing.

Question. Most of the experimental and computational facilities and tools originally identified in 1994 as required for the science-based Stockpile Stewardship program are, or will soon be, in place and fully operational.

In the decade spanning the years 2010 to 2020, what additional tools or facilities will be needed to continue to support the Stockpile Stewardship program and the goal of assuring a safe, secure, and reliable stockpile without a resumption of underground nuclear weapons testing?

Answer. Additional advances in the areas of computation, simulation, materials science, and radiography will be needed to support the Stockpile Stewardship Program. In the upcoming decade the focus will be to fully utilize the tools that we have been developing during this decade. An example would be getting the National Ignition Facility operational and ready to conduct Stockpile Stewardship experiments. Experiments on the National Ignition Facility will allow us to probe the extreme conditions of temperature and density found in exploding nuclear weapons. It is also important in the upcoming decade to pursue a robust experimental program on the Dual Axis Radiographic Hydrodynamic Test facility to observe the geometries of imploding materials. Additionally, I expect that as material models become more refined and as code applications become more complex, that modeling and simulation will continue to be a dominant tool as we continue forward with Stockpile Stewardship. Also, NNSA plans to increase the Los Alamos National Laboratory pit manufacturing capacity to at least 30–40 pits per year by the end of fiscal year 2012.

Question. Have there been any instances in which these new tools have successfully resolved a technical issue or uncertainty that in the past would have required testing to resolve?

Answer. Yes, there have been some inherently three-dimensional issues in the primary that we could not have resolved without the new computational tools that could have required a test for resolution.

RELIABLE REPLACEMENT WARHEAD

Question. The NNSA is working on a feasibility study for a reliable replacement warhead program (RRW), which, if successful could alter or replace the need for life extension programs in the future.

In your view, what benefits could the RRW bring to the Stockpile Stewardship program?

Answer. RRW could bring significant benefit to the Stockpile Stewardship Program. The basic principle of the RRW program is to take advantage of relaxing legacy stockpile design constraints that were based on maximizing the yield of the warhead to the weight of the warhead. This should lead us to be able to design replacement components that are easier to produce, are safer, more secure and environmentally friendly. These replacement components will also be designed to increase the design margins of the components that will both increase the system reliability and reduce the likelihood that the U.S. will need to conduct a nuclear test.

Question. In your view, would changes be needed to the NNSA complex to implement the RRW program?

Answer. It is too early to tell what types of changes will need to be made, if any, to the NNSA complex to implement the RRW program because we are in the midst of the RRW study competition. However, design parameter priorities for the RRW emphasizes reduced hazardous material, ease of manufacture, enhanced safety, increased security, and life-cycle costs among others. Specific changes to the complex may, if necessary, become more apparent later this year following completion of the RRW study.

PROGRESS TOWARDS A RESPONSIVE NUCLEAR INFRASTRUCTURE

Question. The Nuclear Posture Review issued in the year 2001 called for the establishment of a "responsive" nuclear weapons infrastructure.

In your view, how should progress towards the establishment of the responsive infrastructure be measured?

Answer. Defense Programs has been jointly developing responsive infrastructure mission objectives (e.g., being able to identify, understand, and fix a stockpile problem within a specified period of time) with the DOD. Our progress towards establishment of a responsive nuclear weapons complex infrastructure should be measured on how well we are achieving these objectives as judged by DOD. We are also evaluating the inclusion of leading indicators of complex responsiveness in contracts for our labs and plants. Similar to leading economic indicators as forward-looking predictors of future economic activity, these responsive indicators, or responsiveness metrics, would provide a view on whether we are becoming more or less responsive.

As the Assistant Deputy Administrator for Program Integration, I have been working on leading Defense Programs' current effort to developing a responsive infrastructure. I will continue to lead this important effort, if confirmed, as the Deputy Administrator for Defense Programs.

Question. Is sufficiently timely progress being made towards the goal of a responsive infrastructure?

Answer. The concept of responsive infrastructure as part of the New Triad was first announced in December 2001 with the release of the Nuclear Posture Review. Initially, progress was slow as we worked with the DOD and others to agree on what a responsive infrastructure really is. The pace of progress picked up as the details of a much smaller future stockpile and the concept of a Reliable Replacement Warhead was developed. The 2012 stockpile plan provided details of a smaller stockpile to Congress in June 2004. In the early spring of 2005, we established a Responsive Infrastructure Steering Committee and a position within Defense Programs to drive actions needed to achieve responsive infrastructure goals. Actions have been accelerating since that time. I made moving towards a more responsive nuclear weapons complex infrastructure one of my key personal goals.

Question. If confirmed, what would you do to either maintain or accelerate this progress?

Answer. I am committed to accelerating the transformation of the nuclear weapons complex into a more responsive infrastructure. Infrastructure is defined as the people, business practices, technical processes, science and technology base, equipment, and facilities required to complete our mission. There are a number of things that we can do now (e.g., (1) improve risk management and technical business practices and (2) eliminate redundant capabilities) at an affordable cost, before any newer, more modern facility would need to be brought online.

Question. The Nuclear Weapons Complex Infrastructure Task Force of the Secretary of Energy Advisory Board (SEAB) recently issued a report titled, "Recommendations for the Nuclear Weapons Complex of the Future."

What is your general view of the report and its recommendations? The SEAB Task Force report was well done by a group of professionals who are sincerely interested in improving the nuclear weapons complex. I thank them for their work and acknowledge their contribution in helping frame the debate on the future of the

complex. They did not, nor could not, fully address all details for a complicated system, such as the nuclear weapons complex. The Task Force acknowledges this up front in their report. For example, their recommendation on timing for a consolidated nuclear production center (CNPC) does not recognize the challenge of meeting near-term requirements of the current stockpile and transforming the nuclear weapons complex infrastructure at the same time. It may be decades before all existing legacy weapons, and the constraints they impose (e.g., conventional high explosives), are fully removed from the stockpile and dismantled.

Question. Are efforts underway within Defense Programs to analyze, respond to, or implement the recommendations of the task force?

Answer. In my current capacity, I am taking recommendations of the SEAB Task Force, as well as other recent reviews (e.g., Defense Science Board, Foster Panel, etc.) very seriously. Over the past 6 months, the NNSA has been analyzing these recommendations. In addition, I have held two strategic retreats (November and January) of senior nuclear weapons complex leadership and a concentrated 3-week session (the "January Process") with about 50 key middle management personnel throughout the weapons complex, to establish our preferred long-term planning scenario for the future. I have personally met with Secretary on our plan and will meet again with him to determine how we will implement our vision of the future. I anticipate that our selected path forward will be reflected in discussions with Congress later this spring.

Question. If you are confirmed, what actions would you take, if any, to respond to the task force recommendations?

Answer. If confirmed, I will keep on the current path. We will communicate our preferred long-term, infrastructure-planning scenario to stakeholders soon and begin implementation. Some actions may be consistent with the Task Force recommendations and some may be different. I intend to take some actions within the next 18 months to demonstrate that I am serious about transforming the complex into a more responsive and cost-effective infrastructure.

ADDRESSING LEGACY AND SURPLUS FACILITIES

Question. The NNSA continues to maintain programmatic responsibility for many legacy nuclear weapons facilities that are surplus to current mission needs or have exceeded their design lives to such an extent that it is not economic to raise them to current standards for continued occupancy and use. Many of these facilities are mothballed in a safe shutdown mode while awaiting the funds for dismantlement. In some cases, NNSA is using scarce infrastructure recapitalization funds for the purpose of dismantling these facilities instead of transferring this work to the Office of Environmental Management, which is the office within the DOE responsible for cleaning up the environmental legacy of the nuclear weapons program.

If confirmed, would you propose any changes or improvements to the process by which these legacy facilities are currently being addressed?

Answer. I support the work within the Office of Environmental Management to ensure that the dismantlement and disposal of excess legacy facilities are adequately addressed. The question of legacy facility disposition is an issue of concern that cannot be solved by any one organization within the Department but will require a DOE corporate approach to address since this concern exists across a number of both NNSA and DOE organizations.

Question. In your view, should the dismantlement and disposal of these excess legacy facilities be budgeted for and executed by the Office of Environmental Management, rather than Defense Programs?

Answer. At this point in time it is not clear to me that assigning all Defense Programs dismantlement and disposal to the Office of Environmental Management is the right thing to do. Since these excess legacy facilities exist across many Departmental elements, a corporate DOE approach that looks at the complete picture of the Department's legacy sites is more appropriate.

MAINTENANCE OF THE STOCKPILE

Question. How confident are you of the ability of the nuclear weapons complex as currently constituted to identify and fix potential problems in all weapons expected to be included in the enduring nuclear weapons stockpile?

Answer. I am very confident of the ability of the nuclear weapons complex to identify and fix potential problems in the enduring nuclear weapons stockpile. This is fundamental to our core mission—nothing else matters if we cannot adequately support the enduring stockpile.

Question. What do you believe to be the biggest challenges in maintaining the nuclear weapons expected to be in the enduring stockpile?

Answer. One of the biggest challenges in maintaining the nuclear weapons expected to be in the enduring stockpile will be maintaining and exercising the highly skilled workforce across the nuclear weapons complex to ensure that appropriate skills and capabilities are developed and improved. Additionally, maintaining an appropriate level of focus and management attention on the variety of surveillance activities for the enduring stockpile will be very important.

Question. In your view, how would the reliable replacement warhead program, if successful, change the approach to stockpile stewardship?

Answer. I do not expect success in the Reliable Replacement Warhead program to fundamentally change the approach to Stockpile Stewardship. A successful Reliable Replacement Warhead program is a validation of the success of Stockpile Stewardship. The program should result in replacement of components and will reduce further the likelihood that we would ever need to carry out another underground nuclear test. This program should drive performance margins higher and reduce uncertainties in design. In order to be able to ascertain progress in increasing design margins and reducing uncertainties, stewardship of the stockpile will continue to play an important role in being able to measure and evaluate these parameters.

Question. With respect to the nuclear weapons production complex as currently constituted, are you confident in the continued ability to manufacture or otherwise acquire limited life components for the enduring stockpile?

Answer. Yes. Defense Programs has an excellent record in producing and delivering limited life components.

WARHEAD PIT MANUFACTURING

Question. A significant challenge facing the nuclear weapons complex is reconstituting the ability to manufacture and certify nuclear weapons pits, and then ramping this capability up to an appropriate production rate, which will permit the timely replenishment, or replacement of pits in the stockpile.

What is your view of the current level of progress in reconstituting pit production capability?

Answer. Reconstituting pit production at Los Alamos National Laboratory (LANL) has been quite successful as evidenced by the recent manufacture of "Qual 14," the last qualification pit. The next pits being manufactured in fiscal year 2006 will be of war reserve quality. Six war reserve pits will be manufactured in fiscal year 2006 and 10 pits are planned for fiscal year 2007. The NNSA considers an appropriate pit production capacity to be essential to its long-term evolution to a more responsive nuclear weapons infrastructure. Congress declined to fund planning for a Modern Pit Facility in fiscal year 2006 citing concerns that pit aging experiments and a thorough analysis of the Nuclear Weapons Complex Infrastructure report are not yet complete. As a result, NNSA did not seek funding for the Modern Pit Facility in fiscal year 2007. As these concerns will be addressed in the coming months, NNSA will work with Congress to identify an approach to a long-term pit production capacity. In the meantime, NNSA plans to increase the LANL pit manufacturing capacity to at least 30–40 pits per year by the end of fiscal year 2012. I will be working closely with LANL to ensure that we have a good understanding of the real capability and capacity of the TA–55 facilities.

Question. What are the most significant near-term and long-term challenges?

Answer. The most significant near-term challenge is the final certification of a newly manufactured W88 pit by the end of fiscal year 2007. The most significant long-term challenge will be to develop a plutonium manufacturing capability that is appropriately sized for the future stockpile, reflects our best understanding of weapons specific pit aging, and is integrated with our needs to support current Department of Defense requirements.

Question. In your view, is this effort on track to meet program requirements?

Answer. Defense Programs is on track to meet the near-term program requirements of final certification of a newly manufactured W88 pit by the end of 2007 and to manufacture planned pits in 2006 and 2007. Pit production is a key element of a responsive nuclear weapons infrastructure. Within the next year I expect to have weapons specific pit lifetime estimates, a better understanding of the long-term requirements for the Stockpile, and a better understanding of the outcomes from the Reliable Replacement Warhead study. These elements will help inform a decision to address the appropriate plutonium capability for the nuclear weapons complex. I will continue to work with the Department of Defense to define the size and composition of the stockpile. If confirmed as Deputy Administrator for Defense Programs, getting this right will be a high priority for me.

TEST READINESS POSTURE

Question. The National Defense Authorization Act for Fiscal Year 2004 requires DOE to achieve and maintain thereafter a test readiness posture of not more than 18 months. In other words, DOE would be able to resume underground nuclear testing within 18 months of a presidential decision to conduct a test. DOE is to achieve this readiness no later than October 1, 2006.

Has sufficient funding been appropriated by Congress to allow DOE to meet this requirement? If so, how confident are you that this statutory requirement will be met by the end of the current fiscal year?

Answer. Sufficient funding has not been appropriated by Congress to allow DOE to meet the requirement to achieve and maintain an 18 month test readiness posture.

Question. In your view, is this posture appropriate to support the stockpile?

Answer. The NNSA has made considerable progress in improving its test readiness posture to 24 months by a number of actions including production of a set of field-test neutron generators, training nuclear test diagnosticians, and completing some of the safety basis authorization work. Given that proceeding to 18 months would likely result in just more progress in the safety authorization basis work, the 24 month test readiness posture is appropriate to support the stockpile, especially considering more pressing needs within the Stockpile Stewardship Program.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Question. The Defense Nuclear Facilities Safety Board (DNFSB) has a statutorily-directed independent oversight role over nuclear safety issues arising within NNSA nuclear weapons facilities.

What is your view of the current relationship between NNSA and the DNFSB?

Answer. The current relationship between the DNSFB and the NNSA is good. In my current position as Assistant Deputy Administrator for Program Integration, I brief the Board on a regular basis to discuss items of mutual concern and interest. This forum provides an opportunity to discuss areas of agreement and disagreement in a manner to keep communication lines open.

Question. Does the current relationship allow for effective execution by the DNFSB of its oversight role?

Answer. Yes, this relationship allows the DNSFB to execute its oversight role.

Question. If confirmed, what actions, if any, would you take to improve communication and transparency between the DNFSB and the NNSA facilities under the purview of Defense Programs?

Answer. If confirmed, I would continue to brief the Board on a regular basis on areas of mutual concern and interest. This forum has worked well.

LIFE EXTENSION PROGRAMS

Question. If confirmed, you will be responsible for managing the life extension programs for existing nuclear warheads.

What is your general assessment of the effectiveness of the life extension programs?

Answer. I believe the Life Extension Programs are highly effective for extending the life of warheads in the nuclear weapons stockpile. The W87 (Intercontinental Ballistic Missile warhead) program was recently completed, and efforts are well underway on the B61–7/11 (strategic bombs), W76 (Submarine Launched Ballistic Missile warhead) and W80 (cruise missile warhead).

Question. How well, in your view, does the nuclear weapons complex—encompassing the laboratories and the production sites—function as an integrated complex and, externally, with the Department of Defense in executing the life extension programs?

Answer. The success of highly integrated activities such as the Life Extension Programs testifies that the nuclear weapons complex is working relatively well together and with the Department of Defense. Every one of the nuclear weapons complex sites is involved with the Life Extension Programs in some way, and they have served as specific focal points with tangible milestones and deliverables. Activities such as Defense Programs Quarterly Program Reviews bring the entire complex together on a regular basis, to bring high-level NNSA, laboratory, plant, and test site attention to issues that are continually addressed at the working level. Regular meetings such as the Nuclear Weapons Council serve a similar purpose with the Department of Defense. This level of integration has been effective in large part because of active involvement of the Federal Program Managers to bring the laboratory and plant contractor organizations together.

Question. Do you believe the efficiency with which NNSA manages the execution of the life extension programs be improved, and if so, how?

Answer. Yes, I always believe we can find efficiencies in any process. For an effort as comprehensive and far-reaching as the LEPs, communication and execution of a common vision are often difficult. When dealing with multiple contractors on a single area of emphasis, the LEPs for example, a concerted effort has to be made to ensure that contractors do not optimize their performance and sub-optimize the overall effort. To address this problem, Defense Programs should implement a common multi-site incentive that will bind all contractors involved in an activity to a common performance measure. This will help ensure that contractors work together for the success of the overall objective.

DESIGN BASIS THREAT

Question. Secretary Bodman testified before the Senate Armed Services Committee in February 2005 that DOE and NNSA sites will not achieve compliance with the current design basis threat until the year 2008.

Given the seriousness of the need to secure nuclear materials, both abroad and at home, do you believe that this is a sufficiently rapid response to the threats currently outlined by the Intelligence Community, and against which DOE and NNSA must defend at its nuclear sites?

Answer. I believe that DOE and NNSA are working diligently to address security threats appropriately, considering program execution needs and fiscal constraints. As the Deputy Administrator for Defense Programs, if confirmed, I would work very closely with the Associate Deputy Administrator for Defense Nuclear Security to ensure that NNSA's sites are safe and secure.

Question. If confirmed, would you seek ways to accelerate the hardening and compliance of facilities under your purview against the current design basis threat?

Answer. If confirmed, I would continue to seek ways to accelerate the hardening and compliance of facilities under my purview against the current design basis threat. I work closely with the Associate Administrator for Defense Nuclear Security on a wide range of issues, including facility design and compliance. The design of the Highly Enriched Uranium Materials Facility at the Y–12 National Security Complex is a good example of a recent facility with modern security features. Any future facilities and strengthening of existing facilities will consider the current and any future design basis threats.

Question. If confirmed, would you pledge to work expeditiously to identify any special nuclear material which is excess to mission need, and to develop a plan to consolidate and secure this material against current threats?

Answer. Yes, if confirmed, I will work to identify any special nuclear material that is excess to mission need, and to consolidate and more heavily secure this material against current threats. Defense Programs has a number of related successes (e.g., removal of security category I/II special nuclear material from TA–18 at Los Alamos National Laboratory) and we are an active participant in the DOE's Nuclear Materials Disposition and Consolidation Coordination Committee, which is looking at a comprehensive path forward for the entire Department.

NNSA ACT

Question. The NNSA has now been in existence for over five years, since it was established by Congress in the NNSA Act of 2000.

In your view, is the relationship between the NNSA and the Department of Energy functioning in an effective and efficient manner?

Answer. The relationship between the Department and the NNSA functions is effective. However, there can always be more improvement in driving efficiency in how we work together. Attention and improvement in this area can be reflected in existing Department of Energy Orders.

Question. If confirmed, would you propose any statutory changes to the NNSA Act?

Answer. No, I would not propose any statutory changes to the NNSA Act.

Question. Do you believe any organizational changes are needed to implement the NNSA Act?

Answer. No, I do not believe any organizational changes are needed. However, work should continue on clarifying relationships between NNSA and Department of Energy offices.

CONGRESSIONAL OVERSIGHT

Question. In order to exercise its legislative and oversight responsibilities, it is important that this committee and other appropriate committees of Congress are able to receive testimony, briefings, and other communications of information.

Do you agree, if confirmed for this high position, to appear before this committee and other appropriate committees of Congress?

Answer. If confirmed, I agree to appear before the Senate Armed Services Committee and other appropriate committees of Congress.

Question. Do you agree, if confirmed, to appear before this committee, or designated members of this committee, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as the Deputy Administrator for Defense Programs?

Answer. If confirmed, I agree to appear before the Senate Armed Services Committee, or designated members of the committee, and provide information, subject to appropriate and necessary security protection, with respect to my responsibilities as the Deputy Administrator for Defense Programs.

Question. Do you agree to ensure that testimony, briefings, and other communications of information are provided to this committee and its staff and other appropriate committees in a timely manner?

Answer. If confirmed I agree to ensure that testimony, briefings, and other communications of information are provided to the Senate Armed Service Committee and its staff and other appropriate committees in a timely manner.

[Questions for the record with answers supplied follow:]

QUESTION SUBMITTED BY SENATOR JEFF SESSIONS

COST CONTROLS FOR DOE

1. Senator SESSIONS. Mr. D'Agostino, in the questions you received earlier from the committee, you were asked whether—in your view—cost containment and cost control should be a high priority for someone who leads the DOE nuclear weapons program. This question was submitted to you at my request because I believe that we need to do much better—and can do much better—when it comes to running government programs more cost effectively. While it is appropriate to feel the imperative to maintain our nuclear deterrent, we simply must get more for the investment we are making. What are your perspectives on the issue of cost control and, if confirmed, what actions would you take to drive down program costs?

Mr. D'AGOSTINO. Cost control and getting the absolute most value for the taxpayers' dollars are extremely important for Defense Programs and for me personally. We are in the midst of a number of aggressive cost-control measures and are always looking for ways to improve. As noted in my answers to the Advance Policy Questions, we are doing a comprehensive review of the Operations of Facilities program due to inconsistent practices across the nuclear weapons complex. We are looking to standardize systems that work across the complex for accounting.

On a broader scale, as Ambassador Brooks noted during his March 7, 2006, hearing before the Senate Armed Services Committee Strategic Forces Subcommittee, today's nuclear weapons complex is not the same one that helped win the Cold War. The U.S. nuclear weapons complex has seen dramatic reductions, not only in size but also in terms of funding. In 1990, our nuclear weapons complex employed nearly 60,000 people. Today we employ about half that number and the footprint of our facilities has shrunk from 70 million square feet to less than 40 million. This includes closing down four facilities, including, for example, the Rocky Flats plant in Colorado, and the Pinellas plant in Florida. We are close to finalizing a preferred infrastructure planning scenario for the future nuclear weapons complex and will share our plans soon with Congress and other stakeholders.

[The nomination reference of Thomas P. D'Agostino follows:]

NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
January 27, 2006.

Ordered, That the following nomination be referred to the Committee on Armed Services:

Thomas P. D'Agostino of Maryland, to be Deputy Administrator for Defense Programs, National Nuclear Security Administration, vice Everet Beckner, resigned.

[The biographical sketch of Thomas P. D'Agostino, which was transmitted to the committee at the time the nomination was referred, follows:]

BIOGRAPHICAL SKETCH OF THOMAS PAUL D'AGOSTINO

Thomas Paul D'Agostino is the Assistant Deputy Administrator for Program Integration and leads the Office of Defense Programs at the Department of Energy's National Nuclear Security Administration (NNSA). Mr. D'Agostino directs the Stockpile Stewardship Program (SSP), which is responsible for maintaining the safety, security, and reliability of the Nation's nuclear weapons stockpile. The NNSA's nuclear weapons complex includes three national research laboratories, the Nevada Test Site, and four production plants.

Defense Programs oversees the SSP, which employs over 30,000 people around the country. This approximately $5.2 billion program encompasses operations associated with manufacturing, maintaining, refurbishing, and dismantling the nuclear weapons stockpile. Defense Programs also provides oversight and direction of the research, development, and engineering support to maintain the safety and reliability of the nuclear weapons stockpile in the absence of underground testing, and assures the capability for maintaining the readiness to test and develop new warheads, if required.

In other previous assignments, Mr. D'Agostino served as the Deputy Director for the Nuclear Weapons Research, Development, and Simulation Program where he directed the formulation of the programs and budget for the research and development program that supports the SSP. From 1989 to 1996, Mr. D'Agostino worked in numerous assignments within the Federal Government in the startup of the Department's tritium production reactors and at the Naval Sea Systems Command as a program manager for the SEA WOLF submarine propulsion system.

Mr. D'Agostino is currently a Captain in the U.S. Naval Reserves where he has served with the Navy Inspector General and with the Deputy Chief of Naval Operations for Submarine Warfare in developing concepts for new attack submarine propulsion systems. He also served with the Deputy Chief of Naval Operations for Plans, Policy, and Operations (N3/5) in the Navy Command Center in the Pentagon. In this capacity, he was the French Desk Officer for the Chief of Naval Operations responsible for all Politico-Military interactions with the French Navy and served as the Duty Captain at the Navy Command Center.

He spent over 8 years on Active-Duty in the Navy as a submarine officer to include assignments onboard the U.S.S. *Skipjack* (SSN 585) and with the Board of Inspection and Survey where he was the Main Propulsion and Nuclear Reactor Inspector. In this position, he performed nuclear reactor and propulsion engineering inspections for over 65 submarines and nuclear-powered ships in the Atlantic and Pacific Fleets.

Mr. D'Agostino's awards include the Navy Commendation Medal with Gold Stars, Navy Achievement Medal, Navy Expeditionary Medal, Meritorious Unit Commendation, National Defense Service Medal, Presidential Rank Meritorious Executive Award, and numerous other awards. Mr. D'Agostino is married to Beth Ann Alemany of Manchester, CT, and has two children. Mr. D'Agostino is a member of the Senior Executive Service.

[The Committee on Armed Services requires all individuals nominated from civilian life by the President to positions requiring the advice and consent of the Senate to complete a form that details the biographical, financial, and other information of the nominee. The form executed by Thomas P. D'Agostino in connection with his nomination follows:]

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

(202) 224–3871

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior to the hearings and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)
Thomas Paul D'Agostino.

2. **Position to which nominated:**
Deputy Administrator for Defense Programs, National Nuclear Security Administration, Department of Energy.

3. **Date of nomination:**
January 27, 2006.

4. **Address:** (List current place of residence and office addresses.)
[Nominee responded and the information is contained in the committee's executive files.]

5. **Date and place of birth:**
January 17, 1959; Washington, DC.

6. **Marital Status:** (Include maiden name of wife or husband's name.)
Married to Beth Ann Alemany.

7. **Names and ages of children:**
Anne Elizabeth D'Agostino, 19; Thomas Scott D'Agostino, 16.

8. **Education:** List secondary and higher education institutions, dates attended, degree received, and date degree granted.
U.S. Naval War College, August 1996–June 1997, MA, National Security Studies.
Johns Hopkins University, September 1992–May 1995, MS, Business Finance.
U.S. Naval Academy, July 1976–May 1980, BS, Physical Science.

9. **Employment record:** List all jobs held since college or in the last 10 years, whichever is less, including the title or description of job, name of employer, location of work, and dates of employment.
October 1990–present, U.S. Department of Energy, Office of Defense Programs, Washington, DC.
Jobs:
- Acting Deputy Administrator for Defense Programs
- Assistant Deputy Administrator for Program Integration
- Deputy Director for Nuclear Weapons Research, Development and Simulation
- Deputy Director, Office of Stockpile Computing
- Engineer, Office of Economic Competitiveness
- Engineer, Savannah River Restart Office

January 1988–present, U.S. Naval Reserves (current rank of Captain), Washington, DC.
Served with:
- Navy Inspector General
- Deputy Chief of Naval Operations for Submarine Warfare
- Deputy Chief of Naval Operations for Plans, Policy, and Operations

May 1998–October 2005, Uniformed Services Benefit Association (life insurance company), Kansas City, Kansas
Member, Board of Directors and Board of Advisors

10. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.
None.

11. **Business relationships:** List all positions currently held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational, or other institution.
None.

12. **Memberships:** List all memberships and offices currently held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.
U.S. Naval War College Foundation.
U.S. Naval Academy Alumni Association.

13. **Political affiliations and activities:**
(a) List all offices with a political party which you have held or any public office for which you have been a candidate.
None.
(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 5 years.
None.
(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $100 or more for the past 5 years.
None.

14. **Honors and Awards:** List all scholarships, fellowships, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.
Navy Commendation Medal with Gold Stars
Navy Achievement Medal
Navy Expeditionary Medal
Meritorious Unit Commendation (Navy)
National Defense Service Medal
Presidential Rank Meritorious Executive Award

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.
None.

16. **Speeches:** Provide the committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.
My speaking style is such that I typically use talking points and do not use a completely written speech. As such, one example provided was transcribed from a presentation that I gave at the Kansas City Plant Leadership Forum in August 2005. The second example is from a ground-breaking ceremony for the Chemistry and Metallurgy Research Building Replacement Project at Los Alamos National Laboratory in January 2006.

17. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to respond to requests to appear and testify before any duly constituted committee of the Senate?
Yes.

[The nominee responded to the questions in Parts B–F of the committee questionnaire. The text of the questionnaire is set forth in the Appendix to this volume. The nominee's answers to Parts B–F are contained in the committee's executive files.]

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

THOMAS P. D'AGOSTINO.

This 8th day of February, 2006.

[The nomination of Thomas P. D'Agostino was reported to the Senate by Chairman Warner on February 16, 2006, with the recommendation that the nomination be confirmed. The nomination was confirmed by the Senate on February 17, 2006.]

NOMINATIONS OF CHARLES E. McQUEARY TO BE DIRECTOR OF OPERATIONAL TEST AND EVALUATION, DEPARTMENT OF DEFENSE; ANITA K. BLAIR TO BE ASSISTANT SECRETARY OF THE AIR FORCE FOR MANPOWER AND RESERVE AFFAIRS; BENEDICT S. COHEN TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE ARMY; FRANK R. JIMENEZ TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE NAVY; DAVID H. LAUFMAN TO BE INSPECTOR GENERAL, DEPARTMENT OF DEFENSE; SUE C. PAYTON TO BE ASSISTANT SECRETARY OF THE AIR FORCE FOR ACQUISITION; WILLIAM H. TOBEY TO BE DEPUTY ADMINISTRATOR FOR DEFENSE NUCLEAR NONPROLIFERATION, NATIONAL NUCLEAR SECURITY ADMINISTRATION; AND ROBERT L. WILKIE TO BE ASSISTANT SECRETARY OF DEFENSE FOR LEGISLATIVE AFFAIRS

TUESDAY, JULY 18, 2006

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC.

The committee met, pursuant to notice, at 9:39 a.m. in room SD–106, Dirksen Senate Office Building, Senator John Warner (chairman) presiding.

Committee members present: Senators Warner, McCain, Thune, Levin, Reed, and Bill Nelson.

Committee staff members present: Charles S. Abell, staff director; and Leah C. Brewer, nominations and hearings clerk.

Majority staff members present: Elaine A. McCusker, professional staff member; David M. Morriss, counsel; Stanley R. O'Connor, Jr., professional staff member; Lynn F. Rusten, professional staff member; Diana G. Tabler, professional staff member; and Richard F. Walsh, counsel.

Minority staff members present: Richard D. DeBobes, Democratic staff director; Madelyn R. Creedon, minority counsel; Richard W. Fieldhouse, professional staff member; Gerald J. Leeling, minority counsel; Peter K. Levine, minority counsel; and Arun A. Seraphin, professional staff member.

Staff assistants present: Jessica L. Kingston and Jill L. Simodejka.

Committee members' assistants present: John A. Bonsell, assistant to Senator Inhofe; Arch Galloway II, assistant to Senator Sessions; Stuart C. Mallory, assistant to Senator Thune; Mieke Y. Eoyang, assistant to Senator Kennedy; and Elizabeth King, assistant to Senator Reed.

OPENING STATEMENT OF SENATOR JOHN WARNER, CHAIRMAN

Chairman WARNER. Good morning. The hearing will come to order.

We're going to deviate a little bit. Senator Lott, you have an engagement to introduce the Chief Justice of the United States at a very important function at which my grandson is attending as one of the summer interns in my office. Would you please proceed?

Senator LOTT. Thank you very much, Senator Warner and Senator Levin.

I will be introducing the Chief Justice to our interns, so it's a very important assignment.

STATEMENT OF HON. TRENT LOTT, U.S. SENATOR FROM THE STATE OF MISSISSIPPI

Senator LOTT. It's a pleasure to appear before this distinguished committee. I had the great honor of serving on this committee for 6½ years and enjoyed it very much. I appreciate all the good work that this committee does for our country, and, for the most part, in a very bipartisan way. So, thank you for your service.

It's also a great honor for me to be here this morning to support the nomination for Assistant Secretary of Defense for Legislative Affairs, Robert Wilkie. This is an outstanding man, highly qualified for the position to which he's been nominated. He's the son of an Army artillery commander. He spent his youth at Fort Sill and Fort Bragg, good qualifications, in themselves. He graduated with honors from Wake Forest University, received his juris doctor degree from Loyola, of the South, in New Orleans, where he received honors in Latin American law, international law, and legislation. He also was awarded a master of laws in international and comparative law from Georgetown University.

He began his professional career working on the Hill for Senator Jesse Helms. He subsequently worked for Congressman David Funderburk of North Carolina. Then, in 1997, he joined my staff as counsel and advisor on international security affairs in the Senate majority leader's office. He did an outstanding job there. He also has always been involved, as I know, on a personal basis, in his community, in his church, and with his family. He has a very lovely wife who is here with us today—I know she'll probably be introduced later by Robert—and two wonderful children.

During that time in the leader's office, we had a lot of very critical issues we dealt with, and he served the Senate, I believe, quite well. He subsequently went to be Special Assistant to the President for National Security Affairs, and Senior Director of the National Security Council. He worked with Dr. Rice and Dr. Hadley—worked on such issues as the Moscow Treaty, North Atlantic Treaty Organization expansion, the Millennium Challenge Account, and Iraq reconstruction.

He is an officer in the United States Navy Reserve. He's an honor graduate of the Reserve Intelligence Officers Basic Course. He was the Junior Intelligence Officer Reservist of the Year in 2004. He is a graduate of the Joint Forces Staff College, written a lot of articles, and I learned, to my amazement, when we were in Europe one time, he's quite a European history buff. He knows the history of the countries, the players, and the great battles that were fought. He became our tour guide as we went through a very important part of Europe.

But here's what I really wanted to appear for. He does have a great genealogy, roots in Louisiana and in my State. His great-grandmother, as a matter of fact, was the first female member of the State's legislature, and one of the founders of Delta State University. It's a great military family. It's a great family of leadership that has served their country for years and years. He has deep roots in my State. I hope that will be considered an asset, not a burden for him, because we're very proud of him.

Here's the main reason I am here, and that is, I think this is a really important position at the Pentagon. We need to make sure we have a person in this position that understands Congress, that's worked for Congress, understands Senators, understands Congressmen, understands the legislative process—that's a unique kind of training that's needed to really understand that—that can be the liaison and the go-between from the Department of Defense (DOD), from the Secretary, if you will, and to Congress. I think it's a critical role, and one that I know that Robert Wilkie has the qualifications for. I think he has the demeanor for it. I think he'll be a great credit to the Pentagon and to the institutions that he'd serve—the House of Representatives and the Senate. I wholeheartedly endorse his nomination to be Assistant Secretary of Defense for Legislative Affairs, and I thank you for your expeditious handling of his nomination.

Chairman WARNER. Senator Lott, there's no Member of the Senate today that knows the Senate better than you do and the process.

Senator LOTT. Well, thank you, sir.

Chairman WARNER. For this fine man to have trained under your tutelage, that makes him well qualified. I think we can dismiss this case and go on with the others right away. [Laughter.]

Senator LOTT. Thank you very much, Senator Warner and Senator Levin. I appreciate you both very much.

Chairman WARNER. Thank you.

We now are joined by our colleague from the House of Representatives. Why don't we proceed with you, and then finish up with Senator Allen.

STATEMENT OF HON. CHRISTOPHER COX, FORMER REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. COX. Thank you very much, Mr. Chairman, Senator Levin, and to all of the Members of the Senate who are here.

It is a privilege to be able to introduce Ben Cohen to this committee as you consider his nomination to be General Counsel of the Army. I have known Ben for 20 years, since we were both lawyers in the White House Counsel's Office. It was clear to me then, and has been clear to me every year since, that Ben is not only a superb lawyer, with exacting standards of professionalism and excellence, but, more importantly, he is a man of uncommonly high integrity and independence of judgment, and he has a profound respect for the rule of law.

I am certain that you know his extraordinary background: Yale undergraduate, magna cum laude; University of Chicago Law School, and editor of the Law Review; clerk for the Honorable Laurence Silberman on the United States Court of Appeals for the District of Columbia Circuit; private practice with the distinguished law firms of Davis Polk and Swidler & Berlin; and senior positions in the Federal Government over a period of 2 decades.

I mentioned his service in the White House. He also served as a senior member of the leadership staff in the House of Representatives as executive director of the House Policy Committee, and staff director of the Homeland Security Committee. He was Deputy Assistant Attorney General in the Department of Justice, and, most relevant today, Deputy General Counsel at the DOD.

He is extraordinarily well-qualified for the duties upon which he will enter, if you confirm him to this position. I know of no one who is more versatile as a lawyer and as a manager, certainly no one with whom I have worked who is more erudite or a more inspirational leader of other professionals. His management skills are truly impressive. Simply put, his staff, the men and women who have worked for him, really enjoy working for Ben Cohen. He challenges them and helps them to succeed, and he has a marvelous sense of humor, which I hope he brings back to the DOD.

He has a wonderful family sitting behind me, and I want to let Ben introduce them, but Ben and Julie and the rest of his family have been good friends of mine for a very long time. I want everyone here to know how much respect I have for the Cohen family, and how honored I have been to work with Ben Cohen for these many years.

I am very pleased that the President has put his name before this committee, and I hope and expect that you will see fit to confirm him.

Chairman WARNER. Congressman Cox, we are grateful that you took the time to cross the aisle, so to speak, and come over here and join the other body. It's very important that you add your views with regard to this distinguished American. I had the opportunity to talk at length with him, and he has a very impressive record. We, as citizens, are fortunate that people like Mr. Cohen, and every one of these nominees this morning, have stepped up for another chapter of public service.

Thank you very much.

Mr. COX. Thank you, Mr. Chairman.

Senator LEVIN. How are they treating you over at the Securities and Exchange Commission (SEC) these days?

Mr. COX. Very well. I'm very pleased with my new position and the opportunities we have there.

Senator LEVIN. You have a major responsibility, and we are delighted you are there. You have done some very independent, courageous things already, and I know the House misses you. My brother misses you. Thanks for coming by.

Mr. COX. I will look forward to that opportunity, as well.

Chairman WARNER. It's always a big step, though, when you step across to come to the other body, even though you're not there now. Thank you very much.

Senator Allen?

STATEMENT OF HON. GEORGE ALLEN, U.S. SENATOR FROM THE STATE OF VIRGINIA

Senator ALLEN. Thank you, Mr. Chairman.

Good morning, Mr. Chairman, Senator Levin, Senator Thune. Thank you for allowing me to appear before this committee to introduce Anita Blair, who is the nominee for Assistant Secretary of the Air Force for Manpower and Reserve Affairs.

I have known and benefited from the advice of, and admired, Anita Blair for many years. When I was Governor, I had the opportunity to appoint her to serve at the Virginia Military Institute's (VMI) Board of Visitors in 1995. This was an historic period for VMI, in that the Supreme Court had ruled in the decision of the *United States* versus *Virginia* that it would have to be coed. Anita Blair, on the Board of Visitors, helped design and implement the plans for admitting women to VMI. In addition to working very closely with cadets, faculty, and staff, she was the chair of the Board's Assimilation Review Task Force that provided continuing high-level oversight of all the issues relating to the successful admission of women to VMI.

Anita also was a very important member in fashioning and creating, planning, and developing what is called the Virginia Women's Institute of Leadership (VWIL) at Mary Baldwin College, and served as VMI's liaison to that program at Mary Baldwin. VWIL has just celebrated its 10th year of operations, and currently has about 125 cadets at Mary Baldwin. Every year, about 40 percent of the graduates, who are all women, take military commissions, and many others pursue national security-related civilian careers. These are legacies of Anita Blair's outstanding leadership.

She served for 6 years on the VMI Board, and resigned to accept the position, in August 2001, to be Deputy Assistant Secretary of the Navy for Military Personnel Policy. In that role, she has been responsible for policy and oversight related to all manpower and personnel matters affecting the Navy and the Marine Corps and their families.

In February 2005, she assumed additional responsibilities as the Deputy Assistant Secretary for Total Force Transformation, leading efforts to improve and modernize the management of the Department of the Navy's total force of Active-Duty, Reserve, civilian, and other contractor personnel.

Like you, Mr. Chairman, and me, Ms. Blair is a graduate of the University of Virginia's School of Law, where she met her husband, Doug Welty, who is here. They even practiced law together. He continues to practice law in Arlington. Her practice was in areas of antitrust, franchise and trade, and regulation law. She's been working with the Department of the Navy since just before September 11, and she has energetically deployed her considerable experience in the private sector, her public advocacy capabilities and public service to support our sailors, marines, and their families.

I know, Mr. Chairman and members of the committee, that she will have the same sort of expertise, dedication, diligence, and expert leadership in this new position, and I look forward, and hope for, her prompt consideration by this committee, and confirmation on the Senate floor. I thank you all for allowing me to speak my accolades for one truly outstanding American, Anita Blair.

Chairman WARNER. Senator Allen, I share your observations about the qualifications and accomplishments of this distinguished nominee. It's very important that you, too, found time to step over, this morning, and join this committee for this very important moment in their public service careers.

Thank you, Senator.

Senator ALLEN. Thank you, Mr. Chairman.

Chairman WARNER. Senator Thune, I understand that you wish to join in the introductions.

Senator THUNE. Mr. Chairman, thank you. I have the honor to introduce to you——

Chairman WARNER. Excuse me, I'm just going to interrupt.

Please, Mr. Cox, Mr. Allen, feel free to leave now, because you have to move on with other matters. [Laughter.]

You're free to go.

Senator ALLEN. I have to get to the——

Chairman WARNER. Your nominees are on their own now.

Yes, Senator?

Senator THUNE. I'm not released yet, Mr. Chairman?

Chairman WARNER. Nope. [Laughter.]

Senator THUNE. Mr. Chairman, I have the honor to introduce to you and my fellow committee members the President's nominee for the position of Assistant Secretary of the Air Force for Acquisition, Sue Payton.

Sue Payton is a distinguished public servant. She's eminently qualified to fill the position for which she's been nominated. She brings private-sector experience to her duties in the DOD that's really invaluable, being able to listen to customer needs, integrate solutions, and deliver capability in a timely manner. Sue Payton has extensive experience in leading government and industry partnerships focused on maturing and applying technology, operations concepts, tactics, techniques, and procedures to solve national security problems worldwide.

For the last 5 years, as Deputy Under Secretary of Defense for Advanced Systems and Concepts, Sue Payton has demonstrated openness and candor in her efforts to get the best technology demonstrated and transitioned to the warfighter. Prior to taking her current position, in September, Secretary Payton was the Vice President of Applied Technology of ImageLinks, Incorporated, and

the Director of the National Center for Applied Technology, responsible for the assessment, prototype development, and insertion of commercial technology for DOD agencies and worldwide field users.

Between 1994 and 1996, Secretary Payton was responsible to the Vice President of Business Development, Lockheed Martin, for leveraging the latest information systems technology to meet the program needs of DOD and Intelligence Community customers.

Between 1989 and 1994, Secretary Payton was the senior site systems integration manager for Martin Marietta, responsible for resolving complex acquisition and technical issues associated with systems analysis and trade studies of competing space and ground architectures, operations concepts, requirements definition, software test and transition to operations.

Secretary Payton is a member of the Defense Science and Technology Advisory Group, Eastern Illinois University Alumni Association, and 2004 Alumni Award winner, a Gateway member of the Purdue University President's Council, and former board member of Women in Aerospace.

Secretary Payton received a Bachelor of Science Degree from Eastern Illinois University, and a Master of Science in systems acquisition management/systems technology from the University of Southern California. She is a 1998 graduate of the Emory University executive business program.

Mr. Chairman, Secretary Payton is clearly among the best and the brightest of this generation of public and private servants. I thank the committee for considering her nomination, and I look forward to a speedy confirmation process.

Thank you, Mr. Chairman.

Chairman WARNER. Thank you very much, Senator Thune. I had the opportunity to visit with this distinguished nominee, and I'm sure that she appreciates, as I do, your commendation on her part.

We now are joined by our distinguished colleague from Florida, Senator Martinez.

STATEMENT OF HON. MEL MARTINEZ, U.S. SENATOR FROM THE STATE OF FLORIDA

Senator MARTINEZ. Thank you very much, Mr. Chairman and Senator Levin. It's a pleasure to be with you here this morning. Thank you very much for recognizing me.

I have the distinct honor and pleasure to be here today to introduce to the committee a good friend and a colleague, a Floridian and fellow Cuban-American. These are many things that unite us, Frank Jimenez, who has been nominated by the President to be the next General Counsel for the United States Navy.

Frank Jimenez graduated with honors in 1987 from the University of Miami as a biology major. He received his law degree in 1991 from Yale Law School, and also received an MBA in 2005 from the Wharton School, at the University of Pennsylvania.

Prior to entering public service, Frank practiced law in Miami with the law firm of Steel, Hector & Davis. For 6 years, he specialized in commercial litigation and criminal defense, including Federal class-action antitrust and product liability litigation, and representation of clients under Federal grand jury and government agency investigation.

Previously, Mr. Jimenez served a 1-year clerkship in the chamber of Judge Rymer of the U.S. Court of Appeals for the Ninth Circuit, in Pasadena, California.

Mr. Jimenez was admitted to the bars of Florida and the District of Columbia. Additionally, Frank served for nearly 4 years in the executive office of Florida Governor Jeb Bush, beginning with his gubernatorial transition in 1998. For those 2 years, Mr. Jimenez served as Deputy Chief of Staff, with oversight duties at various times for the Department of Transportation, business and professional regulation, environmental protection, community affairs, elder affairs and health, as well as the agency for workforce innovation in the Division of Emergency Management. Frank also served as my chief of staff at the United States Department of Housing and Urban Development (HUD) during my tenure as HUD Secretary. As my chief of staff, he helped manage more than 9,000 employees and an annual budget surpassing $35 billion. Frank also helped supervise HUD's many homeownership and affordable housing programs for low-income Americans, as well as programs supporting the homeless, elderly, people with disabilities, and people living with AIDS.

As legal counsel for the DOD, Frank currently manages key litigation matters covering the entire Department, and coordinates with the White House Counsel's Office, the Department of Justice, and other agencies on pressing legal issues.

Mr. Jimenez was most recently the Principal Deputy General Counsel for the Department of the Navy, where he managed over 600 attorneys worldwide and oversaw the Naval Criminal Investigative Service.

I want to thank Frank for his outstanding public service, for his friendship to me, and many accomplishments that I know he has had in the past and will continue to have in the future. I know that Frank will make an excellent person to serve in this very important capacity, Mr. Chairman, at a particularly difficult time in our Nation's history, when we face such challenges from the global war on terror.

Frank is accompanied here today by his mother and brother, and both are wonderful people and good friends. He comes from a terrific family, well-respected folks in the South Florida community. His brother also has served this Nation as a U.S. attorney for the southern district of Florida for a number of years, now in private practice, as well.

So, I'm just delighted to have the opportunity to present to you one of our outstanding Floridians, someone that I know will make the Nation proud in his new opportunity for service to the committee.

Chairman WARNER. Thank you very much, Senator.

I've had the privilege of not only meeting extensively with the nominee yesterday, but knowing of his record, and he's well-deserving of the commendations that you've provided this morning.

Senator MARTINEZ. Thank you, Mr. Chairman.

Chairman WARNER. Thank you for your participation.

Senator MARTINEZ. Thank you.

Chairman WARNER. It is now time for the committee to speak to the nominees. I will submit my opening statement into the record,

introducing our other nominees. I also submit the statement of my colleague, Senator Dole.

[The prepared statements of Senator Warner and Senator Dole follow:]

PREPARED STATEMENT BY SENATOR JOHN WARNER

I am pleased to have before the committee this morning eight distinguished individuals who have been nominated for the following positions of importance and responsibility within the Department of Defense (DOD) and the Department of Energy:

Anita Blair to be the Assistant Secretary of the Air Force for Manpower and Reserve Affairs;

Benedict Cohen to be the General Counsel of the Department of the Army;

Frank Jimenez to be General Counsel of the Department of the Navy;

David Laufman to be Inspector General of the Department of Defense;

Charles McQueary to be Director of Operational Test and Evaluation for the Department of Defense;

Sue Payton to be Assistant Secretary of the Air Force for Acquisition;

William Tobey to be Deputy Administrator for Defense Nuclear Nonproliferation in the National Nuclear Security Administration; and

Robert L. Wilkie to be Assistant Secretary of Defense for Legislative Affairs.

We are joined today by several colleagues who will introduce nominees to the committee.

Senator Lott will introduce Mr. Wilkie;

Senator Allen will introduce Ms. Blair;

Senator Martinez will introduce Mr. Jimenez; and

Senator Thune will introduce Ms. Payton.

Additionally, former Congressman Christopher Cox of California, who served from 1989 through 2005 in the House of Representatives and currently serves as the Chairman of the Securities and Exchange Commission, joins us today and will introduce Mr. Cohen.

Welcome to you all, and thank you for being with us today.

We welcome all family members and guests, and thank you for the important support you provide to our nominees. They cannot succeed in these demanding positions without your help, as I'm sure they all recognize.

David Laufman has been nominated to be the Inspector General of the Department of Defense. Mr. Laufman has served since March 2003 as Assistant U.S. Attorney for the Eastern District of Virginia where he has specialized in prosecution of terrorism and other national security cases. Mr. Laufman also served in the Department of Justice in the Office of Professional Responsibility and as Chief of Staff to Deputy Attorney General Larry Thompson from May 2001 through March 2003. Mr. Laufman has extensive experience in the legislative and executive branches of government, in ethics investigations, and in national security affairs.

William Tobey currently serves as the Director of Counterproliferation Strategy on the National Security Council staff where his responsibilities include U.S. policy on missile defense and nonproliferation issues regarding Iran, North Korea, and Libya. Mr. Tobey has been a member of the U.S. Delegation to the Six-Party Talks during the last three rounds of negotiations, and has served as Director of Defense Policy and Arms Control on the National Security Council staff from 1986 to 1993.

Dr. Charles E. McQueary has been nominated to be the Director of Operational Test and Evaluation of the Department of Defense. Dr. McQueary served as the Under Secretary of Science and Technology of the Department of Homeland Security from 2003 through March 2006, leading the Department's research and development efforts. Prior to his homeland security service, Dr. McQueary was President of General Dynamics Advanced Technology Systems and also as a Director for AT&T Bell Laboratories. Dr. McQueary, congratulations on your nomination, and thank you for your continued willingness to serve in this key DOD position.

PREPARED STATEMENT BY SENATOR ELIZABETH DOLE

I would like to express my full support for the nomination of the Honorable Charles E. McQueary, of North Carolina, to be Director of Operational Test and Evaluation for the Department of Defense. As the former Senior Advisor to the Sec-

retary for Science and Technology at the Department of Homeland Security, Dr. McQueary has the experience and qualifications necessary to fulfill this crucial role.

In 2003, he was nominated by President George W. Bush and confirmed by the Senate to be Under Secretary for Science and Technology at the Department of Homeland Security. Prior to this, Dr. McQueary served as President of Lucent Technologies' and General Dynamics Advanced Technology Systems, and has held the position of Vice President of the Federal Systems Advanced Technology Division at AT&T. While at Bell Laboratories, he served as Director of the Undersea Systems Development Lab, headed the U.K.-based Field Operations Department, and ran the Marshall Islands-based Missile Operations Department for the Safeguard Antiballistic Missile Test Program. He earned his bachelor's degree, master's degree, and Ph.D. in engineering mechanics from the University of Texas, Austin, where he was a distinguished engineering graduate.

I have been great friends with Dr. McQueary and his wife, Cheryl, for many years, and I am confident that he will fulfill this role with the utmost integrity. Charles McQueary is a most worthy nominee, and I look forward to joining the full Senate in quickly confirming his nomination.

I would also like to express my full support for Robert L. Wilkie, of North Carolina, in his nomination to be Assistant Secretary of Defense for Legislative Affairs. Mr. Wilkie has a remarkable amount of experience in both legislative and military affairs that makes him an excellent nominee for this position.

Robert Wilkie is the son of an Army Artillery Commander and grew up at Fort Sill and Fort Bragg. After graduating with honors from Wake Forest University and earning his Juris Doctor from Loyola University of the South, he was awarded a Masters of Law from Georgetown University. He is an honor graduate of the Reserve Intelligence Officer's Basic Course, a graduate of the College of Naval Command and Staff, as well as the Joint Forces Staff College. In 2002, he received his Masters in Strategic Studies from the United States Army War College.

In addition to this extraordinary education, Mr. Wilkie has extensive legislative experience, having served as counsel and policy advisor to Senator Jesse Helms, as legislative director for Congressman David Funderburk, and as counsel and advisor on International Security Affairs to Senate Majority Leader Trent Lott. From 2003–2005, Mr. Wilkie was special assistant to the President for National Security Affairs and a senior director of the National Security Council, serving as a senior policy advisor to the President's Assistant for National Security Affairs. He developed strategic planning for the implementation of the Moscow Treaty, NATO Expansion, the Millennium Challenge Account, and Iraqi reconstruction. Mr. Wilkie currently serves as Principal Deputy Assistant Secretary for Legislative Affairs and is the acting Assistant Secretary of Defense for Legislative Affairs.

Mr. Wilkie's military training only adds to his already impressive résumé. He is an intelligence officer in the United States Navy Reserve, and was named the Office of Naval Intelligence Junior Intelligence Officer (Reserve) of the year in 2004. He previously served with Atlantic Intelligence Command, Joint Forces Intelligence Command, and Naval Special Warfare Group Two. As a current division officer in the Maritime Threat Targeting Department at the Office of Naval Intelligence, Mr. Wilkie has the qualifications that make him an outstanding candidate for this position. I look forward to the confirmation of Robert Wilkie as Assistant Secretary of Defense for Legislative Affairs.

Chairman WARNER. Do you have a comment or two, Senator?

Senator LEVIN. I have no comment, other than to welcome them and their families, who are so important to their success. I thank the nominees for their commitment to public service, as well as their family's commitment to public service.

Chairman WARNER. The committee has asked all of our nominees, as we do with each nominee coming before the committee, to answer a series of advance policy questions. The nominees have responded to those questions. Without objection, those responses will be made a part of today's record.

I also have certain standard questions that the chairman of this committee, for as long as I've been on the committee—Senator Levin and I have been here for 28 years on this committee—and we ask these questions of each nominee. If you all, as a group, would indicate your responses. If anyone wishes to be singled out

for recognition, please raise your hand, and I'll be glad to recognize you to clarify the question or clarify your response.

First, have each of you adhered to the applicable laws and regulations governing conflicts of interest? [A chorus of affirmative responses.]

Let the record show that all responded affirmatively.

Have you assumed any duties or undertaken any actions which would appear to presume the outcome of the confirmation process? [No response.]

No nominee has indicated to the contrary.

Will you ensure that your staff—if confirmed and placed in office, those staff under your supervision comply with the deadlines established for requested communications, including questions for the record in hearings? [A chorus of affirmative responses.]

Again, all have agreed in the affirmative.

Will you cooperate in providing witnesses and briefers in response to congressional requests? [A chorus of affirmative responses.]

All have indicated affirmatively.

Do you agree, if confirmed, to appear and testify, upon request, before this committee? [A chorus of affirmative responses.]

All have indicated in the affirmative.

Do you agree to provide documents, including copies of electronic forms of communication, in a timely manner when requested by a duly constituted committee, or to consult with the committee regarding the basis for any good-faith delay or denial in providing such documents? [A chorus of affirmative responses.]

All, likewise, approved it.

Now, we will go to each nominee for such opening statements as they would like to make. When I recognize you, I would appreciate very much if you would introduce the members of the family that have come with you today.

May I say that I look back some 37 years ago, when I sat at a table and introduced my family at the time I was nominated to join the Navy Secretariat. I recall that my children could not reach the floor with their legs. Today, they're in their 40s. Time passes, but my children, to this day, remember joining me for this very important moment in your public service careers.

So, according to the roster that's before me for purposes of recognition, we'll start with Ms. Blair.

STATEMENT OF ANITA K. BLAIR, TO BE ASSISTANT SECRETARY OF THE AIR FORCE FOR MANPOWER AND RESERVE AFFAIRS

Ms. BLAIR. Good morning. Mr. Chairman, Ranking Member Levin, members of the committee, it is the honor of a lifetime to appear before you today as the nominee for Assistant Secretary of the Air Force for Manpower and Reserve Affairs. It is also an honor, and I'm very grateful to Senator Allen, for his very kind and gracious introduction this morning. I'm also grateful to the President, to the Secretary of Defense, and to the Secretary of the Air Force for their support and confidence in recommending me for this position. Knowing how many difficult and important matters you

and they deal with every day, I am truly humbled by your consideration.

If you will permit me, I would like to introduce my husband, Doug Welty, whom Senator Allen also recognized. We did, indeed, meet at the University of Virginia Law School, and did, indeed, practice law together. It's customary, Mr. Chairman, to state that your spouse is the true source of all your success, but I'm very delighted this morning to have some other people who are responsible for my success. A few members of my staff were able to come, and I would like to also thank them for taking time out of what I know is a busy day.

Remembering my parents, too, who are not with us anymore, but, back in World War II, they were a young Army Air Corps family.

It's been a great privilege to serve in the Department of the Navy since shortly before September 11. I've personally witnessed the efforts and sacrifices made by our sailors, marines, families, and civilian workers, and I would like to thank this committee for all you have done to assist them in the great struggles they endure. If confirmed, I pledge that their example will be my standard in devoting my all to serving the people of the Air Force.

I have felt privileged to be part of the great enterprise of transforming the naval services so that they can achieve their highest and best purpose for America in the 21st century. The members of the Air Force Service family—Active, Reserve, Guard, families, and civilians—have impressed me with their dedication to integrity, service, and excellence. If confirmed, I will be honored to work alongside and for these fine people.

I look forward to answering your questions, and I hope to continue in frequent dialogue and discussion with this committee as issues and challenges arise.

Thank you, again, for your consideration.

Chairman WARNER. Thank you. Would you kindly introduce such family members as you have?

Ms. BLAIR. Oh.

Chairman WARNER. There he is. What year did you graduate from University of Virginia Law School?

Mr. WELTY. 1982, Senator.

Chairman WARNER. 1982. Well, I preceded you, 1953. [Laughter.]

Ms. BLAIR. Senator, I'd like to remind you that he did serve in the Navy during the halcyon years encompassing your tenure as Secretary, as well.

Chairman WARNER. Oh. Nomination confirmed. [Laughter.]

Ms. BLAIR. Thanks.

Chairman WARNER. Thank you very much for that opportunity.

Now we'll have Mr. Cohen.

STATEMENT OF BENEDICT S. COHEN, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE NAVY

Mr. COHEN. Thank you, Mr. Chairman.

Mr. Chairman, Senator Levin, and members of the committee, it's an honor to appear before you today as the President's nominee for General Counsel of the Army.

I'd like to start, if I could, by introducing my family.

Chairman WARNER. Yes, indeed.

Mr. COHEN. My wife, Julie, my son, Paul——

Chairman WARNER. Would you kindly stand? We all wish to see these folks.

Mr. COHEN. My wife, Julie; my son, Paul, age 9; my daughter, Mary, age 7; and my father-in-law, Bob Gutman, veteran of the Somerset Light Infantry and a former Senate staffer. Unfortunately, my father, Harold Cohen, who's a veteran of the Army Air Corps, couldn't be here today.

Chairman WARNER. We talked about your father yesterday and what an interesting career he had in the Army Air Corps. It's remarkable.

Mr. COHEN. Thank you, sir.

Chairman WARNER. So, you've very privileged to have had that heritage, and you bring his experience and wisdom to the task before you.

Mr. COHEN. Thank you very much, sir.

I'd like to thank the President for nominating me for this position, and the Secretary for his confidence and support. I'd like to thank Chairman Cox for his generous remarks, and for the opportunity to work for him for all those many years. I'd also like to thank this committee for all that you all have done over the years for our men and women of our Armed Forces.

If confirmed, I look forward to working with the committee on the many challenges that are confronting the Army. The Army continues its historic transformation to address the issues of the 21st century while fighting a long war against terrorism in multiple theaters. The legal dimensions of these challenges are as complex as any that have ever confronted Army lawyers. If confirmed, I want to assure the committee that I will devote every effort to address these challenges with humility and determination, and with the knowledge that the Army's military and civilian attorneys are the finest in the world. It would be the greatest honor of my career to have the opportunity to serve with these magnificent professionals.

Finally, I'd like to thank my wife and children for their support as I pursue a return to DOD, having already completed some 20 years of Federal service. I'm more grateful to them than I could ever say for their love and support of my career in public service.

Thank you very much, Mr. Chairman.

Chairman WARNER. Thank you very much, Mr. Cohen.

We'll have Mr. Jimenez.

STATEMENT OF FRANK R. JIMENEZ, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE NAVY

Mr. JIMENEZ. Good morning, Mr. Chairman, Senator Levin.

As Senator Martinez mentioned, with me today are my mother, Daisy Jimenez, and my brother, Marcos Jimenez. My father, Frank Jimenez, cannot be with us today. He's home in Miami.

It is a distinct honor to appear before you for possible confirmation as the 21st General Counsel of the Department of the Navy. I thank you, Mr. Chairman, Senator Levin, the members of the committee, and staff, for your many courtesies to me and for your service to this Nation.

I would not be here today but for the trust placed in me by President Bush and Secretaries Rumsfeld, England, and Winter. I have pledged to them—as I now pledge to you—that I will do everything in my power, if confirmed, to justify both their trust and yours.

Since the Continental Congress, our Armed Forces have stood in the breach to make possible the liberties we enjoy today. Their sacrifice is no less indispensable in today's fight against tyranny than it was in securing our independence from it over 200 years ago. This great sacrifice gives rise to a reciprocal moral obligation. But mine is not only a commitment to our Nation's finest; above all, it is a pledge to a country that has given so generously to my family.

My parents left the oppression of Castro's Cuba in 1961 so that my older brother, then just a year old, could breathe the air of freedom. With no college education they came carrying all their possessions in hand. Less than a generation later, one son has been confirmed by the Senate as a U.S. attorney, and the other appears before you now. My grateful family is a living embodiment of America's promise.

Mr. Chairman, if confirmed, I pledge to work closely with you and this committee to support and promote the outstanding men and women of the U.S. Navy and Marine Corps.

Thank you very much.

Chairman WARNER. That's a very moving statement you made, in acknowledging what this country has provided for you and your family, and the opportunity it gives others. Those remarks come on a morning in which the world sees a new and extensive chapter of violence, and it's important that we be ever mindful of the blessings that our country have while we watch the suffering of others.

Mr. JIMENEZ. I agree. Thank you, Mr. Chairman.

Chairman WARNER. Thank you.

We'll now have Mr. Laufman.

STATEMENT OF DAVID H. LAUFMAN, TO BE INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

Mr. LAUFMAN. Thank you, Chairman Warner, Senator Levin, and distinguished members of this committee. I'm honored to appear before you today as the President's nominee to be Inspector General (IG) of DOD. I thank President Bush and Secretary Rumsfeld for their confidence in me and their commitment to effective oversight of DOD. I also thank members of the committee and their staff for the courtesies you have extended to me and for the outstanding work that you do on behalf of the men and women of the Armed Forces and the taxpayers of our Nation.

With me today are my wife, Judy, also a public servant at the Department of the Treasury, and my sons, Adam and Michael. Also with me today is my brother, Gary. I'd like to thank them for their love and support. Their love and support have been essential to my ability to pursue a career in public service, and I'm indebted to them for the sacrifices they have made over the years. With me, also, Mr. Chairman, is my mother, Nora Laufman, of Houston, Texas, my hometown. No one approaches life each day with greater vitality or curiosity, and she continues to inspire me as she nears her eighth decade.

Chairman WARNER. If I might add a personal note, my mother lived to be 94, and while I was here in the Senate I would get calls in the course of the day to tell me exactly what I was doing right and occasionally what I was doing wrong. [Laughter.]

Thank you, Mother, for joining us. That's very important.

Please continue.

Mr. LAUFMAN. Thank you, Senator.

Finally, Senator, I'd like to recognize my late father, Herbert Laufman. Over 60 years ago today, my father flew more than 60 combat missions over Nazi-occupied Europe, including missions on the morning of D-Day, as the bombadier navigator of a Martin Marauder B–26. For his excellence and valor, he was awarded the Distinguished Flying Cross, the Air Medal, and numerous oakleaf clusters. How proud I am to be his son, and how proud he would be regarding today's events.

Today, our country faces global challenges to its security that my father's generation could not have anticipated. At the forefront of meeting those challenges is DOD. The IG plays an essential role in maximizing the effectiveness of the Department. The IG is responsible for the oversight of the Department's programs and operations, and for preventing and detecting fraud, waste, and abuse. If confirmed, I pledge to you that the IG's office will demonstrate a commitment to excellence befitting the importance of its responsibilities. We will conduct rigorous audits to ensure that Department programs and operations are carried out efficiently and in full compliance with the law. Where investigations are appropriate, the IG's office will aggressively pursue the facts, wherever they take us, and report our findings and recommendations without fear or favor.

We will pursue our mission with uncompromising independence while working together constructively with the leadership of this Department and the members of this committee. We will take all appropriate measures to ensure that any individuals who violate the law or abuse their positions of trust are held fully accountable for their actions.

These are extraordinary times, and we have enormous challenges before us. If confirmed, I look forward to working with all of you to meet those challenges.

Thank you very much.

Chairman WARNER. Thank you very much for that opening statement, and particularly the reference to your father. I think he was part of what Tom Brokaw said, I think, very ably, "The Greatest Generation."

Mr. LAUFMAN. Thank you, sir.

Chairman WARNER. Now, we'll have Ms. Payton.

STATEMENT OF SUE C. PAYTON, TO BE ASSISTANT SECRETARY OF THE AIR FORCE FOR ACQUISITION

Ms. PAYTON. Thank you, Chairman Warner, Ranking Member Levin, and members of the committee, for the opportunity to be here today. Senator Thune, I'd like to thank you very much for that very kind introduction.

I'd also like to thank the members of my family who have joined me here today, my husband, Gary, of 34 years, a Space Shuttle

crew astronaut and an Air Force pilot for 23 years. Our daughter, Courtney Callen, has joined us, from Navarre, Florida, after 1 week under her belt as a new information technology (IT) specialist with Eglin Air Force Base, starting her first week in government service. I'm very proud also of my son-in-law, Thomas Callen II, a captain in the Air Force, C–5 pilot, and instructor-in-training at Whiting Naval Air Station. My twin brother, Tom Campbell, has joined me, as well, from Wheeling, Illinois, a retired third-grade teacher and member of the Illinois Army National Guard. When you accumulate all the service to our country, we have over 40 years, just in the group here, not to mention my father, who served in World War II, and a brother who has also served in the Air Force.

It is the greatest honor of my professional career to appear before you as President Bush's nominee to serve as the Assistant Secretary of the Air Force for Acquisition. I am grateful to Defense Secretary Rumsfeld, Under Secretary of Defense Krieg, and Air Force Secretary Wynne for their support and confidence in recommending me for this position.

I'd like to also sincerely thank the members of this committee for the crucial leadership and support provided me and my team in Advanced Systems and Concepts since September 2001 as we accelerated the fielding of much-needed joint and coalition military capabilities to fight terrorists worldwide.

My career has spanned both private and public sectors, including 17 years of acquisition experience in the Defense industry and almost 5 years as the Deputy Under Secretary of Defense for Advanced Systems and Concepts. This has given me a very valuable and unique range of experiences. But whether in the public sector or the private sector, my guiding principles regarding acquisition have always been the same: you must mandate the highest integrity in all aspects of the process; you must drive acquisition, based on customer need, to achieve mission success; you must provide the programmatic structure that allows success by linking accountability, responsibility, and authority; and you must prioritize your investment based on progress toward goals.

Our customers, the warfighters, taxpayers, the families whose loved ones go into harm's way, expect our acquisition community to deliver the capabilities needed to defend America and protect our national security not only today, but into the future. Delivery of these capabilities must be done with transparency, due diligence, and taxpayer value as the highest priority. To ensure the American people stay informed, we must make sure that all their Members of Congress, including this committee, are well informed of our efforts.

Mr. Chairman, thank you, again, for the opportunity to appear before you today. I look forward to your questions. If confirmed, I look forward to continued close working relationships with Congress while leading the outstanding men and women of Air Force acquisition.

Chairman WARNER. Thank you very much and, indeed, all of us are deeply touched by the contributions of your families for generations in the support of freedom in this country. Thank you.

Mr. Tobey.

STATEMENT OF WILLIAM H. TOBEY, TO BE DEPUTY ADMINISTRATOR FOR DEFENSE NUCLEAR NONPROLIFERATION, NATIONAL NUCLEAR SECURITY ADMINISTRATION

Mr. TOBEY. Thank you, Mr. Chairman.

I very much appreciate the opportunity to introduce my family, because, as Senator Levin observed, their support makes my public service possible; therefore, I'm grateful for that.

With me today are my wife, Elizabeth Tobey, our daughters, Emma and Beatrix, and my wife's parents, the Reverend LeRoy Ness, who served for 25 years on active duty and retired as an Army Chaplain, and his wife, Evelyn Ness, who has been a strong supporter of the National Military Family Association.

Mr. Chairman, Senator Levin, and members of the committee, I'm honored to be considered as the President's nominee for Deputy Administrator for Defense Nuclear Nonproliferation in the National Nuclear Security Administration. I am grateful to the President, Secretary Bodman, and Ambassador Brooks for the confidence they have placed in me. I would also like to thank the members of this committee for your strong support for U.S. nonproliferation efforts.

I am thrilled by the prospect, if confirmed, of leading programs that are among the most critical to U.S. national security, and humbled by the importance of the task. I have always been drawn to issues at the heart of U.S. national security, and preventing the proliferation of nuclear weapons and material is foremost among them. I believe that my service on the National Security Council staff in the Reagan, Bush–41, and current administrations dealing with international negotiations, defense programs, and nonproliferation, as well as my private-sector management experience, have prepared me to meet the challenges of the position.

Over the past several months, I have come to know better the people working in the Office of Defense Nuclear Nonproliferation and found them to be smart, dedicated, and selfless. They work tirelessly to stop proliferation of nuclear material and bring to the task unmatched experience and expertise. Many spend weeks a year away from their families. They work in far-flung places around the world, some where conditions are demanding, from Russia's Siberia to Libya's desert. They work to secure the materials, expertise, and technology that might be used by terrorists against the United States and our allies. In short, they prevent threats before they reach our shores. They are among those on the front line of our global nonproliferation efforts. They implement the programs that Congress authorizes and that, if confirmed, I will work hard to ensure remain successful.

If confirmed, I intend to focus on meeting the goals of the Bratislava initiative on time, ensuring that effective management of nonproliferation programs continues, enabling us to secure or dispose of as much material as possible, as soon as possible, and ensuring that our strategy keeps pace with the evolving proliferation threats, and that our programs reflect the most effective strategy we can devise.

I look forward to working with members of the committee and its staff, the National Security Council, and other departments and agencies to ensure that we have a well-coordinated plan of action. I commit that, if confirmed, I will continue to work day and night

to ensure that U.S. nonproliferation programs are effective and responsive to the urgent threats that we face.

Thank you.

Chairman WARNER. Thank you, Mr. Tobey. Again, as I reviewed with you yesterday, your distinguished career, you're eminently qualified for this position, and we thank you for bringing your family to join us here this morning. I take note that your wife, once upon a time, was a member of my staff and contributed greatly at that time, as she continues to support you as you take on these challenges. We thank you, Chaplain, for your long service to our country.

Mr. TOBEY. Thank you, Senator.

Chairman WARNER. Now, Mr. Wilkie.

STATEMENT OF ROBERT L. WILKIE, TO BE ASSISTANT SECRETARY OF DEFENSE FOR LEGISLATIVE AFFAIRS

Mr. WILKIE. Thank you, Mr. Chairman and distinguished members of the committee. I do want to thank you for your courtesy and kind consideration in the weeks leading up to this hearing.

I would like to introduce, first, my wife, Julie. We've known each other since we were high school students back in Fayetteville, North Carolina—and she is also a former member of the Senate family—and my dearest friend and mother to our two little children, Adam and Megan. Also with me is my brother, Douglas, and my brother-in-law, Steven Harman.

I also wish to thank Senator Lott for his courtesy and his friendship. I was privileged to be part of Senator Lott's family—the Senate family for 6 years, and if anyone questions whether people in Washington have an impact on the day-to-day lives of Americans, then all that person has to do is go down to the Mississippi Gulf Coast and see what Senator Lott means to the people recovering from the tragedy of Hurricane Katrina.

Mr. Chairman, if you would permit me, I would also like to acknowledge someone who is not here, that is Senator Jesse Helms. I first saw Senator Helms in person back in 1976, when he was escorting a former Governor of California around southeastern North Carolina prior to the presidential primary that year. Ronald Reagan won that primary, due, in large part, to Senator Helms. Twelve years later, I was privileged to join his staff in this very Dirksen Senate Office building and learn many of the lessons that had been passed down to him from his mentors, Sam Irvin and Richard Russell. He is one of the great gentlemen of this body.

So, from those remarks, Mr. Chairman, it's pretty clear that I am a product of this Senate, having spent 14 of my 18 years in professional life here. I'm versed in its traditions and its histories and the unique responsibilities that this committee has for the oversight of DOD.

There is also a second strain flowing in my life, and that is the Armed Forces of the United States. My very first childhood memories are of watching the artillery half-section roll across the old post parade ground at Fort Sill. My great-grandfather was a battery commander in the 82nd Infantry Division. My grandfather ran convoys in the North Atlantic. I grew up watching the 82nd Airborne as a teenager.

My own military service has been modest compared to those of my ancestors, but the constant has been the privilege of serving with the men and women who stand vigil for freedom. That is why this nomination has particular meaning for me. If confirmed, it is another way to serve with and for those who do so much for our Nation.

Again, I thank you very much for your courtesy and look forward to your questions, sir.

Chairman WARNER. We thank you, Mr. Wilkie, for first your mention of Senator Helms. We knew him well, and I particularly recall many moments of working with him in this institution. He was a teacher. I may not have always agreed with him, but he was a remarkable teacher with a grasp of the rules of the Senate. He had a love for the Senate. We wish him well in these days.

Thank you for your family who have joined us here this morning, and your reference to your ancestors. Like you, my career in the military is very modest compared to that of my father and his forefathers, but aren't we fortunate to have, in our respective careers and challenges in life, that background to live with?

Now, Dr. McQueary, somehow the papers got mixed up here this morning, and there were so many people that jumped in and out of that seat in the course of the morning that I failed to give you the due recognition that you deserve at the head of the line. But now you can take all the time you wish. [Laughter.]

STATEMENT OF HON. CHARLES E. MCQUEARY, TO BE DIRECTOR OF OPERATIONAL TEST AND EVALUATION, DEPARTMENT OF DEFENSE

Dr. MCQUEARY. You're very kind, sir. Thank you very much.

If I may, I would like to introduce first my wife and partner of 34 years, Cheryl. She has been my mainstay for that time period, and has been, really, a major influence in my career in helping me at every step along the way. She, too, is engaged in public service, working at the U.S. Department of Agriculture, currently. So, thank you very much for the opportunity to be able to recognize her.

Chairman WARNER. Well, we thank you for joining us.

Dr. MCQUEARY. Mr. Chairman, Senator Levin, other distinguished members of the committee, it is an honor and a privilege for me to appear before you today as the President's nominee to be the Director of Operational Test and Evaluation (OT&E) in DOD. I thank the President, Secretary Rumsfeld, and Deputy Secretary England for their confidence and support in nominating me for this position. If confirmed, I look forward to serving my country again, after having served 3 years as the Under Secretary for Science and Technology in the Department of Homeland Security. In fact, Senator McCain was the chair of the committee that I appeared before, when I was considered for that position previously. Sir, it's good to see you again.

If confirmed, I look forward to working with this committee and other Members of Congress to ensure that the weapons and the equipment we deliver to the men and women in the armed services are adequately tested, operationally effective, suitable for use, and survivable in the operational conditions they encounter. The role of

the director and the OT&E team is to be the strongest of advocates for the men and women in our Services through Congress and the Secretary of Defense.

Mr. Chairman, I thank you for the opportunity to appear before you today. Thank you very much.

Chairman WARNER. Thank you very much, and, again, for your family joining us.

Dr. MCQUEARY. Thank you.

Chairman WARNER. I'm going to allow Senator Levin to initiate the questions, but, before doing so, I'd like to call on my colleagues, if they have any opening comments or other observations.

Senator McCain?

Senator MCCAIN. No, sir.

Chairman WARNER. Senator Reed? Senator Nelson?

Senator BILL NELSON. I look forward to the questions.

Chairman WARNER. Thank you.

Senator Levin.

Senator LEVIN. Thank you, Mr. Chairman.

Dr. McQueary, the position that you are being considered for was created by Congress to be an independent voice on the effectiveness of military systems, and an unbiased judge of the results of testing of systems. What are your views about the independence of your position and your obligation to speak freely to Congress, especially in the face of pressures to stifle bad news about acquisition systems, when there is such news?

Dr. MCQUEARY. I believe that's a very essential ingredient of the position that was created by Congress in 1983. In fact, for it to be effective, I think the reporting relationship we've established is appropriate: advisor to the Secretary of Defense and direct reporting to Congress. I am prepared to do that in the most effective way that I possibly can, based upon my skills.

Senator LEVIN. Dr. McQueary, the U.S. began deploying a Ground-Based Midcourse Ballistic Defense System back in 2004. It has not yet had a successful intercept test, and it has had no operational testing. So, we have begun to deploy an extraordinarily complex multibillion-dollar system without being sure that it is going to work. Will you ensure, if confirmed, adequate testing of the Ground-Based Midcourse Defense System, including operational testing, in order to make a determination as to whether the system is operationally-effective and suitable for combat? Will you convey that determination to Congress?

Dr. MCQUEARY. I certainly will assume the role of oversight responsibility. As I understand it—and I have only been reading material for about 2 weeks—as I understand it, the Missile Defense System was set up separately from the normal design and development programs; and, therefore, the director of the Missile Defense organization has full responsibility for the operational test, up to and to the point of where equipment is delivered to the end-user. The role that the Director of OT&E has, as I understand it, is to provide oversight and provide reports to Congress, and I certainly will do everything that is called out statutorily for me to do.

Senator LEVIN. Thank you.

Ms. Blair, back, I guess, 6 or 7 years ago, you served as chairman of the Congressional Commission on Military Training and

Gender-Related Issues. The majority of the commissioners voted to recommend that each Service should be allowed to conduct basic training in accordance with its current policies. You opposed that recommendation, apparently, citing evidence that gender-separate training produces superior results. The Air Force, as well as the Army and the Navy, have continued to use gender-integrated training for military specialties. In response to a pre-hearing policy question on this subject, you stated only that "the Services should not stand still, but continually re-examine assumptions and seek out better ways to accomplish their training mission."

If confirmed, is it your intent to reopen the long-resolved issue of gender-integrated training in the Air Force?

Ms. BLAIR. Thank you for that question, Senator.

If confirmed, I have no intention to do anything but allow the Services to improve training, as they see fit, to meet their mission. Currently, in the Department of the Navy, the Navy conducts gender-integrated training. The Marine Corps conducts gender-separate training. They report that it is successful, they're satisfied, and it's meeting the mission. My sole interest is in meeting the mission. So, I will be guided by the opinions of the experts who are running the training programs as to what ways they may want to pursue to attempt to improve their training.

Senator LEVIN. Now, you're also, I believe, not only a member of two organizations that have taken a strong position against gender-integrated training, but you also have indicated, I believe, in your response to our questionnaire, that, if confirmed, you're going to remain a member of those organizations, the Independent Women's Forum and the Eagle Forum. Are you aware of the positions of those two organizations?

Let me, for instance, read you an issue paper of the Eagle Forum. It's titled "The Feminists Continue Their War Against Men." It includes a section titled, "Equality or Feminization of our Military," and says the following, "President Bill Clinton made clear his disdain for our military, but the Clintonista Feminazis were more focused. They were determined to give us a gender-neutral military, or, as one of their spokespersons put it, an ungendered military."

Do you agree with the statements made on the Web sites of those two organizations?

Ms. BLAIR. Senator, I am not sure what all the statements of those organizations are. I would hasten to mention that—neither one is a membership organization, in the sense that anybody who may—one pays dues or is apt to be eliminated if one doesn't agree with everything that they say. I think, as public policy organizations, they have something to add to the mix. In my current position, I seek to be guided by the requirements of the law, the established policy. I would not be here today, I would not have accepted the job of Deputy Assistant Secretary of the Navy, if I had any unwillingness to set aside any personal opinions or preferences that I might have in favor of executing the law. Part of executing my job well, I believe, is soliciting opinions and views from a wide range of sources.

Senator LEVIN. What about the statement I read? What's your reaction to that?

Ms. BLAIR. I'm trying to recall it, Senator. I'm sorry——

Senator LEVIN. "President Bill Clinton made clear his disdain for our military, but the Clintonista Feminazis were more focused. They were determined to give us a gender-neutral military, or, as one of their spokespersons put it, an ungendered military."

Ms. BLAIR. Yes, it's a pretty rhetorical statement, I think. I don't know which individuals they may be referring to or anything. I think it's a rhetorical and exaggerated statement.

Senator LEVIN. How about this other statement, made in that same paper of the Eagle Forum, "Adopting coed basic training for all the Services except the Marines lowered the standards to the physical capabilities of women. The result is a breakdown of military discipline and a dramatic coarsening of women, and of men's treatment of women. This has caused a critical diversion of time and energy away from the essential task of teaching men to be soldiers and to dealing with the obvious problems caused by the powerful factor of sex in a wartime environment."

Ms. BLAIR. Senator, I suspect that those comments may have been made when the gender-integrated training was somewhat novel and people were still working through a lot of problems. I believe that today the conduct of gender-integrated basic training is much improved from the time that they may be referring to.

Senator LEVIN. Basically, then, you don't have a reaction that you disagree or agree with these statements?

Ms. BLAIR. It's hard to agree or disagree, because I find them, kind of, argumentative and rhetorical. If there were facts—it would be easier to say I agree or disagree with a fact, but I believe that they were making an argument using rhetoric, and I take it for what it is.

Senator LEVIN. So do I.

Ms. BLAIR. Yes. I do, sir. I emphasize——

Senator LEVIN. Offensive.

Ms. BLAIR.—well——

Senator LEVIN. I take it for what it is, too. Offensive. But I'll leave it there. You're the one who is here, not me. I don't want to cut you off, though, if you wanted to add anything to that.

Ms. BLAIR. Sir, that the way I do my job is by putting aside any kind of personal opinions or preferences, and, instead, looking at what the law is, what the policy is, and executing it to the best of my ability.

Senator LEVIN. Thank you.

Mr. Cohen and Mr. Jimenez, last week we had a hearing on military commissions with the judge advocates general of each of the Services, some active and some retired here as witnesses. Each of them testified that we should not authorize, through legislation, the military commission process and procedures that the administration had previously adopted, and that the Supreme Court struck down. Do you agree with the judge advocates general on that specific point?

Mr. COHEN. Thank you, Senator.

I reviewed the testimony that the judge advocates general offered last week, and it seemed to me to be consistent with the approach that the President has outlined of wanting to work with Congress to reach a middle ground that would command congressional sup-

port and enable us to legislate, to authorize, a judicially supportable system of military justice for these terrorists.

Senator LEVIN. On that one point, when I asked each of the six of them, very specifically, "do you believe we should simply ratify the procedures that were put in place by the military commissions, which the administration had set up and which were struck down by the Supreme Court?" Each one answered that question, "we should not ratify those procedures."

Chairman WARNER. Your question, does that suggest that we exclude any reference to the Uniform Code of Military Justice (UCMJ)? It would just be that one segment?

Senator LEVIN. I'm just asking whether they agree with their testimony on that specific point, that we should not simply ratify the military commissions as set up by the administration, and which were considered by the Supreme Court. Each one said we should not simply ratify the commissions and their procedures as existed prior to the Supreme Court opinion.

I'm wondering whether you agree with the position that each of the six took.

Mr. COHEN. Senator, this is not an area of law with which I am familiar. I've read the *Hamdan* decision. I read the testimony offered to the Judiciary Committee and the Armed Services Committees last week. But it's a complicated area, and one in which I confess I haven't formed a final, or in any way, definitive view.

Senator LEVIN. Okay.

Mr. Jimenez?

Mr. JIMENEZ. Senator Levin, I agree with that testimony. The Supreme Court has spoken. They've made it clear that they want Congress now to speak. There is a strong role for Congress in this process. I think that Congress should bring its independent voice to this question. I do think that there is a middle ground to be reached here of providing fair process to those detained, while taking into account the exigencies of warfare and the circumstances under which these individuals have been captured and detained.

Senator LEVIN. Okay.

For each of you, do you agree that cruel, inhuman, or degrading treatment or punishment of detainees in U.S. custody is prohibited in all places and at all times?

Mr. Cohen.

Mr. COHEN. Yes, Senator, I believe that that's the requirement of the Detainee Treatment Act.

Senator LEVIN. All places, all times, no matter who the government employee or agent is?

Mr. COHEN. Senator, I can't claim to be an expert on the Detainee Treatment Act, but I believe that's a summary of its terms.

Senator LEVIN. Mr. Jimenez.

Mr. JIMENEZ. Unequivocally, yes.

Senator LEVIN. Thank you.

Mr. Chairman, I know there are others waiting to ask questions. I will pick up from there when I have another round.

Chairman WARNER. Senator McCain.

Senator MCCAIN. Thank you, Mr. Chairman.

I want to congratulate the nominees and express my appreciation for their willingness to serve our country. I believe they're all highly qualified.

Ms. Payton, right now we have several Air Force programs that are over cost and behind schedule. Are you aware of those programs?

Ms. PAYTON. Senator McCain, yes, I am aware of the programs.

Senator MCCAIN. Do you think that we're going to be able to afford this continued cost escalation and reduction in numbers which is caused by the cost overruns and delays?

Ms. PAYTON. No, sir, I do not believe that we will be able to afford this.

Senator MCCAIN. Are you familiar with the C–130J program? This committee uncovered that it was being conducted under a provision of the law which applied to small startup companies so that they wouldn't have to be burdened with paperwork and other obstacles that major corporations have to undergo. Are you familiar with that aspect of the C–130J program?

Ms. PAYTON. No, sir, I am not intimately familiar. The only thing I have done is read, in the paper, instances of this.

Senator MCCAIN. Well, let me tell you what happened. In testimony before this committee, the Air Force testified that they would change that contract, because it was never intended to apply. Several months later, my staff, examining the contract, found out that, indeed, it hadn't been changed. In fact, hardly at all.

I guess my point is, Ms. Payton, I think that the acquisition throughout DOD, but particularly in the Air Force, is in great disarray. Nine of the 11 major weapons systems last year were behind schedule and over cost, and received incentive bonuses. Most of my constituents don't quite understand that. There's a great question now arising about the affordability of both the F–22 and the Joint Strike Fighter, because of cost escalations associated with it.

Are you concerned about those overruns?

Ms. PAYTON. Senator McCain, I'm extremely concerned about those overruns, and I do not believe that award fees should be granted for anything except above-average performance.

Senator MCCAIN. What do you think we ought to do, Ms. Payton?

Ms. PAYTON. The first thing I would like to do is fully understand the facts and details. I would like to adopt many of the practices that the panel, led by General Kadish, described so that we have a uniformity of effort, where the requirements community, the budget community, and the acquisition community collaborate and not in sequence, so that requirements are well defined and are not allowed to creep, budgets can be formulated realistically, and the acquisition workforce can influence the process in a collaborative effort.

I believe there were mistakes made early in these acquisitions, and I believe now we need to take a look at not only how to learn lessons from this, but also what the future should hold.

Senator MCCAIN. Well, good luck.

Ms. PAYTON. Thank you, sir.

Senator MCCAIN. Mr. Jimenez, do you believe that the process for disposition of the cases of the Guantanamo detainees should be

addressed through the framework of the UCMJ or through commissions?

Mr. JIMENEZ. Senator McCain, I think that there is a role for the commission process within the framework of the UCMJ. Just like I don't believe, after the *Hamdan* decision, that Congress should simply ratify the existing commission procedures. I also don't think that the existing UCMJ, in total, is workable under these circumstances. I do think there is a middle ground where we can——

Senator MCCAIN. How can you find a middle ground—I'm talking about a framework. You either use the UCMJ as a framework, or you use the commissions as a framework. So, I'm asking you which should be the starting point.

Mr. JIMENEZ. Senator McCain, if we start with the UCMJ, there are——

Senator MCCAIN. I wasn't asking you "if," I was asking you whether we should start with the UCMJ as a framework or the existing commissions process as a framework.

Mr. JIMENEZ. I think it would be reasonable to start with the UCMJ and modify all of those rules and provisions that are impracticable. I think there are a good many that are impracticable, but that would be a reasonable approach.

Senator MCCAIN. Thank you very much.

Mr. Cohen, the same question for you.

Mr. COHEN. Thank you, Senator.

This is an area of law in which I have not previously practiced. I have reviewed the *Hamdan* decision and the testimony offered last week, and I was actually particularly impressed by the testimony offered by General Black, the Judge Advocate General of the Army. But I haven't formed a definitive view on the question, whether one should start with the UCMJ and——

Senator MCCAIN. I'm not sure you have to be an expert to—if you read the decision as to form an opinion on which should be the framework, Mr. Cohen.

Mr. COHEN. Well, sir, the decision was clear that Congress needed to act to——

Senator MCCAIN. I guess I have to ask you to respond to the question. Do you believe that the UCMJ should be the beginning point for setting up a process for the adjudication of the detainees, or the existing commission process being the beginning point?

Mr. COHEN. Senator, without, as I say, having a definitive view on the subject, I——

Senator MCCAIN. You do not have a definitive view on one of the most important issues that is now facing DOD?

Mr. COHEN. Sir, I'm hopeful that, if I'm confirmed, working with this committee——

Senator MCCAIN. Mr. Cohen, before you're confirmed, I would like an answer.

Mr. COHEN. Yes, sir. General——

Chairman WARNER. Were you—excuse me—were you about to give an answer there? In the tenor of your voice you were going to respond.

Mr. COHEN. Yes, sir. I was.

Chairman WARNER. Why don't you make your full statement, then, and respond to this question.

Mr. COHEN. Thank you, Mr. Chairman.

I think that General Black, in his testimony, outlined that he felt that there would be a need to make adaptations to the UCMJ that might be fairly significant, and, in addition, that it would be appropriate to take some of the features of the commissions that were already extant, but that, again, very significant changes to the existing structure would be necessary, as well.

Chairman WARNER. I think they used the term "a mix."

Mr. COHEN. Yes, sir.

Chairman WARNER. Testimony reflects that.

Mr. COHEN. That seemed to me to be an extremely reasonable approach.

Senator MCCAIN. Mr. Chairman, most of the witnesses didn't say "a mix." Most of the witnesses—and I think the record will be very clear—said that the UCMJ should be the basic framework.

Chairman WARNER. I recall that——

Senator MCCAIN. With all due respect, Mr. Chairman, I think that this is an important issue, because the role that Mr. Cohen is going to play is important as we move forward with trying to establish framework. I think it's legitimate to know whether he feels that the UCMJ should be—no matter what any witness said, I think it's important to know whether he feels the UCMJ, as the Supreme Court has basically said that we should do, or as some in the administration—there's a split within the administration now—whether the commissions should be the beginning point. I think it's a very legitimate question, and one that I'd like to know the answer before I vote on this nominee's nomination.

Mr. COHEN. Senator, if I could, I think the point that Mr. Jimenez made, the approach that he outlined, seems very reasonable to me, and I don't disagree with him, sir. I agree with him.

Senator MCCAIN. I thank you very much.

Thank you, Mr. Chairman.

Chairman WARNER. Thank you, Senator.

Senator MCCAIN. I thank all the witnesses.

Chairman WARNER. Senator McCain, I share your views. I've worked with you on this. But I seem to have a recollection—I'll go back and check the record—that when the question is, "do you think there should be a mix," we went down—I thought each one of the heads acknowledged that to be a logical way. I'll have that record checked, because it's important.

Senator MCCAIN. That's not my recollection, Mr. Chairman. We'll have it checked.

Chairman WARNER. That's fine.

Senator LEVIN. My recollection, for what it is worth, is that four of them said we ought to begin with the UCMJ as the starting point. Two said—they didn't directly answer what the starting point is—but they just said that it should end up being a mix. So, I think my recollection is the same as Senator McCain's. We should check the record.

Chairman WARNER. We'll check that record.

[The information referred to follows:]

Clarification of responses from July 13, 2006, hearing on military commissions in light of the Supreme Court decision in *Hamdan* v. *Rumsfeld.*

Major General Jack L. Rives, USAF, The Judge Advocate General of the Air Force and Major General Thomas J. Romig, JAGC USA (Ret.), Former Judge Advocate General of the Army both felt the Uniformed Code of Military Justice (UCMJ) was a good starting point for setting up a process for the adjudication of detainees, but also should include a mix of other sources as well.

Major General Scott C. Black, JAGC USA, The Judge Advocate General of the Army; RADM James E. McPherson, JAGC USN, Judge Advocate General of the Navy; Brigadier General Kevin M. Sandkulher, USMC, Staff Judge Advocate to the Commandant of the Marine Corps; and RADM John D. Hutson, JAGC USN (Ret.), Former Judge Advocate General of the Navy all stated they believe a mix of various procedures would be the best course of action to set up the process for the adjudication of detainees and did not specify a specific starting place.

Thank you very much.

Any further questions, Senator?

Senator MCCAIN. No. I thank the witnesses.

Chairman WARNER. Thank you.

I'll turn to my colleagues on the left here. I see, Senator Reed, you're next up.

Senator REED. Thank you, Mr. Chairman. I welcome the nominees.

Mr. Laufman, the last several years, DOD has been embroiled in allegations with respect to the treatment of detainees. You are going to assume a position, if you're confirmed, at the apex of—and, as you point out, at the independent agency that tries to keep the Department honest. I think your opening statement was very emphatic about the need to maintain the independence, the need to ask tough questions, the need to speak truth, and the need to go after the case, wherever it leads you.

So, with that as a prelude, with respect to the issue of detainees, and particularly "ghost detainees," General Kern, who conducted an investigation before the committee in September 2004 said, "We have asked two organizations to do further investigations, DOD IG and the Central Intelligence Agency (CIA) IG, and both have agreed that they will take on that task of investigating this ghost detainee policy."

Now, over the last several years, I have made inquiries to DOD, and, for a while, the presumption was that there was actually an investigation by the DOD IG, but it turns out that it never really materialized. Secretary Rumsfeld finally stated that the investigation was being turned over to the CIA. However, a DOD spokesman also stated that DOD could not attest to the work done by the CIA during their investigation. I read this to mean that DOD doesn't know the effectiveness of the investigation and its recommendations, and, therefore, cannot use the results to take appropriate action. In fact, I would suspect that if the CIA was looking at it, their focus was the CIA.

So, there is a question outstanding of whether anyone has seriously looked at the responsibility for senior-level members of DOD with respect to this issue. As the proposed nominee for the IG of DOD, the question simply is, what are you going do about it?

Mr. LAUFMAN. Thank you for the question, Senator.

Let me begin by saying that the statutory jurisdiction of the IG is broad enough to encompass the type of issue that you are inquiring about. I'm not familiar with the Kern matter, or the interaction between DOD and CIA on that issue. It's probably fair to say that the jurisdiction of DOD's IG jurisdiction would extend to that as-

pect of the matter that concerns DOD resources or personnel. If confirmed, I'd be happy to look into the status of the matter and make a judgment as expeditiously as possible about whether the IG should examine that issue with the appropriate resources.

Senator REED. You will make that determination independent of guidance by anyone else, and you'll do that in your capacity as the IG?

Mr. LAUFMAN. I would expect to make all judgments independently, pursuant to my statutory mandate, Senator.

Senator REED. I think you're aware, also, that these allegations run to the conduct not just of CIA operatives, but of military personnel and members of DOD—civilian members. You're aware of that?

Mr. LAUFMAN. I'm aware generally, yes, sir.

Senator REED. Thank you very much.

Mr. Laufman, again, in 2004, Attorney General Ashcroft announced the indictment of a CIA contractor for abuse in Afghanistan. He also indicated that there were other allegations of abuse, and that these were going to be processed through the Department of Justice. It's my understanding that at least 17 of these cases were forwarded to your previous office, as the U.S. Attorney for the Eastern District of Virginia. Other than the case against the CIA contractor, could you indicate what the status of these cases are? Have they been fully investigated? Has there been a determination to charge anyone?

Mr. LAUFMAN. Well, you just gave me a battlefield promotion to U.S. attorney.

Senator REED. Oh.

Mr. LAUFMAN. I'm an assistant U.S. attorney.

Senator REED. Well, you're in a nomination committee. [Laughter.]

Mr. LAUFMAN. I understand.

I am aware, Senator, that there are matters pending within the U.S. attorney's office for the eastern district of Virginia. I am not involved in those matters. It's my understanding that they are being examined with diligence and the commitment of significant resources. I'm not in a position to comment on the status of those matters, except to say that I believe the people to whom they are assigned are very able, experienced prosecutors, and that they will make their best judgments as to what recommendations to make.

Senator REED. Thank you very much.

Let me, again, share the concern illustrated by the questions of Senator McCain and Senator Levin with the need to clarify after *Hamdan*, the status of the application of military law to these procedures for detainees. I think, Mr. Jimenez and Mr. Cohen, your responses were appropriate, in terms of using, as the starting point, the UCMJ, and making appropriate modifications, and letting Congress do that, as it must, after *Hamdan*. So, I thank you.

Mr. Chairman, thank you very much.

Chairman WARNER. Thank you, Senator Reed.

Senator Nelson, why don't you proceed?

Senator BILL NELSON. Mr. Chairman, thank you.

Chairman WARNER. You bet.

Senator BILL NELSON. Thank all of you, ladies and gentlemen, for offering yourself for public service.

I would add my comments, as well, for the two nominees to general counsel, of using the UCMJ as the starting framework for the procedures. I think the line of questioning of Senator McCain is quite obvious, and someone who, without a doubt, has the credentials to ask those questions. America is different, and America is a place where we are known by our standards and our values. That often goes back to the Good Book in the statement that is issued upon which all the law and—is built upon, which is, "Treat others as you want to be treated." That has found its way into the Geneva Convention, and it's found its way into the procedures of the UCMJ. So, I would echo the comments of Senator McCain and Senator Reed.

I want to take a different tack, and I thank you all for offering yourself for public service. Each of you had a distinguished career before arriving at this table. Now we have the obligation, as well as the privilege, of the checks and balances of our Government, of overseeing the executive branch and inquiring, of you, things that are concerning to us regarding the positions that you're about to enter.

So, with regard to Dr. McQueary and Ms. Payton, I wanted to let you all know that recently I met with General Carlson, who is the head of the Air Force Materiel Command. He wanted to alert me as to a proposed Air Force effort to cut the test and evaluation budget by $581 million. He was given—I think it was $1.5 billion that he had to cut in his bailiwick. He came up with part of that, roughly a third of it, he was going to deactivate the 46th Test Wing and close a number of sophisticated testing facilities that happened to end up in my State. Now, it's not only the reason that it's my State of Florida that I'm asking these questions, but I'm looking at the efficiency and the ultimate cost of this proposed cut. Obviously, we understand the importance of testing and evaluation facilities, and that's especially important to the modernization of the Air Force and the safety of our military personnel.

So, one example is that the Air Force, in this proposal that was shared with me by General Carlson, was that you shut down the McKinley Climatic Test Lab. It happens to be the world's largest environmental test chamber in which aircraft and vehicles and tents and a bunch of systems are subjected to extreme temperatures, to sandstorms, to rainstorms, and many other conditions. Those systems range from the B–2 to the F–22 to the Joint Strike Fighter to the Terminal High Altitude Defense missile, and they've all passed through, or will pass through, for testing there to consider how they stand up.

Now, you shut that thing down, and I'm wondering if the Air Force is getting around to the idea, "Well, if you want to test for cold, send it to Greenland, or if you want to test for hot, send it to the desert." The climatic lab is about controlled test conditions, it's about cost savings, and it's about reduction of risks associated with overseas testing. By the way, as I have looked into this, I've found out that the lab is booked with reservations through 2011. Now, that sounds rather cost effective to me. It doesn't sound like closing it makes much sense.

What I'm concerned about—and I shared some of this with General Carlson, but he's got a rigid requirement that he has to find $1.5 billion. Obviously, my question is, is that the best place, in a big, big Air Force, to find these savings? I'm concerned about the drastic reduction of Air Force test and evaluation. Is it going to be shortsighted, and is it going to end up delaying important Air Force acquisition programs? Is it going to end up increasing costs to taxpayers?

So, I want to ask the two of you, are you aware of these Air Force proposals to cut?

Doctor?

Dr. MCQUEARY. Sir, I am not aware of the specific case that you're talking about. I have never been to McKinley and the Climatic Test Range. I have been a participant in using Eglin before, so I'm familiar with what goes on there, to a degree. I'm not familiar with it, but I'll be happy to agree to look into the issue, early on, because, certainly in this position that I'm being considered for, "OT&E" are the key words in the descriptive title, and that must be an important consideration in determining whether systems are ready to be fielded or not.

Senator BILL NELSON. Ms. Payton.

Ms. PAYTON. Senator Nelson, thank you very much for enlightening me on this. I have not heard of this. I started my career, back in the early 1980s, in test and evaluation of spacecraft systems. You launch them, and you cannot retrieve them, for the most part. So, test and evaluation is an extremely important part of the life cycle of the acquisition of major weapons systems. If confirmed, I will make this one of my high-priority items to understand the cost trades and the business case analysis that's behind this.

Thank you.

Senator BILL NELSON. Thank you both for your responses. Clearly, you're aware of it now. I would like for you to look into these proposals, and I'd like for you to provide this committee with your personal professional analysis, conclusions, and recommendations on the potential impacts on the Air Force and DOD testing evaluation and our broader modernization. Specifically, I'd like you to assess the cost and risk to our developmental testing industrial base.

By the way, I would like you both to join me in visiting the facilities at Eglin, and to meet some of the highly qualified experts that are involved in these testing activities.

Mr. Chairman, I'm trying to get out ahead of this enough so that we're not looking back at this as a done deal that may not be in the interest of DOD, as a whole.

I would also recommend to you that you visit the other facilities proposed for closure, in Tennessee, New Mexico, and California.

I want to ask you one more question. If we step back with the Air Force trying to develop and deploy advanced systems like the F–35, the small-diameter bomb, certain space systems, are you concerned that the Air Force is greatly reducing its overall investments in test and evaluation?

Doctor.

Dr. MCQUEARY. Sir, I spent all of my business professional career before joining the Government doing operational tests, design-development operational testing. So, there is no question that the

operational testing near the end of completion of a program is absolutely essential to assure that a system will work properly and be used in an effective way by those service men and women who will be chartered with risking their lives at times, and using it.

Ms. PAYTON. I certainly do agree with what Dr. McQueary just said. Relative to the small-diameter bomb, that particular munition could be the most transformational capability that we will have in our arsenal. The amount of collateral damage and innocent lives that can be spared by that small-diameter bomb can be immense, and the cleanup after war will also be mitigated. So, I am especially interested in the small-diameter bomb and the focused lethality that it can bring to our warfighter. I will do everything to make sure it's tested properly.

Senator BILL NELSON. Mr. Chairman, I would note, for the record, in Ms. Payton's written answers to questions that had been supplied to the committee in advance of this hearing, in response to the question, "What are your views on the importance of accurately projecting future test facility instrumentation requirements and budgeting for these needs?" that Ms. Payton's answer is, "In my experience, test facilities are a very important contributor to the ability to field capable, proven weapons systems for our warfighters. We need to do a good job of protecting the test capabilities our future systems will require to ensure that they are in place to support thorough testing as part of the acquisitions process. We cannot permit test infrastructure shortfalls to delay acquisition programs."

So, given that, I'm looking forward to visiting the facilities with both of you on this very important decision. It's not the first time that things have been done for budgetary reasons. I just want to make sure we're not cutting off our nose to spite our face because somebody's been given an arbitrary number of dollars to whack out of their particular budget.

Thank you, Mr. Chairman.

Chairman WARNER. Thank you very much, Senator.

I shall ask each of you a question at this point in time.

First, Mr. Laufman, again, I profited greatly from the meeting that we had, and am greatly encouraged about the attitude that you have with regard to the mission to which the President has selected you to perform. I certainly wish you luck.

Mr. LAUFMAN. Thank you, sir.

Chairman WARNER. It's an important department. Having served in that department myself for many years, I recognize the complexity and how the IG's office can play a pivotal role for the Secretary and his subordinates, as well as all who are dedicating their careers to making that department work more efficiently. So, thank you and your family for taking this on.

Mr. LAUFMAN. Thank you, sir.

Chairman WARNER. My question is more or less on oversight, and that is, this committee is concerned about the delays in completing many of the investigations—that is, by your predecessor—and the effective management controls within your office. You indicated, I think quite wisely, in your advance questions, that your audit resources may be insufficient to meet your statutory obligations and that the IG "may lack sufficient resources to conduct nec-

essary in-theater audit and investigative activity in Iraq and Afghanistan."

Now, this committee wants to help you, and we hope that you will not hesitate a minute in coming to the committee for such assistance as this committee may be able to give you in alleviating what you perceive are serious infrastructure deficiencies; thereby, enabling you and your staff not to perform the missions required. Do you wish to amplify on the answers that you put in the record? If not, they will just stand as they are. They're very clear.

Mr. LAUFMAN. Only to say, Senator, that I can think of no area where we should seek to concentrate our efforts more than on making sure that we are providing all the necessary resources to the Armed Forces that are currently deployed and are at risk in Iraq and Afghanistan.

Chairman WARNER. Got it.

Mr. LAUFMAN. If we reach a determination early on that we, as an IG's office, if I'm confirmed, lack the necessary auditor investigative resources, it will be my priority to bring that to the committee's attention, to the leadership of DOD, and to correct that imbalance as soon as possible so that we can fulfill our statutory obligations.

Chairman WARNER. Good. All right. We'd like to have you note within 3 months or so, send a memorandum over to the committee, would you please, on your current status after you've had that period of time to make further assessments?

Mr. LAUFMAN. Yes, sir.

Chairman WARNER. At that time, I will have stepped down as chairman, under our 6-year rule, but the fine gentleman on my right here, Senator McCain, is hopefully going to be the next chairman. I know this is an area in which he shares my concern, that you must be adequately staffed to do your job. I presume, Senator Levin, you join us on that.

Senator LEVIN. I would, either as ranking member, with Senator McCain, or as chairman of the committee. So—[Laughter.]

In any event, this——

Chairman WARNER. Well, that's nice.

Senator LEVIN. Our current chairman is as good as they get. They don't come any better.

Chairman WARNER. I said 90 days. That won't happen in 90 days.

Senator LEVIN. You said Senator McCain would hopefully become chairman.

Chairman WARNER. Oh, yes, chairman to carry through with such reforms as he might recommend.

Senator LEVIN. I only heard the word "hopefully."

Chairman WARNER. You have the record——

Senator LEVIN. I didn't hear the rest of it.

Chairman WARNER. You've stated your case. [Laughter.]

We've been together for 28 years, and it's been a remarkable partnership for the two of us to work together on this committee. We both started at the end seat on this long dais. It took us 28 years to get up here, and we've been——

Senator LEVIN. I actually fell off that twice, it was so far out there. [Laughter.]

Chairman WARNER. All right. Now, Mr. Tobey, in your answers to the questions the committee sent to you in the hearing this morning—I go through these answers; I think they're very important—you stated that you would seek to ensure the defense nuclear nonproliferation programs are guided strategically to address new challenges and opportunities to prevent proliferation, including new approaches and work within new countries. It was a very good response, by the way. Are there countries of proliferation concern where you'd like to initiate or expand on cooperative nonproliferation activities?

Mr. TOBEY. Thank you, Senator.

We have expanded our nonproliferation effort beyond former Soviet states. We've worked in Libya and Iraq. I think those efforts need to be ongoing. I know that there have been discussions with, for example, China to try and improve nuclear security there. I'm hopeful that the demonstration project that they've undertaken there can actually be applied more widely within the Chinese system. I'd also note that President Bush and President Putin agreed to a global initiative to combat nuclear terrorism over the weekend.

Chairman WARNER. Yes, that was a very encouraging announcement by both countries.

Mr. TOBEY. I think it really does pave the way to some important progress, because it will allow us to broaden some of the efforts that have occurred, or taken place, in former Soviet states. In terms of securing nuclear material, to other states, and we would hope to encourage other states to adopt best practices. These may not necessarily involve exactly the same programs that have been undertaken in former Soviet states, but I think we can build on the experience that we've had with former Soviet states to improve security of proliferation-sensitive materials worldwide.

Chairman WARNER. I thank you. Going on to other areas regarding Russia, do you think there's some unaddressed proliferation threats that should be the focus of further of U.S./Russian cooperation? I had some modest experience in that area, myself, when I was Secretary of the Navy and negotiated the Incidents at Sea agreement, and I got to know the senior officials of the Soviet Union, and I have followed carefully, in my career here in the Senate, the evolution from the Soviet Union to today. Russia is a proud and strong nation in this world. But the vastness of the activities of the former Soviet Union in an area utilizing fissile material for all types and forms of weapons, I just want to make certain that we know, and the Russians know, the full extent of those programs and what could remain out there that could possibly find its way into further proliferation of weapons of mass destruction, with or without—well, presumably, let's say, just without the knowledge of the current Russian Government.

Mr. TOBEY. I think that's an excellent question Senator. I think it's one that's worth continuing to ask. My impression is that the broad categories of proliferation-sensitive material are covered by U.S. programs. Now, your question also, if I understood correctly, included the component about whether or not we've completed our efforts, and we have not, yet.

Chairman WARNER. At least they've been identified. I'm more concerned, are there other unidentified areas? Not that Russia is

trying to conceal it, but—again, I was in a position, in those days, to get some real insight into the magnitude and diversity of their utilization of fissile material for the purpose of weaponry. I think, certainly, the Nunn-Lugar program—and I was on this committee when that program was initiated by those two fine individuals—has gone a long way. But it's like everything else, you turn over a new leaf, and you find something that you just didn't know existed. Given your extraordinary background, I'm certain that you'll keep a watchful eye on that.

Mr. TOBEY. I'll do my best, Senator.

Chairman WARNER. Good.

Mr. Wilkie, we're fortunate, as a Congress, to have you once again step up and take on public service. You draw on a remarkable background of experience and personal associations with former and current Members of the Senate. I think Senator Levin and I would acknowledge we've been here a long time, but that opening statement by Senator Lott was certainly extraordinary in its commendation of you as an individual.

Mr. WILKIE. Thank you, sir.

Chairman WARNER. I share and respect Senator Lott's views.

Again, having served in that position—not in that position, but in the Pentagon, myself, I remember the Secretary, on a weekly basis, used to come around and ask his service secretaries, "Have you answered all of the congressional mail?" We used to have a report that we had to file, my recollection, on a weekly basis of what the outstanding congressional mail and acknowledgment, or lack thereof, by the Department. Now, I just hope that you can work—I think anything can be improved, and your predecessor, I believe, worked very hard at it, but the challenge is still there. These are most extraordinary times in world history. We only need to go out and turn on the television now to see what the problems are. Your Department—and I say "your"—DOD is right in the mainstream of these worldwide problems.

So, just if you'll nod your head, or do you have some specifics you want to share with the committee——

Mr. WILKIE. Yes, sir, you mentioned my previous associations. I was always told by Senator Helms that there was a reason that the framers put the congressional article as the first article of the Constitution, and that was beaten into my head from a very early time in the beginning of my service here.

Chairman WARNER. That's quite interesting.

Mr. WILKIE. I think it's absolutely vital, in a time of war, that there be a strong partnership between DOD and Congress, and that has nothing to do with partisanship. That means making sure that questions are answered and that leads to soldiers, sailors, marines, and airmen having everything that they need to carry on the fight.

You mentioned something that seems very simple, and that is getting correspondence answered. Well, we have put in place, once again, that weekly report to the Secretary. I've done that in my current position as the Principal Deputy. I am very fortunate, in that regard, to have very outstanding people within the office who also appreciate what Dan Stanley appreciated, that the Department—and the Secretary would agree—has not been fast enough in

responding to congressional inquiries so that the program that was in place during your service with President Nixon and Secretary Laird is back. Mr. Rumsfeld receives that report every week.

Chairman WARNER. Thank you very much. I wish you luck.

For Dr. McQueary, the committee has been reviewing the role of OT&E in supporting rapid fielding and evolving acquisition strategies. In your response to advance questions of the committee, you note that the OT&E challenge is becoming more involved in below-threshold operational testing for equipment such as helmets, armor, and ammunition.

I cannot stress to you the importance of staying on top of that one, because many members, fortunately, receive queries from their constituents on the question of the current inventory, and perhaps lack of an adequate inventory, of those very fundamental things that any warrior needs when he or she goes into the field of combat and make sure that you've tested this equipment. Do you have any new ideas of how you're going to approach that?

Dr. MCQUEARY. Sir, I don't have any new ideas. I have had a short briefing on the helmet issue, so I have some understanding of what the issue is, but I don't have a proposed solution today.

I do believe that an important adjunct to the position, the OT&E position, may be to get more heavily engaged in programs, particularly those that could affect the lives of our men and women who are in the Services, even though those programs may be below the financial threshold that would be set. I would put that as an item that, if I am confirmed in the position, I'd put it high on my priority list to seek approval from the Secretary and Congress that that be included as a part of our responsibilities.

Chairman WARNER. Let me make sure of that. In other words of that, you want a formal role in testing force production equipment? That is a formal role.

Dr. MCQUEARY. I think it would be appropriate, yes, sir, at least for us to have an oversight role to provide inputs to the Secretary and to Congress as to whether adequate testing has been done on such equipment.

Chairman WARNER. Well, it's not too late for this committee to look into it in the context of a conference report. Perhaps I'll ask my staff to confer with you further, and let's see what we might elect to do in the course of the conference.

Dr. MCQUEARY. Thank you.

Chairman WARNER. Ms. Payton, the committee is concerned about the adequacy of senior-level management technical and functional executives in the civilian workforce, particularly in the areas of acquisition. As you well know from your own personal experience, there are many opportunities on the outside of the Pentagon in which the remuneration and other benefits are very enticing. Do you think you have enough in the senior executives to keep pace with the Department's responsibilities in this acquisition?

Ms. PAYTON. Thank you very much for that question, Senator Warner. I know that Secretary Wynne has great concern that the acquisition workforce needs to be strengthened and it needs to grow. I have those concerns, as well, and I also, in my opening statement, remarked that if someone is accountable and responsible, then they must have the authority to stop requirements

creep, to identify technologies that are not mature and should not be part of the design. From my building of teams over the years, I believe what's very important for our acquisition workforce is to make sure that they have the structure that will allow them to flourish and that will allow them to be proud of the job they're doing and be recognized. So, I very much look forward, if confirmed, to tackling these issues with the acquisition workforce and to grow a stronger acquisition workforce.

Chairman WARNER. Well, we wish you luck.

Ms. PAYTON. Thank you, sir.

Chairman WARNER. We wish you luck. Because this is an area in which Senator McCain has devoted a great deal of his time. My guess is that he will continue that devotion.

Ms. PAYTON. I very much look forward to that. Luck is a great thing, but support from Congress and within the Department will also be very important in this.

Chairman WARNER. Now to our two counsels here, Mr. Jimenez and Mr. Cohen. First, as you reflect on today's hearing and the questions put and the answers that you provided, the record will remain open until the close of business today if either of you wish to supplement your responses. That's true of any of the witnesses, but particularly these two. I simply tried to bring some clarification, and I will check the record on that one point, and provide it to you, as to what those witnesses—certainly what the record reflects.

So, my question to you is, not unlike the question to the others, do we have enough young people—or people coming up through the system in the attorney field to do the work that's going to be required in your respective jobs, if confirmed? Now, you can answer that for the record or wait until you get in to your job. But if you have any current assessment, we'd like to know, on the committee.

Mr. JIMENEZ. Mr. Chairman, the Office of Navy General Counsel has over 600 attorneys in over 100 locations worldwide. I do believe that that is a sufficient end strength, so to speak, for the office. I wouldn't recommend any cuts, necessarily, but I think we do have sufficient staffing at this time.

Chairman WARNER. Good.

Mr. COHEN. Mr. Chairman, it's my understanding, and certainly my experience when I was at DOD General Counsel's Office, that the Army General Counsel and Office of the Judge Advocates General have sufficient resources, but, as you mentioned earlier, everything is capable of improvement, and we certainly need to continue monitoring whether we have the resources required to deliver legal services to the Army community.

Chairman WARNER. Good. Thank you very much. We want this committee to give you such support as you need.

Finally, Ms. Blair, in responses you provided to the committee's policy questions, you indicated that you have worked with Navy medicine to address challenges in medical recruiting and retention. It would appear that this problem was not adequately foreseen and responded to. Give us your assessment of Navy and Reserve recruiting and retention in doctors, dentists, and nurses and what steps you might take to cure any deficiencies.

Ms. BLAIR. Mr. Chairman, in the Department of the Navy, Navy Medicine, like the other two Services, has been challenged by the need for enough highly qualified medical personnel to be able to meet the demands of the force, and particularly for Navy medicine, because we have forward operating demands, as well as the need to provide medical care for families and all the folks back home. There have been shortages in various communities. Nurses and dentists strike me as two areas where we have particular shortages. Most of the efforts to attract and retain medical personnel have focused on bonuses, whether they be recruitment bonuses or retention bonuses. Other areas in which we have offered economic incentives are to provide assistance with payment of loans, to provide medical scholarships, and so forth.

I can assure you that these problems have the attention not only of the medical community, but also of the leadership in the Department of the Navy, generally. Our Marine Corps is also involved in this, because they have a big interest here, too.

So, we are proceeding with those——

Chairman WARNER. Why don't you address the Air Force, too. That'll be your specific responsibility?

Ms. BLAIR. Well, sir, I am obviously a lot less familiar with the Air Force, but I'm sure that some of the same issues are probably present over there. I would like to defer any detailed analysis of the Air Force until I might have a chance to look into it in detail.

Chairman WARNER. Well, I think that's wise.

All right. I thank you. Since we've all talked about our families, I'm so proud of the fact that my father was a young Army captain surgeon who fought in World War I in the trenches and was wounded and cared for thousands of others who, likewise, bore the wounds of that frightful conflict.

Ms. BLAIR. Yes, sir.

Chairman WARNER. I have always been, as a member of the committee here, very strong in making sure that the medical resources of the military department are adequate. I thank you for your stepping up to your public service.

That concludes the questions I might propound. We'll keep the record open. I may desire to put a question or two out before the close of business today, because we've had a very comprehensive hearing, we've had a lot of witnesses.

Senator Levin, if you have further matters——

Senator LEVIN. I do. Thank you.

I'd like to just pick up where I left off with the two lawyers that are up for general counsel positions.

I'd like to ask each of you, what do you believe the policy is, and should be, if there's any difference, about military members appearing at partisan events in uniform? There is an issue that was raised, because a couple of marines appeared in uniform at a Republican event in Colorado. This led to a number of newspaper articles. Without getting into facts or details, just tell us in terms of what the policy is and should be.

Mr. JIMENEZ. Thank you, Senator Levin. Yes, without commenting on that incident, since I don't know the details, there is a DOD policy that covers this issue. I agree with that policy. It generally

prohibits the wearing of uniforms at partisan events or events in which the appearance of partisanship might be apparent.

Senator LEVIN. Mr. Cohen.

Mr. COHEN. Senator, that's also my understanding of DOD policy, and it seems entirely appropriate.

Senator LEVIN. Okay, thank you.

Mr. Laufman, after September 11, the Department of Justice detained a significant number of foreigners (approximately 900) inside the United States. Now, these detainees had nothing to do with the al Qaeda or Taliban detainees which were held at Guantanamo. These were foreign citizens in the United States who were detained on the basis of suspected immigration violations. I want to emphasize that point. None was ever found to have had any connection with September 11.

Senior Justice Department officials assured Congress that these detainees were being held in accordance with applicable law. Michael Chertoff, who was then the Assistant Attorney General for the Criminal Division, testified, in December 2001, that, "Nobody is held incommunicado. We don't hold people in secret, cut off from lawyers, cut off from the public, cut off from their families and friends. They have the right to communicate with the outside world. We don't stop them from doing that."

However, the Department of Justice IG subsequently found that access to counsel was denied to many detainees, sometimes for prolonged periods. Communications blackouts lasting from several days to several weeks were imposed on some detainees. Even when there was no blackout, many detainees were only allowed one phone call to a lawyer per week.

The IG of the Department of Justice, in reviewing this matter, found that you, personally, as the chief of staff to the Deputy Attorney General, played a role in this practice. In particular, the Department of Justice IG reported that you called the Director of the Bureau of Prisons (BOP), and she stated that you told her that she should not be in a hurry, in her words, to provide those detainees with access to communications, including calls to their lawyers and families. In other words, while senior Department of Justice officials publicly assured Congress and the American people that the right to counsel and the right to call your family and so forth would be protected, according to that IG report, you actively sought to undermine that stated position.

Was the Department of Justice IG's report fair and accurate in stating that you made those statements to the Bureau of Prisons?

Mr. LAUFMAN. I think the IG's report was accurate, but I think the IG's report also made it clear, both through its characterization of the statements I made to their investigators and its reporting of the statements that the then-BOP Director, Kathy Hawk Sawyer, made, that what we asked her to do was to evaluate what the legal limit was of her discretion under the regulations that govern BOP, and to exercise what unused latitude she might have, particularly in the days and weeks immediately after September 11, when we were seeking to stabilize the security situation and were concerned about another wave of attacks—to circumscribe, to the extent permissible under law, outside communications by terrorist detainees who might, for example, be communicating with confederates out-

side. We did not get into specific individuals or cases, but, at all times, we asked Ms. Sawyer—and I don't think she told the IG to the contrary—that we were only asking her to exercise that lawful discretion that she had under BOP regulations. At no time did she express any discomfort to us, either from a policy or a legal matter, about examining the use of additional discretion.

Senator LEVIN. It wasn't a matter of just examining discretion. According to the IG of the Department of Justice, you told her not to be in a hurry.

Mr. LAUFMAN. I think we asked her to use that unused——

Senator LEVIN. Were those your words, though?

Mr. LAUFMAN. I believe they were. It's many years ago, but I think the spirit of what I and my colleagues asked Ms. Hawks Sawyer to do, as we were seeking to utilize all Department of Justice resources in those perilous days after September 11, was to use what legal discretion we had under the rule of law—in this case it was BOP regulations—to maximize the security of the people of this country, consistent with the rule of law.

Senator LEVIN. Yes. These are alleged immigration violators, is that correct? Nine hundred, approximately?

Mr. LAUFMAN. We were not having conversations, as I recall it, with the BOP Director about immigration cases. We were focused on terrorist detainees, individuals who had been convicted of terrorism or terrorist-related crimes.

Senator LEVIN. That's the people you were talking to BOP about?

Mr. LAUFMAN. Our focus, at that time, was on individuals who were being held in BOP detention for terrorism-related offenses.

Senator LEVIN. How many people were there like that?

Mr. LAUFMAN. I don't know, sir.

Senator LEVIN. So, when you talked to her, you weren't referring to the approximately 900 people who were being held for immigration violations, unconnected to any allegations or prior convictions of terrorists or terrorist-related offenses.

Mr. LAUFMAN. I don't recall making that distinction. It is true, though, Senator, that, in some cases, individuals who were believed to be engaged in terrorist activity were initially detained on immigration offenses, if there was a legal basis to do so, until further investigation could be completed on the terrorism issue.

Senator LEVIN. But were these the only people you were referring to when you talked to her?

Mr. LAUFMAN. Our focus was on people who might be posing a security threat to the United States, yes, sir.

Senator LEVIN. Has it been the practice of the DOD IG to consult with the Secretary of Defense about authorizing investigations within the scope of section 8(b)(1) during the course of those investigations after they have been initiated with the Secretary's approval?

Mr. LAUFMAN. Your question is, has it been the practice of the IG?

Senator LEVIN. Yes.

Mr. LAUFMAN. I can't speak to what the prior incumbent did. I could only speak to what my understanding is as to what the statute would provide, or what good, sound practice would be if I'm confirmed.

Senator LEVIN. Is it your understanding, then, that, after such an investigation has been initiated by the IG, that the IG then continues to consult with DOD?

Mr. LAUFMAN. You're asking about consultation——

Senator LEVIN. Just on section 8(b)(1) investigations.

Mr. LAUFMAN. National security related investigations.

Senator LEVIN. Right.

Mr. LAUFMAN. I think, in that category, Senator, since Congress explicitly, in the statute, gave the Secretary more direct control, it probably would be more appropriate for there to be a greater amount of consultation on those sensitive matters. But I would go on to say that that consultation should not go so far as to infringe on the letter or spirit of the independence that the IG should continue to exercise. But, in those sensitive areas that Congress delineated, I do think it's appropriate for there to be some greater interaction between the IG and the Secretary. What that is will have to be examined with prudence and care on a case-by-case basis.

Senator LEVIN. You believe that interaction between the IG and DOD and those cases continues after the DOD has authorized the section 8(b)(1) investigation to begin?

Mr. LAUFMAN. If the IG, according to my reading of the statute, has initiated an investigation into any of those intelligence- or sensitive-related matters, there may be times where it is appropriate for the IG to consult some member of the Secretary's office, or other senior official, as appropriate, to report on some circumstance that merits their attention. I don't think it ought to be necessarily a running dialogue, but it could be that those areas that implicate operational considerations or other matters that may be appropriate to bring to the Secretary's attention. It ought not necessarily affect the actual ultimate findings or recommendations of the IG, but it does seem to me, given the way the statute is written, that some greater consultation is probably appropriate in those areas.

Senator LEVIN. Do you believe that the IG has a statutory obligation to consult with the Secretary of Defense regarding the findings and recommendations of those investigations prior to issuing a report?

Mr. LAUFMAN. With respect to the national security related investigations?

Senator LEVIN. Yes.

Mr. LAUFMAN. I think it is probably a fair reading of the statute to construe an obligation on the part of the IG to consult with respect to findings on those matters. Again, because of the carve-out that Congress created for those matters, it would seem to be inconsistent not to ask the IG to provide that measure of communication to senior officials.

Senator LEVIN. Prior to issuing the report.

Mr. LAUFMAN. Prior to issuing the report. But I would add, too, that that does not mean that the IG should trim the sails of any findings or recommendations. It may, in that respect, be more of an advisory consultation, as opposed to an invitation to alter findings and recommendations.

Senator LEVIN. It may not be an invitation to alter it, but it sure as heck is the opening to have DOD recommend changes in the re-

port. I'm curious, though, about your statement that there's an obligation to consult.

Mr. LAUFMAN. Senator, it's my reading of the statute. It's clear that Congress took a different approach.

Senator LEVIN. No, I understand that. It is a different approach on these. But, in terms of obligation—after the investigation is initiated, that you find that there's an obligation to consult with DOD prior to issuing findings from an IG in those areas. That's what your reading of the statute is?

Mr. LAUFMAN. Based on my reading of the statute, it seems to me that Congress intended there to be a different kind of relationship between the IG and the Secretary in those matters that Congress delineated in the statute. How that is made operational, I think, is going to depend on the prudence and judgment of the IG, the particular matter at hand, and whether the findings or potential recommendations are such as may get into areas that are of particular proprietary concern to operational commanders or intelligence issues where some greater cross-communication is prudent.

Senator LEVIN. My question, however, is that, in your answers to our questions, you said there's an obligation in every report, in those areas, to consult with the Secretary of Defense before that report is issued, in those section 8(b)(1) areas.

Mr. LAUFMAN. Well, I don't know if I could say that with respect to every report. But, from a 30,000-foot view, it does seem to me, as a general proposition, that the statute—not explicitly, but this is how I read the statute—places on the IG an obligation to engage in greater consultation in those sensitive areas. Yes, sir.

Senator LEVIN. Have you had any discussions about this matter with DOD?

Mr. LAUFMAN. No, sir.

Senator LEVIN. Or the White House?

Mr. LAUFMAN. No, sir.

Senator LEVIN. Have you discussed any pending IG investigation with DOD or the White House?

Mr. LAUFMAN. No, sir.

Senator LEVIN. Have you talked to the Acting IG about your view that there is such an obligation to involve the Secretary of Defense, through consultation, in findings of an IG, after the IG has been authorized by the Secretary of Defense to proceed with the investigation?

Mr. LAUFMAN. I've had no conversations with him. I did transmit my draft answers to the committee's questions, and received no feedback, as best as I recall, on that issue, at least none that I recall now.

Senator LEVIN. Was that answer to the question then basically that you believe the IG has a statutory obligation to consult with the Secretary of Defense regarding findings and recommendations of those investigations prior to issuing a report? Was that then bounced off the Acting IG?

Mr. LAUFMAN. I think I submitted a written answer, substantially identical to what you read as part of the package of answers so I could elicit feedback from the IG's office——

Senator LEVIN. And received no feedback on that matter?

Mr. LAUFMAN. I don't recall receiving it.

Senator LEVIN. So, you don't know if that has been the practice of the current IG or not, or the previous IGs?

Mr. LAUFMAN. I really don't, Senator. All I can do is do my best as a lawyer to read a statute. As I say, that particular portion of the IG act seems to be, as a matter of statutory construction, one that Congress took a different approach in, and that's the basis for my views today, sir.

Senator LEVIN. Yes, we did, indeed. It has to do with authorizing those investigations and making sure that DOD authorizes any such investigation. But I don't believe it has been the practice of the IGs to consult with DOD, or to feel obligated to consult with DOD, relative to those findings following those investigations, because to do so would be a real impingement on the independence of the IG. It is these IGs that we rely upon for independent findings in investigations. If you're proposing a practice—and I say "if," and I believe you are—that is different from any that has been followed before by any IG, I believe that you are, in fact, proposing a practice which will impinge upon that independence. So, that's why I am very surprised by your answer. I think it is different from the prior practice, and I think it represents a departure, in terms of the independence of the IG.

Mr. LAUFMAN. I appreciate your concern, Senator. I will say—and I hope it's been made clear through my answers and opening statement today—that the independence of the IG is going to be, first and foremost, a guiding principle for me, and I do not anticipate taking any course of action that infringes on the actual independence of the IG. If, for example, I were to consult, if confirmed, with someone in the Secretary's office, I think it would be appropriate—and I think I made this clear in my answers—that the nature and circumstances of those consultations should be memorialized in a report if they had any bearing whatsoever on findings and recommendations, so there would be—and I would insist on—a measure of transparency that would, I think, preserve, in the committee's view, the confidence that it reposes in the independence of the IG.

Senator LEVIN. Do you know about how many section 8(b)(1) investigations are currently underway at the IG's office?

Mr. LAUFMAN. I do not, sir.

Senator LEVIN. Ms. Payton, at a committee hearing 2 years ago, a senior Air Force acquisition official testified that in the 1990s not only did we go through a very serious restructuring of our forces in drawdown, but we also went through a major acquisition reform that took much of the oversight and took much of the checks and balances out. Secretary Wynne has attributed some of these problems to the depletion of the acquisition workforce over the last decade. In his previous capacity as Under Secretary of Defense for Acquisition, Secretary Wynne told our committee that "I believe we're at the point where any further reductions in the defense acquisition workforce will adversely impact our ability to successfully execute a growing workload. The numbers are startling," he said. "The defense acquisition workforce has been downsized by roughly half since 1990, while the contract dollars have roughly doubled during the same period. We need to continue to renew and restore the defense acquisition workforce. Now, more than ever, I believe we

need to increase the size of the acquisition workforce to handle the growing workload, especially as retirements increase in the coming years."

Do you share Secretary Wynne's concerns about the acquisition workforce?

Ms. PAYTON. Senator Levin, I more than share Secretary Wynne's concern. Any organization that I've ever gone to and then left has improved, and it will be one of my number-one goals to look at the acquisition workforce, to look at the skill levels, to look at the numbers, and to determine the best way ahead to strengthen our acquisition workforce.

Senator LEVIN. Thank you. The acquisition of contract services has been often neglected by senior DOD acquisition officials who spend a majority of their time on the major weapons system. As a result, we continue to spend billions of dollars for contract services without adequate assurance that we are getting our money's worth. If confirmed, will you make it a top priority to improve the management of contract services by the Department of the Air Force?

Ms. PAYTON. Senator, if confirmed, this will be one of my top priority items. When I was in industry, I was under a services' contract. There were milestones to meet. There were deliverables to meet. I believe that we need to examine this issue and determine the right way ahead again. If confirmed, it will be one of my top priorities.

Senator LEVIN. Thank you.

Mr. Tobey, last week the Nuclear Threat Initiative (NTI) issued the Atom Study, reviewing the progress of actions taken to reduce the possibility that nuclear or radioactive materials or nuclear weapons would be stolen. Much has been accomplished, but many of the sites and large quantities of material remain unsecured. I'd appreciate it if you would share your thoughts on how we address some of the problems highlighted in that report. For instance, the report states that two-thirds of the highly enriched uranium supplied by the United States to overseas research reactors is still not covered by agreements to take back the fuel and convert the reactors to safer, lower enriched uranium fuels. Is it possible to increase the quantity of highly enriched uranium fuels subject to takeback agreements? How would you go about that? Are you familiar with that NTI report?

Mr. TOBEY. Yes, Senator, I am familiar with the report.

Senator LEVIN. Can you just comment, perhaps, on that one recommendation, and any of the other recommendations that they made, as to how we can do better, in terms of securing materials at the many sites that remain unsecured?

Mr. TOBEY. Sure. With respect to your specific question, my understanding is that about two-thirds of material not being covered by takeback agreements actually resides in France and Germany, and is, therefore, a lower priority, in terms of our concerns about its safety and security.

I should say, though, that it's clear that preventing the spread of nuclear weapons is a complex and vital issue, and I'd expect there to be criticism and advice with respect to the job we're doing to deal with the proliferation. It would be my intention, if confirmed, to try and use that criticism and advice to improve our ef-

forts. So, I welcome the report. I intend to talk to the report's authors. I've studied it over the weekend, as it just came out last week.

I would also note that from my reading of the report, the three principal recommendations were to: one, launch a global coalition to prevent nuclear terrorism; two, forge effective global security standards; and three, accelerate removal of weapons-usable material. I think, actually, we're doing much of what was encouraged in the report. For example, the initiative announced by Presidents Bush and Putin over the weekend, I think, will do much to accomplish the first two recommendations.

Senator LEVIN. I think the chairman has asked you about that already, and we appreciate that.

Mr. Wilkie, this relates to a pre-hearing policy question as to an e-mail of more than 75 pages of information your office sent to a number of congressional offices in connection with the debate in the Senate on certain amendments relating to Iraq recently. You said that the Department routinely prepares position papers and statements of policy for use by Congress. This was an effort by the Department in the National Security Council. Are you familiar with that 75-page e-mail?

Mr. WILKIE. Yes, sir.

Senator LEVIN. Was that sent to all the offices?

Mr. WILKIE. The instructions, sir, were to have the document sent to the communications list that we had in our office. That means the Republican Policy Committee, the Democratic Policy Committee, the leadership offices. What happened within an hour of that e-mail being sent out, the individual in the office who pushed the button on the computer started to receive a whole host of administrative errors. We cleaned up that list, and, within an hour, we not only re-sent the document to your office, to Ms. Pelosi's office, but we cleaned up the list. It was a strange list. I don't know how, to be honest with you, the U.S. Embassy in Belgium ended up on that communications list, but that was one of the administrative errors, but the rest of that day, we sent the document out to anyone who requested it, both in the press and also any congressional offices that had not received it through their leadership chain.

Senator LEVIN. So, the document that I'm referring to was sent to too broad of a list or an inaccurate list, but the same document was then sent to our leadership on both sides of the aisle?

Mr. WILKIE. Yes, sir.

Senator LEVIN. There were some quotes in that draft that—where you quoted, I believe, "only Democrats." Are you familiar with that?

Mr. WILKIE. I know that there were, I think, two pages of quotes that were placed into that document that quoted members of the Democratic Party, yes, sir.

Senator LEVIN. Do you know why it was limited to Democrats?

Mr. WILKIE. I think the authors of the product believed that those quotes were in support of the position that the administration took. The talking points that were included in that document, they were compilations of talking points that the President, the Secretary, and, I believe, the Vice President had used. So, those

talking points were certainly the product of the President, the Vice President, and the Secretary.

Senator LEVIN. Who were the authors?

Mr. WILKIE. The authors, if you could use that term, sir, people just collected talking points. The National Security Council (NSC) provided them. The Department provided them, and those were put together in that document.

Senator LEVIN. Not by your office?

Mr. WILKIE. We did collate the documents that were handed to us by the NSC. We sent it back to the White House and the NSC, and they sent it back to us for distribution.

Senator LEVIN. Thank you.

Thank you, Mr. Chairman.

Thank you all.

Chairman WARNER. Thank you, Senator Levin. I think we have very thoroughly examined this distinguished panel. I compliment the President and other members of the administration for working to see that these nominations were brought to Congress—that is, the Senate, specifically, under the advise and consent provisions—very expeditiously. It is my hope and expectation that our committee can act expeditiously on this panel and seek confirmation of the full Senate prior to the August recess. We have that as our goal.

Senator LEVIN. Mr. Chairman, if the record could be kept open for additional questions, it would be appreciated.

Chairman WARNER. I announced earlier we'd keep the record open through the close of business today. Do you wish a longer period?

Senator LEVIN. I think it would be better if perhaps we kept it open through close of business on Thursday, that would be good.

Chairman WARNER. Fine. We'll try to accommodate the Senator in that, for some point on Thursday, in the hopes that perhaps by Thursday afternoon we might address—could we make that, say, midday Thursday?

Senator LEVIN. Questions for the record? That would be fine.

Chairman WARNER. Fine. We'll examine those responses to questions to determine the ability to get those members of the panel who've complied through and confirmed.

I thank you, and the members of the family who joined us today, I appreciate your patience. I see some of our littler guests have departed, but I'll see that they get copies of the record.

Senator LEVIN. Mr. Chairman, also let me just thank you. This is a very large panel, an unusually large panel. Even though this has been a fairly long hearing, given the number of nominees, it's due, I think, to your organization and efficiency that we've been able to get through this many.

Chairman WARNER. Senator, it speaks to the good fortune that you and I have of an excellent professional staff, who, as you said, work together in a bipartisan way to achieve the goals of this committee.

This hearing is concluded.

[Whereupon, at 12:05 p.m., the committee adjourned.]

[Prepared questions submitted to Charles E. McQueary by Chairman Warner prior to the hearing with answers supplied follow:]

QUESTIONS AND RESPONSES

DEFENSE REFORMS

Question. The Goldwater-Nichols Department of Defense Reorganization Act of 1986 and the Special Operations reforms have strengthened the warfighting readiness of our Armed Forces. They have enhanced civilian control and clearly delineated the operational chain of command and the responsibilities and authorities of the combatant commanders, and the role of the Chairman of the Joint Chiefs of Staff. They have also clarified the responsibility of the military departments to recruit, organize, train, equip, and maintain forces for assignment to the combatant commanders.

Do you see the need for modifications of any Goldwater-Nichols Act provisions?

Answer. I see no need for modifications to any Goldwater-Nichols Act provision as I understand them.

Question. If so, what areas do you believe might be appropriate to address in these modifications?

Answer. N/A

DUTIES

Question. What is your understanding of the duties and functions of the Director of Operational Test and Evaluation (DOT&E)?

Answer. I understand that, if confirmed, my duties as DOT&E will be to serve as the principal advisor to the Secretary of Defense and Under Secretary of Defense for Acquisition, Technology, and Logistics as to the conduct of test and evaluation (T&E) within the Department and in formulating and implementing operational T&E policy. I would also be required to provide to Congress an annual report summarizing operational T&E activities, to include comments and recommendations on operational T&E resources and facilities, levels of funding made available for operational T&E activities. I would provide Beyond Low Rate Initial Production reports and respond to specific requests from Congress for information relating to operational T&E in the Department of Defense. If confirmed, my duties will include responsibility for prescribing policies and procedures for the conduct of operational T&E, providing guidance to and consultation with the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, and Logistics, and for monitoring and reviewing all operational and live-fire T&E within the Department. I would also be responsible for coordinating joint operational testing, review of and recommendations to the Secretary of Defense on all budgetary and financial matters relating to operational and live-fire T&E, including test facilities.

Question. What background and experience do you possess that you believe qualifies you to perform these duties?

Answer. Throughout my private industry career which began in 1966 and spanned 36 years, I have led various technical activities which involved research, development, test, and manufacture of systems to support the Department of Defense and other government agencies. Specifically, I spent 2 years on Kwajalein (1971–1973) as head of Missile Operations on the Safeguard Antiballistic Missile Program. Subsequently, I led a group which installed, operated, and provided training for an undersea surveillance system at an overseas location. This system successfully passed a Commander, Operational Test and Evaluation Force evaluation. I have led groups who designed, developed, and manufactured towed sonars for submarines, fiber optic undersea surveillance systems, fiber optic communication systems, and signal processing hardware and software.

In the final 10 years of my career, I had full profit and loss responsibility for those systems designed and developed by my organization.

Question. Do you believe that there are actions you need to take to enhance your ability to perform the duties of the DOT&E?

Answer. If confirmed, there are several steps I intend to take, to include becoming familiar with the various programs that DOT&E oversees, getting involved with the Military Departments' Operational Test Agencies, getting out to observe operational testing, and communicating routinely with Congress. I see the upcoming development of the Director's Annual Report as an opportunity to take many of these steps.

Question. Assuming you are confirmed, what duties and functions do you expect that the Secretary of Defense will assign to you?

Answer. If confirmed, I would expect that Secretary Rumsfeld would look to the Director to carry out duties as assigned by statute and regulation; in particular, advise and propose policies on all T&E activities, and funding/management of operational test facilities, test ranges, and other related issues.

MAJOR CHALLENGES

Question. In your view, what are the major challenges that will confront the DOT&E?

Answer. While I am still learning about the challenges that I will face if confirmed, I have formed some initial opinions. The long war on terrorism (LWOT) is making resources for adequate OT&E difficult to come by. Soldiers, sailors, airmen, and marines are in general either deployed into theater or training to return to theater. The Army and Marines are particularly affected.

The workload on the DOD T&E community has been steadily increasing without an increase in manning. The Operational Test Agencies are struggling in general, and DOT&E is also feeling the pinch. Increased demands stem from: complexity of systems, systems-of-systems testing, increased emphasis on information assurance and interoperability, involvement in rapid acquisition to support the LWOT, ACTD evaluations, joint and multi-service testing, new types of weapons systems (e.g., directed energy weapons), etc.

Operational realism incorporated during DT and the open sharing of DT data during development is essential to understanding system performance and progress and readiness for OT&E.

Question. If confirmed, what plans do you have for addressing these challenges?

Answer. My initial thoughts that I would follow-up on if confirmed are:

To forge a stronger bond between the test and training communities so that exercises or events can be phased to support both testing and training objectives.

To actively engage in the DOD Planning, Programming, and Budget Execution process to ensure organizations with designated responsibilities have the resources, including the manning with which to carry out those responsibilities.

To work with the Defense Acquisition Executive and the Service Secretaries to promote transparency and sharing of performance data early during development so OT&E is not perceived as threatening to a program.

Question. What do you consider to be the most serious problems in the performance of the functions of the DOT&E?

My initial thoughts are:

DOT&E and the OTAs are dependent upon the process for generating and validating requirements that are affordable and that will lead to ". . . quality products that satisfy user needs with measurable improvements in mission capability and operational support. . ." Getting the requirements right and reasonable with a well thought out rationale is essential for successful development and to demonstrate performance through adequate OT&E.

Developing acquisition strategies that include adequate OT&E to support procurement decisions, and, in today's environment, before decisions to deploy systems into combat is essential to ensure warfighters receive weapons that are operationally effective, suitable, survivable, and lethal.

Question. If confirmed, what management actions and timelines would you establish to address these problems?

Answer. If confirmed, I plan to meet with the Joint Requirements Oversight Council (JROC) Chairman, the Military Department Secretaries, and the DAE to address these issues within 30 days of taking office. I believe it is imperative that DOT&E participate in the topdown leadership structure of the Department. Providing advice to the requirements generation process as well as the development of acquisition strategies is part of that leadership.

RELATIONSHIPS

Question. If confirmed, how will you work with the following: the Secretary of Defense; the Deputy Secretary of Defense; the Under Secretary of Defense for Acquisition, Technology, and Logistics; the Under Secretary of Defense for Personnel and Readiness; the Director of Defense Research and Engineering; the Assistant Secretary of Defense for Networks and Information Integration; the Inspector General of the Department of Defense; the General Counsel of the Department of Defense; the Service and agency officials responsible for major acquisition programs; the Directors of the Services' T&E organizations; the JROC; and the Director of the Defense Test Resource Management Center (DTRMC).

Answer. The relationship of the Director with many of these offices is described or defined in regulation or policy documents. If confirmed, I intend to develop a rapport with these officials to ensure the interests of the public and the Department are served and Congress remains informed.

INDEPENDENCE AND OBJECTIVITY

Question. Congress established the position of Defense DOT&E as an independent and objective evaluator of the performance of major systems. Report language accompanying the National Defense Authorization Act for Fiscal Year 1984 (Public Law 98–94), which was codified as section 139 of title 10, U.S.C. states that "the Director [is] to be independent of other DOD officials below the Secretary of Defense" and "not circumscribed in any way by other officials in carrying out his duties." In describing the Director's duties, the report also noted an expectation that the Director "safeguard the integrity of operational testing and evaluation in general and with respect to specific major defense acquisition programs."

Can you assure the committee that, if confirmed, you will be independent and objective in your evaluations, and that you will provide your candid assessment of Major Defense Acquisition Programs to Congress?

Answer. Yes. I strongly believe independence to be crucial to objective testing and reporting. If confirmed, I intend to be independent and to provide candid assessments of all oversight programs to Congress.

Question. In your view, does the DOT&E have the necessary authorities under sections 139 and 2399 of title 10, U.S.C., and applicable departmental regulations to carry out the duties prescribed?

Answer. Yes, I believe the statutory authority presently ascribed to the position of DOT&E is sufficient to allow me to carry out the duties as director, if confirmed.

Question. Section 2399 of title 10, U.S.C., establishes certain requirements regarding the impartiality of contractor testing personnel and contracted for advisory and assistance services utilized with regard to the T&E of a system.

What is your view of these requirements?

Answer. I believe the key point is that we must test systems in the realistic environment in which they will be employed with the same maintenance and logistics structure that will support that system once fielded. If contractors are specifically intended to be part of that support structure, their participation in test is appropriate. Otherwise, their participation is not appropriate. In my view, section 2399 allows the flexibility to properly structure the operational testing, and properly provides for impartial contracted advisory and assistance services.

Question. How will you maintain independence from the often conflicting goals of the acquisition community and the mandates for necessary operational testing?

Answer. From DODD 5000.1,"The purpose of the acquisition system is to acquire quality products that satisfy user needs with measurable improvements to mission capability and operational support, in a timely manner, and at a reasonable price." I support this purpose. Improvement in mission capability cannot be measured without testing in relevant operational context. Independence is essential to ensure objective T&E reporting. The DOT&E authorities and responsibilities for OT&E and LFT&E, set out in title 10 U.S.C., establish that independence. I have reviewed DOT&E reports and found them to be fair and balanced. In the case of the Missile Defense Agency, in which DOT&E provides advice on DT, I also found the reporting to be unbiased and credible. If confirmed, I intend to maintain the credibility DOT&E has established over the years.

TEST AND EVALUATION FUNDING

Question. In the fiscal year 2007 budget request, the Air Force reduced T&E activities by nearly $400 million over the Future Years Defense Program, relative to projected budgets for this activity presented to Congress with the fiscal year 2006 budget request. Operating and investment budgets for Major Range and Test Facility Bases have been historically underfunded.

Do you believe that the Department's T&E function is adequately funded?

Answer. I am aware of a DSB finding that the T&E process is not adequately funded and notes that the age of the facilities and capabilities averages over 35 years, with some over 50 years old. Service T&E resources investment proportionately reflects the overall Service budgets. If confirmed, I will look closely at this issue as I believe that as the complexity of systems under test continues to grow, so must the investment in new T&E capability.

Question. What are your views about the importance of accurately projecting future test facility instrumentation requirements and budgeting for these needs?

Answer. In my view accurately projecting future T&E resources needs within a program's T&E Master Plan at program inception is absolutely critical. The discipline required to accurately define these resources goes a long way to ensuring a program is deemed executable at inception. Such projection also supports and justifies Service planning and budgeting for those T&E assets that must be modified or

developed to meet a program's needs years into the future. Reviewing and assessing program T&E resources plans is a critical part of assessing the adequacy of testing.

Question. How do you plan to evaluate and improve the operational testing workforce in DOD especially in light of the growing numbers of new technologies embedded in weapon systems and the desire to speed the acquisition and deployment of systems to the battlefield?

Answer. In response to section 234 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, the Department reported to Congress on the "Capabilities of the Test and Evaluation Workforce of the Department of Defense." The report provided an overview of ongoing efforts to improve personnel management and concluded that a strategic plan would be developed to address future manpower.

In May 2006, the Department published the initial version of the AT&L Human Capital Strategic Plan. This plan addresses recruiting, governing, measuring performance, and improving the knowledge of all acquisition workforce members, including T&E personnel.

If confirmed, I will examine this effort and follow-up on the Department's plans.

OPERATIONAL AND DEVELOPMENTAL TESTING

Question. The Government Accountability Office (GAO) recently reported that the Department's acquisition system incentivizes delayed operational testing "because that will keep 'bad news' at bay." According to GAO, program managers have an incentive to suppress bad news and continually produce optimistic estimates, because doing otherwise could result in a loss of support and funding and further damage their programs.

Do you agree with the GAO finding?

Answer. I am not thoroughly familiar with that report but generally understand the argument. Acquisition programs compete each year for continued funding and support. Within the Services, program managers and resource sponsors vie with others to gain or retain programmed funds. The process repeats itself many times as the Defense budget is submitted, reviewed, and approved.

At any point in this process, performance deficiencies identified in testing are perceived as weakness. The established planning, programming, and budget system tends to reward perceived "good news" and punish "bad news" by reducing funding, sometimes to the point of forcing programs to restructure.

I believe the incentives in the acquisition system could be changed to value early realistic testing. Such testing strengthens weapon systems by revealing design flaws and allowing time to correct them during system development. In my view, incentives could be provided to foster the discovery of such design flaws early in development. When system developers realistically test their design, subjecting it to the stresses expected in combat conditions, they have the opportunity to improve that design. The most successful weapon system development programs are those that discover and acknowledge deficiencies early and commit resources to correct them.

Question. What are your views on the appropriate point in concept development of a new acquisition program for incorporation of T&E planning and integration of testing requirements?

Answer. During concept refinement (Pre-Milestone A = Concept Refinement Phase) the major effort should be to develop a strategy to evaluate system performance and mission accomplishment. During technology development (Pre-Milestone B = Technology Development with Program Initiation at Milestone B) the test-related efforts might include analysis, modeling, simulation, component, subsystem, and breadboard testing. During this phase, detailed T&E activities should be planned, resourced, and documented in a Test and Evaluation Master Plan (TEMP). The ultimate objective of these activities should be an Initial Operational Test and Evaluation in a realistic combat environment and full-up system-level live-fire testing prior to full-rate production and deployment.

Question. What steps, if any, do you believe the Department should take to ensure that testing takes place early enough in the program cycle to identify and fix problems before it becomes prohibitively time-consuming and expensive to do so?

Answer. I would strongly support the practice of conducting rigorous operationally oriented developmental test and robust operational assessment prior to entering low-rate initial production. If confirmed, I will continue to emphasize the early involvement of operational testers and work to ensure that no weapon system is delivered to the warfighter until it has been subjected to the stresses of modern combat and objectively evaluated

Question. Acquisition programs continue to complete developmental testing satisfactorily, but perform poorly on operational testing suggesting that developmental

testing lacks sufficient rigor or realism to adequately characterize the technical performance of a system under test.

What are you views on the current relationship between developmental and operational testing?

Answer. Developmental and operational testing complement each other. The current DOD relationship is appropriate. Developmental testing should be the program manager's tool to understand system performance, discover design flaws, and determine readiness to enter initial operational T&E. There is evidence that developmental testing must be more rigorous and realistic, and that deficiencies discovered in developmental testing should be corrected prior to operational testing.

Operational testing should determine that a unit equipped with the system can accomplish its mission and determine if the system is operationally effective, suitable, survivable, and lethal for combat use.

Question. When is it appropriate for developmental and operational testing to be combined?

Answer. The focus of developmental evaluation is engineering and system technical performance. The focus of operational evaluation should remain on the ability of a unit equipped with the system to successfully accomplish combat missions. Often a single test event might be designed to provide needed information to system engineers and to operational evaluators. It is appropriate to combine developmental and operational testing when the objectives of both evaluations can be met. This may provide shared data at a reduced cost.

I do not believe it is appropriate to combine developmental and operational testing solely to recover program schedule. I strongly believe in the value of event-based acquisition program management and test execution.

The final step in development should be the field test of end-to-end missions by an operational unit equipped with the system under realistic combat conditions.

DEFENSE ACQUISITION PERFORMANCE ASSESSMENT

Question. The Defense Acquisition Performance Assessment (DAPA) report recommended that laws governing operational testing be modified to add a new "operationally acceptable" test evaluation category and provide fiscal and time constraints for operational testing.

What is your view of these recommendations?

Answer. My initial review of the DAPA highlights some very good points, but I do not believe that the provisions governing operational testng in title 10 need to be changed to incorporate a new category of "operationally acceptable." To me, this new reporting category sounds like a watered down standard that would be difficult to define and enforce. "Operationally acceptable" implies something less than operationally effective and suitable for combat.

Question. The DAPA report notes that "[b]etween fiscal years 2002 and 2005, the T&E workforce grew by over 40 percent while the program management workforce declined by 5 percent, production engineering declined by 12 percent, and financial managers declined by 20 percent."

Do you agree with these DAPA findings on the T&E workforce?

Answer. No, I understand that the DAPA's findings on the T&E workforce were based upon flawed or incorrect personnel accounting. Those findings seem to confuse the T&E acquisition career field within AT&L, which increased by 40 percent, and the T&E workforce (mostly outside AT&L) that actually decreased by 10 percent. If confirmed, I intend to look into this issue more closely.

ADAPTATION OF T&E TO EVOLVING ACQUISITION STRATEGIES

Question. A natural tension exists between major program objectives to reduce cost and schedule and the T&E objective to demonstrate performance to specifications and requirements. This committee has received testimony by senior Defense Department leadership indicating the need to streamline the acquisition process to reduce the fielding times and cost for new weapons systems and capabilities.

If confirmed, how would you propose to achieve an appropriate balance between the desire to reduce acquisition cycle times and the need to perform adequate testing?

Answer. The time to conduct operational testing is only a small percentage of the overall acquisition cycle time. Delays in entering operational testing usually are much longer than the timeframe of the operational test itself. Because the operational tests supporting full production occur near the end of the acquisition cycle, there is greater pressure to rush such tests. I feel that the early involvement of operational testers can contribute to reducing cycle time by identifying issues early

in the development cycle when the problems can be solved with less impact on the program.

Question. In your view, would a review of T&E processes be useful in light of evolving acquisition approaches?

Answer. I understand that DOT&E and USD(AT&L) recently commissioned and received a study by the National Research Council, titled "Testing of Defense Systems in an Evolutionary Environment." I am in the process of reviewing the principal findings of that study.

Question. What requirements and criteria would you propose to ensure an effective test program is established for an evolutionary acquisition program?

Answer. Evolutionary acquisition requires a time-phased requirements process with a distinct set of requirements for each development spiral. The important point is that each spiral should remain "event-based," as opposed to" schedule driven." Each spiral can then be operationally tested and evaluated against appropriate requirements.

Question. Recent equipment problems have brought to light potential testing deficiencies resulting from programs fielded that fall below the thresholds established for oversight by the DOT&E. In many cases, such as with body armor, helmets, vehicle armor kits, and ammunition, the materiel involved is crucial to the everyday mission effectiveness and survivability of our military forces.

If confirmed, how would you ensure acquisition and fielding of such critical equipment is effective, safe, and suitable for our military to take into combat?

Answer. It is a challenge for DOT&E to become involved in these programs for several reasons. The smaller programs do not meet the statutory thresholds that require formal program oversight by DOT&E. The Service Acquisition Executive manages and executes these acquisition programs and, in most cases, DOT&E does not even know the programs exist. DOT&E becomes aware of issues with these systems, such as with ground vehicle armor, body armor, helmets, and ammunition, when problems surface internally in the Department or through the media. Since there is no statutory requirement for DOT&E oversight of these programs, the Services are reluctant for DOT&E to become involved. In all these cases, DOT&E leadership has successfully engaged with Services to conduct a comprehensive review of the issues, and as required, conduct adequate analyses and/or testing to address the problems. This presents a challenge to DOT&E because the staff size is limited to that required for oversight of the Major Defense Acquisition Programs (MDAP) only. Time the DOT&E staff spends to resolve these critical issues with the non-MDAP programs, detracts from statutory oversight of the major programs.

If confirmed, I will work with the Services to continue to address problems with the smaller programs, as they arise. I will try to influence the Department to adopt policy that to gives DOT&E formal insight to any acquisition program that impacts a soldier, sailor, airmen, or marine's personal effectiveness, safety, and survivability.

Question. What are your views on the testing of systems under spiral development?

Answer. Systems under spiral development should include as much operational realism as possible in a robust DT program. Such systems should also use operational assessments to support decisions to continue low-rate production. Appropriate LFT&E and end-to-end mission context OT&E should be completed before a spiral, block, increment, etc. is deployed and placed in harm's way.

Question. Do you believe that follow-on operational testing should be required for each program spiral?

Answer. Each program spiral that is to be deployed and placed in harm's way should be required to complete appropriate LFT&E and OT&E. In many cases that may be through a follow-on test, as you suggest.

COMBINATION OF TESTING WITH TRAINING EXERCISES

Question. Some hold the view that the most representative operational testing would be to allow operational forces to conduct training exercises with the system under evaluation.

In your view, should testing be combined with scheduled training exercises for efficiency and effectiveness?

Answer. I understand that the Department has combined testing and training events since the 1960s. I favor combined test and training events in a joint environment when they provide increased test realism, more realistic friendly and threat forces, and a broader operational context, but still allow for the necessary collection of data. Large scale exercises often present an economical way to create such conditions.

Question. What are the barriers, if any, to doing so?

Answer. On the other hand, I recognize there may be differing objectives between testing and training. Testing requires the ability to control events and collect data, which may interfere with commanders' training objectives. These potential barriers require close cooperation between the tester and trainer in order to be successful. This is challenging in today's environment as commanders prepare for ongoing contingency operations.

SUITABILITY PERFORMANCE

Question. A study of acquisition programs from 1985–1990 and 1996–2000 showed that the percentage of systems meeting reliability requirements decreased from 41 percent to 20 percent. This trend may be evidence that the Department, in attempting to field systems more rapidly, is focusing on effectiveness and treating suitability—to include reliability, availability, maintainability, and logistics—as less important. Late last year, the Department developed a guide to address this concern and to promulgate metrics for reliability, availability, and maintainability (RAM) of systems.

What are your views about the appropriate balance between the need for rapid fielding of effective systems and RAM of such systems?

Answer. My firm belief is that we cannot compromise the mission capability of the force and poor RAM does just that. As a practical matter, there does not necessarily have to be a trade-off between mission effectiveness and suitability (RAM) if both are designed for early in-program development. If confirmed, I will ensure that DOT&E continues to look for that duel emphasis early in-program development.

"SYSTEM-OF-SYSTEMS" TESTING

Question. Many programs are now developing what is called a "system-of-systems" approach.

What inherent challenges exist for operational testing with regard to DOD programs that are a part of an overall "system-of-systems"?

Answer. I believe there are significant challenges in conducting adequate operational T&E of a "system-of-systems" or programs that are a part of an overall "system-of-systems." Some of the inherent challenges are: size of the unit, size of the threat, size of the test and test area; complexity of the test and test instrumentation; differing Service and Joint solutions; interdependence; interoperability between systems and Services; integration of complex systems; schedule synchronization; cost of test; and availability of operational units and opposing forces for test.

Question. How should a "system-of-systems" be tested to assess the effectiveness of the whole?

Answer. I believe the "system-of-systems" should be tested end-to-end as a complete unit, ideally in conjunction with first unit equipping and training activities.

Question. Complex system integration and related software development have emerged as the primary risks to major defense program development.

If confirmed, how would you propose to assess the effectiveness of and, if necessary, improve the force's methodology for verification and validation of these extremely large, intensive computer programs which are so critical to the performance of today's weapon systems?

Answer. The testing and assessment of complex software programs should be based on the same principles that we use for any weapon system—realistic, rigorous, and robust testing focused on the missions and tasks the software supports; used by the soldiers, sailors, airmen, marines, and DOD civilians as they will operate with it in the field or in their daily work environment. To do so, the Department must have the right tools available to create the complex, joint environment in which they often operate. If confirmed, I would urge Congress and the Department to support the development of a test environment as outlined in the testing in the Joint Environment Roadmap developed under Tom Christie's watch.

In addition, if confirmed I would work closely with the Services and Joint Forces Command to develop the means to combine testing with training events. Major training events bring large numbers of forces and organizations together in a way that can rarely be duplicated for a single operational test event—creating that complex, stressful environment needed by these programs.

Our growing reliance on complex software and information technologies for net-centric warfare creates a natural vulnerability to cyberthreats. If confirmed, I will transition the success DOT&E has had in assessing the information assurance posture for the combatant commanders to operational testing of systems during acquisition.

Finally, if confirmed, I would stress the need for intense systems engineering and developmental testing prior to moving into operational testing. The Department has many hard lessons learned (and relearned)—if the time isn't taken upfront to engineer the software and it isn't exercised in an operationally realistic architecture in a lab environment, then there is a high probability it will not work in the field. Testing of these complex systems must be event driven—and not schedule driven.

T&E FACILITIES AND INSTRUMENTATION

Question. Concern over long-term support for and viability of the Department's test ranges and facilities led to creation of the DTRMC in 2002 and a requirement for direct research, development, and T&E support of facilities.

In your view, how are these changes working to address funding and sustainability concerns at the department's test ranges and bases?

Answer. I understand the Department revised its financial regulations in fiscal year 2005 as they pertain to the test infrastructure. This resulted in a realignment of funding to support the Major Range and Test Facility Base in an amount of approximately $600 million per year. The effects of such a significant redistribution in Department funding will take time to assess. If confirmed, I will continue to work with the DTRMC to ensure that the Department's investment strategy for test and evaluation is adequate to meet future needs.

Question. Is the Department developing adequate test targets, particularly aerial targets, and ranges to represent emerging threats and environments?

Answer. A 2005 Defense Science Board Study said that threat realistic aerial targets, in sufficient quantities, are critical to assessing the effectiveness of weapons and sensor systems. The DTRMC reinforced this position by establishing Full-scale Aerial targets and Supersonic Sea-skimming Missile targets as two of their four Critical Interest Items within the Strategic Plan for Defense Test Resources. These targets, and their control systems, have historically had difficulty competing in Service budget deliberations. If confirmed, I will closely monitor the approach that the Services take to these critical interest items during the certification of Service T&E budgets.

Question. How can training and testing ranges be used more jointly and efficiently?

Answer. Consistent with the Secretary identifying the implementation of joint test, training, and experimentation as one of his key priorities for fiscal year 2008, I know that DOT&E has an established liaison with Joint Forces Command to more efficiently integrate joint testing and training. I recognize this is an important issue and, if confirmed, will pursue steps to efficiently integrate testing and training.

ADVANCED CONCEPT TECHNOLOGY DEMONSTRATIONS

Question. Advanced Concept Technology Demonstrations (ACTD), to include, the new Joint Concept Technology Demonstrations, are one mechanism by which the Department rapidly transitions promising technology into the hands of the operational forces.

How do you view the role of operational T&E in the execution of ACTDs, especially for those demonstrations where the system is to be fielded operationally upon completion of the ACTD?

Answer. I believe that it is a leadership responsibility to ensure that all systems deployed for combat work. If confirmed, I will work with the Services and their OTAs to ensure that ACTD systems being considered for deployment receive some type of operational assessment prior to their employment so that commanders completely understand those systems' capabilities and limitations.

LIVE-FIRE TESTING

Question. The live-fire testing program is a statutory requirement to assess the vulnerability and survivability of platforms, while also assessing the lethality of weapons against the required target sets.

Do you believe that the Department's current live-fire testing program is accomplishing its purpose?

Answer. Yes. The Abrams Tank, the Bradley Fighting Vehicle, the M109 Howitzer Family, the F18E/F fighter aircraft, the Apache and Blackhawk helicopters, and more recently the Stryker family of vehicles, are all outstanding examples where the live-fire program directly affected the system design and improved both system and crew survivability.

Question. How would you propose to overcome limitations that the live-fire testing program suffers due to shortages in threat-representative targets?

Answer. This question addresses two areas—weapon system live-fire lethality (section 2366) and operational end-to-end weapon effectiveness testing against threat systems, also referred to as "live-fire testing."

The shortage of high fidelity threat representative targets does not have a significant impact on characterizing munitions lethality. Much of this testing is at the warhead level in the laboratory or controlled test environment where there are adequate threat or threat surrogate targets, test methodology, and analytical tools to characterize warhead lethality.

The need for high fidelity threat representative targets is crucial for the operational end-to-end weapon effectiveness testing—especially in a joint environment where various weapon and sensor platforms using a variety of technologies have to detect, acquire, track, and successfully engage threat targets. The Department needs to have an integrated DOD approach to the target problem. In the near-term, the Department should identify and fund innovative initiatives to improve the threat representation of the existing target suite. For the longer-term, the Department should focus on the recent recommendations from the Defense Science Board to acquire threat representative supersonic missile targets and establish a replacement program for the aging QF–4 fixed-wing aircraft target. If confirmed, this will be a high priority issue for me.

MODELING AND SIMULATION

Question. Advances in modeling and simulation (M&S) have provided an opportunity to streamline the testing process, saving time and expense.

What do you believe to be the proper balance between modeling and simulation and actual testing of the developed product?

Answer. It is appropriate to use models to support core T&E processes. For example, M&S can be used to effectively predict results of tests to be conducted. It can be used effectively to produce a full parametric evaluation of system performance where actual parametric testing may be too expensive. Models can also help the Department design tests to maximize learning and optimally apply resources. Still, M&S is a complement, not a replacement, for operational testing.

Question. How is the amount of this actual testing determined to ensure reliability and maintainability thresholds are met with sufficient statistical confidence?

Answer. The amount of actual testing required to validate RAM thresholds would vary from program to program. In terms of using M&S to support that process, it would seem to me that program managers who make an early commitment to integrate the use of models as tools to support learning and to gain insight and understanding throughout the life cycle of a program would be much better positioned to be successful than those who try to use models late in the life of a program as a means to respond to resource or schedule constraints.

Question. Can T&E modeling and simulation be integrated with exercise simulation?

Answer. Again, T&E modeling and simulation can help represent the environment during test to realistically stress the system under test. M&S should complement, not replace, actual testing.

T&E SCIENCE AND TECHNOLOGY

Question. The Department's T&E science and technology (S&T) effort now falls under the jurisdiction of the Director of the Major Test Resource Management Center.

What are your views on the appropriate level of investment in the S&T of testing?

Answer. Given my background, I believe strongly in a robust S&T effort. If confirmed, I look forward to investigating means by which we can apply technology to enhance our T&E capabilities.

Question. What mechanisms will you employ to ensure the S&T portfolio is responsive to the department's future test instrumentation needs?

Answer. I look forward to working with the USD(AT&L) and his subordinate organizations to shape the S&T portfolio to best suit the Department's instrumentation needs, if confirmed. I am particularly interested in examining the use of embedded instrumentation that can be used by testers, trainers, and operator-maintainers.

OPERATIONAL TEST AGENCIES

Question. Operational Test Agencies (OTA) are tasked with conducting independent operational testing and evaluation of acquisition programs. Recent demands on these organizations have increased to meet rapid acquisition initiatives, to demonstrate joint and advanced concept technology programs, and to evaluate information assurance, information operations, and joint T&E requirements.

In your view, are these agencies sufficiently staffed to perform the required functions?

Answer. The OTA staffs appear to be stretched thin by added test types and events, such as demonstrations of rapid acquisition initiatives; demonstrations of ACTDs; and evaluations of Information Assurance, Information Operations, and Joint T&Es. If confirmed, I intend to look into manning issues to ensure there is adequate military operational experience in the OTAs without inappropriate reliance upon contractor support.

I have also been made aware of the potential adverse impact on the Army T&E Command of their impending relocation. If confirmed, I will monitor that situation closely as they may suffer a loss of experienced personnel and loss of continuity just as they will be involved in the testing of the very complex Future Combat System (FCS).

Question. How would you propose to arbitrate shortfalls between program managers' limited funding and OTAs independent test requirements?

Answer. Title 10 and DOD Directives require DOT&E to assess the adequacy of operational testing. Service leadership retains the responsibility to ensure programs are managed to meet testing requirements. If confirmed, I will ensure the DOT&E staff continues to facilitate dialogue between program stakeholders.

Question. Do you have any concerns about the independence of the OTAs?

Answer. Yes, I am concerned that there will always be pressures on the OTA Commanders to support component acquisition strategies. I think that it is important that they continue to report to the top level of their respective components, independent of the acquisition organizations.

Question. Should policies and procedures of the OTAs be standardized?

Answer. Each of the component OTAs has unique processes for the conduct of OT&E. As long as these processes lead to a robust operational T&E of all acquisitions, I believe DOT&E does not need to dictate standard processes that may limit component flexibility. I do, however, believe the capability to develop, test, train, and experiment complex systems in a joint operational environment needs improvement. The "Testing in a Joint Environment Roadmap," approved in November 2004, defines capabilities in common, measurable, warfighting terms. I look forward to advancing the objectives identified in the roadmap, if confirmed.

INFORMATION ASSURANCE

Question. Recent defense authorization legislation provided the DOT&E with oversight responsibility for information assurance (IA) evaluations of fielded systems. There has reportedly been an increased focus on IA as an evaluation issue for systems on the operational T&E oversight list and a group of acquisition programs have been identified for an expanded review of the adequacy of IA evaluation planning.

Does the operational T&E component of the Department possess adequate expertise, staffing, and funding to carry out its IA responsibilities?

Answer. The IA community, both in DOD as well as industry, has for many years been relatively small, but has experienced considerable growth in the past few years. At present, DOD appears to possess adequate expertise within the traditional cryptologic and communications professional fields, but may need increased staffing and funding to address all of the systems and areas where IA has become critical. In multiple assessments, it has been observed that the network support personnel are frequently over-tasked in what is a growing technical discipline. The OTAs are not currently manned to address all of the areas of concern. If confirmed, I will support efforts to provide additional resources to the OTAs for hiring, training, and fielding IA experts to test, assess, and validate the readiness of network systems for operations. Additionally, if confirmed, I will continue the work of my predecessor, Tom Christie, in revising the IA acquisition policy to ensure that IA is addressed in all operational testing for systems in which the secure exchange of information is integral to mission success.

Question. What is the status of the recommendation that IA should become an exercise objective wherever information is critical to mission accomplishment?

Answer. The Chairman of the Joint Chiefs has provided direction to the combatant commanders requiring that IA be addressed in every major combatant command exercise by fiscal year 2007 (and in half of all fiscal year 2006 exercises). The combatant commanders have dramatically increased the focus on IA in recent years, and the inclusion of training objectives specifically addressing networks, network security, and network personnel has become more common. If confirmed, I will continue to work closely with the combatant commanders, the National Security Agency, the Joint Staff, and the Assistant Secretary of Defense for Networks, Intel-

ligence, and Integration (ASD–NII) to increase attention on IA, improve the way it is assessed, and provide the operational commanders with the information they need.

BALLISTIC MISSILE DEFENSE

Question. The United States is developing a Ballistic Missile Defense System (BMDS) that is intended to defeat ballistic missiles of all ranges, in all phases of flight, to defend the United States, its allies, and friends with a very high degree of confidence.

Can you assure the committee that, if confirmed, you will ensure that adequate operational testing and evaluation is conducted of the BMDS, and that you will make a determination of whether the system and its elements that are tested are effective and suitable for combat?

Answer. DOT&E provides an annual report and a BMDS Block assessment report to Congress. If confirmed, I will assess BMDS system operational effectiveness and suitability as well as test adequacy in these reports.

Question. If you determine that such operational testing and evaluation does not demonstrate that the BMDS or its elements are effective and suitable for combat, will you inform Congress of that determination?

Answer. Yes. If confirmed, I will provide my assessment on test adequacy and BMDS and element effectiveness and suitability in the annual reports to Congress.

Question. According to title 10, U.S.C., major defense acquisition programs are required to complete initial operational T&E before proceeding beyond low-rate initial production. This is to ensure that weapons systems work effectively before they are produced in large numbers and at great expense. The Defense Department has exempted the BMDS from this requirement, saying that there will be only one BMDS, and thus no question of proceeding beyond low-rate initial production.

What do you believe is the appropriate role for the office of the DOT&E in providing an independent and objective assessment of the operational effectiveness, suitability, and survivability of the BMDS?

Answer. I believe there should be adequate operational testing of any element to demonstrate its capability before it is fielded as an operational system. Where there are urgent requirements to rapidly deploy an element, testing should be conducted to confirm it is safe to operate and to characterize its performance capability to address the urgent requirement. After the urgency subsides, operational testing and assessment should continue to ensure the system is effective, suitable, and survivable for its intended mission.

Question. Concerning the BMDS, the 2005 DOT&E Annual Report states: "As reported last year, there is insufficient evidence to support a confident assessment of Limited Defensive Operations or Block 04 capabilities."

Do you believe it is essential to conduct operationally realistic testing of the BMDS to characterize its operational capability and assess whether it is operationally effective, and suitable for combat?

Answer. Yes. I believe operational testing should be conducted on the BMDS to characterize its operational capability and to demonstrate its effectiveness, suitability, and survivability.

Question. Concerning the Ground-Based Midcourse Defense (GMD) system, the 2005 DOT&E Annual Report notes that the "lack of flight test validation data for the simulations that support the ground testing limits confidence in assessments of defensive capabilities," that "robust testing is limited by the immaturity of some components," and that "flight tests still lack operational realism." The last five attempted intercept tests with the GMD system have resulted in failures.

Do you support robust, operationally realistic testing and disciplined operational T&E of the GMD system as necessary steps to properly demonstrate the system's capabilities and to assess its operational effectiveness, suitability, and survivability?

Answer. Yes. I believe there should be adequate, robust, operationally-realistic testing of GMD to demonstrate its capability. Where there are urgent requirements to rapidly deploy an element, testing should be conducted to confirm it is safe to operate and to characterize its performance capability to address the urgent requirement. After the urgency subsides, operational testing and assessment should continue to ensure the system is effective, suitable, and survivable for its intended mission.

Question. In 2005, the Mission Readiness Task Force (MRTF) examined problems with the GMD testing program, found numerous problems, and recommended a number of corrective actions, which the Defense Department has adopted.

Do you support the MRTF findings and recommendations as appropriate and prudent steps to return the GMD program to successful flight testing?

Answer. Yes. The MRTF review was thorough and sobering. The review findings are a reminder that the GMD program is still in development. The MDA Director embraced the results and has taken actions to implement the recommendations. The slow down in the GMD test program is a direct result of his prudent philosophy of "test-analyze-fix-test" which has proven to be the correct approach as demonstrated by recent successes in the Aegis BMD, THAAD, and even the GMD programs.

GROUND-BASED MIDCOURSE DEFENSE

Question. The Senate-passed version of the National Defense Authorization Act for Fiscal Year 2007 includes an increase of $45 million to improve the ability of the Missile Defense Agency (MDA) to conduct concurrent test and operations of the GMD system and to improve the pace of flight testing.

Do you support the establishment of procedures and infrastructure to support combined operations and robust testing?

Answer. The capability to test and train on the operational configured BMDS as it evolves is critical to ensuring the effectiveness, suitability, and readiness of the integrated fielded capability. MDA should develop and employ a concurrent test and operations capability for the full BMDS. The concept would be similar to that used for the Cheyenne Mountain Upgrade Program for training and testing the "on-line" Integrated Tactical Warning and Attack Assessment mission capability. The solution should allow MDA to conduct robust end-to-end testing of the fully-integrated operational system, including flight test interceptors, sensors, and launch equipment using warfighters and operational tactics, techniques, and procedures, while the combatant commanders maintain an on-alert posture for the BMDS.

Question. Do you believe the pace of GMD flight testing can reasonably be accelerated?

Answer. The 1998 Welch Report on Reducing Risk in Ballistic Missile Defense Flight Test Programs concluded that schedules can be more aggressive, but only if justified by processes or approaches that support shorter development times. Accelerating schedules by simply accepting more risk carries a high risk of failure. Accelerating the GMD flight test schedule would add significant risk to the program. The program needs adequate time to accomplish the structured ground and flight test program currently planned. Recent intercept successes with Theater High-Altitude Area Defense and Aegis proves that MDA's current engineering, development, and test-analyze-fix-test philosophy is successfully maturing the elements. The MDA is finding and fixing problems that are only surfacing due to its test-analyze-fix-test initiatives. MDA is allocating time between the conduct of ground and flight tests to analyze data, and to find and fix design and manufacturing problems that surface from the previous tests. Accelerating flight-testing would reduce this critical time and limit the MDA's opportunities to find and fix problems that surfaced from the previous test. History shows that program timelines are shortened when all the essential steps are done right the first time. The MDA's test-analyze-fix-test philosophy reduces the potential for the "rush to failure" result highlighted in the Welch Report. MDA appears to be working hard to get it right this time—on its own schedule.

Question. What missile defense lessons do you expect the operational test and evaluation community to learn from the North Korean flight test of short-, medium-, and long-range ballistic missiles in July 2006?

Answer. I am uncertain about what we might be able to learn from these recent events. These firings occurred just days ago. It will take time to analyze the data that our intelligence assets were able to collect. The data may be limited due to the extremely short duration of the ballistic missile's flight prior to failure. I am advised that any relevant lessons-learned from these events will be addressed as part of the February 2007 BMDS Report.

Question. On April 4, 2006, the Acting DOT&E, David Duma, testified before the Strategic Forces Subcommittee that "with the current program and test events scheduled, it's very likely that the [GMD] system will demonstrate ultimately that it is effective."

Do you concur with this assessment, based upon your initial review of the GMD system?

Answer. Yes. Based on the reports I have seen and the briefings I have been given, I believe the GMD element is on a growth path towards maturity. However, I am not sure that there is sufficient test data to establish where the system is on the maturity growth curve. Future testing will ultimately demonstrate whether the system is effective and suitable.

ENVIRONMENTAL ISSUES

Question. The National Defense Authorization Act for Fiscal Year 2004 included provisions that were intended to add flexibility to the Endangered Species Act and Marine Mammal Protection Act (MMPA) to ensure the ability to conduct realistic military testing and training.

What has the DOD experience been conducting test operations under these more flexible provisions?

Answer. Since enactment of the amendments, I understand that the Department has been able to conduct its test operations adequately while making compensating adjustments to address environmental issues when necessary.

Question. What type of testing has the Department been able to conduct and what type of encroachment concerns on military testing have been avoided as a result of these provisions?

Answer. The provisions of the National Defense Authorization Act for Fiscal Year 2004 certainly provide the Department overall with greater flexibility to conduct its programs that address military readiness. Consequently, I believe that the act's provisions effectively contribute to the accomplishment of adequate testing for the Department's acquisition programs.

Question. The Secretary of Defense, after conferring with the Secretary of Commerce, recently invoked the national security exemption to the MMPA for a period of 6 months. During the same week, the Navy settled a lawsuit brought by the National Resources Defense Council that challenged Navy and Commerce Department compliance with the MMPA which sought to halt the Navy's Rim of the Pacific exercise near Hawaii.

How do you envision these developments impacting military T&E of sonar and other technologies that involve the marine environment?

Answer. While I cannot speak to the terms of the litigation settlement reached between the Navy and the National Resources Defense Council, I believe the exemption is an essential element in the statutory framework that supports departmental test programs and its judicious use will foster test adequacy.

CONGRESSIONAL OVERSIGHT

Question. In order to exercise its legislative and oversight responsibilities, it is important that this committee and other appropriate committees of Congress are able to receive testimony, briefings, and other communications of information.

Question. Do you agree, if confirmed for this high position, to appear before this committee and other appropriate committees of Congress?

Answer. Yes.

Question. Do you agree, if confirmed, to appear before this committee, or designated members of this committee, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as the DOT&E?

Answer. Yes.

Question. Do you agree to ensure that testimony, briefings, and other communications of information are provided to this committee and its staff and other appropriate committees?

Answer. Yes.

[Questions for the record with answers supplied follow:]

QUESTIONS SUBMITTED BY SENATOR JACK REED

TESTING OF FORCE PROTECTION TECHNOLOGIES

1. Senator REED. Dr. McQueary, at the hearing, you and Chairman Warner engaged in a discussion relating to the Director's role in the development and deployment of helmets and other force protection technologies. What role specifically do you think the Director of Operational Test and Evaluation (DOT&E) should play in the development and deployment of force protection technologies?

Dr. MCQUEARY. Since force protection equipment directly impacts the survivability and well being of our military personnel, I believe the Director should have similar oversight authority for these programs as for the major defense acquisition programs. Typically, the budget and program offices for these type programs are much smaller and require less organizational infrastructure than the major acquisition programs. I believe that DOT&E should not create unnecessary additional bureaucracy for these programs, but should oversee the programs to ensure the Serv-

ices appropriately define operational survivability requirements and then plan, execute, and report on adequate testing to demonstrate the equipment or technology performs as intended.

2. Senator REED. Dr. McQueary, in your answers to pre-hearing policy questions on Ballistic Missile Defense, you stated that you believe "there should be adequate operational testing of any [missile defense] element to demonstrate its capability before it is fielded as an operational system." Of course, that is the practice with all other major defense acquisition programs, except missile defense. You also state that in cases where there are "urgent requirements to rapidly deploy" a missile defense system, "testing should be conducted to confirm it is safe to operate and to characterize its performance capability to address the urgent requirement." Do you believe that testing has already been conducted on the Ground-Based Midcourse Defense (GMD) system to "characterize its performance capability," or that such testing remains to be conducted on this system that has been deployed since 2004?

Dr. MCQUEARY. My knowledge of the GMD system test program is limited to what I have read in the media and the DOT&E reports while preparing for this hearing. Based on those reports, I believe the deployed GMD system is not fully characterized at this time and must yet demonstrate that it can reliably and repeatably detect, acquire, track, and intercept threat ballistic missiles in an operationally realistic end-to-end engagement scenario.

QUESTION SUBMITTED BY SENATOR DANIEL K. AKAKA

ACQUISITION INCENTIVES

3. Senator AKAKA. Dr. McQueary, in your written testimony, you note that you believe that incentives in the acquisition system could be changed to value early realistic testing and that incentives could be provided to foster the discovery of such design flaws. Yet, the Government Accountability Office (GAO) has identified the Department of Defense's (DOD) use of incentive and award fees as a "longstanding business management challenge" for the DOD. Given that the GAO has found that awarding incentives has not produced the desired results and, in fact, can undermine performance, in what ways do you believe that adding another layer of incentives will improve program success?

Dr. MCQUEARY. When I said that incentives in our acquisition system could be changed to value early realistic testing, I did not mean to imply that the incentives should necessarily be fees. I believe that Congress has provided an excellent set of incentives in the new language on acquisition in section 801 of the National Defense Authorization Act for Fiscal Year 2006. That language specifies that an acquisition program may not receive Milestone B approval until the milestone decision authority certifies that, among other things. . .

> 1. . . . the technology in the program has been demonstrated in a relevant environment;
>
> 2. . . . the program demonstrates a high likelihood of accomplishing its intended mission.

It seems to me that this language provides a great incentive for early realistic testing. The results are also highly visible: the certification is to be submitted to the congressional defense committees.

With respect to the GAO report, I believe they recommended DOD improve the use of fees, not that DOD abandon them. The GAO recommendations were directed to the Under Secretary of Defense for Acquisition, Technology, and Logistics.

[The nomination reference of Charles E. McQueary follows:]

NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
June 29, 2006.

Ordered, That the following nomination be referred to the Committee on Armed Services:

Charles E. McQueary, of North Carolina, to be Director of Operational Test and Evaluation, Department of Defense, vice Thomas P. Christie, resigned.

[The biographical sketch of Charles E. McQueary, which was transmitted to the committee at the time the nomination was referred, follows:]

BIOGRAPHICAL SKETCH OF CHARLES E. MCQUEARY

Dr. McQueary was nominated by President Bush to fill the position of the Department of Defense, Director Operational Test and Evaluation on June 30, 2006. His career spans nearly 40 years of public and private sector service in the science, technology, research and development fields. His public service includes the honor of serving as the Nation's first Under Secretary for Science and Technology in the Department of Homeland Security (DHS). Over the past 3 years, his efforts at DHS have led to significant technical advancements in our country's ability to combat terrorism at home and abroad.

In 1997, Dr. McQueary joined General Dynamics Corporation, as President of General Dynamics Advanced Technology Systems where he led all aspects of business operations and strategy in one of America's premier defense contractors. From 1987 to 1997, he served as President and Vice President of AT&T/Lucent Technologies. Dr. McQueary also held executive leadership positions with AT&T Bell Laboratories from 1966 to 1997.

A native of Gordon, Texas, Dr. McQueary is a graduate of the University of Texas, Austin where he earned a B.S. Degree in Mechanical Engineering; M.S. Degree in Mechanical Engineering; and a Ph.D. in Engineering Mechanics as a NASA Scholar (M.S. & Ph.D.) and member of five Academic Honor Societies.

[The Committee on Armed Services requires all individuals nominated from civilian life by the President to positions requiring the advice and consent of the Senate to complete a form that details the biographical, financial, and other information of the nominee. The form executed by Charles E. McQueary in connection with his nomination follows:]

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

(202) 224–3871

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior to the hearings and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)
Charles Everette McQueary; nickname: Chuck.

2. **Position to which nominated:**
U.S. Department of Defense Director, Operational Test and Evaluation.

3. **Date of nomination:**
June 29, 2006.

4. **Address:** (List current place of residence and office addresses.)

[Nominee responded and the information is contained in the committee's executive files.]

5. **Date and place of birth:**
September 1, 1939; Gordon, Texas.

6. **Marital Status:** (Include maiden name of wife or husband's name.)
Married to Cheryl McQueary (nee Bath).

7. **Names and ages of children:**
Joanna Lea Gossett (nee McQueary), 43.

8. **Education:** List secondary and higher education institutions, dates attended, degree received, and date degree granted.
University of Texas, Austin—Ph.D., Engineering Mechanics, 1966.
University of Texas, Austin—M.S., Mechanical Engineering, 1964.
University of Texas, Austin—B.S., Mechanical Engineering, 1962.
Gordon High School, Gordon, Texas—Diploma, 1958.

9. **Employment record:** List all jobs held since college or in the last 10 years, whichever is less, including the title or description of job, name of employer, location of work, and dates of employment.
Senior Executive Service, LT, U.S. Department of Defense, Washington, DC, April 2006–present.
Under Secretary, Science & Technology Directorate, U.S. Department of Homeland Security, March 2003–March 2006.
President, Advanced Technology Systems, General Dynamics, Greensboro, NC, October 1997–December 2002.
President, Advanced Technology Systems, Lucent Technologies, Greensboro, NC, 1995–September 1997.

10. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.
None.

11. **Business relationships:** List all positions currently held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational, or other institution.
None.

12. **Memberships:** List all memberships and offices currently held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.
Life Member, Phi Eta Sigma (scholarly organization).
Life Member, Tau Beta Pi (scholarly organization).
Life Member, Phi Kappa Phi (scholarly organization).
Honorary Member, Sigma Xi (scholarly organization).

13. **Political affiliations and activities:**
(a) List all offices with a political party which you have held or any public office for which you have been a candidate.
None.
(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 5 years.
None.
(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $100 or more for the past 5 years.
Senator Elizabeth Dole—$2,000.
The Honorable Asa Hutchinson—$500.
Republican National Committee—$2,000.
Re-elect Mike Barber—$100.
Justice Butterfield—$250.
Kay Hagen—$200.
Sixth District Republican Party—$250.
Boyd for Congress—$100.
Britt for Congress—$100.
General Dynamics PAC Contributions—$1,200 estimate.

14. **Honors and Awards:** List all scholarships, fellowships, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievements.
Academic Fraternities: Phi Eta Sigma, Pi Tau Sigma, Tau Beta Pi, Phi Kappa Phi, Sigma Xi; Tau Beta Pi Outstanding Senior Engineer; Distinguished Engineer-

ing Graduate of the University of Texas at Austin (1997); NASA Scholarship; NDIA Homeland Security Leadership Award.

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

Nonlinear Periodic Modes of Oscillation of Elastic Continua (Technical paper, 1968).

Oscillations of a Circular Membrane on a Nonlinear Elastic Foundation (Technical paper, 1967).

Bessel-Function Integrals Needed for Two Classes of Physical Problems (Technical paper, 1967).

Periodic Oscillations of a Class of Non-Autonomous Nonlinear Elastic Continua (Technical paper, 1967).

The SPARTAN Missile—A Major Component of the Sentinel System (Technical paper, 1968).

Recipe for Success in Defense Industry: "Acquire or Be Acquired" (National Defense article, October 1998).

Industry Interview (Military Information Technology, Vol. 4, Issue 5).

16. **Speeches:** Provide the committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

None. I gave approximately 150 speeches in 3 years in my position at the Department of Homeland Security.

17. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to respond to requests to appear and testify before any duly constituted committee of the Senate?

Yes.

[The nominee responded to the questions in Parts B–F of the committee questionnaire. The text of the questionnaire is set forth in the Appendix to this volume. The nominee's answers to Parts B–F are contained in the committee's executive files.]

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

CHARLES E. MCQUEARY.

This 10th day of July, 2006.

[The nomination of Charles E. McQueary was reported to the Senate by Chairman Warner on July 20, 2006, with the recommendation that the nomination be confirmed. The nomination was confirmed by the Senate on July 21, 2006.]

[Prepared questions submitted to Anita K. Blair by Chairman Warner prior to the hearing with answers supplied follow:]

QUESTIONS AND RESPONSES

DEFENSE REFORMS

Question. The Goldwater-Nichols Department of Defense Reorganization Act of 1986 and the Special Operations reforms have strengthened the warfighting readiness of our Armed Forces. They have enhanced civilian control and clearly delineated the operational chain of command and the responsibilities and authorities of the combatant commanders, and the role of the Chairman of the Joint Chiefs of Staff. They have also clarified the responsibility of the military departments to recruit, organize, train, equip, and maintain forces for assignment to the combatant commanders.

Do you see the need for modifications of any Goldwater-Nichols Act provisions?

Answer. After 20 years, and especially after September 11 and its aftermath, it is only prudent to review our basic assumptions about how best to organize and operate in the context of today's national security mission.

Question. If so, what areas do you believe might be appropriate to address in these modifications?

Answer. The Goldwater-Nichols Act has proven immensely valuable to the Department of Defense (DOD), especially in establishing the conditions for success of joint military operations. National security needs today demand close cooperation and coordination between military and civilian operations. The Goldwater-Nichols Act provides a successful model for improving military-civilian jointness, both within the DOD and involving interagency, intergovernmental, nongovernmental, and contractor activities. Similarly, to sustain the success of the All-Volunteer Force, I believe it is worthwhile to review the way we manage our military personnel, including compensation, assignment, development, and force integration policies.

DUTIES

Question. Section 8016 of title 10, U.S.C., provides that the Assistant Secretary of the Air Force for Manpower and Reserve Affairs shall have the principal duty of "overall supervision of manpower and Reserve component affairs of the Department of the Air Force."

Assuming you are confirmed, what duties do you expect that Secretary Wynne will assign to you?

Answer. If confirmed, I look forward to being part of Secretary Wynne's management team, and I expect that he will assign me duties consistent with the title 10 requirements for this position.

RELATIONSHIPS

Question. If confirmed, what will be your relationship with:

- The Secretary of the Air Force
- The Under Secretary of the Air Force
- The General Counsel of the Air Force

Answer. The Secretary is the head of the Department of the Air Force. Along with the Under Secretary, the General Counsel and other Assistant Secretaries, I will, if confirmed, report to the Secretary and perform duties as he assigns.

Question. If confirmed, what will be your relationship with:

- The Under Secretary of Defense for Personnel and Readiness
- The Principal Deputy Under Secretary of Defense for Personnel and Readiness
- The Assistant Secretary of Defense for Reserve Affairs
- The Assistant Secretary of Defense for Health Affairs

Answer. The Under Secretary of Defense for Personnel and Readiness is the representative of the Secretary of Defense for matters concerning those areas. The Principal Deputy and the Assistant Secretaries for Reserve Affairs and Health Affairs report to the Under Secretary. If confirmed, I will collaborate and cooperate with these officials and their staffs.

Question. If confirmed, what will be your relationship with:

- The Chief of Staff of the Air Force
- The Deputy Chief of Staff of the Air Force for Personnel
- The Surgeon General of the Air Force

Answer. The Chief of Staff presides over the Air Force staff, delivers plans and recommendations of the Air Staff to the Secretary, and upon the Secretary's approval, acts as his agent for carrying them into effect. He is assisted by deputies, including the Surgeon General, who is the chief for Air Force medical matters. If confirmed, I will work on behalf of the Secretary to coordinate policies and proposals with the appropriate members of the Air Staff. The Air Force Chief of Staff is also a member of the Joint Chiefs and has other operational duties, including keeping the Secretary fully informed of significant operations affecting the Secretary's duties and responsibilities.

Question. If confirmed, what will be your relationship with:

- The Chief, National Guard Bureau
- The Chief, Air National Guard
- The Chief, Air Force Reserve

Answer. The Chief, National Guard Bureau is the principal adviser to the Secretary of the Army and the Army Chief of Staff, and to the Secretary of the Air Force and the Air Force Chief of Staff, on matters relating to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States. The Chief, Air National Guard heads the air portion of the National Guard. The Chief, Air Force Reserve is the head of the Reserve component of the

Air Force. If confirmed, I will work closely with these officials to provide good policies and effective oversight of the Guard and Reserve on manpower and personnel matters.

Question. If confirmed, what will be your relationship with:

- Airmen and their families

Airmen and their families are the reason why there is an Assistant Secretary of the Air Force for Manpower and Reserve Affairs—an official dedicated to ensuring that the people who serve and make sacrifices on behalf of their country are properly treated and cared for. If confirmed, I will strive to be their most vigilant guardian and humble servant.

QUALIFICATIONS

Question. What background and experience do you have that you believe qualifies you for this position?

Answer. I am humbled and honored to be considered for the position of Assistant Secretary of the Air Force for Manpower and Reserve Affairs. My most relevant background and experience is the past 5 years I have served as a Deputy Assistant Secretary of the Navy for Military Personnel Policy, responsible for policy and oversight relating to manpower and personnel matters affecting Navy and Marine Corps Active-Duty servicemembers and their families. Major issues have included recruiting and retention; training and education; Active-Duty strength and compensation; character, leadership development and diversity/equal opportunity; health affairs; counterdrug programs; family support; and morale, welfare, and recreation. In February 2005, I accepted additional duties as Deputy Assistant Secretary of the Navy for Total Force Transformation, leading efforts to modernize the management of the Department's total force of Active-Duty, Reserve, civilian, and contractor personnel. Since August 2001, I have also had the opportunity to observe and learn from both civilian and military leadership, not only in the realm of manpower and Reserve affairs, but across a range of DOD activities.

Before joining DOD in 2001, I practiced law for about 20 years, initially concentrating in corporate law and litigation and later, as a nonprofit organization leader, focusing on constitutional equal protection and individual rights issues. In prior public service, I served on the Virginia Military Institute (VMI) Board of Visitors from 1995 to 2001, and chaired the Board's committee overseeing the successful assimilation of women at VMI. In 1998–1999, I was chairman of the Congressional Commission on Military Training and Gender-Related Issues, which was established in the aftermath of a string of scandals in the mid-1990s involving sexual misconduct in the military.

Question. Do you believe that there are any steps that you need to take to enhance your expertise to perform the duties of the Assistant Secretary of the Air Force for Manpower and Reserve Affairs?

Answer. If confirmed, I look forward to learning more about the Air Force, its mission, and its people so that I can improve my ability to perform my duties.

MAJOR CHALLENGES AND PROBLEMS

Question. In your view, what are the major challenges and problems confronting the Assistant Secretary of the Air Force for Manpower and Reserve Affairs?

Answer. People are our most valuable asset. Even if we have the most advanced technology and hardware in the world, if we do not have good people, we cannot accomplish our mission. The enduring challenge is to attract, retain, and manage people in such a way that both they and the institution can succeed and thrive.

Question. Assuming you are confirmed, what plans do you have for addressing these challenges?

Answer. If confirmed, I look forward to working with others—in the Air Force, in DOD, Congress, and beyond—to apply the best knowledge and experience toward solving and overcoming these challenges.

AIR FORCE ACTIVE-DUTY END STRENGTH REDUCTIONS

Question. Following recommendations made in the Quadrennial Defense Review (QDR), the President's budget for fiscal year 2007 begins the process of reducing Air Force manpower by 40,000 full-time equivalents across the total force. The Air Force plans to take a reduction of over 23,000 airmen by September 30, 2007.

What is your understanding of how the Air Force intends to achieve these planned Active-Duty Force reductions within the officer and enlisted ranks in a single fiscal year, and they will affect readiness and recruiting?

Answer. I understand that the Air Force plans to reduce its end strength in the near future. The Navy has faced similar challenges in the past few years. If confirmed, I expect to examine this subject thoroughly with the Air Force staff and others.

Question. If the Air Force is unable to implement planned retirement of aircraft, such as the F–117, U–2, B–52, and C–21, what is your understanding of how this would affect the Air Force's ability to achieve planned reductions?

Answer. I understand that planned reductions may be affected by the number and types of platforms in use in the Air Force. As a platform-based service, the Navy has had to deal with comparable issues. If confirmed, I expect to examine this subject thoroughly with the Air Force staff and others.

Question. To what extent does the Air Force plan to rely on military-to-civilian conversions to achieve reductions in end strength while continuing to perform its missions, and have any studies been performed that address military-to-civilian conversions, availability of funding for civilian salaries, and the amount of time needed to achieve significant reductions using this means?

Answer. I am not familiar with the Air Force's plans as they may relate to military-to-civilian conversions. The Navy and Marine Corps have also planned and executed such conversions; both have "lessons learned" to share. If confirmed, I expect to examine this subject thoroughly with the Air Force staff and others.

AIR NATIONAL GUARD AND AIR FORCE RESERVE END STRENGTH REDUCTIONS

Question. Under the QDR, the Air Force plans to cut over 14,000 part-time end strength positions from the Air National Guard (ANG) and about 7,700 part-time positions from Air Force Reserve over the next 5 years.

What is your understanding of how the ANG and Air Force Reserve will absorb these reductions in end strength over the FYDP given the missions they have been assigned worldwide?

Answer. I understand that the Air Force plans to reduce its ANG and Air Force Reserve end strength in the near future. I am not familiar with the details of the Air Force plan. If confirmed, I expect to examine this subject thoroughly with the Air Force staff and others.

Question. What is your understanding of the current status of coordination about the impact of these reductions with the National Guard Bureau and the State National Guard units affected?

Answer. I am not familiar with the current status of Air Force coordination with the National Guard Bureau and State National Guard units on the possible impacts of end strength reductions. If confirmed, I expect to examine this subject thoroughly with the Air Force staff and others.

Question. What missions currently assigned to the ANG and Air Force Reserve would be changed or eliminated in order to meet end strength reductions?

Answer. I am not familiar with the Air Force's plans for adjusting ANG or Air Force Reserve missions to meet end strength reductions. If confirmed, I expect to examine this subject thoroughly with the Air Force staff and others.

RESERVE COMPONENT INVOLUNTARY RECALL POLICY

Question. The DOD has implemented a policy that limits the involuntary recall of Reserve and National Guard personnel for mobilization to 24 cumulative months.

What is your understanding of the impact, if any, of the 24-month policy on the Air Force Reserve and ANG with respect to their ability to generate forces for operational missions?

Answer. I understand that the policy limiting involuntary recall to 24 cumulative months may have an impact on Air Force Reserve and ANG. The Navy and Marine Corps have had to deal with the same policy; however, I recognize that the policy may have different impacts on different Services. If confirmed, I expect to examine this subject thoroughly with the Air Force staff and others.

Question. What is your understanding of the number and percentage of members of the Air Force Reserve and ANG who are unavailable for deployment as a result of the 24-month policy and the impact, if any, that this has on mission readiness?

Answer. I am not familiar with Air Force statistics on non-availability of Reserve or Guard personnel or the impact on mission readiness, as a result of the 24-month policy. If confirmed, I expect to examine this subject thoroughly with the Air Force staff and others.

Question. What measures are being taken in the Department to respond to operational requirements for low density, high demand units and personnel whose skills are found primarily in the Reserve components?

Answer. I am not familiar with measures taken in the Department of the Air Force to respond to such skill gaps. The Navy Reserve has reorganized to align itself better with the Active-Duty Navy and its current and forecasted missions. The Marine Corps Reserve remains flexible and agile to meet new requirements on a continuous basis. If confirmed, I expect to examine this subject thoroughly with the Air Force staff and others.

OFFICER MANAGEMENT ISSUES

Question. If confirmed as Assistant Secretary of the Air Force for Manpower and Reserve Affairs, what role would you expect to play, if any, in the officer management and promotion system, including policies affecting general officers?

Answer. If confirmed, I will provide support as directed by the Secretary of the Air Force in matters concerning the officer management and promotion system, including policies affecting general officers.

FORCE SHAPING INITIATIVES

Question. The Air Force has requested authority to reduce the number of its Active-Duty airmen by 23,000 in fiscal year 2007. In order to implement this ambitious plan without irreparably harming recruiting, the Air Force intends to employ both voluntary separation incentives and involuntary separation procedures.

What is your understanding of Air Force planning with respect to the numbers of officer and enlisted personnel by paygrade who must be separated in 2007 to achieve end strength requirements?

Answer. I understand that the Air Force has requested force-shaping authorities. I am not familiar with the Air Force's detailed planning. The Navy has engaged in similar planning in recent years in connection with its force reductions. If confirmed, I expect to examine this subject thoroughly with the Air Force staff and others.

Question. What oversight role, if any, would you play, if confirmed, to ensure that involuntary separations or forced retirement are implemented as equitably as possible?

Answer. If confirmed, and with the advice of the Department's legal staffs, I will require that Air Force policies governing involuntary separations or forced retirement be implemented in a manner consistent with applicable law and policies, as well as fundamental principles of fairness.

IMPLEMENTATION OF TRICARE FOR RESERVISTS

Question. The National Defense Authorization Act for Fiscal Year 2006 authorized new categories of eligibility for TRICARE for members of the Selected Reserve, which are required to be implemented by October 1, 2006.

What is your assessment of the Department's ability to timely implement the new benefits and the challenges it will have to overcome?

Answer. I understand that the Air Force, like other Services, has members of the Selected Reserve who are intended beneficiaries of this new extension of TRICARE. Effective communication and notification will be important in meeting the deadline. If confirmed, I expect to examine this subject thoroughly with the Air Force staff and others.

Question. If confirmed, what role would you play in coordinating the Air Force's efforts implementing these new benefits?

Answer. If confirmed, I expect to oversee the efforts of the Air Force staff, including the Air Force Reserve, and to assist the Air Force Surgeon General in coordinating those efforts with the DOD TRICARE agency.

GENDER-INTEGRATED TRAINING

Question. You were the Chairman of the Commission on Military Training and Gender-Related Issues that from 1998 to 1999 studied cross-gender relationships of members of the Armed Forces and, in particular, the basic training programs of the Services. The Commission recommended that the Services continue to train recruits of both sexes in accordance with their current policies, which for the Air Force, Navy, and Army, meant gender-integrated basic training. You disagreed with the Commission's finding in this regard, and issued a personal statement expressing your view that military effectiveness should dictate how the Services conduct basic training and that there were unanswered, serious questions about the relative effectiveness of gender-integrated versus gender-separate training.

Based on your experience since August 2001 as the Deputy Assistant Secretary of the Navy for Military Personnel Policy and, since February 2005, Total Force

Transformation, what are your current views about the military effectiveness of gender-integrated training?

Answer. I believe that military effectiveness should be the standard by which Services make decisions about training. Pursuing military effectiveness as a goal, the Services should not stand still, but continually reexamine their assumptions and seek out better ways to accomplish their training mission.

In the Department of the Navy today, both Services have retained the same format for basic training that they had in 1999: Navy boot camp is gender-integrated, and Marine Corps boot camp is gender-separate. Both Services report that they are satisfied with the product they obtain and they are able to perform their assigned missions.

Question. If confirmed, what actions, if any, would you take with respect to evaluating the benefits of gender-integrated versus gender-separate training in the Air Force?

Answer. If confirmed, I will let the Air Force know (as I have done with both the Navy and Marine Corps) that I stand ready to support efforts to improve training results.

EMPLOYMENT OF MILITARY SPOUSES

Question. In your view, what progress has been made, and what actions need to be taken to provide increased employment opportunities for military spouses?

Answer. Thanks to congressional support extending over the past 20 years, many programs exist today to provide increased employment opportunities for military spouses. These include relocation assistance, both in the United States and worldwide, job search aids, Federal preferences for military spouses, education and job training programs, and even assistance in starting their own businesses.

It is important to assess the effectiveness of these programs and continue to support those that work, while improving or replacing others with new program opportunities that may produce better results for our military families.

MANAGEMENT AND DEVELOPMENT OF THE SENIOR EXECUTIVE SERVICES (SES)

Question. The Air Force has initiated a senior leader management model to enhance and improve management, development, and assignment of SES and general officers.

What is your assessment of how the Air Force program is working?

Answer. I am aware that the Air Force has initiated a new model for management, development, and assignment of SES and general officers. I applaud the Air Force's initiative in this important area. The program is in a very early stage, and it may take several years before the program fully takes shape. I look forward to learning more about the design, deployment, and results of this model.

Question. What is your vision of the approach the Air Force should take to further improve the management, development, and assignment of SES members, especially in the critically important areas of acquisition and financial management?

Answer. I believe these efforts should be aligned with the relevant provisions of the QDR and similar strategic documents to achieve the vision of a capable, flexible, and agile future Total Force. The leadership of the future Total Force must be of the highest character, competence, and accountability. I believe the acquisition and financial management communities would benefit from studying how other professions are organized and governed, to include specific ethical rules, some form of internal self-policing, minimum competency standards, and requirements for continuing education.

JOINT ASSIGNMENT OPPORTUNITIES FOR MILITARY AND CIVILIAN PERSONNEL

Question. The QDR Report of February 2006 calls for reorienting defense capabilities in support of joint operations, to include joint air, joint mobility, and joint command and control.

What is your view of the opportunities for joint training and assignment today for both military and civilian personnel in DOD?

Answer. Opportunities for joint training and assignment for military and civilian personnel in DOD remain somewhat limited today, but are growing steadily. The leadership in both DOD and the Service Departments is focused on increasing capabilities by expanding the pool of individuals who may be able to perform the many jobs involved in our national defense. "Jointness" no longer applies only to the military services, but to the Total Force of Active and Reserve component military, plus government, nongovernment, and contractor civilians.

Question. If confirmed, how would you assess the adequacy of the Air Force civilian workforce—in terms of training, experience, and numbers of government personnel—to support the Air Force mission?

Answer. I have not had enough exposure to the Air Force civilian workforce to be able to assess their training, experience, and numbers. If confirmed, I expect to examine these issues in detail with Air Force staff and others.

Question. What steps would you take, if confirmed, to move closer to the goal of reorienting Air Force personnel in support of a joint concept of operations?

Answer. If confirmed, I would gather information and data to assess the current status of Air Force personnel, identify gaps that need to be addressed in order to bring them fully in support of a joint concept of operations, and along with Air Force staff and others, develop plans and programs to fill the gaps, along with measures of progress and performance.

MEDICAL PERSONNEL SHORTAGES

Question. The military medical corps of all three Departments are facing unprecedented challenges in the recruitment and retention of medical and dental personnel needed to support DOD's medical mission.

What steps would you take, if confirmed, to address recruitment and retention challenges in the Air Force Medical Services as well as the Air Force Reserve?

Answer. I have worked with Navy medicine in addressing similar challenges, and I hope that experience will be useful. I am aware, however, that the Navy and Air Force medical corps have somewhat different missions and requirements, and so I would not assume that either the problems or the solutions are the same for both Services. If confirmed, I expect to examine these issues in detail with Air Force staff and other Service and DOD colleagues, among others.

Question. Based on your Navy experience, are you confident that the Department has sufficient tools to achieve goals for recruitment and retention of highly skilled health care personnel? If not, what additional tools might be worthy of consideration in the future?

Answer. Based on my knowledge of Navy medicine's concerns and challenges, I know that a number of tools already exist—including scholarships, loan repayment programs, and critical skills accession and retention bonuses—to recruit and retain highly skilled health care personnel. The Navy recognizes that it needs to make full use of the tools it already has. Bottom Line: While I cannot say that I am confident that the Department has all the tools it might need for this purpose, I do believe the Services should look critically and creatively at the full range of tools, flexibilities and authorities that Congress has already provided and make good use of them.

It is hard to compete with the private sector on a financial basis alone. Further, I believe many people who are attracted to military medicine are not necessarily motivated by money alone. In addition to financial incentives, the ability to offer flexible career options could help us recruit and retain highly skilled health care personnel. For example, on- and off-ramps (allowing people to leave the Service for a period of time and return later) could be very attractive to some of our medical personnel, who may wish to leave the military for a time to devote themselves to raising a family or pursuing other personal or professional goals, then return to military medicine later. Permitting the Services to experiment with different approaches to managing their medical Reserve components (for example, adjusting the timing and conditions of Reserve duty to avoid undue damage to the physician reservist's private practice) also could help with recruiting and retention.

PERSONNEL AND HEALTH CARE COSTS

Question. Senior military leaders have testified in favor of the administration's plan to significantly increase health care fees for military retirees as a result of the growing portion of the DOD budget devoted to personnel and benefit costs.

Do you share the view that future operational readiness of the Armed Forces is threatened by the increasing costs of personnel benefits?

Answer. The increasing costs of personnel benefits, especially health care, do pose a budgetary threat because we must operate within the limits of finite resources. Funds for increased entitlement costs must come from discretionary spending elsewhere in the budget. Thus, dramatic increases in benefit costs are bound to affect the amount of money we can apply toward operational readiness.

Question. What efficiencies and personnel benefit changes do you believe warrant consideration to ensure a viable and affordable force?

Answer. I believe that the government must keep its promises, and it is important to keep faith with servicemembers who rely upon promises previously made to them. Nevertheless, we all have a stake in ensuring a viable and affordable force. I believe

there may be more creative options that could both reduce costs and increase members' satisfaction. For example, cafeteria-style benefits plans enable individual employees to select the benefits that are most valuable to them personally. Other nonfinancial benefits, such as allowing more individual choice in transfers and assignments, might yield equal or better retention at lower cost to DOD.

NATIONAL SECURITY PERSONNEL SYSTEM (NSPS)

Question. Although currently enjoined from implementation of a new labor-relations system, the Department is planning to move ahead in the implementation of a pay-for-performance civilian personnel system.

Based on your experience in the Navy, what is your assessment of the adequacy and quality of training that is being provided on the new personnel system?

Answer. Based on my experience in the Navy, NSPS training appears to be proceeding as planned and receiving a lot of attention from leadership. The success of the plan will not be known until results can be seen and evaluated. Meanwhile, I believe that the leadership of the Department of the Navy is committed to ensuring that managers and others receive the training they need. Leaders are watching these programs carefully and are willing to adapt in response to experience in order to achieve the best results.

Question. What is your understanding of the manner in which pay levels will be determined under the new system?

Answer. I understand that under NSPS employees will be assigned to a pay band that reflects their current pay, with no reduction in actual pay, and they will have the opportunity to earn future increases through merit and performance.

Question. If confirmed, how would you monitor the acceptance of the new system by the civilian workforce, and how would you intervene if acceptance of the system fell below expected levels?

Answer. If confirmed, I expect to work closely with both Air Force staff and other elements of DOD to monitor workforce acceptance of NSPS. If acceptance falls below expected levels, I will work with colleagues to determine how best to respond to workforce concerns.

FAMILY SUPPORT

Question. In your view, do the Services have adequate programs in place to ensure support for Active and Reserve component families, particularly those who live great distances from military installations?

Answer. Thanks to Congress, military family support programs have improved tremendously. The Services are able to offer a wide range of programs to meet the needs of families in both Active and Reserve components. Toll-free telephone support, such as OneSource, allows families who live far away from military installations to have access to support tailored for their needs. Customer surveys and retention rates in the Navy and Marine Corps show that family support programs appear to be adequate.

Question. If confirmed, what additional steps would you take to enhance family support to airmen?

Answer. In the Department of the Navy, although there are many similarities between the Navy and the Marine Corps, there are also many differences, resulting in different programs that nonetheless meet the needs of each Service. I have found it is important to ask what people feel they need rather than impose "solutions" that they don't want and can't use. If confirmed, I would not want to make assumptions about what airmen and their families need or want, but instead I would ask them what they think and do my best to develop programs that respond to them.

GENERAL AND FLAG OFFICER NOMINATIONS

Question. Under section 506 of the National Defense Authorization Act for Fiscal Year 2006, the Services must provide substantiated adverse information to promotion selection boards selecting officers for promotion to the grades of O7 and above.

What problems, if any, do you foresee in the Air Force's ability to implement this requirement?

Answer. I have no information about the Air Force's ability to provide substantiated adverse information to promotion selection boards for grades of O7 and above.

Question. If confirmed, what guidance would you provide to promotion selection board members about the manner in which such adverse information should be considered?

Answer. Any guidance naturally would start with the legislative language itself. In addition, I understand that the Office of Secretary of Defense is about to publish

regulations providing guidance as required under section 506, which will be effective October 1, 2006. If confirmed, I expect to provide support in this area as directed by the Secretary of the Air Force.

INTERSERVICE TRANSFERS

Question. At the same time that the Army and Marine Corps are working harder than ever to achieve recruiting goals, the Navy and the Air Force are planning for significant reductions in Active-Duty and Reserve military personnel. Under section 641 of the National Defense Authorization Act for Fiscal Year 2006, an interservice bonus for transfer was authorized. Additional incentives may be necessary, however, to encourage "blue to green" transfers in order to retain sailors and airmen with valuable military training, skills, and experience

What is your assessment of the adequacy of existing incentives for interservice transfers?

Answer. It may be that monetary incentives alone will not prove sufficient to persuade members of one Service to join another. Each Service has a unique culture, with which its members strongly identify. I endorse the idea of promoting "blue to green" transfers, but I believe that, to be successful, the program should consider other methods of motivating departing sailors and airmen to stay in the military in another Service.

Question. If confirmed, and given your experience as Deputy Assistant Secretary of the Navy, what steps would you take to enhance the number of "blue to green" interservice transfers?

Answer. If confirmed, I would like to explore other possible methods of assisting the Army and Marine Corps in fulfilling their mission requirements. For example, one barrier to interservice cooperation is the lack of a common set of competencies for various jobs. Recently, the Navy was able to provide Master at Arms (MA) sailors to assist the Army in Military Police (MP) work by identifying competency gaps between the two communities and providing "just in time" training to MAs so that they could do the work of MPs. I look forward to continuing to work with other Service Department colleagues on this issue.

DIVERSITY IN THE AIR FORCE

Question. In its policies and practices, the Air Force is committed to the principles of equal opportunity with the goal of promoting equity, eliminating unlawful discrimination, and building teamwork and readiness. Diversity initiatives, including reliance on affirmative action plans, according to Air Force instructions, focus on "broad policies seeking to remove barriers to status inequality and to capitalize on demographic changes in society. Diversity initiatives constitute a philosophy and practical tools aimed at producing results."

What is your view of the proper use of affirmative action plans and measures aimed at achieving or nurturing diversity in the Armed Forces?

Answer. I am not familiar with the details of the Air Force diversity plan, but I appreciate the strategic importance of ensuring that service in the Armed Forces is broadly supported by all Americans and that our Armed Forces are able to work effectively in many different areas and cultures around the world.

"Affirmative action" originally meant taking positive steps to identify and remove barriers and to "cast a wider net" in seeking to offer qualified persons an opportunity to compete based on their own merits. I endorse this original intent, and I believe there are many ways in which the Armed Forces can take positive steps as just described, without resorting to quotas and preferences, in order to achieve or nurture diversity. For example, both Navy and Marine Corps have produced ads and marketing plans tailored to reach nontraditional markets. We also challenged Navy recruiters, not to deliver a certain number of minority sailors, but instead to increase measurably their contacts with minority prospects. Both these efforts—classic examples of "casting a wider net"—helped to increase diversity without using quotas or preferences.

Question. In your opinion, how, if at all, should considerations relating to gender and minority status with respect to race, ethnicity, and national origin be addressed in the guidance provided by the Secretary of each Service to promotion selection boards?

Answer. Precept language relating to race, ethnicity, national origin, or gender should emphasize that candidates must be evaluated based on merit and performance in the assignments they have been given. Precepts should also advise boards that the demonstrated ability to lead a diverse force and deal successfully with different cultures is valued and important.

Question. What is your understanding of the manner in which considerations relating to gender and race, ethnicity, and national origin are used in selection processes for the U.S. Air Force Academy?

Answer. I am not familiar with the manner in which the U.S. Air Force Academy considers gender and race, ethnicity, and national origin in its selection processes.

Question. Do you agree with the Air Force Academy's approach with respect to the selection of applicants?

Answer. I am not familiar with the Air Force Academy's selection process, but if confirmed, I expect to examine this area in detail with Air Force staff and others.

SEXUAL ASSAULT

Question. On February 25, 2004, the Senate Armed Services Committee Subcommittee on Personnel conducted a hearing on policies and programs of DOD for preventing and responding to incidents of sexual assault in the Armed Forces at which the Service Vice Chiefs endorsed a "zero tolerance" standard. Subsequently, in response to congressional direction, the Department developed a comprehensive set of policies and procedures aimed at improving prevention of and response to incidents of sexual assaults, including appropriate resources and care for victims of sexual assault.

Do you consider the new sexual assault policies and procedures, particularly those on confidential reporting, to be effective?

Answer. The new sexual assault policies and procedures have not been in effect very long. Early indications seem to show that the expanded opportunity for confidential reporting may have had the desired effect of inducing more victims of sexual assault (who otherwise might not have reported their attacks) to come forward and receive assistance and treatment. It is not yet clear whether increased reporting rates will yield greater numbers of substantiated cases or convictions.

Question. What problems, if any, are you aware of in the manner in which the new policies have been implemented?

Answer. For over 10 years before the recent DOD policies became effective, the Department of the Navy had regulations on Sexual Assault Victim Intervention (SAVI), setting standards for mandatory Navy and Marine Corps programs in response to sexual assault victim needs and rights, reporting requirements, and investigations and prosecutions. As a result, the Navy and Marine Corps already had well-developed programs and a strong culture of victim support and zero tolerance for sexual assault. The only problem I am aware of so far in connection with implementation of the new policies is that both Services had to change some of their previous terminology (e.g., SAVI to SARC) in order to comply with the DOD policy, and those changes seem to have caused some confusion in the fleet and field.

Question. If confirmed, what oversight role, if any, would you expect to play?

Answer. If confirmed, I expect to devote substantial and constant attention to these issues.

UNITED STATES AIR FORCE ACADEMY

Question. In 2003, in response to complaints of sexual assaults and harassment of female cadets at the U.S. Air Force Academy, the Secretary of the Air Force and the Chief of Staff initiated the "Agenda for Change," which introduced numerous changes at the Academy aimed at preventing and responding to incidents of sexual assault.

What elements of the Agenda for Change have been repealed, and why?

Answer. I am not familiar with the details of the implementation of the Agenda for Change at the U.S. Air Force Academy.

Question. What is your assessment of the reforms included in the Agenda for Change, and what is your current assessment of the equal opportunity climate at the U.S. Air Force Academy?

Answer. I am not familiar with the details of reforms and the current equal opportunity climate at the U.S. Air Force Academy.

Question. If confirmed, what role would you expect to play with respect to implementation of Air Force-wide policies regarding equal opportunity and prevention of and response to sexual assault at the Air Force Academy?

Answer. If confirmed, I expect to devote significant attention to these issues.

Question. The reviews focused on the status and problems experienced by female cadets at the Air Force Academy in 2003 demonstrated the importance of focused, informed oversight by service civilian and military senior leaders of conditions for female cadets and midshipmen. The Service Academy 2005 Sexual Harassment and Assault Survey found that even with the implementation of corrective measures,

sexual assault, and harassment continue to be factors negatively affecting female cadets at the military academies.

What is your evaluation of the conclusions and recommendations of the Service Academy 2005 Sexual Harassment and Assault Survey and the Report of the Defense Task Force on Sexual Harassment and Violence at the Military Service Academies?

Answer. The 2005 Sexual Harassment and Assault Survey revealed that, in the case of the U.S. Naval Academy, 59 percent of female and 14 percent of male midshipmen indicated they had experienced some form of sexual harassment, while 5 percent of women and 1 percent of men reported experiencing sexual assault. According to the Defense Manpower Data Center, these statistics are consistent with those for civilian college students; however, I believe it is fair to expect a higher standard of behavior from young people privileged to attend a Service Academy and intending to pursue a military career.

Concerning the Defense Task Force on Sexual Harassment and Violence at the Military Service Academies, most of its recommendations were consistent with preexisting policies in the Department of the Navy, which has mandated comprehensive sexual assault victim intervention programs in the Navy and Marine Corps for over 10 years.

Question. What actions would you expect to take, if confirmed, to address the problems of sexual assault and sexual harassment at the U.S. Air Force Academy and with respect to the Air Force's programs in this regard?

Answer. If confirmed, I expect to devote significant attention to these issues. As the Task Force noted, "sexual harassment and assault is not a 'fix and forget' problem" but requires "a long-term, sustained effort, not only by the leaders of the Academies, but also by the cadets and midshipmen."

RELIGIOUS PRACTICES IN THE AIR FORCE

Question. What is your assessment of corrective measures taken at the U.S. Air Force Academy to ensure religious tolerance and respect, and of Air Force guidelines regarding religious tolerance that were promulgated in August 2005?

Answer. I am not familiar with the details of corrective measures taken at the U.S. Air Force Academy or the August 2005 Air Force guidelines on religious tolerance and respect. If confirmed, I expect to examine this subject thoroughly with the Air Force staff and others.

Question. What additional steps, if any, do you think need to be taken with respect to the role of military chaplains in performing their duties in ministering to airmen?

Answer. I believe the recently revised Department of the Navy instruction strikes a proper balance between the free expression rights of chaplains and of servicemembers. If confirmed, I would want to learn more about the Air Force guidelines on religious tolerance and what issues are present in the Air Force before determining any specific course of action.

FOREIGN LANGUAGE TRANSFORMATION ROADMAP

Question. A Foreign Language Transformation Roadmap announced by the Department on March 30, 2005, directed a series of actions aimed at transforming the Department's foreign language capabilities, to include revision of policy and doctrine, building a capabilities-based requirements process, and enhancing foreign language capability for both military and civilian personnel.

What is your understanding of the status of the actions identified in the Defense Language Transformation Roadmap?

Answer. I am not familiar with the status of Air Force implementation of Defense Language Transformation Roadmap requirements. In the Navy Department, both Navy and Marine Corps have recently submitted progress reports indicating they are on track in executing their service-level language transformation plans. Of note, the Navy is revitalizing its Foreign Area Officer (FAO) program, and the Marine Corps has established a new Center for Advanced Operational Culture Learning (CAOCL). As described on its Web site, the CAOCL "ensures marines are equipped with operationally relevant regional, culture, and language knowledge to allow them to plan and operate successfully in the joint and combined expeditionary environment in any region, in current and potential operating conditions, and targeting persistent and emerging threats and opportunities."

Question. If confirmed, what steps would you take to identify foreign language requirements, and to design military and civilian personnel policies and programs to fill those gaps?

Answer. If confirmed, I would encourage a joint approach in which, for example, each Service might take the lead for developing culture and language capabilities in the regions where that Service typically operates. I would also encourage the use of informed risk-management in determining how we should allocate both financial and human resources to attain optimum cultural and language readiness. Our policies and programs should seek ways to leverage existing capabilities, for example, by employing knowledge management systems that can help us find individuals with the needed mix of skills, no matter what their current positions might be.

Question. What is your assessment of an appropriate timeframe within which results can be realized in this critical area?

Answer. The timeframe for results depends on the nature of the actions required. When emergent requirements are known, there may be ways to "jump-start" capabilities (e.g., recruiting native speakers, using new technologies). But in general, building language capabilities should be regarded as a long-term investment. We need to acknowledge that language skills decline if not properly maintained and provide the right kind of assignments and opportunities for skilled linguists.

MILITARY QUALITY OF LIFE

Question. In May 2004 the Department published its first Quadrennial Quality of Life Review, which articulated a compact with military families on the importance of key quality of life factors, such as family support, child care, education, health care and morale, welfare and recreation services.

How do you perceive the relationship between quality of life improvements and your own top priorities for military recruitment and retention?

Answer. Quality of life improvements are definitely one of the most important factors in successful military recruiting and retention—which in turn, is fundamental to mission accomplishment for any Service. Some quality of life programs primarily benefit the individual servicemember, and others provide support for members' families; both kinds are important. We know that families often play a decisive role in whether a member stays in or leaves the Service.

If confirmed, what further enhancements to military quality of life would you make a priority, and how do you envision working with the Services, combatant commanders, family advocacy groups, and Congress to achieve them?

Answer. If confirmed, I would encourage further enhancements to military quality of life that would give servicemembers greater ability to select the benefits and programs of most interest to them. I would also like to examine quality of service improvements, such as longer tours, fewer moves, and greater ability to pursue jobs of special interest to the member. The Services, combatant commanders, family advocacy groups, and Congress would be vital partners in efforts to enhance quality of life programs along these lines.

CONGRESSIONAL OVERSIGHT

Question. In order to exercise its legislative and oversight responsibilities, it is important that this committee and other appropriate committees of Congress are able to receive testimony, briefings, and other communications of information.

Do you agree, if confirmed for this high position, to appear before this committee and other appropriate committees of Congress?

Answer. Yes.

Question. Do you agree, if confirmed, to appear before this committee, or designated members of this committee, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as the Assistant Secretary of the Air Force for Manpower and Reserve Affairs.

Answer. Yes.

Question. Do you agree to ensure that testimony, briefings, and other communications of information are provided to this committee and its staff and other appropriate committees?

Answer. Yes.

[Questions for the record with answers supplied follow:]

QUESTIONS SUBMITTED BY SENATOR CARL LEVIN

ORGANIZATION MEMBERSHIP

1. Senator LEVIN. Ms. Blair, at your nomination hearing earlier this week, I asked you several questions about two organizations of which you are a member—Independent Women's Forum and the Virginia Affiliate of Eagle Forum. You responded

in part: "I would hasten to mention that neither one is a membership organization in the sense that anybody who may—one pays dues or is apt to be eliminated if one doesn't agree with everything that they say." The Web sites for both organizations provide membership application forms, including annual contributions for various categories of membership (copies attached). In addition, you listed yourself as a member of each organization in your response to the committee questionnaire (question A–12). In the cover letter for this form, you stated: "I am a member of certain organizations and professional societies, which are either listed below or have been previously provided to the committee. None of these should pose any conflict of interest with regard to my governmental responsibilities." How do you reconcile your statement that neither of these two organizations is a "membership organization" to which "one pays dues" with the membership forms and dues information provided on the organizations' Web sites?

How to Join Virginia Eagle Forum

Please print this form, fill in the blanks, and send it with your check to:

Virginia Eagle Forum
Helen Blackwell, Chairman
P.O. Box 100874
Arlington, VA 22201

NAME _____

ADDRESS _____

CITY _____

STATE ---------- ZIP ----------

PHONE ---------- FAX ----------

E-mail _____

Congressional District _____ State Senate Dist. _____ State Delegate Dist. _____

_____ I am interested in helping the Virginia Eagle Forum PAC elect pro-family state legislators.

Enclosed is my payment for:

_____	$20 for one year	Membership in Virginia Eagle Forum
_____	$20 for one year	Membership in National Eagle Forum (Includes the Phyllis Schlafly Report)
_____	$10.	Eagle Insignia Pin
Total	$ _____	Check enclosed.

Please support IWF with your most generous contribution, or choose from the membership options be
Be assured, your personal information will be kept safe on our secure, dedicated server.

Junior Associate
$25/year
(age 25 and under)

- IWF Email Updates
- Select Publication

Associate
$35/year

- **Junior Associate Benefits PLUS**
- Quarterly President's Report

Silver Club
$100/year or $9/month

- **Associate Bene PLUS**
- IWF Issue Updat Reports based or your selected personal interest

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Gold Club
$500/year or $45/month

- **Silver Club Benefits PLUS**
- Special Invitations to IWF Conferences
- Copy of our annual Press Clipping Booklet and Press Video

President's Club
$1000/year or $85/month

- **Gold Club Benefits PLUS**
- Complimentary copies of books showcased at our events

If you'd prefer contribute by m you can downlo the contributio form in PDF he

To learn about alternative givin methods, please c here.

* Please answer all questions in bold

Personal Information

Title
***First Name**
Middle Initial
***Last Name**
Suffix

Address Information

***Address**

Support the Independent Women's Forum! Page 2 of 2

*City
*State
*Zip/Postal Code
Phone
E-mail

☐ Please add my email address to your mailing list.

☐ Click here to remember your address information for future visits.
For your protection, we do not store your credit card information.

Please choose your membership level below:

*Amount
○ $35.00 - Associate
○ $100.00 - Silver Club
○ $500.00 - Gold Club
○ $1,000.00 - President's Club
○ $25.00 - Junior Associate
$ _____ Other Amount

OR, you may choose to pay your membership in a monthly contribution:

*Amount
○ $9.00 - Silver Club
○ $45.00 - Gold Club
○ $85.00 - President's Club
$ Other Monthly Amount

CREDIT CARD INFORMATION
For your protection: The address you provide should be the same as the billing address of your Credit

*Card Type
*Credit Card #
*Expiration Date Month Year

Submit

Paid for and authorized by Independent Women's Forum.

Ms. BLAIR. In my oral answer, I was referring to the definition of a "membership organization" as I used and understood that term when I was a nonprofit executive. Under Virginia corporation laws (which applied to the Independent Women's Forum when I worked there), if a nonstock (nonprofit) corporation opts to have "members" under its charter or bylaws, the members may have certain statutory rights. A "membership" organization typically requires its members to pay dues and comply with other conditions of membership, such as agreeing to abide by certain principles or standards.

During my tenure the Independent Women's Forum was not a membership organization, and I believe that is still true today. To the best of my knowledge the same is true of the Virginia Eagle Forum. A person who "joins" the Independent Women's Forum or Virginia Eagle Forum receives no right to vote on the governance of the

organization and is subject to no obligations or conditions imposed by the organization.

When I was involved with the Independent Women's Forum, we tried not to use the terms "member" or "membership" in promotional materials because we did not want to imply that any contributor or supporter might have any rights or obligations in relation to the organization. Since I resigned as an officer and employee 5 years ago, prior to accepting my current position in the Department of the Navy, I cannot speak for the current policies or practices of the Independent Women's Forum. I have never been an officer, employee, or active participant in any way in either the National or Virginia Eagle Forum, and thus cannot speak for their past or present policies or practices.

2. Senator LEVIN. Ms. Blair, how do you reconcile this statement with your response to the committee questionnaire, in which you indicated that you are a member of these organizations?

Ms. BLAIR. In completing the questionnaire, I assumed that the committee was using the term "membership" in a colloquial sense, and I wished to inform the committee fully about organizations with which I have had any connection, whether or not constituting "membership" in the legal sense. In fact, since August 2001, when I commenced my current job in the Department of the Navy, I have not been an officer, director, or employee nor actively participated in any organizations. The only contact I have had with the Independent Women's Forum was to attend its 2004 and 2006 dinners in honor of Hon. Lynne Cheney and Secretary Condoleezza Rice, respectively. I did so at the group's invitation, which was extended to me based on my personal capacity as a former president and not connected with my government employment.

3. Senator LEVIN. Ms. Blair, have you paid dues (or any annual payments in connection with membership, regardless of how they may be designated) to these organizations?

Ms. BLAIR. I have not contributed any money to the Independent Women's Forum since before 2001. I have no record of ever paying any dues or contributions to the National Eagle Forum (whose Web site was cited in the hearing). For several years my husband and I have contributed approximately $20–$40 per year to the Virginia Eagle Forum.

4. Senator LEVIN. Ms. Blair, given that each of these organizations has taken a position contrary to the position of the Air Force on the issue of gender-integrated training, would you agree that your continued membership in these organizations could create the appearance of a conflict of interest?

Ms. BLAIR. Consistent with the standard of ethics set forth in 5 C.F.R. § 2635.202 (rules for Federal employees concerning the appearance of impartiality), I do not believe that any circumstances exist that would cause a reasonable person with knowledge of the relevant facts to question my impartiality on this subject. I have no business, contractual or other financial relationship with these organizations, nor does anyone in my family or household. I am not an active participant in these organizations. If a particular matter involving specific parties should arise that might create the appearance of a conflict of interest, I would consult with my agency ethics designee to determine how best to handle the matter. As I stated at the hearing regarding gender-integrated training in the Air Force: I will be guided by the opinions of the experts who are running the training programs as to what ways they may want to pursue to attempt to improve their training. I have no purpose, plan, or agenda to require the Air Force to change its gender-integrated training format.

4. Senator LEVIN. Ms. Blair, in the advanced questions sent to you by this committee, you were asked several questions regarding reductions in Air Force Active-Duty end strength as recommended in the Quadrennial Defense Report. In response, you asserted that you hoped to employ the "lessons learned" by other forces, particularly the Navy and Marines, who have experienced similar reductions. To what extent do you think that these "lessons learned" are directly applicable to the Air Force and, in what ways does the Air Force face unique challenges in its attempt to implement a reduction in force?

Ms. BLAIR. Some of the "lessons learned" by other Services may be applicable to the Air Force. For example, after the drawdowns of the early 1990s, followed by failure to meet recruiting goals later in the 1990s, the Navy found itself with insufficient numbers of junior personnel in certain jobs and year-groups. This created difficulties in managing the assignment and promotion systems, and even today some year-groups remain at relatively lower levels than expected.

These problems might have been avoided if the Navy had been able to execute its drawdown in a more targeted fashion, taking care to preserve the right number, seniority and quality of sailors in various jobs, especially those that require a long period of technical training. Since that time, the Navy has developed a better system of analysis for identifying the types of skills and experience that need to be preserved in order to "shape the force" without undue stress.

Another "lesson learned" is that, even though the Services have broad legal rights to discharge members without cause and without compensation, it is important to ensure that members perceive they are being treated fairly. Thus it is very desirable for a Service to have access to an array of force-shaping tools (monetary or otherwise).

Not being familiar with the details of Air Force manpower management, I am not able to say whether such "lessons learned" may be directly applicable to the Air Force, nor whether the Air Force faces unique challenges. If confirmed, I will be alert to point out areas where other Services' experience could be helpful to the Air Force, and I will also keep in mind that the Air Force may have unique situations where the experience of other Services is not particularly relevant.

[The nomination reference of Anita K. Blair follows:]

NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
April 24, 2006.

Ordered, That the following nomination be referred to the Committee on Armed Services:

Anita K. Blair, of Virginia, to be an Assistant Secretary of the Air Force, vice Michael L. Dominguez.

[The biographical sketch of Anita K. Blair, which was transmitted to the committee at the time the nomination was referred, follows:]

BIOGRAPHICAL SKETCH OF ANITA K. BLAIR

Effective 1 February 2005, Anita Blair assumed the responsibilities of Deputy Assistant Secretary for Total Force Transformation (TFT). As the Deputy Assistant Secretary (TFT), she serves as the Program Executive for the Department of the Navy's human capital transformation agenda, leading efforts to modernize the management of the Department's total force of Active-Duty, Reserve, civilian, and contractor personnel. Working closely with the other Deputy Assistant Secretaries and with the military Services, the Department seeks to develop a human capital management system that is agile, flexible, and integrated in support of contemporary requirements, including meeting the challenges of the global war on terrorism.

Dual-hatted as Deputy Assistant Secretary of the Navy for Military Personnel Policy (DASN (MPP)), Anita Blair is also responsible for policy and oversight related to personnel matters affecting Navy and Marine Corps Active-Duty servicemembers and their families. Issues include recruiting and retention; training and education; Active-Duty strength and compensation; character, leadership development, and equal opportunity; health affairs; counterdrug programs; family support; and morale, welfare, and recreation. She was sworn in on 15 August 2001.

In prior public service, Ms. Blair chaired the 1998–1999 Congressional Commission on Military Training and Gender-Related Issues, which investigated "cross-gender" issues such as rules on adultery, fraternization, and sexual conduct in the military, as well as the effectiveness of military basic training. The Commission conducted several weeks of hearings with nearly 100 witnesses and over a dozen inspection tours of military training and operational facilities, including deployments overseas. The Commission's final report included extensive new scientific studies and surveys of over 30,000 servicemembers.

Ms. Blair also served for 6 years on the Virginia Military Institute (VMI) Board of Visitors, originally appointed by Governor George Allen in 1995 and reappointed by Governor James S. Gilmore III in 1999. She chaired the Board's initial Assimilation Review Task Force, providing continuing oversight of issues related to the admission of women to VMI.

Before joining the Department of the Navy, Ms. Blair had been a lawyer in private practice in Virginia and the District of Columbia since 1981, concentrating in business law and litigation. She served 8 years on the Board of Governors of the Virginia State Bar Section on Antitrust, Franchise and Trade Regulation Law, which she chaired in 1998–1999. Beginning in 1992 she was also Executive Vice President and General Counsel and later President of the Independent Women's Forum (IWF), a nonprofit, nonpartisan organization dedicated to research and public education on policy issues concerning women. Among other activities, Ms. Blair appeared in the media, testified before Congress, and oversaw IWF's participation as amicus curiae in several high profile constitutional law cases before the U.S. Supreme Court.

Born in Washington, DC, Anita Blair attended Catholic schools and received her bachelor's degree in Classical Greek from the University of Michigan in Ann Arbor in 1971. She graduated in 1981 from the University of Virginia School of Law in Charlottesville, where she met her husband and law partner, C. Douglas Welty.

[The Committee on Armed Services requires all individuals nominated from civilian life by the President to positions requiring the advice and consent of the Senate to complete a form that details the biographical, financial, and other information of the nominee. The form executed by Anita K. Blair in connection with his nomination follows:]

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

(202) 224–3871

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior to the hearings and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)
Anita Katherine Blair, formerly: Anita Katherine Dascola 1970–1974 (former marriage).

2. **Position to which nominated:**
Assistant Secretary of the Air Force (Manpower and Reserve Affairs).

3. **Date of nomination:**
April 24, 2006.

4. **Address:** (List current place of residence and office addresses.)
[Nominee responded and the information is contained in the committee's executive files.]

5. **Date and place of birth:**
November 15, 1950; Washington, DC.

6. **Marital Status:** (Include maiden name of wife or husband's name.)
Married to C. Douglas Welty.

7. **Names and ages of children:**
None.

8. **Education:** List secondary and higher education institutions, dates attended, degree received, and date degree granted.

University of Virginia School of Law, Charlottesville, VA (1978–1981), J.D., May 1981.

Washington School of Law, American University, Washington, DC (August–December 1974), (no degree).

University of Michigan, Ann Arbor, MI (1968–1971), B.A., December 1971.

La Reine High School, Suitland, MD (1964–1968), high school diploma, May 1968.

9. **Employment record:** List all jobs held since college or in the last 10 years, whichever is less, including the title or description of job, name of employer, location of work, and dates of employment.

Deputy Assistant Secretary of the Navy (Military Personnel Policy & Total Force Transformation (August 2001–present).

President, General Counsel, Executive Vice President, Independent Women's Forum, Arlington, VA (1995–2001).

Chairman, Congressional Commission on Military Training and Gender-Related Issues, Arlington, VA (April 1998–July 1999).

Managing Director, Welty & Blair, P.C., Arlington, VA (1991–2001).

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

Board of Visitors, Virginia Military Institute (1995–2001).

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

None.

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

[Nominee responded and the information is contained in the committee's executive files.]

13. **Political affiliations and activities:**

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

None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 5 years.

None.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $100 or more for the past 5 years.

04/07/02	Cuccinelli for Senate	$ 100
06/29/03	Bush-Cheney 2004	1,000
09/30/03	Bush-Cheney E-donation	1,000
04/05/04	Citizens for Salazar	100
06/29/04	Virginians for Jerry Kilgore PAC	500
01/06/05	Cuccinelli for Senate	100
05/11/05	McDonnell for Virginia	125
09/30/05	Virginians for Jerry Kilgore	250
04/25/06	Friends of George Allen	450

14. **Honors and Awards:** List all scholarships, fellowships, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievements.

University of Michigan, Hopwood Awards, Fiction and Poetry (Summer 1971).

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

[Nominee responded and the information is contained in the committee's executive files.]

16. **Speeches:** Provide the committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

Copies of the following are attached:

(1) Opening Statement before House Committee on Veteran's Affairs (Subcommittee on Benefits) on Military Transition Assistance Programs (18 July 2002).

(2) Remarks to Navy Counseling, Advocacy and Prevention Biennial Conference (August 12, 2002).

(3) Remarks at opening of Navy Child Development Group Home, Norfolk, Virginia (October 15, 2003).

(4) Remarks presented to the Congressional Women's Caucus (status of DOD Task Force on care for victims of sexual assault) (March 31, 2004).

17. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to respond to requests to appear and testify before any duly constituted committee of the Senate?

Yes.

[The nominee responded to the questions in Parts B–F of the committee questionnaire. The text of the questionnaire is set forth in the Appendix to this volume. The nominee's answers to Parts B–F are contained in the committee's executive files.]

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

ANITA K. BLAIR.

This 28th day of April, 2006.

[The nomination of Anita K. Blair was returned to the President on December 9, 2006.]

[Prepared questions submitted to Benedict S. Cohen by Chairman Warner prior to the hearing with answers supplied follow:]

QUESTIONS AND RESPONSES

DEFENSE REFORMS

Question. The Goldwater-Nichols Department of Defense Reorganization Act of 1986 and the Special Operations reforms have strengthened the warfighting readiness of our Armed Forces. They have enhanced civilian control and clearly delineated the operational chain of command and the responsibilities and authorities of the combatant commanders, and the role of the Chairman of the Joint Chiefs of Staff. They have also clarified the responsibility of the military departments to recruit, organize, train, equip, and maintain forces for assignment to the combatant commanders.

Do you see the need for modifications of any Goldwater-Nichols Act provisions?

Answer. The Goldwater-Nichols Act changed Department of Defense operations profoundly and positively. Although I believe that the framework established by Goldwater-Nichols has significantly improved interservice and joint relationships and promoted the effective execution of responsibilities, the Department, working with Congress, should continually assess the law in light of improving capabilities, evolving threats, and changing organizational dynamics. Although I am currently unaware of any reason to amend Goldwater-Nichols, if confirmed, I will have an opportunity to assess whether the challenges posed by today's security environment require amendments to the legislation with a view to continuing the objectives of defense reform.

Question. If so, what areas do you believe might be appropriate to address in these modifications?

Answer. This milestone legislation is now 20 years old and has served our Nation well. If confirmed, I believe it may be appropriate to consider with Congress whether the act should be revised to better address the requirements of the combatant commanders and the needs and challenges faced by the military departments in today's security environment.

DUTIES

Question. What is your understanding of the duties and functions of the General Counsel of the Department of the Army?

Answer. Section 3019 of title 10, U.S.C., provides that the General Counsel of the Army shall perform such functions as the Secretary of the Army may prescribe. The Secretary has done so through general orders, regulations, and memoranda. The General Counsel provides legal advice to the Secretary of the Army, the Under Secretary, the Assistant Secretaries, and other offices within the Army Secretariat. As the chief legal officer of the Department of the Army, the General Counsel determines the controlling legal positions of the Department of the Army. The General Counsel's responsibilities extend to any matter of law and to other matters as directed by the Secretary. Examples of specific responsibilities currently assigned to the General Counsel include providing professional guidance to the Army's legal community, overseeing matters in which the Army is involved in litigation, serving as the Designated Agency Ethics Official, exercising the Secretary's oversight of intelligence and other sensitive activities and investigations, and providing legal advice to the Army Acquisition Executive.

Question. What background and experience do you possess that you believe qualifies you to perform these duties?

Answer. The diversity and complexity of legal issues confronting the Department of the Army are such that no one lawyer can have in-depth experience in all of them. However, the General Counsel must possess absolute integrity, mature judgment, sound legal and analytical skills, and strong interpersonal and leadership abilities. I believe that my background and diverse legal experiences in both the public and private sectors have prepared me to meet the challenges of this office.

I received my undergraduate degree magna cum laude from Yale in 1980 and my law degree from the University of Chicago Law School in 1983, having served as an associate editor of the Law Review. I clerked for Judge Laurence H. Silberman of the U.S. Court of Appeals for the DC Circuit. I have been in private practice at two law firms. As a staff director for two House committees, my principal focus was on legal, national security, and homeland security policy. In addition, I served as Associate Counsel to President Reagan, Senior Counsel at the U.S. Department of Justice's Office of Legal Counsel, Deputy Assistant Attorney General in the U.S. Department of Justice's Environment and Natural Resources Division, and Deputy General Counsel (Environment & Installations) of the U.S. Department of Defense.

I believe that my extensive experience in the legislative and executive branches have helped prepare me for the extraordinary challenge of serving as General Counsel of the Department of the Army and overseeing the delivery of legal services in the Army during a period of wartime and of Army transformation. My familiarity with the Department of Defense and with broader governmental legal practice have equipped me to address this important responsibility.

Question. Do you believe that there are actions you need to take to enhance your ability to perform the duties of the General Counsel of the Department of the Army?

Answer. Based on my 20 years of public service with all three branches of government, I believe I have the requisite legal training and abilities and leadership skills to serve as the Army General Counsel. I look forward to dealing with the full array of legal issues associated with the operations of the Army. If I am confirmed, I will work to further my understanding and knowledge of the Army, its people and organization, the resources necessary to sustain and transform it, and the challenges it faces. I will work with and through the talented and dedicated civilian and military lawyers serving the Department to broaden my expertise and increase my knowledge and will seek advice and counsel from the many and diverse stakeholders dedicated to the success of the Army, including Members and staff of Congress.

Question. Assuming you are confirmed, what duties and functions do you expect that Secretary Harvey would prescribe for you?

Answer. Although Secretary Harvey has not discussed with me the duties and functions he will expect that I perform, I anticipate that he will rely on me to provide accurate and timely legal advice to help ensure that the Army complies with both the letter and spirit of the law. Presumably, the current enumeration of General Counsel responsibilities set forth in the general order prescribing the duties of each principal official of the Headquarters, Department of the Army, will generally remain in effect. Apart from such formally prescribed duties, I believe the Secretary of the Army would expect me to continue a collegial and professional relationship with the General Counsels of the Department of Defense, the other military departments, and the defense agencies and, as required, the legal staffs of other Federal agencies. I anticipate that Secretary Harvey will expect me to continue the extraordinarily effective and professional working relationship between the Office of the General Counsel and The Judge Advocate General and his staff. Finally, I anticipate that Secretary Harvey will expect me to manage the General Counsel's office efficiently and effectively, and to ensure that the Army legal community is adequately resourced to perform its important mission.

Question. In carrying out your duties, how will you work with the General Counsel of the Department of Defense?

Answer. The General Counsel of the Department of Defense is the Chief Legal Officer and final legal authority for the Department of Defense, including the Department of the Army. If confirmed, I anticipate having a close and professional relationship with the General Counsel of the Department of Defense, characterized by continuing consultation, communication, and cooperation on matters of mutual interest, in furtherance of the best interests of the Department of Defense.

RELATIONSHIP WITH THE JUDGE ADVOCATE GENERAL

Question. In carrying out your duties, how will you work with The Judge Advocate General of the Army?

Answer. I believe that close, professional cooperation between the civilian and uniformed members of the Army's legal community is absolutely essential to the effective delivery of legal services to the Department of the Army. If confirmed, I will seek to ensure that the Office of the General Counsel and The Judge Advocate General and his staff continue to work together to deliver the best possible legal services to the Department of the Army.

Question. How are the legal responsibilities of the Department of the Army allocated between the General Counsel and The Judge Advocate General?

Answer. The Army General Counsel is the chief legal officer of the Department of the Army. The Office of the Army General Counsel is a component of the Army Secretariat, and provides legal advice to the Secretary of the Army and other Secretariat officials on all legal matters. The Judge Advocate General is the legal adviser of the Chief of Staff of the Army, members of the Army Staff, and members of the Army generally. In coordination with the Army General Counsel, The Judge Advocate General serves as military legal adviser to the Secretary of the Army. I note that the Ronald Reagan National Defense Authorization Act for Fiscal Year 2005 expressly prohibited interference with the ability of The Judge Advocate General to give independent legal advice to the Secretary of the Army; even in the absence of that recent statutory change, I would always welcome the expression of independent views about any legal matter under consideration. The Judge Advocate General also directs the members of The Judge Advocate General's Corps in the performance of their duties. By law, he is primarily responsible for providing legal advice and services regarding the Uniform Code of Military Justice and the administration of military discipline. The processing of military claims and the provision of legal assistance are other functions for which The Judge Advocate General is primarily responsible. The Office of the Army General Counsel and the Office of The Judge Advocate General have developed and maintain a close and effective working relationship in performing their respective responsibilities. If confirmed, I will work to continue our synergistic partnership in providing legal services to the Army.

MAJOR CHALLENGES

Question. In your view, what are the major challenges that will confront the General Counsel of the Department of the Army?

Answer. In my opinion, the major challenge will be to provide responsive, accurate legal advice regarding the broad array of complex issues likely to arise in connection with the Army's role in the prosecution of a global war against an asymmetric enemy while simultaneously planning and executing broad strategic transformation efforts. Although the current environment makes it difficult to anticipate specific legal questions, I expect to confront issues relating to operational matters, acquisition reform, privatization initiatives, military and civilian personnel policies, compliance with environmental laws, and oversight of Department of the Army intelligence activities. I am not aware of any serious problems in the current delivery of legal services in these areas. However, if confirmed, I will work hard to ensure that the Army legal community is adequately staffed and resourced to provide the responsive, accurate, and timely legal advice necessary to ensure success on the battlefield while executing the Department's successful transformation.

Question. Assuming you are confirmed, what plans do you have for addressing these challenges?

Answer. If confirmed, I will prioritize legal issues in the manner that best serves the Department of the Army. I will also ensure that the talented and dedicated lawyers comprising the Army legal community continue to provide timely legal advice of the highest possible quality in response to the Department of the Army's recurring legal responsibilities and the numerous issues that the Army confronts every day. I would endeavor to keep Army lawyers involved at all stages of the decision-making process, because I believe that preventive law, practiced early in the formu-

lation of departmental policies, will undoubtedly facilitate the Department's adaptation to the changing operational environment. I would work diligently to adequately resource the Army legal community, in order to guarantee decisionmakers at all levels access to the best possible legal advice.

PRIORITIES

Question. The Army is engaged on a daily basis in combat in Operations Iraqi Freedom and Enduring Freedom, restructuring itself in accordance with the goals of the Quadrennial Defense Review, relocating troops and units from Europe and Asia, and transforming its Total Force to deal with a host of traditional and nontraditional threats to the security of the Nation,

In what ways can you, if confirmed as General Counsel, contribute to military readiness and the success of the Army?

Answer. If confirmed, and subject to the guidance of the Secretary of the Army, I would focus particularly on the delivery of legal services related to Army core functions of recruiting, supplying and equipping, training, mobilization and demobilization, and administering, to include the morale and welfare of personnel, all with a view to generating and maintaining a trained and ready force while taking care of our people—individual soldiers and leaders—the Army's most important asset.

Question. What broad priorities will you establish in terms of issues which must be addressed by the Office of the General Counsel of the Department of the Army?

Answer. If confirmed, I will focus foremost on the issues that directly impact soldiers, their families, readiness, and support of Operations Iraqi Freedom and Enduring Freedom. I anticipate that the other legal issues of highest priority will arise from the Army's transformation to meet the challenges posed by today's dynamic security environment. I will also ensure that the Army legal community continues to provide timely legal advice of the highest possible quality, executing the Department's recurring legal responsibilities and anticipating and responding to the numerous issues the Army confronts every day.

ATTORNEY RECRUITING AND RETENTION ISSUES

Question. How do you assess your ability to hire and retain top quality attorneys and provide sufficient opportunity for advancement?

Answer. The Department of the Army continues to recruit and appoint top quality attorneys in both civilian and military positions and is confident it can maintain current recruiting standards. As I understand it, application levels remain high and exceed available positions. One key to continued recruiting success in the military context is access to law students. Many of the best and brightest law students are interested in learning about the Army Judge Advocate General's Corps and join the Corps in response to successful recruiting visits by Army judge advocates to law school campuses. The Army continues to retain and promote top quality attorneys at all grades, civilian and military.

Question. In your view, does the Department of the Army have a sufficient number of attorneys to perform its missions?

Answer. It is my understanding that the Army has sufficient civilian and military attorneys to execute the Department's missions. I note that as the Army transforms, it has emphasized the role of the military judge advocate as a vital component of the new modular force.

Question. In your view, what incentives to successful recruiting and retention of attorneys, if any, need to be implemented or established?

Answer. I understand that law students continue to accumulate tremendous debt in course of becoming attorneys. Many students now incur debt in excess of $100,000 in order to become licensed to practice law. Electing a career as either a military attorney or a civilian attorney in public service presents a financial challenge for many. Accordingly, I support the Judge Advocate Continuation Pay as well as civilian attorney student loan repayment programs. As a matter of principle, I will support programs that enable the Army to recruit and retain lawyers of the same extraordinarily high quality as are currently serving in the Department.

BASE REALIGNMENT AND CLOSURE (BRAC)

Question. In 2005, the BRAC process was concluded, and the BRAC Commission's recommendations enacted. These decisions will close or realign significant numbers of military installations, increasing the military value of our infrastructure, transforming certain common functions across the Department, and saving valuable resources.

Now that those recommendations have the force and effect of law, how would you approach implementation of those recommendations if you are confirmed?

Answer. I understand that the Department of Defense has a legal obligation to implement fully the recommendations of the BRAC Commission within the statutorily prescribed 6-year period. I have been advised that the Army is developing implementation plans and budget justification materials to execute the Army's BRAC recommendations and a portion of the joint cross service group recommendations, as assigned by the Under Secretary of Defense (Acquisition, Technology & Logistics). I understand that the successful implementation of BRAC 2005 is critical to Army Transformation, the Integrated Global Presence Basing Strategy, and operational deployments to Iraq and Afghanistan. I will work to ensure that BRAC is executed in a manner that satisfies operational and applicable legal requirements. As the Department of Defense Deputy General Counsel for Installations and Environment, I was involved with several environmental and disposal issues associated with the implementation of previous BRAC rounds. If confirmed, and with the guidance of the Secretary, I will work closely with the Office of the Secretary of Defense, other Federal agencies, Local Redevelopment Authorities, Governors, and other appropriate State and local officials to accelerate the property disposal process and return closed installations to productive economic re-use as soon as possible. The Army has effectively used current BRAC authorities to successfully implement its closure, realignment, and disposal obligations and, if confirmed, I look forward to working with Congress to execute BRAC 2005.

MILITARY JUSTICE MATTERS

Question. Article 6 of the Uniform Code of Military Justice gives primary jurisdiction over military justice to The Judge Advocates General of the Army, Navy, and Air Force.

How do you view your responsibilities in the performance of military justice matters with regard to The Judge Advocate General of the Army?

Answer. Article 6 of the Uniform Code of Military Justice requires The Judge Advocate General or senior members of his staff to make "frequent inspections in the field" in furtherance of his responsibility to supervise the administration of military justice. Although The Judge Advocate General bears primary responsibility for administering the military justice system within the Army, I understand that he often coordinates with the Army General Counsel on particular matters associated with the fair and consistent enforcement of the Uniform Code of Military Justice. I will, if confirmed, consult and cooperate with the Judge Advocate General on matters of mutual interest or concern relating to military justice, recognizing his statutory duties and special expertise in this area. If confirmed, I will work with the Judge Advocate General in establishing policy for the Army and safeguarding the integrity of the military justice system.

To avoid the appearance or actuality of improper command influence, decisions in individual military justice cases must be entrusted to the accused's commander, the convening authority, the military judge, and court members. The General Counsel, like the Secretary of the Army and other senior civilian and military officials of the Department of the Army, must avoid any action that may affect or appear to affect the outcome of any particular case. The Army General Counsel helps to ensure that the military justice system and its judicial officers are shielded from inappropriate external pressures that may threaten or appear to threaten the independence of the military's judicial system or the commander's discretion in exercising his or her responsibilities under the Uniform Code of Military Justice to maintain good order and discipline.

TREATMENT OF DETAINEES

Question. What is your understanding of the definition of "humane treatment" of detainees?

Answer. I have been advised that in the law of armed conflict, humane treatment has traditionally been understood to be treatment consistent with the humanitarian principles of the Geneva Conventions. The general protection policy for Army detainees, expressed in Army Regulation 190–8, Enemy Prisoners, Retained Personnel, Civilian Internees, and Other Detainees, is derived in large part from the text of the Conventions.

Question. What is the role of the General Counsel of the Department of the Army in ensuring that all detainees in the custody of U.S. Armed Forces are provided humane treatment?

Answer. I have been informed that the Secretary of the Army is the DOD Executive Agent for administering policy related to enemy prisoners of war and other detainees. Accordingly, if confirmed, I would consider it as my duty to provide the Secretary with legal advice on all matters related to his execution of that important

responsibility. Further, I believe the Army should continue to coordinate with the Office of the Secretary of Defense, the combatant commands and Joint Staff, and with other Services to broaden its capability to resource and sustain short-term and long-term detainee operations in support of the global war on terror. The humane treatment of detainees is and will continue to be an inherent part of the doctrine, training, and culture of Army forces charged with performing such operations.

Question. What is the role, if any, of the General Counsel of the Department of the Army in ensuring that interrogation policies under the United States Army Field Manual on Intelligence Interrogations, including any revisions to the current field manual, are consistent with the Detainee Treatment Act of 2005?

Answer. I understand that, in ordinary circumstances, the revision and publication of Army field manuals would not require the Secretary's personal attention or that of the Army General Counsel. The November 3, 2005, publication of DODD 3115.09, DOD Intelligence Interrogations, Detainee Debriefings, and Tactical Questioning, however, imposed a requirement to submit all implementation plans, policies, orders, directives, and doctrine related to intelligence interrogation operations to the Under Secretary of Defense for Intelligence for review and approval. Accordingly, I understand that the revisions to the Army field manual that relates to intelligence interrogations have been reviewed by Army attorneys, among others, for compliance with applicable law, including the Detainee Treatment Act of 2005, prior to submission to the Under Secretary of Defense for Intelligence for review and approval.

CONSOLIDATION OF MILITARY AND CIVILIAN LEGAL STAFFS

Question. On September 10, 2001, Secretary Rumsfeld initiated a "war on bureaucracy" stating that in order to make decisions more quickly, the Department must slash duplication, encourage cooperation, and start asking tough questions about redundant staff. He noted: "There are dozens of offices of general counsel scattered throughout the Department. Each Service has one. Every agency does, too. So do the Joint Chiefs. We have so many general counsel offices that we actually have another general counsel's office whose only job is to coordinate all those general counsels."

What is your understanding of actions that have been taken in the Department of Defense and Department of the Army to address the Secretary's concerns?

Answer. As a DOD Deputy General Counsel, I worked closely with my counterparts in the military departments, military Services, and defense agencies to ensure consistency of approach and eliminate duplication of effort, and I share the Secretary of Defense's interest in the good stewardship of scarce legal resources.

Question. What actions need to be taken, if any, in response to Secretary Rumsfeld's challenge?

Answer. If confirmed, and consistent with the Secretary of the Army's business transformation initiatives, I would exercise my best efforts to ensure that legal resources are effectively allocated and deployed to maximize service and minimizing unnecessary duplication of function, all with an emphasis on attorney accountability.

Question. Do you believe that the Department of the Army has the legal resources necessary to carry out the missions that may be required of it in wartime? If not, what is needed?

Answer. In view of the worldwide deployments underway and the Army's business transformation initiatives, I understand that there is a high demand for legal resources in the Army. If confirmed, and in consultation with The Judge Advocate General, I would make it a high priority to ensure both the sufficiency and quality of the Department's legal resources.

RELIGIOUS GUIDELINES

Question. What is your legal assessment of the measures being taken by the Services to provide religious guidelines aimed at ensuring that members of the Chaplain Corps of the Army, Navy, and Air Force ensure religious tolerance and respect?

Answer. I am informed that the Army's policies support religious tolerance and respect. If confirmed, I would make it an objective to continue the Army's firm commitment to upholding the constitutional tenets of the "free exercise" and "establishment" clauses. I am informed that as they now stand, Army policies appear to require chaplains to support all unit personnel, regardless of their beliefs. It is my understanding that Army policies are consistent with the First Amendment.

Question. What is your legal assessment of Army guidance regarding chaplain prayers during official functions other than worship services with respect to praying

according to the manner and forms of the church of which the chaplain is a member?

Answer. I am advised that during mandatory official functions, chaplains are not compelled to offer prayers that are inconsistent with their faith, but are expected to remain sensitive to the pluralistic Army and society they serve. It is my understanding that these policies are consistent with the First Amendment.

Question. What is your legal assessment of the adequacy of Army guidance to commanders and other leaders regarding free exercise of religion in the Army?

Answer. I am informed that it appears that Army regulations provide commanders and other leaders ample guidance regarding the free exercise of religion in the Army. AR 600–20, Army Command Policy: AR 165–1, Chaplain Activities in the United States Army and DOD Directive 1300.17, Accommodation of Religious Practices Within the Military Services, provide detailed guidance on the important responsibilities of commanders and leaders in this regard. It is my understanding that these policies are consistent with the First Amendment.

GENERAL AND FLAG OFFICER NOMINATIONS

Question. Under DOD Instruction 1320.4, adverse and alleged adverse information pertaining to general and flag officers must be evaluated by senior leaders in the Services and in the Office of the Secretary of Defense prior to nomination.

If confirmed, what role, if any, would you play in the officer promotion system, particularly in reviewing general and flag officer nominations?

Answer. I understand that for all officer promotions, including general officer promotions, the Office of the Army General Counsel, in coordination with the Office of the Judge Advocate General, reviews Memoranda of Instructions (MOIs) that govern the conduct of promotion selection boards and subsequent promotion selection board reports. These offices review adverse information that is not in an officer's official military personnel file that may be presented to the promotion selection board to ensure it is accurate and comports with the requirements of title 10, U.S.C., section 615, e.g., that the information is "substantiated, relevant information that could reasonably affect the deliberations of the selection board" and whether notice and opportunity to respond to the information has been afforded to the officer. For adverse information that becomes available after a promotion selection board makes its recommendations, these offices assist the Secretary of the Army in determining whether a promotion review board should be convened to consider whether the Secretary should continue to support the promotion of the considered officer or take steps to remove an officer from a promotion list. The National Defense Authorization Act for Fiscal Year 2006 amended title 10, section 615, with regard to the processing of adverse information for general officers. In general officer cases, the Office of the Army General Counsel provides the same review, except the standard is "any credible information of an adverse nature."

Question. What is your understanding of the role of the General Counsel of the Department of the Army in ensuring the legal sufficiency of statutory selection board processes?

Answer. I understand that under title 10, U.S.C., chapter 36, the Secretary of the Army is responsible for the proper functioning of the Department of the Army's promotion selection process. Prior to approval by the Secretary of the Army, all MOIs for officer promotion selection boards are reviewed by the Office of the Army General Counsel, in coordination with the Office of the Judge Advocate General, to ensure the Secretary's instructions conform to statutes and accurately reflect his guidance regarding attributes necessary for service in the next grade. All reports of promotion selection boards are processed through the Office of the Army General Counsel prior to final action on the report by the Secretary. The Army General Counsel must satisfy himself or herself that the Army has met applicable statutory standards and that individual selection board reports conform to the law. The Army General Counsel must advise the Secretary of the Army of any case in which a selection board report fails to adhere to the statutory standards, either generally or with regard to a particular officer being considered for promotion. In advising the Secretary of the Army and the Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs), the General Counsel helps to ensure that Army promotion policies properly implement applicable laws and regulations and are fairly applied. Moreover, the Office of the Army General Counsel coordinates closely on these matters with the Office of the Judge Advocate General.

Question. What is the role, if any, of the General Counsel of the Department of the Army in reviewing and providing potentially adverse information pertaining to a nomination to the Senate Armed Services Committee?

Answer. I have been advised that under current Department of the Army practice, the General Counsel's office reviews each selection board report, as well as departmental communications to the committee, the President, and the Secretary of Defense concerning nominations, to ensure that the reports and communications comply in form and substance with law and regulation. The General Counsel's office gives special attention to cases of nominees with substantiated or potentially adverse information, in order to ensure that such information is reported to the Senate Armed Services Committee in a timely manner.

MILITARY PERSONNEL POLICY AND CASES

Question. In your view, what role, if any, should the General Counsel play in military personnel policy and individual cases, including cases before the Board for Correction of Military Records?

Answer. If confirmed, I will work closely with the Secretary of the Army, the Assistant Secretary of the Army (Manpower and Reserve Affairs), and other senior Department of the Army leaders to ensure that the Department of the Army's military personnel policies are formulated and applied uniformly, fairly, and in accordance with applicable laws and regulations. If I were to become aware of individual cases in which military personnel policies were not fairly and lawfully applied, I would take appropriate action to ensure that the case is properly resolved. If confirmed, I will coordinate with the Assistant Secretary of the Army (Manpower and Reserve Affairs), who exercises overall supervision of the Army Review Boards Agency, to ensure that the Army Board for Correction of Military Records receives the Army legal community's full support.

SEXUAL ASSAULT PREVENTION AND RESPONSE POLICY

Question. Numerous cases of sexual misconduct have been reported by troops in Iraq, Kuwait, and Afghanistan over the last several years. Many victims and their advocates contend that they were victimized twice: first by attackers in their own ranks and then by unresponsive or inadequate military treatment. They asserted that the military failed to provide basic services available to civilians who have been raped, from medical attention to criminal investigations of their charges. Most of these incidents involve Army personnel because the Army has the largest presence in the theater.

What is your view of the systems and programs the Army has in place in deployed locations to offer victims of serious sexual assaults the medical, psychological, and legal help they need?

Answer. If confirmed, I will focus on this area. I understand that the Army has taken significant steps to improve the assistance to victims of all sexual assaults, with enhanced recognition of the special circumstances that apply to deployments. The Army recently implemented a comprehensive Sexual Assault Prevention and Response Program. Under the program, the Army requires every unit, brigade-sized and higher, to appoint and train a deployable Sexual Assault Response Coordinator and every battalion to appoint and train two Unit Victim Advocates. These individuals are trained to provide victim advocacy and help victims through the process of recovery in a deployed location. I also understand that Army policy now requires deployed mission commanders to conduct monthly command oversight of, and to obtain feedback concerning, the implementation of the program. If confirmed, I will study this matter in greater depth with a view to ensuring the Army is taking appropriate steps to provide medical, psychological, and legal help to soldiers who are victims of sexual assault, both in garrison and in deployed locations.

Question. What is your view of the steps the Army has taken to prevent additional sexual assaults on female soldiers at their home stations and when they are deployed?

Answer. I have been advised that this is an extremely important issue for the Army leadership and, if confirmed, look forward to working with them to ensure all appropriate measures are taken to prevent sexual assault, both at home stations and in deployed environments. With a view to preventing sexual assault, the Army has promulgated specific guidance in Army Regulation 600–20, Army Command Policy, that reinforces a commitment to eliminating incidents of sexual assault through a comprehensive policy that centers on awareness and prevention, training and education, victim advocacy, response, reporting, and accountability. In accordance with that regulation, commanders are required to conduct annual sexual assault prevention and response training and ensure that such training is integrated into pre- and post-deployment briefings. I understand that the Army maintains a Web site with a set of comprehensive training packages to facilitate standardized and progressive training at all levels. The Army safety office also published guidance to assist com-

manders to identify risk factors for sexual assault and to help reduce or eliminate the risk of sexual assault. If confirmed, I will ensure that the legal community fully supports these initiatives and will assess whether additional steps can be taken.

WHISTLEBLOWER PROTECTION

Question. Section 1034, title 10, U.S.C., prohibits taking retaliatory personnel action against a member of the Armed Forces as reprisal for making a protected communication. By definition, protected communications include communications to certain individuals and organizations outside of the chain of command.

If confirmed, what actions will you take to ensure that senior military leaders understand the need to protect servicemembers who report misconduct to appropriate authorities within or outside the chain of command?

Answer. Department of Defense Directive 7050.6, Military Whistleblower Protection, implements title 10, U.S.C., section 1034, and affirms that members of the Armed Forces shall be free from reprisal for making or preparing a protected communication to a Member of Congress; an Inspector General; a member of a DOD audit, inspection, investigation, or law enforcement organization; or any other person or organization (within or outside the chain of command) designated under regulations or established procedures to receive such communications. If confirmed, I will work with The Judge Advocate General to ensure that military leaders are fully and accurately advised of the whistleblower protections accorded by law and regulation, and understand their legal responsibilities in this important area. In addition, I will ensure that any individual cases involving illegal reprisals that come to my attention are addressed in accordance with the law.

SUPPORT TO ARMY INSPECTOR GENERAL

Question. What role, if any, do you think the General Counsel of the Army should have in reviewing the investigations and recommendations of the Army Inspector General?

Answer. If confirmed, as the chief legal officer of the Department of the Army and counsel to the Secretary and other Secretariat officials, I will establish and maintain a close, professional relationship with the Inspector General, and will communicate with him directly and candidly as he performs his prescribed duties. I will provide independent and objective legal advice with regard to all matters that relate to Inspector General programs, duties, functions, and responsibilities. I will oversee the provision of productive and effective legal guidance to the Office of the Inspector General in conducting investigations and delineating recommendations. Further, as part of my responsibility to review legal and policy issues arising from the Army's intelligence and counterintelligence activities, I will advise the Inspector General concerning proper reporting of the Army's intelligence oversight activities. Of course, given the Inspector General's mandate for independence and candor in advising the Secretary as to his investigative findings and recommendations, the Inspector General has final authority over matters within his functional purview.

WOMEN IN COMBAT

Question. Section 541 of the National Defense Authorization Act for Fiscal Year 2006 requires the Secretary of Defense to report to Congress on his review of the current and future implementation of the policy regarding assignment of women in combat. In conducting the review, the Secretary of Defense must examine Army unit modularization efforts and associated personnel assignment policies to ensure their compliance with the Department of Defense policy on women in combat that has been in effect since 1994.

What lessons have been learned about the feasibility of current policies regarding women in combat from Operation Iraqi Freedom and Operation Enduring Freedom and what is your assessment of the Army's compliance with the requirements of law relating to women in combat?

Answer. The study requested by Congress and underway within the Department of Defense will help the Department understand the implications for, and feasibility of, current policies regarding women in combat, particularly in view of the Army's transformation to a modular force and the irregular, nonlinear nature of the battlefields associated with today's conflicts.

It is my understanding that the Army's transformation to modular units is expected to be based on the current policy concerning the assignment of women. Women have and will continue to be an integral part of our Army team, performing exceptionally well in all specialties and positions open to them. Women make up about 14 percent of the Active Army, 23 percent of the Army Reserve, and 13 percent of the Army National Guard. Approximately 10 percent of the forces deployed

in support of the global war on terrorism are women soldiers. Today, almost 14,000 women soldiers are serving in Iraq and Afghanistan.

Question. How do you anticipate you will participate in the review of the policy required by section 541?

Answer. The Office of the Secretary of Defense has undertaken to complete the comprehensive review requested by this committee and Congress. It is an important study of complex issues critical to the Department. The Army will support the Office of the Secretary of Defense to complete this review. The Army, DOD, and Congress must work together closely on this issue. If confirmed, I will endeavor to provide the Secretary with cogent legal advice regarding implementation of this policy. If in the future the Army determines that there is a need to seek a change to the policy, I will, if confirmed, advise the Army to comply fully with all notification requirements in title 10, U.S.C., section 652.

CIVILIAN ATTORNEYS

Question. Judge advocates in the Armed Forces benefit from an established career ladder, substantial training opportunities, and exposure to a broad spectrum of legal areas and problems. By contrast, civilian attorneys in the military departments normally do not have established career programs and may do the same work for many years, with promotion based solely upon longevity and vacancies.

In your opinion, does the personnel management of civilian attorneys need changing? If so, what do you see as the major problems and what changes would you suggest?

Answer. I believe that the entirety of the Army legal community appreciates the growing need for a systemic civilian attorney professional development program that appropriately reflects the tenets by which we have historically developed judge advocates. In 2005, the Office of the Army General Counsel, together with the Office of the Judge Advocate General and the other Department of the Army qualifying authorities, created, and have committed to long-term participation in, a Department of the Army Civilian Attorney Professional Development Working Group for the purpose of assessing and recommending programs for the professional development of civilian attorneys. The Working Group is currently creating a systemic plan for civilian attorney professional development that will include identifying civilian attorney training requirements and categorizing key management and specialty positions for attorneys in the Department of the Army (DA). The group is also creating a civilian attorney database to manage all DA civilian attorneys and developing a plan for recruiting young attorneys into the DA legal community. If confirmed, I would work closely with The Judge Advocate General and the other qualifying authorities to support this important endeavor.

ENVIRONMENTAL ISSUES

Question. A number of major environmental statutes include national security exemptions. For example, section 7(j) of the Endangered Species Act states: "Notwithstanding any other provision of this chapter, the committee shall grant an exemption for any agency action if the Secretary of Defense finds that such exemption is necessary for reasons of national security."

If confirmed as General Counsel of the Army, what role would you expect to play in determining whether it would be appropriate to exercise a national security exemption in connection with an activity or function of the Department of the Army?

Answer. If confirmed as the General Counsel of the Army, I would view my role as one of facilitating both the decision as to whether a national security exemption is appropriate and, in those limited circumstances where it may be determined that one is proper, assisting the processing of the exemption to approval.

First, where important Army operations or capabilities are significantly impacted by application of the requirements of environmental law, it would be my role to advise senior Army decisionmakers on their legal options, including the possibility of pursuing available national security exemptions. However, before advising on pursuing an exemption, I believe it would be imperative to look at the environmental requirement in light of the operation or capability being impacted and determine whether legal alternatives to an exemption were available.

Second, if it were decided that it was appropriate to seek an exemption, I would advise and assist in pursuing the exemption on behalf of the Army. For example, some exemptions can be exercised only in consultation with other agencies (such as that under the Marine Mammal Protection Act, which requires consultation with the Secretary of Commerce or the Secretary of the Interior). Even where consultation is not specifically required, all environmental exemptions implicate regulatory programs under the auspices of other agencies at the Federal or State level and

could benefit from the expertise of those agencies. I believe my position as General Counsel would involve me in these interagency discussions.

Question. Under what circumstances do you believe that the use of such an exemption would be necessary and appropriate?

Answer. In crafting the exemptions that currently exist in environmental law, Congress has appropriately established a high hurdle, often requiring a presidential determination, based on the highest possible standard: that the exemption is necessary in the "paramount interest of the United States." Such is the case under section 313(a) of the Clean Water Act, section 6001(a) of the Resource Conservation and Recovery Act, section 118(b) of the Clean Air Act, section 4(b) of the Noise Control Act, and section 1447(a) of the Public Health Service Act (Safe Drinking Water Act). From this standard, and from the limited duration for which exemptions may be granted, it is clear that Congress intended that exemptions should be invoked only in extraordinary circumstances. Such circumstances, I believe, include those where a particular environmental restriction poses a significant threat to military readiness or national security and no effective alternative exists which will allow compliance with the environmental requirement and still permit the critical activity to proceed.

In seeking an exemption, I believe the proponent must shoulder the burden of identifying not only the restriction imposed and its impact on military readiness, but also why the military training, testing, or operational activity cannot be modified to avoid a conflict with the environmental requirement without diminishing readiness, and an explanation of how any environmental impacts of the exemption can be mitigated. Finally, I believe the exemption should be tailored to be as narrow as possible while still preserving military readiness.

Although I believe it is important that the existing environmental exemptions should be used sparingly and with great caution, I must add that their focus on individual activities, facilities, or pollution sources, for a limited duration, makes them of limited suitability for some ongoing actions, including many categories of readiness activities that are part of the day-to-day training regimen for our forces. To date, the Department of Defense has worked well and cooperatively with the regulatory community and other stakeholders to avoid impacts on these activities, which individually might not be significant, but which cumulatively could have large impacts on military readiness.

CONGRESSIONAL OVERSIGHT

Question. In order to exercise its legislative and oversight responsibilities, it is important that this committee and other appropriate committees of Congress are able to receive testimony, briefings, and other communications of information.

Do you agree, if confirmed for this high position, to appear before this committee and other appropriate committees of Congress?

Answer. Yes.

Question. Do you agree, if confirmed, to appear before this committee, or designated members of this committee, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as the General Counsel of the Department of the Army?

Answer. Yes.

Question. Do you agree to ensure that testimony, briefings, and other communications of information are provided to this committee and its staff and other appropriate committees?

Answer. Yes.

[Questions for the record with answers supplied follow:]

QUESTIONS SUBMITTED BY SENATOR JEFF SESSIONS

RELATIONSHIP BETWEEN GENERAL COUNSEL AND CORPS OF ENGINEERS

1. Senator SESSIONS. Mr. Cohen, please explain your understanding of the relationship between the Office of the General Counsel of the Army and the various lawyers for the U.S. Corps of Engineers.

Mr. COHEN. As provided for in General Order No. 3, the General Counsel of the Army is the legal counsel to the Secretary of the Army and is the chief legal officer of the Department of the Army. In that capacity, the General Counsel exercises technical supervision over and provides professional guidance to the attorneys assigned to the U.S. Army Corps of Engineers (USACE). The General Counsel determines the Army's final legal position on all issues. I am aware that the Army Gen-

eral Counsel's office is divided into four functional legal practice groups: Acquisition, Civil Works and Environment, Ethics and Fiscal, and Operations and Personnel. Each practice group is led by a career-appointed Deputy General Counsel. Each Deputy is a member of the Senior Executive Service. I understand that lawyers for the USACE have a close professional working relationship with attorneys in the Army General Counsel's office. I further understand that frequent and routine interaction occurs between USACE attorneys and attorneys in the General Counsel's office. I believe that the close working professional relationship the Army General Counsel's office has with The Judge Advocate General's office, and with subordinate legal offices, including the Office of the Command Counsel, Army Materiel Command, and the Office of the Chief Counsel, USACE, is one of the strengths of the Army's legal community.

2. Senator SESSIONS. Mr. Cohen, what is the principal role of the General Counsel, and how does it compare or differ from lawyers for the U.S. Corps?

Mr. COHEN. As noted above, the General Counsel of the Army is the legal counsel to the Secretary of the Army and is the chief legal officer of the Department of the Army. The General Counsel's responsibility extends to any subject of law and to other matters as directed by the Secretary of the Army. In addition to providing legal counsel to the Secretary of the Army, the General Counsel is also responsible for coordinating legal and policy advice, for determining the final Army legal position on any legal question or procedure, for establishing and administering the Army's policies concerning legal services, for providing technical supervision over and professional guidance to all attorneys and legal offices within the Army, and for providing professional guidance and general oversight with respect to matters in litigation.

In contrast, the Chief Counsel of the USACE is the legal counsel to the Chief of Engineers, and Commander, USACE. The Chief Counsel coordinates legal and policy advice within USACE, determines the final USACE legal position on any legal question or procedure, establishes and administers policies concerning the delivery of legal services within USACE, provides technical supervision over and professional guidance to all attorneys and legal offices within USACE, and provides professional guidance and general oversight with respect to USACE matters in litigation.

The General Counsel serves as intermediate rater in the performance evaluation rating chain for the civilian heads of subordinate legal offices. Thus, the General Counsel is the intermediate rater for the USACE Chief Counsel. The Chief Counsel, in turn, is the intermediate rater or senior rater for each subordinate legal office within USACE. All civilian heads of legal offices at any level of the Army (e.g. USACE Divisions, Districts, Labs, and Centers) are expected to support, promptly communicate with, and generally be responsive to Army headquarters. Moreover, each civilian head of a legal office is expected to comply fully with higher level legal office guidance. I have learned that this performance objective is contained in the performance plan of all civil heads of legal offices at any level of the Army.

3. Senator SESSIONS. Mr. Cohen, if a matter arose regarding the Secretary of Army's discretion over U.S. Corps policy or execution of Corps regulation, who would typically advise the Secretary: his General Counselor U.S. Army Corps of Engineers lawyers? What is the reasoning for this practice?

Mr. COHEN. Under these circumstances, it is my understanding that the General Counsel of the Army would advise the Secretary of the Army, as the Secretary of the Army looks to his or her General Counsel to provide authoritative and independent legal advice and counsel. On matters involving the USACE, such as the interpretation of an engineer regulation or internal USACE policy, it would be prudent and reasonable, in my opinion, for the General Counsel to consult fully with the USACE Chief Counsel prior to advising the Secretary of the Army. Ultimately, it is the General Counsel's responsibility to provide the final legal position to the Secretary of the Army.

CORPS OF ENGINEERS ONGOING LITIGATION

4. Senator SESSIONS. Mr. Cohen, in *State of Alabama and State of Florida* v. *U.S. Army Corps of Engineers,* a case regarding the U.S. Army Corps of Engineers, the judge issued a temporary restraining order to block implementation of a settlement agreement that had been entered in another case. On interlocutory appeal, the 11th Circuit vacated the order and remanded the case, holding that the plaintiff failed to "establish an imminent threat of irreparable harm" nor a "substantial likelihood of prevailing on the merits of the case." Based on your understanding of appellate

law, what does it mean to have a case "remanded?" What is the status of such a case—does it conclude after the appeal or is it "pending litigation" subject to further action at the trial court level?

Mr. COHEN. Generally speaking, it is my understanding that when a case is remanded, the case is sent back to the lower court for further proceedings. An appellate court usually directs the lower court to take specific action consistent with the opinion or ruling accompanying the remand. In some cases, the opinion or ruling accompanying the remand may actually dictate or result in final disposition of the case. In other instances, the opinion or ruling accompanying the remand may not dispose of the case but affirm or overrule a specific issue (or issues) in the case. In this instance, the lower court then proceeds with resolution of the case consistent with the appellate ruling.

UPDATING OPERATING MANUALS

5. Senator SESSIONS. Mr. Cohen, 33 C.F.R. § 222.5 pertains to the operating manuals that the Corps of Engineers uses to dictate waterflow at various locks and dams. The section, in pertinent part, provides: "(3) Water control plans developed for specific projects and reservoir systems will be clearly documented in appropriate water control manuals. These manuals will be prepared to meet initial requirements when storage in the reservoir begins. They will be revised as necessary to conform with changing requirements resulting from developments in the project area and downstream, improvements in technology, new legislation and other relevant factors, provided such revisions comply with existing Federal regulations and established Corps of Engineers policy." Having reviewed that code section, do you interpret 33 C.F.R. § 222.5 to create a hard and fast legal mandate that these manuals must be updated at a particular point in time, or do you understand the section to simply authorize the Secretary to update the manuals when he sees fit?

Mr. COHEN. Based upon my initial review of 33 C.F.R. § 225.5, it appears that this regulation is silent as to a specific time when water control plans and manuals must be updated. Accordingly, the Secretary of the Army must exercise sound discretion in determining when to update these documents. The Secretary's discretion, however, is not without constraints. In deciding when to commence the updating process, the Secretary of the Army, in my opinion, must give due consideration to all relevant factors. Unreasonably declining to update the water control plans and manuals in the face of changing requirements, or indefinitely delaying the updating process without cause, could be challenged legally as abuses of the Secretary's discretion in this area.

QUESTIONS SUBMITTED BY SENATOR SAXBY CHAMBLISS

ACF AND ACT RIVER BASINS

6. Senator CHAMBLISS. Mr. Cohen, please comment on your understanding of the ongoing conflict over the Apalachicola-Chattahoochee-Flint (ACF) River Basin and the Alabama-Coosa-Tallapoosa (ACT) River Basin in Georgia, Florida, and Alabama. What role, if any, do you believe the Army, specifically the Army Corps of Engineers, should play in resolving this conflict?

Mr. COHEN. I understand there is a longstanding dispute between Alabama, Georgia, and Florida over appropriate and equitable water allocation in two specific river basins, namely the ACF basin and the ACT basin. I am also aware of numerous lawsuits that have challenged various aspects of the USACEs' water control management of these two basins. I have been apprised that the Court in *Alabama* v. *USACE* recently ordered the three States and the Army to attempt resolution of the issues before the Court through mediation. I further understand a mediator has been appointed and the parties have begun the mediation process.

I understand that the Secretary of the Army and the USACE have specific statutory responsibilities to manage and operate the ACT and ACF River Basins to meet the purposes authorized by Congress. With regard to the underlying water allocation dispute, it is my understanding that neither the Army nor USACE has the authority, or responsibility, to allocate water rights among the three States. The three States must determine an equitable allocation of water or litigate the dispute. When an allocation of water among the three States is agreed to, I understand that the Army, and specifically the USACE, would then accommodate, consistent with congressionally authorized purposes, the allocation formula into its management and operation of the two systems by making specific revisions to the basin's water control plans and manuals. I understand the Army has offered to provide technical and

legal assistance to the three Governors, to help facilitate an agreement among the States. Resolution of the water allocation dispute, in my opinion, is, and should remain, a State issue.

7. Senator CHAMBLISS. Mr. Cohen, the Secretary of the Army stated that he will begin the process of updating the water control manuals for the ACF and ACT River Basins no later than January 2, 2007. What legal impediments, if any, stand in the way of beginning that process immediately?

Mr. COHEN. I am not aware of any current legal impediments that would preclude the Army from immediately beginning the process of updating the water control manuals and plans for the ACT and ACF River Basins. I understand, however, the Secretary of the Army has carefully considered all relevant factors, including the recommendation of the Federal mediator appointed by the court to facilitate resolution of this matter, and, as a matter of discretion, elected to temporarily delay the updating process until 2 January 2007, having determined that this approach will promote the overall success of the mediation process.

8. Senator CHAMBLISS. Mr. Cohen, in a letter dated January 30, 2006, from Assistant Secretary Woodley to myself, Senator Isakson, Senator Sessions, Senator Shelby, Senator Martinez, Senator Nelson, Governor Perdue, Governor Bush, and Governor Riley, he stated "The relevant litigation, as contemplated in my April 26 correspondence, has concluded, as the Army presently is under no legal prohibition or injunctive order, and must therefore faithfully execute its Federal responsibilities in compliance with law and regulation. As the Army proceeds with the National Environmental Policy Act (NEPA) analysis associated with the interim storage contracts, required by the Southeastern Federal Power Customers, Inc. (SeFPC) settlement agreement, the Corps will by necessity have to update the operating procedures and manuals for the ACT and ACF basins." Please provide the statutory and regulatory responsibilities with which the Corps of Engineers must comply and to which Assistant Secretary Woodley referred in his January 30 letter.

Mr. COHEN. I am advised that the responsibilities may be found in the Flood Control Act of 1944, 33 U.S.C. § 709, which provides, in pertinent part: On and after December 22, 1944, it shall be the duty of the Secretary of the Army to prescribe regulations for the use of storage allocated for flood control or navigation at all reservoirs constructed wholly or in part with Federal funds provided on the basis of such purposes, and the operation of any such project shall be in accordance with such regulations. . .

The statute is implemented in regulations found at 33 C.F.R § 222.5. This regulation prescribes policies and procedures to be followed by the U.S. Army Corps of Engineers in carrying out water control management activities, including establishment of water control plans and manuals for Corps and non-Corps projects, as required by Federal laws and directives. See section 222.5(a).

Water control plans developed for specific projects and reservoir systems are to be clearly documented in appropriate water control manuals. Water control plans and manuals are required to be kept up-to-date. Revisions to the plans and manuals are required, as necessary to conform to changing requirements resulting from developments in the project area and downstream, improvements in technology, new legislation and other relevant factors, provided such revisions comply with existing Federal regulations and established policy. See section 222.5(f) (2) and (3).

9. Senator CHAMBLISS. Mr. Cohen, please explain how proceeding with the NEPA analysis associated with interim storage contracts does or does not, by necessity, require an update of the operating procedures and manuals for the ACT and ACF basins.

Mr. COHEN. I understand the ACF and ACT basins are each a system of reservoirs and dams and not collections of independent projects and facilities. A change in project operations and allocation of pools in the reservoir at Lake Lanier would affect all the reservoirs downstream of Lake Lanier in the ACF system. Consequently, studying the environmental impacts of proposed interim water storage contracts at Lake Lanier will involve studying how that proposed interim storage affects releases from Lake Lanier on the downstream dams. In considering alternatives to water storage at Lake Lanier, water storage elsewhere or water from other systems may need to be considered. As the ACT system is some 50 miles from the ACF system at Atlanta, it may be an alternate source of water for consideration under NEPA.

The ACF River Basin includes four USACE reservoirs and three locks. The only approved master manual for the ACF basin was prepared in 1958 and does not include Federal facilities at West Point, Walter F. George, or George W. Andrews.

Water control plans were developed for individual projects as they came on line, or as operations changed within the system. An Environmental Impact Statement for reservoir projects was prepared in the 1970s. Current water control plans and manuals do not address water supply operations. The ACF system is being managed and operated in accordance with the draft 1989 water control plans and manuals. The 1989 drafts have never been formally approved and are currently contested in the *Alabama* v. *USACE* lawsuit. Implementation of the *SeFPC* v. *Secretary of the Army* settlement agreement will require interim changes in project operations to reserve storage reallocated to water supply and to monitor use of storage. As mentioned above, water supply operations are not reflected in existing water control plans and manuals.

In order to execute the interim water storage contracts contemplated by the SeFPC settlement agreement within 60 days after completion of the NEPA process (a condition of the settlement agreement), a revision to the ACF water control plans and manuals is required to account for the interim reallocated storage. The revised water control plans and manuals and the NEPA process associated with the interim water storage contracts contemplated by the SeFPC settlement agreement should both be completed before the interim water storage contracts can be executed.

10. Senator CHAMBLISS. Mr. Cohen, the Senate Energy and Water Appropriations report contains the following language: "Apalachicola, Chattahoochee, and Flint Rivers and Alabama, Coosa, and Tallapoosa Rivers, Georgia, Alabama, and Florida. Prior notification of the House and Senate Appropriations Committees and affected congressional Members is required before any funding shall be reprogrammed or otherwise used for updating masterplans having to do with projects in these river basins." Likewise the Senate Energy and Water Appropriations bill contains the following language: "Nothing in this act or any other act shall be construed to require a specific deadline for implementation of 33 C.F.R. 222.5(f) (2) and (3)." Please describe the effect you believe these provisions will have on the ability of the Army Corps of Engineers to move forward with updating the water control manuals for the ACT and ACF River Basins.

Mr. COHEN. Upon initial review, I do not believe the report language or the general provision (section 112 of H.R. 5427) would negatively affect the ability of the U.S. Army Corps of Engineers to move forward with updating the water control plans and manuals for the ACT and ACF River Basins. I understand the Secretary of the Army has already been advised by the General Counsel's office that the regulation requiring updating of water control plans and manuals does not prescribe a specific deadline for when the updating process must commence. Therefore, if this general provision is enacted into law, it would not alter the current regulation, or cause the Army to modify its interpretation of 33 C.F.R. 222.5(f) (2) and (3), as presently codified.

With regard to the report language included in Senate Report 109–274, Energy and Water Appropriations Bill, 2007, I am confident the Army would timely notify Congress of expenditures or reprogrammed funding related to updates of water control plans and manuals in accordance with the language, and would document the rationale justifying any decision to proceed with updating the water control plans and manuals for the ACT and ACF River Basins.

11. Senator CHAMBLISS. Mr. Cohen, at what point in either the implementation of the SeFPC settlement agreement or the updating of the water control manuals for the ACF and ACT River Basins will the Corps of Engineers be able to process the pending permits for Gwinnett, Cherokee, and Forsyth counties in Georgia?

Mr. COHEN. I understand these permit requests are currently being processed and are in various stages of review. I further understand these permit requests are not dependent upon the update of the water control plans and manuals, or the SeFPC NEPA process, and should not be delayed by those activities.

12. Senator CHAMBLISS. Mr. Cohen, what is the anticipated timeline for completing an update of water control manuals for the ACF and ACT River Basins?

Mr. COHEN. I understand the current projected schedule has the SeFPC NEPA process concluding in early December 2008, and the NEPA process associated with updating the water control plans and manuals concluding in late March 2009.

13. Senator CHAMBLISS. Mr. Cohen, what are potential impediments to completing such an update on schedule?

Mr. COHEN. The Army is committed to updating the water control plans and manuals for the ACT and ACF River Basins in accordance with its responsibilities under applicable law and regulation. As mentioned in a previous response, I am not

aware of any current legal impediments precluding the immediate start of the updating process. Potential impediments, as always, could include judicial mandates issued by courts of competent jurisdiction, or legislative restrictions imposed by Congress.

14. Senator CHAMBLISS. Mr. Cohen, does updating the water control manuals for the ACT and ACF River Basins explicitly or implicitly create any legally binding water storage contracts between Georgia, Florida, and Alabama?

Mr. COHEN. I understand that it does not. Management of the Nation's water resources is a major Federal responsibility. This responsibility, in significant measure, has been assigned to the USACE. It includes the planning, design, construction, and operation of water resource projects on a national basis. The USACE must direct these water management activities on the basis of sound engineering and science. The intricacies of water control management require the USACE to work out a specific management plan. This plan, defined and articulated in various water control plans and manuals, enables the USACE to balance a wide array of public interests, including such project purposes as flood control, navigation, hydropower, irrigation, water supply, recreation, and environmental conservation. A primary objective of efficient water control management, as reflected in water control plans and manuals, is to produce beneficial water savings and improvements in the availability and quality of water resulting from project regulation and operation.

QUESTION SUBMITTED BY SENATOR DANIEL K. AKAKA

MILITARY COMMISSIONS

15. Senator AKAKA. Mr. Cohen, the Supreme Court recently issued a decision in *Hamdan* v. *Rumsfeld* which held that the special military commissions established by the administration to try detainees violated both the Uniform Code of Military Justice and the Geneva Conventions. As Congress begins the process of building a system of justice for prisoners captured in the global war on terror, it will rely on the input from legal experts in the Department of Defense (DOD). What role do you believe that the General Counsel should play in the development of this new judicial process and how should it be coordinated with your respective Judge Advocates General?

Mr. COHEN. A system of justice for prisoners captured in the global war on terror is essential to our Nation's success in that conflict. Legal experts from across the Department of Defense must be available to consult with Congress as it undertakes to build such a system. I believe the Army best can assist in this endeavor by participating meaningfully with Congress in developing and implementing the legislation invited by the Supreme Court's decision in *Hamdan* v. *Rumsfeld.* Continuing the close, professional cooperation and consultation that long have attended the relationship between the Office of the Army General Counsel and the Office of The Judge Advocate General, both the civilian and uniformed members of the Army's legal community have been working together over the past month to assess Hamdan's impact and to apply the Court's holdings in reviewing and commenting on preliminary drafts of legislation to constitute a new military commission system. Further, The Judge Advocate General has recently detailed the Chief of his Criminal Law Division to a Department of Justice working group charged with crafting such legislation for submission to Congress. Recognizing the special status of the Judge Advocate General as the guardian of the military justice system within the Department of the Army, and given that congressional efforts to develop a system of military commissions to try certain detainees likely will be grounded in the tenets of the Uniform Code of Military Justice, I perceive Congress's extensive exchanges with the Service Judge Advocate Generals over the past weeks as particularly important and useful, and would support fully such continued consultation.

[The nomination reference of Benedict S. Cohen follows:]

NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
February 6, 2006.

Ordered, That the following nomination be referred to the Committee on Armed Services:

Benedict S. Cohen, of the District of Columbia, to be General Counsel of the Department of the Army, vice Steven John Morello, Sr., resigned.

[The biographical sketch of Benedict S. Cohen, which was transmitted to the committee at the time the nomination was referred, follows:]

BIOGRAPHICAL SKETCH OF BENEDICT S. COHEN

Ben has 20 years of experience in high-level positions across the Federal Government, with a principal focus on national security and foreign policy. He is currently Senior Advisor to Chairman Cox at the U.S. Securities and Exchange Commission, where he has focused on legal issues facing the agency and enhancing the Commission's crisis-management and homeland-security capabilities. Prior to taking this position, he served as staff director of the Committee on Homeland Security of the U.S. House of Representatives; where he managed the transition from select committee to full standing committee status and the passage of authorization legislation for the Department of Homeland Security (DHS) and of legislation reforming DHS's grant program. He has also served as Deputy General Counsel (Environment and Installations) for the Defense Department, in which capacity he spearheaded DOD's Readiness and Range Preservation Initiative, a multifaceted legislative, regulatory, and resource-management program to ensure sustainability of the military's test and training capabilities and foster better environmental stewardship. He also provided legal support for DOD's installation initiatives, and served as a principal spokesman for the Department on environmental and installations issues. He has also served in senior positions in the White House Counsel's Office, the congressional leadership staff, and the Department of Justice, as well as serving in two law firms.

Education

Ben graduated from Yale magna cum laude in 1980 with a B.A. in history, and from the University of Chicago Law School in 1983, having served as an Associate Editor of the Law Review. He clerked for Judge Laurence H. Silberman of the U.S. Court of Appeals for the DC Circuit.

He lives in American University Park in Washington, DC. His wife is an attorney in private practice. He has two children, ages 7 and 9.

[The Committee on Armed Services requires all individuals nominated from civilian life by the President to positions requiring the advice and consent of the Senate to complete a form that details the biographical, financial and other information of the nominee. The form executed by Benedict S. Cohen in connection with his nomination follows:]

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

(202) 224–3871

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior to the hearings and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)
Benedict Simms Cohen.

2. **Position to which nominated:**
General Counsel, Department of the Army.

3. **Date of nomination:**
February 6, 2006.

4. **Address:** (List current place of residence and office addresses.)
[Nominee responded and the information is contained in the committee's executive files.]

5. **Date and place of birth:**
January 9, 1959; Nashville, Tennessee.

6. **Marital Status:** (Include maiden name of wife or husband's name.)
Married to Julia Evans Guttman.

7. **Names and ages of children:**
Paul Mark Cohen, age 9; Mary Susannah Cohen, age 7.

8. **Education:** List secondary and higher education institutions, dates attended, degree received, and date degree granted.
Montgomery Bell Academy, 1973–1977, high school diploma 1977.
Yale University, 1977–1980, B.A. 1980.
University of Chicago, 1980–1983, J.D. 1983.

9. **Employment record:** List all jobs held since college or in the last 10 years, whichever is less, including the title or description of job, name of employer, location of work, and dates of employment.
2005–2006: Senior Advisor to the Chairman, U.S. Securities and Exchange Commission, Washington, DC.
2005: Staff Director, Committee on Homeland Security, U.S. House of Representatives, Washington, DC.
2002–2005: Deputy General Counsel (Environment and Installations), U.S. Department of Defense, Washington, DC (Pentagon).
1995–2001: Executive Director, Policy Committee, U.S. House of Representatives, Washington, DC.

10. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.
1990–1993: Deputy Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC.
1989–1990: Senior Counsel, Office of Legal Counsel, U.S. Department of Justice, Washington, DC.
1987–1989: Associate Counsel to the President, White House Counsel's Office, Washington, DC.
1986–1987: Attorney-Advisor, Office of Legislative Affairs, U.S. Department of Justice, Washington, DC.
1985–1986: Law Clerk to the Hon. Laurence H. Silberman, U.S. Court of Appeals for the DC Circuit.

11. **Business relationships:** List all positions currently held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational, or other institution.
None.

12. **Memberships:** List all memberships and offices currently held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.
New York State Bar Association, District of Columbia Bar, Federalist Society.

13. **Political affiliations and activities:**
(a) List all offices with a political party which you have held or any public office for which you have been a candidate.
None.
(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 5 years.
None.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $100 or more for the past 5 years.

None.

14. **Honors and Awards:** List all scholarships, fellowships, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

Department of Defense Medal for Distinguished Public Service.

Attorney General's Special Commendation Award, January 1993.

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

Ben Cohen, "Separation of Powers and Federalism in the 104th Congress," published in a Federalist Society publication in the mid-1990s (either Engage or the Harvard Journal of Law and Public Policy); (b) Benedict Cohen and Dirk D. Haire, "Environmental Citizen Suits: Standing and the Proper Scope of Relief," in Citizen Suits and Qui Tam Actions: Private Enforcement of Public Policy (National Legal Center for the Public Interest, 1996).

16. **Speeches:** Provide the committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

During the past 5 years, I gave numerous speeches from notes to DOD audiences, State and Federal officials, and their representatives on the Defense Department's environmental program, and in particular DOD's environmental legislative and regulatory initiatives (January 2002–February 2005, including several annual meetings of the Conference of Western Attorneys General and a panel on "Protecting Living Marine Resources" at the June 2004 American Bar Association Spring Conference on the Environment). These speeches were, however, given from summary notes.

17. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to respond to requests to appear and testify before any duly constituted committee of the Senate?

Yes.

[The nominee responded to the questions in Parts B–F of the committee questionnaire. The text of the questionnaire is set forth in the Appendix to this volume. The nominee's answers to Parts B–F are contained in the committee's executive files.]

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

BENEDICT S. COHEN.

This 16th day of February, 2006.

[The nomination of Benedict S. Cohen was reported to the Senate by Chairman Warner on August 1, 2006, with the recommendation that the nomination be confirmed. The nomination was confirmed by the Senate on August 3, 2006.]

[Prepared questions submitted to Frank R. Jimenez by Chairman Warner prior to the hearing with answers supplied follow:]

QUESTIONS AND RESPONSES

DEFENSE REFORMS

Question. The Goldwater-Nichols Department of Defense Reorganization Act of 1986 and the Special Operations reforms have strengthened the warfighting readiness of our Armed Forces. They have enhanced civilian control and clearly delineated the operational chain of command and the responsibilities and authorities of the combatant commanders, and the role of the Chairman of the Joint Chiefs of Staff. They have also clarified the responsibility of the military departments to re-

cruit, organize, train, equip, and maintain forces for assignment to the combatant commanders.

Do you see the need for modifications of any Goldwater-Nichols Act provisions?

Answer. The Goldwater-Nichols Act strengthened the civilian leadership of the Department of Defense and improved the clarity of the chain of command. Implementation of Goldwater-Nichols has enhanced the ability of the Services to act quickly and jointly. Although I am currently unaware of any reason to amend Goldwater-Nichols, if confirmed, I will have the opportunity to assess the act and propose changes.

Question. If so, what areas do you believe might be appropriate to address in these modifications?

Answer. Please see responses to previous question.

DUTIES

Question. What is your understanding of the duties and functions of the General Counsel of the Department of the Navy?

Answer. Section 5019 of title 10, U.S.C., provides that the General Counsel of the Department of the Navy shall perform such functions as the Secretary of the Navy may prescribe. The Secretary has done so through regulations, instructions, and memoranda. The General Counsel is the chief legal officer of the Department, and legal opinions issued by the General Counsel are the controlling legal opinions within the Department. The General Counsel provides legal advice, counsel, and guidance to the Secretary, the Under Secretary and the Assistant Secretaries, and their staffs. He is also responsible for providing legal services throughout the Department in a variety of fields, including business and commercial law, real and personal property law, fiscal law, civilian personnel and labor law, intellectual property law, environmental law, and litigation. In addition, the General Counsel serves as the Debarring Official and Designated Agency Ethics Official for the Department, and assists the Under Secretary of the Navy in overseeing the Naval Criminal Investigative Service.

Question. What background and experience do you possess that you believe qualifies you to perform these duties?

Answer. The Office of the General Counsel in the Department of the Navy has an extraordinarily broad range of responsibilities, including litigation, contracts, acquisition, environmental, personnel, legislative, ethics, and other issues. Though it is not possible for any attorney to master them all, the General Counsel must possess sound legal and analytical skills, as well as sound integrity and judgment. The Office of General Counsel is also quite large, with more than 600 attorneys in over 100 locations worldwide. Accordingly, the General Counsel must possess strong managerial qualifications and solid interpersonal and leadership abilities. I believe that my experiences and background have prepared me well to perform the duties of this office.

I received my undergraduate degree from the University of Miami in 1987 and my law degree from the Yale Law School in 1991, where I served as a notes editor of the Yale Law Journal and won the Harlan Fiske Stone Prize (Best Oralist) and Benjamin N. Cardozo Prize (Best Brief) in the Yale Moot Court of Appeals. After law school, I clerked for Judge Pamela Ann Rymer of the U.S. Court of Appeals for the Ninth Circuit in Pasadena, California. I subsequently joined the Miami office of Steel Hector & Davis LLP, where I practiced general commercial litigation and white collar criminal defense in State and Federal courts. A year after becoming a partner of the firm, I was asked to join the staff of newly-elected Governor Jeb Bush as Deputy General Counsel. In my 3½ years on the Governor's staff, I also served at various times as Acting General Counsel and Deputy Chief of Staff, helping in the latter position to supervise executive agencies covering the environment, transportation, health, business regulation, land use, and emergency management. In 2002, I became Chief of Staff at the U.S. Department of Housing and Urban Development, assisting then-Secretary Mel Martinez in managing more than 9,000 employees and an annual budget surpassing $30 billion. For the last 2 years, I've served in the U.S. Department of Defense, first as Principal Deputy General Counsel of the Department of the Navy, then as Deputy General Counsel (Legal Counsel) of the U.S. Department of Defense. I recently graduated with an MBA from the Wharton School at the University of Pennsylvania.

This experience in both legal and managerial positions in the public and private sectors has prepared me to address the wide array of challenges and responsibilities faced by the General Counsel of the Department of the Navy. In particular, I believe my experience as Principal Deputy General Counsel for the Department of the Navy in 2004–2005 will serve me and the Office of General Counsel (OGC) in good stead

if I am confirmed. During my year in Navy OGC, I developed many relationships and a large volume of working knowledge that will allow me to assume the duties of General Counsel quickly and effectively.

Question. Do you believe that there are actions you need to take to enhance your ability to perform the duties of the General Counsel of the Department of the Navy?

Answer. I believe that I possess the essential legal expertise and leadership skills to be the General Counsel of the Department of the Navy. As Deputy General Counsel (Legal Counsel) of the Department of Defense, I have enhanced my understanding of the relationships between the Office of the Secretary of Defense, the military departments, the Defense agencies, and their respective legal communities. During my service as Principal Deputy General Counsel of the Department of the Navy, I became very familiar with the Department's leadership and organization, its uniformed and civilian attorneys, and the legal challenges facing the Department. If confirmed as the General Counsel, I will continue to rely heavily on the wisdom and knowledge of those who have devoted themselves to service in the Navy and Marine Corps, as well as the career civil servants in the Department.

Question. Assuming you are confirmed, what duties and functions do you expect that Secretary Winter would prescribe for you?

Answer. If confirmed, I expect that Secretary Winter will desire my candid and objective legal advice concerning issues, opportunities, and problems as they arise. I anticipate that my formal responsibilities as General Counsel of the Department of the Navy will remain largely as they are currently. I also anticipate that Secretary Winter will expect me to continue the exemplary relationship between the General Counsel, the Judge Advocate General of the Navy, and the Staff Judge Advocate to the Commandant of the Marine Corps, in order to ensure the faithful execution of the laws throughout the Department of the Navy and the successful accomplishment of the Department's mission. I expect to work closely with the General Counsels of the Department of Defense, other military departments, defense agencies and other Federal agencies, and with Congress, on matters of mutual interest or concern.

Question. In carrying out your duties, how will you work with the General Counsel of the Department of Defense?

Answer. While the General Counsel of the Department of the Navy reports to the Secretary of the Navy, the General Counsel of the Department of Defense is the chief legal officer of the Department of Defense. If confirmed, I will work closely with the General Counsel of the Department of Defense on matters of mutual interest or concern.

RELATIONSHIP WITH THE JUDGE ADVOCATE GENERAL

Question. In carrying out your duties, how will you work with the Judge Advocate General of the Navy and the Staff Judge Advocate to the Commandant of the Marine Corps?

Answer. The General Counsel, the Judge Advocate General of the Navy, and the Staff Judge Advocate to the Commandant of the Marine Corps must have relationships marked by full consultation, open communication, close and collegial cooperation, and careful coordination. These relationships are essential to ensure the faithful execution of the laws throughout the Department. In my experience as Principal Deputy General Counsel, I found the existing relationships to be truly extraordinary, and of great benefit to our clients throughout the Department. If confirmed, I am confident that these close and collegial relationships will continue.

Question. How are the legal responsibilities of the Department of the Navy allocated between the General Counsel, the Judge Advocate General, and the Staff Judge Advocate to the Commandant of the Marine Corps?

Answer. The Department of the Navy is unique among the military departments, because it is served by three legal communities: the General Counsel and Office of the General Counsel, the Judge Advocate General of the Navy and Navy Judge Advocates, and the Staff Judge Advocate to the Commandant of the Marine Corps and Marine Judge Advocates. The governance model for legal services within the Department of the Navy is founded upon close professional and personal relationships between the General Counsel, the Judge Advocate General of the Navy, and the Staff Judge Advocate to the Commandant of the Marine Corps—relationships that emphasize communication, transparency, and mutual support. The General Counsel is the principal legal advisor to the Secretary of the Navy, the Assistant Secretaries, and their staffs, and is the head of the Office of the General Counsel. In addition, the General Counsel exercises other special authorities by delegation or direction from the Secretary of the Navy, or by law or regulation. For example, the General Counsel is the reporting senior for the Director of the Naval Criminal Investigative

Service, acts as the Designated Agency Ethics Official for the Department of the Navy, and administers the Department's alternative dispute resolution and acquisition integrity programs. The Office of the General Counsel's practice includes business and commercial law, environmental law, personnel and labor law, fiscal law, intellectual property law, and ethics, among other subjects. The Judge Advocate General of the Navy also reports directly to the Secretary of the Navy, and generally provides legal services in the areas of military justice, international law, matters associated with military operations, environmental law, military personnel law, administrative law, claims, and ethics. The Staff Judge Advocate to the Commandant of the Marine Corps is the senior military lawyer to the Commandant, and his responsibilities largely parallel those of the Judge Advocate General of the Navy. The responsibilities of the General Counsel, the Judge Advocate General, and Staff Judge Advocate to the Commandant will overlap from time to time. In such instances, the three legal communities address matters by working closely together for the benefit of the Department.

MAJOR CHALLENGES

Question. In your view, what are the major challenges that will confront the General Counsel of the Department of the Navy?

Answer. I believe that the General Counsel's greatest challenge will be to deliver timely, responsive, and accurate legal advice as the Department of the Navy addresses two fundamental, emerging issues: the conduct of global, asymmetric warfare, and the execution of strategic and commercial transformation initiatives. To meet the Department's needs in these areas, the General Counsel likely will address matters concerning acquisition reform, privatization, oversight of intelligence, environmental law and policy, and military and civilian personnel law and policy. If confirmed, I will work, in cooperation with the Judge Advocate General of the Navy and Staff Judge Advocate to the Commandant of the Marine Corps, to ensure that the legal communities of the Department of the Navy have the resources necessary to meet the diverse and changing needs of their clients.

Question. Assuming you are confirmed, what plans do you have for addressing these challenges?

Answer. If confirmed, I will review the resources, organization, and operation of the Office of the General Counsel, and implement whatever changes may be necessary to enhance its ability to confront these challenges. I will work to maximize coordination and cooperation with all stakeholders. I will also continue or enhance the previous General Counsel's initiatives on career development and performance measurement.

PRIORITIES

Question. The Navy and Marine Corps are engaged on a daily basis in combat and combat support in Operations Iraqi Freedom and Enduring Freedom, restructuring and recaptalizing in accordance with the goals of the Quadrennial Defense Review, reducing Navy Active-Duty and Reserve end strengths, and transforming the Department of the Navy's Total Force to deal with a host of traditional and non-traditional threats to the security of the Nation.

In what ways can you, if confirmed as General Counsel, contribute to military readiness and the success of the Navy and Marine Corps?

Answer. If confirmed, I will strive to deliver effective and innovative legal services to assist the Secretary of the Navy in carrying out his statutory responsibility to recruit, organize, supply, equip, train, service, mobilize, demobilize, administer, and maintain, all in the interest of promoting readiness across the Navy and Marine Corps. In this regard, I would work closely with the Secretary and the senior leadership of the Department to ensure that the priorities of the Office of the General Counsel are aligned with those of its clients.

Question. What broad priorities would you establish, if confirmed, in terms of issues which must be addressed by the Office of the General Counsel of the Department of the Navy?

Answer. My foremost priority will be to ensure that the Department of the Navy receives the highest quality legal advice and services in the most efficient manner, and that uniformed and civilian attorneys work together to accomplish that goal. If confirmed, I will further explore and develop more defined priorities.

ATTORNEY RECRUITING AND RETENTION ISSUES

Question. How do you assess your ability to hire and retain top quality attorneys and provide sufficient opportunity for advancement?

Answer. I believe that the Department of the Navy continues to hire outstanding civilian attorneys. The Office of the General Counsel receives a large volume of applications, and competition for employment remains intense. Nonetheless, the increasing financial disparity between Government attorneys and privately employed attorneys is a challenge. If confirmed, I will work with the senior staff of the Office of the General Counsel to address these issues. I will also enhance the previous General Counsel's initiatives on career development.

Question. In your view, does the Department of the Navy have a sufficient number of attorneys to perform its missions?

Answer. I believe that the Department of the Navy has a sufficient number of civilian and military attorneys to perform its missions. The demand for civilian attorneys and judge advocates has grown significantly, however, both generally and in response to specific emerging issues. In this era of intense media scrutiny, complex national security questions in domestic and international law, environmental concerns, and the penchant of many to litigate, there is an increasing demand for sophisticated, specialized legal services. If confirmed, I will work with the Judge Advocate General of the Navy and the Staff Judge Advocate to the Commandant of the Marine Corps to ensure the Department has a sufficient number of lawyers to meet its needs.

Question. In your view, what incentives to successful recruiting and retention of attorneys, if any, need to be implemented or established?

Answer. The competition for legal talent is keen, and law students typically enter the job market burdened by substantial debt. Initiatives by Congress and the Department of the Navy have helped to alleviate some of the financial pressures facing our young judge advocates, and have improved retention. Similar incentives are not currently available to civilian attorneys, but the Department of the Navy Office of the General Counsel offers appointments to new attorneys at grade levels that are highly competitive with other Federal agencies. This may account, in part, for the Office of the General Counsel's continued success in recruiting and retaining highly competent attorneys. If confirmed, I will work with the senior staff of the Office of the General Counsel to address these issues.

BASE REALIGNMENT AND CLOSURE (BRAC)

Question. In 2005, the Base Realignment and Closure process was concluded, and the BRAC Commission's recommendations enacted. These decisions will close or realign significant numbers of military installations, increasing the military value of our infrastructure, transforming certain common functions across the Department, and saving valuable resources.

Now that those recommendations have the force and effect of law, how would you approach implementation of those recommendations if you are confirmed?

Answer. I understand that the Department of Defense must fully implement the recommendations of the BRAC Commission within 6 years, as required by law. I also understand that the Department of the Navy, in order to execute its own BRAC 2005 recommendations and a number of joint, cross-service group recommendations as directed by the Under Secretary of Defense (Acquisition, Technology, and Logistics), is developing implementation plans and associated budget materials. BRAC 2005 is vitally important to the Department of the Navy, because it will allow the Department to reduce excess infrastructure (allowing scarce dollars to be moved to areas that result in improved readiness) and to transform the remaining infrastructure.

MILITARY JUSTICE MATTERS

Question. Article 6 of the Uniform Code of Military Justice gives primary jurisdiction over military justice to the Judge Advocates General of the Army, Navy, and Air Force.

How do you view your responsibilities in the performance of military justice matters with regard to the Judge Advocate General of the Navy?

Answer. In article 6, Congress gave the Judge Advocate General of the Navy or other senior members of his staff the responsibility to "make frequent inspections in the field in supervision of the administration of military justice." If confirmed, as the chief legal officer of the Department of the Navy, I will have an interest in the administration of military justice. I envision a close working relationship with the Judge Advocate General of the Navy and Staff Judge Advocate to the Commandant of the Marine Corps, in which we share information and work collaboratively when necessary to resolve issues of policy and matters pertaining to specific cases. I believe that a close working relationship with the Judge Advocate General

and Staff Judge Advocate to the Commandant, and reliance on their special expertise, will enable us collectively to avoid any potential issues of command influence.

TREATMENT OF DETAINEES

Question. What is your understanding of the definition of "humane treatment" of detainees?

Answer. The President's Military Order, November 13, 2001, requires that detainees be treated humanely, without any adverse distinction based on race, color, religion, gender, birth, wealth, or any similar criteria; afforded adequate food, drinking water, shelter, clothing, and medical treatment; and allowed the free exercise of religion consistent with the requirements of detention.

The recently enacted Detainee Treatment Act of 2005 requires that no individual in the custody or under the physical control of the United States Government, regardless of physical location, shall be subjected to cruel, inhuman, or degrading treatment or punishment.

The Deputy Secretary of Defense issued guidance on July 7, 2006 stating that the U.S. Supreme Court, in *Hamdan* v. *Rumsfeld*,—S.Ct.——, 2006 WL 1764793 (U.S.) (June 29, 2006) ("Hamdan"), determined that Article Three Common to the Geneva Conventions of 1949 ("Common Article Three") applies as a matter of law to the conflict with al Qaeda.

Congress may further define the responsibilities of the United States under Common Article Three in any future legislation adopted in response to the *Hamdan* decision.

Question. What is the role of the General Counsel of the Department of the Navy in ensuring that all detainees in the custody of U.S. Armed Forces are provided humane treatment?

Answer. Under the Detainee Treatment Act of 2005, any individual under the control of the Department of the Navy (or any other component of the Department of Defense) must be treated humanely and kept from being subjected to cruel, inhuman, or degrading treatment or punishment, including individuals held as a result of counterdrug operations (South/Central America), migrant operations, law enforcement operations, and armed conflict. In this regard, the role of the General Counsel is to provide guidance to the Department of the Navy regarding its obligations under the Detainee Treatment Act and all other sources of legal obligation toward detainees.

Regarding current detention operations in Guantanamo Bay, Cuba, Afghanistan, and Iraq, the combatant commanders plan, execute, and oversee combatant command detention operations. The Chairman of the Joint Chiefs of Staff provides oversight to the combatant commanders to ensure their detention operations, policies, and procedures are consistent with DOD policies and requirements.

The Secretary of the Army is the Executive Agent for detention operations. The Army is in the process of revising AR 190–8, the "tri-service" detainee regulation.

The Under Secretary of Defense for Policy (USD(P)) is responsible for developing, reviewing, and coordinating all DOD policy pertaining to the DOD Detainee Program. In July 2004, the Secretary of Defense established the Office of Detainee Affairs under the USD(P) to serve as the focal point for all detention policy matters.

Question. What is the role, if any, of the General Counsel of the Department of the Navy in ensuring that interrogation policies under the United States Army Field Manual on Intelligence Interrogations, including any revisions to the current field manual, are consistent with the Detainee Treatment Act of 2005?

Answer. The Department of the Army is responsible for providing doctrinal guidance concerning the Army Field Manual 34–52, "Intelligence Interrogations." The revision to FM 34–52, FM 2–22.3, "Human Intelligence Collector Operations," is in the process of coordination throughout the Department of Defense. It is my understanding that the Department of Navy, including the Office of General Counsel, has had an opportunity to provide comments concerning this draft publication. The role of the General Counsel of the Department of the Navy is to advise officials of the Department of the Navy in their review of the draft Army Field Manual and in their efforts to ensure that all Department of the Navy personnel comply with the final version.

Should any credible allegations of abuse during detainee intelligence interrogations come to the attention of the General Counsel of the Department of the Navy, he or she should immediately report such allegations to superiors and follow through until the matter is satisfactorily resolved.

CONSOLIDATION OF MILITARY AND CIVILIAN LEGAL STAFFS

Question. On September 10, 2001, Secretary Rumsfeld initiated a "war on bureaucracy" stating that in order to make decisions more quickly, the Department must slash duplication, encourage cooperation, and start asking tough questions about redundant staff. He noted: "There are dozens of offices of general counsel scattered throughout the Department. Each Service has one. Every agency does, too. So do the Joint Chiefs. We have so many general counsel offices that we actually have another general counsel's office whose only job is to coordinate all those general counsels."

What is your understanding of actions that have been taken in the Department of Defense and Department of the Navy to address the Secretary's concerns?

Answer. As a DOD Deputy General Counsel and as Principal Deputy General Counsel of the Department of the Navy, I have worked closely with my counterparts in the military departments and other components of the Department of Defense to ensure consistency of approach and eliminate duplication of effort. I share the Secretary of Defense's interest in the good stewardship of scarce legal resources.

Question. In your judgment, what actions need to be taken, if any, in response to Secretary Rumsfeld's challenge?

Answer. If confirmed, with the guidance of the Secretary of the Navy, and in close cooperation with the Judge Advocate General of the Navy and Staff Judge Advocate to the Commandant of the Marine Corps, I would work to achieve an efficient allocation of legal resources across the Department of the Navy. It is critical not only to avoid duplication of effort, but also to align legal organizations in a manner that best serves the changing needs of our clients.

Question. Do you believe that the Department of the Navy has the legal resources necessary to carry out the missions that may be required of it in wartime? If not, what is needed?

Answer. In wartime, the needs of the Department of the Navy place great demands on both uniformed and civilian attorneys. Although I believe that the Department of the Navy has the legal resources available to execute its missions, the increasing pressure to support the Department's operations, at home and abroad, demands careful attention. If confirmed, I will work with the Judge Advocate General of the Navy and Staff Judge Advocate to the Commandant of the Marine Corps to ensure that the legal communities of the Department of the Navy continue to meet the needs of their clients.

RELIGIOUS GUIDELINES

Question. What is your legal assessment of the measures being taken by the Department of the Navy to provide religious guidelines aimed at ensuring that members of the chaplain corps of the Navy ensure religious tolerance and respect?

Answer. It is my understanding that the Navy's guidelines on religion ensure religious tolerance and respect. If confirmed, I will continue to support the Navy's firm commitment to striking the proper constitutional balance between the two tenets of the "free exercise" and "establishment" clauses.

Question. What is your legal assessment of Department of the Navy guidance regarding chaplain prayers during official functions other than worship services with respect to praying according to the manner and forms of the church of which the chaplain is a member?

Answer. Military chaplains are trained to be sensitive to facilitate the ministry of members of their own faiths, the members of other faiths, and to care for all servicemembers. At command functions, other than for the purpose of religious worship, chaplains are encouraged to be especially sensitive to and inclusive of the diversity of faiths of persons attending the functions. Chaplains are not ever compelled to offer prayers inconsistent with their faith and, as such, are free to decline participation, with no adverse consequences, in a command event at which a commander determines the prayer should be inclusive. In my mind, this is an appropriate balance between the rights of the individual members, the chaplains, and the commander's need to preserve good order and discipline.

Question. What is your legal assessment of the adequacy of departmental guidance to commanders and other leaders regarding free exercise of religion in the Navy and Marine Corps?

Answer. I am informed that departmental guidance provides commanders and other leaders ample guidance regarding the free exercise of religion in the Navy and the Marine Corps. Secretary of the Navy Instruction 1730.7C, Religious Ministry Within the Department of the Navy, "The Department of the Navy Guidelines on Religious Ministry," and DOD Directive 1300.17, Accommodation of Religious Practices Within the Military Services, provide detailed guidance on the important re-

sponsibilities of commanders and leaders in this regard. It is my understanding that these policies are consistent with the First Amendment.

GENERAL AND FLAG OFFICER NOMINATIONS

Question. Under DOD Instruction 1320.4, adverse and alleged adverse information pertaining to general and flag officers must be evaluated by senior leaders in the Services and in the Office of the Secretary of Defense prior to nomination.

If confirmed, what role, if any, would you play in the officer promotion system, particularly in reviewing general and flag officer nominations?

Answer. If confirmed, my role will be as directed by the Secretary of the Navy. I will work closely with the Secretary of the Navy, the Assistant Secretary of the Navy (Manpower and Reserve Affairs), the Judge Advocate General of the Navy, the Staff Judge Advocate to the Commandant of the Marine Corps, and other senior Department of the Navy leaders to ensure that the Department of the Navy's military personnel policies are formulated and applied uniformly, fairly, and in accordance with applicable laws and regulations. Generally, legal review of military personnel matters is under the cognizance of the respective service judge advocates. I understand that officer promotion matters in the Department of the Navy (both Navy and Marine Corps) are under the purview of the Secretary and that the Judge Advocate General has cognizance over legal review of promotion plans, precepts that govern the conduct of promotion selection boards, subsequent promotion selection board reports, and review of adverse information.

Question. What is your understanding of the role of the General Counsel of the Department of the Navy in ensuring the legal sufficiency of statutory selection board processes?

Answer. Under chapter 36 of title 10, U.S.C., the Secretary of the Navy is responsible for the proper functioning of the Department of the Navy's promotion selection process. If confirmed, my role will be as directed by the Secretary of the Navy. Generally, military personnel matters are under the cognizance of the respective service judge advocates. I envision a close working relationship with the Judge Advocate General of the Navy and Staff Judge Advocate to the Commandant of the Marine Corps, and Office of Counsel for the Commandant, an office under my supervision, in which we work collaboratively, when necessary, to resolve issues of policy and matters pertaining to specific cases.

Question. What is the role, if any, of the General Counsel of the Department of the Navy in reviewing and providing potentially adverse information pertaining to a nomination to the Senate Armed Services Committee?

Answer. It is my understanding that within the Department of the Navy, the Judge Advocate General reviews each situation where adverse, or potentially adverse, information involving an officer may exist prior to the nomination of such officer being presented to the Senate, in order to ensure that any reports and communications comply in form and substance with law and regulation. When requested, the General Counsel's office will provide advice on cases of Department of the Navy nominees with adverse, or potentially adverse, information, in order to ensure that such information is reported to the Senate Armed Services Committee.

MILITARY PERSONNEL POLICY AND CASES

Question. In your view, what role, if any, should the General Counsel play in military personnel policy and individual cases, including cases before the Board for Correction of Naval Records?

Answer. If confirmed, my role will be as directed by the Secretary of the Navy. I will work closely with the Secretary of the Navy, the Assistant Secretary of the Navy (Manpower and Reserve Affairs), and other senior Department of the Navy leaders to ensure that the Department of the Navy's military personnel policies are formulated and applied uniformly, fairly, and in accordance with applicable laws and regulations. In the event I become aware of individual cases in which military personnel policies were not fairly and lawfully applied, and it is proper for me to intervene, I will take appropriate action. If confirmed, I will coordinate with the Assistant Secretary of the Navy (Manpower and Reserve Affairs), who exercises overall supervision of the Navy Board for Correction of Military Records, to ensure the Board receives full and comprehensive legal support.

SEXUAL ASSAULT PREVENTION AND RESPONSE POLICY

Question. Numerous cases of sexual misconduct have been reported within the armed services over the last several years. Many victims and their advocates contend that they were victimized twice: first by attackers in their own ranks and then by unresponsive or inadequate military treatment. They asserted that the military

failed to provide basic services available to civilians who have been raped, including proper medical attention, adequate criminal investigations of their charges, and timely prosecution.

What is your view of the systems and programs the Navy and Marine Corps have in place in deployed locations to offer victims of serious sexual assaults the medical, psychological, and legal help they need?

Answer. Proper care of victims of sexual assault is a top priority for the Department of the Navy, and I understand the Department has made significant strides in improving assistance to all victims of sexual assault, including those in deployed locations. The Department of the Navy has implemented the DOD confidentiality policy and the restricted and unrestricted reporting options including the Collection of Forensic Evidence. Navy victim advocates now have the option of informing commanders of restricted cases of sexual assault for Active-Duty victims without providing identifying personal information. Victims of restricted cases of sexual assault are offered advocacy, medical, and counseling services without triggering an investigation through law enforcement or command. I understand the Department of the Navy now provides 24/7 response capability for sexual assaults on the installation and during deployment by activating watchbills for victim advocates. If confirmed, I will continue to ensure the Department of the Navy remains committed to maintaining policies that ensure the proper care of sexual assault victims.

Question. What is your view of the steps the Navy and Marine Corps have taken to prevent additional sexual assaults on female soldiers at their home stations and when they are deployed?

Answer. I am advised that the prevention of sexual assault has been a key issue for the Department of the Navy for some time. The Department of the Navy was a pioneer in the Sexual Assault prevention arena when it developed the Sexual Assault Victim Intervention (SAVI) and Marine Corps' Sexual Assault Prevention and Response Office (SAPRO) in 1994. Both programs are designed to support the victim, investigate fully and fairly, and continually evaluate and improve the programs. I understand that the Department of the Navy has uncompromisingly promoted victim assistance, awareness and prevention education, and reporting of sexual assaults.

The National Defense Authorization Act for Fiscal Year 2005 required implementation of a standardized DOD Sexual Assault Prevention program. I am told that the Department of the Navy is working closely with the DOD Joint Task Force for Sexual Assault Prevention and Response to standardize sexual assault prevention and identification responses across DOD. If confirmed, I will continue to support all efforts along the solid path of change followed by the Joint Task Force for Sexual Assault Prevention and Response, and continue to provide oversight in all areas under my authority to ensure the prevention of sexual assaults and protection of victims of sexual assault.

WHISTLEBLOWER PROTECTION

Question. Section 1034, title 10, U.S.C., prohibits taking retaliatory personnel action against a member of the Armed Forces as reprisal for making a protected communication. By definition, protected communications include communications to certain individuals and organizations outside of the chain of command.

If confirmed, what actions will you take to ensure that senior military leaders understand the need to protect servicemembers who report misconduct to appropriate authorities within or outside the chain of command?

Answer. The Department of Defense implements the Military Whistleblower Protection Act through Department of Defense Directive 7050.6, and the Department of the Navy further highlights the act through its own instruction at SECNAVINST 5370.7C that sets forth the protections afforded to military whistleblowers. If confirmed, I will act to ensure that military members whose actions are protected by the act are not subject to illegal reprisals or retaliation. If a case of illegal reprisal comes to my attention, I will work to ensure that it is addressed in accordance with the law. I am advised that the Department of the Navy currently provides great emphasis on compliance with the act by ensuring that all prospective commanding officers and executive officers are briefed on the act's requirements, and addressing the act's protections in the curriculum of eight separate courses of instruction for Navy and Marine Corps personnel. If confirmed, I will work to ensure that this emphasis on the act in formal Department training courses continues.

SUPPORT TO NAVY AND MARINE CORPS INSPECTORS GENERAL

Question. What role, if any, do you think the General Counsel of the Navy should have in reviewing the investigations and recommendations of the Naval Inspector General and the Deputy Naval Inspector General for Marine Corps Matters?

Answer. If confirmed, I will establish a close and productive relationship with the Naval Inspector General and Deputy Naval Inspector General for Marine Corps Matters. As in other instances, I will cooperate with the Judge Advocate General of the Navy and Staff Judge Advocate to the Commandant of the Marine Corps as I cultivate that relationship. Independence is essential to the mission of the Inspector General, particularly with regard to the findings and recommendations that result from investigations. I believe that the General Counsel has an obligation, without infringing upon the Inspector General's independence, to provide independent and objective legal advice concerning the Inspector General's duties and responsibilities. Further, as part of his responsibility to review legal and policy issues arising from the Department of the Navy's intelligence and counterintelligence activities, the General Counsel should advise the Inspector General concerning proper reporting of the Department's intelligence oversight activities.

CIVILIAN ATTORNEYS

Question. Judge Advocates in the Armed Forces benefit from an established career ladder, substantial training opportunities, and exposure to a broad spectrum of legal areas and problems. By contrast, civilian attorneys in the military departments normally do not have established career programs and may do the same work for many years, with promotion based solely upon longevity and vacancies.

In your opinion, does the personnel management of civilian attorneys need changing? If so, what do you see as the major problems and what changes would you suggest?

Answer. During my time as Principal Deputy General Counsel, I found that the Department of the Navy offered unique opportunities to its civilian attorneys. The Office of the General Counsel, which is composed almost entirely of civilian attorneys, occupies a distinct place in relation to the Navy Judge Advocate General's Corps and the community of Marine Judge Advocates. Certain areas of practice—for example, business and commercial law—are reserved to the Office of the General Counsel as a matter of departmental policy. In areas of practice that are common to the Office of the General Counsel and the military legal communities, civilian and uniformed attorneys generally represent different organizations within the Department. Thus, while the civilian and uniformed legal communities work together closely and constructively, there are unique professional opportunities available to civilian attorneys. The opportunities for advancement to leadership positions within the Office of the General Counsel are substantial. There are a number of positions in the Senior Executive Service within the Office of the General Counsel, and numerous supervisory positions in organizations of all sizes around the globe. Competition for these positions, as for entry-level positions, remains robust. The Office of the General Counsel values a diversity of experience as a foundation for advancement to positions of leadership, and offers a range of practice sufficiently broad that attorneys may acquire that experience. Although I believe that the Office of the General Counsel offers rich opportunities for professional development, if confirmed, I will make sure that the Office of the General Counsel will continue to look for further ways to assist in the development of its civilian attorneys.

ENVIRONMENTAL ISSUES

Question. A number of major environmental statutes include national security exemptions. For example, section 7(j) of the Endangered Species Act states: "Notwithstanding any other provision of this chapter, the committee shall grant an exemption for any agency action if the Secretary of Defense finds that such exemption is necessary for reasons of national security."

If confirmed as General Counsel, what role would you expect to play in determining whether it would be appropriate to exercise a national security exemption in connection with an activity or function of the Department of the Navy?

Answer. If confirmed as the General Counsel of the Navy, I would view my role as one of informing both the decision as to whether a national security exemption is necessary and appropriate and, in those few exceptional circumstances where it may be determined that an exception is appropriate, assisting the processing of the exemption to approval.

Where essential Navy operations or military readiness activities may be significantly compromised by application of the requirements of environmental law, it

would be my role to advise senior decisionmakers on their legal options, including the possibility of pursuing available national security exemptions. Before recommending that an exemption be invoked or sought, however, I believe it would be imperative to look at the environmental requirement in light of the operation or military readiness activity being affected and to determine whether legal alternatives to an exemption may be available.

Question. Under what circumstances do you believe that the use of such an exemption would be necessary and appropriate?

Answer. In crafting the exemptions that currently exist in environmental law, Congress has appropriately established a high hurdle, often requiring a presidential determination, based on the highest possible standard: that the exemption is necessary in the "paramount interest of the United States." Such is the case, for example, under section 313(a) of the Clean Water Act, section 6001(a) of the Resource Conservation and Recovery Act, and section 118(b) of the Clean Air Act. From this standard, and from the limited duration for which exemptions may be granted, it is clear that Congress intended that exemptions should be invoked only in extraordinary circumstances. Such circumstances, I believe, include those where a particular environmental restriction poses a significant threat to military readiness or national security and no effective alternative exists that will allow compliance with the environmental requirement and still permit the critical military readiness activity to proceed.

In seeking an exemption, I believe the proponent must shoulder the burden of identifying not only the restriction imposed and its effect on military readiness, but also why the military training, testing, or operational activity cannot be modified to avoid a conflict with the environmental requirement without diminishing readiness. Moreover, where an exemption is invoked, I believe the proponent must identify what measures it is prepared to take to mitigate the environmental consequences of its actions.

Although I believe it is important that the existing environmental exemptions be used only in exceptional circumstances, the focus of most exemptions on individual activities, facilities, or pollution sources makes them of limited suitability for some ongoing military readiness activities. To date, the Department of Defense has worked well and cooperatively with the regulatory community and other stakeholders to avoid impacts on these activities, which individually might not be significant, but which cumulatively could have large impacts on military readiness.

Question. Please describe the circumstances that led to the decision to invoke the national security exemption of the Marine Mammal Protection Act (MMPA).

Answer. The Secretary of Defense, after conferring with the Secretary of Commerce, recently invoked a National Defense Exemption (NDE) to the MMPA for a period of 6 months.

Anti-Submarine Warfare (ASW) proficiency—a highly perishable skill—requires quarterly qualification. Sustaining skill levels requires individual operator, unit, strike group, and coalition training. Thirty-five exercises, on average, are conducted annually to achieve and maintain ASW proficiency. The current process for obtaining an authorization under the MMPA is inconsistent with realistic planning timeframes for several dozen exercises annually. My understanding is that it can take more than 2 years to plan and obtain an authorization for a single exercise.

As an alternative approach to an exercise-by-exercise process, we have discussed with the National Marine Fisheries Service (NMFS) programmatic approaches that would provide authorizations on a geographic level or for use of specific types of sonar. Navy remains cooperatively engaged with regulators in aggressively working toward full compliance. The NDE was necessary to address challenges to specific exercises in the near-term, and to serve as a bridge to full compliance. It allows Navy to ensure near-term ASW proficiency while cooperatively developing new processes for the long-term. Application of the exemption was limited initially to 6 months to incentivize continued progress.

In addition to process issues, the National Resources Defense Council (NRDC) filed a lawsuit challenging Navy and Commerce Department compliance with the MMPA and sought a temporary restraining order against the Navy's Rim of the Pacific (RIMPAC) exercise near Hawaii. The lawsuit alleged that, despite the lengthy and detailed process followed by Navy and NMFS to reach an Incidental Harassment Authorization under the MMPA, Navy and NMFS efforts failed to fully analyze impacts to marine mammals from the use of mid-frequency sonar. The Navy and NRDC settled the lawsuit the same week that the NDE was invoked.

A full report on the need for and scope of the exemption will be provided to the House and Senate Armed Services Committees as required under the MMPA.

Question. How will invocation of the national security exemption alleviate those concerns?

Answer. An exemption will reduce but not eliminate all risk from lawsuits. It provides the Navy with the opportunity to resolve issues within the regulatory authorization process, enabling it to complete the analyses and regulatory steps necessary to obtain authorizations under the MMPA.

Question. What does the Navy plan to do to ensure compliance with the MMPA in the future?

Answer. I understand that Navy is executing a prioritized program of environmental analyses to obtain regulatory authorization where necessary and to otherwise comply with applicable laws. During the exemption period, the Navy will continue to employ mitigation measures recommended by NMFS.

Question. What impact did the NRDC lawsuit over MMPA compliance for the RIMPAC exercise have on the decision to invoke the MMPA's national security exemption?

Answer. The NDE executed by the Deputy Secretary of Defense on 30 June 2006 exempted all military readiness activities that employ mid-frequency active sonar during major training exercises or within established maritime ranges or operating areas from the requirements of the MMPA for 6 months. During this 6-month period, all exempted activities are required to employ a suite of comprehensive mitigation measures. For RIMPAC 06, the NDE further specifies that the exercise will comply with the Incidental Harassment Authorization provisions approved by the National Marine Fisheries Service on 27 June 2006. The scope of the NDE, therefore, includes RIMPAC 06, but is not limited to RIMPAC 06. The then-pending litigation was only one factor in the signing of the NDE. It is important to note that the NDE is designed to assist the Navy with its long-term MMPA compliance efforts and was not focused on the NRDC lawsuit alone.

Question. What is the impact of the settlement of the RIMPAC lawsuit on future training exercises and military testing and evaluation using Navy sonar?

Answer. In October 2005, the NRDC brought a programmatic challenge against the Navy's use of mid-frequency active sonar, challenging all past, present, and future use of the sonar system. That case is still pending. The RIMPAC 06 lawsuit was a separate legal challenge brought by the NRDC on the eve of the training exercise. The settlement agreement with NRDC makes clear that the agreement is not to be construed as a concession by either party as to the potential impacts of sonar on marine mammals, the validity of either party's factual or legal positions, or the extent of measures required to comply with environmental laws.

CONGRESSIONAL OVERSIGHT

Question. In order to exercise its legislative and oversight responsibilities, it is important that this committee and other appropriate committees of Congress are able to receive testimony, briefings, and other communications of information.

Do you agree, if confirmed for this high position, to appear before this committee and other appropriate committees of Congress?

Answer. Yes.

Question. Do you agree, if confirmed, to appear before this committee, or designated members of this committee, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as the General Counsel of the Department of the Navy?

Answer. Yes.

Question. Do you agree to ensure that testimony, briefings, and other communications of information are provided to this committee and its staff and other appropriate committees?

Answer. Yes.

[Questions for the record with answers supplied follow:]

QUESTION SUBMITTED BY SENATOR DANIEL K. AKAKA

MILITARY COMMISSIONS

1. Senator AKAKA. Mr. Cohen and Mr. Jimenez, the Supreme Court recently issued a decision in *Hamdan* v. *Rumsfeld* which held that the special military commissions established by the administration to try detainees violated both the Uniform Code of Military Justice and the Geneva Conventions. As Congress begins the process of building a system of justice for prisoners captured in the global war on terror, it will rely on the input from legal experts in the Department of Defense (DOD). What role do you believe that the General Counsel should play in the devel-

opment of this new judicial process and how should it be coordinated with your respective Judge Advocates General?

Mr. JIMENEZ. With respect to communications with Congress, the General Counsel of the Department of the Navy—as well as the other members, both civilian and uniformed, of the DOD's legal leadership team—should be available to consult closely with Congress as it undertakes the important mission post-*Hamdan* of crafting a military commission structure that comports with the Nation's highest principles and traditions, and accounts for the exigencies of armed conflict and the safety of our servicemembers. With respect to communications within DOD, responsibility for detention and trial by military commission of enemy combatants rests with combatant commands and not with military departments. Accordingly, within DOD, the role of the General Counsel of the Department of the Navy should be to provide opinions and advice in the course of any comprehensive effort by DOD to gather informed legal judgments from civilian and military legal leadership across the Department about the establishment of a fair, legal, and sustainable military commission process.

The Department of the Navy prides itself on close, collegial, and collaborative working relationships between the General Counsel, Judge Advocate General of the Navy, and Staff Judge Advocate to the Commandant of the Marine Corps. If confirmed, I plan to do everything within my power to see that this tradition continues. Accordingly, I would work closely with my uniformed counterparts to provide coordinated opinions and advice concerning military commissions to Congress and within DOD.

[The nomination reference of Frank R. Jimenez follows:]

NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
June 29, 2006.

Ordered, That the following nomination be referred to the Committee on Armed Services:

Frank R. Jimenez, of Florida, to be General Counsel of the Department of the Navy, vice Alberto Jose Mora, resigned.

[The biographical sketch of Frank R. Jimenez, which was transmitted to the committee at the time the nomination was referred, follows:]

BIOGRAPHICAL SKETCH OF FRANK R. JIMENEZ

As the Deputy General Counsel (Legal Counsel) for the U.S. Department of Defense, Frank R. Jimenez manages key litigation matters covering the entire Department and coordinates with the White House Counsel's Office, Department of Justice, and other agencies on pressing legal issues. He also advises senior Defense officials on a wide variety of legal questions and supervises the Office of Legislative Counsel and the Defense Office of Hearings and Appeals. Mr. Jimenez was most recently the Principal Deputy General Counsel for the Department of the Navy, where he served as the alter ego to the General Counsel of the Navy in managing over 600 attorneys worldwide and overseeing the Naval Criminal Investigative Service. He also advised senior Navy officials on litigation, acquisition, environmental, personnel, legislative, and ethics issues.

Mr. Jimenez was previously the Chief of Staff at the U.S. Department of Housing and Urban Development (HUD). As Chief of Staff, he assisted Secretary Mel Martinez in managing more than 9,000 employees and an annual budget surpassing $30 billion. He helped supervise HUD's many homeownership and affordable housing programs for low-income Americans, as well as programs supporting the homeless, elderly, people with disabilities, and people living with AIDS. Mr. Jimenez's responsibilities also included supervising the Department's interactions with the White House, public officials, industry groups, and the general public.

Prior to arriving at HUD, Mr. Jimenez served for nearly 4 years in the Executive Office of Florida Governor Jeb Bush, beginning with his gubernatorial transition in 1998. For two of those years, Mr. Jimenez served as Deputy Chief of Staff, with oversight duties at various times for the Departments of Transportation, Business and Professional Regulation, Environmental Protection, Community Affairs, Elder

Affairs, and Health, as well as the Agency for Workforce Innovation and the Division of Emergency Management. Mr. Jimenez also served as Acting General Counsel and as Deputy General Counsel to the Governor.

Prior to entering public service, Mr. Jimenez practiced at the Miami law firm of Steel Hector and Davis L.L.P. (now Squire, Sanders and Dempsey L.L.P.), specializing in complex commercial litigation and white collar criminal defense, including Federal class action, antitrust and product liability litigation, and representation of clients under Federal grand jury and government agency investigation. He joined the firm in 1992 and became a partner in 1998. Previously, Mr. Jimenez served a 1-year clerkship in the chambers of Judge Pamela Ann Rymer of the U.S. Court of Appeals for the Ninth Circuit in Pasadena, California; Mr. Jimenez is admitted to the Bars of Florida and the District of Columbia.

Mr. Jimenez graduated with honors in 1987 from the University of Miami, where he majored in biology. He received his law degree in 1991 from the Yale Law School, where he was Notes Editor of the Yale Law Journal and won the Harlan Fiske Stone and Benjamin N. Cardozo Prizes for best oral argument and best brief, respectively, in the school's moot court competition. He also received an M.B.A. degree in 2005 from the Wharton School at the University of Pennsylvania.

Mr. Jimenez, who is proficient in Spanish, resides in Alexandria, Virginia.

[The Committee on Armed Services requires all individuals nominated from civilian life by the President to positions requiring the advice and consent of the Senate to complete a form that details the biographical, financial, and other information of the nominee. The form executed by Frank R. Jimenez in connection with his nomination follows:]

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

(202) 224–3871

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior to the hearings and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)
Frank Ruben Jimenez.

2. **Position to which nominated:**
General Counsel, Department of the Navy.

3. **Date of nomination:**
June 29, 2006.

4. **Address:** (List current place of residence and office addresses.)
[Nominee responded and the information is contained in the committee's executive files.]

5. **Date and place of birth:**
November 8, 1964; San Juan, Puerto Rico.

6. **Marital Status:** (Include maiden name of wife or husband's name.)
Single, never married.

7. **Names and ages of children:**
None.

8. **Education:** List secondary and higher education institutions, dates attended, degree received, and date degree granted.
Miami Christian School, 1973–1982, High School Diploma (June 1982).
University of Miami, 1982–1987, B.S. (December 1987).
Florida State University, 1987–1988, no degree.
Yale Law School, 1988–1991, J.D. (June 1991).
The Wharton School, University of Pennsylvania, M.B.A. (May 2005).

9. **Employment record:** List all jobs held since college or in the last 10 years, whichever is less, including the title or description of job, name of employer, location of work, and dates of employment.
Deputy General Counsel (Legal Counsel) (2005–2006), U.S. Department of Defense, 1600 Defense Pentagon, Room 3B688, Washington, DC.
Principal Deputy General Counsel (2004–2005), U.S. Department of the Navy, 1000 Navy Pentagon, Room 4E635, Washington, DC.
Chief of Staff (2002–2004), U.S. Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC.
Deputy General Counsel (1999), Acting General Counsel (2000), Deputy Chief of Staff (1999–2000, 2001–2002), Executive Office of the Governor, PL05 The Capitol, Tallahassee, FL.
Associate (1992–1998), Partner (1998–1999), Steel Hector & Davis LLP (now Squire Sanders & Dempsey LLP), 200 South Biscayne Boulevard, 40th Floor, Miami, FL.

10. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.
Member, President's Task Force on Puerto Rico's Status (2003–2005).
Member, South Florida Ecosystem Restoration Task Force (2002).
Chairman, Jimmy Ryce Act Enforcement Task Force (1999–2000).
Member, City of Miami Blue Ribbon Committee on Single Member Districts (1997).

11. **Business relationships:** List all positions currently held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational, or other institution.
Director, Missions Reaching Out Compassionately International, Inc. (501(c)(3) application pending), P.O. Box 144401, Coral Gables, FL.

12. **Memberships:** List all memberships and offices currently held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.
Member, The Florida Bar.
Member (inactive), The District of Columbia Bar.
Member, University Baptist Church, Coral Gables, FL.
Member, Missions Reaching Out Compassionately International, Inc.

13. **Political affiliations and activities:**
(a) List all offices with a political party which you have held or any public office for which you have been a candidate.
None.
(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 5 years.
None.
(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $100 or more for the past 5 years.
Danae Roberts for State Representative ($100), December 2001.
Bush-Brogan 2002 ($250), September 2002.
Bush-Cheney 2004 ($2,000), September 2003.
Mel Martinez for Senate ($1,000), January 2004.
Mel Martinez for Senate ($1,000), September 2004.
Charlie Crist for Governor ($200), June 2005.
Robert Fernandez for State Representative ($100), May 2006.
Adam Hasner for State Representative ($100), May 2006.

14. **Honors and Awards:** List all scholarships, fellowships, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievements.
Department of the Navy Superior Public Service Award (2005).

Wharton Graduate Fellowship (2003).
Named among "The 100 Most Influential Hispanics" in U.S. by Hispanic Business magazine (2002).
Harlan Fiske Stone Prize (Best Oralist) and Benjamin N. Cardozo Prize (Best Brief), Yale Moot Court of Appeals (1991).
Iron Arrow Honor Society (University of Miami) (1987).
Omicron Delta Kappa Honor Society (University of Miami) (1985).
Mortar Board National Honor Society (University of Miami) (1985).
Henry King Stanford Scholarship (University of Miami) (1982).

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.
Note, "Beyond Mergens: Ensuring Equality of Student Religious Speech Under the Equal Access Act," 100 Yale Law Journal 2149 (1991).
Rebekah J. Poston, Frank R. Jimenez & Kimberly K. Dunn, "Feds Urge Businesses to Cough Up Health Fraud," National Law Journal, Sept. 18, 1995, at B12.

16. **Speeches:** Provide the committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.
N/A.

17. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to respond to requests to appear and testify before any duly constituted committee of the Senate?
Yes.

[The nominee responded to the questions in Parts B–F of the committee questionnaire. The text of the questionnaire is set forth in the Appendix to this volume. The nominee's answers to Parts B–F are contained in the committee's executive files.]

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

FRANK R. JIMENEZ.

This 12th day of July, 2006.

[The nomination of Frank R. Jimenez was reported to the Senate by Chairman Warner on August 1, 2006, with the recommendation that the nomination be confirmed. The nomination was confirmed by the Senate on September 21, 2006.]

[Prepared questions submitted to David H. Laufman by Chairman Warner prior to the hearing with answers supplied follow:]

QUESTIONS AND RESPONSES

DEFENSE REFORMS

Question. The Goldwater-Nichols Department of Defense Reorganization Act of 1986 and the Special Operations reforms have strengthened the warfighting readiness of our Armed Forces. They have enhanced civilian control and clearly delineated the operational chain of command and the responsibilities and authorities of the combatant commanders, and the role of the Chairman of the Joint Chiefs of Staff. They have also clarified the responsibility of the military departments to recruit, organize, train, equip, and maintain forces for assignment to the combatant commanders.

Do you see the need for modifications of any Goldwater-Nichols Act provisions?

Answer. The Goldwater-Nichols Act represents landmark legislation. Although I do not have the benefit of first-hand experience in the act's implementation, it is my understanding that the act has succeeded in fulfilling its mandate to enhance jointness, increase readiness, and create a higher standard of warfighting efficiency. If confirmed, I am committed to working with Congress to determine if any legislative modifications are needed in the future.

Question. If so, what areas do you believe might be appropriate to address in these modifications?

Answer. Please see my response to question above.

DUTIES

Question. What is your understanding of the duties and functions of the Department of Defense Inspector General (DOD IG)?

Answer. The duties and functions of the Inspector General of the Department of Defense are those specified in sections 4 and 8 of the Inspector General Act of 1978, as amended. Additional duties and responsibilities of the Inspector General are specified in Department of Defense Directive No. 5106.01, which was signed by Deputy Secretary of Defense Gordon England on April 13, 2006. (A copy of that directive is attached hereto for the committee's convenience.) [Nominee responded and the information is contained in the committee's executive files.]

By statute, the Inspector General conducts and supervises audits and investigations relating to the programs and operations of the Department of Defense. The Inspector General also provides leadership and coordination, and recommends policy, for activities designed to: (1) promote economy, efficiency, and effectiveness in the administration of Department of Defense programs and operations; and (2) combat fraud and abuse. In addition, the Inspector General is responsible for keeping both the Secretary of Defense and Congress fully and currently informed about problems and deficiencies in defense programs, the need for corrective action, and the status of such action.

Question. Assuming you are confirmed, what duties and functions do you expect that the Secretary of Defense would prescribe for you?

Answer. If confirmed, I expect that the Secretary of Defense will prescribe for me the full range of duties and functions set forth in the Inspector General Act, as amended, as well as the additional duties and responsibilities specified in Department of Defense Directive No. 5106.01.

Question. Section 2 of the Inspector General Act of 1978 states that its purpose is to create independent and objective units to conduct and supervise audits and investigations; to provide leadership and coordination, and recommend policies for activities designed to promote economy, efficiency, and effectiveness; to prevent and detect fraud, waste, and abuse; and to provide a means for keeping Congress fully and currently informed about problems and deficiencies relating to the administration of programs and operations and the necessity for and progress of corrective action.

Are you committed to maintaining the independence of the DOD IG, as set forth in the Inspector General statute?

Answer. The ability of the Inspector General to fulfill his or her statutory duties and responsibilities depends on establishing and maintaining both the appearance and reality of independence. If confirmed, I will be strongly committed to maintaining the independence of the Office of the Inspector General (OIG) consistent with the provisions of the Inspector General Act.

Question. Are you committed to keeping the Committee on Armed Services "fully and currently informed," and, if so, what steps will you take, if confirmed, to ensure that this responsibility is carried out?

Answer. If confirmed, I will keep the Committee on Armed Services "fully and currently informed." I will do so through the dissemination of OIG products such as the Semiannual Report to Congress, audit reports, and inspection/evaluation reports. In addition, I will provide briefings for members and staff, and testimony at hearings when requested

Question. Section 3 of the Inspector General Act of 1978 provides that the head of an agency shall exercise "general supervision" over an IG, but shall not "prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation." Section 8 of the act, however, states that the DOD IG shall "be under the authority, direction, and control of the Secretary of Defense with respect to certain audits or investigations which require access to information concerning sensitive operational plans, intelligence matters, counterintelligence matters, ongoing criminal investigations by other administrative units of the Department of Defense related to national security or other matters, the disclosure of which would constitute a serious threat to national security.

What is your understanding of the supervisory authority of the Secretary of Defense over the DOD IG with respect to audits and investigations, in view of the independence provided by section 3?

Answer. Section 3(a) of the act states that "[e]ach Inspector General shall report to and be under the general supervision of the head of the establishment"—here, the Secretary of Defense. Although the statute does not define "general supervision," that term may reasonably be construed to mean such supervision as does not infringe on the Inspector General's independence.

Section 3(a), however, must be read in conjunction with section 8, which contains specific provisions regarding the DOD IG and (in section 8(b)(1)) modifies the last two sentences of section 3(a). Given this statutory framework, my understanding is that the Secretary of Defense may exercise general supervisory authority over the Inspector General and may prohibit the Inspector General from conducting audits and investigations that implicate matters specified in section 8(b)(1) of the act. I am advised, however, that the Secretary has never exercised his statutory authority to preclude the Inspector General from conducting any audits or investigations. I am also advised that the Secretary has not exercised direct supervision over audits and investigations.

Question. What is your understanding of the procedures in place to effect the authority and control of the Secretary of Defense over matters delineated in section 8 of the act?

Answer. Under section 8(b)(2) of the act, the Secretary of Defense has the authority to "prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena . . . if the Secretary determines that such prohibition is necessary to preserve the national security of the United States." It is my understanding that the Secretary has never exercised that authority, and I am presently unaware of any procedures in place to effect that authority. In the event that the Secretary exercised this authority, I would submit an appropriate statement within 30 days to this committee and other appropriate committees of Congress, as required under section 8(b)(3).

Question. Sections 4 and 8 of the Inspector General Act of 1978 set forth various duties and responsibilities of Inspectors General beyond the conduct of audits and investigations.

What is your understanding of the supervisory authority exercised by the Secretary of Defense with regard to these issues?

Answer. In addition to directing the Inspector General to conduct audits and investigations, section 4 directs the Inspector General to "review existing and proposed legislation and regulations" and make related recommendations in semiannual reports; recommend policies to promote economy and efficiency in the administration of Department programs and operations and to prevent and detect fraud and abuse; keep the Secretary of Defense and Congress fully and currently informed about fraud and other serious problems, abuses, and deficiencies; recommend corrective actions for such problems, abuses, and deficiencies; and report on the progress made in implementing such corrective actions. Section 8(c)(1) adds that the Inspector General shall "be the principal advisor to the Secretary of Defense for matters relating to the preventing and detection of fraud, waste, and abuse."

It is my understanding that the Inspector General's duties and responsibilities specified in section 4 and 8 come within the general supervisory authority of the Secretary of Defense established under section 3(a). It is also my understanding that the Secretary exercises that authority by means of weekly updates on ongoing issues that the OIG provides, through monthly meetings between the Inspector General and the Deputy Secretary of Defense, and through quarterly briefings that the Inspector General provides to the Under Secretaries of Defense. I am advised that the Secretary of Defense is not involved in the day-to-day operations of the OIG.

Question. The previous DOD IG has been accused of slowing or blocking investigations of senior government officials, improperly spending appropriated funds on pet projects, and accepting gifts that may have violated ethics guidelines.

Do you believe that these accusations have undermined confidence in the integrity of the OIG?

Answer. I do not have first-hand knowledge regarding the substance of these allegations, or whether the allegations have, in fact, undermined confidence in the integrity of the OIG. If confirmed, however, I am committed to doing everything possible to ensure that all personnel in the OIG—including the Inspector General—uphold the highest ethical and legal standards, and that the OIG has the full trust and confidence of the Secretary of Defense, Congress, and the American people.

Question. What steps would you take, if confirmed, to restore confidence in the integrity of the OIG?

Answer. Please see my answer to previous question.

Question. What is your understanding of the methods currently in use by the Secretary of Defense to exercise supervision over the performance of the DOD IG?

Answer. It is my understanding that the OIG keeps the Secretary of Defense and his senior staff informed, to the extent appropriate, of audits and investigations through briefings and the dissemination of reports.

Question. Based on your experience as an Assistant United States Attorney and former investigative counsel of the House Standards of Official Conduct (Ethics) Committee, do you believe that the current systems in place for monitoring and evaluating the effectiveness and conformance by Inspectors General with the requirements of law are sufficient?

Answer. It is my understanding that the principal mechanism for assessing compliance by Inspectors General with law and ethical standards is the Integrity Committee, a body that was established in 1996 by the Chairperson of the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency. As a nominee, I do not yet have a sufficient basis to evaluate whether this mechanism is effective.

Question. Under what circumstances, if any, do you believe that it is appropriate for the DOD IG to consult with officials in the Office of the Secretary of Defense (or other DOD officials outside the Office of the Inspector General) before issuing a report regarding the findings and recommendations in the report?

Answer. It is essential to maintain not only the actual independence of the Inspector General in accordance with the act's mandate, but the appearance of independence as well.

With respect to audits and inspections, I believe it is appropriate to provide officials in the Office of the Secretary of Defense (and other appropriate officials outside the Office of the Inspector General) with an opportunity to review a draft report to ensure that the report is factually accurate and to identify any areas of disagreement concerning conclusions, findings, and recommendations. Whether any changes are made to a report as a result of such a review remains within the sole discretion of the Inspector General.

With respect to noncriminal investigations such as senior official investigations and reprisal investigations, prior consultations generally should occur only if such consultations would not compromise the Inspector General's independence or the integrity of the ongoing investigation. In this regard, it should be noted that in section 8(b)(1) of the act, Congress expressly provided that "the Inspector General shall be under the authority, direction, and control of the Secretary of Defense with respect to audits or investigations, or the issuance of subpoenas, concerning: (A) sensitive operational plans; (B) intelligence matters; (C) counterintelligence matters; (D) ongoing criminal investigations by other administrative units of the Department of Defense related to national security; or (E) other matters the disclosure of which would constitute a serious threat to national security." Given this congressional directive, I believe that the Inspector General has a statutory obligation to consult with the Secretary of Defense regarding the findings and recommendations of investigations of matters specified in section 8(b)(1) prior to issuing a report concerning such matters.

Except with respect to appropriate communications with other investigative or law enforcement entities, it would be inappropriate to discuss criminal investigations with individuals outside the OIG while such investigations are ongoing.

Question. If you believe that such consultation is appropriate, what steps, if any, do you believe the Inspector General should take to keep a record of the consultation and record the results in the text of the report?

Answer. I believe it is appropriate for the OIG to create and maintain a record of consultations with any official outside the OIG regarding findings and recommendations contained in a draft report. If such consultations result in changes to the findings and recommendations in the report, the substance of the consultations should be disclosed in the report together with an explanation by the Inspector General as to why the changes were made.

QUALIFICATIONS

Question. Section 3 of the Inspector General Act of 1978 provides that IGs shall be appointed on the basis of their "demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations."

What background and experience do you possess that you believe qualifies you to perform the duties of the DOD IG?

Answer. I have extensive experience in ethics and public corruption investigations. In 1992–1993, I served as Senior Associate Minority Counsel to the Task Force to Investigate Certain Allegations Concerning the Holding of American Hostages by Iran in 1980 "October Surprise Task Force", a special bipartisan panel of

the U.S. House of Representatives. Subsequently, I served as Associate Independent Counsel to Joseph E. diGenova in the Investigation Concerning the Search of William J. Clinton's Passport Files During the 1992 Presidential Election Campaign. From 1996–2000, I served as Investigative Counsel to the House Committee on Standards of Official Conduct ("House Ethics Committee"), where I conducted several ethics investigations. In 1997, I played a central role in drafting and negotiating changes to the ethics rules of the House of Representatives in my capacity as Assistant to the Special Counsel to the Ethics Reform Task Force. I also conducted professional misconduct investigations for the Office of Professional Responsibility at the Department of Justice from January to May 2001.

I also have extensive experience in national security affairs. From 1980 to 1984, I served as a military and political analyst in the Directorate of Intelligence at the Central Intelligence Agency. In 1990–1993, I was Deputy Minority Counsel to the Committee on Foreign Affairs of the U.S. House of Representatives. In 2000–2001, I served as Staff Director and Deputy Chief Counsel to the Judicial Review Commission on Foreign Asset Control, a congressionally mandated body that examined U.S. laws governing the imposition of economic sanctions by the U.S. Department of Treasury. Since March 2003, I have served as Assistant U.S. Attorney for the Eastern District of Virginia, where I have specialized in prosecutions of terrorism and other national security cases.

If confirmed, I would also bring administrative experience to the position of Inspector General. In addition to the senior positions noted above, I served as Chief of Staff to the Deputy Attorney General from May 2001 to February 2003. As Chief of Staff, I coordinated oversight of the offices and bureaus of the Department of Justice and helped to oversee responses to the extraordinary challenges that confronted the Department in the period after the terrorist attacks on September 11, 2001.

Question. Do you believe that there are any steps that you need to take to enhance your expertise to perform these duties?

Answer. If confirmed, I plan to become more familiar with statutes and regulations applicable to government contracting in general and defense procurement in particular. I also plan to meet with a broad cross-section of officials and personnel within the Department of Defense, including members of the Armed Forces overseas, to listen to their concerns and identify issues that might merit action by the OIG.

Question. Based on your background and experience, are there any changes that you would recommend with respect to the current organization or responsibilities of the DOD IG?

Answer. If confirmed, I plan to examine how the OIG is organized to determine if any structural changes in the office are appropriate. I also plan to examine whether the office is meeting the full range of its statutory responsibilities within the context of the resources available. It would be premature to offer any recommendations for change in these areas, however, until I have an adequate opportunity to conduct the necessary evaluations.

RELATIONSHIPS

Question. If confirmed, what would your working relationship be with:

The Secretary of Defense?

Answer. Section 8(c) of the act states that the Inspector General shall "be the principal adviser to the Secretary of Defense for matters relating to the prevention and detection of fraud, waste, and abuse in the programs and operations of the Department . . . ." In addition, section 2(3) provides for Inspectors General to "keep[] the head of the establishment and Congress fully and currently informed about problems and deficiencies relating to the administration of . . . programs and operations and the necessity for and progress of corrective action . . . ."

If confirmed, I will seek to establish a strong and effective relationship with the Secretary of Defense that enables me to carry out my statutory duties with the independence required under the act, while enabling the Secretary to exercise his statutory supervisory authority. I will consult directly with the Secretary as necessary and appropriate, particularly with respect to matters governed by section 8(b)(1) of the act. I also expect to continue the current practice of providing weekly updates on ongoing issues to the Special Assistants for the Secretary of Defense and Deputy Secretary of Defense, meeting on a monthly basis with the Deputy Secretary of Defense, and providing quarterly briefings to the Under Secretaries on matters warranting their attention.

Question. The Deputy Secretary of Defense?

Answer. Section 3(a) of the Inspector General Act states that "[e]ach Inspector General shall report to and be under the general supervision of the head of the es-

tablishment involved or, to the extent such authority is delegated, the officer next in rank below such head." Department of Defense Directive 5106.01, dated April 13, 2006, states that " the Inspector General of the Department of Defense shall report to and be under the general supervision of the Secretary of Defense and the Deputy Secretary of Defense. . . ." (Emphasis added.) Accordingly, if confirmed, I would expect my relationship with the Deputy Secretary of Defense to mirror my relationship with the Secretary of Defense.

Question. The Under Secretary of Defense (Comptroller/Chief Financial Officer) (USD(C/CFO)?

Answer. It is my understanding that the USD(C/CFO) is responsible for financial management within the Department of Defense by establishing and enforcing requirements, principles, standards, systems, procedures, and practices necessary to comply with financial management statutory and regulatory requirements applicable to the DOD. The USD directs financial management requirements, systems, and functions for all appropriated, nonappropriated, working capital, revolving, and trust fund activities. In addition, the USD directs statutory and regulatory financial reporting requirements.

It is my further understanding that the Inspector General of the Department of Defense is subject to all rules and regulations established by the USD(C/CFO).

I am advised that the Inspector General advises and counsels the USD(C/CFO) on areas of concern within the financial management arena to include acquisition management, financial statement audits, and contracting issues. To accomplish this, I will continue the acting IG's current practice of providing quarterly briefings to the USD(C/CFO) on current audits and investigations that have fiscal implications.

I am also advised that the Inspector General provides the USD(C/CFO) information to develop and defend the concurrent Program Objective Memorandum/Budget Estimate Submission to document the OIG's extended resource requirements to OSD and OMB. In that regard, I would expect to continue to work with the USD(C/CFO) to formulate the OIG's portion of the annual President's budget for submission to OSD/OMB, and to request required resources to conduct the Inspector General's mission.

Question. The Under Secretary of Defense for Acquisition, Technology, and Logistics?

Answer. The OIG has identified "acquisition processes and contract management" as a major challenge for the Department of Defense. It is therefore essential for the Inspector General to maintain an effective working relationship with the Under Secretary for Acquisition, Technology, and Logistics. If confirmed, I expect to work particularly closely with the Under Secretary concerning the allocation of OIG resources in the acquisition area, and how best to implement audit recommendations pertaining to acquisition processes.

Question. The General Counsel for the Department of Defense?

Answer. The Office of the General Counsel has extensive legal expertise and resources that are valuable to the OIG. It is therefore in the best interests of the DOD IG and the General Counsel to work as closely as possible without compromising the independence of the Inspector General or creating the appearance that the Inspector General's independence has been compromised. If confirmed, I would expect to work with the General Counsel on proposed legislation and regulations, ethics issues, and legal issues associated with audit findings and departmental policies.

According to information provided to me in preparation for my confirmation hearing, an action memo governing the relationship between the Inspector General and General Counsel was approved by former Deputy Secretary of Defense Wolfowitz on September 27, 2004. This action memo, titled "Provision of Legal Services to the Inspector General of the Department of Defense," apparently superseded a previous memorandum of understanding between the Inspector General and the General Counsel that was executed in 1985 but was terminated in February 2004.

The September 2004 action memo contains the following provisions:

- Consistent with DOD Directive 5145.4, the Office of General Counsel of the Office of Inspector General of the Department of Defense (OIG/OGC) shall be established as an element of the Defense Legal Services Agency (DLSA). The Office of Deputy General Counsel (Inspector General) in the Office of the DOD General Counsel shall be disestablished.
- The legal staff of the Office of the Deputy General Counsel (Inspector General) will transfer from the Office of the DOD General Counsel to the OIG/OGC as part of DLSA.
- One SES resource, position, and associated funding will transfer from the Office of the Secretary of Defense to OIG.

• Eight non-SES attorney positions, with associated funding, will transfer from the Office of the Secretary of Defense to OIG. The employees encumbering these positions will move with their positions.
• Budgeting, managing of ceiling spaces, personnel services, and other administrative support for OIG/OGC shall be the responsibility of the Inspector General. The Inspector General shall be the appointing authority for OGC/OIG, the other attorneys, and staff assigned to OIG/OGC.
• The selection of the OGC/OIG and other attorneys assigned to OGC/OIG shall require the approval of the Inspector General and the General Counsel of the Department of Defense. The OGC/OIG and other attorneys in OIG/OGC may not be transferred, reassigned, provided additional duties, disciplined or terminated without the approval of the Inspector General and the General Counsel of the Department of Defense.
• The OGC/OIG shall be a member of the Senior Executive Service. The rater and senior rater of the OGC/OIG shall be the Principal Deputy General Counsel and General Counsel of the Department of Defense, respectively. The Inspector General shall sign the performance plan and evaluation of the OGC/OIG as the appointing authority.
• The Inspector General shall include the OGC/OIG in the Senior Executive Service bonus pool for the OIG.

Question. The Director of Operational Tests and Evaluation?

Answer. I am advised that the Inspector General and the Director of Operational Tests and Evaluation have a common interest in ensuring that equipment and weapons systems allocated to the warfighter perform effectively and as planned. If confirmed, I would expect to consult as appropriate with the Director concerning the initiation of audits in these areas.

Question. The Inspectors General of the military departments, defense agencies, and the Joint Staff?

Answer. Section 8(c)(2) of the act states that the DOD IG "shall . . . initiate, conduct, and supervise such audits and investigations in the Department of Defense (including the military department) as the Inspector General considers appropriate. . . ." Section 8(c)(9) adds that the Inspector General "shall . . . give particular regard to the activities of the internal audit, inspection, and investigative units of the military departments with a view toward avoiding duplication and ensuring effective coordination and cooperation. . ." In addition Department of Defense Directive No. 5106.01, dated April 13, 2006, directs the Inspector General, "unless precluded by the matter, [to] notify the Secretaries of the Military Departments concerned before conducting audits, evaluations, inspections, or investigations of matters normally under the jurisdiction of the Military Department."

I am advised that as a matter of practice, the Inspectors General of the Military Departments, who report directly to their respective Secretaries, have conducted audits and investigations of matters particularly germane to the military departments, including investigations of violent crime occurring in operational theaters. In contrast, I am advised that the DOD IG traditionally has focused on more systemic matters that cross Service lines. Department of Defense Directive No. 5106.01 also provides that "unless precluded by the nature of the matter," [the DOD IG must] notify the Secretaries of the Military Departments concerned before conducting audits, evaluations, inspections, or investigations of matters normally under the jurisdiction of the Military Departments."

I am advised that the DOD IG has a close working relationship with the Inspectors General of the Military Departments. Personnel from the OIG meet regularly with staff from the Inspectors General of the Military Departments in order to keep each other advised of planned and ongoing work, coordinate activities and avoid unnecessary duplication, and discuss other issues of mutual interest. In addition, Department of Defense directives governing certain programs in which the Inspectors General of the Military Departments participate also give the Inspector General policy and oversight roles with respect to those programs. These include the Department of Defense Hotline, whistleblower reprisal investigations, and investigations against senior officials. The Inspectors General of the Defense Agencies report to their respective agency heads. However, in areas such as inspections, audits, and the operations of hotlines, they come under the policymaking authority of the DOD IG. The Defense Agencies' Inspectors General also serve as the contact with the Department's Inspector General in facilitating proper implementation of Inspector General recommendations.

Question. The Criminal Investigative Services of the Military Departments?

Answer. Under the act, the Inspector General has the authority to initiate, conduct, and supervise criminal investigations relating to any and all programs and operations of the Department of Defense. In addition, the Inspector General is statu-

torily authorized to develop policy, monitor and evaluate program performance, and provide guidance regarding all criminal investigative programs within the Department. As noted above, however, section 8(c)(9) of the act provides that the Inspector General "shall . . . give particular regard to the activities of the internal audit, inspection, and investigative units of the military departments with a view toward avoiding duplication and insuring effective coordination and cooperation. . ." In addition, Department of Defense Directive No. 5106.01 provides that "unless precluded by the nature of the matter," [the Department of Defense Inspector General must] notify the Secretaries of the Military Departments concerned before conducting audits, evaluations, inspections, or investigations of matters normally under the jurisdiction of the military departments."

I expect to work closely with each of the Military Criminal Investigative Organizations (MCIOs) to ensure that investigative resources are utilized effectively. It is my understanding that the IG is more heavily involved in investigations that affect major Department programs or that involve or affect more than one military service. I also understand that the DOD IG frequently works in close coordination with one or more of the MCIOs on joint investigations, particularly in the fraud area.

Question. The audit agencies of the military departments?

Answer. If confirmed, I expect to work closely and collegially with the audit agencies of the military departments to ensure that necessary audits are conducted without duplication of effort.

Section 4(a) of the act establishes broad jurisdiction of the Inspector General to conduct audits and investigations within the Department of Defense, and section 8(c)(2) states that the Inspector General "shall . . . initiate, conduct, and supervise such audits and investigations in the Department of Defense (including the military departments) as the Inspector General considers appropriate." The audit agencies of the military departments, however, have particular expertise in a range of matters within the purview of their departments, and separate resources available to commit to audits of their departments. In addition, section 6.3.1 of Department of Defense Directive No. 5106.01 directs the Inspector General, "unless precluded by the matter, [to] notify the Secretaries of the Military Departments concerned before conducting audits, evaluations, inspections, or investigations of matters normally under the jurisdiction of the military departments."

It is my understanding that the audit agencies of the military departments have worked with the OIG on Hurricane Katrina relief efforts and other projects. I further understand that the OIG and the military audit agencies work together to train personnel and oversee the conduct of peer reviews of the military audit organizations to ensure that their work is in compliance with Government Auditing Standards.

Question. The Defense Contract Audit Agency?

Answer. Section 8(c)(6) of the act directs the Inspector General to "monitor and evaluate the adherence of Department auditors to internal audit, contract audit, and internal review principles, policies, and procedures. . ." In accordance with this directive, it is my understanding that the Defense Criminal Investigative Service and other OIG components work collaboratively with Defense Contract Audit Agency (DCAA) auditors on audits and investigations involving Department of Defense contractors. I also understand that the Director of the DCAA, along with other Department Audit Chiefs, meet at least quarterly with the Inspector General to discuss and coordinate audit activities. If confirmed, I expect to continue these practices.

Question. The Defense Acquisition Regulatory Council?

Answer. It is my understanding that the DOD IG provides comments to the Defense Acquisition Regulatory Council on proposed changes to the Defense Federal Acquisition Regulations Supplement. I also understand that the Council occasionally requests assistance from the Inspector General with factfinding on especially complex issues. If confirmed, I expect to continue these practices.

Question. The Director of Defense Procurement and Acquisition Policy?

Answer. It is my understanding that the Director of Defense Procurement and Acquisition Policy is responsible for a large segment of Department operations and, accordingly, is a major recipient and user of services and reports provided by the OIG. I am advised that the Director's involvement has been especially valuable to the Inspector General in audit planning efforts, particularly in the acquisition area. If confirmed, I expect to continue the Inspector General's practice of soliciting the Director's input where appropriate.

Question. The Comptroller General and the Government Accountability Office?

Answer. The OIG works closely with the Government Accountability Office (GAO) to coordinate planned and ongoing audits and inspections and avoid duplication of efforts. If confirmed, I expect to continue these practices.

Department of Defense Directive No. 7650.2, dated July 13, 2000, directs the DOD IG to: (1) serve as the DOD central liaison with the Comptroller General on all matters concerning GAO surveys, reviews, reports, and activities; (2) designate appropriate DOD components to work with GAO during the conduct of reviews within the Department of Defense, and to prepare responses to GAO reports when required; (3) develop and provide guidance, as needed, to facilitate the handling of GAO surveys and reviews, and to review and respond to GAO reports and requests for security reviews on GAO reports; (4) facilitate resolution of disagreements between DOD components concerning the appropriate of proposed responses to GAO reports; and (5) arrange and facilitate meetings, as necessary, with representatives of DOD components and/or the GAO regarding GAO surveys, reports, or other GAO activities within the Department of Defense.

MAJOR CHALLENGES AND PROBLEMS

Question. In your view, what are the major challenges and problems facing the next DOD IG?

Answer. In its semiannual report to Congress, the OIG lists the most serious management and performance challenges faced by the Department of Defense based on the findings and recommendations of audits, inspections, and investigations conducted during the year. The most recent semiannual report, covering the period of October 31, 2005, through March 31, 2006, identified the following challenges:

- Joint Warfighting and Readiness
- Homeland Defense
- Human Capitol
- Information Technology Management
- Acquisition Processes and Contract Management
- Financial Management
- Health Care
- Infrastructure and Environment

In the context of meeting these challenges, the OIG will continue to provide extensive oversight in support of the global war on terrorism in the areas of readiness, logistics, force management, contracting, and financial management. The OIG also will continue its audit operations related to Hurricane Katrina.

It is difficult as a nominee to identify specific problems I will confront if confirmed. Based on the information provided to me thus far, however, I am concerned that existing audit resources may be insufficient to meet the Inspector General's statutory responsibilities with respect to defense acquisitions and contract oversight. I am also concerned that the OIG may lack sufficient resources to conduct necessary in-theater audit and investigative activity in Iraq and Afghanistan.

Question. Assuming you are confirmed, what plans do you have for addressing these challenges and problems?

Answer. If confirmed, I will focus audit, investigative, and inspection efforts on the challenges identified in the semiannual report, while working to identify new issues in consultation with senior Department of Defense officials and Congress. I will also work with senior Department officials and Congress to determine what additional resources the OIG needs to fulfill its statutory responsibilities.

Question. If confirmed, what broad priorities would you establish in terms of issues which must be addressed by the DOD IG?

Answer. It is difficult as a nominee to formulate priorities because I have not had access to the full range of information and considerations that should inform the setting of priorities. Promoting efficiency and preventing fraud in defense acquisitions will obviously be a high priority—as will force protection for the men and women of our armed services serving in Iraq and Afghanistan. I will also aggressively pursue oversight of defense contracts, particularly those relating to major weapons systems and the war in Iraq. If confirmed, I look forward to consulting with senior officials of the Department of Defense and Congress to identify priorities for the OIG.

SENIOR OFFICER INVESTIGATIONS

Question. The Office of the DOD IG plays a key role in the investigation of allegations of misconduct by senior officers and civilian employees of the Department of Defense. The Committee on Armed Services has a particular interest in investigations concerning officers who are subject to Senate confirmation, and relies upon the DOD IG, as well as the Office of the Secretary of Defense, to ensure that these investigations are accurate, complete, and accomplished in a timely manner.

If confirmed, what steps will you take to ensure that the investigations relating to senior officials are completed in a timely manner and that the results of investigations are promptly provided to this committee?

Answer. I have spent much of my career as a government attorney promoting the integrity of our institutions of government, including service as an Investigative Counsel on the House Committee on Standards of Official Conduct. If confirmed, investigations of alleged misconduct by senior officers and civilian officials of the Department of Defense will receive the highest priority by the OIG. Misconduct by senior government officials is a breach of the public trust, and individuals found to commit such misconduct must be held fully accountable. I will review operations in the OIG's Directorate for Senior Official Investigations to ensure that investigations receive the necessary resources, that investigative actions are thorough and prioritized, and that these matters are completed in a timely manner. Once such investigations are completed, I will ensure that their results are communicated to the committee.

Question. Do you believe that the current allocation of responsibilities between the DOD IG and the Inspectors General of the military departments is appropriate to ensure fair and impartial investigations?

Answer. As a nominee, I do not yet have a precise understanding of the current allocation of responsibilities between the DOD IG and the Inspectors General of the military departments. Consequently, I am not currently in a position to assess whether that allocation is appropriate. As a general proposition, however, the Inspectors General of the military departments have a comparative advantage in undertaking certain kinds of investigations because of their particular expertise in operational matters germane to their departments.

I am advised that most senior official investigations are currently conducted by the Service IGs, as monitoring the conduct of servicemembers is properly the responsibility of the Service Secretaries (to whom the Service IGs report). I am also advised that the Service IGs have demonstrated their capability to conduct independent and unbiased investigations, apply proper standards, and formulate conclusions based on the evidence in light of those standards, and that the DOD OIG has found no indication that such investigations are subject to undue influence or tainted by lack of independence.

Subject to resource constraints, the DOD IG always retains the discretion, pursuant to section 8(c)(2) of the act, to conduct audits and investigations of the military departments if deemed necessary and appropriate. I am advised that the DOD IG has assumed jurisdiction, for example, in circumstances where the independence of a Service IG might be questioned, such as matters where allegations have been made against: (1) officers senior to the Service IG (4-star rank), (2) heads of DOD agencies, (3) presidentially-appointed, Senate-confirmed appointees, and (4) the Service IGs themselves. I am also advised that the DOD IG has investigated allegations where the Service IGs have no or limited jurisdiction, such as those involving senior civilians in the Office of the Secretary of Defense, combatant commands, or Defense agencies—or allegations that cross Service lines. Finally, I am advised that the DOD IG is periodically requested to reinvestigate a Service IG investigation that is allegedly flawed or inadequate.

AUTHORITIES OF THE DOD IG'S OFFICE AND INVESTIGATORS

Question. In recent years, the DOD IG has sought and obtained increased authority to issue subpoenas, carry weapons, and make arrests.

Do you believe that the authorities of the OIG and its agents are adequate in these areas, or would you recommend further changes in the law?

Answer. It is my understanding that the National Defense Authorization Act for Fiscal Year 1998 significantly enhanced the authorities of Defense Criminal Investigative Service (DCIS) special agents. The act inserted language into chapter 81 of title 10, U.S.C., that provides DCIS special agents the authority to execute and serve any warrant or other process issued under the authority of the United States, and to make arrests without a warrant for any offense against the United States committed in the presence of that agent. The act also gives DCIS jurisdiction over any felony cognizable under the laws of the United States if the agent has probable cause to believe that the person to be arrested has committed or is committing the felony.

These authorities are exercised in accordance with guidelines prescribed by the DOD IG and approved by the Attorney General and other guidelines as prescribed by the Secretary of Defense or the Attorney General. With the passage of this act, DCIS special agents received full statutory law enforcement authority commensurate with that of agents of other Federal law enforcement agencies, such as the Fed-

eral Bureau of Investigation, Drug Enforcement Administration, U.S. Immigration and Customs Enforcement, and U.S. Secret Service.

I also understand that the authority of DCIS special agents to carry firearms derives from language in chapter 81 of title 10, U.S.C., section 1585, which states that "civilian officers and employees of the Department of Defense may carry firearms or other appropriate weapons while assigned investigative duties or such other duties as the Secretary may prescribe." Current DCIS policy requires agents to carry firearms at all times when in a duty status in the United States, its territories, or possessions, except where prohibited or where circumstances make it inappropriate to carry firearms. When off-duty, special agents can be recalled to law enforcement duties at any time on short notice. Accordingly, agents are authorized to carry firearms at all times when off-duty and when in a leave status.

I am currently unaware of any concerns that the authorities described above are inadequate. If I am confirmed and such concerns are brought to my attention, I will undertake a review to determine whether any further change in law may be necessary to enhance the ability of DCIS agents to perform their mission.

DOD FINANCIAL ACCOUNTING AND AUDITS

Question. The performance of mandatory statutory duties, such as the performance of financial audits, has consumed a growing share of the resources of the Inspector General's office, crowding out other important audit priorities.

What is your view of the relative priority of financial audits, and the resources that should be devoted to such audits?

Answer. Financial audits will continue to be a high priority consistent with the President's Management Agenda Initiative, the Secretary of Defense's top priorities, the Chief Financial Officers Act of 1990, and the Federal Financial Management Improvement Act of 1994. If confirmed, I will work with the Department and Congress to ensure that the appropriate level of resources continues to be dedicated to financial audits. I will also seek to ensure that resources committed to financial audits do not come at the expense of other audit priorities.

Question. Do you believe that resources currently directed to the audit of financial statements that are generally acknowledged to be unreliable would better be directed to other objectives?

Answer. Without the benefit of first-hand knowledge of resource challenges faced by the DOD IG, I am not currently in a position to determine whether resources would be better directed to other objectives. I have been advised, however, that the OIG currently allocates few resources to the audit of financial statements, in accordance with section 1008 of the National Defense Authorization Act of 2002. That section states that "the DOD IG shall only perform the audit procedures required by generally accepted government auditing standards consisted with any representations made by management."

Question. Do you see any need for legislative changes to give the Inspector General greater flexibility to target audit resources?

Answer. Without the benefit of first-hand knowledge of resource challenges faced by the DOD IG, I am not currently in a position to determine whether legislative changes are necessary. If confirmed, I am prepared to work with the Department and Congress to assess whether legislation in this area is appropriate.

OVERSIGHT OF ACQUISITION PROGRAMS

Question. Problems with procurement, acquisition, and the ability of the Department and the military departments to effectively oversee acquisition programs have called into question the capability of existing DOD oversight mechanisms.

Do you believe that the DOD IG and the various Defense auditing and contracting management activities have the resources needed to conduct effective oversight over the Department's acquisition programs?

Answer. If confirmed, conducting effective oversight over the Department's acquisition programs will be among my top priorities as Inspector General. The men and women of our Armed Forces, and our Nation's taxpayers, have a right to expect that the funds appropriated by Congress for defense acquisitions are being utilized with cost-efficiency and integrity.

Based on the information made available to me thus far, I am concerned that the audit resources of the OIG have not kept pace with the growth in contract expenditures for defense acquisitions. I am also concerned that the current trend, if unchecked, will significantly increase the risk of fraud, waste, and abuse in acquisition programs.

Therefore, if I am confirmed, it will be vital for the OIG, the Department, and Congress to work together in a timely way to assess whether the OIG has adequate resources to conduct this essential oversight.

Question. Over the last 15 years, the IG has gone from having one auditor for every $500 million on contract by the DOD to one auditor for every $2 billion on contract.

Do you believe that the IG has the resources it needs to conduct effective oversight over the Department's acquisition programs?

Answer. Please see my previous answer.

Question. The DOD IG has played an important role in advising the DOD and Congress on the sufficiency of management controls in the Department's acquisition programs and the impact that legislative and regulatory proposals could have on such management controls.

How do you see the DOD IG's role in this area?

Answer. The DOD IG has an important role in helping the Department to effectively and efficiently manage acquisition resources dedicated to the support of the Department's mission, and in accounting for management of those resources to the taxpayer. Sound management controls are paramount in ensuring effective and efficient acquisition programs. If confirmed, I will ensure that the DOD OIG continues its important advisory role in reporting on the sufficiency of management controls over acquisition programs and providing comments on related legislative and regulatory proposals.

HUMAN TRAFFICKING

Question. The Department of Defense has adopted a "zero tolerance" position against abuses of human trafficking and modified its policies to ensure that United States military commands and activities and their personnel are informed about factors contributing to human trafficking and take preventative measures against behavior that contributes to this problem. The DOD IG has investigated allegations of human trafficking in Korea and the Balkans, and, earlier this year, the DOD IG posted a survey on its Web site designed to obtain information about potential human trafficking abuses from DOD personnel.

What is the role of the DOD IG with respect to human trafficking?

Answer. It is my understanding that the Inspector General supports the Department's "zero tolerance" policy against human trafficking by evaluating programs and compliance, and by investigating allegations of human trafficking that have a DOD nexus. If confirmed, I will continue these practices.

Question. What is your understanding of the actions that have been taken by the DOD OIG to prevent human trafficking abuses and the current role of the DOD IG in formulating and enforcing the Department's policies?

Answer. It is my understanding that the OIG has been actively engaged in efforts to prevent human trafficking, and that the OIG works closely with other human trafficking "stakeholders" within the DOD, and with other departments such as the Department of State.

On May 31, 2002, several Members of Congress wrote to the Secretary of Defense to request a "thorough, global, and extensive" investigation into the publicized allegation that U.S. military leadership in Korea had been implicitly condoning sex slavery. In response, the OIG initiated a Human Trafficking Assessment Project. The first phase of the project focused on U.S. military forces in Korea. IG teams visited Korea in December 2002 and March 2003. The second phase focused on the European theater, specifically Bosnia and Kosovo. An IG team visited the Balkans in June 2003.

The results of the assessment project indicated that awareness training, along with leader focus, were important tools in the effort to combat human trafficking. The specific findings are set forth in OIG reports published in July and December 2003.

In October 2004, the OIG distributed over 7,000 Trafficking in Persons (TIP) posters to military and DOD civilian activities worldwide. Continuing that initiative today, the hotline staff is prepared to recognize and receive allegations of this multifaceted crime against humanity, by telephone, e-mail, facsimile, and U.S. mail.

On November 18, 2005, the OIG announced its "Evaluation of the Department of Defense (DOD) Efforts to Combat Trafficking in Persons." The OIG expects to publish the report of this latest evaluation in August 2006.

In order to maintain its independence, the OIG does not become involved in the formulation of DOD operational policies. However, the OIG does play a role in enforcing Department policy through audits, investigations, and evaluations.

Question. In April 2006, the Commander, U.S. Multinational Forces, General George Casey, USA, issued an order titled "Prevention of Trafficking in Persons in MNF–I," aimed at preventing human trafficking abuses by contractors involving possibly thousands of foreign workers on U.S. bases in Iraq. Media reports about the problem of abuses in Iraq among contractors stated that allegations had been raised as early as 2004 with the DOD IG, but that lengthy delays occurred before a response.

What is your understanding of the role the DOD IG has played in investigating human trafficking allegations in Iraq?

Answer. It is my understanding that the OIG has taken several actions related to allegations of human trafficking in Iraq.

For example, I am advised that on April 14, 2006, the OIG responded to a request from the Under Secretary of Defense for Personnel and Readiness (USD P&R) concerning alleged practices by DOD contractors and subcontractors in Iraq that had been reported in a series of Chicago Tribune articles regarding the deaths of 12 Nepalese workers inside Iraq on August 31, 2004. The allegations concerned involuntary servitude occurring under the auspices of DOD contractors in Iraq.

I am also advised that the DOD IG made the following recommendations to the USD P&R, which were provided to Ambassador Miller at the State Department by Under Secretary Chu on May 18, 2006:

- DOD should continue to prosecute military members who become involved in TIP or TIP-related activities, in accordance with the Uniform Code of Military Justice.
- DOD should ensure that all new contracts incorporate the language of the anti-TIP clause in the Defense Federal Acquisition Regulations (DFAR), once it is approved.
- DOD should evaluate rewriting existing contracts to incorporate the language of the anti-TIP DFAR clause, once it is approved.
- Military Department and Combatant Command Inspectors General should continue their involvement in DOD efforts to combat TIP, within the limits of their authority to do so.

I have been advised that delays occurred in the OIG's investigation of allegations of abuses by contractors in Iraq because the OIG has no authority to investigate foreign nations or foreign companies inside the countries that are the source of most of the laborers. To address that problem, it is my understanding that the OIG has been working with the Office of the Secretary of Defense to ensure that necessary changes are incorporated into the DFAR Supplement to provide additional contractor controls over both contractors and subcontractors.

Question. What steps would you take, if confirmed as the DOD IG, to investigate and prevent the incidence of human trafficking abuses in connection with DOD activities?

Answer. If confirmed, I will ensure that the OIG investigates all credible allegations of human trafficking with a DOD nexus. In some instances, allegations might be referred to the military Services' investigative organizations, but the DOD IG would monitor the progress of those Service investigations. To promote compliance with the DOD "zero tolerance" policy, I will also periodically evaluate DOD programs to combat human trafficking in coordination with other Inspectors General throughout the Department.

OVERSIGHT OF IRAQI RECONSTRUCTION

Question. The Special Inspector General for Iraq Reconstruction issued a report last year stating that the Coalition Provisional Authority did not establish or implement sufficient managerial, financial, and contractual controls to ensure that billions of dollars in Development Funds for Iraq were used properly. The DOD IG recently opened a field office in Qatar and has supported the development of anti-corruptions systems within the Iraqi government.

What is the relationship of the DOD IG to the Special Inspector General for Iraq Reconstruction?

Answer. It is my understanding that the DOD IG has supported the operations of the Special Inspector General for Iraq Reconstruction and its predecessor, the Coalition Provisional Authority Inspector General. In accordance with the IG Act and Public Law 108–106, title 3, section 3001(f)(4), the DOD IG coordinates with the Special Inspector General for Iraq Reconstruction as well as other oversight community members to avoid duplicating oversight efforts and to minimize disruption to military operations. If confirmed, and in keeping with the legal authorities noted above, I will ensure that the DOD IG continues to coordinate with the Special Inspector General for Iraq Reconstruction as a fellow member of the IG community.

Question. What is your understanding of the accomplishments and planned participation of the DOD OIG in investigating and preventing fraud, waste, and abuse of U.S.-provided resources for reconstruction and other purposes in Iraq?

Answer. It is my understanding that the DOD OIG has, in accordance with its legislatively mandated mission, conducted audits aimed at identifying and preventing fraud, waste, and abuse of funds appropriated to the DOD for its operations in Iraq. The DOD OIG has also established an office in Qatar as an in-theater base of operations. The staff in the Qatar office is conducting audits, inspections, and investigations as required in Iraq, Afghanistan, Kuwait, and Qatar to support the operational commander. Additionally, audits are being conducted in the continental United States (CONUS) on contracts awarded and funds expended in the United States that provide significant resources to support reconstruction and other purposes in Iraq.

I am advised that DCIS and its military criminal investigative counterparts investigate major frauds, corruption, thefts, and other compromises of DOD assets in Afghanistan, Iraq, and other countries in that theater. DCIS agents currently deploy from Europe and CONUS with investigation partners (e.g., the FBI) into theater to conduct investigative operations, such as gathering evidence and conducting interviews, when crimes are reported. However, the bulk of their investigative activities occur in CONUS where corporate headquarters of DOD contractors, key evidence, and Department of Justice prosecutorial support are located. With the increased DOD OIG audit presence in-theater, I expect that DCIS will be assigning more agents in-theater to handle a likely increase in referrals of criminal matters.

If confirmed, and in keeping with the IG Act, I will ensure that the DOD OIG continues to focus oversight efforts to investigate and prevent fraud, waste, and abuse of U.S.-provided resources for reconstruction and other purposes in Iraq.

Question. The Special Inspector General for Iraq Reconstruction has jurisdiction over contracts for the reconstruction of Iraq, however, the Special Inspector General does not have jurisdiction over contracts to support our troops in Iraq and Afghanistan.

What role do you believe the DOD IG should play in the audit and oversight of such contracts?

Answer. The DOD OIG has authority to conduct audits of DOD contracts awarded in support of Operation Iraqi Freedom and Operation Enduring Freedom, and I believe that the OIG should conduct aggressive oversight of those contracts. If confirmed, I will ensure that the OIG conduct audits of DOD contracts in support of our troops in Iraq and Afghanistan.

Question. Do you believe that a significant on-the-ground presence in Iraq is necessary to perform this role?

Answer. Given the critical need to ensure that funds on behalf of our troops in Iraq and Afghanistan are being utilized in a cost-effective manner—and the volume of contracts awarded for that purpose—the DOD OIG almost certainly requires a significant on-the-ground presence in Iraq. Toward that end, I am advised that the DOD OIG has established an office in Qatar as its in-theater base of operations for entry into Iraq as well as Afghanistan and Kuwait.

Question. If confirmed, what would be your goals with respect to prevention of corruption in Iraq?

Answer. If confirmed, I will continue to support the development of a strong anti-corruption system within the Iraqi government. It is my understanding that the DOD OIG assists the Multi-National Security Training Command-Iraq (MNSTC–I) in its efforts with the Iraqi Ministry of Defense Inspector General and his staff.

For example, I am advised that, in regard to the development of U.S. and Iraqi anti-corruption initiatives, the OIG has:

- Provided a full-time IG advisor to the MNSTC–I in Baghdad to assist, train, and mentor the Iraqi Ministry of Defense Inspector General and his staff and support that effort with a support unit in our Washington, DC, and Qatar offices.
- Continues to participate as a member of the Embassy's Anti-corruption Working Group and facilitate communications, coordination, and cooperation among coalition and Iraqi officials to build a self-sustaining Iraqi IG system.
- As requested by the Ambassador, Embassy-Baghdad and the commanders of Multi-National Force-Iraq and MNSTC–I, provides support and assistance to establish a stable, professional, and sustainable Iraqi Inspector General System that is integrated and complementary to the U.S. Embassy's and MNSTC–I's overall Anti-Corruption Strategy.
- Continues to encourage Iraqi efforts to create a "National Institute for Integrity and Audit" to educate and train Iraqi auditors, inspectors, investiga-

tors, and government officials in such areas as principled governance, rule of law, human rights, and anti-corruption processes.

• As required, collaborates with other U.S. Government agencies and conduct interagency and/or unilateral oversight activities—audits, inspections and evaluations, and investigations—that have a DOD nexus.

OVERSIGHT OF MEDICAL FUNCTIONS

Question. In recent months, reports of medical cases from military treatment facilities involving tragic outcomes and allegations of medical malpractice have raised questions about the adequacy of existing reporting, investigatory, and readiness systems within the Defense Health Program and military treatment facilities. The ability of those outside the military medical system to fairly evaluate individual cases and overall quality of care is affected by such factors as the tort claim laws and adversarial litigation against the United States, reliance on privileges from the release of documents and information associated with such litigation and separate quality assurance systems, patient privacy requirements, and concern about the reputations of individual providers.

Do you have any views about the role the DOD IG might play in improving visibility into and objective assessments of the quality of care provided through the military medical system?

Answer. The military health system is critical to our military members and their families. If confirmed, I will ensure that the DOD OIG continues to provide the independent review and oversight necessary of the military health system. Without the benefit yet of first-hand information, however, I am not currently in a position to offer any views about specific actions the DOD OIG might take to improve visibility into, and objective assessments of, the quality of care provided through the military medical system.

Question. What resources and expertise does the DOD IG currently have—or lack—to play a more prominent role in evaluating the performance of health care providers in the Department of Defense?

Answer. Without the benefit of first-hand knowledge of resource challenges faced by the DOD OIG, I am not currently in a position to determine whether DOD OIG has adequate resources and expertise to provide the requisite oversight in this area. If confirmed, I will work with the Department and Congress to assess the appropriate level of resources and expertise needed to evaluate the performance of health care providers in the Department.

INTELLIGENCE

Question. What is the role of the DOD IG with regard to intelligence activities within DOD?

Answer. The Inspector General, through the Deputy Inspector General for Intelligence, has responsibility for oversight of DOD intelligence activities and components as identified in DOD Directive 5240.1, "DOD Intelligence Activities," dated April 25, 1988. These include all DOD components conducting intelligence activities, including the National Security Agency/Central Security Service (NSA/CSS), the Defense Intelligence Agency (DIA), the Military Department intelligence and counterintelligence activities, and other intelligence and counterintelligence organizations, staffs, and offices, or elements thereof, when used for foreign intelligence or counterintelligence purposes. Other organizations and components under the Inspector General's oversight not specifically identified in DOD Directive 5240.1 include the Office of the Under Secretary of Defense for Intelligence (USD(I)), the National Reconnaissance Office (NRO), and the National Geospatial-Intelligence Agency (NGA).

Responsibilities and functions of the Inspector General as outlined in DOD Directive 5106.1, "Inspector General of the Department of Defense (IG, DOD)," include the responsibility to "audit, evaluate, monitor, and review the programs, policies, procedures, and functions of the DOD Intelligence Community to ensure that intelligence resources are properly managed."

The DOD IG performs an oversight and coordination role through the Joint Intelligence Coordination Working Group (JIOCG). The JIOCG is a DOD working group chaired by the Deputy Inspector General for Intelligence and includes representatives from the Service audit agencies, Military Department Inspectors General, and Defense Intelligence Agencies Inspectors General. The primary goal of the JIOCG is to avoid duplication of effort and enhance coordination and cooperation among Inspectors General and Auditors General inside the DOD and promote information-sharing among Inspectors General whose functions include audits, inspections, evaluations, or investigations of their respective departments and agencies.

Question. What is the relationship of the DOD IG to the Special Assistant to the Secretary of Defense for Intelligence Oversight?

Answer. DOD Directive 5106.1 requires that intelligence-related actions be coordinated, as appropriate, with the Assistant to the Secretary of Defense (Intelligence Oversight) to determine respective areas of responsibility in accordance with DOD Directive 5148.11, "Assistant to the Secretary of Defense for Intelligence Oversight (ATSD(IO))," dated May 21, 2004. (DOD Directive 5148.11 contains similar language for the ATSD(IO) to coordinate with the Inspector General, as appropriate.) Department of Defense Directive No. 5148.11 also directs the ASDI(IO) to "[m]onitor investigations and inspections by the DOD components [defined to include the DOD Inspector General] related to intelligence activities, evaluate the findings and, if appropriate, submit recommendations for corrective actions to the Secretary and Deputy Secretary of Defense." I am advised that the ATSD(IO) is a charter member of the JIOCG, and that the Office of the Inspector General has a long history of coordination and cooperation with the ATSD(IO). In a recent case, the Office of the Deputy Inspector General for Investigations jointly conducted a review with the ATSD(IO). The Inspector General also provides a quarterly report to the ATSD(IO) on any significant intelligence activities undertaken.

Question. What is the relationship of the DOD IG to the Inspector General of the Office of the Director of National Intelligence?

Answer. The DOD IG's primary relationship with DNI IG concerns participation in the Intelligence Community Inspectors General (IC IG) Forum. The IC IG Forum promotes information-sharing among the IGs of the departments and agencies of the Intelligence Community whose functions include audits, inspections/evaluations, or investigations of their respective departments and agencies. The USD(I) and ATSD(IO) may attend forum meetings as observers. The IC IG Forum also strives to avoid duplication of effort and enhance effective coordination and cooperation among IC IGs. Prior to the creation of the DNI, the IC IG Forum was co-chaired by the IGs of DOD and the Central Intelligence Agency. The DNI IG now chairs the IC IG Forum. The DOD IG will host the next meeting of the IC IG Forum in September 2006.

In addition to the IC IG Forum relationship, the DOD IG participates in various projects and initiatives undertaken by the DNI IG. The DNI IG also coordinates with the Office of the Deputy Inspector General for Intelligence on all ongoing projects relating to DOD organizations and activities.

Question. What is the role of the DOD IG with respect to detainee matters?

Answer. According to my reading of the Inspector General Act, the breadth of the Inspector General's statutory responsibility for oversight extends to oversight of detainee and interrogation matters. In that regard, I am advised that the OIG recently issued two draft reports regarding detainee abuse. In one draft report dated March 1, 2006, the Deputy Inspector General for Policy and Oversight/Assistant Inspector General for Investigative Policy and Oversight reviewed 50 closed cases investigated by the Military Criminal Investigative Organizations and provided findings and recommendations. In a second draft report dated April 25, 2006, the Deputy Inspector General for Intelligence reviewed 13 senior-level reports and identified systemic issues regarding operational planning, reporting of detainee abuse incidents, and interrogation techniques. I am advised that the Office of Inspector General is in the process of receiving and incorporating management comments on both reports, and that both reports will be issued by August 2006.

Question. What is the role of the DOD IG with respect to interrogation matters?

Answer. Please see my previous answer.

INVESTIGATION INTO ACTIVITIES OF THE OFFICE OF THE UNDER SECRETARY OF DEFENSE FOR POLICY

Question. The OIG is currently conducting an investigation into the activities of the Office of the Under Secretary of Defense for Policy related to pre-war intelligence on Iraq and the purported links between Iraq and al Qaeda. This investigation is being conducted in response to requests from the Senate.

If confirmed, will you ensure that this investigation has the resources it needs, proceeds without hindrance, is conducted in an independent and unbiased manner, and that the results of the investigation are provided promptly to Congress?

Answer. I have been advised that this evaluation is being performed within the Office of the Deputy Inspector General for Intelligence, and that the draft report is expected in November 2006.

If confirmed, I will review the status of this matter and determine whether it is receiving the necessary resources and is proceeding in an independent manner with-

out hindrance. When the matter is concluded and a report has been completed, I will ensure that the report is provided to Congress.

FINANCIAL MANAGEMENT

Question. In his confirmation hearing in 2001, Secretary Rumsfeld was challenged to improve financial management practices within DOD and to succeed, where others could not, in developing systems, policies, and procedures to monitor financial execution and management. Progress in this area has been made, and performance has improved, but much remains to be done.

What is your view of the role of the DOD IG in evaluating and contributing to improvements made in the Department's financial management processes?

Answer. The role of the DOD OIG is to serve as a catalyst for improvements in the Department's financial management processes. That role should be consistent with the President's Management Agenda Initiatives, the Department's top priorities, and statutory requirements. If confirmed, I will ensure that the DOD OIG continues this vital function.

CONGRESSIONAL OVERSIGHT

Question. In order to exercise its legislative and oversight responsibilities, it is important that this committee and other appropriate committees of Congress are able to receive testimony, briefings, and other communications of information.

Do you agree, if confirmed for this high position, to appear before this committee and other appropriate committees of Congress?

Answer. Yes.

Question. Do you agree, if confirmed, to appear before this committee, or designated members of this committee, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as the Inspector General of the Department of Defense?

Answer. Yes.

Question. Do you agree to ensure that testimony, briefings, and other communications of information are provided to this committee and its staff and other appropriate committees?

Answer. Yes.

[Questions for the record with answers supplied follow:]

QUESTION SUBMITTED BY SENATOR JOHN WARNER

INVESTIGATION INTO THE DEATH OF WALEED KHALEED

1. Senator WARNER. Mr. Laufman, the committee has received requests for assistance from media organizations, including the Committee to Protect Journalists, regarding incidents involving the deaths of professional journalists in Iraq. These organizations have asserted that U.S. military forces have unlawfully attacked journalists in violation of applicable rules of engagement and that incidents involving journalists have been improperly investigated. The Reuters news agency has requested a Department of Defense (DOD) Inspector General (IG) review of the circumstances surrounding the death of its soundman, Waleed Khaleed, on August 28, 2005, in Baghdad, who was shot and killed by U.S. Army forces while filming at the scene of an insurgent attack on Iraqi police. If confirmed as the DOD IG, will you ensure completion of the DOD IG review of the death of Waleed Khaleed and conduct a personal review to determine whether appropriate action was taken?

Mr. LAUFMAN. Based on the attached memorandum of June 30, 2006, from Acting DOD Inspector General Thomas F. Gimble to the Secretary of the Army, it is my understanding that the Office of the Inspector General (OIG) did not initiate its own investigation of Mr. Khaleed's death. Rather, on May 11, 2006, citing "the policy of the Secretary of Defense concerning responsibilities for operationally significant events," Mr. Gimble initially referred this matter to U.S. Central Command "for review and consideration of appropriate action." According to Mr. Gimble's memorandum, "U.S. Central Command responded that it is not able to address [this matter] as investigations are primarily Service functions and the military personnel involved in the incident are no longer under the command of U.S. Central Command or its Army Service component." Mr. Gimble subsequently referred the matter to the Secretary of the Army's "attention for review and action that the Army deems appropriate." I am unaware of any further action regarding Mr. Khaleed's death by either the Army or the OIG.

If confirmed, I will ensure that investigative action regarding Mr. Khaleed's death has received the appropriate priority and resources. If the Army has conducted its own investigation, I will review the Army's findings to confirm that appropriate investigative action was taken. If no investigative action has been taken by the Army, I will initiate an investigation by the OIG.

INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

JUN 30 2006

Ms. Jamie S. Gorelick
Wilmer Cutler Pickering Hale and Dorr, LLP
2445 M Street NW
Washington, DC 20037

Re: Waleed Khaled

Dear Ms. Gorelick:

This further responds to your letter of April 7, 2006 regarding the tragic death of Mr. Waleed Khaled.

The U.S. Central Command has determined that it is not able to address your concerns as such reviews and investigations are primarily Service functions and because the military personnel involved in the incident are no longer under the command of U.S. Central Command or its Army Service Component. Accordingly, we now have referred your request to the Secretary of the Army for review and appropriate further action.

I also am in receipt of your June 13, 2006 letter and appreciate your concerns for oversight and consistency in investigative standards, both of which are among the general responsibilities of this office. I can assure you that we will review the determinations of the Army in this matter as part of our performance of those responsibilities.

We will inform you of the Secretary's determination.

Sincerely,

Thomas F. Gimble
Acting

INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

JUN 30 2006

MEMORANDUM FOR SECRETARY OF THE ARMY

SUBJECT: Waleed Khaled Investigation

By the attached letter dated April 7, 2006, attorney Jamie S. Gorelick requests an investigation into the death of Reuters soundman Waleed Khaled in Iraq on August 28, 2005. Enclosed with Ms. Gorelick's letter and also attached is a report prepared by "The Risk Advisory Group" (TRAG), a private consultant that Reuters engaged to conduct an investigation into the incident. Consistent with the policy of the Secretary of Defense concerning responsibilities for operationally significant events, on May 11, 2006, I forwarded this letter and report to U.S. Central Command for review and consideration of appropriate action. On June 27, 2006, U.S. Central Command responded that it is not able to address Ms. Gorelick's concerns as investigations are primarily Service functions and the military personnel involved in the incident are no longer under the command of U.S. Central Command or its Army Service Component. Accordingly, I am forwarding Ms. Gorelick's request to your attention for review and action that the Army deems appropriate.

Ms. Gorelick's letter and the TRAG report allege that the contemporaneous investigation, conducted pursuant to the Army Regulation 15-6, contained inconsistencies and was incomplete, and that the use of force by military personnel that resulted in Mr. Khaled's death was unlawful. Ms. Gorelick also has offered to arrange for a briefing on the TRAG report. After your review of the attachments and consideration of appropriate further action, if any, I would appreciate your informing me of your determination so that I can reply to Ms. Gorelick.

Thomas F. Gimble
Acting

Attachments:
As stated.

QUESTION SUBMITTED BY SENATOR DANIEL K. AKAKA

ONGOING IG INVESTIGATIONS

2. Senator AKAKA. Mr. Laufman, the DOD's current Acting IG, Thomas Gimble, declined to launch his own investigation of the National Security Agency (NSA) electronic surveillance program. According to Mr. Gimble, as the NSA is already conducting its own oversight investigation, there is no need for a concurrent investigation by the DOD IG. What role do you think that the DOD IG should have in the ongoing investigations of the NSA electronic surveillance program?

Mr. LAUFMAN. It is my understanding that the DOD IG has the necessary jurisdiction to investigate the NSA electronic surveillance program, and it is unclear why the DOD IG did not exercise its jurisdiction at the outset. A responsible assessment of what role, if any, the DOD IG should now have in ongoing investigations by other organizations, however, requires information that, as a nominee, I do not currently have. If I am confirmed and I subsequently learn that investigations by NSA or other government agencies are pending, I would seek to determine the scope and progress of such investigations, the extent to which they are fully independent, and whether it is practicable at this juncture to establish a role in these investigations for the DOD IG. Pending the outcome of these inquiries, I would reserve judgment on what action should be taken by the DOD IG.

[The nomination reference of David H. Laufman follows:]

NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
June 5, 2006.

Ordered, That the following nomination be referred to the Committee on Armed Services:

David H. Laufman, of Texas, to be Inspector General, Department of Defense, vice Joseph E. Schmitz, resigned.

[The biographical sketch of David H. Laufman, which was transmitted to the committee at the time the nomination was referred, follows:]

BIOGRAPHICAL SKETCH OF DAVID H. LAUFMAN

David H. Laufman has served since March 2003 as Assistant U.S. Attorney for the Eastern District of Virginia, where he has specialized in prosecutions of terrorism and other national security cases. In 2005, Mr. Laufman served as lead counsel in the government's successful prosecution of Ahmed Omar Abu Ali, an American citizen who was convicted by a jury of providing material support and resources to al Qaeda, conspiracy to assassinate the President of the United States, conspiracy to commit aircraft piracy, conspiracy to destroy aircraft, and other terrorism offenses. Mr. Laufman also successfully has prosecuted several other high-profile cases, including *United States* v. *Khan* (the "Virginia Jihad" case), *United States* v. *Keyser, United States* v. *Biheiri, United States* v. *Bariek,* and *United States* v. *al-Hamdi.*

Prior to joining the U.S. Attorney's Office, Mr. Laufman served as Chief of Staff to Deputy Attorney General Larry Thompson at the Department of Justice (DOJ). In that capacity, Mr. Laufman helped to coordinate the Department's responses to the terrorist attacks of September 11, 2001, and prepared an extensive audit of the Federal Bureau of Investigation. He also served as DOJ's representative to the National Security Council Policy Coordinating Committee on Terrorism Finance, and as Executive Secretary of the Department's National Security Coordination Council.

Mr. Laufman's experience in national security affairs dates back to the early 1980s, when he served for more than 4 years as a military and political analyst in the Directorate of Intelligence at the Central Intelligence Agency. In 1990–1993, he was Deputy Minority Counsel to the Committee on Foreign Affairs of the U.S. House of Representatives. In 2000–2001, he served as Staff Director and Deputy Chief Counsel to the Judicial Review Commission on Foreign Asset Contro, a congressionally-mandated body that examined U.S. laws governing the imposition of economic sanctions by the U.S. Department of the Treasury.

Mr. Laufman also has extensive experience in ethics and public corruption investigations. In 1992–1993, he served as Senior Associate Minority Counsel to the Task Force to Investigate Certain Allegations Concerning the Holding of American Hostages by Iran in 1980 ("October Surprise Task Force"), a special bipartisan panel of the U.S. House of Representatives. Subsequently, he served as Associate Independent Counsel to Joseph E. diGenova in the Investigation Concerning the Search of William J. Clinton's Passport Files During the 1992 Presidential Election Campaign. From 1996–2000, Mr. Laufman served as Investigative Counsel to the House Committee on Standards of Official Conduct ("House Ethics Committee"), where he conducted several ethics investigations. In 1997, he played a central role in drafting

and negotiating changes to the ethics rules of the House of Representatives in his capacity as Assistant to the Special Counsel to the Ethics Reform Task Force. Mr. Laufman also conducted professional misconduct investigations for the Office of Professional Responsibility at the DOJ before becoming Chief of Staff to the Deputy Attorney General in May 2001.

In addition to his public service, Mr. Laufman twice has worked in the private sector. In 1987–1990, he was an Associate at the Washington, DC, firm of Collier, Shannon, Rill & Scott, where he specialized in Federal civil litigation. In 1994–1996, he was a Senior Associate at the Washington office of Manatt, Phelps & Phillips, where he specialized in white-collar criminal defense.

Mr. Laufman was born in Houston, Texas, where he attended St. John's School. He received his bachelor's degree in international relations in 1979 from the University of Pennsylvania, graduating magna cum laude. He received his law degree in 1987 from Georgetown University Law Center. Mr. Laufman is married to the former Judith Susan Lansner, an official with the U.S. Department of the Treasury. They reside in Vienna, Virginia, with their sons Adam and Michael.

[The Committee on Armed Services requires all individuals nominated from civilian life by the President to positions requiring the advice and consent of the Senate to complete a form that details the biographical, financial and other information of the nominee. The form executed by David H. Laufman in connection with his nomination follows:]

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

(202) 224–3871

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior to the hearings and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)
David H. Laufman.

2. **Position to which nominated:**
Inspector General, Department of Defense.

3. **Date of nomination:**
June 5, 2006.

4. **Address:** (List current place of residence and office addresses.)
[Nominee responded and the information is contained in the committee's executive files.]

5. **Date and place of birth:**
March 3, 1958; Houston, Texas.

6. **Marital Status:** (Include maiden name of wife or husband's name.)
Married to former Judith Susan Lansner.

7. **Names and ages of children:**
Adam, 18; Michael, 14.

8. **Education:** List secondary and higher education institutions, dates attended, degree received, and date degree granted.

St. John's School, Houston, Texas (1964–1976), high school diploma (1976).

University of Pennsylvania (1976–1979), B.A., International Relations, magna cum laude with distinction in the major of International Relations (1979).

Georgetown University Law Center (1984–1987), J.D. (1987).

9. **Employment record:** List all jobs held since college or in the last 10 years, whichever is less, including the title or description of job, name of employer, location of work, and dates of employment.

Assistant United States Attorney, Eastern District of Virginia, Alexandria, Virginia (2003 to present).

Chief of Staff, Office of the Deputy Attorney General, Department of Justice, Washington, DC (2001–2003).

Assistant Counsel, Office of Professional Responsibility, Department of Justice, Washington, DC (2001).

Staff Director and Deputy Chief Counsel, Judicial Review Commission on Foreign Assets Control, Washington, DC (2000–2001).

Assistant to the Special Counsel, Ethics Reform Task Force, U.S. House of Representatives, Washington, DC (1997).

Investigative Counsel, Committee on Standards of Official Conduct, U.S. House of Representatives, Washington, DC (1996–2000).

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

Associate Independent Counsel (diGenova), Office of the Independent Counsel, Investigation Concerning the Search of Passport Records of William Jefferson Clinton During the 1992 Presidential Election Campaign, Washington, DC (1993–1996).

Senior Associate Minority Counsel, Task Force to Investigate Certain Allegations Concerning the Holding of American Hostages by Iran in 1980 ("October Surprise Task Force"), U.S. House of Representatives, Washington, DC (1992–1993).

Deputy Minority Counsel, Committee on Foreign Affairs, U.S. House of Representatives, Washington, DC (1990–1993).

Analyst, Directorate of Intelligence, Central Intelligence Agency, Langley, Virginia (1980–1984).

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

Director and Secretary, Laufman's Inc., a Texas corporation (family business).

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

Member, District of Columbia Bar.

Member, Temple Rodef Shalom.

13. **Political affiliations and activities:**

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

None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 5 years.

Political SES appointment by administration of George W. Bush to position of Chief of Staff, Office of the Deputy Attorney General, U.S. Department of Justice (2001–2003).

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $100 or more for the past 5 years.

Not applicable.

14. **Honors and Awards:** List all scholarships, fellowships, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

Graduated magna cum laude from the University of Pennsylvania (1979) with distinction in the major of international relations.

Appointed Lead Articles Editor for the Georgetown Immigration Law Journal at the Georgetown University Law Center (1986–1987).

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

Political Bias in United States Refugee Policy Since the Refugee Act of 1980, 1 Geo. Imm. L.J. 495 (1986).

16. **Speeches:** Provide the committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

None.

17. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to respond to requests to appear and testify before any duly constituted committee of the Senate?

Yes.

[The nominee responded to the questions in Parts B–F of the committee questionnaire. The text of the questionnaire is set forth in the Appendix to this volume. The nominee's answers to Parts B–F are contained in the committee's executive files.]

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

DAVID H. LAUFMAN.

This 12th day of June, 2006.

[The nomination of David H. Laufman was withdrawn by the President on December 6, 2006.]

[Prepared questions submitted to Sue C. Payton by Chairman Warner prior to the hearing with answers supplied follow:]

QUESTIONS AND RESPONSES

DEFENSE REFORMS

Question. The Goldwater-Nichols Department of Defense Reorganization Act of 1986 and the Special Operations reforms have strengthened the warfighting readiness of our Armed Forces. They have enhanced civilian control and clearly delineated the operational chain of command and the responsibilities and authorities of the combatant commanders, and the role of the Chairman of the Joint Chiefs of Staff. They have also clarified the responsibility of the military departments to recruit, organize, train, equip, and maintain forces for assignment to the combatant commanders.

Do you see the need for modifications of any Goldwater-Nichols Act provisions, particularly with respect to the role of the service acquisition executives?

Answer. I do not see a current need to modify Goldwater-Nichols. However, if confirmed, I would work with the Secretary of the Air Force and others on any proposed changes that may be identified that pertain to acquisition matters. The organizational and management structures which drive the implementation of Goldwater-Nichols must be continuously reviewed and may need to adapt to our current environment.

Question. If so, what areas do you believe might be appropriate to address in these modifications?

Answer. [No response required]

DUTIES

Question. What is your understanding of the duties and functions of the Assistant Secretary of the Air Force for Acquisition?

Answer. If confirmed, I would expect the Secretary to prescribe for me duties and functions commensurate with the position of Assistant Secretary of the Air Force for Acquisition for Non-Space. I understand that the Assistant Secretary of the Air Force for Acquisition serves as the Air Force's Service Acquisition Executive. In that role, if confirmed, I would expect to be responsible for all Air Force research, development, and non-space acquisition activities and provide direction, guidance, and

supervision on all matters pertaining to the formulation, review, approval, and execution of non-space acquisition plans, policies, and programs.

Question. What background and experience do you possess that you believe qualifies you to perform these duties?

Answer. My career has spanned both public and private sectors with varying levels of responsibility as a test engineer, systems engineer, systems integrator, and as a manager, director, vice president of technology and in my current role as Deputy Under Secretary of Defense for Advanced Systems and Concepts. I have been involved in the proposal initiation, development, and operation of Department of Defense (DOD) systems ranging from the most complex, highly sophisticated and classified space systems, to global information management systems and small technology development programs—the full-range of the types of programs under the purview of a service acquisition executive.

I learned some things from these experiences which would be on my watch list:

- The importance of customer involvement in concept of operations development and all phases of the acquisition lifecycle.
- The importance of requirements definition and stability and how early prototyping of technology with concepts of operations, interfacing interoperable systems, and spiral development can lead to quality programs.
- The importance of excellent systems engineering. This is essential to understanding the requirements and building the system successfully including managing and operating it successfully when built.
- The importance of producibility, as a specific design criteria. The cost of production can be decreased if we design in manufacturing and producibility upfront.
- The importance of a lean, competent, demanding, and empowered program management staff.
- The importance of effective change/configuration management that enables all impacts to the system to be well understood when any one part of the system changes.

Question. Do you believe that there are actions you need to take to enhance your ability to perform the duties of the Assistant Secretary of the Air Force for Acquisition?

Answer. If confirmed for this very important position, there are many actions I will take to continually enhance my abilities to perform this job. This position has been vacant since January 2005 with many outstanding individuals filling the leadership void. I must immediately begin to build trusting, working relationships and a detailed knowledge of my new role. I will review all directives that define the responsibilities of this position and create the structures, organizations, and processes necessary for success. Key to this success is a transparent, open relationship with Congress and if confirmed, I look forward to this partnership.

RELATIONSHIPS

Question. If confirmed, what would your working relationship be with: The Under Secretary of Defense for Acquisition, Technology, and Logistics?

Answer. If confirmed, I look forward to continuing a close working relationship with the Under Secretary of Defense for Acquisition, Technology, and Logistics and all his deputies in all acquisition areas that impact the Air Force and our warfighting customers the combatant commanders.

Question. The Deputy Under Secretary of Defense for Acquisition and Technology?

Answer. If confirmed, I look forward to a close working relationship with the Deputy Under Secretary of Defense for Acquisition and Technology especially as we execute Quadrennial Defense Review (QDR) direction in such areas as joint air capabilities, joint mobility, and joint command and control.

Question. The Secretary of the Air Force?

Answer. Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Air Force is responsible for and has the authority necessary to conduct all affairs of the Department of the Air Force. If confirmed, I look forward to continuing the solid working relationship of the past as a direct report responsible to the Secretary for all non-space acquisition, research, and development.

Question. The Under Secretary of the Air Force?

Answer. Subject to the Secretary of the Air Force's direction and control, the Under Secretary is authorized to act for and with the authority of the Secretary of the Air Force on all matters for which the Secretary is responsible; that is to conduct the affairs of the Department of the Air Force. The Under Secretary also serves as the DOD Executive Agent for Space. If confirmed, I look forward to working

closely with the Under Secretary of the Air Force on acquisition matters, in particular as they relate to assisting the Under Secretary's role as Executive Agent for Space.

Question. The other Assistant Secretaries of the Air Force?

Answer. If confirmed, I will work closely with the other Assistant Secretaries of the Air Force and foster teamwork and information-sharing in order to carry out the goals and priorities of the Department of the Air Force and in crosscutting areas where horizontal integration of Air Force people and resources is required and provides best value to DOD, the combatant commanders, and the taxpayer.

Question. The Chief of Staff of the Air Force?

Answer. The Chief of Staff, in his Department of the Air Force role, is subject to the authority, direction, and control of the Secretary of the Air Force, presides over the air staff, and is a principal advisor to the Secretary. If confirmed, I would foster a close working relationship with the Chief of Staff to ensure that policies and resources are appropriate to meet the needs of the Department of the Air Force.

Question. The General Counsel of the Air Force?

Answer. The General Counsel (GC) of the Department of the Air Force is the Department's Chief Legal Officer and it's components. The GC serves as the chief ethics official. As the chief ethics official the advice of the GC will be crucial to acquisition matters. If confirmed, I would look forward to developing a good working relationship with the GC.

Question. The Service Acquisition Executives of the Army and Navy?

Answer. If confirmed, I look forward to a close working relationship with the Service Acquisition Executives of the Army and the Navy. The 2006 QDR, signed by the Secretary of Defense in February, defines the direction the DOD must follow to fulfill responsibilities to the American people. Implementing QDR will demand the use of joint capability portfolios, reduction of program redundancy, improved joint interoperability across service centric platforms, and increased joint research and development (R&D) and acquisition initiatives with new organizations and processes that cut across traditional stovepipes. As senior leaders in acquisition in the Department, all three Service Acquisition Executives must work together to reshape the defense enterprise.

MAJOR CHALLENGES

Question. In your view, what are the major challenges that will confront the Assistant Secretary of the Air Force for Acquisition?

Answer. One of the major challenges is restoring confidence and credibility to Air Force acquisition. Additionally, with the Air Force commitment to provide our combatant commanders with the capabilities to counter the multiple threats in their areas of responsibilities, the Air Force must determine the appropriate level of investment and actions required to fill current capability gaps, maintain air, space and cyberspace dominance and invest in future science, technology, research, and development to protect this Nation and our allies from conventional, asymmetric, irregular, and catastrophic threats. During these times of increasing personnel costs and potential reductions in procurement and RDT&E budgets, the Air Force must demonstrate how to recognize and manage risk and make trade-off decisions, balancing needs and costs for weapon system programs and other investment priorities.

Question. Assuming you are confirmed, what plans do you have for addressing these challenges?

Answer. If confirmed, it is my intention to evaluate and aggressively pursue appropriate recommendations of the Defense Science Board on Management Oversight in Acquisition Organizations and several studies recently published on DOD acquisition reform. Our operational forces must adapt to ever-changing threats, therefore the Air Force needs an agile acquisition structure that is as fast and flexible as the forces they support. This will require more tightly integrating the acquisition, technology, and logistics framework: requirements, budget and acquisition or the [big] "A", not just the [little] A, as mentioned in the Defense Acquisition Performance Assessment (DAPA) report. The basic underpinning of the plans is integrity in every endeavor which must be brought into the process at the top, driving the Air Force acquisition system to manage risks and deliver on schedule, meeting technical requirements, within cost.

Question. If confirmed, what management actions and timelines would you establish to address these challenges?

Answer. If confirmed, there are short-, mid-, and long-range sets of actions that I believe must be taken to coincident with the budget cycle. Immediately, trust and integrity will be emphasized with constant reminders for openness and transparency. For upcoming milestone decisions between now and ending in fiscal year

2008, we must make difficult decisions in reprogramming to meet current and future combatant commander's operational needs.

PRIORITIES

Question. If confirmed, what broad priorities would you establish for Air Force acquisition, research, and technology?

Answer. If confirmed, restoring credibility to the Air Force acquisition enterprise through transparency with Air Force leadership, Office of the Secretary of Defense (OSD), Congress, and most of all, the American people would be my first priority. This includes streamlining our processes, becoming more efficient, and developing our acquisition workforce. My goals for research and technology would be to provide the warfighter with the best technology available while maintaining our historically significant role in world-class basic research. This means harvesting research and technology that supports concepts of operation, increasing the use of prototyping and working transitions that move technology to the warfighter in a more timely manner.

QUADRENNIAL DEFENSE REVIEW EXECUTION ROADMAPS

Question. In January 2006, the Deputy Secretary of Defense commissioned eight QDR Execution Roadmaps, including a DOD Institutional Reform and Governance panel led by the Under Secretary of Defense for Acquisition, Technology, and Logistics. This panel is intended to provide guidance on implementation of new acquisition policies, procedures, and processes and to explore options for a "portfolio-based approach" to defense planning, programming, and budgeting.

What is your understanding of the issues being considered and conclusions reached by the DOD Institutional Reform and Governance Panel to date, and, if confirmed, what role would you expect to play, if any, in the work of the QDR Execution Roadmaps?

Answer. I have not had the opportunity to fully evaluate the DOD Institutional Reform and Governance Panel as the portfolio based approach to the capabilities investment is an ongoing process being explored in test cases in the Department. I fully expect the Air Force to be a leader in developing QDR roadmaps and implementation plans and if confirmed this would be one of my priorities.

Question. What is your understanding of the term "joint capabilities portfolios," as used in the QDR, and, if confirmed, how would you incorporate joint capabilities portfolios into the Air Force acquisition process?

Answer. Joint capabilities portfolios enable the Department to look across the enterprise and to re-orient the Department's processes to provide the capabilities needed by the combatant commander. If confirmed, I would work collectively with the military departments and defense agencies to incorporate joint capabilities portfolios in the Air Force by placing the Air Force acquisition team as key leaders and participants in the portfolio reviews to ensure the best value to the taxpayer and greatest capability to our joint warfighters.

Question. The QDR concluded that the Department is "encumbered with a Cold War organization and mentality in many aspects of Department operations" and noted that the Department intended to seek new and more flexible authorities for control of budget, finance, acquisition, and personnel.

What are your views on these QDR conclusions, and, if confirmed, what changes, if any, would you seek to make in the Air Force's policies in the areas listed?

Answer. The Department is exploring ways to implement several DAPA recommendations and the Air Force should be a part of this exploration. These solutions could introduce a more stable funding environment within the acquisition world. If confirmed, I look forward to working with the Defense Acquisition Executive, the Service Acquisition Executives (SAEs), and Congress in this area.

STREAMLINING THE ACQUISITION PROCESS

Question. Within the past year, several major studies (e.g., the QDR 2006; Beyond Goldwater-Nichols by the Center for Strategic and International Studies; the DAPA; and Transformation, a Progress Assessment by the Defense Science Board) have been completed. The need for reduced program risk and greater stability was a common theme relating to acquisition procedures in all these reports.

What concerns, if any, do you have regarding the process the Air Force uses to acquire capabilities to support the needs of the combatant commanders?

Answer. Requirements and development processes used to meet combatant commander needs are complex. If confirmed, I look forward to examining the Air Force's processes and understanding how they best meet the needs of the combatant com-

manders. My goal would be to provide the combatant commanders with capability that is timely, meaningful, and affordable.

Question. What is your evaluation of the state of Air Force acquisition programs today?

Answer. I have not reviewed in depth the Air Force program portfolio at this time, but if confirmed, reviewing Air Force programs will be one of my highest priorities. In evaluating the current portfolio I would intend to conduct Air Force acquisition in a transparent manner, always mindful of the importance of the congressional oversight role, and with special attention to how effectively the programs are satisfying combatant commanders' needs and future capability gaps.

Question. If confirmed, what actions would you take to improve program stability and reduce program risk?

Answer. By maintaining strict requirements discipline, focusing on the use of mature technology, empowering program managers, assessing manufacturing shortfalls and using incentives to reward above average performance, we can lower the risk of programs at the same time we reduce the time to fielding. If confirmed, I would focus on these concepts.

Question. The studies mentioned above make various recommendations regarding the role of the service acquisition executives and the combatant commanders in improving military acquisition processes and outcomes.

What are your views regarding proposals for the establishment of service acquisition commands that would report to the services' chiefs of staff and acquisition executives?

Answer. I understand there are studies underway, sponsored by the Air Force to evaluate options. If, confirmed, I would like to see the results of those studies before formulating a position.

Question. If implemented, would such proposals, in your judgment, improve the acquisition process?

Answer. Again, if confirmed, I would like to see the results of those studies before formulating a position.

Question. What role should combatant commanders play in the acquisition process?

Answer. The combatant commanders should drive requirements. They are the commanders supported by the acquisition system and have the best feel for what their warfighting capability shortfalls are.

Question. What is your evaluation of the recommendation in the DAPA report that the Department should establish a "Stable Program Funding Account," a single account appropriated by Congress that would fund all Acquisition Category I Programs?

Answer. The Department is reviewing this DAPA recommendation to create a capital budget.

IMPACT OF THE BUDGET AND REQUIREMENTS PROCESSES

Question. A recent report by the Center for Strategic and International Studies concludes that "many of the ills attributed to the defense acquisition system are really caused by [the requirements and resource allocation] processes. Instability in the definition of requirements, often referred to as 'requirements creep,' creates a moving target for acquisition and procurement personnel as they struggle to make trade-offs among performance, cost, and schedule. Similarly, much, if not most, of the instability in acquisition programs is caused by lack of discipline in the resource allocation process—that is, funding more acquisition programs than the procurement budgets can support and the chronic tendency . . . to take procurement dollars to meet operations and maintenance (O&M) bills."

Do you agree with this assessment?

Answer. I generally agree. Often budget cuts to procurement accounts are made without an overall assessment of the risk induced into programs. In addition, our exuberance to please a customer and accept additional requirements introduces unnecessary risk to programs. This is not a simple problem with a single answer. You need to address all the sources of instability; requirements, budget, technical, manpower, and other realities that induce instability into programs. Requirements must be bound in ways that are meaningful to the customer but do not break the budget. Incremental development techniques should be employed to make sure the capabilities delivered meet the mark for the warfighter and new capabilities can be rolled out to satisfy future needs.

Question. What steps do you believe the Air Force should take to address this problem?

Answer. We must understand the warfighters' concept of operations, the user's perspective and the resulting requirements better by getting users in with developers to work together to ensure that requirements are realistic and clearly understood on a continuous basis.

Question. If confirmed, what role would you play in ensuring that requirements and budget estimates are reasonable?

Answer. If confirmed, I will operate in a collaborative environment with my requirements and programming counterparts to meet the needs of the warfighter. One role would be to emphasize more quality prototyping in the early phases to inform requirements and cost drivers. Key to this is becoming engaged early in the process to identify issues as they arise and work together in developing appropriate acquisition and risk mitigation plans.

COMMERCIAL ITEM STRATEGIES

Question. Section 803 of the National Defense Authorization Act for Fiscal Year 2006 requires a determination by the Secretary of Defense and notification to Congress before a major weapon system may be treated as a commercial item. Section 823 requires a determination by the Under Secretary of Defense for Acquisition, Technology, and Logistics and notification to Congress before the Department may use "other transaction authority (OTA)" for a prototype project in excess of $100 million.

What is your view of the circumstances, if any, in which it would be appropriate to treat a major weapon system as a commercial item?

Answer. If confirmed, I will be committed to thoroughly reviewing commercial item considerations during the acquisition planning process to ensure compliance with established law and policy. It could be appropriate to treat a major weapon system as a commercial item, if it clearly meets the criteria established in the definition for a commercial item set forth in FAR 2.101 (41 U.S.C. 403(12)), and if such treatment is necessary to meet national security objectives. It is my perception that this would be an extraordinary circumstance. That being said, I would anticipate very few major weapon systems would meet these criteria.

Question. What is your view of the circumstances, if any, in which it would be appropriate to use "OTA" for a prototype project in excess of $100 million?

Answer. I anticipate that the use of OTAs for prototype projects over $100 million would be limited. I have used OTAs very successfully on smaller sized programs.

LEAD SYSTEM INTEGRATORS

Question. Section 805 of the National Defense Authorization Act for Fiscal Year 2006 requires DOD to report to the congressional defense committees on concerns related to intellectual property and technical data rights, conflicts of interest, and contractor performance of inherently governmental functions arising out of the use of lead system integrators (LSIs) for the acquisition by DOD of major weapon systems.

What are your views on the appropriate role and responsibilities of the lead system integrator?

Answer. For 12 years in the private sector, I was a systems integrator and treated as "an arm of the government, honest broker, and system protector." Two contributing factors were critical to the positive impact this system integrator had on mission success:

1. A very strong government contracting officer's technical representative and government team who led the effort with vision and superb knowledge of systems engineering and the importance of configuration management and the baseline designs.
2. A strong commitment on the part of industry to adhere to strict and legally binding organizational conflict of interest (OCI) within a "firewalled" business unit that reported to a dedicated senior vice president.

From my experience the appropriate role and responsibility of an LSI is to maintain in-depth, long-term knowledge of the system-of-systems, and such things as performance timelines, critical path, interfaces, configuration management, risks and risk mitigators and schedule drivers.

Question. How would you define the line between those acquisition responsibilities that are inherently governmental and those that may be performed by contractors?

Answer. Under no circumstances should an LSI make programmatic decisions or obligate and disperse funds. An LSI should solely advise and recommend solutions to the government to problems such as risk mitigators, schedule alternatives, or potential design flaws at the system-of-system level.

Question. If confirmed, what steps would you take to ensure that contracting mechanisms which maintain adequate safeguards are in place to ensure that LSI access to sensitive and proprietary information is not compromised?

Answer. If confirmed, I would look closely at the results of the study in response to section 805 and I would work closely with all involved in DOD to ensure proper policies and procedures are in effect.

Question. What policies are in place to ensure that the LSIs do not misuse sensitive and proprietary information owned by other contractors and do not unnecessarily limit competition in a manner that would disadvantage the government?

Answer. I understand that policies are explained in a memorandum that the acting USD(AT&L) sent to the Service Acquisition Executives and the Directors of Defense Agencies on July 12, 2004, concerning the Selection of Contractors for Subsystems and Components. Policies emphasize reliance upon competition at the prime and subcontract levels to provide for innovation, flexibility, reduced life cycle costs, and increased quality.

Question. What additional steps, if any, do you believe are needed to address this issue?

Answer. If confirmed, I will be reviewing this issue and the report in response to section 805.

ACQUISITION WORKFORCE

Question. The Chief of Staff of the Air Force testified in response to questions about shortfalls in the Air Force tanker lease program and performance in aircraft acquisition that the Air Force "paid dearly" by streamlining its buying processes and shrinking its oversight workforce. He indicated that the Air Force needs more cost estimators, testing evaluators, and program managers.

What is your understanding of the problems referred to by General Moseley and of remedial actions that need to be taken?

Answer. As General Moseley indicated, the Air Force has experienced a reduction in acquisition workforce capability. If confirmed, I will work with the SECAF and CSAF to ensure that the Air Force has the right numbers and mix of acquisition professional government civil service and military in critical oversight roles, such as program management and systems engineering. I will also review things the acquisition work force may be doing that might have little value added and seek to reduce the complexity of acquisition.

Question. If confirmed, how would you assess the appropriate level of human capital resources, to include senior level resources, required to ensure adequate levels of staffing in the Air force acquisition workforce?

Answer. I am not currently engaged in this issue, but if confirmed I will make it a priority.

Question. Do you believe that contracting out for essential acquisition support services contributed to the Air Force's acquisition workforce problem?

Answer. I am unaware of the specific issues regarding the support services acquisition mission. If confirmed, I will review this issue. I believe the key will be to determine what functions and what level of support should be contracted out and what functions need to be preserved within the government workforce.

Question. The Defense Acquisition Workforce Improvement Act (DAWIA) established specific requirements for managing the Defense Acquisition Workforce and authorized a series of benefits for the workforce.

Please give your assessment of the strengths and weaknesses of DOD's implementation to date of DAWIA.

Answer. I am not familiar with any metrics that would indicate the strengths and weaknesses of the implementation of DAWIA. If confirmed, I plan to review the original intent, metrics, and get a more thorough understanding of the value added of the intended benefits.

Question. Does DOD's acquisition workforce possess the quality and training needed to adapt to new acquisition reforms, as well as to increased workloads and responsibilities?

Answer. As a nominee, I am not aware of any acquisition workforce training shortfalls. If confirmed, I look forward to understanding and assessing the impact of increased workloads and responsibilities. Are there things the acquisition workforce is doing that they can stop doing? Are there things they are doing that could be done more effectively? Once those questions are answered, I plan on working closely with Mr. Kreig (AT&L) and other SAEs to provide the most effective training possible.

Question. What are your views regarding assertions that the acquisition workforce is losing its technical and management expertise and is beginning to rely too much

on support contractors, FFRDCs, and, in some cases, prime contractors for this expertise?

Answer. My view is that this may be somewhat true. Support contractors including FFRDCs are essential to the acquisition mission. That being said, the Air Force must always be mindful to retain our inherently governmental functions.

NATIONAL SECURITY PERSONNEL SYSTEM

Question. If confirmed, how would you anticipate using the authorities of the National Security Personnel System, including the authority to hire highly qualified experts, to improve the expertise, skill, and performance of the Air Force's acquisition workforce?

Answer. If confirmed, I will strongly support utilizing pay, incentive, and reward systems to link pay to individual and organizational performance contributions

ACQUISITION TECHNICAL SUPPORT

Question. The Comptroller General has testified that the Department's programs often move forward with unrealistic cost and schedule estimates, lack clearly defined and stable requirements, use immature technologies in launching product development, and fail to solidify design and manufacturing processes at appropriate junctures in development. The Air Force has begun to use a broader technical community to identify and manage risk during acquisition programs and to provide a distinct and separate technical voice at the table during service acquisition executive and milestone reviews.

What do you consider to be the appropriate role of the technical community in providing advice and recommendations to program managers and program executive officers prior to milestone decisions?

Answer. The technical community, headed by the chief engineers at all levels, must provide realistic assessments of technical risk, maturity, capability, design, and safety; provide a technical roadmap for a successful program execution; and ensure that good systems engineering processes are used throughout concept exploration, design, evaluation, development, test, production, fielding, and sustainment. Technical readiness and manufacturing readiness will be key elements for program approvals at milestone decision points. If confirmed, I will continue to strengthen the role of the Air Force technical community as an honest broker for Program Managers and Milestone Decision Authorities. I am committed to having a technical voice at the table to advise me on acquisition issues.

Question. Based on your experience as Deputy Under Secretary of Defense for Advanced Systems and Concepts, how early in the development of an acquisition program should technical risk assessments and life cycle systems engineering commence?

Answer. Based on my experience with our most successful Advanced Concept Technology Demonstrations (ACTDs), technical risk assessments and disciplined systems engineering should be considerations from the very beginning of the capabilities development process, well ahead of Milestone A. It is essential that these elements are included in scoping and conducting early trade studies, even before concepts are brought forward into Analyses of Alternatives and a selected concept is eventually matured into an acquisition program.

Question. In your view does the Department have sufficient personnel and resources to adequately support pre-acquisition systems engineering and an increased technical role in acquisition strategies?

Answer. In 2003, under the leadership of the Under Secretary of Defense for Acquisition, Technology, and Logistics, the extreme shortage of systems engineers was recognized and organizational and training steps were taken to begin to reverse the shortage. If confirmed, one of my first actions will be to get a full understanding of the current state of systems engineering in the Air Force and across the DOD and assess what steps should be taken to strengthen the function or create incentives to retain this element of the acquisition workforce.

TEST AND EVALUATION

Question. Rapid fielding initiatives, spiral development, and the balance between operational and developmental testing are some of the many challenges facing the Department's operational test and evaluation activity. In the fiscal year 2007 budget request, the Air Force reduced its test and evaluation (T&E) activities by nearly $400 million over the Future Years Defense Program, relative to these activities as proposed in the fiscal year 2006 budget request.

What are your views on the importance of accurately projecting future test facility instrumentation requirements and budgeting for these needs?

Answer. In my experience, test facilities are a very important contributor to the ability to field capable, proven weapon systems for our warfighters. We need to do a good job of protecting the test capabilities our future systems will require to ensure they are in place to support thorough testing as part of the acquisition process. We cannot permit test infrastructure shortfalls to delay acquisition programs.

Question. The Government Acountability Office (GAO) recently reported that DOD program managers have incentives to suppress bad news and continually produce optimistic estimates because doing otherwise could result in a loss of support and funding and further damage their programs.

Do you agree with this GAO finding?

Answer. If this finding is true, then I believe there is a violation of honesty, integrity, and transparency in the acquisition workforce. If confirmed, I will establish a structure of support for our program managers, as I have with my current organization that will encourage them to bring "bad news" forward so that problems can be resolved early in the acquisition process. It is said that "bad news" does not improve with age, so the sooner problems are discovered and addressed the better the outcome.

Question. What are your views on the appropriate point in concept development of a new acquisition program for incorporation of T&E planning and integration of testing requirements?

Answer. Based on my experience with the ACTD program and the early involvement of developmental test and evaluation experts from the Army, Navy, and Air Force, I am a strong proponent of early engagement with the test community. I understand that a new Air Force strategy called "Seamless Verification" integrates all aspects of testing much earlier in acquisition programs allowing the acquisition and test communities to partner more effectively.

Question. What steps, if any, do you believe the Department should take to ensure that testing takes place early enough in the program cycle to identify and fix problems before it becomes prohibitively time-consuming and expensive to do so?

Answer. As with all improvements, the level of emphasis and high regard for the process must be communicated by the senior acquisition leader in the Air Force. If confirmed, I will not only emphasize this as a guiding principle of excellence in acquisition, I will ensure that proper support is committed early in the program to resource early testing and fixing of problems that are identified.

Question. The DAPA report recommended that laws governing operational testing be modified to add a new "operationally acceptable" test evaluation category and provide fiscal and time constraints for operational testing.

What is your view of this recommendation?

Answer. I believe those are changes that are worth further study by DOD.

SERVICE CONTRACT MANAGEMENT

Question. DOD spending on contractor-provided services has increased by an estimated 50 percent since fiscal year 1995. This has resulted in more spending each year for the acquisition of services than for the acquisition of products, including major weapons systems. Despite this trend, the Department has not updated management processes and workforce training to account for the increased volume and complexity of service contracts.

If confirmed, what actions would you take in the Air Force to address the need for improved management of contractor-provided services?

Answer. I am not familiar with the increased volume and complexity of service contracts but if confirmed, I will fully review the current management of contractor provided services with a view toward discipline and transparency in these matters.

Question. The GAO and the DOD Inspector General have reported that DOD has failed to provide adequate resources to monitor contractors' performance of service contracts. As a result, the Department has no assurance that contractors have complied with the terms of their contracts and that the Department has received the best value when contracting for services.

What steps, if any, do you believe the Department should take to address this problem?

Answer. I am not familiar with the GAO and DOD IG reports. If confirmed, I will review these reports along with the recommendations of the GAO and DOD IG. The Department must be accountable to the taxpayer for the expenditure of tax dollars. Keeping this in mind, I would take steps to review the management of Service contracts with appropriate individuals in SAF/AQ.

Question. If confirmed, what metrics would you use to assess whether Service contracts are meeting cost, schedule, and performance goals?

Answer. At the current time, I have not developed a set of metrics to use in connection with Service contracts. However, this is a key area in Service contract success and if confirmed, I intend to undertake this task.

Question. Concerns raised by GAO and the DOD Inspector General about the Department's management of Services' contracts led to a requirement in section 801 of the National Defense Authorization Act for Fiscal Year 2002 for DOD to establish a management structure to oversee Services contracting. Because the Department was slow to implement this provision, Congress tightened the requirement for a management structure in section 812 of the National Defense Authorization Act for Fiscal Year 2006.

What steps will you take, if confirmed, to implement section 812 and ensure that the Department has an effective management structure in place for the acquisition of contract services?

Answer. If confirmed, I will review these reports along with the recommendations of the GAO and DOD IG.

Question. What specific steps, if any, do you believe the Department should take in calendar years 2006 and 2007 to improve management of Service contracts?

Answer. I consider this important and will make it a high priority if confirmed.

Question. At the request of the committee, the GAO has performed best practices work on how the private sector manages services. GAO concluded that leading companies have greater visibility and management over their Services' contracts and conduct so called "spend analyses" to find more efficient ways to manage their Service contractors. This recommendation was incorporated into sections 801 and 802 of the National Defense Authorization Act for Fiscal Year 2002 and has been reinforced by subsequent legislation.

What is the status of the Department's efforts to conduct a "spend analysis," as recommended by GAO and required by statute?

Answer. If confirmed, I will immediately review the status of the Department's efforts.

Question. What specific improvements in the management of Service contracts have been made as a result of the Department's efforts to date?

Answer. I am not currently knowledgeable of improvements in the management of Services' contracting. If confirmed, I will familiarize myself with this important issue.

Question. What additional steps, if any, do you believe the Department should take to implement the requirement to conduct periodic "spend analyses" for its Service contracts?

Answer. If confirmed and after a complete review, I will identify any additional steps I believe should be taken.

PERFORMANCE-BASED SERVICE CONTRACTS

Question. Section 805 of the National Defense Authorization Act for Fiscal Year 2003 established specific goals for the increased use of performance-based Service contracts and competitive awards of task orders under Service contracts by DOD.

What is your view of the utility performance-based services contracting and the competitive award of task orders?

Answer. Performance-based Services' contracting looks to be proving itself out as useful and beneficial. If confirmed, I look forward to getting involved in PBSA and making it as successful as possible.

Question. What is the status of the Department's efforts to achieve the goals established in section 805?

Answer. In order to provide status I must have all the facts and details. I look forward to working with Congress in this area, if confirmed.

Question. What additional steps, if any, do you believe the Department should take to meet the goals established in section 805?

Answer. Once I have all of the details, I will be in a better position to discuss any additional steps which might be required.

TIME AND MATERIALS CONTRACTS

Question. Recent press reports indicate that some contractors may have charged the government one rate under so-called "time and materials" contracts, while paying subcontractors another, substantially lower rate. DOD and other Federal agencies have proposed a change to the Federal Acquisition Regulation to address this practice.

What is your view on this issue and the proposed change to the Federal Acquisition Regulation?

Answer. It is important that time and material contracts are clear on the rates to be paid for work accomplished by both prime and subcontractors. These rates are most effectively established when contracts are awarded through full and open competition.

INTERAGENCY CONTRACTS

Question. The last decade has seen a proliferation of new types of government-wide contracts and multi-agency contracts. These contracts, which permit officials of one agency to make purchases under contracts entered by other agencies, have provided Federal agencies rapid access to high-tech commercial products and related services. In too many cases, however, it appears that neither agency takes responsibility for making sure that procurement rules are followed and good management sense is applied. As a result, the DOD Inspector General, the General Services Administration (GSA) Inspector General, and GAO have identified a long series of problems with interagency contracts, including lack of acquisition planning, inadequate competition, excessive use of time and materials contracts, improper use of expired funds, inappropriate expenditures, and failure to monitor contractor performance.

What steps has the Department taken to address problems with interagency contracts, and how effective do you believe these steps have been?

Answer. I am aware of some dialogue at the OSD level regarding this issue but I am not aware of the current actions being taken to address these problems or their effectiveness. If confirmed, I look forward learning more and being able to engage at the right levels to resolve problems as they relate to the Air Force.

Question. What additional steps, if any, do you believe are needed?

Answer. If confirmed, I will review these steps with the Air Force acquisition leads and determine if further steps need to be taken.

AWARD AND INCENTIVE FEE CONTRACTS

Question. The GAO recently reported that DOD has failed to link award and incentive decisions to acquisition outcomes. As a result, GAO says, "DOD has paid out an estimated $8 billion in award fees to date on the contracts in our study population, regardless of outcomes." According to GAO, this practice has undermined the effectiveness of fees as a motivational tool, marginalized their use in holding contractors accountable for acquisition outcomes, and wasted taxpayer funds.

What, in your view, are the most effective contractual mechanisms for providing incentives to reward excellent contractor performance which are focused on acquisition outcomes?

Answer. To ensure incentives reward excellent contractor performance, you need to implement contracts using when possible objective, verifiable criteria that emphasize outcomes for cost, schedule, and performance.

Question. If confirmed, what steps would you take to improve, or overhaul if necessary, Air Force contracting decisions, including the use of award and incentive fee contracts?

Answer. If confirmed, I will ensure Air Force consistency with policy concerning incentive contracts that was articulated in the recent Deputy Under Secretary of Defense (Acquisition and Technology) Policy Memo, Award Fee Contracts (FAR 16, DFARS 215, DFARS 216).

SCIENCE AND TECHNOLOGY

Question. If confirmed, you will play an important role in setting and implementing policy for development and acquisition of Air Force capabilities to confront new and emerging threats.

Based on your experience in operationalizing innovation, what is the role and value of science and technology (S&T) programs in meeting the Department's transformation goals and in confronting irregular, catastrophic, traditional, and disruptive threats?

Answer. S&T programs must have a primary focus on meeting transformation goals and confronting irregular, catastrophic, traditional, and disruptive threats. The S&T investment is our hedge against future surprise and uncertainty and the investment must be made with our national security in the forefront.

Question. If confirmed, what actions would you take with respect to funding targets and priorities for the Department's long-term research efforts?

Answer. If confirmed, I will strengthen our S&T investment by focusing on research in areas of key interest to our combatant commanders such as non-lethal weapons, language and cultural tools, detection and elimination of WMD, improved propulsion, unmanned aerial vehicles, power and energy to include alternative fuels,

net-security, net-operations and net-warfare, global strike, improved communications and multi-mode sensors and platforms for persistent surveillance. While a funding target is a viable goal, within the Department, defining a viable list of opportunities lost due to limited funds, as we document successful transitions (ROI) of our R&D investment to warfighter operations, will strengthen our funding levels.

TECHNOLOGY TRANSITION

Question. The Department's efforts to quickly transition technologies to the warfighter have yielded important results in the last few years. Challenges remain, however, in institutionalizing the transition of new technologies into existing programs of record and major weapons systems and platforms.

What challenges to transition do you see within the Air Force?

Answer. From my experiences in OSD, I believe it is a cradle-to-grave process. If confirmed, I look forward to working with the OSD and Congress to more efficiently transition technology into the hands of the warfighter.

Question. If confirmed, what steps would you take to enhance the effectiveness of technology transition efforts?

Answer. If confirmed, I will review the business process used to select transition projects from Air Force labs to acquisition programs, and how program managers communicate to the research and development (R&D) community the program needs of our combatant commanders (the ultimate customer). I will seek to understand the relationships between the R&D workforce and the program management workforce and the combatant commands and what incentives exist to drive these entities together. I will work closely with the Army and Navy Service Acquisition Executives to move cross-cutting technology into the Air Force from sister Services and vice versa.

Question. What is your assessment of the effectiveness of the rapid reaction and quick reaction special projects funds?

Answer. These rapid response programs supplement investment in the S&T program and are effective in responding to emergent defense needs by taking advantage of technology breakthroughs in rapidly evolving technologies. If confirmed, I will continue to support these programs.

Question. Are there DOD "lessons learned" through rapid reaction programs that you believe have applicability to the broader Air Force acquisition processes?

Answer. The Department's rapid reaction programs have provided a foundation for bringing together operators, technologists, and our acquisition community to pursue mission-oriented concepts and requirements. These programs have allowed us to move certain promising concepts from R&D to the warfighter more quickly than typically permitted by normal acquisition and/or budgeting processes.

TECHNICAL WORKFORCE

Question. What are your views on the present sufficiency and projected vitality of the Air Force's technical workforce?

Answer. With the demographics of an aging workforce, I believe it is even more important that the Air Force effectively recruit and retain the necessary scientists and engineers, while staying alert to any shifts in predicted trends. If confirmed, I look forward to assessing this important issue.

Question. If confirmed, what efforts would you pursue to respond to workforce challenges, particularly those involving the need for technical and highly-skilled experts?

Answer. If confirmed, I will utilize the flexibilities afforded in programs like the Science, Mathematics, and Research for Transformation program, the National Defense Education Program, and the Laboratory Personnel Demonstration Project to increase the Air Force's ability to hire highly-qualified scientists and engineers.

JOINT STRIKE FIGHTER

Question. The Department has estimated that it will spend about $600 billion on the Joint Strike Fighter (JSF), making it the Department's most expensive aircraft program. Recent GAO reviews of the program have noted significant increases in development costs, a decrease in planned procurement, schedule slips, and lack of sufficient testing.

What are your views on the appropriate way forward for this program?

Answer. A way forward for the JSF program is to strike an effective balance of technical risk, financial resources, and the Services' operational needs and I am committed to making this happen. If confirmed, I will work with the JSF stakeholders to reduce cost and meet and schedule commitments while assessing performance

risk as the Air Force progresses through system development and demonstration into production.

Question. In recent years, DOD has revised its acquisition policy to embrace an evolutionary, or incremental, approach in order to improve program outcomes by maturing technology and delivering capability in increments. Each increment of an evolutionary acquisition will have its own decision milestones and baseline—cost, schedule, and performance requirements.

If confirmed, what acquisition approach would you recommend for the JSF with respect to an incremental acquisition and reliance on proven technologies?

Answer. It would be premature for me to recommend a specific acquisition approach without an in-depth review, however, the Department should establish clear entry and exit criteria for all critical program milestones to ensure that required technologies are adequately matured.

LEASING POLICY

Question. The proposed Air Force tanker lease has raised concerns about the use of leases to obtain new capital equipment. Opponents of such leases have argued that this approach, without adequate justification, shifts to future leaders, today's budget problems.

Under what circumstances, if any, do you believe that it is appropriate for the Department to use leases to obtain new capital equipment?

Answer. Without specific details, it would be premature to say whether it would be appropriate for the Department to lease, rather than purchase, new capital equipment. Any such long-term lease of capital assets would have to be supported by a business case analysis. Furthermore, the lease would have to be consistent with fiscal and acquisition law and regulation.

Question. What criteria would you use, if confirmed, to determine whether to support a major lease of capital equipment by DOD?

Answer. If confirmed, I would consider all of the circumstances surrounding the particular acquisition at the time. As mentioned above, any program involving the use of a capital lease by the Department would also have to comply with applicable fiscal and acquisition law and regulation.

INCREMENTAL FUNDING

Question. The administration has requested that Congress approve incremental funding for the Air Force's F–22 fighter program. The funding requested in the budget would pay for about 7 aircraft, yet the Air Force has requested the authority to start production on 20 aircraft. As far as the committee has been able to determine, this is the only time that an administration has requested incremental funding of production aircraft since Congress shifted to a policy of full funding in the early 1950s. Approving this request could set a precedent by expanding the types of systems that could use incremental funding.

What are your views on the subject of incremental funding?

Answer. I am aware that the congressional defense committees have expressed reservations about the Department's initial request for incremental funding for aircraft production programs. At this juncture, it is premature for me to express any view, other than to say I will study the matter in depth, if confirmed.

Question. Under what circumstances do you believe that it would be appropriate to use incremental funding for production aircraft, if at all?

Answer. See previous response.

CONGRESSIONAL OVERSIGHT

Question. In order to exercise its legislative and oversight responsibilities, it is important that this committee and other appropriate committees of Congress are able to receive testimony, briefings, and other communications of information.

Do you agree, if confirmed for this high position, to appear before this committee and other appropriate committees of Congress?

Answer. Yes.

Question. Do you agree, if confirmed, to appear before this committee, or designated members of this committee, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as the Assistant Secretary of the Air Force for Acquisition?

Answer. Yes.

Question. Do you agree to ensure that testimony, briefings, and other communications of information are provided to this committee and its staff and other appropriate committees?

Answer. Yes.

[Questions for the record with answers supplied follow:]

QUESTIONS SUBMITTED BY SENATOR JACK REED

MANUFACTURING TECHNOLOGIES

1. Senator REED. Ms. Payton, I know in your past job as the Under Secretary for Advanced Systems and Concepts you were in charge of Department of Defense's (DOD) Manufacturing Technology Program and tried to develop new technologies that could reduce the costs to build new weapon systems. They also serve to help sustain our domestic manufacturing base and improve U.S. global economic competitiveness. I know the Air Force manufacturing technology and research efforts are under considerable budget pressure. How high a priority do you think manufacturing technology development and manufacturing research should play in the Air Force budget?

Ms. PAYTON. Manufacturing technology is an extremely high priority with me because I have personally witnessed the huge return on investment and cost avoidance that can be gained from establishing designs early in the weapon system acquisition life cycle that allow for streamlined manufacturing. Manufacturing readiness levels should be assessed at each milestone decision point and adequate research dollars invested to improve manufacturing capabilities. It is my intent to emphasize manufacturing research and development as the Assistant Secretary of the Air Force for Acquisition.

2. Senator REED. Ms. Payton, do you agree with me that small amounts invested in these manufacturing programs can result in huge savings for big Air Force acquisition programs?

Ms. PAYTON. I strongly agree with you. From the early 1950s to our current decade, minimal ManTech investments in machine tooling, integrated circuits, image intensifier tubes and night vision technology, computer aided manufacturing, composite manufacturing, lightweight body armor, and our ongoing composites affordability initiatives have resulted in huge savings across the entire DOD including the Air Force.

COORDINATION WITH DARPA

3. Senator REED. Ms. Payton, what is your view about the level of coordination between Air Force research and acquisition programs and the programs of the Defense Advanced Research Projects Agency (DARPA)?

Ms. PAYTON. I look forward to making improvements in all areas of coordination within Air Force research and acquisition programs and building stronger outreach to DARPA. This aligns with my principle of achieving the best value for the taxpayer dollar and providing the best possible and affordable capabilities for our men and women in uniform.

4. Senator REED. Ms. Payton, do you see the need to change this relationship in any way? If so, in what way?

Ms. PAYTON. All relationships can be improved and I believe direct and periodic meetings with the DARPA Director will be very important. Top-down communications is the first step in leveraging the great research capabilities of Air Force Research Laboratory and DARPA.

5. Senator REED. Ms. Payton, what steps will you take to effect that change?

Ms. PAYTON. Collaborative reviews between DARPA and AFRL would be the first step in understanding the investment portfolios followed by focusing research in research gap areas. The Director of Defense Research and Engineering and the Defense Science and Technology Advisory Group are making great efforts in this area and I look forward to positive results.

QUESTION SUBMITTED BY SENATOR DANIEL K. AKAKA

AIR FORCE ACQUISITION POLICY

6. Senator AKAKA. Ms. Payton, in support of the efforts by the Air Force to develop more reliable cost estimates, RAND's Project Air Force assessed a number of ways that risk information could be communicated to senior decisionmakers and made several recommendations regarding the Air Force's future acquisition policies.

These include offering the flexibility to use different assessment methods, employing a uniform communications format, tracking cost estimate accuracy, and establishing reserves to cover unforeseen costs. What, if any, of these recommendations do you believe should be integrated into existing acquisition policy?

Ms. PAYTON. Early risk mitigation and management is an important element to controlling cost growth. While I am not familiar with the RAND recommendations or progress the Air Force may be making implementing solutions, I will make it a high priority to review and implement these recommendations as appropriate.

[The nomination reference of Sue C. Payton follows:]

NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
April 25, 2006.

Ordered, That the following nomination be referred to the Committee on Armed Services:

Sue C. Payton, of Virginia, to be an Assistant Secretary of the Air Force, vice Marvin R. Sambur.

[The biographical sketch of Sue C. Payton, which was transmitted to the committee at the time the nomination was referred, follows:]

BIOGRAPHICAL SKETCH OF SUE C. PAYTON

Sue C. Payton is the Deputy Under Secretary of Defense (Advanced Systems and Concepts). In this role of operationalizing innovation, she has oversight responsibilities for technology transition programs to include: Advanced Concept Technology Demonstrations, Joint Warfighting Program, Foreign Comparative Test, Defense Acquisition Challenge, Technology Transition Initiative, ManTech, Defense Production Act Title III, and TechLink. Partnering with the military services, defense agencies, industry, coalition partners, and combatant commands. These programs provide decisive joint and coalition capabilities in battlespace awareness, network centric operations, command and control, focused logistics, force protection, and force application for U.S. and coalition forces. Prior to taking this position in September 2001, Ms. Payton was the Vice President, Applied Technology of ImageLinks, Inc. and the Director of the National Center for Applied Technology, responsible for the assessment, prototype development, and insertion of commercial technology for DOD agencies and worldwide field users. These prototyping efforts included support to NGA, DIA, U.S. Navy, JCS/J2, USSOCOM, USCENTCOM, AFSOC, USAF Battlelabs, NSA, and NRO to rapidly bring emerging commercial technology to the warfighter. From 1994 to 1996, Ms. Payton was responsible to the Vice President of Business Development, Lockheed Martin, for leveraging the latest information systems technology to meet the program needs of DOD and Intelligence Community customers. From 1989 to 1994, Ms. Payton was the Senior Site Systems Integration Manager for Martin Marietta responsible for resolving complex acquisition and technical issues associated with systems analysis and trade studies of competing Space and Ground Architectures, operations concepts, requirements definition, software test, and transition to operations.

Ms. Payton has extensive experience leading government and industry partnerships focused on maturing and applying technology, operations concepts, tactics, techniques, and procedures to solve national security problems worldwide. She is a member of the Defense Science and Technology Advisory Group, Eastern Illinois University Alumni Association and 2004 Alumni Award winner, a Gateway Member of the Purdue University President's Council, and former board member of Women in Aerospace. She has served in various capacities with the Open Geospatial Consortium and the National Correlation Working Group.

Ms. Payton received a Bachelor of Science Degree from Eastern Illinois University, and a Master of Science in Systems Acquisition Management/Systems Technology from the University of Southern California. She is a 1998 graduate of the Goizueta Business School, Emory University Executive Program.

[The Committee on Armed Services requires all individuals nominated from civilian life by the President to positions requiring the advice and consent of the Senate to complete a form that details the biographical, financial and other information of the nominee. The form executed by Sue C. Payton in connection with his nomination follows:]

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

(202) 224–3871

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior to the hearings and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)
Sue Carol Payton; Maiden Name: Sue Carol Campbell.

2. **Position to which nominated:**
Assistant Secretary of the Air Force for Acquisition.

3. **Date of nomination:**
April 25, 2006.

4. **Address:** (List current place of residence and office addresses.)
[Nominee responded and the information is contained in the committee's executive files.]

5. **Date and place of birth:**
September 29, 1950; Champaign, IL.

6. **Marital Status:** (Include maiden name of wife or husband's name.)
Married to Gary Eugene Payton.

7. **Names and ages of children:**
Courtney Ann Callen; 25.

8. **Education:** List secondary and higher education institutions, dates attended, degree received, and date degree granted.
Eastern Illinois University, Charleston, IL; 1968–1972; Bachelor of Science, 1972.
Brevard Community College, Cocoa, FL; 1978–1979.
El Camino College, Torrance, CA; 1982.
University of Southern California, LA, CA; 1983–1985; Master of Science, 1985.
Nova Southeastern University, Davie, FL; 1994–1997.

9. **Employment record:** List all jobs held since college or in the last 10 years, whichever is less, including the title or description of job, name of employer, location of work, and dates of employment.
Deputy Under Secretary of Defense, Department of Defense, 3000 Defense Pentagon, Room 3E144, Washington, DC, September 2001 to Present.
Vice President Advanced Technology, Image Links, Inc., 7700 Boston Blvd., Springfield, VA, August 2000 to September 2001.
Director National Center for Applied Technology, Lockheed Martin, 7700 Boston Blvd, Springfield, VA, August 1998 to August 2000.
Manager Advanced Technology, Martin Marietta/Lockheed Martin, 3201 Jermantown Road, Virginia, July 1994 to August 1998.

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

None.

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

None.

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

Gateway Member of Purdue University President's Club—Scholarship Sponsor.

Eastern Illinois University Alumni Association—member.

Women In Aerospace—member.

Women's Golf Association, Springfield Golf and Country Club—member.

13. **Political affiliations and activities:**

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

None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 5 years.

Republican National Committee—Sustaining Member.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $100 or more for the past 5 years.

2004—Republican National Committee—$1,500.

2004—Thune for Senate—$200.

14. **Honors and Awards:** List all scholarships, fellowships, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

Eastern Illinois University Distinguished Alumni Award, 2004.

2006 Defense Certificate of Recognition for Acquisition Innovation: DPA Title III Radiation Hardened Electronics Team.

DOD Joint Meritorious Unit Award.

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

Articles:

Nine Technology Insertion Programs That Can Speed Acquisition, Defense AT&L, January–February 2006, pages 10–13.

Fast-Tracking Innovative Technologies, DOD's ACTD Program Supports the War on Terrorism, Armed Forces Journal International, April 2002, pages 28–29.

Maps to Information Superiority, The ISR Journal, 2002, Issue 3, pages 26–30.

Technological Innovations—The ACTD Program, Joint Forces Quarterly, Summer 2002, pages 71–76.

16. **Speeches:** Provide the committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

DOD Works to Save Lives on Battlefield, Improve Talent Pool.

DOD Women's History Month—A Challenge to the DOD Women Scientist Award Winners and 300 Students from the Close Up Foundation, 29 March 2006, Washington, DC, Women in Military Service for America Memorial.

Manufacturing Technology Briefing—Orlando, FL, 28 November 2005, Defense Manufacturing Conference.

Air Armament Symposium—Transitioning Force Application Technology to the Joint and Coalition Warfighter, Fort Walton Beach, FL, 4 October 2005, NDAI Industrial Associates.

50 States in 5 Days—September 11 Remembrance, Offutt, NE, 10 September 2005, Omaha Chamber of Commerce and The National Foundation for Women Legislators Annual Conference, 12 September 2005.

Women's History Month 2005—Women in Military Service for America Memorial, Washington, DC, March 2005.

AIAA Panel Presentation, DOD R&D Investments to Meet DOD Policy Goals, Charleston, South Carolina, 22 March 2005.

Joint Non-Lethal Weapons Conference Luncheon Speaker, Washington DC, 15 March 2005.

GEOIntel 2003 Symposium, Geospatial Industrial Base—New Orleans, LA, 16 October, 2003.

17. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to respond to requests to appear and testify before any duly constituted committee of the Senate?

Yes.

[The nominee responded to the questions in Parts B–F of the committee questionnaire. The text of the questionnaire is set forth in the Appendix to this volume. The nominee's answers to Parts B–F are contained in the committee's executive files.]

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

SUE C. PAYTON.

This 4th day of May, 2006.

[The nomination of Sue C. Payton was reported to the Senate by Chairman Warner on July 20, 2006, with the recommendation that the nomination be confirmed. The nomination was confirmed by the Senate on July 21, 2006.]

[Prepared questions submitted to William H. Tobey by Chairman Warner prior to the hearing with answers supplied follow:]

QUESTIONS AND RESPONSES

DUTIES

Question. What is your understanding of the duties and functions of the Deputy Administrator for Defense Nuclear Nonproliferation?

Answer. The Deputy Administrator for Defense Nuclear Nonproliferation is responsible for leading efforts to: prevent the spread of materials, technology, and expertise relating to weapons of mass destruction; detect the proliferation of weapons of mass destruction worldwide; eliminate inventories of surplus fissile materials usable for nuclear weapons; and provide for international nuclear safety. Defense Nuclear Nonproliferation works closely with its international and regional partners as well as key Federal agencies to accomplish its mission. This work also includes drawing upon the unique and invaluable expertise of the U.S. national laboratories in further support of Defense Nuclear Nonproliferation mission activities.

Question. What background and experience do you possess that you believe qualifies you to perform these duties?

Answer. I have diverse experience that bears on the requirements of the job, including:

- Twelve years of Federal service dealing with national security issues, international negotiations, nonproliferation, technology research and development programs, and interagency coordination.
- Management of large, complex, and demanding interagency operations with direct relevance to the job, e.g. the removal of weapons of mass destruction materials from Libya.
- Experience in international negotiations ranging from the Nuclear and Space Talks with the Soviet Union, to the U.S.-Russian Space Cooperation Agreement, to the Six-Party Talks.
- Participation in senior national security policy deliberations during 10 years on the National Security Council Staff, under three administrations, covering defense and space policy, nuclear arms control, and nonproliferation issues.
- Ten years of private sector experience, including management of highly trained professionals and a successful venture capital investment in a high technology start-up firm.

Question. Do you believe that there are actions you need to take to enhance your ability to perform the duties of the Deputy Administrator for Defense Nuclear Nonproliferation?

Answer. I am confident that my past experience has prepared me for the duties of the Deputy Administrator for Defense Nuclear Nonproliferation. I would like for Defense Nuclear Nonproliferation to be more active in the interagency process at senior levels. I believe this would both maximize the use of the substantial skills and resources offered by the office, and bring to bear insights from other departments and agencies which can improve the effectiveness of nonproliferation work. I believe this would enhance my ability to perform the duties of the Deputy Administrator for Defense Nuclear Nonproliferation.

Question. Assuming you are confirmed, what duties and functions do you expect that the Administrator of the National Nuclear Security Administration (NNSA) would prescribe for you?

Answer. If confirmed, I anticipate that the Administrator would instruct and authorize me to carry out fully all of the programs of the Office of Defense Nuclear Nonproliferation to support and implement the policies of the President. He has not indicated to me that he intends to prescribe any additional duties other than those enumerated in the NNSA Act.

RELATIONSHIPS

Question. If confirmed, how would you work with the following:

Other Deputies in the NNSA?

Answer. If confirmed, I intend to work closely with the other Deputy Administrators at NNSA and the Associate Deputy Administrators on issues such as budgets, security, counterintelligence, personnel, and procurement. I intend to support fully the management coordination mechanisms established by the Administrator.

Question. The Assistant Secretary of Energy for Environmental Management?

Answer. Many aspects of the Fissile Materials Disposition program must be coordinated with the Office of Environmental Management. If confirmed, I intend to work to continue a cooperative and productive relationship.

Question. The other Assistant Secretaries of Energy?

Answer. If confirmed, I intend to work through the NNSA Administrator to establish cooperative working relationships with the other Assistant Secretaries of the Department of Energy (DOE) to ensure that NNSA and departmental missions are met.

Question. Heads of relevant nonproliferation offices at the Departments of Defense and State, and the National Security Council.

Answer. As a member of the National Security Council staff, I place great importance in interagency coordination to achieve coherent and effective national policy and to maximize the effectiveness of government programs. I have strong relationships with nonproliferation policymakers at other agencies and at the National Security Council and, if confirmed, would work to continue them in my new capacity.

Question. The Department of Homeland Security (DHS), including the Domestic Nuclear Detection Office and offices responsible for customs and border security.

Answer. I believe that one of the most important lessons learned from September 11, 2001 is that government agencies must coordinate their activities fully and effectively and avoid so-called "stovepipes." We must fill gaps, and to the extent prudent, remove overlaps in responsibilities and authorities. Defense Nuclear Nonproliferation and the Domestic Nuclear Detection Office (DNDO) have important, distinct, and complementary roles. If confirmed, I will work to maximize the effectiveness of both offices in advancing U.S. security.

MAJOR CHALLENGES AND PROBLEMS

Question. In your view, what are the major challenges that will confront the Deputy Administrator for Defense Nuclear Nonproliferation?

Answer. Defense Nuclear Nonproliferation has established, substantial, and important missions. Completing those missions requires cooperation from other nations, particularly Russia. That Defense Nuclear Nonproliferation requires the cooperation of other nations can present challenges in and of itself. Moreover, as we complete work in Russia, the President has identified new areas for nonproliferation work—building on our experience and applying the lessons we have learned in Russia and elsewhere more broadly.

Question. Assuming you are confirmed, what plans do you have for addressing these challenges?

Answer. If confirmed, my first priority would be to complete the near-term missions assigned to Defense Nuclear Nonproliferation, e.g. the Bratislava Initiatives

on nuclear security cooperation, on time. I would seek to use the substantial leverage provided by the agreement between President Bush and President Putin to achieve Defense Nuclear Nonproliferation's portion of these initiatives. With respect to new areas for nonproliferation work, if confirmed, I would intend to work closely with other departments and agencies to ensure that we have the best strategy to guide our efforts in new areas and new nations.

Question. What do you consider to be the most serious problems in the performance of the functions of the Deputy Administrator for Defense Nuclear Nonproliferation?

Answer. In general I believe that the program is well run, but that does not mean that it cannot be improved. Strong program management is important because every dollar saved by better management can be applied to securing more nuclear material. If confirmed, I will also seek to continue Defense Nuclear Nonproliferation's improvements in the rates at which authorized funds are costed and obligated.

Question. If confirmed, what management actions and timelines would you establish to address these problems?

Answer. If confirmed, I will work with the Associate Administrator for Management and Administration and Office of Management and Budget (OMB) to ensure continued implementation of a program management system compatible with the 5-Year Nuclear Security Plan. If confirmed, I will also work with contractors and program managers to continue to improve the rates at which funds are costed and obligated.

PRIORITIES

Question. If confirmed, what broad priorities would you establish in terms of issues which must be addressed by the Deputy Administrator for Defense Nuclear Nonproliferation?

Answer. I am still listening to and learning from people at DOE, on Capitol Hill, and in the private sector with expertise and experience in the Defense Nuclear Nonproliferation missions. However, if confirmed, the priorities I have provisionally identified are:

1. Ensure that current Defense Nuclear Nonproliferation missions, e.g. the Bratislava Initiatives, are completed on time or early.
2. Ensure that program management is as efficient as possible to enable the office to secure or dispose of as much proliferation-sensitive material as possible.
3. Ensure that Defense Nuclear Nonproliferation programs are guided strategically to address new challenges and opportunities to prevent proliferation, including new approaches and work with new countries.

FISSILE MATERIAL DISPOSITION PROGRAM

Question. The fissile material disposition program, under which the United States and Russia each committed to dispose of 34 metric tons of surplus weapons-grade plutonium, is laudable in intent, but has been plagued by numerous problems including: (1) a 4-year delay in the program due to an inability to agree on liability issues for U.S. contractors. Though an agreement has now been reached, it still awaits Russian signature and ratification by the Russian Duma; (2) postponement of construction of the U.S. Mixed-Oxide Nuclear Fuel (MOX) Fabrication Facility in South Carolina in order to maintain parallelism in the program due to the impasse over liability; and (3) a December 2005 Department of Energy (DOE) Inspector General report that criticized the management of the U.S. program and assessed that the cost of the U.S. MOX program facility will be $3.5 billion–$2.5 billion more than the original DOE estimate in 2002.

The fiscal year 2007 budget request for the MOX program is $638.0 million—nearly one-third of the total DOE nonproliferation request, but now it appears that the Russians are no longer committed to the program as originally conceived.

What is your understanding of Russia's commitment to disposing of excess plutonium through the MOX program?

Answer. Russia recently affirmed its commitment to dispose of 34 metric tons of weapons grade plutonium. I am unaware of any desire by the Russian Federation to withdraw from that agreement.

Question. If these programs remain linked, what is your understanding of Russia's commitment to disposing of excess plutonium using technology other than MOX?

Answer. The Russian commitment remains to dispose of plutonium as nuclear fuel irradiated in reactors. As I understand it, the 2000 agreement allows for any disposition method that the parties agree to in writing. It is not specific as to the type

of fuel or reactors used. The United States expects Russia to fulfill its commitment and will work with the Russians to develop a credible plan to do so.

Question. What are the costs, benefits, and risks to the U.S. of exploring or agreeing to another disposition path with Russia?

Answer. The United States and Russia remain committed to disposing of their surplus weapon-grade plutonium. The two sides are exploring possibilities for using Russian advanced reactors instead of light water reactors. A potential cost of exploring another disposition path is the delay and additional costs of an important nonproliferation goal. The risks would depend on what disposition method is used if other than MOX. The benefit would be the identification of a specific disposition path and an associated timeframe that both sides will drive to completion.

Question. What are the advantages and disadvantages, in your view, of continuing to link the U.S. and Russian programs?

Answer. Plutonium disposition is an important nonproliferation program for both the United States and Russia. The U.S.-Russian agreement is an important commitment to achieving the disposition of the Russian plutonium, regardless of the means of disposition. In addition, there are a number of other benefits including reducing the costs for plutonium storage as well as for safeguards, security, and safety.

Question. If the U.S. and Russia programs remain linked, would it be preferable, in your judgment, for them to continue to proceed at a parallel pace, or should they proceed with a specific end date for disposition, but not at a parallel pace?

Answer. Both parties have agreed that their programs will proceed in parallel to the extent practicable. We intend to move forward with the U.S. program and to hold Russia to its commitment to implement its program.

Question. If the U.S. and Russian programs are delinked, would you still consider the U.S. disposition program to be a nonproliferation program, or would it then become a domestic program for disposing of excess U.S. material that should be considered in the wider context of DOE nuclear material disposition and cleanup?

Answer. Dispositon of the U.S. plutonium is an important nonproliferation program because it enables us to hold Russia to its commitment to dispose of its plutonium and enables the United States to meet its nonproliferation commitments.

Question. If the U.S. and Russian programs were to be delinked, would MOX, in your view, be the most cost effective method for disposing of the excess U.S. material at this stage?

Answer. It is my understanding that DOE is pursuing the MOX program as an optimal solution to various U.S. objectives—nonproliferation, reducing storage, safeguards, and security costs, and improving the safety of nuclear material. If confirmed, I would also seek to use disposition of U.S. plutonium to continue to insist on the development and execution of a credible plan for disposition of Russian plutonium, as provided for in the 2000 agreement.

Question. If confirmed, what steps would you take to ensure the development and presentation to Congress of a clear path forward for both the Russian and the U.S. programs before any more funds are put into these programs?

Answer. If confirmed, I will seek to ensure that a clear and credible path for plutonium disposition in the United States and Russia is presented to Congress and will consult with Congress on the appropriate way forward.

DEPARTMENT OF HOMELAND SECURITY'S DOMESTIC NUCLEAR DETECTION OFFICE

Question. Last year, a DNDO was established within DHS. This office was to be a national-level, jointly staffed office within DHS to strengthen the Nation's ability to detect and prevent attempts to smuggle nuclear or radiological materials through U.S. ports that could be used by terrorists in nuclear devices or dirty bombs. The office was also tasked with coordinating domestic research and development for detection, identification, and reporting of radiological and nuclear materials in U.S. ports and at U.S. border crossings. The office coordinates with other agencies including DOE, the Department of Defense (DOD), the Department of State (DOS), and the Nuclear Regulatory Council, that play a role in the development and deployment of nuclear detectors for use in domestic or overseas programs.

Given that the DOE has historically led U.S. efforts in research and development of nuclear detection technologies, how have DOE's mission and programs been affected by the establishment of the DNDO?

Answer. Defense Nuclear Nonproliferation and DNDO each have important, distinct, and complementary missions. The Nonproliferation Research and Development (R&D) program coordinates fully with DNDO, and in particular the DNDO Office of Transformational Research and Development, to conduct long-term nuclear detection R&D. It is my understanding that NNSA and DNDO have worked closely over the past year to ensure that each organization's R&D programs are distinct,

yet complementary. This has been done both through providing exchange personnel and technology exchange/sharing.

Question. What steps would you take, if confirmed, to ensure that DOE has a positive relationship, including a clear delineation of respective responsibilities, with the DNDO?

Answer. If confirmed, I will work to maintain a strong relationship with senior leadership within DNDO. I will further encourage the members of my staff to continue to maintain the close working relationships already in place with their peers at DNDO. The key to a successful partnership is a common understanding of the roles and responsibilities of each organization. These responsibilities are clearly defined within existing congressional language and in NSPD–43/HSPD–14, which directed the formation of DNDO. I understand that the progress made within both organizations over the past year can be directly attributed to the close working relationship that has been cultivated through both senior-level interactions and daily exchange through DOE/NNSA staff detailed to DNDO. Maintaining a dialogue with DNDO will ensure that we continue to fill in any gaps and, to the extent that is prudent, reduce any overlaps.

Question. What is the relationship, if any, between the DOE Megaports and Second Line of Defense programs and the DNDO program?

Answer. NNSA and DNDO each have important, distinct, and complementary roles. Given NNSA's role as the primary agency responsible for international deployments of radiation detection equipment, NNSA routinely exchanges information with DNDO to ensure that its efforts support a comprehensive global nuclear detection architecture. In particular, NNSA works collaboratively with DNDO and DOS to identify mechanisms to share overseas alarm data from second line of defense deployments. In addition, NNSA and DNDO are also jointly establishing operational requirements to support the development of future detection systems. NNSA supports DNDO's operational testing and evaluation program and continues to monitor DNDO technology, as improvements in nuclear detection equipment will certainly benefit our international deployment efforts.

BORDER SECURITY COORDINATION

Question. Section 3116 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163) required the Secretary of Energy to submit a report, in consultation with the Secretary of Defense, the Secretary of State, and, as appropriate, the Secretary of Homeland Security, on the management of border security programs in the countries of the former Soviet Union and other countries.

What would you do, if confirmed, to ensure better coordination of the many and growing U.S. Government programs to enhance border security in other nations?

Answer. If confirmed, I will make this a priority and draw upon my interagency experience to do so. I would also direct the senior managers of the Second Line of Defense program to continue to coordinate closely their work with other related U.S. border security efforts. I understand that interagency coordination has greatly improved with the establishment of coordinating committees, such as the International Nuclear and Radiological Border Security Efforts Sub-PCC (INRBSE). I am committed to playing a prominent role in interagency efforts to address critical implementation issues. I understand that reaching interagency consensus on the best approach to facilitating enhanced datasharing with our foreign partners is of particular importance.

DOE NONPROLIFERATION PROGRAMS IN IRAQ AND LIBYA

Question. DOE launched an initiative in 2004 to provide employment opportunities for Iraqi scientists, technicians, and engineers who may have been involved in Iraqi WMD programs. This initiative was intended to support reconstruction efforts in Iraq and to prevent the proliferation of WMD expertise to terrorists or proliferant states.

What is the status and progress of this program?

Answer. Since 2003, DOE has funded projects intended to ensure those experts with WMD-related knowledge do not again become a proliferation threat. Initial survey work involving over 200 scientists revealed Iraqi needs in research on public health, water, the environment, and civil engineering. Currently, DOE is funding six civilian technical projects that employ WMD scientists. This ongoing effort, coordinated with DOS, supports the broader U.S. and Iraqi Government reconstruction efforts. DOE/NA–24 has committed a total of $3.75 million to this since fiscal year 2004.

Question. How has this program been marketed to Iraqis who may be eligible to participate?

Answer. DOE/NNSA works primarily through an Arab partner, the Arab Science and Technology Foundation (ASTF) and Sandia National Laboratory, which has many regional partnerships with Arab countries, to reach out to Iraqi scientists. This enables us to focus less on the U.S. Government connection and instead on the general call for proposals and engagement opportunities that are present in the work.

Question. How many Iraqi scientists, if any, have been able to take advantage of this opportunity to put their talents to work on productive, non-military research activities?

Answer. The projects DOE supports all contribute to civilian scientific capacity building. Recently, 6 civilian scientific projects that employ 29 scientists, including 12 with a WMD background, were funded. They include:

- water purification techniques,
- the development of new composite material for use in artificial limbs,
- improving the indigenous capability of the Iraqi pharmaceutical industry,
- the improvement of corrosion resistance in steel,
- analysis of the level of radionuclides in water and sediments in the Tigris-Euphrates, and
- measurement of natural radiation levels in Western Iraq.

Such material science and radiation safety projects can be said specifically to suit scientists with WMD skills and expertise in nuclear weapons/energy, weapons safety, weapons design, operational engineers, and explosives.

Question. How are the scientists and their families protected from reprisals?

Answer. I understand that NNSA is sensitive to the dangers these scientists face. That danger is also one of the reasons why ASTF remains the organizational face of this project, thereby creating distance between the U.S. Government and the individuals involved. However, it is not just a U.S. Government affiliation that can endanger scientists, but the very status of former weapon scientists—in particular, if connected with the current Iraqi government or a university. That said, it is a testament to the courage and basic desire of the scientific community to rebuild its country that these scientists continue to work on civilian scientific projects.

Question. In your view, could this program be expanded should demand for it increase in the future?

Answer. I understand that starting with the baseline survey in 2004, NNSA has sought to build the foundation for a program that can grow. Commercialization and support for new projects are both goals for NNSA in the coming year, although these should remain tied firmly to the goal of preventing proliferation. As NNSA increases the number of projects it funds, its understanding of where—and how to engage—former WMD scientists also increases. This is not an open-ended program, but will make a significant difference while it continues on the ground.

Question. What is the status of DOE's efforts to establish a similar program in Libya?

Answer. In support of the President's intent to recognize Libya's decision to eliminate its WMD program, NNSA is working with DOS to engage and redirect WMD scientists and facilities in Libya. The program encompasses immediate engagement of WMD scientists through the Global Initiatives for Proliferation Prevention (GIPP) program and broader scientific collaboration through the Sister Laboratory program. DOE/NNSA will apply $2–3 million annually for 3–5 years to engage scientists and former weapons experts and will draw on the resident expertise at DOE/NNSA's national laboratories.

NNSA is targeting three primary institutes for its scientist redirection activities in Libya: the Center for Mechanical Industries (CMI), the Tajura Renewable Energies and Water Desalination Research Center (REWDRC), and the National Bureau of Research and Development (NBRD), which is NNSA's counterpart organization. NNSA has developed five direct Scientist Engagement projects with those institutes in the areas of water desalination and purification, groundwater management, and machine tool use. NNSA also has plans to develop an analytical laboratory for use in water desalination and purification efforts in Libya.

The Sister Laboratory program is also working with NBRD and REWDC in five areas that promote peaceful nuclear collaboration, mainly focused on radioisotope production; health physics; neutron activation analysis; environment, safety, and health; and radioactive waste disposal projects.

GLOBAL THREAT REDUCTION INITIATIVE

Question. The DOE Global Threat Reduction Initiative (GTRI) aims to identify and secure radiological materials around the world against diversion for use in radiological dispersion devices.

If confirmed, what priority would you give to this important anti-terrorism initiative?

Answer. A terrorist attack using a radiological dirty bomb could cause significant disruptions. I think it is critical that we continue our efforts at balancing our responses to the numerous threats we face against the resources we have available.

Question. What strategy, if any, has the DOE developed for prioritizing its activities under this initiative so that the material that poses the highest risk is identified and addressed first?

Answer. I understand that the GTRI program has developed and continues to refine a prioritized strategy for radiological threat reduction. This strategy takes into consideration the radioactivity levels of the materials, the proximity of these materials to key U.S. targets (domestic, U.S. overseas military bases, and key shipping ports), and the level of threat in the host country. I understand that the program's priority is to protect the largest radioactive sources closest to potential U.S. targets.

Question. What is the policy governing work with countries that can afford to pay for necessary upgrades?

Answer. I believe that countries with the means should not only pay for protecting radiological materials in their countries but they should also be encouraged to take a leadership role in protecting radiological material in their region.

NUCLEAR SECURITY COOPERATION WITH RUSSIA

Question. At the Bratislava Summit in February 2005, Presidents Bush and Putin agreed on a comprehensive joint action plan for cooperation in nuclear security, including a plan to complete security upgrades of Russian nuclear facilities and warhead sites by the end of 2008.

If confirmed, what elements of the Bratislava agreements for which DOE is responsible do you think should be implemented first?

Answer. All five elements are a vital part of the process launched at Bratislava, and we are making progress in each of the five areas. One is not sequentially dependent on another.

Question. If confirmed, how would you ensure the agreed completion date is met?

Answer. The Joint Action Plan derives from a document presented to both Presidents, and it provides specific completion dates for the upgrade work at each of the agreed upon sites. Although NNSA is confident that it will conclude these efforts by the end of 2008, if confirmed, I will closely monitor progress and will work closely with my Russian counterparts to maintain high-level support for reaching this goal. The agreed completion date is a priority for both President Bush and President Putin and is fundamentally in the national interests of both parties, which is the strongest assurance that the target is met.

NONPROLIFERATION RESEARCH AND DEVELOPMENT

Question. If confirmed, would you commit to review the Nonproliferation Research and Development program to ensure that the requirements for the program are identified, that the program is meeting the needs of the users, and that the program is fully funded?

Answer. Yes. I believe Nonproliferation Research and Development makes an important and unique contribution to U.S. national security. A fundamental duty of the Deputy Administrator for Defense Nuclear Nonproliferation includes review of each of the relevant programs to ensure that they are fulfilling their missions and are appropriately funded. I fully intend to ensure that this program is meeting the needs of its end users, and that the research and development program has clearly defined metrics and outcomes, while maintaining a high-quality, cutting-edge research program using all resources available to the U.S. Government. In keeping with the President's request, the fiscal year 2007 funding for this program is at an appropriate level to meet mission requirements.

CONGRESSIONAL OVERSIGHT

Question. In order to exercise its legislative and oversight responsibilities, it is important that this committee and other appropriate committees of Congress are able to receive testimony, briefings, and other communications of information.

Do you agree, if confirmed for this high position, to appear before this committee and other appropriate committees of Congress?

Answer. Yes.

Question. Do you agree, if confirmed, to appear before this committee, or designated members of this committee, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as the Deputy Administrator for Defense Nuclear Nonproliferation?

Answer. Yes.

Question. Do you agree to ensure that testimony, briefings, and other communications of information are provided to this committee and its staff and other appropriate committees?

Answer. Yes.

[Question for the record with answer supplied follows:]

QUESTION SUBMITTED BY SENATOR DANIEL K. AKAKA

DISPOSAL OF GTCC

1. Senator AKAKA. Mr. Tobey, according to a recent National Nuclear Security Administration (NNSA) report regarding the recovery and storage of greater than class C (GTCC) low-level radioactive sealed sources, while the NNSA has done an excellent job of clearing a nationwide backlog of GTCC, no permanent disposal site has been designed. What role do you believe that the NNSA should play in development of a permanent disposal site?

Mr. TOBEY. The responsibility for the development of a permanent disposal site for GTCC low-level radioactive waste gas been assigned by the Secretary of Energy to the Office of Environmental Management (EM) because development of disposal capacity is within their mission and core expertise. It is my understanding that the NNSA will continue to recover sources that pose a security, health, or safety threat to the United States, and further that NNSA will work with EM in a supporting role to provide information and data related to the material to be disposed of in the developed disposal site. I also understand that Secretary Bodman expects the Department of Energy as a whole to work together as a team to carry out its responsibilities for the development of a permanent disposal facility.

[The nomination reference of William H. Tobey follows:]

NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
May 11, 2006.

Ordered, That the following nomination be referred to the Committee on Armed Services:

William H. Tobey, of Connecticut, to be Deputy Administrator for Defense Nuclear Nonproliferation, National Nuclear Security Administration, vice Paul Morgan Longsworth, resigned.

[The biographical sketch of William H. Tobey, which was transmitted to the committee at the time the nomination was referred, follows:]

BIOGRAPHICAL SKETCH OF WILLIAM H. TOBEY

William H. Tobey is currently Director of Counterproliferation Strategy on the National Security Council staff at the White House. His responsibilities currently include U.S. policy on Iran, North Korea, and Libya nonproliferation issues and missile defense. He has been a member of the U.S. delegation to the Six-Party Talks during the last three rounds of negotiations. Previously, he served as Director of Defense Policy and Arms Control on the National Security Council staff from 1986 to 1993. In that capacity, his responsibilities included U.S. policy on the Strategic Defense initiative and related arms control, arms control compliance and verification, and the national security aspects of space policy. Prior to that, he was an advisor to the U.S. Delegation to the Nuclear and Space Talks with the Soviet Union from 1985–1986, serving on both the START and Defense and Space negotiating groups. He entered government service in 1984 as a Presidential Management Intern in the Office of the Secretary of Defense.

From 1993 to 2002, Mr. Tobey worked at investment banking and venture capital firms. His last position in the private sector was head of institutional convertible securities sales for Wachovia Securities, Inc., where he had responsibility for man-

aging sales/trading operations for a top 10 firm in the convertible bond and preferred stock markets.

Mr. Tobey holds a Bachelor of Science degree from Northwestern University and a Master of Public Policy Degree from Harvard University's John F. Kennedy School of Government.

He and his wife, Elizabeth Tobey, reside in Bethesda, Maryland, with their daughters Emma and Beatrix.

[The Committee on Armed Services requires all individuals nominated from civilian life by the President to positions requiring the advice and consent of the Senate to complete a form that details the biographical, financial, and other information of the nominee. The form executed by William H. Tobey in connection with his nomination follows:]

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

(202) 224–3871

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior to the hearings and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)
William Hayward Tobey (Jeffrey Hayward Tobey until August 1971).

2. **Position to which nominated:**
Deputy Administrator for Defense Nuclear Nonproliferation in the National Nuclear Security Administration at the Department of Energy.

3. **Date of nomination:**
May 11, 2006.

4. **Address:** (List current place of residence and office addresses.)
[Nominee responded and the information is contained in the committee's executive files.]

5. **Date and place of birth:**
August 2, 1959; Decatur, IL.

6. **Marital Status:** (Include maiden name of wife or husband's name.)
Married to Elizabeth Ness Tobey.

7. **Names and ages of children:**
Emma Channer Tobey, age 12.
Beatrix Claire Tobey, age 10.

8. **Education:** List secondary and higher education institutions, dates attended, degree received, and date degree granted.
Harvard University, John F. Kennedy School of Government, 9/1982–6/1984, Master of Public Policy, 6/1984.
Northwestern University, 9/1977–6/1981, Bachelor of Science, 6/1981.
Glenbrook South High School, 9/1973–6/1977, High School Diploma, 6/1977.

9. **Employment record:** List all jobs held since college or in the last 10 years, whichever is less, including the title or description of job, name of employer, location of work, and dates of employment.

Director of Counterproliferation Strategy, the National Security Council, the White House, Washington, DC, August 11, 2002–Present.

Head of Institutional Convertible Securities Sales, Wachovia Securities, Inc., Old Greenwich, CT, June 2000–2002.

Senior Vice President, Partner, Forum Capital Markets, Old Greenwich, CT, January 1997–June 2000. (Wachovia Securities acquired Forum Capital Markets in 2000.)

General Partner, Embryon Venture Capital LLC, Bethesda, MD, March 1996–January 1997.

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

Summer Intern, Office of Management and Budget, 1983.

Presidential Management Intern, Office of the Secretary of Defense, September 1984–September 1986, included service at the Pentagon and as Advisor to the U.S. Delegation to the Nuclear and Space Talks with the Soviet Union in Geneva, Switzerland.

Director of Defense Policy and Arms Control, the National Security Council, September 1986–January 1993.

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

Limited Partner, Founders Financial, L.P.

Limited Partner, JMG Capital, L.P.

(These are investments, also declared on my SF278, in which I have no role in the management of the partnerships.)

Dean's Alumni Leadership Council, John F. Kennedy School of Government, Harvard University.

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

Glen View Club, Golf, IL.

13. **Political affiliations and activities:**

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

Research Assistant, National Republican Senatorial Committee, June 1981–September 1982.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 5 years.

I have been registered to vote as a Republican over the past 5 years.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $100 or more for the past 5 years.

None.

14. **Honors and Awards:** List all scholarships, fellowships, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

National Merit Scholarship Finalist.

Presidential Management Internship, 1984–1986.

Outstanding Performance Awards during periods of government service.

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

I wrote an Op-Ed piece published in the Madison, WI, newspaper on ballistic missile defense in 1986. I do not recall the title.

16. **Speeches:** Provide the committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

None.

17. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to respond to requests to appear and testify before any duly constituted committee of the Senate?

Yes.

[The nominee responded to the questions in Parts B–F of the committee questionnaire. The text of the questionnaire is set forth in the Appendix to this volume. The nominee's answers to Parts B–F are contained in the committee's executive files.]

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

WILLIAM H. TOBEY.

This 19th day of May, 2006.

[The nomination of William H. Tobey was reported to the Senate by Chairman Warner on August 1, 2006, with the recommendation that the nomination be confirmed. The nomination was confirmed by the Senate on August 3, 2006.]

[Prepared questions submitted to Robert L. Wilkie, Jr., by Chairman Warner prior to the hearing with answers supplied follow:]

QUESTIONS AND RESPONSES

DEFENSE REFORMS

Question. The Goldwater-Nichols Department of Defense Reorganization Act of 1986 and the Special Operations reforms have strengthened the warfighting readiness of our Armed Forces. They have enhanced civilian control and clearly delineated the operational chain of command and the responsibilities and authorities of the combatant commanders, and the role of the Chairman of the Joint Chiefs of Staff. They have also clarified the responsibility of the military departments to recruit, organize, train, equip, and maintain forces for assignment to the combatant commanders.

Do you see the need for modifications of any Goldwater-Nichols Act provisions? If so, what areas do you believe might be appropriate to address in these modifications?

Answer. The 20-year history of successful operations under this organizational construct has demonstrated its wisdom and effectiveness. If Congress should pursue adaptations to this construct or if the Department proposes changes, I would work closely with this committee and Congress to provide witnesses, briefings, and the necessary information so Congress can make informed judgments on policy alternatives.

DUTIES

Question. Section 138 of title 10, U.S.C., and DOD Directive 5142.1, provide that the principal duty of the Assistant Secretary of Defense for Legislative Affairs shall be the overall supervision of legislative affairs of the Department of Defense (DOD). Additionally, the Assistant Secretary of Defense for Legislative Affairs is required to provide advice and assistance concerning congressional aspects of DOD policies, plans, and programs; to coordinate actions relating to congressional consideration of the DOD legislative program; and to coordinate responses to congressional inquiries.

If confirmed as the Assistant Secretary of Defense for Legislative Affairs, what would you view as your principal responsibilities to the Secretary of Defense and to Congress?

Answer. If confirmed, my primary responsibility to the Secretary would be to keep him informed on congressional actions, requests, concerns, and initiatives on matters of importance to the Secretary and DOD.

Question. Assuming you are confirmed, what other duties do you expect that Secretary Rumsfeld will prescribe for you?

Answer. If confirmed, I expect Secretary Rumsfeld to assign me the responsibility of ensuring that the Department's liaison with Congress is effective, responsive, user and customer friendly, and to ensure the Department's goals and priorities are properly articulated.

Question. What experience do you have that would qualify you to perform the duties of the Assistant Secretary of Defense for Legislative Affairs?

Answer. I began my professional career on Capitol Hill as Counsel to Senator Jesse Helms, where I served as the Senator's policy advisor for Armed Services, Nuclear Energy and Senate Rules and Procedure. Later, I served as Legislative Director for Congressman David Funderburk and was assigned to the Committee on International Relations and the Commission on Security and Cooperation in Europe.

In 1997, I began service as the Counsel and Advisor on International Security Affairs to the Senate Majority Leader, the Honorable Trent Lott. In addition to my regular duties, I was the principal staffer and editor of the national security section of the 2000 Republican Party Presidential Platform.

From 2003–2005, I served as Special Assistant to the President for National Security Affairs and as a Senior Director on the National Security Council (NSC). In this capacity I served as a senior policy advisor to the President's Assistant for National Security Affairs, Dr. Condoleezza Rice, and to her successor, the Honorable Stephen Hadley. While at the NSC, I developed strategic planning for the implementation of the Moscow Treaty, NATO Expansion, the Millennium Challenge Account, and Iraqi Reconstruction.

Finally, I hold a Juris Doctor degree from Loyola University of the South (New Orleans), where I received honors in Latin American Law, International Law, and Legislation. I was also awarded a Masters of Law in International and Comparative Law from Georgetown University.

RELATIONSHIPS

Question. If confirmed, what would your working relationship be with:

The Secretary of Defense?

Answer. If confirmed, I will function as the principal assistant to the Secretary on congressional matters. Under the Secretary's direction, I will be responsible for coordination of the DOD legislative program, liaison with Congress, participation of departmental witnesses in congressional hearings, responses to congressional inquiries, and DOD support of congressional travel.

Question. The Deputy Secretary of Defense?

Answer. If confirmed, I would have a similar relationship with the Deputy Secretary of Defense.

Question. The Under Secretaries and Assistant Secretaries of Defense?

Answer. If confirmed, my relationship with the Under Secretaries of Defense and the Assistant Secretaries will be to serve as their principal advisor regarding legislative liaison and communications with Congress.

Question. The General Counsel of DOD?

Answer. If confirmed, I would work closely with the General Counsel to ensure responsiveness in matters of congressional interest and to assist Office of the General Counsel coordination on legislation under consideration within the Department. I would seek the views and recommendations of the General Counsel on legal issues.

Question. The Inspector General (IG) of DOD?

Answer. I would exercise no authority or control over the DOD IG. If confirmed, I would be fully cooperative and supportive of the IG's mission.

Question. The Chiefs of Legislative Affairs of the military services?

Answer. If confirmed, I would routinely meet with the chiefs of legislative affairs of the military services to coordinate the Department's liaison mission, and ensure responsiveness to this committee and Congress. By DOD Directive, ultimate responsibility for supervision of legislative liaison activities throughout the Department is vested in the Assistant Secretary of Defense for Legislative Affairs. I would work closely with the legislative affairs offices of the military services to foster a climate of cooperation and support.

Question. The Legislative Assistant to the Chairman of the Joint Chiefs of Staff?

Answer. If confirmed, I would routinely meet with the legislative assistant to the chairman to ensure responsiveness to this committee and Congress.

Question. The defense agencies?

Answer. If confirmed, I would provide overall guidance to the individual defense agencies with respect to the Department's legislative issues. I would meet regularly with the legislative assistants of the defense agencies to ensure they operate consistent with the Department's initiatives, the Secretary's position, and to ensure they are responsive to congressional inquiries.

MAJOR CHALLENGES AND PROBLEMS

Question. In your view, what are the major challenges and problems confronting the Assistant Secretary of Defense for Legislative Affairs?

Answer. The most significant challenge we face is communication. I would work to ensure that vital information is provided to Congress in a timely and useful man-

ner. Congress should not be in a position of reading or hearing about important issues in the media. The second challenge is providing timely, valuable advice to the Secretary, Deputy Secretary, and the key principals about congressional issues, concerns, or requests.

Question. Assuming you are confirmed, what plans do you have for addressing these challenges and problems?

Answer. If confirmed, I would continue the effort begun by my predecessors to reassert the appropriate oversight of the legislative affairs function in the Department. I would work to ensure that these activities associated with our mission are properly organized and coordinated to meet the title 10 responsibilities extended to this position. I would continue to advocate organizational and/or procedural changes to the Secretary and Deputy Secretary where or if required.

LEGISLATIVE LIAISON OFFICES

Question. Within the Office of the Secretary of Defense, the defense agencies, and the combatant commands, there are various offices which have their own congressional liaison personnel.

What is your understanding of actions taken by the Secretary of Defense and previous Assistant Secretaries of Defense for Legislative Affairs to limit the numbers of individuals performing legislative liaison duties?

Answer. The Secretary is committed to ensuring that the mandate in title 10 assigning the duties of managing the Legislative Program resides with the Assistant Secretary of Defense for Legislative Affairs.

Question. If confirmed, what steps, if any, would you take to ensure that the Assistant Secretary of Defense for Legislative Affairs is the focal point for all of DOD for dealing with Congress?

Answer. If confirmed, I would continue the efforts of my predecessor, on behalf of the Secretary, to ensure that all legislative functions of the Office of the Secretary of Defense are coordinated and managed by the Assistant Secretary of Defense for Legislative Affairs.

Question. Based on your experience, does the fact that there are two separate offices within the Office of the Secretary of Defense dealing with Congress create problems?

Answer. As with any organizational function that is bifurcated in such a manner, this arrangement is not optimal. With that said, in my experience, the Office of Legislative Affairs and the Office of the Comptroller are committed to working together to support the Department's mission and goals. Frequent coordination has been the routine and will continue if I'm confirmed.

Question. Do you believe that the current practice of a separate liaison between the Appropriations Committees, the Office of the Secretary of Defense, and the budget offices of the military services should be continued or should all legislative affairs activities be consolidated under the Assistant Secretary of Defense for Legislative Affairs?

Answer. If confirmed, and in consultation with the Defense Oversight Committees, this is something that I would examine and analyze. I believe that Congress does and should have significant input on how the Department liaisons with Congress.

LIAISON WITH THE APPROPRIATIONS COMMITTEE

Question. The legislative liaison with the Appropriations Committee is primarily carried out through the Office of the Under Secretary of Defense, Comptroller, not through the Office of the Assistant Secretary of Defense for Legislative Affairs.

Do you believe that this arrangement allows you to fulfill your responsibilities under section 138 of title 10, U.S.C.?

Answer. If confirmed, I would have a cooperative relationship with both the Under Secretary of Defense (Comptroller) and the Appropriations Committees. I would coordinate closely with the Comptroller's office on all matters and issues of interest to Congress and would include Comptroller staff in my daily staff meetings. I believe this arrangement would allow me to carry out the responsibilities under section 138 of title 10, U.S.C.

UNTIMELY LEGISLATIVE PROPOSALS

Question. Late submission of legislative proposals by DOD to Congress for consideration as part of the annual National Defense Authorization Act has been a chronic problem. Legislative initiatives, which require substantial review and in many cases, testimony and discussion at annual posture hearings, are routinely forwarded to Congress too late for appropriate action.

Based on your experience in the Department, what do you consider to be the reasons for the inability of DOD to provide Congress with all of its legislative proposals at the same time as submission of the President's annual budget?

Answer. Based upon my experience, I believe this problem is due to poor management and a lack of emphasis. The submission process occurs too late in the year to meet the timelines of the budget submission and lacks discipline with regard to what proposals are forwarded for consideration.

Question. If confirmed, what actions would you take to improve the Department's performance in providing timely legislative initiatives to Congress?

Answer. If confirmed, I would immediately address the timeline for submission of legislative proposals with the General Counsel and the Office of Legislative Counsel where this function is managed. I would also address this matter with the Office of Management and Budget. Starting the process earlier in the year to provide the system adequate time to evaluate and approve the proposals is part of the solution. I would make more timely submissions of legislative proposals to Congress a priority.

RESPONDING TO QUESTIONS AND INFORMATION FOR THE RECORD

Question. The failure on the part of departmental witnesses to timely respond to questions for the record (QFRs) by Senators and requests for information for the record (IFRs) following hearings is a problem requiring the attention of the Assistant Secretary of Defense for Legislative Affairs.

What is your assessment of the reasons for lengthy delays in responding to QFRs and IFRs?

Answer. Simply put, we need to pay closer attention to the timelines of this committee and others of Congress to fulfill our responsibility to communicate with Congress in a responsive manner.

Question. What actions have been taken, if any, during your service as Principal Deputy Assistant Secretary to respond to this problem?

Answer. During my tenure, we reinvigorated our oversight and are holding responsible offices within the Department accountable for timely submission of their answers.

Question. If confirmed, what actions would you take to improve the Department's performance in providing timely answers to QFRs and IFRs?

Answer. If confirmed, I would continue to reform the entire legislative operation of the Department to ensure that a system of timelines is in place for proper response to Congress' request for information and for Congress' desire to have all legislative proposals and statements submitted to both houses in a complete and timely manner.

NOMINATIONS

Question. If confirmed, what role would you, as Assistant Secretary of Defense for Legislative Affairs, expect to play in the military and civilian nomination process?

Answer. If confirmed, I would expect to play a primary role in preparing civilian nominations for confirmation, and a primary support role to the Chairman of the Joint Chiefs and the Services in preparing military nominations for confirmation. In addition, my staff and I will track nominations closely and ensure the committee is made aware of all relevant information.

MANAGEMENT OF DETAILEES

Question. The Department has been trying for almost 10 years to establish and uniformly enforce rules pertaining to the detailing of military and civilian employee personnel to the legislative branch.

What is your understanding of the Department's rules, including necessary approval authority, in responding to requests by congressional officers for details of military or civilian employees to the legislative branch?

Answer. The Secretary of Defense has engaged in a broad review of the role of all military officers currently assigned to non-operational billets throughout the Department. This includes detailees to Congress. The Secretary recognizes that it is vital to maintain the link between Congress and the Defense Department, consistent with applicable law. The DOD Legislative Fellows Program, while not a detail's program, is one key aspect of this linkage. This program is also closely monitored within the Department.

Question. What are your views about the limits, if any, that should be placed on details of DOD military and civilian employee personnel to the legislative branch?

Answer. The Secretary has emphasized the need to ensure that as many officers as possible are sent to operational billets as opposed to those in the National Capitol Region.

MILITARY PERSONNEL REQUIREMENTS FOR THE OFFICE OF THE ASD (LA)

Question. The military departments establish and consistently meet personnel requirements for their respective legislative liaison offices, carefully selecting and training military personnel for these important assignments.

What military personnel requirements, i.e., billets, presently have been established by service in the Office of the Assistant Secretary of Defense for Legislative Affairs?

Answer. We have 10 military officers authorized in the office: 4 Air Force, 4 Army, and 2 Navy.

Question. What legislative or congressional experience, if any, and what qualifications have been required of officers nominated for assignments in the office of the Assistant Secretary of Defense for Legislative Affairs?

Answer. Prior experience in service or joint legislative liaison billets is preferred. The office also seeks well-rounded officers from operational and staff billets that have an ability to clearly communicate Department policy, strategy, and priorities across the entire spectrum of congressional interests.

Question. In order to fully accomplish the responsibilities as the Assistant Secretary of Defense for Legislative Affairs, what management steps, if any, need to be taken to ensure that fully qualified, military legislative liaison personnel in the right numbers and with appropriate tour lengths are assigned?

Answer. We must continue to emphasize the importance of congressional relations in the Department's strategic approach to its overall agenda. If confirmed, I will work with the Services to ensure that service in the Office of Legislative Affairs enhances an officer's career and prepares him/her for duties of increased responsibility. This fits into the Goldwater-Nichols construct for the joint specialty officer.

INFORMATION FROM THE OFFICE OF THE SECRETARY OF DEFENSE DURING IRAQ FLOOR DEBATE

Question. On the afternoon of June 14, 2006, the Office of the Assistant Secretary of Defense for Legislative Affairs sent an e-mail to a number of congressional offices providing more than 75 pages of information in connection with the debate about certain amendments regarding ongoing military operations in Iraq during the Senate's consideration of S. 2766, the National Defense Authorization Act for Fiscal Year 2007. The information was apparently designed to provide information for use by Senators who supported the administration's policy on Iraq. Shortly after the e-mail was sent, it was recalled by the sender.

What is your understanding of the facts and circumstances surrounding the preparation of the e-mail, and at whose direction was the information prepared?

Answer. The Department routinely prepares position papers and statements of policy for use by Congress. This was an effort by the Department and NSC.

Question. What role, if any, did you play in the preparation or dissemination of the information included in the e-mail?

Answer. Members of my staff contributed to preparation of the material provided to Congress.

Question. Why was the e-mail recalled?

Answer. Addressees on the communicators' distribution list had changed resulting in several e-mail failure notices.

Question. Do you believe it was appropriate for the Office of the Assistant Secretary of Defense for Legislative Affairs to prepare and distribute this material?

Answer. Yes.

CONGRESSIONAL OVERSIGHT

Question. In order to exercise its legislative and oversight responsibilities, it is important that this committee and other appropriate committees of Congress are able to receive testimony, briefings, and other communications of information.

Do you agree, if confirmed for this high position, to appear before this committee and other appropriate committees of Congress?

Answer. Yes.

Question. Do you agree, if confirmed, to appear before this committee, or designated members of this committee, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as the Assistant Secretary of Defense for Legislative Affairs?

Answer. Yes.

Question. Do you agree to ensure that testimony, briefings, and other communications of information are provided to this committee and its staff and other appropriate committees?

Answer. Yes.

[Questions for the record with answers supplied follow:]

QUESTION SUBMITTED BY SENATOR JACK REED

CONGRESSIONAL REPORT

1. Senator REED. Mr. Wilkie, the National Defense Authorization Act for Fiscal Year 2005 included a provision (section 1107) that required a report to Congress on the implementation and utilization of personnel authorities in defense laboratories. Although this bill was signed into law by the President on October 28, 2004, and the law requires the report to be submitted no later than December 1, 2005—Congress has still not received this report. If confirmed, will you check into the status of this report and report back to the committee on its status, why it is late, and its expected delivery date?

Mr. WILKIE. Yes.

QUESTION SUBMITTED BY SENATOR DANIEL K. AKAKA

LEGISLATIVE OPERATIONS REFORM

2. Senator AKAKA. Mr. Wilkie, in your written responses to the advanced questions submitted by the Armed Services Committee, you stated that, in order to respond to congressional requests in a more timely manner, you have and will continue to reform legislative operations. What specific reforms have you already put in place to ensure that responses to deadlines are met? Also, in what ways, if at all, can this lag in response time be attributed to an inadequate number of personnel in the Office of Legislative Affairs?

Mr. WILKIE. While performing as Acting Assistant Secretary of Defense, I have initiated a process to review the Department's responsiveness to congressional correspondence and to inform senior leadership. In my view, this is not attributable to the number of personnel in my office, but rather on our overall focus on answering the mail. If confirmed, I will continue to pursue responsiveness and transparency.

[The nomination reference of Robert L. Wilkie, Jr., follows:]

NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
June 26, 2006.

Ordered, That the following nomination be referred to the Committee on Armed Services:

Robert L. Wilkie, Jr., of North Carolina, to be an Assistant Secretary of Defense, vice Daniel R. Stanley.

[The biographical sketch of Robert L. Wilkie, Jr., which was transmitted to the committee at the time the nomination was referred, follows:]

BIOGRAPHICAL SKETCH OF ROBERT L. WILKIE, JR.

The Honorable Robert Wilkie is the Assistant Secretary of Defense for Legislative Affairs (Acting). The son of an Army Artillery Commander, he spent his youth at Fort Bragg. He attended the Fayetteville (NC) City Schools. He graduated with honors from Wake Forest University. He received his Juris Doctor degree from Loyola University of the South (New Orleans), where he received honors in Latin American Law, International Law, and Legislation. He was also awarded a Masters of Law in International and Comparative Law from Georgetown University.

He began his professional career on Capitol Hill as Counsel to Senator Jesse Helms, where he was the Senator's policy advisor for Armed Services, Nuclear Energy and Senate Rules and Procedure. He later served as Legislative Director for Congressman David Funderburk where he was assigned to the Committee on International Relations and the Commission on Security and Cooperation in Europe.

In 1997, he began service as the Counsel and Advisor on International Security Affairs to the Senate Majority Leader, the Honorable Trent Lott. In addition to his regular duties, he served on the staff of the 1992 and 1996 Republican National Conventions and was the principal staffer and editor of the national security section of the 2000 Republican Party Presidential Platform.

From 2003–2005, Mr. Wilkie was Special Assistant to the President for National Security Affairs and a Senior Director of the National Security Council. In this capacity he served as a senior policy advisor to the President's Assistant for National Security Affairs, Dr. Condoleezza Rice, and to her successor, The Honorable Stephen Hadley. While at the National Security Council, Mr. Wilkie developed strategic planning for the implementation of the Moscow Treaty, NATO Expansion, the Millennium Challenge Account, and Iraqi Reconstruction. .

Mr. Wilkie is an intelligence officer in the United States Navy Reserve. An honor graduate of the Reserve Intelligence Officer's Basic Course, he is currently a Division Officer in the Maritime Threat Targeting Department at the Office of Naval Intelligence. He was named the Office of Naval Intelligence Junior Intelligence Officer (Reserve) of the year in 2004. He previously served with Atlantic Intelligence Command, Joint Forces Intelligence Command, and Naval Special Warfare Group Two. He is a graduate of the College of Naval Command and Staff and in 2002 received a Masters in Strategic Studies from the United States Army War College. He is also a graduate of the Joint Forces Staff College.

His articles have been published in The Naval War College Review, Parameters, and Proceedings. He contributed a chapter on European Defense to the recently published "Strategy for Empire: U.S. Regional Security Policy in the Post-Cold War Era."

Mr. Wilkie is married to the former Julia Bullard of Fayetteville, North Carolina. They have two small children: Adam, age 6; and Megan, age 4.

[The Committee on Armed Services requires all individuals nominated from civilian life by the President to positions requiring the advice and consent of the Senate to complete a form that details the biographical, financial, and other information of the nominee. The form executed by Robert L. Wilkie, Jr., in connection with his nomination follows:]

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

(202) 224–3871

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior to the hearings and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)

Robert L. Wilkie, Jr.

2. **Position to which nominated:**
Assistant Secretary of Defense for Legislative Affairs.

3. **Date of nomination:**
June 26, 2006.

4. **Address:** (List current place of residence and office addresses.)
[Nominee responded and the information is contained in the committee's executive files.]

5. **Date and place of birth:**
August 6, 1962; Frankfurt, West Germany (father was 1st LT in U.S. Army, 3rd Armor Division).

6. **Marital Status:** (Include maiden name of wife or husband's name.)
Married to Julia Bullard.

7. **Names and ages of children:**
Adam S. Wilkie, age 6.
Megan C. Wilkie, age 5.

8. **Education:** List secondary and higher education institutions, dates attended, degree received, and date degree granted.
Reid Ross High School, Fayetteville, NC, 1977–1980.
Tulane University, New Orleans, 1980–1982 (No Degree).
Wake Forest University, Winston-Salem, NC, 1982–1985, B.A., Cum Laude.
Loyola University School of Law, New Orleans, 1985–1988, J.D.
Georgetown University Law School, Washington, DC, 1989–1992, LLM, International Law.
U.S. Army War College, Carlisle Barracks, PA, 2000–2002, M.S.S.

9. **Employment record:** List all jobs held since college or in the last 10 years, whichever is less, including the title or description of job, name of employer, location of work, and dates of employment.
2/2006–Present, Acting Assistant Secretary of Defense (Legislative Affairs), Department of Defense.
9/2005–Present, Principal Deputy Assistant Secretary of Defense (Legislative Affairs), Department of Defense.
2003–2005, Special Assistant to the President, National Security Council.
1997–2003, Counsel, Office of the Senate Majority Leader (Trent Lott).

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

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

12. **Memberships:** List all memberships and offices currently held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.
The Naval Institute.
U.S. Army War College Alumni Association.

13. **Political affiliations and activities:**
(a) List all offices with a political party which you have held or any public office for which you have been a candidate.
Candidate for Republican Nomination for Congress (NC–7) 1996.
Director, North Carolina Republican Party, 1996–1997.
(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 5 years.
N/A.
(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $100 or more for the past 5 years.
N/A.

14. **Honors and Awards:** List all scholarships, fellowships, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.
Tulane Scholarship, 1980.
Lyskow Lewis Appellate Advocacy Scholarship, 1987–1988.

American Jurisprudence Awards in Latin American Law, Legislation and International Law.

Bustamante Award of the Society of Jesus for Excellence in International Law, 1987.

Moot Court Board, 1987–1988.

Honor Graduate Navy Intelligence Officers Basic Course.

Office of Naval Intelligence Officer of the Year (Reserve), 2004–2005.

Navy Achievement Medal.

Global War on Terrorism Service Medal.

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

Navy 2001—Back to the Future, Naval War College Review, Spring 2000.

Balancing Star Wars and Muddy Boots, Proceedings, October 2000.

Fortress Europe: European Defense and the Future of the North Atlantic Alliance, Parameters, Winter 2002–2003.

16. **Speeches:** Provide the committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

N/A.

17. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to respond to requests to appear and testify before any duly constituted committee of the Senate?

Yes.

[The nominee responded to the questions in Parts B–F of the committee questionnaire. The text of the questionnaire is set forth in the Appendix to this volume. The nominee's answers to Parts B–F are contained in the committee's executive files.]

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

ROBERT L. WILKIE.

This 10th day of July, 2006.

[The nomination of Robert L. Wilkie was reported to the Senate by Chairman Warner on August 1, 2006, with the recommendation that the nomination be confirmed. The nomination was confirmed by the Senate on September 29, 2006.]

NOMINATION OF LT. GEN. JAMES T. CONWAY, USMC, FOR APPOINTMENT TO THE GRADE OF GENERAL AND TO BE COMMANDANT OF THE MARINE CORPS

THURSDAY, JULY 27, 2006

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC.

The committee met, pursuant to notice, at 10:05 a.m. in room SR–222, Russell Senate Office Building, Senator John Warner (chairman) presiding.

Committee members present: Senators Warner, McCain, Talent, Thune, and Levin.

Committee staff members present: Charles S. Abell, staff director; and Leah C. Brewer, nominations and hearings clerk.

Majority staff members present: Ambrose R. Hock, professional staff member; Derek J. Maurer, professional staff member; David M. Morriss, counsel; Stanley R. O'Connor, Jr., professional staff member; Sean G. Stackley, professional staff member; Diana G. Tabler, professional staff member; and Richard F. Walsh, counsel.

Minority staff members present: Richard D. DeBobes, Democratic staff director; Daniel J. Cox, Jr., professional staff member; Evelyn N. Farkas, professional staff member; Creighton Greene, professional staff member; Gerald J. Leeling, minority counsel; and Michael J. McCord, professional staff member.

Staff assistant present: Pendred K. Wilson.

Committee members' assistants present: Ann Loomis, assistant to Senator Warner; Marshall A. Salter, assistant to Senator McCain; and Stuart C. Mallory, assistant to Senator Thune.

OPENING STATEMENT OF SENATOR JOHN WARNER, CHAIRMAN

Chairman WARNER. I'm advised that Senator Levin will soon be with us, so we'll start this very important hearing.

Every one of us who have been privileged—and I underline the word "privileged"—to wear marine green are very pleased to have before us today the President's nominee to be Commandant of the United States Marine Corps, succeeding General Hagee, who's had a very distinguished career. Having gotten to know you quite well through the years, I am confident that you will find your place in the history of commandants and stand as tall as any of them, in terms of your accomplishments and leadership for the wonderful men and women of the United States Marine Corps.

I will forego the balance of my statement for a moment, and invite our distinguished colleague from Missouri, the chairman of the Seapower Subcommittee, landlocked State though it may be——[Laughter.]

You handle your responsibilities very well.

Senator TALENT. We're hopeful someday getting the Navy to steam up the Mississippi, Mr. Chairman, maybe turn St. Louis into a blue-water port. [Laughter.]

Chairman WARNER. Didn't Grant do that at one time? [Laughter.]

Senator TALENT. I think he maybe steamed down and up at the same time. [Laughter.]

Chairman WARNER. Yes, that's my recollection. [Laughter.]

Senator TALENT. Mr. Chairman, it's with great pleasure that I introduce a fellow Missourian to the committee. He certainly needs no introduction to this committee, but I reintroduce him, might be the better way of putting it. I also want to welcome him and his wife, Annette, and their son, Scott, and his wife, Tara, to the committee today.

Lieutenant General Conway grew up in St. Louis, Mr. Chairman. He played football, baseball, and basketball at Roosevelt High School. As the General and I were discussing yesterday, if you're from St. Louis, where you went to high school is a big deal, so, you have to mention that in any introduction. However, he went on to graduate from Southeast Missouri State University in Cape Girardeau, a great institution, where he met his wife, Annette.

The General comes from a tradition of service, and he is now the leader of a true Marine Corps family. His father was a World War II veteran who was wounded three times. His sons, Brandon and Scott, are Marine Corps officers, and his daughter is married to a marine.

The General served two combat tours in Iraq as the 1st Marine Expeditionary Force (MEF) commander. He led his marines to Baghdad, and he returned a little over a year later to support the new democracy there.

He brings, Mr. Chairman, a wealth of knowledge and experience to this new post which he has gleaned from his 36-plus years in the Marine Corps. His service includes a 13-month deployment off the coast of Beirut in the early 1980s, an 8-month deployment as a battalion commander in Operation Desert Storm, command of the Marine Corps Officers Training in Quantico, President of the Marine Corps University, and all the way up through his current job as Director of Operations, or J–3, on the Joint Staff.

He has a lot of challenges in front him, Mr. Chairman. We all are familiar with those. I have a great deal of confidence in him. I'm very hopeful that the committee will quickly vote to confirm him, and the Senate will do, as well, so he can get to this new post. It's certainly a pleasure for me to welcome General Conway, a great Missourian who's going to go on and do even greater things for his country.

Thank you, Mr. Chairman.

Chairman WARNER. Thank you, Senator. Again, I commend you for your work on this committee, and particularly the Seapower

Subcommittee, of which the United States Marine Corps is a part of our Marine Corps team.

Senator TALENT. Mr. Chairman, we share a special interest in the Navy, don't we? Yours, a little bit longer-standing than mine.

Chairman WARNER. I was going to put into the record—I think it's important for me to establish that my serial number is 050488——[Laughter.]

Chairman WARNER.—date of rank, June 1949. That's before most of the people in this room were born. But, anyway, I'm proud to still be here, and I tell you, I've said it before, I would not be in the United States Senate today had it not been for what the men and women of the Armed Forces did for me, not what I did, maybe, for them, in training me in both the Navy and the Marine Corps, and I'm everlastingly grateful. Together with my good friend Senator Levin and colleagues on this committee, we try to do our very best for the current generation of men and women in the United States Services. That is our duty and our responsibility. We owe them no less.

This morning, Senator Levin and I had breakfast with the Secretary of Defense, and we started that breakfast by saying that we all recognize in the executive branch and the legislative branch, that never before in the history of this country have we ever had a finer group of men and women in uniform than America has today in its Armed Forces. The Marine Corps is an integral part of that structure. I am confident that you will be confirmed, and that you will—I believe it's in November—take over the leadership of that Corps.

We welcome everybody. I wanted to talk a little bit about another facet of your distinguished career, and that relates to your wonderful family, and most particularly your wife. We did a careful bit of research, because the military today is very much a family-oriented organization. All branches of the Services, and the families play such a pivotal and important role. But a word or two about Annette Conway, what she has done for the men and women of the Armed Forces: she has been a volunteer for the United Service Organization (USO) and the Armed Services Young Men's Christian Association; presently serves on the board of directors of the Injured Marine Semper Fi Fund, which was founded on May 18, 2004, by a small group of concerned Marine Corps spouses to provide financial grants and other assistance to marines, to sailors, and to families of those injured serving our Nation. The Injured Marine Semper Fi Fund has assisted in over 1,400 cases, and given more than $2.7 million in grants to our wounded heroes and their families. How fortunate you are, General, to have had this extraordinary individual as your partner for life.

A word to your sons. I've always been very proud of my father, who was a medical doctor and served in the trenches in World War I as a young Army captain caring for the wounded. He, indeed, was an inspiration to me throughout my life. I'll never forget one time. We were in here confirming a chief of staff of the United States Air Force, and I recollected to him that when I was Secretary of the Navy, his father was chief of staff of the United States Air Force, and I asked him, "As a First Lieutenant, how did you manage that relationship?" He unhesitatingly responded to the committee. He

said, "Every morning I got up, I tried to determine where the old man was, and then tried to position myself on the other side of the world." [Laughter.]

Chairman WARNER. So, good luck to the two sons and the son-in-law. [Laughter.]

General Conway was commissioned in 1970 as an infantry officer, and has had an extraordinary career commanding marines in recruiting, training, and educational capacities and in operational assignments at the company, battalion, division, and expeditionary force levels. You've served through all the branches from the bottom to the very top, served as an operation officer for the 31st Marine Amphibious Unit, which served off the coast of Lebanon just prior to the suicide attacks on the marine barracks of October 23, 1983. You and I, in our discussion this week, paused a moment to think about that incident. John Tower was chairman of the Committee of the Armed Services then, and I remember he corralled me, and we saddled up and arrived just over 48 hours after that tragedy. I can still see those barracks, a heap of rubble, smoke still coming up, and operations going on to make sure there was no one still alive. We'll not witness that chapter again, but we'll not forget it.

General Conway commanded the 3rd Battalion, 2nd Marines in 1990 in Operations Desert Shield and Desert Storm, assumed command of the 1st Marine Division in 2000, and of the 1st Marine Expeditionary Force in November 2002, commanded the 1st MEF during two combat tours in Iraq, and currently serves as the Director of Operations, J–3, of the Joint Staff.

General, you have been recognized for your leadership from the time that you were a company officer all the way through these distinguished assignments. You will assume this office, if confirmed, as an individual who has had the experience needed to meet this complex world which we face today.

If I could just make one other observation, and that is, I do have recollections of World War II, Korea, Vietnam, and today, and I have never seen, in the history of the United States, a more complex, a more challenging set of problems than faces the Commander in Chief, our President, and his team of leaders in uniform and out of uniform. We're fortunate that you and your family are willing to step up and take on another 4 years of service as a part of that team.

Senator Levin.

STATEMENT OF SENATOR CARL LEVIN

Senator LEVIN. Thank you, Mr. Chairman.

Let me add my thanks to General Conway and to his family. Your comments about his family are right on target, Mr. Chairman. They are shared by every member of this committee. We understand the role of the families in making it possible for people like General Conway to serve our country. We are as grateful to them as we are to you, and that is mighty grateful.

I want to say, up front, that I believe that General Conway is an excellent choice to lead the U.S. Marine Corps. I am impressed by his military record, but I'm even more impressed by his ability to think critically and with great insight about the challenges fac-

ing the Marine Corps and this Nation. I particularly appreciate his candor and willingness to tell it like it is. I believe that trait has served him, the Marine Corps, and this Nation well in the past, and will be even more important in the future.

General Conway is one of our most experienced combat commanders. He commanded the 1st Marine Expeditionary Force during the major combat operations in Iraq, and then subsequently returned with the 1st Marine Expeditionary Unit to begin to deal with the burgeoning insurgency. He understands the tactics required to conduct full-spectrum warfare. He understands how those tactics need to be adjusted to deal with the complexities of a counterinsurgency campaign. His advice and counsel in that regard have been, and will continue to be, invaluable. I, for one, expect to tap into that advice and counsel frequently.

Our marines have served magnificently in Iraq, Afghanistan, and other trouble spots around the globe. They have never failed us, and I know that they never will.

However, the Marine Corps is under increasing stress maintaining a significant portion of its force structure in Iraq over the last 3 years. There is stress on the marines, themselves, who have served multiple combat tours, and there is stress on equipment, which has been used extensively in very harsh conditions.

The marines went to war with units that were not optimally-equipped or organized for a long counterinsurgency effort. Unit equipment lists had to be adjusted to add more radios, machine guns, night-vision devices, and armored trucks, including up-armored Humvees, to lightly equip marine units to allow them to operate over extended distances for a long ground campaign. To do so, pre-positioned stocks were stripped, and marine units outside of Iraq were raided for equipment to supply units in theater.

While the Marine Corps is taking steps to fix those problems, unit readiness rates have fallen, particularly for those units which have rotated out of Iraq, but which don't have enough equipment on which to train for their next rotation.

I am very concerned about the consequences, should those units be required for contingencies outside of Iraq. The Marine Corps has been requesting supplemental funding to meet its requirements for reset and the costs of war, but I believe there is quite justifiable angst in the Marine Corps that the supplemental funding will not keep pace with its needs, especially as the war drags on and equipment is used up.

I share those concerns. I look forward to General Conway's testimony on the extent of the readiness challenges facing the Marine Corps, his assessment of the level of readiness and the risk incurred because of that level of readiness, and what must be done to raise Marine Corps readiness to acceptable levels.

The President has said that as Iraqi security forces stand up, we will stand down. The training and equipping of those Iraqi security forces is nearly complete. General Dempsey, who is responsible for that training and equipping, has said that the Iraqi army should be fully-manned and trained by the end of this year. General Casey, commander of our forces in Iraq, has said, on more than one occasion, that he believes that there will be fairly substantial U.S. troop reductions in Iraq this year. Given his experience in Iraq, I

am very interested in hearing General Conway's perspective on the general situation in Iraq, on the strategy and tactics of the U.S. forces, and what he foresees for the future.

Again, Mr. Chairman, I very warmly welcome General Conway and his family. He is a highly-experienced and dedicated officer, and he will make a magnificent commandant.

Thank you.

Chairman WARNER. Senator Levin, we thank you. That is a very fine statement that you've delivered on behalf of this distinguished nominee. I personally appreciate it.

Senator LEVIN. Thank you.

Chairman WARNER. Senator McCain.

Senator MCCAIN. I don't have any statement, Mr. Chairman, except to say that obviously this is a highly qualified and outstanding member of the United States Marine Corps, and I'm pleased to have him continue to serve. I, like Senator Levin, have some questions, and will seize this opportunity to ask some questions about his view of the situation in Iraq. I'm sure he will respond with his usual candor.

I thank you, Mr. Chairman.

Chairman WARNER. Thank you, Senator McCain.

Therefore, I'll proceed with the matters of routine for all nominees, and then, Senator McCain, I'll yield to you first for questions, because I'm going to stay throughout the whole hearing.

We've asked the General, as we ask all of our nominees, a series of advance policy questions. You've responded to those questions. Without objection, I'll make the questions and responses a part of the record.

May I thank Charlie Abell, Rick DeBobes, and other staff who, when I returned from the Pentagon the other day and decided we'd go forward, it's through their very able work that we are going forward here today.

I also have certain standard questions we ask of every nominee who appears before the committee. So, General, if you'd please respond to each of these questions:

Have you adhered to applicable laws and regulations governing conflict of interest?

General CONWAY. Yes, sir, I have.

Chairman WARNER. Have you assumed any duties or undertaken any actions which would appear to presume the outcome of the confirmation process?

General CONWAY. No, sir, I have not.

Chairman WARNER. Will you ensure that your staff complies with deadlines established for requested communications, including questions for the record, in the hearings before the Congress of the United States?

General CONWAY. Yes, sir, I will.

Chairman WARNER. Will you cooperate in providing witnesses and briefers in response to congressional requests?

General CONWAY. Yes, sir, I will.

Chairman WARNER. Will those witnesses be protected from any possible reprisal for their testimony or briefings?

General CONWAY. Yes, sir, they will.

Chairman WARNER. Do you agree, if confirmed, to appear and testify, upon request, before this committee?

General CONWAY. Yes, sir, I do.

Chairman WARNER. Do you agree to give your personal views—I repeat, your personal, professional views when asked before this committee to do so, even if those views differ from those of your superiors in the administration?

General CONWAY. Yes, sir, I do.

Chairman WARNER. Do you agree to provide documents, including copies of electronic forms of communication, in a timely manner when requested by a duly constituted committee of Congress or to consult with the committee regarding the basis for any good-faith delay or denial in providing such documents?

General CONWAY. Yes, sir, I will.

Chairman WARNER. General, the floor is yours for such statement as you may wish to make.

General CONWAY. Thank you, sir.

STATEMENT OF LT. GEN. JAMES T. CONWAY, USMC, NOMINEE FOR APPOINTMENT TO THE GRADE OF GENERAL AND TO BE COMMANDANT OF THE MARINE CORPS

General CONWAY. Thank you for your gracious comments, both Mr. Chairman and Senator Levin, regarding my family.

Senator Warner, Senator Levin, Senator McCain, thank you. I am humbled and honored to be nominated to serve as the 34th Commandant of the Marine Corps. I fully appreciate the enormity of the challenges that lie before our Nation and the Marine Corps' critical role in helping to meet those challenges.

My duties as the J–3, as well as leading your marines in combat, have offered a unique opportunity to view the remarkable flexibility and responsiveness that forward-deployed marines bring both to warfighting and to crisis response. Even while having so many marines deployed in harm's way in Iraq and Afghanistan, the Marine Corps has still answered every call—humanitarian assistance in Indonesia, in the Philippines; peacekeeping operations in Haiti; hurricane relief at home, on the Gulf Coast; and the ongoing noncombatant evacuation operations in Lebanon, to mention just a few.

If confirmed, I will strive to ensure our Nation continues to have a Marine Corps that is capable and ready, both to win this generation's war on terrorism and to settle the inevitable crisis for which the Nation calls upon her Corps of Marines. America deserves nothing less.

I will remain committed to one of our preeminent legislatively mandated missions to be most ready when the Nation is least ready. Your Marine Corps remains steadfast, but, to continue to do so, we will need your assistance. The immediate task before us demands a stubborn commitment to the reconstitution of our current force, and modernization to keep it strong.

Clearly, the individual marine is the centerpiece for our future. In my 36 years of service, I have never failed to be inspired by the selfless sacrifice of our young men and women. I have seen some of our Nation's finest perform so very unselfishly in ways that I would not have thought possible. They remain committed to the

best ideals our country stands for, while asking almost nothing in return. To these stalwart marines we owe everything, the best in training, the best in leadership, and the best equipment. I want to express my thanks to each of you for your continued support for these valiant young men and women.

Finally, if confirmed, I look forward to working with you to meet the challenges ahead. While your role is constitutional oversight, my role, when I come before you, will be to always tell the truth, only the truth. I pledge that you will always have my honest assessment of what is required to maintain the health of our Marine Corps and the security of our great Nation.

Mr. Chairman, Senator Levin, Senator McCain, thank you, again, for the opportunity to come before this committee, and I look forward to your questions.

Thank you.

Chairman WARNER. Thank you, General.

Senator McCain.

Senator MCCAIN. Thank you, General. Thank you for, again, your outstanding service.

For the record, describe your duties in the Iraq war.

General CONWAY. Sir, I was the 1st MEF commander. That's the Marine Expeditionary Force, constituted of about 60,000 marines and about 25,000 British forces, before we crossed the line of departure. We were part of the 3rd Army. 5th Corps was our Army counterpart, and the main attack during the movement to Baghdad. Following securing Baghdad, and ultimately Tikrit, sir, we were then directed to move to the southern provinces, where we had moved through originally, to assume reconstruction responsibilities for a period of about 5½ or 6 months before we redeployed. The second time was about 5 months later. We came home in November. I redeployed in February, again as the MEF commander, this time in command of about 25,000 marines in the al Anbar province out west. For that period of time, about 7 months before I was relieved by Lieutenant General Sattler, we went about trying to secure that area and assist the people in recovering their country.

Senator MCCAIN. Was that during the battle of Fallujah?

General CONWAY. Sir, we had what we term now the first battle of Fallujah while I was in command, the second time in the al Anbar province. The larger battle of Fallujah actually occurred in November, and, again, I had the change of command in Fallujah, on 13 September of that same year.

Senator MCCAIN. I know a lot of books have been written already, General Conway, like Cobra II, Assassin's Gate, and others, that are sort of a depiction of the conduct of the war. I know that many of these issues are important to you, given the people under you who have sacrificed. Do you agree with the general assessment that we didn't have enough troops to secure Iraq after our initial victory?

General CONWAY. Sir, we had sufficient troops to conduct the movement and win the Operation Iraqi Freedom (OIF) aspect of it quickly. Our intent, at that point, was to capitalize on the Iraqi army. It was, we felt, the most respected institution in the country, and my personal view at the time was that, as we would be able

to stand up these Iraqi army units, we wanted to put them in the lead as rapidly as we could. So, I felt, initially, that there were enough U.S. forces committed to be able to accomplish that.

When the Iraqi army was not returned to duty, there was a requirement on the part of my ground command element commander, Major General Mattis, at that point, to move units about to be able to amass this combat power to accomplish certain things. In that regard, we did not have enough troops to fully cover the areas for which we were responsible.

Senator MCCAIN. At one point, a decision was made, you may not have been there at the time—basically to deBaathification. No one who had been a member of the Baathist party would be allowed to serve in the military. Do you recall that decision?

General CONWAY. Yes, sir. I recall it.

Senator MCCAIN. I think it was made by Ambassador Bremer. It's unfair for me to ask you whether you think that was the right decision or not. I'm trying not to cause you difficulty, because I know you wear the uniform, and I know you carry out orders. Maybe you would tell me, in a positive fashion, if it's possible—what could we have done better? I think we accept the situation is very difficult right now, as we speak, great problems within Baghdad. Apparently, we're going to have to move troops, probably marines, from the al Anbar province into Baghdad, even when we know that Fallujah and Ramadi, particularly, are still not under control. What could we have done better, in your view, General Conway? Maybe put a positive spin on it so that I don't cause you difficulties.

General CONWAY. Sir, I can only give you my personal impression and the discussions I had with my commanders. We felt that there were people who were Baathists, who were compelled to be Baathists because of Saddam's reign of terror. Nevertheless, those people occupied key positions in the government and in the infrastructure that ran the country. When we weren't able to maximize on the capacities of those people, I think we probably suffered some, and we had to try to conduct makeshift mitigations, those manner of things.

We felt that if there were Baathists with blood on their hands in any form or fashion, that those people needed to be rooted out and held accountable to the Iraqi people, and that we perhaps could have been more discerning as to "who was who."

In terms of the army, once again, a similar scenario. There were army units, which, I think, were very brutal with their own people. Where an army commander had been judged to do those types of things, he should not be brought back to any position of responsibility, but we felt that had the army been brought back, we would have been able to capitalize on that immensely and take advantage, again, of this inherent respect that the Iraqis still maintained for their army over the decades.

Senator MCCAIN. The initial training of the Iraqi army was not successful, correct?

General CONWAY. Yes, sir.

Senator MCCAIN. So, we had to go back and start a more intensive and more thorough type of training operation. We lost a lot of time during that period. Would you agree that the situation now,

to a significant degree, given the political environment here in the United States, is, to some degree, up to the Iraqi Government and military as to whether they can function or not?

General CONWAY. Sir, I think that's exactly right. Since June 2004, Iraq has been a sovereign nation, and every effort on the part of those forces assigned to Iraq has been to postulate that with the Iraqis and cause them to resume normal functioning and control of their country as soon as that could possibly be made to happen.

Senator MCCAIN. Let me just ask one more question, Mr. Chairman.

Chairman WARNER. Go ahead.

Senator MCCAIN. I'm concerned that we may be making the mistake that we made during the Vietnam conflict, and that is lowering recruiting standards. I think all of us agree, in retrospect, in viewing the Vietnam war, that we took people into the Marine Corps and the Army that we should not have. They didn't meet certain minimum standards, and we waived certain standards. That's just a matter of record. Are we doing that again, General?

General CONWAY. Sir, I can only speak for the United States Marine Corps, and I can give you a categoric response that we are not. My eldest son, who is a Marine major and is not here this morning, is the commanding officer of a Marine Corps Recruiting Station in Portsmouth, New Hampshire. I have a direct source of information, of course, through him.

Even without that, I can tell you that our recruiting goals are being met, our retention goals are being met, and in no way are we reducing the standards that we have always held for marines coming on Active service.

Senator MCCAIN. We don't have waivers that would lower standards?

General CONWAY. Sir, there are X number of waivers each year that are given to what we would call CAT IV marines, those that can't necessarily pass a given test. But those waivers have not been increased, let's say, since this global war on terrorism has begun. There's always been X number for young, motivated men and women who, obviously, we think will make good marines, but have not, at that point, completed all of the standards.

[Additional, clarifying information provided for the record follows:]

I would like to clarify my statement that "there are X number of waivers." Our CAT IV waivers are, by Marine Corps policy, less than 1 percent of our total accessions. This standard was established in 1999 and reiterated in our Marine Corps Accession Strategy in 2005 and we have not deviated from that policy.

I would also like to take this opportunity to put waivers in context. A more telling indicator of our long-term commitment to sustaining quality accessions is that our first-term expiration of active service (EAS) attrition—that is, marines who leave the Marine Corps prior to the expiration of their contracted enlistment—has decreased by 17 percent in the past 4 years. That means the individuals we are recruiting and training are proving that our faith in their capability is not misplaced; they have proven to be the quality marines that our commanders in the field need.

I strongly believe that the individual marine is the centerpiece for our future and I will continue to monitor this issue to ensure we do not lower our standards in order to "get the numbers." Recruiting and retaining the right people in the Marine Corps is one of my highest priorities. I pledge to keep you informed if ever my review of this matter indicates that the quality of our recruits are not providing us with the Corps America needs to ensure her security. But as I said, I think our rate

of first-term non-EAS attrition is telling me that we are making marines that America deserves.

Senator MCCAIN. Are you concerned about retention in the Marine Reserve?

General CONWAY. Sir, we have to be concerned about all of it. We have to keep our eyes on it and watch the trends.

Senator MCCAIN. Are the numbers indicating that there's reason for concern?

General CONWAY. Sir, at this point, we're keeping our numbers up. Our retention is still good, but as this global war continues and we do rely upon the Reserves, we'll have to watch to make sure that their needs are met.

Senator MCCAIN. Do you see signs of problems?

General CONWAY. Not at this point, sir.

Senator MCCAIN. I thank you, and thank you for your service. Congratulations to your family.

General CONWAY. Thank you.

Senator MCCAIN. Thank you, Mr. Chairman.

Chairman WARNER. Thank you, Senator McCain.

Senator Levin?

Senator LEVIN. Thank you, Mr. Chairman.

On the point that Senator McCain began with, there were many of us that were concerned about the total disbanding of the Iraqi army. The ones, as you point out, that had blood on their hands should not have been returned, but the bulk of the army did not have blood on their hands. Do you know whether or not our uniformed military leaders were consulted on that decision, or was that basically a decision made by civilian leaders?

General CONWAY. I'm sorry, Senator Levin, I do not know. I'm afraid my site picture was pretty narrow at that point in Iraq.

Senator LEVIN. But it is your judgment that if the Iraqi army could have been reconstituted, that that would have been a major plus, in terms of security, and that we had, in fact, to some extent, in the planning, counted on that.

General CONWAY. Yes, sir, that was the original plan, as we understood it, as we discussed phase 4 while still in Kuwait, at Camp Doha. Again, it was our expectation and anticipation that that was intended to be the case.

To answer the second part of your question, I do think it was possible. When we were given a policy to pay former members of the Iraqi army, we had to go through some very sophisticated planning, in terms of how we were going to manage the numbers in various locations. So, they did appear from all over the country, really, for those opportunities.

Senator LEVIN. The President assured the American people and the Iraqis that as Iraqi security forces stand up, our forces would stand down. Give us your judgment as to whether or not that policy should be effectuated and as to whether or not, for that and perhaps other reasons, we should follow through with what General Casey has said he expected would happen, which would be troop reductions beginning by the end of this year.

General CONWAY. Sir, I think it's a sound policy. If you look at General Casey's lines of operation, security is paramount among them. When security is achieved, we think that the other lines of

operation will be much more plausible and be able to take shape. The growth of the Iraqi army, in particular—to some lesser degree, the Iraqi police—is constant. The equipment is trailing the training a little bit and putting those folks in the field, but I still think that, under Iraqi security forces, we will be able to eventually effect a downsizing of our forces.

I personally believe that you have Iraqis who have started to look at us as occupiers and are resisting us, in some instances; whereas, they would not resist an Iraqi force doing precisely the same thing. I also think that General Casey believes that, as he's discussed the opportunity to draw down. So, I think that the strategy is sound, sir, and will be effected in time.

Senator LEVIN. In terms of the message to Iraqis—as to the importance of their taking over responsibility, is it important that they understand that our presence is not open-ended and unlimited, and that they have the responsibility, as they get trained, to take over the major bulk of the responsibility?

General CONWAY. Sir, I think it's absolutely critical that they understand that. There is a strategic communications effort afoot on the part of the insurgents that would tell the people of Iraq that we are truly occupiers. We're there to steal their wealth and consume their oil. In that regard, I think we have to counter that message with an eventual reduction of forces, in proof of the fact that we're only going to stay there until such time as the Iraqi Government can self-govern and secure their own country.

Senator LEVIN. General Casey has stated, on a number of occasions, that he expects that there will be a reduction of U.S. forces in Iraq in 2006, and he said that recently at a Pentagon press conference. Do you believe that will happen?

General CONWAY. Sir, I do believe it will happen. Right now, we're experiencing sectarian violence, on a level since the bombing of the Samarra Mosque, that we have not seen in the country. Baghdad, in particular, seems to be a center of activity. I think he has to solve that problem first. That's a new and different problem from what we have seen in months before, but I think he will need to address that. The new prime minister, Maliki, has a number of programs that I think he is trying to put into place to strengthen his government and quell the insurgency, in large measure. I think a number of those efforts, in tandem, will have some results by the end of the year.

Senator LEVIN. Is it important, in terms of persuading and pressuring the Iraqis to reach political compromises, that they accept the idea that our commitment is not open-ended?

General CONWAY. Yes, sir. I think if you study insurgencies, you'll see that it's been that type of effort over time. The negotiation, if you will, the ability for people to come together—that has been more effective, really, than the kinetic activities of trying to put those insurgencies down.

Senator LEVIN. What do you mean by "kinetic activities"?

General CONWAY. Well, sir, armed force.

Senator LEVIN. On readiness issues, can you give us your assessment of the ability of the Marine Corps to keep their units ready, given the tremendous effort and stress that has been placed on the Corps? What's the state of readiness in the Marine Corps?

General CONWAY. Senator Levin, the state of readiness of the forces in Iraq are topnotch, what we would call C1. They're fully ready for the missions that they're assigned. That does come at some cost, however. We have opted to leave the equipment for those units in Iraq, and maintain the maintenance on all of that gear through means of forward-deployed depots, keeping the mechanics and the spare parts flowing so that the vehicles are quickly repaired. The impact that has on the rest of the Marine Corps is what has us concerned, at this point. The readiness of the remainder of the equipment, ground, and particularly aviation, is suffering, and, as a result, our readiness ratings for the remainder of the force are not what we would ordinarily show.

Senator LEVIN. What needs to be done, in your opinion?

General CONWAY. I think General Hagee has commented that we need to be able to recapitalize that equipment, to "reset," I think is the term that's being used. Principally, at this point, it's being conducted through supplemental funding. There is an annual cost of war that is required, certainly, but there is an additional cost of maintaining this equipment—in some cases, replacing that equipment—that is significant. I know that General Hagee submitted a request for $11.7 billion, initially. He received along the lines of about $5.1 billion against that. The leftover, plus another $5-billion-plus, puts the Marine Corps' bill, at this point, in excess, again, of $11 billion, just to be able to recap this equipment and give us all the Marine Corps that we think we need to have.

Senator LEVIN. Thank you.

Thank you, Mr. Chairman.

Chairman WARNER. Thank you very much, Senator Levin.

General, this committee will eventually examine in detail the allegations and the findings with respect to several incidents in Iraq involving marines. I don't wish to discuss what you may know about the specifics of the report, but in the hopes that I can take your nomination before the Senate, I'd like to be able to say that you have represented to the committee, to the extent you have knowledge of those reports, you, personally and professionally, are in no way involved. Would that be correct?

General CONWAY. Yes, sir, that is correct.

Chairman WARNER. Thank you very much.

On the question of Iraq, you draw on a great deal of experience from your two successive tours of duty, and now in your current position following the daily operations there. I think every hearing of this committee, we pause for a moment, to reflect on the enormity of the sacrifice of over 2,500 who have lost their lives, the tens of thousands, 22-some-odd-thousand, wounded, and the sacrifices of the families.

General CONWAY. Yes, sir.

Chairman WARNER. As you pointed out, Prime Minister Maliki and his new government are striving to establish sovereignty, control, and accept the full responsibility of sovereignty of the Nation of Iraq so that this country can have its own self-sustaining democracy and take its place in the world.

Things have not gone as well as we'd hoped there in the last 30 or 40 days. In my understanding, the incidents, as you record

those, have gone up appreciably in the last 30 days, am I not correct in that?

General CONWAY. Can I ask what you mean by "incidents," precisely, sir?

Chairman WARNER. I mean conflicts, sectarian violence, insurgency.

General CONWAY. Yes, sir.

Chairman WARNER. Unfortunately, a great deal of criminality that's taking place. The Iraqis are suffering a loss of roughly on the average of 100 citizens a day, is that correct?

General CONWAY. That is correct.

Chairman WARNER. There has been an appreciable increase in the last 30 or so days. You are nodding in assent that it has.

To the extent you can share with the committee here in open session.

General CONWAY. Yes, sir. If you chart the attacks, they are on an increasing scale.

Chairman WARNER. This brings me to the responsibilities of our Nation, as a strong supporter of Israel and hopefully, in the capacity of our traditional role of the United States of an honest broker, to work on that situation—and I'm not about to discuss the various options before us. I think the Secretary of State has handled herself very well. The President has spoken very clearly. Yesterday I was privileged, on three occasions, to be in the presence of Prime Minister Maliki.

As a matter of fact, I want the record to reflect that I was extremely impressed in the manner in which he spoke at Fort Belvoir, in a very informal way, to a gathering of about 300 uniformed personnel—Army, Navy, Air Force, Marines—and he spoke from the heart about his gratefulness to the people of this Nation; in particular, as he said, the brothers and sisters of our military who have lost their lives, and the families who have paid the price, and those who are continuing to support the Iraqi security forces in their effort to achieve a secure situation in that country. He did so in a very heartfelt way, with the President, who likewise spoke and expressed the gratitude of our Nation to the men and women in uniform. It was a very moving experience. Then, I might add, just for those who are interested, there were 25 tables of soldiers, sailors, airmen, and marines, and the President and the Prime Minister stopped at every table, took pictures, and spoke to the individuals. It wasn't one of these hurry-up photo-ops. It was a very sincere appreciation by the people of Iraq, through their prime minister, for the contributions of this country.

But, back to the conflict between Israel and Lebanon, and, to an extent, the Palestinian situation, the heat, the bitterness, the acrimony that is flowing out of that. My concern is that, in the Muslim world, it could be transmitted up to the Iraq area of responsibility (AOR) and, indeed, possibly put our uniformed people at greater risk. All I have said, and I repeat saying this, that it's a responsibility of our Nation as we fulfill our mission trying to help bring about a sustainable cease-fire of that conflict. We take those steps, being mindful of the investment of over 3 years that we've had in Iraq, the progress that we're slowly making, in my judgment, but

also the extremely delicate situation that exists today and tomorrow and in the foreseeable future. Do you share those views?

General CONWAY. Sir, I do. I can only say, I think, in open session, that we are seeing reports, comments made in Iraq that reflect the opinion of what's—in effect—an Arab opinion on what's taking place in Israel and south Lebanon, and they're not encouraging. These people feel an alliance with the Hezbollah, and it's disconcerting. We have not yet seen indication of additional action in the wake of those comments, but certainly there is great knowledge of what's taking place there, and great sympathy for both the Lebanese people and the Hezbollah.

Chairman WARNER. Yes. I thank you for that recognition. As you continue as the chief watch officer for the military, let us make sure that those who are trying to work out solutions in the Israel/Lebanon area of operations are not unmindful of the consequences that can flow to our forces in that AOR, because they're all linked together.

General CONWAY. They are, sir.

Chairman WARNER. I'm not here to try and sort out exactly what the government, or the individuals in the Government of Iraq, have said on this matter, but I'm more concerned with the people in the streets and the press and a lot of other things that are bringing influence on those individuals who could do harm to our brave soldiers, sailors, airmen, and marines that are in that battle, and, indeed, their coalition partners.

Improvised explosive devices (IED)—you experienced the serious situation with regard to those weapons. I think the President and the Secretary of Defense are taking measures with the creation of General Meigs' outfit that succeeds another, I thought, rather effective outfit, but it was just enlarged and brought up to a higher level, through rank, of attention in the Department, and those are positive steps. For the members of this committee, General Meigs will soon be briefing this committee, as he does regularly. As I watched the evolution of the various organizations tasked with the responsibility for IEDs in the Department, I hope that I carefully left a message that the Marine Corps was doing a very important segment of that work on IEDs, somewhat independent, as it should be, from the Department of Defense, but, at the same time, contributing all of their findings, results, and recommendations to the Department. I would hope that you could assure the committee, as Commandant, that you will put a watchful eye on that, and that that contribution by the Marine Corps, particularly down in Quantico, can continue.

General CONWAY. Absolutely, sir. If you calculate the percentage of casualties that occur day-in and day-out in Iraq, easily 70 percent of them are still attributable to IEDs. We have a very adaptive enemy. So, it is absolutely our first priority.

Where appropriate, and in that the United States Army, United States Marine Corps, are in the same location, essentially, with the same mission, facing the same threat, we do ally our efforts with them immensely, but, at the same time, I don't think you can have too many people looking at this problem from too many perspectives. We do differ sometimes in our approach to testing, and the people that we talk to who may have new concepts or new ideas.

I think, in answer, you're exactly right, that is helpful, and certainly we share everything that we find, as the Army is doing, to try to overcome the problem.

Chairman WARNER. Will you assure the committee that you will continue to allocate such resources as is needed by the Marine component of the work going on, on IEDs?

General CONWAY. Absolutely, Mr. Chairman.

Chairman WARNER. Good. I'll resume my questions, but I'll now turn to our colleague, Senator Thune.

Senator THUNE. Thank you, Mr. Chairman.

Thank you, General, for your extraordinary service to our country. Please extend our appreciation to the troops who serve under you. I congratulate you on this nomination. Your combat credentials and your overall career biography are more than enough information to give me a comfort level with the nomination, and hopefully a speedy confirmation. What I also would like to note for the record that stands out is the people who have served under you, in their descriptions of you as an enlisted marine's general. I think that's a great compliment and, I think, a great tribute to the qualities of character that you bring to the job, and the fact that you always put the best interests of the troops first, and, obviously, the mission first. Those are great statements about your character, and those are echoed by a lot of people who have served with you, and under you. So, when it comes to your command philosophy and the way you go about conducting your job and the leadership that you provide for our country and for our troops, it's very commendable. I just want to acknowledge that, as well.

I have a statement, Mr. Chairman, I'd like to have included in the record.

Chairman WARNER. Without objection.

[The prepared statement of Senator Thune follows:]

PREPARED STATEMENT BY SENATOR JOHN THUNE

General Conway, your combat credentials and overall impressive career biography gives me more than enough information to allow me the opportunity to make a comprehensive decision regarding your confirmation. However, what I find most extraordinary about your service to this great Nation is the leadership style in which you have commanded the marines under your care. I've found numerous accounts of marines describing you as an "enlisted marine's general" in your dedication to the keystones of successful leadership including your objectiveness in decisionmaking, communicating with your marines, humility, and leading from the front in both training and in war, to name just a few. An incident that stands out to me was your candor regarding the decision to have your 1st Marine Expeditionary Force invade the city of Fallujah in early April 2004 as a response to the brutal killings of four U.S. civilian contractors, and then subsequently be ordered to halt attacks just days later. While you were following orders from your superiors, you were documented as voicing concerns over what you perceived as first a very hasty decision and then later extracting prematurely before achieving victory. In the aftermath unfortunately it is not irrational to say your assessments were valid ones. However it shows that your concerns for the overall success of the mission and the protection of our young men and women who are willing to give up their lives to defend our freedom remains paramount in your command philosophy. That mentality, I believe, is what will serve you best should you be confirmed to this position.

Senator THUNE. As we undertake what are a lot of challenges around the planet right now, and many of which have been touched on already this morning, I want to discuss a couple of things. I was over there on my most recent trip to Iraq, probably about 4 months ago, with Senator McCain and some other Members of Congress

and Governors, and we talked about the progress that is being made. Obviously it has been three steps forward, two steps back, but one of the things that we felt good about, and I think is important, in terms of the criteria for our ability to succeed there, as well as our ability to begin bringing some of our troops home, is getting the Iraqi security forces up and trained and prepared to take on more responsibilities there. At that time, when we were there, about 75 percent of the battlespace, about 75 percent of the missions, were being performed either independently with Iraqis or with them in the lead and our troops supporting them. I'm wondering if that's still a fairly accurate characterization. Is that improving? What is it and where are we, relative to that benchmark, that was shared with us last time we were there?

General CONWAY. Sure, I think that is about right, without having benefit of a map to show you. I don't recall any battlespace being turned over to Iraqi main-force units in the last 30 days or so, so I think your information is still current.

Senator THUNE. Good. Do you still feel, overall, that there is progress being made, that we continue to see them being more and more up to the task?

General CONWAY. Yes, sir, I do. I've not met the man, but I'm encouraged by what is reported to be the strength of character of the new prime minister. He is facing, of course, a difficult startup period, but he does not seem especially deterred by the difficulty. He wants to ram through his programs, and he's demanding results from his ministers, who have, likewise, been elected to their position—selected, in some cases; but, in others, elected to the positions. So, there is an air of confidence for the long-term. We're certainly in a tough fight right now. This sectarian violence thing has to be stopped.

Senator THUNE. Right.

General CONWAY. But I am confident, in the long-term.

Senator THUNE. It seems to me, at least, that the sectarian violence part of this goes back to the bombing of the Samarra shrine. That whole component of this fight had really heated up at that time, and it continues, to this day. I was very impressed, as was the chairman, with the statements that were made by the new prime minister, and the very forceful, strong, decisive way, I think, of the approach that he's taking to getting the government up and running and making it successful. That, of course, is the other criteria by which, I think, we can measure our success there, and that is, one, the capability of security forces, and, two, the stability and longevity of the government, and its ability to bring some sort of national unity, so that you don't have all this sectarianism going on. The message that we tried to deliver when we were over there last time, is that it's really important that they focus on that and that they get the various factions pulling in the same direction. I hope we can make progress on that. His comments were certainly encouraging.

I want to come back to one other point that the chairman mentioned earlier; I have been up to Walter Reed several times, as have most of my colleagues, I think. You talked about the casualties, and we talked about the injuries that our troops are sustaining there, most of which are attributable to IEDs. I know that this

is a public session, and you're probably limited to what you can say, but I'm always interested in hearing what steps we are taking to address that situation. As you noted, we have a very adaptive enemy. It seems as soon as we figure out how they're detonating these things and develop countermeasures, they then come up with a new way of doing it. That has to be just the top priority in terms of our focus right now, one of the most critical things that we can look at and figure out solutions to. I know you probably can't get into the weeds here in great detail, but I would be interested in your additional comments?

General CONWAY. Sure.

Senator THUNE. General observations about steps that we are taking to address what is the most lethal weapon, I think, that our enemy has at their disposal.

Chairman WARNER. Senator, may I ask your indulgence for a moment? I have to appear, momentarily, before the Commerce Committee, right down the hall. Would you continue to chair this hearing? If there comes a point in time when you've completed your work, would you put the hearing in recess, and then I'll be right back to resume additional matters that I wish to cover.

Thank you.

Senator THUNE. Mr. Chairman, so I should not adjourn, but recess?

Chairman WARNER. That's correct.

Senator THUNE [presiding]. All right. Very well.

General CONWAY. Sir, I think your analysis is spot-on. We do have a very adaptive enemy. I think it is safe to say, in open session, that he evolves his tactics as we present our defensive measures. In some cases, it's cyclical. What we see right now is a threat that is pretty much pressure-plate initiated. He's attacking the undersides of our vehicles, because he gets more value from the explosive that is applied.

We are attacking that capability, from a number of different approaches. Even when I was there—and this was in more of its rudimentary stages—we tried to look at, "What is the weak link? Where is it that we can attack to be most successful?" The British would tell us that you look for the bombmakers, for the people with the technical expertise, and go after them. We have done that. Unfortunately, Iraq still remains, in great part, an arsenal, or an armory, with regard to ordnance that is available. So, we don't think that supply—or that link is necessarily one that we can be as successful in countering.

Our training efforts are immense, in terms of the time spent just recognizing IEDs, looking for the indicators, looking for the patterns of life, if you will, that might indicate that there's an explosive device in the area. Our success with jammers has been intermittent, but we continue to work that, as an inherent capability, to, if not destroy the device, certainly render it ineffective as our vehicles pass. Again, they're not effective against every device, but, given the right frequency and the right overrides, they can be quite effective.

So, we're approaching the problem through a number of means. We don't expect, necessarily, that we are going to find a silver bullet. We don't think that somewhere in a garage there's a guy with

pens in his pocket and fuzzy hair and thick glasses who's going to come and render us a solution. But that doesn't mean that we don't keep trying, and we never should stop trying, until we have found a way to completely defeat these things.

Senator THUNE. I appreciate your commitment to that end. I just can't think of anything, in terms of protecting our troops, more important, and I know that they are constantly evolving, in terms of their technologies and the things that our enemies are doing. I just think we have to focus like a laser on how we protect people in the field. If it's a resource issue, I hope you will make clear to us, as a committee, and to Congress, what your needs are so that we can take the appropriate steps to help you best combat what, again, is a very serious and lethal capability the enemy has, and one that I know it is not easy to be able to solve. In any case, it's a question I try and pose as folks come in front of this committee, just to get some insights about how we can do a better job, and how we can better serve you, in terms of resources.

General CONWAY. Sir, I would take the opportunity to say that, from our perspective inside the Department of Defense, we appreciate your recognition of this being the significant problem that it is. It appears to us that you have very well resourced those people that are attempting to overcome it.

Senator THUNE. I appreciate your answers. Again, thank you. I just can't tell you how much we appreciate what you're doing for the country and your service. So, thank you for that.

I think the Senator from Michigan is back. The chairman is gone, Senator, so if you had another round of questions, feel free.

Senator LEVIN. I just have a few. Thank you, Mr. Chairman.

General, on the question of Marine Corps end strength, the Quadrennial Defense Review (QDR) proposed to stabilize the Marine Corps' end strength at 175,000 Active and 39,000 Reserve component personnel by fiscal year 2011. General Hagee, however, has stated he is not sure the Active-Duty Marine Corps end strength should be reduced below 180,000 marines, and he said that he planned to conduct a capabilities assessment to re-examine the issue.

Has that assessment been completed, do you know? Or do you know what the status of it is?

General CONWAY. Yes, Senator Levin, it has been completed. There was a group of about probably 40 officers who convened down at Quantico for a period of about 3 months, who gave a series of reports back to General Hagee and his three-star generals in the area. I think that what the assessment group has essentially validated for the Commandant is what he now says, that he believes that we need a Marine Corps of about 180,000 in order to be able to continue to engage in this long war on terrorism.

Senator LEVIN. Do you know if it will be presented within the next month or so, to Congress or to the Secretary?

General CONWAY. Sir, I'm sorry, I do not know the answer to that. I have not had that specific conversation with General Hagee.

Senator LEVIN. All right. In terms of approximately 180,000 being the correct end strength, in the best judgment of that study, should that end strength be built into the permanent budget, or should it be left, in part, up to a supplemental budget?

General CONWAY. Sir, we think it needs to be in the Marine Corps budget, as such. Personnel are expensive. Once we bring those people on, we bring them on for 4 years. The Marine Corps would not be able, with its budget such as it is, to absorb those costs for personnel, were the supplementals not there. So, for purposes of planning, for purposes of long-range understanding of what our capabilities are going to be, I think we would much prefer to see it in the top line, as opposed to presented in a supplemental.

Senator LEVIN. Gotcha. On a question of relocation of some of our marines to Guam from Japan, there has been a recent agreement with the Government of Japan to relocate 8,000 marines from Okinawa to Guam. I'm wondering what your reaction is to that and whether or not that will have a negative impact on the ability of the marines to support Pacific Command's requirements for providing presence and security cooperation in Asia.

General CONWAY. Sir, the most important part first. We think that it will not impact on our ability to provide to the combatant commander what he has to have for marine forces in the Pacific. This same capabilities assessment group was asked by the Commandant to examine how best to deploy those forces once we commence moves off of both Okinawa and portions of mainland Japan. What we would like to see, as a Marine Corps, is a determination as to the ultimate disposition of these forces, more along the lines of the operational requirements, the administrative and logistics sets, that may have initially driven the discussion. That's where we are. It's still fairly early in the negotiation process, both with our Government and the Japanese Government, but we hope to effect that with that proposition.

Senator LEVIN. Thank you. I think it was the chairman who, as I had to leave, was asking a question relative to the Haditha investigations, and you may have already answered this. Do we have any idea when those investigations will be completed? If you've already answered it, I can——

General CONWAY. I have not answered it, sir, and I will give you the information to the best of my knowledge. There were two investigations, of course, I think you're aware. The 15–6, the Army version of the preliminary investigation that was ordered by General Chiarelli, has been completed. General Chiarelli has a copy. He's passed his recommendations on to General Casey, and, at this point, General Casey and General Abizaid are reviewing the investigation. Similarly, the ultimate convening authority, if you will, will be the Marine component commander, Lieutenant General Sattler, 1MEF commander at Camp Pendleton right now. He also has a copy, and is reviewing it, at present.

The other investigation, the NCIS investigation, has not been completed, but I am told it is nearing completion.

That is as much as I can give you, sir, towards an answer to your question as to when you'll see both those things.

Senator LEVIN. Thank you, General.

I was just going to ask Senator Warner's staff whether he was on his way back. I have completed my questions, and I was just going to thank the General, but now you can thank him.

Chairman WARNER [presiding]. Thank you very much. I appreciate the opportunity to resume presiding again. I thank you and

Senator Thune. I thought Senator Thune's questions, together with yours, have been very much on point.

General, one of the most remarkable chapters of our military history—if I may say, as a person who's been privileged to watch a half a century of our military history—occurred in this conflict in Iraq, the successive conflicts, and that's the role of the National Guard and the Reserve component of all of our Services. Those individuals willingly responded to orders to leave their jobs, their homes, their families, and take their places alongside the Regular Forces and quickly get up to speed professionally. There have been a remarkable number of incidents of their personal bravery and professional achievements at all levels in this conflict, not only on the battlefield, but in the aviation components and all types of things, and aboard ships. I don't like to talk about my inconsequential career, but I served in the Reserves in the Marine Corps, and volunteered to come up to duty in the Korean War, and served in Korea. When that was concluded, I had no obligation to stay in the Reserves, but I did it, and many of my colleagues who served with me in Korea, when we returned home, they, likewise, stayed in the Reserves, because we felt that we—although my tour was fairly limited—had a valuable contribution to make to our Reserve components. I stayed in some 10 or 12 years.

Tell us about the Reserves in the Marine Corps and what you plan to do. I just hope that you share my tremendous respect for what they have done through the years, and that the Corps, under your leadership, will continue what it's doing today, and perhaps enhance and, if necessary, if you so desire, enlarge the Reserve component of the Marine Corps.

General CONWAY. Sir, first of all, I completely agree with your salute to the Reserves and the Guard. I would add, before I address the Marine Corps aspect of it, that in some regards it's absolutely amazing that the Army can go about a transformation of sorts, a modularization, if you will, of its brigades at a time when there's a serious war taking place. In the place of the Active Force units, the Army has gone to Reserve and the National Guard Forces, and they've just done marvelous work, as you say. So, hats off to those folks, and they really have stepped up when their country needed them most.

Sir, without being parochial with regard to the Marine Reserves, I do think that ours is truly a model system. We call it the Total Force, and we mean that in every sense of the word, with regard to equipment, with regard to the expectations that they will be there when we need them most. They have just never let us down. Now, there's an investment that goes with that. We have Active-Duty people, some of our best lieutenant colonels, command screened, who are out there as the inspector/instructor. He's in charge of a number of young company-grade officers. Some of our best company commanders go out and work with the Reserves on a routine basis to make sure that they're able to maintain and apply those standards, should the country need.

We're extremely proud of who they are and what they do. It comes at a cost, but we are more than willing, I think, because of the capability that's added, to accept those costs and continue to make them a real combat addition.

Chairman WARNER. Do you think that you need some expansion of the size of the Corps' component?

General CONWAY. Sir, I'll be honest, I have not sat down to look at that in close quarters.

Chairman WARNER. You have 39,600, currently, men and women in the Marine Corps Reserve. As you sit down to look at it, hopefully you will have the benefit of the Commission on the National Guard and Reserves, headed by a fellow marine, General Arnold Punaro, who will be working on recommendations. So, I hope that you take to heart what recommendations they come up with, and would have no reluctance to come before this committee if you need such authority to make modifications.

General CONWAY. Absolutely, sir. I would make two comments, sir. One is that I think we have a smaller percentage of Reserves, if you compare the ratio Marine to Army.

Chairman WARNER. Yes, I am aware.

General CONWAY. So, that should compel us to ask if that percentage is right.

The second part, though, I think would have to look at the determination as to whether or not, for the long war, we would see reaccessing the Reserves in order to apply their capabilities once again. That would help us to determine whether or not we want to expand the size of the Reserve Force.

Chairman WARNER. All right. Let's turn our attention to those who have survived the wounding in these current combat operations and who are now trying, together with the love and affection, hopefully, of their families, to rehabilitate themselves. I think it was 2 or 3 years ago, I put in an initiative to encourage the Department of Defense to make possible every one of those individuals could stay in, assuming he or she so desired, and that the wounds that they sustained would not severely limit their ability to perform valued services. I hope that you will continue to foster that program.

General CONWAY. Absolutely, sir. That has been the Commandant's directive, and it's a wonderful program. I intend to continue it, certainly, if confirmed.

Chairman WARNER. The committee has been concerned that the other programs and coordinated efforts of the Services, including the "Marine For Life" Program, anticipate problems and seek out the severely wounded soldiers, sailors, and airmen that need assistance, the funding levels and so forth. Will you examine that to make sure that that is adequate?

General CONWAY. Yes, sir. We have, at present, grant blocks of money available to those who have been wounded, based upon the nature of their wounds. We have some tremendous private organizations who work hard—not least, the Semper Fi Fund—to be a help to the families. But there also, I think, is a national responsibility to continue to ensure that our wounded are provided for.

Chairman WARNER. Mrs. Conway, will you commit to the committee that if he doesn't measure up, you will step forward, is that correct? [Laughter.]

Mrs. CONWAY. I absolutely will, sir.

Chairman WARNER. Thank you very much. Let the record reflect that clear and concise response. [Laughter.]

General CONWAY. She means that.

Chairman WARNER. On the QDR, according to the QDR 2006, the Department is focusing on bringing the needed capabilities to the Joint Force more rapidly by fashioning a more effective acquisition system and associated set of processes. One of the QDR recommendations is to integrate the combatant commanders more fully into the acquisition process. Now, that acquisition, at the moment, is shared by the military departments, and the Department of Defense, and we're looking at how the combatant commanders can have a stronger voice. Do you have any views on that?

General CONWAY. Sir, we have recently had a senior executive conference within the Department, that the Secretary chaired, to talk somewhat about that issue as it relates to the requirements of the combatant commanders on the global war on terrorism. We are looking at adjustments to our contemporary programs as to how their requirements can be better understood and met by the title 10 responsibilities of the military departments. So, I would say yes, sir, I think that is ongoing. Of course, the Service Secretaries and Service Chiefs still bear the responsibility for the "organize, train, and equip" functioning as directed by title 10, but those that we provide forces for, we have to understand clearly what their needs are and be able to provide.

Chairman WARNER. The Riverine Force. I happen to have very high regard for those capabilities. When I was Secretary of the Navy, I visited Vietnam on occasion, and went down and saw those operations. I commended the Department of the Navy for bringing back the concept, and recently working it into their force structure. The 2005 QDR included the Navy's decision to field new capability in support of Riverine operations, and, in January 2006, the Naval Expeditionary Combat Command (NECC) was established to stand up this capability.

What is the impact of this new Navy capability and organization on the Corps' operations and requirements?

General CONWAY. Sir, we think it's going to be extremely helpful. I salute Admiral Mullen and all that he's done with the NECC. He has set aside 40,000 or 50,000 of his Navy personnel to assist in this global war on terrorism, and they're taking on a number of additional roles that, in some cases in the past, soldiers and marines have had to accomplish, that now frees them to go do something else. An important part of that is the Riverine capability. If you listen to the intelligence analysts and hear what they have to say, in terms of where the trouble spots in the globe will continue to be, there are a lot of rivers, a lot of deltas. We think that Riverine Forces, properly manned and equipped, can, and will, be very effective in employment.

Chairman WARNER. I point out—and I regret I don't have that statistic at my fingertips—the population of the world that live within 200 miles of either a major waterway or an ocean. Isn't that correct? It's a very high percentage.

General CONWAY. Yes, sir, it's huge.

Chairman WARNER. Can you represent to this committee that, if confirmed as Commandant, if there are any issues of roles and missions of the Corps and the Navy on this—the new Riverine Force,

that is—that you'll come before the committee, and hopefully we can work out the problem?

General CONWAY. Yes, sir.

Chairman WARNER. I'd much prefer to do it that way, rather than let it fester down in the sinews of the organization.

General CONWAY. I understand, sir.

Chairman WARNER. Could you describe the command structure that you would envision for integrating overlapping areas of responsibility between the Navy and the Marine Corps in the execution of a Riverine operation?

General CONWAY. Sir, it would vary, of course, with each situation on the ground. If I were told that I had a Navy Riverine Force coming to join me for operations, if they had a parent command in the area, then I would see if the relationship needed to be tactical command of those that were assigned to me, with operational command remaining with that parent headquarters, so they could provide them with the sustenance and the things that they would need that are organic to the Force. We have had that relationship work superbly in many other areas where you have this crossover or overlap. It is now analogous to what we call "supporting/supported." I would be the supported commander, and the supporting commander—i.e., the Riverine Force commander, would be providing assets to me to accomplish the mission.

Chairman WARNER. All right. In your answers to the advance questions, you state your interest in the long-term health effects of combat operations and tempo, and in the sufficiency of medical care provided. Operational stress has intensified in the war on terror, and is manifest in mental health problems among military members and their families. While resilience continues to be the hallmark of our military members—in other words, they bring themselves back to reality, and salute again and march off—some may need help, and more help than we envision at this time. What is your assessment of the adequacy of mental health screening and assistance programs for our marines today?

General CONWAY. Mr. Chairman, it's a disturbing trend to see the number of folks who are increasingly either discharged or treated for mental issues. Trend lines, again, are slightly up, compared to what they have been in previous years. I think it's an area that we have to be prepared to take a look at. I think that diagnosis is key. We are sustaining both what's traditionally called Post Traumatic Stress Disorder (PTSD) in people who have seen a great deal at a very young age. We also are sustaining, actually, physical brain injuries through a lot of the concussions and the effects of the IEDs. We're just now learning what the relationship to those two types of injuries are. We need to pay close attention to it. We need, I think, to push the medical field to become more expert at the treatment and the resolution of those problems that our young people face.

I really think that it's important, at the command level and at every subordinate level, that people understand that we will treat the mind just as certainly as we treat a body wound to get our marines and sailors back into shape. It is no embarrassment. There should be no stigma associated with the fact that you're having

problems from something you have done or experienced or seen in a combat zone.

Chairman WARNER. That's very encouraging, General, because it's a part of our medical science that has somehow not received, in years past, the needed support. I find within our military today, a recognition that this is just as serious as that open wound that someone, fortunately, can survive from with modern medical technology. So, that is encouraging.

The Corps is moving to a new operational concept called "distributed operations." The concept involves changing the way infantry battalions operate, providing specialized training for many of the marines in those battalions, and increased amounts of equipment. How will this new concept affect the Marine Corps warfighting capability? How will the support requirements for new equipment affect the Marine Corps budget? The other question I would have is that, as the Army goes to a changed configuration away from the division and the regiment concept of years past, and when the Corps, as we are doing today, is interoperable with Army units, how will the modifications in the Army affect your ability, with today's Corps, to work?

General CONWAY. I understand, sir. A number of questions there, sir. Let me see if I can take them on.

First of all, we see distributed operations as a logical extension of maneuver warfare. What we saw in Operation Iraqi Freedom is that the accuracy of our fire support systems is such that there's tremendous combat power held in the hands of a very few people. That was the case both in Iraq, as well as in Afghanistan. It is our thinking that we can certainly cover a huge amount of terrain, with conditions and the situation on the ground permitting, with smaller units, in distributed fashion, having access to this kind of firepower. So, it is a tool in the kitbag of the commander. There will be times, I suspect, where the situation won't suit that, but, nevertheless, a battalion, or any size Marine unit really, that has more equipment, better communications, or more capability vested in the training of our smaller units, means a better Marine Corps.

Will it be expensive? Yes, sir. There was a price tag associated with that, but we think, in the end, again, the value of what it provides to us, potentially with deploying even a smaller force to accomplish the same objectives, makes it appealing.

In terms of how we would conduct that function with the Army, I don't see a conflict. We see that the Army is moving more to brigade-size formations, as opposed to, say, the 3rd Infantry Division (ID) that we fought alongside of in Operation Iraqi Freedom. We think that's not problematic. If anything, these individual brigades have as much, or more, combat power than what we saw in the brigades of the old 3rd ID.

That our units would be able to operate alongside them, or even integrated with them, in terms of bringing aboard that additional firepower, meshing the communications, those are things now that we have taken note of since OIF. Our communications capability needs to be much better netted than it was as late as 2003. Those problems are being addressed actively by Joint Forces Command, by the Joint Staff, and we think that, when that's all settled, that

we will still be able to mesh very nicely with Army brigades and Marine battalions operating in a distributed manner.

Chairman WARNER. Compare the MEF, which has been a concept of the Marines now for well over a decade or more—I can't recall the origin of that—with the Army brigade today, from the standpoint of the components, the structure, and the command-and-control.

General CONWAY. Sir, it's probably more appropriate to compare the MEF—and its origins were the Marine Amphibious Force (MAF), going all the way back to Vietnam days—with an Army corps. Probably the biggest difference rests in two or three areas. First of all, we bring our own logistics with us. A MEF has 60 days of inherent or organic sustainability that it can employ before we ever have to tie into theater-level resources. So, it is truly an expeditionary capability, a package, if you will, that can go virtually anywhere and immediately get into action. The Army buildup and the logistics and all that type of thing are operated quite differently at the corps level. That, I think, is one distinction.

Chairman WARNER. But a corps is several divisions linked together. In terms of total numbers, that would be much larger, I presume, than a MEF.

General CONWAY. Sir, an Army division is about 20,000. A corps is somewhere between two and, let's say, five divisions.

Chairman WARNER. Right.

General CONWAY. I think it has the command-and-control capacity to command that large a force. We had 90,000 in our MEF when we crossed the line of departure.

Chairman WARNER. Did you really?

General CONWAY. We have the command-and-control to manage it, as well.

Chairman WARNER. Although the structures are different, we can operate together in the same battlespaces and make it work.

General CONWAY. Yes, sir, we did.

Two other things I would highlight, sir, to maybe finish the answer to your question. One, the organic air that the MEF commander owns is absolutely amazing. It is such a capability, especially given the open desert terrain, where we fought Operation Iraqi Freedom, but I would say virtually in any campaign where you intend to use air. On any given day, I had accessible to me 300 sorties of fixed-wing and Cobra air that I could put against any target. That is an amazing capability when you're fighting the deep fight, trying to soften things up for your division.

The other difference I think that is compelling in this global-war concept on terrorism is the number of infantry that is brought about by a Marine division versus what exists now in an Army division. We have almost as many boots on the ground, if you will, in a Marine regiment as you find in an Army division. I'm not making a negative comparison here. I'm just saying, where you have to be able to dismount troops and go accomplish something in a village or even in an entire province, what the Marine Corps can bring to bear with regard to those individual troops going about their business is, I think, significant and, in some ways, remarkable.

Chairman WARNER. Senator Levin, you had a question.

Senator LEVIN. Just one additional question. There has been a recent series of articles criticizing strategy and tactics of our forces in Iraq as sometimes being too heavy-handed and alienating the civilian population, and perhaps fueling the insurgency, as a result. You had some real experience. I know you have done a lot of thinking about that subject, and I wonder whether you would share both with us.

General CONWAY. Sir, I think you have to be extremely aware of a culture when you are going to operate in any foreign country, and whether it's phase 0 all the way through phase 3 combat operations. The thing that I think that we need to be extremely conscious of is an individuals' pride. If you look at an Iraqi, let's say, a farmer who lives in a mud hut, and he has six children and a wife, he may look as though he is as poor as any man on the face of the Earth, but I'll guarantee you, that man has a source of pride in his country, in what Iraq has meant to world history, and we need to be very understanding of that, and we need to avoid stepping on it. Even though the early security forces may have been very low quality by our standards, we can't appear to, in any way, be talking down to them if we expect them to step up and do the job.

I think we have to be very careful with regard to unintended consequences when we have the accidents that we had, where large numbers of Iraqis were killed in and around Fallujah, and families approaching entry control point checkpoints, those types of things. Any population would have a long memory for those kinds of things, and, although it may have been done by a previous unit, you're going to bear the effects of it. So, I just think that we have to very much train our troops and understand the culture we're about to deal with, speak the language as much as we possibly can so we can gather the subtleties, and then not trample on their pride, or their sense of civic awareness, as we engage.

Senator LEVIN. Thank you, General.

Chairman WARNER. Thank you, Senator Levin.

The Detainee Treatment Act of 2006 was a product of the work of this committee—most notably, Senator McCain, Senator Levin, and the Senator from South Carolina, Lindsey Graham, and myself. I think the four of us were very active in this. That established the Army Field Manual 34–52, as the standard for interrogation techniques, and also prohibits cruel and inhuman, degrading treatment of prisoners. It's a landmark piece of legislation. We're still awaiting—and that's not the question to you—the promulgation of the most recent Army Field Manual. I think it's somewhat perplexing that it's taken so long, but, anyway, that's not the question I put to you, because that's not in your lane. But how do you, as Commandant, intend to implement and ensure compliance with the provisions of the law and the new Army Field Manual once it's promulgated?

General CONWAY. Sir, we have, in our experiences in Iraq, been very conscious of how we treat detainees. It gets back to Senator Levin's question, in terms of how you deal with the population. If you are going to have detainees—and I suppose that is a consequence of attempting to root out an insurgency—I think that you have to go right by the numbers in terms of how you deal with

these people, because what you don't want to create is an insurgent who didn't have those intentions before.

Marines have routinely attempted to put our proper people, corrections people, mature staff noncommissioned officers (NCOs) and officers, in charge of those facilities. We conduct frequent inspections. We invite any number of people that want to come and take a look to make sure that we are meeting standards in those manner of things. There's an internal issue there, where you want to make sure that interrogators and the detainee handlers are doing their jobs simultaneously so that there's a two-man rule there, and that there are no excessive treatments in either category. Just transparency, sir, with regard to families coming in. Any visitors that want to come tend to help those things police themselves. We need to continue to do that.

Chairman WARNER. Will you commit to the committee here that as you assume your role, if confirmed, that you put in place some control measures? In other words, no matter how much training, somebody has to watch to make sure it's being implemented. Also, do not hesitate to come back to the committee if you feel that certain aspects of this are inhibiting the ability of your units to perform their missions in combat to obtain that very valuable realtime intelligence which is needed to perform our operations, and perform it with minimal harm to our own warfighters. I think this is an ongoing problem, and we don't intend to assign a lawyer to every platoon to follow through what they're doing and read the Miranda rights to the enemy and all of those sort of things on the battlefield. This is a new chapter, but a necessary chapter—I don't mean to, in any way, belittle it—a new chapter in military life, in military responsibility and operations. It's certainly far different than anything that I ever witnessed in my somewhat modest and limited observation of those engaged in combat operations, but that's going to be your task.

General CONWAY. Yes, sir.

Chairman WARNER. That's what this country stands for. The image of the country in the eyes of the world is something that every marine wants to take pride in, because he and his forebears have contributed to credibility and the effectiveness of this Nation as a leader in the world in so many ways.

So, we have your assurance on that.

General CONWAY. Mr. Chairman, you do. You are correct in your earlier statement that as J–3 operations, detainee resolution has not been one of my responsibilities, but it certainly, if confirmed, will become that. I certainly will need to examine it more closely and determine if it's something that we can live with. If not, I would be more than willing—in fact, I would see it necessary to come back before this committee.

Chairman WARNER. Always remember Harry Truman, that little sign on this desk, "The buck stops here."

General CONWAY. Yes, sir.

Chairman WARNER. You ought to get one of those and put it on your desk. He was a great soldier and, I think, a great President.

General CONWAY. I agree, sir.

Chairman WARNER. You are a Joint Speciality Officer (JSO). You exemplify that. DOD and the Joint Staff have developed the Strate-

gic Plan for Joint Officer Management and brought forward legislative changes to the current system by which an officer qualifies to become a JSO. This legislation would bring more flexibility to the process of awarding credit for joint tours of duty of varying lengths and giving greater discretion to the Chairman of the Joint Chiefs to identify, fully, joint-qualified officers. What is the assessment that you have of the need for change in this area? Do you think that individual officers who have served well in joint capacities are getting the credit and recognition under the present system that they should receive?

General CONWAY. Sir, once again, I will be very honest and say I have not looked at this in detail. I can give you my impressions, having been in joint billets now a number of times, and currently in a joint billet, and even having heard the chairman and his immediate staff talk about it. I do think that it would be helpful were we to have some greater level of flexibility offered to the Chairman of the Joint Chiefs to award, if you will, recognition for joint service. There are some billets for which that just seem to make sense, and we scratch our heads as to why that person, with his day-to-day contact, would not be awarded a joint job.

I do think that it's a marvelous concept to try to enforce the fact that jointness occur. Jointness, sir, is a way of doing business today. There are still some mechanics that have to be solved, but every officer that's been around the other Services knows that there's synergy in that. That's the way that we have to be able to fight and work on a daily basis.

I do think that there's legislation in place to ensure that the importance of joint duty is recognized. Every time I see a promotion list, it has associated with it the numbers of joint officers and their selection rate, in comparison to the service headquarters selection rate. What I have seen over time now, and I experienced this as a colonel's monitor years ago, is that you send your best and brightest to joint duty to make sure that you don't get your knuckles rapped if your percentages should come back less than expected.

Chairman WARNER. That's a very good response, and if I may say, with a degree of immodesty, I think we've had a very good hearing. I hope you share that, my distinguished colleague.

Senator LEVIN. I do, indeed.

Chairman WARNER. We have explored, indepth, a wide range of issues, and I compliment you on your responses. As Senator Levin said, we'll get the facts, and nothing but the facts, and the truthful facts. That, you have provided, and given us also your views and opinions.

So, we wish you and your family well.

This record will remain open until close of business today, should other members, who, for various reasons, are unable to attend the hearing wish to put questions to you.

General CONWAY. Yes, sir.

Chairman WARNER. As soon as our two chiefs of staff indicate that the record has been completed, Senator Levin and I hopefully will bring this nomination to the full committee for a vote early next week, and then, subsequently, to the floor for what I believe

will be a well-recognized and well-earned confirmation by the United States Senate.

Anything that you have to close on now?

Senator LEVIN. Thank you. Thank you, General and family.

General CONWAY. Thank you, Mr. Chairman. Thank you, Senator Levin, for the opportunity.

Chairman WARNER. Thank you to all in attendance. This hearing is adjourned.

[Whereupon, at 11:41 a.m., the committee adjourned.]

[Prepared questions submitted to Lt. Gen. James T. Conway, USMC, by Chairman Warner prior to the hearing with answers supplied follow:]

QUESTIONS AND RESPONSES

DEFENSE REFORMS

Question. The Goldwater-Nichols Department of Defense Reorganization Act of 1986 and the Special Operations reforms have strengthened the warfighting readiness of our Armed Forces. They have enhanced civilian control and the chain of command by clearly delineating the combatant commanders' responsibilities and authorities and the role of the Chairman of the Joint Chiefs of Staff. These reforms have also vastly improved cooperation between the Services and the combatant commanders, among other things, in joint training and education and in the execution of military operations.

Do you see the need for modifications of any Goldwater-Nichols Act provisions?

Answer. Not as the act specifically applies to the Military Departments; however, in the broader interagency context there are changes that could improve U.S. response to world events.

Question. If so, what areas do you believe might be appropriate to address in these modifications?

Answer. The complexities of the global war on terror have demonstrated the need for broader participation and closer coordination by other Federal departments in order to effectively harness all elements of national power. Specifically, we need to continue to make progress in achieving greater efficiencies and effectiveness through the streamlining of interagency coordination, reducing duplication of effort across the Departments and accelerating the decisionmaking cycle.

DUTIES

Question. What is your understanding of the duties and functions of the Commandant of the Marine Corps?

Answer. The duties of the Commandant of the Marine Corps are primarily spelled out in title 10, section 5043, which I won't repeat. Fundamentally, the duties and responsibilities are to prepare the Marine Corps to fight and win the Nation's wars. Also, they are to advise the President, the National Security Council, the Secretary of Defense, and Secretary of the Navy on military matters. The Commandant executes these responsibilities as a member of the Joint Chiefs of Staff.

One of the most important institutional responsibilities borne by the Commandant is the responsibility to lead our marines. Leadership in this context means continuously adapting the doctrine by which the Marine Corps will fight, and ensuring that this doctrine is converted into the training, tactics, and equipment to be used in executing our missions across the full spectrum of conflict and in support of humanitarian and other missions, as the President directs. The job of the Commandant is to ensure that the marines are ready. My unwritten responsibility, if confirmed, is to keep Congress, in its constitutional oversight role, informed of the truth.

Question. What background and experience, including joint duty assignments, do you possess that you believe qualifies you to perform these duties?

Answer. I have had the good fortune to serve in key service billets and joint assignments within the Department of Defense. I have commanded marines at virtually every level from platoon to Marine Expeditionary Force and in educating and training marines at every level. As a general officer, I have served as both the Deputy Director of Operations J–3 for Combating Terrorism and in my current billet as the Director for Operations, J–3. Both of these billets along with my recent responsibilities as a Division and MEF commander in combat have given me great insight into what combatant commands (COCOMs) require from the Marine Corps.

My current responsibilities have provided me a unique opportunity to understand the challenges facing all the Service Chiefs today as they strive to meet their title 10 responsibilities in support of the combatant commanders.

Question. Do you believe that there are any steps that you need to take to enhance your ability to perform the duties of the Commandant of the Marine Corps?

Answer. No, I believe that with your continued assistance, the advice of my fellow Joint Chiefs, the continued exceptional performance of our marines and the strong support of my family, I have the abilities to perform the duties that will be expected of me, if confirmed.

MAJOR CHALLENGES AND PRIORITIES

Question. In your view, what are the major challenges that will confront the next Commandant of the Marine Corps?

Answer. The major challenges confronting the next Commandant of the Marine Corps center on organizing, training, equipping, and manning units deploying in support of combatant commanders in the long war and transforming the force for the future. I believe the following specific issues will be important for the next Commandant to address:

We are a Nation at war and our highest priority will remain our focus on the long war. At the same time we will seek to balance these priorities with our efforts to reset the force so that your marines remain most ready when the Nation is least ready.

As a former MEF Commander and Director for Operations during Operation Iraqi Freedom (OIF), I am cognizant of the wear and tear we have put on our gear. We need to be honest with ourselves and the taxpayer on what it will take to properly reestablish our readiness. We must ensure that our material requirements are validated and resourced in order to "reset" the force for both near- and long-term readiness. This will require rigorous reexamination of basic unit requirements in view of OIF, and disciplined assessments of material degradation from several years of employment under arduous climatic conditions and high-usage rates. I intend to be a very prudent steward of the resources entrusted to me, as marines have always been, and intend to manage these resources so that we maximize the capabilities that we make available to the combatant commanders.

I will be working with my naval partner, the Chief of Naval Operations, to design and build tomorrow's fleet. My expectation is that the next 2 decades will place a premium on flexible and mobile sea-based maneuver. In a world of uncertainty, we should exploit the global commons and maneuver at sea for advantage ashore.

As we go forward it is critical to continue our improvements to our training and education in the Marine Corps. We have made changes to our Professional Military Education that have improved the educational experience for our finest asset, the individual marine. The challenge for the way ahead is to adapt and stay ahead of our adversaries through continual assessment and implementation of our lessons learned from our current engagements. If confirmed, I will sustain the numerous initiatives in place to advance the training and education so that our marines are tactically cunning, culturally savvy, disciplined warriors who are led by mentally agile commanders.

You have a fantastic Marine Corps and you are rightfully proud of them. The challenge will be continuing to attract, recruit, sustain, and retain quality marines. I am especially interested in the long-term effects of our combat Deployment Tempo (DEPTEMPO) and in the sufficiency of medical care provided to our marines, particularly those recovering from injuries received in Operation Enduring Freedom (OEF) and OIF. While our attention is naturally drawn to preparing for operations far away, we must ensure we provide for the families of our marines while they are away and upon their return.

Question. Assuming you are confirmed, what plans do you have for addressing these challenges?

Answer. I have only just begun to look at these issues in preparation for the confirmation hearing. While I am most concerned with readiness, I will continue to seek counsel from Congress, visit my general officers, the combatant commanders, and work with my sergeant's major to develop plans to address these issues. If confirmed, I will set my agenda and disseminate my vision during the initial days of assuming duties as the Commandant of the Marine Corps.

Question. If confirmed, what broad priorities would you establish in terms of issues that must be addressed by the Commandant of the Marine Corps?

Answer. If confirmed as Commandant of the Marine Corps, my first priorities will be to make sure marines are well-trained, well-equipped, and well-led. The underlying foundation is our marines and their families—to them we owe the best in train-

ing, leadership, and equipment. We will continue to train and educate to sustain a lean and agile Service ready to fight the global war on terrorism and ready to adapt to change in future environments. The lynchpin to this continued readiness for our Nation is a commitment to reconstitution of our force and an acceptable pace of modernization.

ROLE OF THE MARINE CORPS IN THE GLOBAL WAR ON TERRORISM

Question. The main focus of the United States military has been on the war in Iraq and Afghanistan, and the Marine Corps has had a major role in OIF and OEF.

What do you see as the Marine Corps' role in the continuing global war on terrorism?

Answer. We will continue to be engaged in Iraq so long as it is a counter-insurgency. The Marine Corps remains committed to balancing an increase in irregular warfare capabilities with maintaining essential conventional warfighting capabilities. We believe this is necessary to identify the right mix of capabilities that support the global war on terror while maintaining our ability to respond to any contingency. We have established and are fielding the Marine Special Operations Command as an integral component of USSOCOM. Additionally, the Marine Corps is reprioritizing and improving our irregular warfare capabilities to better support SOCOM and other COCOM plans for the global war on terror. By accepting and managing risk in traditional capabilities, we will increase our SOF-like and irregular capabilities and capacities while still maintaining our ability to respond to major war plans.

Additionally, our forward-deployed posture represents a unique capability to respond to humanitarian assistance and disaster relief, assist other countries, and thwart terrorism through non-kinetic measures. It also supports theater security cooperation enabling us to build partner capacity to fight terrorism.

Question. What role do you envision for the Marine Corps in homeland security and homeland defense?

Answer. It is important to emphasize that defense of the homeland begins not on our shores, but on far shores as part of a collaborative interagency defense-in-depth. As a Total Force in readiness, this is and will continue to be the Marine Corps' primary contribution to homeland defense.

When and if directed by the President or Secretary of Defense, the Marine Corps uses its Active-Duty and Reserve Forces to rapidly respond to a threat in the homeland, whether the threat is from nature, such as a hurricane, or from terrorists. Marine Forces North is our lead component dealing with homeland defense and as such regularly participates in homeland defense exercises across the country. These marines bring the same esprit, hard work, and dedication to mission accomplishment and that our forward deployed forces bring to the fight overseas.

Question. If confirmed, do you plan any major changes to Marine Corps warfighting doctrine?

Answer. Major changes—no, I do not. There will likely be evolutionary changes associated with lessons learned in the global war on terror. Our warfighting doctrine is well-crafted and timely. New realities in the post-September 11 world have given cause to examine this doctrine and supporting documentation.

MARINE FORCES SPECIAL OPERATIONS COMMAND

Question. Marine Corps Forces, Special Operations Command (MARSOC), is a new subordinate command to the USSOCOM that was established earlier this year.

What is your assessment of the progress made in establishing MARSOC, and what do you consider to be the principal issues that must be addressed to make it fully operational?

Answer. The Goldwater-Nichols Act for jointness and Department of Defense efforts at transformation have resulted in a Marine component of MARSOC. As noted, MARSOC was created earlier this year and will achieve full operational capability in fiscal year 2008. There are several issues we need to work through such as deployment and employment relationships, the impact of a tour in MARSOC on a marine's career pattern, and how the Corps is best able to use their operational experience when they return from MARSOC to conventional Marine Corps Forces.

EFFECTS OF DEPLOYMENTS ON READINESS

Question. What is your assessment of the current state of readiness of the Marine Corps?

Answer. We have ensured that all deployed forces are at the highest readiness levels. All units are trained, manned, and equipped to accomplish their assigned

missions. Our marines in harm's way have the equipment and resources they need to fight and win.

Over 2,100 Marine leaders are filling transition teams, manning joint headquarters, and providing critical capabilities to forward deployed units. Despite this, our manpower readiness remains high and morale remains strong. Overall, the current operations tempo (OPTEMPO) has not been detrimental to readiness at this point, however this is something that we will need to continue to examine in order to determine its impact over the course of the long war.

Training levels are also high, particularly for units deploying to OIF. One of the great strengths of the Marine Corps has been the ability to rapidly garner lessons learned overseas and insert changes into our training plans and exercises. This flexibility has allowed us to stay at a high level of readiness for training. One area that does bear a close watch is the lack of training opportunities for our non-deploying units due to shortages in manpower and equipment. Overall, our current equipment readiness is good among the units deployed to Iraq; a testament to the young men and women who are taking care of their gear in severe conditions. However, I am concerned about long-term readiness. The long war's harsh environmental conditions, higher than normal utilization rates, increased wear, and attrition will require the accelerated repair and replacement of ground and aviation equipment. In addition, depot maintenance repair requirements for our equipment will continue past the end of hostilities.

For our non-deployed forces, replacing combat losses, fielding transition team requirements, and lower supply/maintenance priorities degrade their readiness.

If confirmed, my priorities will be to reset the force and to support modernization.

Question. In your judgment, are combat operations in Iraq and Afghanistan adversely affecting the readiness or retention of marines on Active-Duty and in the Reserve component?

Answer. In terms of retention, absolutely not. As evidenced with our most recent statistics on recruiting and retention, this country's young people continue to demonstrate a willingness to join the Marine Corps and serve in the Nation's defense. During past fiscal years, the Marine Corps has attained its accession goals and anticipates continuing this achievement for the foreseeable future. That said, if the current DEPTEMPO remains high, we could see long-term consequences. If confirmed, I will examine the long-term effect that combat DEPTEMPO has on a career.

Question. If confirmed, what will be your priorities for maintaining readiness in the near-term, while modernizing the Corps to ensure readiness in the out-years?

Answer. Current readiness, particularly for our deployed forces has, by law, always been the focus of the Marine Corps. Our long-term readiness however is dependent upon resetting and modernizing the force; I will seek additional funding to defray the cost of the war expenses that threaten to eat away at Marine Corps readiness and modernization planning for the future.

RECRUITING AND RETENTION

Question. What do you consider to be the key to the Marine Corps' success in recruiting the highest caliber American youth for service and retaining the best personnel for leadership responsibilities?

Answer. There will always be great American youth who want to accept the challenge to be a United States marine. In order to operate and succeed in potentially volatile times, marines must be physically fit, morally strong, intelligent, and comfortable with high technology. Recruiting quality youth ultimately translates into high performance, reduced attrition, increased retention, and improved readiness for the operating forces.

Recruiting is the lifeblood of our Corps, and it is the foundation for the Marine Corps to "Make Marines, Win Battles, and Create Quality Citizens." As such, the Corps recognizes the importance of assigning the best marines to fulfill this vital role in maintaining its operating forces. Therefore, the Marine Corps sends Headquarters Recruiter Screening Teams throughout the force to ensure the most qualified marines are selected for recruiting duty. The Marine Corps conducts an annual selection board to select Majors to command Recruiting Stations to ensure our best officers are assigned to recruiting duty.

The Marine Corps Recruiting Command (MCRC) serves as the conduit that provides the Corps with a steady flow of quality enlisted and officer accessions. During fiscal year 2005, the MCRC succeeded in achieving its accession mission, ensuring the Marine Corps met its appropriate end strength. Unique in this process is the command relationship between the recruitment and initial training of these young men and women. The commanding general of each recruiting region is also respon-

sible for the initial recruit training or "boot camp." Therefore, each commanding general is responsible for the recruitment and initial training has direct influence on the quality of young men and women arriving at boot camp. Additionally, each recruiter is evaluated on his applicant's success at boot camp. Quality of individuals is stressed at all levels throughout the process of transforming marines. This results in young marines who are committed to fulfilling a promise to their Nation—that they be ready to fight and win when she calls.

Question. What steps do you feel should be taken to ensure that current operational requirements and tempo do not adversely impact the overall readiness, recruiting and retention, and morale of the Marine Corps?

Answer. As stated earlier, I am also concerned with the possibility of long-term effects of combat DEPTEMPO on career progression. Optimally, we would like to achieve a sustainable deployment ratio, employ our Reserves as envisioned, and better manage the personnel tempo of those marines in high demand-low density MOSs. General Hagee has stated the USMC will require about 180,000 marines. If confirmed, I will address this challenge. To ensure the Nation retains a viable, capable Marine Corps and avoid hollowing our force, endstrength changes require a considerable, concomitant investment—in manpower accounts, for infrastructure, and equipping the force.

QUALITY OF LIFE

Question. What do you consider to be the most essential elements supporting the quality of military life for marines and their families, and if confirmed, what would be your goals in this regard?

Answer. Quality of life means ensuring marines are well-trained, well-equipped, and well-led, so when we ask them to fight, they can win—and return home to their families. If I am confirmed, this will be my number one priority.

Individually, marines define quality of life as sufficient financial compensation, a reasonable OPTEMPO, health care, housing, infrastructure/installation management, and community services. This means that while our marines are deployed, we will take care of their families as if they are our own. When our marines return to their home stations, we will do our best to ensure that their needs are met, and the wide range of community services that we provide are well-tailored to support the requirements of the marines and their families.

Question. Have you recently visited the regimental level enclaves at Camp Pendleton?

Answer. Not since I was the commanding general of 1st Marine Division in 2002.

Question. Does the single unaccompanied Marine Corps housing there meet your standards for an appropriate quality of life?

Answer. Absolutely not. Our marines expect better; they deserve better. Historically, in providing for our marine families, we were forced into a situation that we could not concurrently provide for our single marines. As division commander, I visited all of those regimental camps and I found that single, unaccompanied Marine Corps housing at Camp Pendleton did not meet my standards for an appropriate quality of life. The Marine Corps is currently committed to resolve all remaining bachelor housing deficiencies by fiscal year 2012, under a program initiated by the Commandant. If confirmed, I intend to carry out General Hagee's commitment.

RECAPITALIZATION

Question. The Marine Corps intends to concurrently recapitalize several of its front line systems. The MV–22 Osprey tiltrotor aircraft, the Expeditionary Fighting Vehicle, and the Joint Strike Fighter are all scheduled to be in production at the same time.

Do you believe that these production plans are realistic in light of the demands on resources imposed by maintaining current readiness?

Answer. We have no other choice. The dual requirements of modernizing the force for the long war while sustaining combat operations in support of the global war on terror does strain the limited resources available to the Marine Corps. We could not accomplish both these tasks without the responsive effort of Congress. The Corps has been very careful to ensure that we have clearly identified our requirements and that we field only those capabilities necessary for our Nation's defense. Through the efforts of marines, industry, and Congress, we have an achievable long-term plan to provide better trained and equipped marines for the long war.

ARMY AND MARINE CORPS CAPABILITIES

Question. What are your views regarding the joint development and acquisition of Army and Marine Corps equipment?

Answer. I fully support the joint development and acquisition of Army and Marine Corps equipment. Our two Services share a great deal in common with regard to tactics, and the operational environment. Further, insofar as the global war on terrorism is concerned, we fight the same enemy side-by-side, on the same ground. We often find that we share common requirements. When that occurs, joint development and acquisition are clearly warranted; it reduces costs and ensures compatibility. I would add a cautionary note, however: under some circumstances there are differences in roles and missions that drive differences in requirements. These provide the Nation with the broad spectrum of capabilities it requires.

Question. Do you believe the Joint Staff should have a role in synchronizing Army and Marine Corps requirements and service programs?

Answer. Both Joint Forces Command and the Joint Staff are in a position to assist the Army and Marine Corps in identifying opportunities to exploit commonality in our requirements, and to facilitate cooperative development of systems. Joint Staff oversight of requirements definition maximizes the interoperability that is critical to battlefield success, and ensures requirements for those Service unique capabilities are met.

Question. What programs would you consider to be candidates for joint program development for the Army and Marine Corps?

Answer. Where the Army and Marine Corps find commonality in missions, tactics, and operational environments, there will be opportunities for joint program development. The global war on terrorism provides many examples. Army and Marine Corps forces in Iraq and Afghanistan face the same threat, under the same conditions, and are accomplishing the same mission. Accordingly, the two Services require similar mobility capabilities. As we seek a replacement for the aging fleet of High Mobility, Multi-purpose Wheeled Vehicles, the Army and Marine Corps should pursue a common replacement, such as the Joint Light Tactical Vehicle. Similarly, because the Army and Marine Corps have the same requirements in force protection, comprehensive vehicle survivability measures are sound candidates for joint development. Other areas include command and control systems, some infantry weapons, and artillery systems. Our goal is to continue to achieve the same resounding success the Army and Marine Corps realized with the joint development of the 155mm howitzer.

SEA BASING

Question. The Sea Base has long been envisioned as an element of the Department of the Navy's Sea Power 21 concept and has emerged in this future years defense program as one of the centerpieces of the future force.

If confirmed, how will you ensure that the Sea Base concept of operations is fully integrated with the Marine Corps operational requirements?

Answer. The Marine Corps uses a concept based requirements system, in which our baseline requirements are derived from a family of warfighting concepts. We have adopted the Joint Seabasing Concept as one of our own, and it appears within our most recently published volume of Service concepts. At our Marine Corps Combat Development Command, we have established a Seabasing Integration Division that is organized and manned specifically for the purpose of ensuring that the actions we take to implement the tenets of the Joint Seabasing Concept are fully integrated with our other requirements. We vet each requirement for its applicability to seabasing to ensure that our equipment and our organizational structure are designed to facilitate seabased operations.

Question. What are the Marine Corps' greatest challenges in projecting power from the Sea Base in support of operations ashore?

Answer. Our single greatest challenge is the availability of sufficient amphibious and maritime prepositioning ships to enable the strategic deployment and operational employment of a credible and sustainable seabased force. We work closely with our Navy counterparts to address the design and resourcing of these ships, which provide our Nation with proven capabilities in forward presence and forcible entry.

JOINT FORCES COMMAND

Question. In your view, what is the appropriate role for the U.S. Joint Forces Command (USJFCOM) with respect to Marine Corps experimentation, acquisition, and exercise planning and execution?

Answer. The greatest impact that the USJFCOM can have is through its influence on joint standards and harmonization. With respect to acquisition programs, while we do not want to sacrifice what are truly unique contributions to national security in the name of jointness, it is important that we rigorously consider alternatives.

USJFCOM can serve as a catalyst for this consideration through its experimentation efforts. It is appropriate for USJFCOM to work in partnership with the regional combatant commanders to coordinate and synchronize of worldwide joint exercises, provide joint training models and scenarios, and establish joint training tasks, conditions, and standards.

NAVAL SURFACE FIRE SUPPORT

Question. The DD(X) program was initiated to fill the capability gap for naval surface fire support. The original requirement for 24 to 32 DD(X) ships, each with two 155mm Advanced Gun Systems, was reduced to 12 ships, and then to 10 ships in prior years and has been further reduced to 7 ships in the proposed fiscal year 2007 budget.

In your view, does this significant reduction in the number of DD(X) destroyers meet the Marine Corps' requirement for Naval Surface Fire Support?

Answer. Our operational lessons learned from Iraq and Afghanistan emphasizes the value of volume and precision fires. We have 230 years of naval interest in this area and know that the transformational technology the Navy is developing will make NSFS relevant and vital to our concepts for conducting Expeditionary Maneuver Warfare in the future.

Given the current fiscal environment, there is additional risk due to the reduction in planned DD(X)s procurement; this results in some unaddressed targets and increased time to accomplish the mission during a forcible entry scenario.

JOINT ACQUISITION PROGRAMS

Question. What are your views regarding joint acquisition programs, such as the Joint Tactical Radio System (JTRS) and the Joint Strike Fighter (JSF)?

Answer. The Marine Corps fully supports more joint development where common capability gaps exist. The end result of a joint program office is to achieve commonality and affordability. Services participating in joint programs leverage off each others strengths to ensure that the program delivers an affordable solution to a joint requirement.

The JSF program is an excellent example of a joint program fulfilling the joint common solution. With the USAF and the USN, the JSF program is based on delivering three variants of aircraft that will still allow each Service to fill its particular mission set, but strives to maintain affordability of the program with commonality. The JSF Program Office maintains personnel from all Services and also includes an additional eight countries who are interested in procuring the JSF, allowing each Service to work on common solutions yet still meet their specific mission requirements for the aircraft.

Another example of a successful joint program office is the V–22. Additionally, the Marine Corps is partnering with the Air Force on the C–130J.

JTRS may be a classic example of a single program that is challenged by both technology and the attempt to provide all of the capabilities desired by all Services. In this case, both requirements and technology need to be properly synchronized.

Question. Do you see utility in encouraging the Services to conduct more joint development, especially in the area of helicopters and unmanned systems?

Answer. Yes, there is utility and cost savings inherent in the joint development. In the area of unmanned aircraft system development opportunity exists to jointly develop common capability sets. Service specific requirements most often require unique attributes of the air vehicle: speed, range, stealth characteristics, payload capacity, launch and recovery method, etc. but command and control methods and payload capabilities are often "commodity capabilities" that lend to joint development.

For helicopters, there is utility in collaboration on aircraft subsystems, aircrew safety/survivability, aircraft safety/survivability, avionics for situational awareness and communication devices. We must continue this process for the long-term and explore a joint follow-on aircraft development. However, the unique nature of shipboard operations is a prevailing characteristic that marines must address and operationalize in our procurement processes.

Question. If so, what enforcement mechanisms would you recommend to implement more joint program acquisition?

Answer. I have not had an opportunity to study the specifics of joint program acquisition in enough detail to provide an acceptable answer to the committee.

SERVICE IN IRAQ

Question. During your prior combat tours of duty in Iraq, were there any incidents within your command of detainee abuse or allegations of abuse of civilians like those

at Haditha and Hamandiya? If so, please explain the circumstances and the describe the actions that you took in response to these incidents?

Answer. My prior tours in Iraq presented, in some ways, a uniquely different set of circumstances. OIF Part I was the more traditional combat mission. So the interface and interaction with the civilians was fundamentally different than that found in Iraq today. However, there was the expectation then, as there is today, that marines will comply with our core values and that we protect those on the battlefield that we should protect and that we will not harm those that come under our control.

We did have some substantiated cases of detainee abuse, but there were very few of those. There were cases that included actions such as assault (the assault in one case was severe enough that the detainee subsequently died), destruction of property, and mistreatment of detainees. The marines involved were held accountable at a variety of different disciplinary forums—some were court-martialed and others received non-judicial punishment. In sum, if a marine went beyond the bounds of acceptable behavior they were held accountable.

CONGRESSIONAL OVERSIGHT

Question. In order to exercise its legislative and oversight responsibilities, it is important that this committee and other appropriate committees of Congress are able to receive testimony, briefings, and other communications of information.

Do you agree, if confirmed for this high position, to appear before this committee and other appropriate committees of Congress?

Answer. Yes, sir.

Question. Do you agree, when asked, to give your personal views, even if those views differ from the administration in power?

Answer. Yes, sir.

Question. Do you agree, if confirmed, to appear before this committee, or designated members of this committee, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as Commandant of the Marine Corps?

Answer. Yes, sir.

Question. Do you agree to ensure that testimony, briefings, and other communications of information are provided to this committee and its staff and other appropriate committees?

Answer. Yes, sir.

[Question for the record with answer supplied follows:]

QUESTION SUBMITTED BY SENATOR JOHN THUNE

CHANGES TO THE MARINE CORPS

1. Senator THUNE. General Conway, as Commandant of the Marine Corps, you would obviously have enormous responsibility in attending to the organization and readiness of the Marine Corps and for advising the President. Given your reputation as an officer who is consistently objective, honest, and dedicated to the success of the mission, in conjunction with your extensive combat experience, what are some changes, if any, that you would propose the Marine Corps make?

General CONWAY. There are many issues that I am studying as I prepare to assume the duties and responsibilities of Commandant of the Marine Corps. My goal will be to provide our Nation that which she has come to expect for the past 230 years: marines, trained, educated, equipped; ready and determined to prevail over whatever challenges lay ahead all the while being prudent stewards of the country's resources.

Any changes will be designed to hone the unique air-ground-logistics capabilities inherent in all Marine air-ground task forces (MAGTFs). The ability of your marines to operate and win in complex environments depends on their ability to expertly coalesce all the combat power of an air-ground logistics force. The unique ability of marines to operate as a MAGTF provides our Nation with capabilities much greater than the sum of its parts—true in all sizes of the MAGTF from Marine Expeditionary Unit to Marine Expeditionary Force and equally true throughout the spectrum of warfare from humanitarian assistance to major combat operations. This unique ability will continue to be forged through intense training throughout our Marines' military service, from boot camp to battlefield, and at every level, from squad-level drills to MATGF staff planning.

Furthermore, with the additive advantages of the right technologies and equipment, our core competencies of warfighting excellence will continue to provide cer-

tainty in execution whenever our country calls. Of course, continued improvement in training, equipping, and organization would be negligible if the force we have today is not properly and rapidly reconstituted and reset. Providing America a credible force—fully manned and equipped—is imperative. My plans will focus on ensuring that our Nation will continue to have a Corps of Marines, trained, manned, and equipped-ready to answer her call.

I look forward to discussing these issues and solutions to these challenges with you in the future. I am confident that with your support, our Marine Corps will remain our Nation's force in readiness.

[The nomination reference of Lt. Gen. James T. Conway, USMC, follows:]

NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
June 14, 2006.

Ordered, That the following nomination be referred to the Committee on Armed Services:

The following named officer for appointment as Commandant of the Marine Corps, and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, sections 5043 and 601:

To be General

Lt. Gen. James T. Conway, USMC, 0000.

[The biographical sketch of Lt. Gen. James T. Conway, USMC, which was transmitted to the committee at the time the nomination was referred, follows:]

RÉSUMÉ OF SERVICE CAREER OF LT. GEN. JAMES T. CONWAY, USMC

Date of Rank: 2 Dec. 2002.

Date of Birth: 26 Dec. 1947.

Date Commissioned: 1 Nov. 1970.

MRD: 1 Jul. 2009.

Education/Qualifications:

Southeast Missouri State University, BS, 1969.
The Basic School, 1971.
Marine Corps Command and Staff College, 1983.
Air War College, 1989.
CAPSTONE, 1998.
Joint Flag Officer Warfighting Course, 1998.
Infantry Officer.
Joint Specialty Officer.

Language(s): None.

Commands:

Commanding General, I Marine Expeditionary Force (Lieutenant General: Nov. 2002–Sept. 2004).

Deputy Commander, U.S Marine Forces Central Command (Major General: Aug. 2002–Nov. 2002).

Commanding General, 1st Marine Division (Major General: Aug. 2000–July 2002).

President, Marine Corps University (Brigadier General: Oct. 1998–July 2000).

Commanding Officer, The Basic School (Colonel: Apr. 1993–June 1996).

Commanding Officer, 3d Battalion, 2d Marines, 2d Marine Division (Lieutenant Colonel: Jan. 1990–July 1991).

Joint Assignments:

Deputy Director, J–3 (NMCC–3; J–34), Joint Staff (Brigadier General: June 1996–Sept. 1998).

Senior Aide to Chairman of the Joint Chiefs of Staff (Lieutenant Colonel: Sept. 1985–0ct. 1987).

Service Staff Assignments:

Head, Promotions Branch; Head, Officer Assignments Branch (Lieutenant Colonel/Colonel: July 1991–Apr. 1993).

Operations Officer, G–3, 2d Marine Division (Lieutenant Colonel: May 1989–Jan. 1990).

Head, Current Operations Branch, Plans, PP&O Department (Lieutenant Colonel: Oct. 1987–June 1988).

Significant Combat Experience:

Commanding General, I Marine Expeditionary Force (Operation Iraqi Freedom I).

Commanding Officer, 3d Battalion, 2d Marines (Operations Desert Shield/Storm).

Operations Officer, 31st Marine Amphibious Unit (Beirut).

[The Committee on Armed Services requires certain senior military officers nominated by the President to positions requiring the advice and consent of the Senate to complete a form that details the biographical, financial, and other information of the nominee. The form executed by Lt. Gen. James T. Conway, USMC, in connection with his nomination follows:]

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

(202) 224–3871

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior to the hearings and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)
James T. Conway.

2. **Position to which nominated:**
Commandant of the Marine Corps.

3. **Date of nomination:**
June 9, 2006.

4. **Address:** (List current place of residence and office addresses.)
[Nominee responded and the information is contained in the committee's executive files.]

5. **Date and place of birth:**
December 26, 1947; Walnut Ridge, Arkansas.

6. **Marital Status:** (Include maiden name of wife or husband's name.)
Married to Annette Louise Drury Conway.

7. **Names and ages of children:**
Brandon, age 34; Scott, age 32; and Samantha, age 28.

8. **Government experience:** List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed in the service record extract provided to the committee by the executive branch.
None.

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

None.

10. **Memberships:** List all memberships and offices currently held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.

Sigma Phi Epsilon SE Missouri State University; President.

Inter Fraternity Council SE Missouri State University; President.

11. **Honors and Awards:** List all scholarships, fellowships, honorary society memberships, and any other special recognitions for outstanding service or achievements other than those listed on the service record extract provided to the committee by the executive branch.

Scholarship; Southeast Missouri State University.

Seminar XXI, Massachusetts Institute of Technology.

Harvard Executive Leadership Series, 1999.

Southeast Missouri State University Alumni of the Year, 2004.

12. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to appear and testify upon request before any duly constituted committee of the Senate?

Yes.

13. **Personal views:** Do you agree, when asked before any duly constituted committee of Congress, to give your personal views, even if those views differ from the administration in power?

Yes.

[The nominee responded to the questions in Parts B–E of the committee questionnaire. The text of the questionnaire is set forth in the Appendix to this volume. The nominee's answers to Parts B–E are contained in the committee's executive files.]

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

LT. GEN. JAMES T. CONWAY, USMC.

This 6th day of June, 2006.

[The nomination of Lt. Gen. James T. Conway, USMC, was reported to the Senate by Chairman Warner on August 1, 2006, with the recommendation that the nomination be confirmed. The nomination was confirmed by the Senate on August 2, 2006.]

NOMINATIONS OF GEN BANTZ J. CRADDOCK, USA, FOR REAPPOINTMENT TO BE GENERAL AND TO BE COMMANDER, U.S. EUROPEAN COMMAND; VADM JAMES G. STAVRIDIS, USN, FOR APPOINTMENT TO BE ADMIRAL AND TO BE COMMANDER, U.S. SOUTHERN COMMAND; NELSON M. FORD TO BE ASSISTANT SECRETARY OF THE ARMY FOR FINANCIAL MANAGEMENT AND COMPTROLLER; AND RONALD J. JAMES TO BE ASSISTANT SECRETARY OF THE ARMY FOR MANPOWER AND RESERVE AFFAIRS

TUESDAY, SEPTEMBER 19, 2006

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC.

The committee met, pursuant to notice, at 9:36 a.m. in room SH–216, Hart Senate Office Building, Senator John Warner (chairman) presiding.

Committee members present: Senators Warner, McCain, Inhofe, Talent, Cornyn, Levin, and Reed.

Committee staff members present: Charles S. Abell, staff director; and Leah C. Brewer, nominations and hearings clerk.

Majority staff members present: William M. Caniano, professional staff member; Regina A. Dubey, professional staff member; Gregory T. Kiley, professional staff member; Sandra E. Luff, professional staff member; Derek J. Maurer, professional staff member; Elaine A. McCusker, professional staff member; David M. Morriss, counsel; Lynn F. Rusten, professional staff member; Sean G. Stackley, professional staff member; Scott W. Stucky, general counsel; Kristine L. Svinicki, professional staff member; Diana G. Tabler, professional staff member; and Richard F. Walsh, counsel.

Minority staff members present: Richard D. DeBobes, Democratic staff director; Evelyn N. Farkas, professional staff member; Michael J. Kuiken, professional staff member; Gerald J. Leeling, minority counsel; Peter K. Levine, minority counsel; and Michael J. McCord, professional staff member.

Staff assistants present: David G. Collins and Jessica L. Kingston.

Committee members' assistants present: Russell J. Thomasson, assistant to Senator Cornyn; Bob Taylor and Stuart C. Mallory, assistants to Senator Thune; Mieke Y. Eoyang, assistant to Senator Kennedy; Frederick M. Downey, assistant to Senator Lieberman; Elizabeth King, assistant to Senator Reed; and William K. Sutey, assistant to Senator Bill Nelson.

OPENING STATEMENT OF SENATOR JOHN WARNER, CHAIRMAN

Chairman WARNER. Good morning, everyone.

We're pleased that we have four distinguished nominees before the committee this morning.

On our first panel, we have General John Craddock, United States Army, who has been nominated to be Commander, United States European Command (EUCOM), and Vice Admiral James Stavridis, U.S. Navy, who has been nominated to be Commander, United States Southern Command (SOUTHCOM).

On our second panel, we'll consider two civilian nominations: Nelson Ford, who has been nominated to be Assistant Secretary of the Army for Financial Management and Comptroller, and Ronald James, who has been nominated to be the Assistant Secretary of the Army for Manpower and Reserve Affairs.

We welcome our nominees, and we welcome their families.

I now ask General Craddock and Admiral Stavridis to introduce their guests. But, first, Senator Levin, do you have comments before we continue?

STATEMENT OF SENATOR CARL LEVIN

Senator LEVIN. Let me ask that my full statement be inserted into the record and I will simply join you in welcoming our four well-qualified nominees. We welcome their families. I join you in saying, as we always do, how indebted we are to the families of our nominees, because they, indeed, sacrifice a great deal to make it possible for the nominees to perform their duties. We appreciate their willingness, as well as our nominees' willingness, to continue in public service and to support that service.

Chairman WARNER. I very much associate myself with that. I usually wait until after they're introduced, and then I'm able to speak to them, but we'll go right ahead.

General, won't you introduce your family?

General CRADDOCK. Thank you, Mr. Chairman. I would first like to introduce my wife, Linda, who is the best soldier in the Craddock family, by far. She and I have soldiered on several great adventures over the last 35 years in support of the Army and in support of our Nation's Armed Forces. She takes care of soldiers and families, and now, in the joint world, our servicemembers and their families, and does it magnificently. So, I'm glad she's here with us today.

Also, I'd like to introduce a dear friend and neighbor from Coral Gables, Ana Navarro. We have established a wonderful friendship since my assignment down to U.S. SOUTHCOM in the Miami area, and I'm certainly glad—and Linda's glad—that she's here with us today.

I have two members, here on the front row, from the SOUTHCOM legislative affairs staff that probably are no stranger to most folks here, Kim Lowry and Paula Penson. I think they have done a magnificent job preparing us for today's event.

So, I thank you, Mr. Chairman.

Chairman WARNER. Thank you very much.

Admiral Stavridis?

Admiral STAVRIDIS. Thank you very much, Senator Warner.

I have my own small delegation here today. Senior member, my mom, Shirley Stavridis. She was the wife of my dad, a retired Marine colonel, who's passed away, but I hope is with us in spirit today. Also, my wife, Laura, who's been with me throughout my entire Navy career, and been the keeper of the home fires on the 12 operational deployments I've made in 30 years in the Navy. I'm very proud of her, and I'm proud she could be here with us today. Also, my two daughters, Christina, who's a senior at the University of Virginia, where they call them "fourth-years." She's going to graduate, and hopes to come up and work here in Washington somewhere when she finishes in school. So, we're all trying to talk her out of that, but she'll probably end up coming anyway. My other daughter, Julia, who's 15, and she's a sophomore at Bishop O'Connell High School, in Arlington, Virginia. We have two good friends here, Greg and Diane Lengyel. Greg's an Air Force colonel and is doing a fellowship over at Brookings, and thought he might come over here and see what a Senate hearing looks like. Lastly, Lieutenant Colonel Skip Sherrell, from the Joint Staff, who has been very helpful this week in enabling me to come and pay some calls on all the distinguished Senators.

Thank you very much, sir.

Chairman WARNER. Thank you, Admiral.

I welcome all the families. As my colleague Senator Levin said, we recognize that we don't get to these seats, with these ranks, unless there's been a strong and full partnership with the family members throughout those long careers. Both of these gentlemen have been recognized by the President of the United States for their extraordinary professional capabilities. In these two men, subject to the confirmation by the Senate, the President and the Nation reposes a very heavy responsibility, not only as it relates to the men and women in uniform under their command, and the many civilians that are also associated, but entrusted them to keep the freedom that we enjoy here at home, and the credibility of the United States in the eyes of the world beyond our shores.

I particularly enjoyed visiting with your mother. I reminisced about how cold it was in Korea, and she corroborated. Your father, her husband, had the same problem I had when we got back home. Thank you for that. That's very reassuring.

General Craddock, you currently serve as Commander of the U.S. SOUTHCOM, a position you have held since November 2004. You are an armor officer, by specialty; quite the distinguished career, with various operational assignments and units in the 3rd Armored Division, the 24th Infantry Division, was battalion commander during Operation Desert Storm, awarded the Silver Star, and the "Big Red One," the 1st Infantry Division, which you commanded from 2000 to 2002. You served previously on the Joint Staff as the As-

sistant Deputy Director of Strategy and Policy and as Senior Military Assistant to the Secretary of Defense. That's a very distinguished career.

Admiral, you currently serve as the Senior Military Assistant to the Secretary of Defense. You, too, have had an exceptional and distinguished military career: commanding officer of the U.S.S. *Barry,* the second in that class of ships, the DDG–52s, from 1993 to 1995; subsequently commanded Destroyer Squadron 21, and on it goes with a number of ships. But we also talked a great deal about mutual friends that you have in the Navy, and particularly Admiral Mack, who is Superintendent of the Naval Academy, and what a profound influence he had on you.

Admiral STAVRIDIS. Yes, sir.

Chairman WARNER. The committee has asked our nominees to answer a series of advanced policy questions. They've responded to those questions. Without objection, I will make the questions a part of the record.

I also have certain standard questions we ask of each nominee who appears before the committee, and I'll now propound those questions and ask if you will respond accordingly.

Have you adhered to applicable laws and regulations governing conflicts of interest?

General CRADDOCK. Yes, sir.

Admiral STAVRIDIS. Yes, sir.

Chairman WARNER. Have you assumed any duties or undertaken any actions which would appear to presume the outcome of the confirmation process?

General CRADDOCK. No, sir.

Admiral STAVRIDIS. No, sir.

Chairman WARNER. Will you ensure your staff complies with deadlines established for requested communications, including questions for the record in hearings?

General CRADDOCK. Yes, sir.

Admiral STAVRIDIS. Yes, sir.

Chairman WARNER. Will you cooperate in providing witnesses and briefers in response to congressional requests?

General CRADDOCK. Yes, sir.

Admiral STAVRIDIS. Yes, sir.

Chairman WARNER. Will those witnesses be protected from any reprisal for their testimony in the briefings?

General CRADDOCK. Yes, sir.

Admiral STAVRIDIS. Yes, sir.

Chairman WARNER. Do you agree, if confirmed, to appear and testify, upon request, before this committee?

General CRADDOCK. Yes, sir.

Admiral STAVRIDIS. Yes, sir.

Chairman WARNER. Do you agree to give your personal views, if asked by this committee to do so, even if those views differ or are inconsistent with the administration then in office?

General CRADDOCK. Yes, sir.

Admiral STAVRIDIS. Yes, sir.

Chairman WARNER. Do you agree to provide documents, including copies of electronic forms of communications, in a timely manner, when requested by a duly constituted committee of Congress,

or to consult with the committee regarding the basis for any good-faith delay or denial in providing such documents?

General CRADDOCK. Yes, sir.

Admiral STAVRIDIS. Yes, sir.

Chairman WARNER. I'd like now to ask if either of the nominees has a statement.

STATEMENT OF GEN BANTZ J. CRADDOCK, USA, NOMINEE FOR REAPPOINTMENT TO BE GENERAL AND TO BE COMMANDER, U.S. EUROPEAN COMMAND

General CRADDOCK. Thank you, Mr. Chairman. I just have a short opening statement, if I may.

First of all, Mr. Chairman, Senator Levin, and distinguished members of the committee, it is, indeed, a privilege to appear here before you today as the nominee for the positions of command of the United States European Command and as the Supreme Allied Commander, Europe.

I am, indeed, honored and humbled by the nomination from the Secretary of Defense and from the President, to take command of these historic and, I believe, relevant and important commands.

I'd like to note that I began my military career in Europe, arriving, my first assignment to Germany, in 1972. Since that time, Linda and I have spent some 14 years in Germany over five different tours, where we have seen, upclose and personal, the transformation of the North Atlantic Treaty Organization (NATO) from a focus on collective defense to one of collective security. We've experienced the dramatic drawdown of the United States forces in the EUCOM, a transformation, I believe, essential to fit the conditions of the changed security environment today.

I believe the challenges are many, and I believe the opportunities are great. I must say, I am, indeed, fortunate to be sitting here today with a good friend, my partner. We shared a cubicle in the Pentagon in the J–5 office in 1996. We worked together there as action officers, and we have stayed friends since. He is a superb naval officer, and I know he will serve with distinction.

Thank you for the opportunity to be here today, Senator.

Chairman WARNER. Thank you. I think that's a nice personal touch.

Admiral?

STATEMENT OF VADM JAMES G. STAVRIDIS, USN, NOMINEE FOR APPOINTMENT TO BE ADMIRAL AND TO BE COMMANDER, U.S. SOUTHERN COMMAND

Admiral STAVRIDIS. Senator Warner, Senator Levin, and distinguished members of the committee, let me echo John Craddock's words and simply say it's an honor and it's a privilege to be asked to appear here today and to be considered for a position at U.S. SOUTHCOM.

I do want to thank the committee for taking the time to do this hearing. I know you have immense pressing responsibilities at this particular time, and I appreciate that very much.

If confirmed, I just, as an overview, want to assure you that this job will receive my full energy and attention every moment that I bring to work.

I'd like to also say thank you to John Craddock for those nice words. It's been a long hike. If you had told the two of us, in 1995, back in the Pentagon, that we'd be appearing here, I think we both would have laughed uproariously, and headed out for a beer somewhere. John, it's good to be here with you today.

Thank you very much. Thanks, Jim.

Chairman WARNER. I'd like to invite my colleagues—Senator McCain, do you have a word or two?

Senator MCCAIN. No, sir. I appreciate the very outstanding service that both of these fine officers have performed in behalf of our Nation. I do note that both of them have served as the Senior Military Assistant to the Secretary of Defense. I wonder if that's the pathway to success these days in Washington.

Thank you, Mr. Chairman.

Chairman WARNER. Thank you very much.

Senator Inhofe?

Senator INHOFE. I have no statements, Mr. Chairman, other than I'm looking forward to getting these two fine gentlemen confirmed.

Chairman WARNER. Thank you very much.

Senator Cornyn?

Senator CORNYN. Mr. Chairman, thank you for the opportunity. I'll defer until it comes time to ask a few questions.

But thank you both for being here. Congratulations to you and your families.

Chairman WARNER. Thank you very much.

General Craddock, I'd like to start with Afghanistan, your perspectives. Preceding you in this office was General Jones, who is well known to this committee, who has a level of respect that—among all members, on both sides of the aisle—has done a remarkable job in his capacity. I recall, in my visits, and I'm sure colleagues had similar visits, because whenever, as a rule, Members of the Senate, I know—perhaps the House, also—who were traveling in Europe, he'd often make himself available, travel sometimes considerable distance to visit with the congressional delegations and to give his perspective on the whole area of responsibility (AOR) in which he served. I recall his early thoughts about getting NATO involved in Afghanistan after the U.S. had done the initial basic operations over there, with the assistance of some others. Now, that situation has not gone as the world had expected—most particularly, this country and those allies who have been with us. But NATO has stepped in with a measure of courage, putting to the side, in many instances, the national caveats that are of great concern to NATO commanders. I think, again, General Jones did a great deal to lessen the national caveat problem. Those troops are performing bravely and courageously, and have experienced considerable loss of life and limb. Let's have your perspective on what you would hope to do, building, I hope, on General Jones's work, thus far.

General CRADDOCK. Thank you, Mr. Chairman.

I just would like to, first, echo and amplify with you also, the great respect and admiration that I have for General Jim Jones. I know that is shared across the Armed Forces. He has done a remarkable job. There has been a reawakening of NATO in many different perspectives—and, I think, in Afghanistan.

I have talked a bit with General Jones about Afghanistan, obviously have seen some reports and read of what's happening. I think that, as General Jones had characterized it, the assumption of the International Security Assistance Force (ISAF) mission in the north and spreading to the west, proceeded about on plan. Upon assumption of that mission in the southern part of the country, I think that there was probably an underestimation of the insurgent forces there. That is a known area for the large cultivation of the poppies. The opium comes out of there—the trafficking, if you will. I think that the movement of NATO forces have encroached into areas that had been, for a long time, safe havens or operating areas for these forces, these forces of instability and insecurity. Now they are being challenged, and that's led to the conflict that we've seen here recently.

In watching this and having been there a few times, I agree with General Jones' assessment. This is not a military problem. It is, to the extent the military will have to set the conditions for development, for the reconstruction. That it is essential to, one, offer alternatives to the farmers who grow the poppies, that are into the heroin trafficking, and also, then, to provide services, infrastructure, job opportunities to the people of Afghanistan, beyond the cities. It has to happen and occur in an organized, structured manner out in the countryside. The people have to believe, at the end of the day, that governance is a good thing, and that their government is making their lives better today, and will continue to do so tomorrow. So, I think that that is a good program. I think that General Jones is leading that.

I think that in the future there will have to be much work done with the NATO members who are contributing to the ISAF to ensure that they remain steadfast in their commitment, that they understand that there will be challenges to the security and the stability. But the fact is that that is the first priority mission for NATO today. I think it will continue to be. It is very important that we support that, to the extent that we can, and we keep the countries together in a strong alliance.

Chairman WARNER. The question of whether or not additional forces are needed—there's been some requests from the field commanders—I hope that you will give due attention to those requests and as soon as you've had a chance, subject to confirmation, to, as they say in the military, snap in. I hope that you address that problem early on.

General CRADDOCK. Absolutely, Mr. Chairman. Indeed, there is a force capability requirement, and that is the level to which the force needs to be resourced. Again, presuming confirmation, I would look at that, posthaste.

Chairman WARNER. Thank you.

On the subject of Iran—you have followed that, I'm certain—we awakened this morning with the activities at the United Nations, and—I won't go into the details because all of us know what the situation is. France has, as of this morning, made an unusual move, which I think is somewhat different than what the initial thoughts were as to how we were going to deal with this problem of Iran's apparent desire to go forward with programs which could

enable them to someday build, construct, and perhaps even have a delivery system for fissionable nuclear weapons.

I just would like, generally, to bring to your attention the history of the Cold War, which I'm sure you've studied, which this committee—as a member now for 28 years, we went through that, and how the containment and the deterrence between NATO and the Soviet Union worked. It could well be that if diplomacy fails, that NATO could once again begin to perform a role of deterrence, because Iran is a threat to the whole world, and particularly Europe and the Middle East. Just tuck that away in your memory bank, because that worked, and it worked successfully, the deterrents for the Soviet Union, and we may have to formulate how NATO—because I think, should we have any military involvement—and I'm not suggesting in any way that, at this time, it will be done, but it should be multinational, and a framework of NATO, it seems to me would be a good place to start.

General CRADDOCK. Thank you for that, Mr. Chairman.

Chairman WARNER. Admiral, we discussed, in my office yesterday, a matter that's always been of great interest to me, and that's the Panama Canal. Apparently, at this point in time, Panama, understandably—a sovereign nation, looking at a series of very significant upgrades to that canal, and it's going to cost several billion dollars. Where will they go for the funding? What nations will come in? That all points to perhaps bringing in the influence of other nations in that key region of the world, and that lifeline which is so important, not only to economic trade, but to the transfer of military vessels, notably our vessels. Would you give us a comment or two of your views on that?

Admiral STAVRIDIS. Yes, sir. Certainly, the canal is a vital resource for the United States. Sixty-five percent of the vessels that pass through it are bound for U.S. ports. It's our means to swing ships between the Atlantic and Pacific fleets. It's of immense importance to this country.

The Panamanians are seeking, as I understand it, sir, to recapitalize a project, $3 to $4 billion. President Torrijos is going to the Panamanian public in a referendum to seek approval for this process. It is unclear, at this time, exactly where the funding would come from. Probably, part of it would be from internal taxed resources within the Republic of Panama. Part of it would be from outside investors.

Chairman WARNER. That's what concerns me, who those investors might be.

Admiral STAVRIDIS. Yes, sir.

Chairman WARNER. Particularly the extent to which China might see this as an opportunity to begin to have greater influence in this hemisphere.

Admiral STAVRIDIS. I think it's an issue that we should continue to follow, as we are following, in general, Chinese economic and military-to-military contacts throughout the region. Senator, if I'm confirmed, I'll continue to look very hard at that.

Chairman WARNER. I hope this country might think of being a partner—an active partner—to help—respecting the sovereignty of that country, but, at the same time, recognizing the key strategic importance of that canal to our operations.

Finally, Venezuela—again, the current leader of that country is trying to utilize his influence not only throughout littoral nations that provide for Central America, but, indeed, throughout the world. Much of his rhetoric and actions is antithetical to the interests of our Nation, and just basic principles of freedom and fundamental democracy. What do you hope to achieve there?

Admiral STAVRIDIS. Senator, I agree. I would start by simply saying that historically, as a country, the United States has enjoyed very good relations with Venezuela. Unfortunately, the current government has taken many anti-U.S. positions in various international fora. There is very harsh rhetoric from the leader of the current Venezuelan Government, and ties to countries like Cuba, Syria, Iran, and Belarus, that are disturbing. It seems as though the current Venezuelan leadership is attempting to create a kind of a block of countries in Latin America which could then be influenced to take anti-U.S. positions.

The Venezuelans are also in the midst of large arms increases. They've just purchased 100,000 AK–103 rifles from the——

Chairman WARNER. I think the total bill was several billion dollars worth of acquisition.

Admiral STAVRIDIS. Yes, sir. It's been, again, disturbing. It's not just rifles, it's jet aircraft and helicopters, big programs. They have a lot of oil money. It's a concern in the region, and we need to watch carefully.

Chairman WARNER. Those military sales are being acquired primarily from Russia?

Admiral STAVRIDIS. That's correct, sir. I would conclude by saying we still have some military-to-military contact with the Venezuelans. To the degree we can influence them to move in a positive direction, we should do that. But, at the moment, Venezuela's actions, as articulated by their government, have to be of concern in the region. If confirmed, it would be an area I would focus on, sir.

Chairman WARNER. Thank you very much.

Admiral STAVRIDIS. Yes, sir.

Chairman WARNER. Senator Levin.

Senator LEVIN. Thank you.

General, in your written answers to pre-hearing questions relative to Afghanistan, you said that, "If NATO's political or military will is lost in the Afghanistan ISAF mission, the future of NATO out-of-area operations, and, thus, the NATO response-force concept, will be severely jeopardized." You discussed with the chairman the call of General Jones for an additional 2,000 to 2,500 troops and transport helicopters to bolster the NATO effort in southern Afghanistan, but, so far, the only substantial troop offer has come from Poland.

Do you believe, from what you know, that other NATO members are going to provide the additional troops that General Jones has called for?

General CRADDOCK. Senator, in discussions yesterday, in talking with General Jones, there are indications, now, other nations will be stepping forward.

Senator LEVIN. I hope so. Do you believe that other changes are going to be needed to support the NATO mission in Afghanistan?

For example, would you advocate transferring responsibility for operations and intelligence relative to Afghanistan to the European Command from the Central Command (CENTCOM)?

General CRADDOCK. I don't, at this time, have the finite level of detail to be able to determine, right now, whether or not, upon the assumption of stage 4 transfer of authority to NATO for the entire country ISAF operation, exactly how much or what kind of intelligence transfers are needed. I believe that in the future there will be a definite need for increased communications and intelligence and information transfers between U.S. forces in Afghanistan and NATO. The extent of that and how the modalities of that will come together, I don't know at this time.

Senator LEVIN. Our staff heard from U.S. military and civilian officials in Afghanistan last month that there are insufficient funds for the quick-turnaround, small-scale projects that are critical to recruiting the population away from the Taliban. There are also reports that the State Department and the U.S. Agency for International Development requested about $600 million in fiscal year 2006 supplemental for Afghanistan, but that the White House approved only $43 million. It's hard to tell how much of the Commanders' Emergency Response Program (CERP) funds are being used by the commander in Afghanistan for the Provincial Reconstruction Teams (PRTs), but, by all accounts, in Afghanistan, the need outstrips the funds that are available. Will you report back to the committee on what amount of CENTCOM's CERP funds are being spent on small reconstruction and development projects, such as the ones being funded by the PRTs? Will you report back to us your own professional opinion, as we would expect you to do on all matters, as to what the needs are in that area?

General CRADDOCK. Yes, Senator, I will.

Senator LEVIN. Admiral, in June 2006, President Bush declared that he would "like to close Guantanamo." Under what circumstances, if any, would you recommend that the facilities at Guantanamo be closed?

Admiral STAVRIDIS. Senator, I would start by saying that today I see a need for Guantanamo. We have a brutal enemy who seeks to do us harm, and it seems to me we need a place to legally, transparently incarcerate individuals—detain them, I should say. We have had as many as 770 or so in Guantanamo. We've been gradually reducing that number down to about 450. I think it would be a very good thing if we continued to reduce the number of people there. As the numbers go down, if we continue to get the other countries to take their own nationals back, one could see, eventually, an instance in which we would no longer have a need for Guantanamo. I think that's the genesis of the President's remarks. So, it's really a matter of winning in this war on terror, and also convincing our allies and partners to take back the people who are there. Unfortunately, it doesn't seem that that's going to happen in the immediate future, but it would certainly be everybody's hope—my own included, if I were confirmed as Commander, SOUTHCOM.

Senator LEVIN. Admiral, did you review the recently-released revised Field Manual on Interrogations?

Admiral STAVRIDIS. Yes, sir, I have reviewed it. It's a very detailed document. I have not read every line of it. I'm in the process of doing that. If confirmed, before taking command I will have read every line in the Army Field Manual. I think it's a good document and an improvement, and it's a clear document.

Senator LEVIN. What is your assessment as to how it's being received by military and civilian personnel?

Admiral STAVRIDIS. Sir, my assessment, talking not as the SOUTHCOM commander, but talking to my friends who are involved in this, including, for example, Admiral Harry Harris, who's the current commander at Guantanamo—I believe that the document is well received because it's written in a way that the soldiers, sailors, airmen, and marines who are involved in interrogations can understand it. I can understand it when I read it, and that's a strong improvement. Also, it has no classified annex. It's open and it's transparent.

Senator LEVIN. Do you believe that interrogators at Guantanamo can carry out their mission within the standards that are set forth in that field manual?

Admiral STAVRIDIS. Senator, I'm not an expert in interrogations, but my personal belief is that they can.

Senator LEVIN. My time is up. Thank you very much, Mr. Chairman.

Chairman WARNER. Thank you very much.

Senator McCain.

Senator MCCAIN. General Craddock, opium cultivation has reached record levels in Afghanistan. Should the United States military be actively engaged in poppy eradication? Or ISAF military?

General CRADDOCK. Thank you, Senator. Tough question. In the original agreements, the Brits were to focus their efforts on the eradication of the poppy fields. That has not happened. Actually, as you said, their production is up. I think that there has to be a concerted effort to eradicate those fields. As a part of the attraction to the lawless element, to the traffickers, to the terrorists who use the proceeds, the revenues generated by that trade, it may well be ISAF is going to have to, as they move to provide security and stability, take on the eradication of those fields. I don't know that, but I know it has to be done. As stage 4 occurs and more U.S. forces come under the NATO control, it may well be, U.S. forces will be involved in that too. That is the genesis of the funding for the radicals and extremist insurgents there.

Senator MCCAIN. A vicious circle.

General CRADDOCK. Yes, sir.

Senator MCCAIN. There have been media reports concerning some kind of a truce or treaty being concluded between the Pakistani Government, President Musharraf, and the Taliban, in the areas along the Afghan/Pakistan border. What do you think of that? Is it true? What kind of a problem does that create if there is some kind of sanctuary along the Pakistan/Afghan border?

General CRADDOCK. I am aware of an agreement. I do not know the details, other than what I have read here recently. I think that the key here is in assessing it through implementation. We need to keep watch. On the surface, it may be an agreement that will

work to control the border. In application, everyday execution, it may not work. So, I think we have to be watching closely. We have to see this movement back and forth across these borders. If a safe haven is created, it will cause enormous problems for NATO and for U.S. forces in Afghanistan.

Senator MCCAIN. Again, I have no detailed information, but it is very disturbing, if some kind of sanctuary is provided for the Taliban by the Pakistani Government. We continue to be concerned about bad relations between the two countries already. But General Jones has recommended that NATO send additional forces into Afghanistan. We all know our forces are there, but we're also pretty well stretched. Are you disappointed, so far, in the reaction of the NATO allies to this request for additional troops?

General CRADDOCK. Senator, I am. I am not surprised, given my experience in Europe and having served in a NATO command in the Balkans. There was a statement of requirements that the plan lays out, "Here are the troops we need." It appears that it was sourced to about 85 percent of the capability required. A decision was made then to accept that risk and to go ahead and assume the mission.

The key here now is to continue to work with the nations to source the remaining capabilities required. I think there's some airlift and some attack helicopters and a few other—a strategic response force, a battalion strategic force available. That's what has to continue to be worked with the nations, because it's a plan that was agreed to, now it's a matter of owning up to the commitment.

Senator MCCAIN. I think the facts on the ground indicate in Afghanistan that there has been a resurgence of Taliban influence and activities, to the point where we now have, some cases, hundreds of Taliban engaged in combat. That's very concerning. I wonder what may have gone wrong over the last 4 years that has allowed this resurgence.

An additional follow-up question. I notice, for example, I think four Canadian troops were killed yesterday. Sometimes our allies get a little shaky when their personnel, obviously, are in harm's way, and killed or injured. Maybe you could give me an idea of what went wrong and what needs to be done differently if we're going to reverse this trend.

General CRADDOCK. In talking a bit with those who work this every day, to include General Jones, the belief is that these Taliban forces, insurgents, had located in that area as a safe haven, away from urban areas, out in to the countryside. Second, those are large cultivation fields for the poppies. So, that was a natural attraction—provides, if you will, the sanctuary. I think the movement in of about 8,000 NATO forces pushed out into the countryside and confronted these safe havens, these sanctuaries, and that caused the contact that maybe had not been done previously to the extent that allowed it. I think, again, that the forces are adequate. It's a matter of, as you said, resolve. There will be casualties taken. The assumption of stage 4, it may well be that NATO ISAF finds that there'll be tougher fights in the future over in the east. But I think that the fact that now they are being engaged in larger numbers would indicate that it may be they were there for a while, and there were never forces out there engaging them where they were

living, operating, and training, which has occurred. But we must stay the course here, we must continue to have the resolve, work with the nations, and do this in a smart, meaningful way to set the conditions, then, because if the development doesn't come in after the security is established in those regions, the people will not believe in the government, and the Taliban will be back.

Senator MCCAIN. Of course, that's based on the ability of the government to control the areas.

Admiral STAVRIDIS. Yes, sir.

Senator MCCAIN. I thank you.

I congratulate both of our witnesses. We look forward to having you in place as soon as possible, General.

General CRADDOCK. Thank you, Senator.

Senator MCCAIN. Thank you.

Chairman WARNER. Thank you, Senator McCain.

I would simply add, the seriousness of this question that both of us addressed, and that is the question of force levels. We have watched that debate here in Iraq. It continues. You now will be the point person, you will be that field commander that has to make the recommendations, make them in accordance with your professional judgment, make it strong, make it so it's not any equivocation. Because, I have to tell you, NATO did very well in the Balkans, was very successful, but the credibility of NATO for the future is on the line right now in this operation.

General CRADDOCK. Mr. Chairman, I wholeheartedly agree and I will promise you I will do that as soon as possible, once confirmed.

Chairman WARNER. Thank you.

Senator Reed.

Senator REED. Thank you very much, Mr. Chairman.

General Craddock, you have served in many critical positions, with great expertise and fidelity, but I must confess I'm a bit troubled about this nomination. Last July, you were here before the committee trying to explain why you would not support the recommendation of Lieutenant General Schmidt with respect to an adverse action against General Miller for his activities in Guantanamo. I said, at that point, and that time, it was a moment to draw the line for accountability, not just at sergeants and majors, but general officers. You didn't draw that line. You said, "imprecise guidance policy," you couldn't hold them accountable, but you chose to disregard, I think, what was a very considered and thoughtful report by the Special Inspector General, in favor of avoiding accountability. Today, accountability still, I think, has been evaded. I just am troubled. I think that is the critical issue of whether or not an individual at your level will make tough decisions, regardless of the consequences to his fellow officers and regardless of consequences to his superiors. It should not go without comment that General Miller was intimately involved with civilians and the Secretary of Defense in this particular issue and that by exonerating him, I think, at least you gave some comfort to the Secretary of Defense and to others. I don't know if that's been reciprocated.

But I must say that based upon your career, which is one of fidelity to the uniform, I was disappointed then, and I still remain disappointed. I said it then publicly, and I say it again now.

I am just dismayed about the failure of senior-level civilians and senior military officers to be fully held accountable for palpable mistakes that have been made, even when recommended by another officer like General Schmidt. So, I want that comment to be in the record.

Thank you, Mr. Chairman.

Senator MCCAIN. General Craddock may wish to respond.

Chairman WARNER. Yes, I know he does.

Please respond.

General CRADDOCK. Senator, I understand your comments. I'm not going to review my rationale today. I've done that many times, and twice, I believe, before this committee. I will stand on the record of what I have said.

I will tell you though that as a professional officer over many years, these decisions are always difficult. I have to act on the facts as they are given to me. I have to weigh all of the issues at hand. There's obviously deep consideration given.

I will tell you that it's my personal belief that I will always take the hard right as opposed to the easy wrong. There will be those who differ with my judgment and the rationale, but the fact is the report given to me, the facts presented to me, led me to that decision. I then, as I am bound to do, referred that to the Army Inspector General who conducted an investigation. The results of that turned out to be the same as my result and my finding. So, that's all I can say to that, Mr. Chairman.

Chairman WARNER. Senator Reed, do you have anything further?

Senator REED. I have no questions, Mr. Chairman. I just think that this represents another example of a lack of accountability and being rewarded for being compliant and not accountable.

Chairman WARNER. As the committee well knows, we have pending before us a hearing, at which time it's anticipated General Miller will once again appear before this committee to re-examine this issue. As soon as you can advise me, Senator Levin, on the matters that you raise in connection with preparing for that hearing, we'll move forward.

Senator LEVIN. Let me just check with staff.

I think, Mr. Chairman, the issue is, I'm trying to gather what the question is, apparently there's some preliminary questions that need to be asked by staff in preparation for such a hearing. But, as far as I'm concerned, the quicker we get to the bottom of that issue, the happier I'm going to be.

Chairman WARNER. I agree with that. It seems to me, given the short period within this Congress is still in business, we have to tweak that.

Senator LEVIN. Yes. I will, again, check into the status of that inquiry.

Chairman WARNER. If you would advise me, I'd appreciate it very much.

Senator LEVIN. But I do think Senator Reed has raised a question about accountability at higher levels that has just not been answered satisfactorily. I hope that our hearing with General Miller can shed at least some light on that failure of accountability at higher levels. We will look into the status of our pre-hearing ques-

tions and make sure that they're promptly done, if they're not already prepared.

Thank you.

Chairman WARNER. I'd simply add that it's anticipated that Colonel Pappas also would be included as a part of that hearing series. He'll appear before the committee.

Senator Inhofe.

Senator INHOFE. Thank you, Mr. Chairman.

As I've talked to you before, General Craddock, I've been disturbed for a long time about the way the continent of Africa is divided up. I think it's confusing. It's difficult to do things, such as, right now, when we're looking at the African brigades. I've been very active in this area. It's my understanding now, although I've not seen anything specific on it, that there's going to be an African command. Now, I'd like to ask you what that structure would be. How does that relate to CENTCOM and to EUCOM as far as your understanding is concerned?

General CRADDOCK. Thank you, Senator.

Indeed, I understand there are ongoing discussions and deliberations. I believe EUCOM has been tasked by the Chairman of the Joint Chiefs and the Secretary to provide a proposal. I am a proponent of a dedicated command for Africa.

Senator INHOFE. Now, that would be an additional command, I guess?

General CRADDOCK. That would be an additional combatant command.

Senator INHOFE. Okay.

General CRADDOCK. Now, the question becomes—and that is what the work in progress is—how is it done? What is the shape, substance? As you've said, right now Africa is shared by three combatant commands. So, how would the arrangement, the geography, change, in terms of the Horn of Africa, which is now CENTCOM, East African islands, PACOM, and then the rest, EUCOM? I think that we have to wait—and I believe it's due here the next few weeks—for the first proposal. I think it's on the fast track, that we all recognize that our critical national interests in Africa are, indeed, very important, both from the counterterrorism perspective, the secure and stable environment, to the humanitarian perspective, with HIV/AIDS, endemic disease; and then, obviously, the energy issues are also quite relevant.

So, we know there's work in progress. It's being pushed to a fast track, and I'll be very interested to watch how this develops, because it will, indeed, be a key aspect of EUCOM in the future.

Senator INHOFE. I'd like to have this committee get involved in that because I have some ideas. I know that General Abizaid has been concerned. How can you break off the Horn of Africa, for example, where you have Djibouti and you have a lot of the terrorist activities that's moving in there as a result of the squeeze in the Middle East? So, it's a difficult thing to deal with.

Also, I personally like the idea of a complete command just dedicated to the continent of Africa, because it's become so incredibly important.

General CRADDOCK. Yes, sir.

Senator INHOFE. As I've gone around and talked to—in the different areas of the proposed sites for the five African brigades, I just think—I just can't imagine that that is going to work very well if it's divided into two or three different commands. So, we'll be watching that real closely.

General CRADDOCK. Yes, sir.

Senator INHOFE. It's already been mentioned, Admiral—Stavridis?

Admiral STAVRIDIS. Perfect.

Senator INHOFE.—Stavridis—oh, yes; well, I've said it twice now; that'll be the last time—of the concern that is there in that command in the SOUTHCOM with Chavez, with the changes in Castro—well, let's start with Castro. Right now, we don't know for sure what's going to happen to him. We know a little bit about his brother, about as much as you need to know. What is your feeling, anything you'd like to say in an open hearing, as to how you see Cuba, in the event of Castro's stepping aside?

Admiral STAVRIDIS. Thank you, Senator.

Certainly, Cuba is front and center on the windshield for any commander at U.S. SOUTHCOM. If confirmed, it'll be at the center of my site picture. I think, like all of us, I'm very hopeful of a peaceful transition to a democratic regime in Cuba. I have to say, I'm not optimistic of that happening in the immediate future. The basic signals we seem to get from Cuba today are that if Fidel Castro were to step aside or pass on, his brother, Raoul, would probably take the reins of power there. I think, in the end, very little would change under that scenario. The Cuban economy is extremely rocky at this moment. It's propped up, in large measure, by oil subsidies from Venezuela. As a result of all those factors, we experience about 8,000 migrants a year coming here to our shores from Cuba. I think as well, Cuba is, according to the State Department, a state sponsor of terrorism.

So there is a basket of problems there. I don't think there's a hopeful outlook in the immediate future. What the United States can do is continue to be supportive of the Cuban people and to hope for them, and to assure them that in the event of a transition to a democratic regime, we would be there for them.

Senator INHOFE. Some of us have been around long enough that we can remember the instability in that whole area down there, back during the Reagan years, and the changes that took place, very positive changes.

Admiral STAVRIDIS. Yes, sir.

Senator INHOFE. But with the contras and the Sandinistas and Daniel Ortega—and now he's running again. The information I have, he's leading. Their election is in, what, November, I believe?

Admiral STAVRIDIS. Yes, sir.

Senator INHOFE. What do you see happening in terms of Nicaragua, if Ortega were to win that thing?

Admiral STAVRIDIS. Senator, I'm not an expert at all on Nicaraguan politics, which are complicated, but common sense would tell me, looking back, as I think you do, from the nature of your question, that Daniel Ortega was an opponent of the United States, an anti-American force in that country. Certainly, the election is a free and democratic one. Nicaragua is a sovereign country, and

they should pick their own leaders. They will. But I think we would be concerned about linkages between Nicaragua, Venezuela, and other countries in the region which would continue to move toward this idea of a block of nations that we spoke about earlier that could take anti-American positions. So, that would be of concern. If confirmed, it would be something I would follow closely, Senator.

Senator INHOFE. Good. There's not a lot of time left, but there is one other subject that I feel very strongly about and that is the International Military Education and Training (IMET) program. In the National Defense Authorization Bill that we hope that we'll be able to pass here shortly, we have some provisions that give easier access to that program. There was a time, when it first began, that we thought we were doing other countries a favor by allowing them to come here and get training. That's totally changed, in my thinking, anyway. I think that we're the beneficiaries of this program.

Admiral STAVRIDIS. Yes, sir.

Senator INHOFE. I'd like to know—because it'll affect all countries—we found out, readily, that if we have any restrictions on our ability to bring in people to train, the Chinese and others are always there, ready to do it.

Mr. Chairman, I can't think of any single thing that we can do that gives us a greater inside track with these countries than to be able to get the training over here.

So, I'd like to ask each one of you to comment as to your feeling about the program and where you see it going.

General CRADDOCK. Thank you, Senator.

I would say, first, we support the American Servicemembers' Protection Act (ASPA). Unquestionably, we want our servicemembers protected around the world. Unfortunately, the unintended consequence of that is this IMET problem. We are losing, every day, engagement opportunities with many nations around the world. Over the years, as you said, this has benefited them. But to bring them to our schools, our institutions, they have the opportunity to live in our culture, see strong democratic institutions, and civilian leadership of the military as a powerful thing. We gain from the engagement, the contact. We understand them better. When we're there, we're more appreciative and knowledgeable of their culture. We're losing that in very critical countries.

I have been a strong advocate to de-link the IMET program from the ASPA sanction in order that we can engage and not lose contact with a generation or two or three of officers and noncommissioned officers, in countries that are important to us, and it's important to them to be linked with us. So, I certainly support and endorse any way possible that we can get this program back on track.

Senator INHOFE. Yes, it was unintended consequences, and it's a program that I really feel strongly about. Do you agree, pretty much, Admiral?

Admiral STAVRIDIS. Yes, sir. I think the expression up here is, I'd like to associate myself with the remarks of General Craddock.

Senator INHOFE. That's the expression.

Admiral STAVRIDIS. I do so, completely. I'll just point out that within the SOUTHCOM area of responsibility, 32 countries, 11 of them are affected by this. So, it's extremely significant in

SOUTHCOM, I completely agree with General Craddock's assessment and would hope that we can continue the program.

Senator INHOFE. Thank you.

Mr. Chairman, that's another reason we need to really get that thing moved along, because this bill will offer new opportunities for your guys to take advantage of IMET.

Admiral STAVRIDIS. That would be great.

Senator INHOFE. Thank you.

Thank you, Mr. Chairman.

Chairman WARNER. Senator, I've always been a strong proponent, as you have, of the IMET, and it's interesting, the chapter—for those following this hearing, that might not know the specifics—it's young officers of the foreign nations who are brought here and then given an opportunity, usually of up to a year or so, to study in our various military colleges and institutions. As you well know, Senator, so often those officers who are, let's just say, young captains or majors go back home, and they rise through the ranks and usually become the senior military officers in their respective nations. That bond is of great value in times of stress, should it occur, because they often turn to their counterparts here, in American uniforms, having served with them, to seek advice and guidance.

Admiral STAVRIDIS. Yes, sir.

Chairman WARNER. So, you're right on target.

Senator INHOFE. I would go one step further and say not just the educational institutions, but much like Fort Sill and the artillery training in some of our military installations. It's very significant.

Admiral STAVRIDIS. Yes, sir. Agree.

Chairman WARNER. No question about it. Also, Senator, we want to recognize that on this committee I know of no member who has given more time to study Africa than you have. Indeed, how many times have you been, say, just in the last 2 years or so?

Senator INHOFE. I'd say about eight times, I think.

Chairman WARNER. About eight times—and several of those, into the Darfur region. You're to be commended for finding the opportunity to study that, and you are an expert on it.

Senator INHOFE. Mr. Chairman, a lot of people talk about the Darfur problems, but if you get into northern Uganda and the Lord's Resistance Army (LRA) problems up there, they're every bit as bad, but they don't get the attention.

Chairman WARNER. Correct.

Senator INHOFE. Thank you very much for your comments.

Chairman WARNER. Thank you very much, Senator Inhofe.

Senator Cornyn.

Senator CORNYN. Thank you, Mr. Chairman.

Gentlemen, in the global war on terror we have come to, I think, a greater understanding of the enemy that we confront, and it is a form of extremism and radicalism that has hijacked one of the world's great religions. Whether you call the enemy Islamic extremists, Islamic radicals—others have used other terminology—while there may be some fault lines between Islamic extremists in different parts of the world, it is, I believe, part of the same enemy, which in the words of General John Abizaid, celebrates the murder of innocent civilians in pursuit of its goals. Recently the people of

America, and the world, were reminded of one of those groups, Hezbollah, who rained down Katyusha rockets supplied by Iran through Syria on civilian populations in northern Israel. I don't know many people who have doubt that if they had been able to supply more lethal weapons—I don't know many people who doubt that Hezbollah would have refused to use them, causing more death, more injury to innocent civilians.

One of the other things that the American people have been reminded of is that Hezbollah has killed more Americans than any other terrorist organization in the world, except al Qaeda, dating back to 1983 in Beirut when 241 marines were killed. So, I want to ask you a little bit about—and I've had some of these conversations with General Craddock; he knows where I'm heading, but Admiral, I want to bring this to your attention to our backyard—and that is, South America, where Hezbollah has a foothold, particularly in the triborder region, where we know, as a matter of fact, they supply money to radical causes, to the Hezbollah headquarters, so to speak, in the Middle East. We also, I think, can all acknowledge the ease with which terrorist financing can transition into operations if, in fact, some operators were dropped in, or if not homegrown in our backyard in South America. So, I would like to get, Admiral, from you, please, what you believe that we ought to be doing, if confirmed, as part of the SOUTHCOM to deal with this potential threat in our backyard.

Admiral STAVRIDIS. Senator, thank you for the question.

I've had a chance to read a variety of intelligence reports, some of which are classified and we can't go into here. But, at the unclassified level, I've looked at a Congressional Research Service study and a State Department study recently, looked at materials provided from U.S. SOUTHCOM. It appears certainly true that Hezbollah has a foothold, is a good way to put it, in the SOUTHCOM area of responsibility. The triborder area of Bolivia, Paraguay, and Brazil—has probably the largest population that we're aware of right now. But there are outposts throughout the region.

At this point, the best I can tell, it appears to be largely financing, as you alluded to, but it can segue very easily into human trafficking, the ability to move special-interest aliens into our country through human smuggling routes, surveillance—we have indications of the surveillance of the Panama Canal, for example. So, within the region, it's of real concern.

What can we do about it? I think our role at SOUTHCOM, at this point, is to be very plugged into all the intelligence, to work very closely with all of our partners in the region. I mean, this is one that obviously we can't go down and solve by ourselves. We have to work one-on-one with our partners, and also try and create a regional hemispheric, if you will, sense of cooperation in this topic. So, I would say building partnership capacity with our partners, working with them closely, using intelligence aggressively, and being very aware of the problem, and highlighting it in all of our military-to-military activities, sir.

Senator CORNYN. General Craddock was talking to, I think, Senator McCain and other members of the committee about the connection between narcotrafficking and terrorist financing. In Af-

ghanistan, we continue to see that connection in South America and other parts of the world. But, in particular, I'd like to get your thoughts, Admiral, about Colombia, but primarily about what is happening now in Venezuela, where Revolutionary Armed Forces of Colombia (FARC) are getting safe haven, where perhaps there's greater participation in illegal drug trafficking in Venezuela to help fund FARC's anti-government activities. I am one who believes that the work that we've been able to do to support the Colombians in that country, with coca eradication and to enable them, through military training and otherwise, to fight and defeat the revolutionary forces there, FARC and others, has been a very positive development. But if, in fact, that illegal drug trafficking merely moves east in a country that if it doesn't welcome them, at least tolerates it, what does that tell you about what we need to do with regard to the attention we pay to Venezuela, which is an avowedly anti-American government, one that is associating with the greatest threats to the United States, in Tehran, and welcoming armament factories from Russia and the like? How would you describe what our role should be with regard to the developing activity in Venezuela?

Admiral STAVRIDIS. Thank you, Senator.

I would start by saying—and I think you alluded to it—that Colombia has made tremendous progress over the last 4 or 5 years. They're militarily very successful against the FARC. One of the other major groups there, the United Self-Defense Forces of Columbia, is demobilizing. The economy is doing fairly well. I think one significant part of helping in that region, in that border area, is continued support to Colombia so that their economy continues to improve, so that we operate with them in a military-to-military fashion, so that we continue to give them the benefit of all that we can as they fight this complex battle against narcotics and narcoterrorism.

On the question of FARC operating in that border region with Venezuela, I have seen intelligence that indicates that is true. Again, I would not want to, in an open hearing, go much further than that. I'd like to come back to you on the record with an answer more specific to that particular question. It is of concern.

[The information referred to follows:]

[Deleted.]

Senator CORNYN. Thank you. General Craddock, I didn't mean to leave you out, but since you're moving over to EUCOM, I thought I would focus my attention on the Admiral and get his views. I know both of you realize that even though Northern Command is responsible for the homeland defense function for the continental United States, that we can't ignore what is happening right out our back door right across the border.

General CRADDOCK. I agree completely.

Senator CORNYN. Because of what you've just described, Admiral, and what General Craddock and I have talked about previously, and that is, when you have international criminal organizations, they're more than happy to finance their operations using any available commodity, whether it's people, drugs, guns, WMD, or the like.

General CRADDOCK. Exactly.

Senator CORNYN. I believe it's absolutely imperative that the Department of Defense continue to focus greater attention on our international borders, and to help the Department of Homeland Security, which has the primary responsibility to control our international borders, through the use of technology, which the United States military has right now, and which could, I believe, be deployed with great beneficial effect, and in so doing, enhance our national security, because our backyard is important for all the reasons we've discussed.

General CRADDOCK. Yes, sir.

Senator CORNYN. Mr. Chairman, thank you very much.

Chairman WARNER. Thank you very much, Senator Cornyn.

We may, gentlemen, have several questions for the record. We'll ask that you respond. The record will remain open until the recess of the Senate tonight.

I do want to return to one line of discussion we've had today, and that is drug trafficking in Afghanistan, General Craddock, and your responses about how you felt there are certain responsibilities that NATO must face up to in that area. I think parallel and equal emphasis should be given to the role to be played by the Afghan military, perhaps, to some extent, the police forces, in which the United States put a very significant investment. There always will be certain instability in a government when it stands up. President Karzai has shown tremendous courage. In a recent visit that I had with him in Afghanistan a short time ago with several of our colleagues here, we talked about this situation. He seemed to be dedicated. But there are certain political realities that he's faced with. This is a subject that has to be dealt with in such a way that it doesn't cause an increase in the instability of his government, because that government simply has to succeed. It's a freely elected government, so, while I'm hopeful that Karzai will remain in office, let's hope it remains a freely elected government. Also, we had the privilege on this visit to meet for the first time with the parliamentarians, a very interesting group, rather a feisty, outspoken group of parliamentarians, and in our dialogue with them and it was hard to break off, they were so anxious to meet with, should we say, their counterparts from the United States, the parliamentarians and we legislators.

So, I think that you have to work hand-in-hand with NATO and the Karzai government as we, hopefully, do a joint effort to begin to take down this ever-growing problem of the narcotics being raised there and the money that comes, as a consequence of that crop, into the sinews of that country in many ways. I just hope that, in that course of action that you will direct, together with the government, that the Afghan forces will have a very active, if not a greater role than, indeed, the NATO forces in resolving that problem.

If you'd like to make a comment or two on that.

General CRADDOCK. Yes, thank you, Mr. Chairman.

I totally agree with your statements. The Afghan national army has made great progress. We're still training, still building that army, and it will, as it continues to grow and gain competence and professionalism and capability, be able to assume more and more

of that security burden. I think that they will be instrumental in maintaining the control, along with its nascent police force that also must be built, and it must gain the confidence of the people, out and about in the countryside so that these development programs can work.

Now, the real power of those PRTs is that they are generally customized to each region. They work with the local elders and government officials. They bring in the national government, if you will, out of Kabul—to the extent where the people understand that there is a benefit to a new clinic, a school, a road, something we take for granted that is not there, infrastructure, a job opportunity—that government is a positive force in their life. The key is that the parliamentarians, the cabinet members, and President Karzai participate in that, they support that, and, at the end of the day, it's an Afghan face; that in the meantime NATO will be providing some security and stability, but what we would want to do is work ourselves out of a job.

Chairman WARNER. I certainly understand that. But it's a formidable job and it's growing in terms of its challenge. But we must succeed.

General CRADDOCK. Indeed.

Chairman WARNER. I feel strongly that since we've invested so much in building up their military forces, that their military forces should take the lead in this eradication process. Now, you stop to think a moment—and you have, and those of us who have been over there and studied the problem—the amount of the dollars going to the farmers is minuscule. It seems to me some program could be devised, for a very modest sum of money, just to persuade them to sit back in their arm chairs, if necessary, maybe grow a little cabbage and broccoli, or whatever they want to do, but get them out of the poppy business. Because the big money in this is after it leaves the poppy field and these old and venerable farmers, you see them—they actually have to massage almost every poppy head to extract all the product and so forth as they go along. That's not where the money is. The money is where it leaves that field, and then it goes on up through the many hands that deal with it. That's where the big dollars are. It seems to me we can just persuade the farmers somehow to not grow it. It's a sensitive situation, but it's one that has to be dealt with. I think the Gross National Product (GNP). I've seen figures as high as three-quarters of the GNP of Afghanistan is monies coming from the poppy fields and the narcotics.

General CRADDOCK. That's right.

Chairman WARNER. That money, as it leaves the farmer, he gets a pittance, but as it moves up, certain monies flow back into the sinews of Afghanistan in various ways, and it's a big challenge. General, the buck stops on your desk now.

General CRADDOCK. I understand, Mr. Chairman. It is an enormous challenge. Recently some Colombians have met with Afghans to talk about their fight over the years. The Colombians have had some success with alternative development to the farmers to convince them that they'll make as much money off of a licit crop as an illicit crop. It is successful in parts of that country. Those are the types of programs that, for a very low cost, can be very impor-

tant and beneficial. So, it's a multifaceted approach. It's not just security, but it's offering alternative developments and opportunities.

Chairman WARNER. All right. I thank you both very much. I think we've had an excellent hearing. I commend you on your direct responses to the questions.

We'll take about a 2-minute recess as the next panel comes up.

General CRADDOCK. Thank you, Mr. Chairman.

Admiral STAVRIDIS. Thank you very much, Mr. Chairman.

[Recess at 10:52 a.m., reconvening at 10:59 a.m.]

Chairman WARNER. The committee will resume.

Now I ask our two nominees, Mr. Ford and Mr. James, to introduce those persons who have accompanied you.

Mr. FORD. I'm accompanied today by my wife, Cecilia. She is a retired government attorney, 34 years with the Department of Health and Human Services, most recently as the chair of the Departmental Appeals Board. Our children are not able to be with us today. We have two on active duty, one in the Air Force in San Antonio, and our second son is in the 82nd Airborne at Fort Bragg.

Chairman WARNER. I know you're proud of them.

Mr. FORD. We are, thank you.

Chairman WARNER. Very proud of them.

Mr. FORD. We have a daughter who's a junior at the University of Virginia.

Chairman WARNER. I have some familiarity with that institution.

Mr. FORD. So does my wife. She's a graduate of the law school.

Chairman WARNER. My law school class was originally 1953, but I went off to the Korean War for a period of time, and came back and finished with the class of 1954. You weren't on planet Earth then, were you?

Mrs. FORD. He was, actually. [Laughter.]

Mr. FORD. She's class of 1972, I think.

Mrs. FORD. 1972.

Mr. FORD. 1972.

Chairman WARNER. Well, it's a grand institution.

Mr. FORD. It is a wonderful school.

Chairman WARNER. I was privileged to go back and give the graduation speech at the University of Virginia 50 years from the year I graduated from the law school. I hope that you'll have that same opportunity someday.

Anyone else that you might have brought?

Mr. FORD. The folks from the Army legislative liaison team, Bernie Ingold and Mark Rivest.

Chairman WARNER. Good.

Mr. James, I know you have some of your friends here.

Mr. JAMES. Thank you, Mr. Chairman.

Yes, I'm very pleased to introduce Ms. Joyce Blackwell, who is my executive assistant, who is a very integral part of my team.

Chairman WARNER. She is——

Mr. JAMES. She's sitting——

Chairman WARNER. Please come up here. He needs all the support he can get.

Mr. JAMES. I agree with that, Mr. Chairman, I need all the support I can get. I'm very pleased to introduce a long-time friend who is a surprise visitor here today, Betty Murphy.

Chairman WARNER. Won't she come up and join us here?

Mr. JAMES. I would hope that she would.

Chairman WARNER. Front row, please?

Mr. JAMES. Yes.

Chairman WARNER. Thank you very much.

Mr. JAMES. Ms. Murphy and I have known each other for a number of years. We both graduated from the same law school.

Chairman WARNER. Please. Thank you.

Mr. JAMES. She is, in fact, primarily responsible for my first tour of duty as a presidential appointee in Washington in 1975, when she recommended to Secretary Dunlop that I be her successor as the Administrator of the Wage and Hour Division.

Chairman WARNER. Isn't that interesting.

Mr. JAMES. So she's been one of the tailwinds in my life.

Chairman WARNER. That's very important, giving you that support. Likewise, she touched on my early career. So, we're glad to see you here.

All right. We welcome all of you. I wanted to make sure that we acknowledged the families and friends who support our nominees.

Now, Mr. Ford, you currently serve as the Principal Deputy Assistant Secretary of the Army for Financial Management and Comptroller. From 2001 to 2004, you served as the Deputy Assistant Secretary of Defense for Health, Budgets, and Financial Policy. You have held senior management positions in various academic and medical disciplines, including as Chief Operating Officer of Georgetown University Medical Center. That was a challenge, wasn't it?

Mr. FORD. It was, sir. It was. Academic medicine and the Army have many things in common, and not least of which is understanding all the jargon.

Chairman WARNER. I recently had just some routine matters to attend to, and I selected the Georgetown University Medical Center. I must say, it's in good hands today.

Mr. FORD. I believe it is, sir.

Chairman WARNER. Further, as Executive Secretary of the Healthcare Financing Administration. You have a very impressive background in these fields and are eminently qualified.

Mr. FORD. Thank you very much.

Chairman WARNER. Likewise, Mr. James, you are an eminently qualified individual nominated to be the Assistant Secretary of the Army for Manpower and Reserve Affairs. In 2003, you were appointed as the first Chief Human Capital Officer of the Department of Homeland Security, where you served through 2005, and are presently serving as an acting capacity.

Mr. James previously has served as the Administrator of the Wage and Hour Division, U.S. Department of Labor, where you managed the enforcement activities, procedures, and standards of 300 offices nationwide; served on active duty in the Army from 1961 to 1963, and as a member of the 101st Airborne Division Artillery, and thereafter for several years in the Army Reserve.

That'll stand you well in this present position, because there is no substitute, really, for having had the privilege of wearing the uniform in our country and feeling as a part of the great team of

the men and women of the Armed Forces, irrespective of which uniform you wear. So, I congratulate you for that service.

I understand you've also given up a very fine position to take this one on, at the request of the President and, I believe, the Deputy Secretary of Defense. Am I correct on that?

Mr. JAMES. Yes, Mr. Chairman, that is correct.

Chairman WARNER. Whereas, he went out and found you, so to speak. Would that be correct?

Mr. JAMES. That is correct, Mr. Chairman.

Chairman WARNER. Senator Levin, I believe, may be able to return here shortly, but in the meantime, you had both responded to a series of advance policy questions. Without objection, I'll make those part of the record.

Now I'll ask you the same standard questions we ask of all nominees.

Have you adhered to applicable laws and regulations governing conflicts of interest?

Mr. FORD. Yes, sir.

Mr. JAMES. Yes, sir.

Chairman WARNER. Have you assumed any duties or undertaken any actions which would appear to presume the outcome of the confirmation process?

Mr. FORD. No, sir.

Mr. JAMES. No, sir.

Chairman WARNER. Will you ensure your staff complies with deadlines established for requested communications, including questions for the record in hearings?

Mr. FORD. Yes, sir.

Mr. JAMES. Yes, sir.

Chairman WARNER. Will you cooperate in providing witnesses and briefers in response to congressional requests?

Mr. FORD. Yes, sir.

Mr. JAMES. Yes, sir.

Chairman WARNER. Will those witnesses be protected from any reprisal for their testimony or briefings?

Mr. FORD. Yes, sir.

Mr. JAMES. Yes, sir.

Chairman WARNER. Do you agree, if confirmed, to appear and testify upon request before this committee or any other committee of Congress?

Mr. FORD. Yes, sir.

Mr. JAMES. Yes, sir.

Chairman WARNER. Do you agree to provide documents, including copies of electronic forms of communication, in a timely manner when requested by a duly-constituted committee of Congress, or to consult with the committee regarding the basis for any good-faith delay or denial in providing such documents?

Mr. FORD. Yes, sir.

Mr. JAMES. Yes, sir.

Chairman WARNER. Now, I'm going to ask, Mr. Ford, would you like to make some opening comments?

Mr. FORD. I would, sir. With your permission, I'd like to make some brief remarks.

STATEMENT OF NELSON M. FORD, TO BE ASSISTANT SECRETARY OF THE ARMY FOR FINANCIAL MANAGEMENT AND COMPTROLLER

Mr. FORD. It is an honor to appear before you this morning as the President's nominee for Assistant Secretary of the Army for Financial Management and Comptroller. I would like to thank the President for nominating me for this position, and Secretaries Harvey and Rumsfeld for their guidance, confidence, and support. I would also like to thank this committee for all it's done over the years for the men and women of the Army.

If I am confirmed, I look forward to working with the committee to address the many challenges facing the Army. Perhaps the greatest of these challenges is paying for the global war on terrorism while transforming the Army into the more effective formations needed for the 21st century security environment.

We have to make sure that our soldiers are deployed with the best equipment and training, while developing the doctrine, tools, and facilities that will attract future generations of young men and women to Army careers. As the father of a soldier who spent a year in Afghanistan and whose unit is now preparing to return to the fight, I understand these challenges personally.

The Army's financial management must be based on sound stewardship and good business practices while enhancing our capabilities wherever we are called to serve.

Finally, I'd like to thank my family for their support as I continue to serve the American people in this important time. I am grateful to them for their love and patience.

Thank you, sir.

Chairman WARNER. Very thoughtful of you to say that, because, as I said in an earlier moment in this hearing today, the support of the families is essential for, certainly, not only the men and women in uniform, but for those in the civilian capacity. I had the privilege of serving in that building for over 5 years during the Vietnam War, and I know the stress that it placed upon my family and my children. We accept it.

Mr. FORD. Thank you. Thank you, sir.

Chairman WARNER. You'll never regret, of course, that service, both of you, in connection with the Defense Department and so forth, but it's an important chapter of your life, and I hope you look back on it with a sense of satisfaction.

Mr. FORD. Thank you.

Chairman WARNER. Mr. James?

Mr. JAMES. Mr. Chairman, with your permission, I have some brief opening remarks.

Chairman WARNER. Yes.

STATEMENT OF RONALD J. JAMES, TO BE ASSISTANT SECRETARY OF THE ARMY FOR MANPOWER AND RESERVE AFFAIRS

Mr. JAMES. Mr. Chairman, I'm deeply honored and privileged to appear before this committee as the President's nominee for Assistant Secretary of the Army for Manpower and Reserve Affairs.

I'd like to echo my colleague's—Mr. Ford's, thanks to the President, the Secretary of Defense, and the Secretary of the Army for

the confidence and trust they've shown in me by nominating me to serve as the Assistant Secretary of the Army for Manpower and Reserve Affairs.

I would also like to take this opportunity to thank this committee for all the work it's done over the years for the men and women of our Armed Forces. If I am confirmed, I look forward to the opportunity to serve my country again at a time when our national security environment is markedly different and perhaps more complex than it has been at any other time in our Nation's history. If confirmed, I look forward to working with Congress, the Defense Department, and the Department of the Army to address the force and personnel challenges such as recruiting and retaining an All-Volunteer Force, building force capabilities, and advocating for Reserve component needs.

I'd like to thank my family, and especially my wife, Pat, of 36 years, who could not be here today, for their support as I continue to pursue opportunities to serve our country. I am very grateful to them for their continued understanding and affection.

Mr. Chairman, I look forward to any questions you and the committee may have of me concerning this nomination. Thank you very much, Mr. Chairman.

Chairman WARNER. Thank you both. Those were very fine opening statements.

First, Mr. Ford, last year's National Defense Authorization Act required certification that military-to-civilian conversions not erode the quality or increase the cost of military health care services. Secretary Harvey, on June 19, 2006, provided that certification, indicating that he relied solely on the advice of the Surgeon General. If you are confirmed, what role would you play in future decision-making regarding the conversion of military billets to civilian positions, and, in particular, in determining the cost-effectiveness of such conversions? What is your overall assessment of the impact of military-to-civilian conversions on Army efficiency and readiness?

Mr. FORD. Thank you very much for that question, Mr. Chairman.

That question, I think, goes back to some of my responsibilities that I had when I was the Deputy Assistant Secretary of Defense for Health Budgets. Most of the health spending in the Department of Defense runs through the TRICARE program, the Defense health program. The spending for military personnel is about the only spending that actually runs through the departmental budgets. Our experience at the time was that the conversions of military billets to civilian billets didn't have a negative impact; in fact, it had a positive impact. It freed up military personnel for deployment purposes. We will continue to monitor that as we go forward.

Chairman WARNER. All right. I think we'll want to have you, from time to time, consult with our staff to clarify any problems that may arise.

Mr. FORD. I'd be happy to do that, sir.

Chairman WARNER. This question goes to both of our nominees. The Army has established a Wounded Warrior Program designed to meet the special needs of the most severely wounded soldiers. Sailors, airmen, and marines, of course, are affected in some other ways by this same program. Each of the Services have some com-

parable form of this. Additionally, the Army has conducted several comprehensive studies of the mental health conditions of acting Reserve component soldiers following deployment to the theater of operations. Have you formed any opinions about the adequacy of the resources being devoted to the needs of wounded soldiers and those who are in need of counseling and mental health services? The families of these individuals are also very much a part of this whole equation. What role will you play, if confirmed, in ensuring that these programs are adequately resourced and are proactively working to serve the needs of the soldiers and the families?

Mr. JAMES. Mr. Chairman, if I am confirmed, I can assure you that this will be one of my highest priorities. We ask men and women to serve our country. We have an obligation to them to assure that they, in fact, have health care. I mean health care not just in the traditional sense, because often the effects from wartime are more mental than they are physical. If I am confirmed, I promise you that I will clearly turn my attention to this, because I view it as a sacred obligation, as a sacred payback to those who serve our country.

Chairman WARNER. I appreciate that. I've seen tremendous advancements in what modern science and the medical profession, in particular, can do for mental health. It's come a long way. We must provide, for these brave individuals and their families, every bit of help we can, because this has been a very stressful military operation, really unlike any that this country has ever been engaged in—it's a war on terror, not State-sponsored, no uniforms, by and large, worn by the adversaries. The adversaries are manifold, whether or not it's sectarian strife, common hoodlums, insurgents from other nations, individuals whose minds are really so distorted with erroneous, I think, concepts of religion that they'd give their lives in suicidal attacks. We're asking a lot of the young men and women in the Armed Forces today. Consequently, we, here at home, must give them every conceivable benefit we can to help them readjust themselves and once again take up, if they choose to leave the military Service, gainful and productive roles in the civilian economy.

Mr. Ford, to financial management modernization, this committee has long been concerned about the pace of modernization of Department of Defense financial management systems. What progress have you observed in the Army's modernization of its financial management systems and achievement of the goal of having fully auditable financial statements?

Mr. FORD. Thank you for that question. I've been working for the Army for about the last 15 months, and I think in that 15-month period we've made some substantial progress. Perhaps not as much as we would like to have made, but the trajectory is good. During the last 15 months, we've started the implementation of our new general fund accounting—enterprise-wide accounting—system, we have reinvigorated the development of the Defense Integrated Manpower System, which had been moribund. I think that's back on track with a very aggressive implementation schedule. We've worked on new ways to improve our logistics management. All of these are designed to work together so that we can get to the point

where we are as careful and thoughtful about our assets and liabilities as we are about our income and our expenses.

We're pretty good at knowing what we get money for and how we spend it. We're less able to really understand what our equipment is, what our facilities are, and when they need to be refreshed. Our new accounting systems will provide us the information we need to do that.

It will take some time before audited financial statements are available, just because of the complexity of putting these new systems together. But every year, we produce a financial report, and that financial report is judged to be a good, thoughtful, clear explication of how the Army is using its resources.

So, I think we're well on the way, and we have much to do, but good progress is being made.

Chairman WARNER. Thank you very much. I think it's important that you follow through that and strengthen it in every way you can.

Mr. James, recruiting of the highest caliber young men and women for the All-Volunteer Army, Army Reserve, and the Army National Guard presents a challenge. All through history there have been ups and downs in this, but it is a challenge now, although I was pleased to see, I think, most of the goals have been met for fiscal year 2006. Indeed, in order to make recruiting goals, age limits for enlistments have been extended to age 42. That's interesting. I find that very interesting, but there are a lot of fully able-bodied individuals at that age. I remember in World War II, the cutoff was 38 years, because I came in, in the last year of the war, and I remember our boot-camp class with 17-year-olds, as I was, and some 18s, and then some 36, 37, 38-year-old folks, and they had a bit of a struggle keeping up with the younger ones, but I hope this works out, at age 42. Aptitude standards have been modified to allow a greater number of recruits with lower scores to enlist in the Army. What role do you expect to play, if confirmed, in ensuring that the standards for recruiting in the Active and Reserve components remain high? Are there additional recruiting incentives that would be helpful, in your view, in assisting Army recruiters in making their recruiting goals?

Mr. JAMES. Thank you, Mr. Chairman.

I believe we have the finest Army in the world. I'm very proud to join that Army. I do not want my legacy to be that I let the standards slip. Having been involved in the private sector and with clients, the building of an excellent workforce, the critical factor of that is the recruiting and retaining of the best and the brightest, and providing the kind of work environment and the kind of incentives that, in fact, help you to do that. That has been my practice in the past. That's been the counsel I give to clients. I would expect to continue that now. I would expect to be very aggressive about it, because without recruiting the best and the brightest and keeping the standards high, I would not want to come before this committee years from now and say that on my watch I let the best Army in the world slide or slip.

Chairman WARNER. Thank you very much. I'll turn to Senator Levin momentarily here.

The management of the Army Senior Executive System (SES), Mr. James, in March 2006, Secretary Harvey announced implementation of significant changes in the manner in which senior civilian executives in the Army would be managed, including requiring civilian leaders to move into positions where they are most needed. You've indicated in your advance questions, however, that you do not anticipate having any role in the management of the Army's senior executives, other than those assigned to your office. Based on your experience at the Department of Homeland Security, would it not be desirable that you and your office have a role in the implementation of the organizational change? In my own experience in the Pentagon, I relied so heavily on the senior civilian executives, as I did the military, of course, but we had a team in those days. We hardly noticed any different treatment. We were all part of the team. I hope that the senior civilians under your jurisdiction in the Army are treated with the same respect that we did many years ago when I was there.

Mr. JAMES. Mr. Chairman, I'll go back and read my statement, and, if I misspoke in that, I will correct it.

Chairman WARNER. I don't think you misspoke. I wasn't suggesting that.

Mr. JAMES. I will correct it.

Chairman WARNER. You mean in your written statement?

Mr. JAMES. My written statement, yes, sir.

Chairman WARNER. Yes.

Mr. JAMES. But let me respond to your concerns. It's my understanding that the primary responsibility for the allocation and the assignment of SESs has been moved up to the Office of the Secretary. I would still anticipate, given my experience and background, that Secretary Harvey would, in fact, rely on me for advice and counsel. I do know that during the course of some discussions we have had, I've talked to him about my strong feeling about the need to model the Goldwater-Nichols legislation on the civilian side, that if, in fact—and this is the same thing I practiced and did and encouraged at Department of Homeland Security—that is, you need to have executives who, in fact, understand security and who understand moving of containers. The only way you get that done is that you, in fact, have a rotational program. You have a program that's very much like what Goldwater-Nichols envisioned, that you have jointness. Only then do you really have solid executives.

It's often people like me who get the spotlight, but the fact is that if we really care about government, our most valuable resource for sustaining excellence in government is the senior leadership core, and I will, to the extent I am asked—and sometimes even when I'm not asked—raise issues and concerns about supporting that program.

Chairman WARNER. Thank you very much.

Senator Levin, please proceed.

Senator LEVIN. Thank you, Mr. Chairman.

First, Mr. Ford, let me ask you a couple of questions about the Army budget process. The budget of the Army has appeared to be about one step above complete chaos in recent months and years. We have seen a number of reprogrammings being sent to Congress to borrow from account B to fill a hole in account A, followed short-

ly by a second request to borrow from account C to repay account B, and so forth. We have had reprogrammings of this nature pending before us that would simultaneously move large amounts of money into and out of your operation and maintenance account at the same time. We have seen the Army initiate a modularity program before the Army had any plan to pay for it. Has the Army's budgeting process been acceptable, in your view? What do you plan to do to improve it?

Mr. FORD. Thank you very much, Senator Levin.

I have not had a great deal to do with the Army budgeting process for last 15 months. Most of my efforts have been in internal controls and in cost management. I think that it's never good to have a budget process which is in chaos. I think, from the perspective of the Army, the current situation we're in is not ideal. We are preparing, each year, a budget, at least two supplementals, and responding to numerous requests from the combatant commanders for operational needs that they identify. So, it's been a difficult process.

My own view is that we need to put as much of the activity of the Army as we can in the base budget to make sure that the base budgets are available to the Army on a timely basis and to have as little of the activity as possible in supplementals, and that's what I would work to do, if I'm confirmed to this position.

Senator LEVIN. I understand that the Army has broken with longstanding internal DOD procedures and refused to submit a program objective memorandum (POM) for the fiscal year 2008 budget request to the Office of the Secretary of Defense (OSD). Do you know if that's correct?

Mr. FORD. Sir, we have not submitted our POM to the OSD.

Senator LEVIN. Is that not a break with a longstanding tradition?

Mr. FORD. It is a break, as I understand it, with a longstanding tradition. Let me explain, if I could, what's happened.

As we began the preparation of the POM this year, we identified a mismatch between the current fiscal guidance and the Army's missions, as laid forth in the Quadrennial Defense Review. When we noticed this mismatch, we informed the OSD. We are, at this time, in constant conversation with OSD and with the Office of Management and Budget to understand what the scope of those differences are, and to look for solutions for those differences. As soon as we come to an agreement on that, we will prepare and submit our POM.

Senator LEVIN. Okay, thank you.

Mr. James, a recent Government Accountability Office (GAO) report noted a significant increase in recruiter misconduct between fiscal years 2004 and 2005. The economy, ongoing hostilities in Iraq, and pressures to meet recruiting goals have reportedly caused some recruiters to resort to overly aggressive tactics, which can adversely affect the Army's ability to recruit and erode public confidence in the recruiting process. Other recruiters have been accused of various criminal offenses.

The GAO found that the Services, including the Army, do not track all allegations of recruiter wrongdoing and likely underestimate the true number of recruiting irregularities.

If confirmed, will you act to ensure that the Army is aware of the full scope of alleged recruiter misconduct?

Mr. JAMES. Senator Levin, the answer is yes. I have a history of teaching and lecturing in the area of sexual harassment. I have written extensively on the issue. It is cancerous to an organization to have allegations of any kind of harassment. It is unacceptable to have misconduct or misrepresentations. That will be a very high priority, if not the top priority. It will clearly be a very high priority.

If the Army is to maintain excellence, if the Army is to maintain credibility, we simply can't have that. I will not abide by that on my watch, if I am confirmed.

Senator LEVIN. You will keep track of those allegations in a form that you can report to the committee?

Mr. JAMES. Yes, sir, because I have a history of experience in understanding that sexual harassment and allegations of this kind are always underreported, that normally if you go into a company and you get two or three harassments, that is more than likely the tip of the iceberg because there is a tendency by individuals, especially women, the data showed, not to report, or to ignore. So, I comment this with the understanding that I not only need to look at the hard numbers, I need to understand the reality of what may be happening.

Senator LEVIN. Thank you.

Mr. James, just one last question. This relates to the use of contract recruiters. There is a pilot program which allows the Army to use contract recruiters. We have just received a report, the first one, on the effectiveness and efficiency of this pilot project. For 3 years of recruiting, from 2003 through 2005, the report concluded that while contract recruiters were statistically less productive than traditional recruiters, that the contract recruiter performance improved during the first 2 years in the most critical areas, and it was determined to be a viable recruiting option. The report recommended continuing contract recruiting in some form after the end of the pilot test on September 30, 2007.

I have a number of concerns about this program, about contractor recruiters. For example whether or not they are subjected to greater pressures than military recruiters to achieve or exceed recruiting goals because their compensation will be affected by the number of individuals that they are able to recruit.

Can you give us, very briefly, your views on contracting out military recruiting? Second, do you know if recruiters are given a bonus for each person they recruit? If so, what is that bonus, and is that bonus a significant part of their pay?

Mr. JAMES. Senator Levin, I regret that I simply don't have the information to respond to that question. I don't have the data that you do. I would, respectfully, suggest that the questions that you raise are excellent questions that need to be asked, regardless of whether recruiters are civilians or military. The question of, "are they more effective?" is obviously something that would need to be evaluated.

Senator LEVIN. If confirmed, will you provide to this committee your assessment of this program? Also, would you give us details on how these contractors are paid? Because if there is a financial

incentive to sign up people who otherwise should not be signed up, or to engage in pressure tactics which are unacceptable for recruiting, we should know that, and it ought to be part of our consideration and deliberation as to whether to extend this program. But if you could look into this program, see how it's operating, see how it works, and report to this committee, I'd appreciate it.

[The information referred to follows:]

10923-A Magnolia Drive
Cleveland, OH 44106

September 20, 2006

The Honorable John W. Warner
Chairman
Committee on Armed Services
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

During my confirmation hearing, you and Senator Levin asked me to provide the Committee with my initial views concerning the Army pilot program for contract recruiters. Based on my review of the General Accounting Office Report on Recruiting and on the Army's interim report on this program, it appears that this program offers potential benefits to the Army.

I understand that the Army has completed three full years of the Contract Recruiting Program which was mandated by Congress in the 2001 National Defense Authorization Act. As part of this pilot program, the Secretary of the Army was authorized to replace at least ten Army recruiting companies with contract civilian recruiters. The companies selected for this pilot apply the same policies and procedures as Army recruiters and act under the supervision of an Active duty chain of command. A contract recruiter is paid between $4900 and $6300 per recruit. If I am confirmed, I will undertake a thorough review of this program and provide my views to this Committee.

Thank you for your expeditious scheduling of my confirmation hearing and, if I am confirmed, I look forward to working with you and other Members of the Committee on the issues and challenges confronting the Army.

Sincerely,

Ronald J. James

CF:
The Honorable Carl Levin
Ranking Member
Committee on Armed Services
United States Senate
Washington, D.C. 20510

DEPARMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
MANPOWER AND RESERVE AFFAIRS
111 ARMY PENTAGON
WASHINGTON, DC 20310-0111

MAY 23 2006

The Honorable John W. Warner
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The Fiscal Year 2002 Defense Authorization Act Conference Report 107-33, page 101, directed the Army to report to the Armed Services Committees on the contract recruiting pilot program by February 1, 2008. On May 14, 2001, the Secretary of the Army reported to the Armed Services Committees indicating the Army would provide an interim report by February 1, 2006.

Attached is the interim report providing the estimates of the effectiveness and efficiency of the 10 Contract Company pilot recruiting program for the first three years.

We will provide our final report to you and your staff by February 1, 2008. Thank you for your continued support of the Army Recruiting Program.

Sincerely,

Daniel B. Denning
Principal Deputy Assistant Secretary
(Manpower and Reserve Affairs)

10 CONTRACT COMPANY INTERIM REPORT

After 3 full years of the 10 Company Test, contract recruiting companies are statistically less productive than control companies.

In the second year of the test (CY 2004), the contract companies: improved in volume production by 24 percent and quality by 20 percent; performed statistically the same as the control group for Regular Army volume production, the most significant metric; and increased their market share by 9 percent, while reducing per accession cost by 20 percent.

In the third year of the test (CY 2005), the contract companies matched the trends of the control group, but were less on actual production.

During the first 3 years of the test (CY 2003-2005), both contractors involved developed and employed several successful innovative business practices at the company level.

Contract recruiting proved to be a viable option, and it is recommended that it continue in some form after the end of the 10 Company Test (30 Sep 07).

DEPARTMENT OF THE ARMY INTERIM REPORT ON 10 CONTRACT COMPANY PILOT RECRUITING PROGRAM

This report provides the estimates of the effectiveness and efficiency of the 10 Contract Company pilot recruiting program for the first 3 years. A formal system evaluation provides the framework to assess the effectiveness and the efficiency of the contract companies' business practices in an operational environment. The contract-recruiting companies' performance throughout the entire accession process is the basis for the program assessment. Any new innovative business practices discovered during this program will provide the basis for future legislation recommendations in support of the Army recruiting efforts.

REPORTING REQUIREMENT

The reporting requirement in section 561 of the National Defense Authorization Act for Fiscal Year 2001, P. L. No. 106-398—OCT 30, 2000, states the following:

SEC. 573. ARMY RECRUITING PILOT PROGRAMS

(g) Reports.—Not later than February 1, 2008 the Secretary of the Army shall submit to the Committees on Armed Services of the Senate and the House of Representatives a separate report on each of the pilot programs carried out under this section. The report on a pilot program shall include the following:

> (1) The Secretary's assessment of the value of the actions taken in the administration of the pilot program for increasing the effectiveness and efficiency of Army recruiting.
> (2) Any recommendation for legislation or other actions that the Secretary considers appropriate to increase the effectiveness and efficiency of Army recruiting.

Amended by section 543 of the National Defense Authorization Act for Fiscal Year 2002, P. L. No. 107-107—DEC. 28, 2001:

SEC. 543. CORRECTION AND EXTENSION OF CERTAIN ARMY RECRUITING PILOT PROGRAM AUTHORITIES.

(c) EXTENSION OF TIME FOR REPORTS. —Subsection (g) of such section is amended by striking "February 1, 2006" and inserting "February 1, 2008".

In a letter concerning the 10 Company Test to the Armed Services Committees of the Senate and the House of Representatives from the Secretary of the Army dated 14 May 2001, it states: "The Army will provide the Congress an interim report not later than February 1, 2006."

INTRODUCTION

During the mid- to late-1990s, following the military drawdown, the Military Services experienced serious recruiting challenges. In response, recruiting resources increased substantially. As an additional response, several recruiting pilot programs were established to test various recruiting approaches in an attempt to increase the effectiveness and efficiency of Army recruiting.

One of the Army recruiting pilot programs established in section 561 of the National Defense Authorization Act for Fiscal Year 2001, P. L. No. 106-398, required the Secretary of the Army to carry out a pilot program to expand the scope of the Army's contract recruiting initiatives. Under the pilot program, the Secretary was authorized to select at least 10 recruiting companies where the Army recruiters would be replaced by contract recruiters. The contract recruiting companies' operation follows the same rules and chain of command as other Army recruiting companies. The contract recruiters were provided use of the current Army offices, facilities, and equipment. The Secretary was authorized to conduct the pilot program during the period beginning on October 1, 2000 and ending on December 31, 2005. The ending date was extended to September 30, 2007. Upon termination of the pilot program, the recruiting duties revert to Army military recruiters.

RESPONSE TO REQUIREMENTS

Establishment of Pilot Program. On January 23, 2002, the Secretary of the Army initiated the 10 Contract Company Pilot program. United States Army Recruiting Command (USAREC) required 2 contractors to provide support for 10 recruiting companies throughout the United States. The recruiting company selection was carefully balanced on characteristics known to affect recruiting outcomes. The characteristics included: geographic area; previous recruiting production; current recruiting missions; demographic characteristics; and economic characteristics. The selected recruiting companies were divided into two subsets of five companies each referred to as Blue and Green.

The 10 selected companies include:

Contract Region Blue	Contract Region Green
Jackson, MS	Homewood, IL
Oklahoma City, OK	Fairview Heights, IL
Dayton, OH	Harrisburg, PA
Delmarva, DE	Wilmington, NC
Tacoma, WA	Salt Lake City, UT

The contractors followed a transition plan that was jointly approved by the contractors and the Government. The 10 recruiting companies were phased in during FY2002 and FY2003.

Phase I: Four Companies. The first four companies (two companies per contract[1]) began recruiting production in May 2002. Start-up and training began once the contract was awarded.

Phase II: Six Companies. The remaining companies (three companies per contract[2]) began recruiting production in November 2002.

SYSTEM EVALUATION PLAN

System Evaluation Plan (SEP). The SEP defines measures to assess the operational effectiveness and efficiency of the 10 Contract Company Pilot Program. During the first 2 years of the test, up through Phase II, data from previously military manned recruiting companies were used for historical performance purposes. Full 10 Company evaluation began 2Q2003, after all 10 companies had been on production for at least 1 quarter. The SEP identifies numerous metrics; however, the primary evaluation metrics are:

- Gross percent mission achieved per quarter for Regular Army and Army Reserve.
- Net percent mission achieved per quarter for Regular Army and Army Reserve.
- Gross percent quality[3] mission achieved per quarter for Regular Army and Army Reserve.
- Net percent quality[4] mission achieved per quarter for Regular Army and Army Reserve.

Test integrity. The contractor must be assigned a full mission. The performance against the mission is the basis for the test evaluation. Accordingly, a reduction in performance, in terms of a lower assigned mission, will not provide the data necessary to conduct an adequate evaluation. Congress initially allocated $150M over a 5-year period to meet the funding profile stated in USAREC's Acquisition Plan for Contract Recruiting Services.

Comparative Analysis. The comparative analysis purpose is to assess the contract companies' achievements with comparable recruiting markets, time periods, and "same company" historical performance. Comparative analysis applies statistical methods to quantitative data USAREC collected.

To compare similar recruiting markets and current time periods, the contractor performance is aggregated so that the combined performance of the ten companies can be compared with a similar control cell company grouping (Figure 1) chosen from the rest of

[1] Phase I Companies: Delmarva, Wilmington, Homewood, and Tacoma Recruiting Companies.
[2] Phase II Companies: Jackson, Fairview Heights, Dayton, Oklahoma City, Harrisburg, and Salt Lake City Recruiting Companies.
[3] Quality = Tier 1, Test Score Category I-IIIA (High School Grad with AFQT of >=50)
[4] Quality = Tier 1, Test Score Category I-IIIA (High School Grad with AFQT of >=50)

USAREC. The similar company grouping selection included companies with an average market composition similar to the contractor companies in FY2000. Historical performance used the time periods 1Q2000 through 2Q2002 as a baseline for comparison purposes.

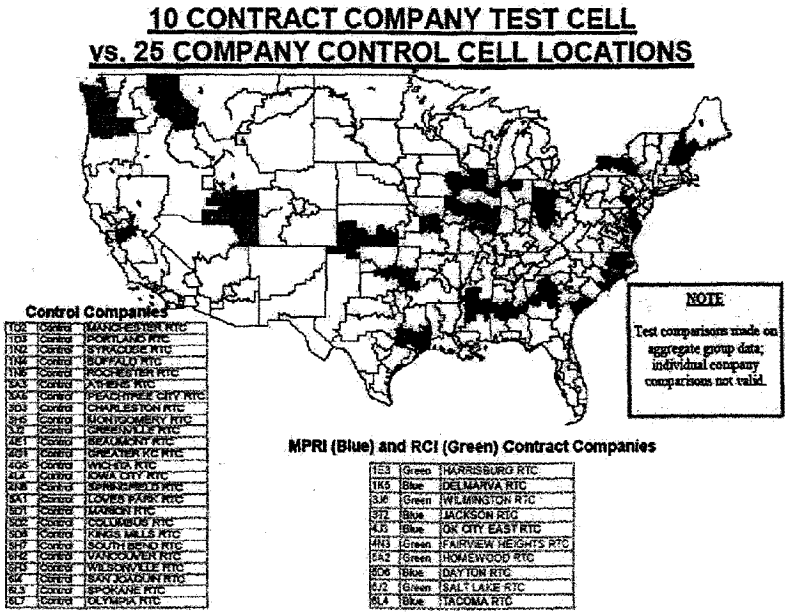

Figure 1

Assessment of the 10 Contract Company Pilot Program value as an effective and efficient recruiting alternative. This report focuses on the first 3 full years of production, 2Q2003 through 1Q2006. Since the first full quarter of production was not completed until 2Q2003, the first quarter of each following fiscal year was included in order to obtain data for a full four quarters of each assessment year. Therefore, all references to quarters are fiscal and all test years are calendar. As the test concludes on 30 September 2007, the final report will be published to Congress in February 2008.

An overall assessment based on the first 3 full years of production indicates contract recruiting companies were statistically less productive than the control companies. However, the contract company performance continually improved during the first 2 years in the most critical areas. During the second test year (calendar year 2004) the 10 contract companies' volume production and quality significantly improved such that there was no statistical difference between the control and contract companies for Regular Army volume production, although the contract companies remained lower (19 percent less) for quality. The third year

of the test (calendar year 2005) resulted in a drop in Regular Army volume production (17 percent) and quality (15 percent) in the first half, with an equivalent recovery in the second half (20 percent and 12 percent, respectively). Chart 1 shows the test timeline from contract start through the phase-in periods of the 10 companies to the most recent on-production evaluation. Regular Army volume production is shown as it is the single most significant metric of contract production.

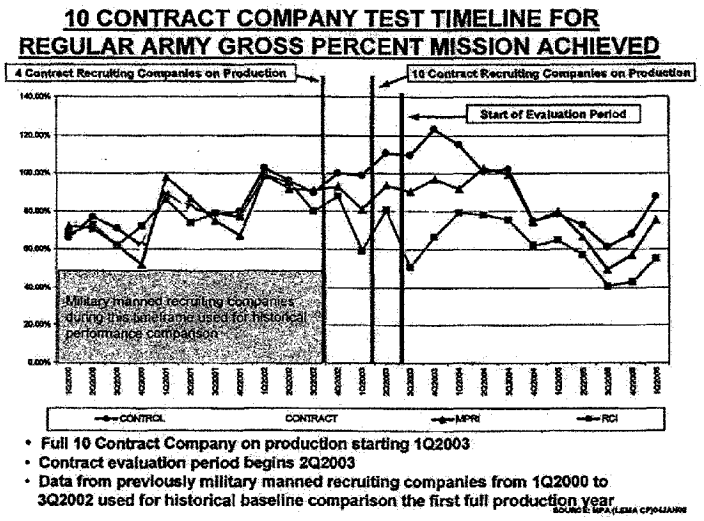

Chart 1

Mission procedures and accountability. While no formal reporting is required, high personnel turnover was a problem area, especially during the first 2 years, but improved somewhat during the third year. Training and historical knowledge suffer when turnover rates are high. Although finding the right mix of personnel and retaining them is a challenge for any organization, it is especially hard for one with the unique dynamics of military recruiting.

New business practices. One of the goals of the 10 Contract Company Pilot Program was to establish new and innovative business practices for recruiting. While some were formally set at the corporate level, many were established by individual companies for both contractors. The best business practices are not the ones designed at the corporate level, but those that are custom fit to the local community at the company level. These can then be used and adapted as needed in other areas. One of the better examples is the company that established its own website. While this may not be considered an innovative business practice, the manner in which they employ it is. Each individual station is shown along with its location, recruiters, and schools serviced. The recruiters are pictured along with a short biography. Each Future Soldier is pictured as well, with space to list their reasons for joining, the particular bonuses they will receive, where they will do their basic training, what schools

they will attend, etc. This serves not only as an incentive for others to join, but as a deterrent for the Future Soldier to fail to follow through and ship. In short, the website personalizes the process and dispels many of the unknowns and misunderstood ideas.

Some of the other innovative practices that were successful include:

- Having a quality control position in the Operations section of the battalion.
- Incentivizing the local community by offering savings bonds for referrals.
- Using a telemarketing firm to establish leads.
- Targeting individual teachers and classes for special missions.
- Employing administrative aides to accomplish indirect recruiting tasks.
- Promoting a private sector sales model of small salary base plus significant commission to incentivize the "sales force."

Other factors considered. While there were many areas reviewed in the comparative analysis, the results indicate contract recruiting was performing at the required level in many areas and out-performing the comparison companies in a few.

The contract companies were continuing to contact the general population. Gender, college, and racial/ethnic markets were consistently recruited in proportions equivalent to the control companies.

The contract recruiters' appearance, impression, and cooperation with Army staff members indicate contract recruiters fit into the recruiting structure with minimal staff impacts.

CONCLUSIONS AND RECOMMENDATIONS

The 10 contract companies selected for the 10 Contract Company Pilot Program overall under-performed in the first 3 years of production. However, the contract companies improved in volume production by 24 percent and quality by 20 percent, as well as increasing their market share by 9 percent, while reducing per accession cost by 20 percent in the second test year (calendar year 2004). Both control and contract companies dropped in volume production during the first half of the third test year (calendar year 2005), although the gap between the contract and control companies increased slightly (by 4 percent). During the second half of the third test year (calendar year 2005), there was a marked increase for both control and contract companies in volume production (by 10 percent and 5 percent respectively). The increase resulted in a recovery slightly above the volume production levels at the beginning of the year (see Chart 1).

While the 10 Contract Companies' overall production during the first 3 years of the test has remained below the control companies, contract recruiting proved itself to be a viable recruiting option. At least half of the individual companies have consistently performed well within the range of the control companies. This speaks well for contract recruiting, since this was accomplished despite the problems of high turnover and a less-than-friendly market, all

while establishing a new business. It is, therefore, recommended to continue contract recruiting in some form after the end of the pilot test on September 30, 2007. The mode and extent of contract recruiting should be left to Army decisionmakers for the widest possible flexibility to insure maximum efficiency and effectiveness. The lessons learned from the failures and successes of the 10 Company Pilot Test will serve the Army well in exercising this option.

Mr. JAMES. Thank you, Senator. If I am confirmed, I understand my obligation is to apprise this committee about the burning issue

of recruiting and if we are being effective and if we are doing it in the right ways.

Senator LEVIN. The contracting.

Mr. JAMES. Yes, sir, I understand there's a myriad of questions.

Senator LEVIN. Thank you.

Chairman WARNER. Senator Levin, those are important questions, and I would suggest that the nominee provide something for the record on that particular question as promptly as possible. My counselor back here has some knowledge on that program, and he'd be happy to tell you some of the source material that we are looking at on this important issue. I thank you, Senator, for bringing it up.

Senator LEVIN. Thank you.

Chairman WARNER. We will keep the record open for Senators, through close of business of the Senate today, to put their questions into the record.

I thank the nominees, their families, and those who have joined us for this very important hearing.

The committee stands in adjournment.

[Whereupon, at 11:32 a.m., the committee adjourned.]

[Prepared questions submitted to GEN Bantz J. Craddock, USA, by Chairman Warner prior to the hearing with answers supplied follow:]

QUESTIONS AND RESPONSES

DEFENSE REFORMS

Question. The Goldwater-Nichols Department of Defense (DOD) Reorganization Act of 1986 and the Special Operations reforms have strengthened the warfighting readiness of our Armed Forces. They have enhanced civilian control and the chain of command by clearly delineating the combatant commanders' responsibilities and authorities and the role of the Chairman of the Joint Chiefs of Staff. In your previous responses to advance questions in connection with your nomination to be Commander, U.S. Southern Command, you expressed your support for full implementation of these reforms and noted that proposals by the Center for Strategic and International Studies for intra-DOD, interagency, and legislative changes could provide a basis for change.

Based on your experience in U.S. Southern Command, do you see the need for modifications of any Goldwater-Nichols Act provisions?

Answer. As the Commander of the U.S. Southern Command, the Joint Interagency Task Force-South (JIATF-South) falls under my purview. JIATF-South is not only a robust joint military organization, it is also a model for combined, interagency cooperation. All four military Services work alongside law enforcement agencies, intelligence agencies, and liaisons from 12 foreign nations to defeat the flow of illicit traffic. In today's environment of limited resources, I believe it would be appropriate to expand and strengthen the Goldwater-Nichols Act to encourage not only joint operations, but also interagency cooperation. I also believe that the combatant commander should play a stronger role in the allocation process—resourcing issues are being studied by the Joint Task Assignment Process development project within DOD. That process should identify recommendations in joint management constructs to improve the combatant commander's influence in the allocation of resources.

Question. In your view, do the rules pertaining to joint officer management and the qualification of officers as joint specialty officers require revision? If so, how?

Answer. There are implementation practices within the department that could be modified, but the law as written is sufficient for military officers. We may need to better identify Joint Staff Office positions to ensure the right people are in the right positions, and then ensure they receive the training and professional military education (PME) prior to filling those critical billets. Too often, PME is being accomplished after reporting to the Joint Commands. I am also aware that there are proposals under review to credit officers with joint qualifications based on a variety of

duty experience associated with joint missions. I think such considerations are an appropriate evolution in how we go about identifying and managing joint officer resources to meet contemporary requirements of joint staffs and task forces.

An additional consideration for revising the law would be to require critical civilian positions to be joint qualified and educated as well. As we move more and more to a civilianized force, reducing the number of military personnel, we must ensure that we continue to have properly qualified personnel in critical billets.

DUTIES

Question. What is your understanding of the duties and functions of the Commander, U.S. European Command (EUCOM) and North Atlantic Treaty Organization's (NATO) Supreme Allied Commander, Europe (SACEUR)?

Answer. The Commander, EUCOM, is responsible for coordinating and conducting all U.S. military operations and activities across the 92 countries in the EUCOM area of responsibility (AOR) in pursuit of U.S. national military objectives. This AOR includes all of Europe, two-thirds of the African continent, the Middle East, and the Caucasus Region. He is also responsible for the health, welfare, and security of the approximately 104,000 servicemembers forward deployed within that AOR. He coordinates the efforts of the Service component commands assigned to the European Theater. The NATO Military Command Structure assigns specific roles and duties to SACEUR. These include:

- Strategic planning: Identifying and requesting forces for the full range of Alliance missions and contributing to crisis management and effective defense of NATO territory and forces.
- Operational leadership: Upon aggression, executes military measures within the capability of the command to preserve or restore the security of NATO nations.
- Transformation: Cooperates with the Supreme Allied Commander for Transformation (SAC–T) on integrating transformation efforts. Contributes to stability throughout Euro-Atlantic area for developing contacts and participating in exercises and activities with NATO and Partnership for Peace (PfP) partners.
- Strategic Analysis: Conducts strategic level analysis to identify and prioritize type and scale of capability shortfalls. Manages NATO allocated operation and exercises resources to accomplish operational missions as directed by the North Atlantic Council (NAC).

The responsibilities of the Commander, EUCOM, and the SACEUR are complementary. The fact that they have traditionally been vested in one officer affords near-seamless coordination between the U.S. and NATO military command structures.

Question. What background and experience do you possess that you believe qualifies you to perform these duties?

Answer. I have been fortunate to serve in a number of positions that I believe have prepared me for these duties. I have had extensive command experience in the European Theater. I was the Commander of U.S. Forces for the initial entry operation into Kosovo. I have subsequently commanded the 7th Army Training Command and the 1st Infantry Division (Mechanized)—the "Big Red One". In my current capacity as the Commander of the U.S. Southern Command, I have been involved with similar combatant command issues that include security cooperation, the global war on terrorism, interagency cooperation across a range of issues, etc. . . These assignments have given me an opportunity to hone both operational and diplomatic skills that are critical to the success of any commander. Having had the opportunity to spend a significant portion of my military career assigned in Europe provides me with a better appreciation for the cultural differences and similarities with our partners and allies in the EUCOM AOR.

Question. Do you believe that there are any steps that you need to take to enhance your expertise to perform the duties of the Commander, EUCOM?

Answer. Key to my ability to perform the duties of Commander, EUCOM, and SACEUR will be getting around to the countries within the AOR and meeting the Chiefs and Ministers of Defense as well as the U.S. Ambassadors. Gaining an immediate appreciation for their insights and perspectives will be essential. Just as important, I will need to get on the ground and interact with the commanders and forces throughout the theater, particularly those involved in the ongoing operations in Northern Africa, Kosovo, Iraq, Afghanistan, and the African Union Mission in Sudan (AMIS).

RELATIONSHIPS

Question. Section 162(b) of title 10, U.S.C., provides that the chain of command runs from the President to the Secretary of Defense (SECDEF) and from the SECDEF to the combatant commands. Other sections of law and traditional practice, however, establish important relationships outside the chain of command. Please describe your understanding of the relationship of the Commander, EUCOM, to the following:

The Secretary of Defense.

Answer. The Secretary of Defense exercises authority over the Armed Forces through the EUCOM Commander for those forces assigned to the EUCOM AOR. The EUCOM Commander exercises command authority over assigned forces and is directly responsible to the SECDEF for the performance of assigned missions and the preparedness of the command.

Question. The Deputy Secretary of Defense.

Answer. The Deputy SECDEF is delegated full power and authority to act for the SECDEF and to exercise the powers of the Secretary on any and all matters for which the Secretary is authorized to act pursuant to law. The EUCOM Commander coordinates and exchanges information with the Deputy Secretary on matters delegated by the Secretary. The commander directly communicates with the Deputy Secretary on a regular basis.

Question. The Under Secretary of Defense for Policy.

Answer. A direct command relationship between the Under Secretary of Defense for Policy and the EUCOM Commander does not exist. However, the EUCOM Commander regularly interacts, coordinates, and exchanges information with the Under Secretary of Defense for Policy on policy issues relating to NATO, European, Eurasian, and African affairs. The commander directly communicates with the Under Secretary of Defense for Policy on a regular basis.

Question. The Under Secretary of Defense for Intelligence.

Answer. There is not a direct command relationship between the Under Secretary of Defense for Intelligence and the EUCOM Commander. However, the EUCOM Commander regularly interacts with, coordinates, and exchanges information with the Under Secretary of Defense for Intelligence on intelligence related matters.

Question. The Assistant Secretary of Defense for International Security Affairs.

Answer. There is not a direct command relationship between the Assistant Secretary of Defense for International Security Affairs and the EUCOM Commander. The EUCOM Commander and the Assistant Secretary of Defense for International Security Affairs work together on coordinating international security policy and strategy with responsibility for Africa.

Question. The Assistant Secretary of Defense for International Security Policy.

Answer. There is not a direct command relationship between the Assistant Secretary of Defense for International Security Policy and the EUCOM Commander. The EUCOM Commander and the Assistant Secretary of Defense for International Security Policy work together on developing security cooperation strategies for Europe, Eurasia, and NATO.

Question. The Chairman of the Joint Chiefs of Staff.

Answer. The Chairman functions under the authority, direction, and control of the National Command Authority. The Chairman transmits communications between the National Command Authority and the EUCOM Commander as well as oversees the activities of a combatant commander as directed by the SECDEF. As the principal military advisor to the President and the SECDEF, the Chairman is a key conduit between the combatant commander, interagency, and Service Chiefs. The EUCOM Commander keeps the Chairman informed on significant issues regarding NATO and the EUCOM AOR. The commander directly communicates with the Chairman of the Joint Chiefs of Staff on a regular basis.

Question. The Secretaries of the Military Departments.

Answer. The Secretaries of Military Departments are responsible for administration and support of forces that are assigned or attached to the EUCOM Commander. The secretaries fulfill their responsibilities by exercising administrative control through the Service component commands assigned to EUCOM.

Question. The Chief of Staff of the Army, Chief of Naval Operations, Commandant of the Marine Corps, and Chief of Staff of the Air Force.

Answer. The Service Chiefs are responsible for ensuring the organization and readiness of each respective Service and for advising the President. However, the Service Chiefs do not have operational command authority. The EUCOM Commander must rely upon the each of the Service Chiefs to provide properly equipped and capable forces to accomplish missions in the EUCOM AOR.

Question. The Supreme Allied Commander for Transformation.

Answer. Both NATO's Strategic Commanders, SACEUR and SAC–T, carry out roles and missions assigned to them by the NAC or in some circumstances by NATO's Defence Planning Committee. SACEUR and SAC–T work together to ensure the transformation of NATO's military capabilities and interoperability that support Allied Command Operations.

Question. The other combatant commanders.

Answer. Formal relationships between the EUCOM Commander and the geographic and functional combatant commanders derives from command authority established by title 10, U.S.C., section 164. Combatant commanders closely coordinate as necessary to accomplish all assigned missions.

Question. The Secretary of State.

Answer. There is not a direct command relationship between the Secretary of State and the EUCOM Commander. The EUCOM Commander and the Secretary of State cooperate on the development and implementation of regional and bilateral strategy and policy for Europe, Eurasia, Africa, and NATO.

Question. The Under Secretary of State for Political Affairs.

Answer. There is not a direct command relationship between the Under Secretary of State for Political Affairs and the EUCOM Commander. The EUCOM Commander and the Under Secretary of State for Political Affairs work together in developing regional and bilateral policy issues in Africa, Europe, Eurasia, and NATO.

Question. The Assistant Secretary of State for European and Eurasian Affairs.

Answer. There is not a direct command relationship between the Assistant Secretary of State for European and Eurasian Affairs and the EUCOM Commander. The EUCOM Commander and the Assistant Secretary of State for European and Eurasian Affairs work together on developing U.S. foreign policy in Europe, Eurasia, and NATO.

Question. The U.S. Permanent Representative to the NAC.

Answer. There is not a direct command relationship between the U.S. Permanent Representative to the NAC and the SHAPE/EUCOM Commander. The U.S. Permanent Representative is 1 of 26 members of the NAC and provides direction to NATO's military authorities. The EUCOM Commander works with the U.S. Permanent Representative to the NAC to coordinate U.S. military contributions to NATO.

Question. U.S. Chiefs of Mission within the U.S. EUCOM AOR.

Answer. There is not a formal command relationship between the EUCOM Commander and the U.S. Chiefs of Mission for the 92 nations in the EUOCM AOR. In a foreign country, the U.S. Ambassador is responsible to the President for directing, coordinating, and supervising all U.S. Government elements in the host nation. The EUCOM Commander coordinates and exchanges information with U.S. Chiefs of Mission regularly on matters of mutual interest, to include military operations and engagement activities. In addition to the regular exchange of information with the U.S. Chiefs of Mission, past EUCOM Commanders have hosted regional conferences. If confirmed, I intend to continue this practice.

MAJOR CHALLENGES

Question. In your view, what are the major challenges and problems you would confront if confirmed as the next Commander, EUCOM and SACEUR?

Answer. I believe the major challenges facing the next Commander, EUCOM and SACEUR can generally be divided into six broad categories: Defense Cooperation in Eastern Europe, Africa, Theater Security Cooperation Reforms, International Security Assistance Force (ISAF)-Afghanistan, NATO Kosovo, and NATO Capabilities.

As the focus of European security continues to shift from Central to Eastern Europe, EUCOM strategic plans and activities to address the challenges in Eastern Europe and Eurasia compliment NATO efforts to strengthen new alliance partner capability in this region. EUCOM efforts to stage U.S. forces in Bulgaria and Romania will focus on military-to-military activities that continue to build the military capacities of new NATO alliance and perspective alliance countries along with strategic partners in Eastern Europe and Eurasia.

The increasing strategic significance of Africa will continue to pose the greatest security stability challenge in the EUCOM AOR. The large ungoverned area in Africa, HIV/AIDS epidemic, corruption, weak governance, and poverty that exist throughout the continent are challenges that are key factors in the security stability issues that affect every county in Africa.

Today's theater security cooperation programs provide critical resources to increase the security capacity of countries in need, but inefficient processes and program planning and design restrictions make practical use of our security cooperation programs inefficient. The lack of flexibility to respond to rapidly changing security requirements hampers the combatant commander's ability to provide the kind

of training and equipping of foreign military forces. Reform of existing theater security cooperation programs is required to streamline our processes so that U.S. national security objectives are met.

The future of NATO out of area operations is tied to the success of NATO's ISAF mission in Afghanistan. Although the security and stability ISAF mission in Afghanistan will not be a short-term or challenge-free endeavor, the commitment the Alliance has made exporting security and stability to regions in need is what will allow NATO to continue as the relevant security organization of the future. If NATO's political or military will is lost in the Afghanistan ISAF mission, the future of NATO out of area operations and thus the NATO Response Force concept will be severely jeopardized.

The Balkan countries have been a challenge for the last several Commanders, EUCOM/SACEURs, and this will not change for the next one. In Kosovo, the upcoming decision on the future status of Kosovo holds several unknowns that will assuredly affect the region. With continued vigilance, this region is on the path to be a NATO success story.

Finally, continuing to improve the standardized capabilities of NATO Alliance militaries will be an ongoing challenge for Alliance nations that grapple with scarce resources to contribute to their security organizations. Resources for modernization and standardization are competing directly with current operational requirements in Kosovo, Afghanistan, Iraq, and Darfur along with supporting U.N. peacekeeping operations throughout the region.

Question. If confirmed, what plans do you have for addressing these challenges and problems?

Answer. In the previously mentioned areas, the key to success will be proactive engagement and clear direction. The next EUCOM/SACEUR must establish clear priorities and provide a strategic vision to guide transformation, foster relationships, and set the conditions for the successful integration of the new NATO member countries. Additionally, constant reassessment of these challenges and coupled with the ability to adjust will be critical enablers as we address evolving security challenges in the EUCOM AOR.

NATO CAPABILITIES

Question. This committee has a long history of concern that NATO remain first and foremost a highly capable military organization. Over the years, there have been concerns that NATO member countries do not spend as much as they should on maintaining and modernizing their militaries, and that there has been a considerable gap in capabilities between the United States and many other NATO members. This issue has become an even larger concern as NATO has expanded to include several East and Central European nations.

What is your assessment of the military capabilities of the NATO member states, and of the NATO organization as a whole? In what areas specifically is more improvement needed? In what areas has there been the most progress?

Answer. The NATO member states are very well trained and equipped. The limiting factor for NATO capability is logistics and transportation, including strategic airlift. Military equipment and capability are the best in the world. Until NATO has the logistics and transportation infrastructure needed to be expeditionary in nature, greater quantities of unmoved equipment will be rendered irrelevant. There has been a great deal of progress in transforming new member states of NATO into all volunteer, professional forces.

Question. What is your assessment of the role of SAC–T in effecting positive change among NATO member nations?

Answer. The role of SAC–T is to effect positive change among NATO member nations forces and capabilities to improve NATO's operational effectiveness. SACEUR and SAC–T work in cooperation, not competition, to realize effective change across the alliance. I look forward to continuing the relationship that General Jones has developed.

Question. What will you do, if confirmed, to ensure that military capability and interoperability remain top priorities for NATO?

Answer. Military capability and interoperability are top priorities for NATO, and will continue to be so during my tour. Ongoing operations in Afghanistan, Iraq, and Kosovo provide "real world" experience to base our future plans. Our ability to work together will be enhanced by these experiences.

NATO ENLARGEMENT

Question. NATO has indicated that it does not expect to invite new members to join NATO at the Riga Summit in November 2006, but that it will make clear that the door remains open to new members.

What do you believe the criteria should be for accepting new members into NATO?

Answer. The criteria for accepting new members is clearly outlined in the Washington Treaty, the Alliance's 1995 Study on NATO Enlargement, and the NATO Membership Action Plan.

Chapter 10 of the Washington Treaty notes that the alliance, through unanimous agreement, may invite any European State that is in a position to further the principles of the treaty and to contribute to the security of the North Atlantic area.

Beyond that very broad statement, Allied Heads of State and Government, in September 1995, issued the Study on NATO Enlargement, which among many things, noted that any new member, at the time that they join NATO, must commit themselves to very specific things, such as: settling any international disputes by peaceful means; contributing militarily to NATO's collective defense; and maintaining the effectiveness of the alliance by sharing its roles, risks, responsibilities, costs, and benefits.

Finally, in 1999, NATO, building on the principles of that study. launched a program known as the Membership Action Plan (MAP), which is specifically designed to assist aspiring countries in their preparations for possible future NATO membership. The MAP lists over 30 separate political, economic, defense, military, financial, security, and legal items, which the alliance expects each NATO aspirant to meet upon accession into the alliance. These items range from establishing democratic and civilian control of their armed forces and allocating sufficient budget resources for the implementation of alliance commitments, to having in place sufficient safeguards and procedures to ensure the security of NATO information and ensuring, to the greatest extent possible, that their domestic legislation is compatible with the legal arrangements and agreements that govern cooperation within NATO.

Question. Is there a limit to how many members NATO can include and still be an effective military organization capable of making decisions and acting in a timely fashion?

Answer. It would not be appropriate for me to answer the first part of your question since it is a political one, which is best answered by the Allied Heads of State and Government, who collectively must answer it. However, with regard to the second part of your question, I can tell you that the last two rounds of NATO enlargement, which increased the size of the alliance by 10 members over the last 7 years, have strengthened the Alliance.

NATO-RUSSIA COUNCIL

Question. The NATO-Russia Council was established at the Rome Summit in May 2002.

How has the NATO-Russia relationship evolved since that time?

Answer. NATO-Russia relations have evolved since the Rome Summit and have incrementally increased in terms of the number and complexity of events. These events include exercises, seminars, academic exchanges, and technical conferences. Russian ratification of the NATO PfP Status of Forces Agreement remains a necessary next step for additional progress, especially in field exercises.

Question. How do you see this relationship evolving in the future?

Answer. I anticipate the relationship to continue a deliberate positive trend that reflects the mutual interests of both NATO and Russia.

Question. Does Russia continue to have concerns about further enlargement of NATO and, if so, should NATO take steps to help mitigate Russian concerns?

Answer. Russia has always been concerned about NATO enlargement, but the track history speaks for itself. The NATO-Russia relationship is non-adversarial and focused on practical interoperability. NATO has always been transparent about the enlargement process, and Russia has many opportunities to stay appraised on the enlargement status. The ongoing relationship with NATO facilitates this.

NATO-EUROPEAN UNION

Question. The NATO-European Union (EU) relationship is viewed by some as competitive and by others as complementary.

How would you characterize the NATO–EU relationship today?

Answer. When discussing the NATO–EU relationship it is important to understand that the United States considers NATO to be the premier security structure

in Europe and this drives much of our policy decisionmaking. We believe the Alliance formalizes and deepens the security and political relationship between North America and European allies and partners. In this respect we believe that NATO is the natural venue for those nations to consult and act together on security matters—a principle that EU Heads of State also affirmed. The U.S. supports European Security and Defense Policy (ESDP) and a close, cooperative relationship between the EU and NATO.

Question. How would you like to see this relationship evolve in the future?

Answer. To achieve a close, cooperative relationship between NATO and the EU from a military point of view, I believe there are several areas that both organizations can work together to improve. Let me offer some examples:

- Enhanced staff-to-staff dialogue between the EU Military Staff and NATO's International Military Staff.
- Full use of Berlin Plus arrangements.
- Wider, more active liaison work, including more frequent briefs to the NATO and EU military committees, by the NATO Permanent Liaison Team to the EU and the EU Liaison Cell to SHAPE.
- More frequent meetings between the NATO Chairman of the Military Committee and the EU Military Committee Chairman.
- Additional informal NATO–EU MILREP off-sites.
- Utilization of Crisis Management Exercise 2007 as the primary mechanism for understanding, demonstrating, and enhancing the necessity, possibility, and opportunity for cooperation between NATO and the EU, taking full advantage of the lessons learned.
- Expediting establishment of robust ties between the EU Defense Agency (EDA) and the range of comparable NATO structures addressing capabilities development, fully using the Berlin Plus mechanisms, as was agreed in the EDA's ministerial charter.

Question. What do you believe would be the optimal delineation of responsibilities between NATO and the EU?

Answer. The U.S. has supported ESDP with the understanding that it will create real additional military capabilities and conduct missions where NATO is not engaged while working in a manner that is cooperative, and not competitive, with NATO. This is the purpose of the Berlin Plus arrangements for consultations and collaboration between the two organizations.

AFGHANISTAN/INTERNATIONAL SECURITY ASSISTANCE FORCE

Question. On July 31, 2006, the NATO-led ISAF assumed responsibility for security in the southern region of Afghanistan. Since that time, NATO forces have had several military engagements with the Taliban, and have sustained casualties.

How confident are you that NATO will be able to sustain its commitment to ISAF given the challenging security situation in Afghanistan?

Answer. The NATO Alliance took a significant step when it decided to conduct military operations in Afghanistan. That it did so reinforces its commitment to the global war on terrorism and the NATO's belief that this effort is central to continued peace and stability in Europe. It was a decision made with deliberation and a significant commitment of resources. Thus far, NATO forces have shown determination and resiliency. The alliance has given no indication at this point as having any doubt in their decision and I am confident that member nations will stay the course in providing Afghanistan the stability and security it needs to move forward.

Question. When do you believe NATO will be ready to assume responsibility for security in the eastern region of Afghanistan?

Answer. Generals Jones and Abzaid have been in close consultation with respect to the standards and conditions necessary on the ground to affect the transfer of authority (TOA) in the eastern region to ISAF. This transition effort has progressed as expected and the commanders are confident that the time is near to conduct this transition. Given the strength of ISAF and the strength of the U.S. forces currently serving in Region East and the performance of ISAF forces recently in the Region South, it appears to me that we are approaching the time to conduct TOA. Unity of command is an essential element in military success and fully vesting ISAF with the stability and security responsibilities for all of Afghanistan serves this purpose.

Question. In your view, should EUCOM assume responsibility for all U.S. missions in Afghanistan once NATO has assumed responsibility for the ISAF mission?

Answer. ISAF is organized and manned to accomplish the mission authorized by the Alliance. Within that mandate, the force is well prepared to meet the broad and varied challenges that it will face in Afghanistan. There are other operations that will continue to be conducted in the country that are outside those parameters es-

tablished for ISAF. The current command relationships take into account these various activities and I believe that these can be conducted in a synchronized and coordinated manner. The various operations also take into account the unique capabilities of both NATO and the United States military forces. After the TOA for Stage 4, nearly 13,000 U.S. personnel will be under the direct command of the Commander, ISAF. The remaining U.S. forces will continue to conduct complementary and coordinated operations in support of the mission to maintain stability and security in Afghanistan.

Question. What challenges do you foresee for NATO when it assumes responsibility for this fourth sector in Afghanistan?

Answer. I think we will see a continuation of what ISAF has encountered in the region. The U.S. has been present in Region East for some time now. We can expect little change from what we are seeing today.

Question. Are you concerned about U.S. troops participating in a NATO-led mission under the control of a non-U.S. general officer? What do you see as the benefits of such participation?

Answer. No, I am not. My predecessors have all worked to make NATO the preeminent military alliance in the world, and I believe their past record stipulates to that great success. In doing so, great effort has been made in standardizing operations and procedures, to ensure all members of the military forces understand the capabilities and limitations of each nation's contributions. U.S. forces have served with great distinction under commanders of other nations—as have other NATO forces under the command of U.S. leaders. This has been a great strength within the Alliance and I see that this will continue in Afghanistan and in other areas of future NATO operations.

Question. To what extent are national caveats a problem with respect to NATO forces participating in ISAF?

Answer. Any time a unit, a component, or a single soldier is given the option to default to a national prerogative that may run counter to the assigned mission, that mission is put at risk. While I understand that there are issues that might rise above the military necessity on the ground, it must be understood that any such limitation placed upon an essential resource may well create an irrelevance in that resource's use to the command. Clearly, this situation has the effect of lessening overall military effectiveness and we in the alliance should strive to ensure no such limitations are saddled upon a commander. We continue to push for elimination of caveats within the alliance and we still have room for progress.

Question. Officials are reportedly expecting opium cultivation in Afghanistan to reach record levels this year with a possible 40-percent increase in land under poppy cultivation. Are you satisfied with the current level of effort to counter the narcotics trade in Afghanistan?

Answer. Obviously, the rising rate of poppy production in Afghanistan is a troubling issue. Drug trade generates enormous amounts of money that is being funneled back into Afghanistan, providing the resources to both criminal elements and the insurgents to fund their operations. This is a source of funding that only exacerbates the challenges that ISAF, the Afghan government, international aid efforts, and U.S. military forces face in helping to provide stability, security, and reconstruction in the Nation. Having faced a similar situation as the Commander of the Southern Command, I can assure you that there are no easy answers to this problem, but a comprehensive, coordinated effort that removes the incentives for poppy production, reduces the influence of the criminal element in those poppy production areas, creates alternative income sources for farmers, and ensures that corruption in local and regional governments is eliminated is critical to reversing this trend. I cannot be satisfied with efforts to date that have resulted in the current situation that has an immediate, negative impact on our military operations.

Question. Please provide your assessment of the capabilities and effectiveness of NATO forces in Afghanistan.

Answer. Not having been on the ground, I cannot give a personal observation or assessment as to either ISAF's current capabilities or its effectiveness. From what I have read and seen in news reports, this is a groundbreaking mission for NATO that has many implications for the Alliance and its future. Great effort and commitment has been demonstrated in approving the mission, allocating the required forces, moving them into Afghanistan, and conducting operations to date. During the recent increase in combat operations, ISAF forces have acquitted themselves well in the field as the Alliance moves towards Stage 4 TOA expansion to Region East. All this activity and effort demonstrates a true commitment to this mission.

LEBANON

Question. Recently the Department announced that EUCOM would assume responsibility from CENTCOM as the lead unified command for Joint Task Force-Lebanon. Is this a change to the Unified Command Plan (UCP) or a temporary tasking?

Answer. U.S. EUCOM assuming the mission from U.S. CENTCOM in Lebanon does not change the UCP. The transition of JTF-Lebanon to U.S. EUCOM is a temporary requirement given a specific JOA and missions focused on supporting the U.S. Embassy in Beirut.

Question. What was the rationale for this transfer of responsibility?

Answer. The Joint Staff directed the change in operational control because the military role began to transition from the nonevacuation operations to U.S. Government support to American Embassy Beirut (AMEMB) for aviation and maritime lift support, as well as providing standby capability for short-notice evacuation of embassy personnel to include a security force to augment existing AMEMB security.

Question. What specific missions have been assigned to EUCOM with respect to the current situation in Lebanon?

Answer. To provide DOD support to SECDEF approved U.S. Government humanitarian assistance efforts as requested by Department of State (DOS) and U.S. Agency for International Development; continue sustainment and security support to AMEMB; and to be prepared to conduct short notice evacuation of embassy personnel.

Question. Do you anticipate that NATO could assume any formal role relating to the situation in Lebanon?

Answer. U.S. EUCOM does not anticipate NATO assuming a role in Lebanon. The U.N. has taken on the role and UNIFIL has the lead. Currently, the U.N. has begun deploying additional UNIFIL forces to Lebanon.

Question. What role do you anticipate for EUCOM in the disbursement of military assistance, including section 1206 funding, to support the Lebanese armed forces?

Answer. U.S. EUCOM does not anticipate a role in the disbursement of military assistance to Lebanon Armed Forces. This responsibility is retained by U.S. CENTCOM.

NATO/IRAQ

Question. NATO has committed to help train and equip the Iraqi security forces to enable Iraq to assume responsibility for its own security.

What is the status of NATO contributions—both inside Iraq and outside of Iraq—to training and equipping the Iraqi security forces?

Answer. Status of NATO contributions inside Iraq: through its NATO Training Mission to Iraq (NTM–I) NATO provided assistance to Iraqi security forces through the training and education of Iraqi security forces. NTM–I began operations on February 20, 2005, and have trained over 2,000 Iraqi security forces to date, including military officers and civilian leadership. This effort includes the establishment of an Iraqi War College, the Iraqi Command and Staff College, and the Iraqi Basic Officers Commissioning Course. The NATO Training Equipment Coordination Group (NTECG) has coordinated the delivery of more than $130 million of equipment for the Iraqi security forces including tanks, trucks, small arms, ammunition, and protective equipment. Through September 5, the NTECG had trained more than 308 Iraqis at NATO institutions and is currently coordinating an additional 225 quotas. Finally, with respect to out of country training offered through NATO, the Allies have provided 96 quotas in their national institutions and the NTECG currently has 69 additional quotas under coordination.

Question. Do you expect NATO's level of effort in this area to expand, diminish, or stay about the same over the coming months?

Answer. Contingent on sufficient trust funding to support operations, NATO's level of effort will expand to include academic noncommissioned officer (NCO) training this year. NATO has also received, for the first time, an Iraqi generated statement of requirements requesting NATO assistance for 2007. This proposal was prepared by the Iraqi Ministry of Defense and Ministry of Interior and requests assistance in both training and education and equipment.

Question. Do you believe that there is more NATO could do to assist in the development of the Iraqi security forces?

Answer. There is more that can be done. NATO is an Alliance of 26 nations with a diversity of approaches and capabilities to offer. For instance, many European nations have very capable paramilitary police forces such as the gendarmerie or the Carabinieri in Italy. These forces are part of the military in many of these nations. NATO is currently exploring expansion of the mission to assist the Iraqi security

forces in developing a Gendarmerie/Carabinieri capability in order to assist interior security troops.

DEFENSE COOPERATION IN EASTERN EUROPE

Question. The United States is in the process of building new forward operating locations in Eastern Europe.

Are you satisfied with the current plans, including the proposed locations and activities to be conducted at those locations?

Answer. I am satisfied with current Joint Task Force-East planning efforts. The proposed locations and activities are satisfactory and in keeping with EUCOM's goal of establishing more strategically forward-positioned expeditionary forces. The Forward Operating Sites in Bulgaria and Romania will increase Theater Security Cooperation and bilateral training exercise opportunities across the range of military operations with our global war on terrorism partner nations. These Theater Security Cooperation events will be synchronized to support our regional war on terrorism contingency plans.

If confirmed, would you plan to review these current and proposed arrangements?

Answer. Although the current and proposed Defense Cooperation and implementation agreements with Bulgaria and Romania enter into force for 10-year periods, it is my intent to conduct annual reviews to ensure the agreements continue to meet the needs of the United States and EUCOM.

KOSOVO

Question. It appears that agreement could be reached in the near future regarding the final status of Kosovo. Nearly 16,000 NATO troops currently participate in the Kosovo Force (KFOR) that provides security and stabilization assistance in Kosovo.

What do you anticipate will be the role and requirements for KFOR after an agreement on final status for Kosovo has been reached?

Answer. In the immediate aftermath of the final status talks settlement there is a high potential for disaffected parties to generate violence and unrest. In the short-term, NATO's role in the immediate aftermath will be to ensure that security and stability are maintained as the conditions of the talks are implemented. As a longer-term measure, NATO will need to transition to other security factors to include the European Union to ensure that comprehensive approaches to Kosovo civil society are met. What cannot happen in the short- or the long-term is for the international community to disengage from Kosovo until the Kosavars are capable of ensuring their own security and stability. If there was a premature withdrawal it would be an open invitation for disaffected elements or organized criminal elements to move into the environment.

Question. Is NATO prepared in the event that ethnic violence and tension increases in the coming days and months?

Answer. NATO is very well positioned to respond to civil disturbances and unrest throughout Kosovo. KFOR has recently implemented a Multinational Task Force Concept that requires all maneuver companies in the operating area to be capable of responding to events throughout Kosovo. Additionally, KFOR conducts rehearsal deployments of its operational reserves that deploy during selectively targeted timeframes to ensure forces are positioned and ready to respond. It has also developed effective coordination measures with international community police forces. Finally, KFOR has procedures in place to enable quick reinforcement by other international forces in the Balkans.

Question. If there is no agreement on final status this year, what role should NATO play in Kosovo?

Answer. To begin with, let's keep in mind that agreement is not a precondition to final status talks. It is well within the authority of the United Nations to generate an imposed settlement. If there is no settlement this year, the logical outcome of such an event would be unrest and violence on the part of those Kosovars who are seeking the settlement. KFOR's role would be to ensure that a safe and secure environment is maintained so that efforts can move ahead towards that final settlement. NATO's role is to provide the time and the space for a comprehensive political solution to be reached.

REPUBLIC OF TURKEY

Question. In June 2006, the Council on Foreign Relations (CFR) issued a report on Turkey that argued that the United States and Turkey should take steps to repair their strained relations and help ensure that Turkey remains firmly anchored in the west. The recommended steps included a trilateral dialogue on the future of Iraq; a proactive U.S. diplomatic approach to encourage Europe to agree to Turkish

accession to the EU; and establishing a high-level U.S.-Turkish commission to provide a structured mechanism for regular interaction across agencies of government, NGOs, and the private sector.

Do you believe that Turkey is of enormous strategic importance to the United States and Europe?

Answer. Yes. Turkey remains an important strategic partner for the United States and Europe for reasons that made it a viable strategic NATO ally for the last 50 years. It is the crossroad of vital air and sea lanes of communication and directly supports the EUCOM mission of: (1) facilitating security cooperation between partner nations; and (2) providing consequence management and crisis response throughout the AOR as needed. They provide a stable, moderate, and secular Islamic society that is working for accession to the European Union. They are a traditional ally, friendly to the United States, and have been loyal throughout their history. Turkey's ability to recover economically following a crisis is documented by the World Bank and International Monetary Fund. This further indicates Turkey's ability to meet western economic standards. Another critical piece is the positive diplomacy we share and extensive military cooperation that has played a vital role in Operations Enduring Freedom and Iraqi Freedom, as well as JTF-Lebanon. The United States and Turkey share a common strategic vision. Turkish security is as important to the U.S. as it is to Turkey itself.

Question. Do you agree with the recommendations of the CFR report?

Answer. Maintaining and bolstering relations with Turkey is paramount to successful influence in the region. Closely tied with energy partners and engaging in relations with nontraditional nation-states, the importance of improving relations with Turkey is critical for U.S. regional success. The CFR stated the ideology and the generalized goals that would achieve these results. However, EUCOM with interagency assistance would consider putting more concrete tasks to match the goals and objectives outlined in the CFR.

Question. Are there activities you would like to initiate at EUCOM and at NATO to promote stronger U.S.-Turkish and European-Turkish relations?

Answer. We should continue to work with Turkey to improve the capability of the countries of the Caucasus region to secure their own borders while discouraging these countries from using military force to resolve "frozen conflicts." Both Turkey and the U.S. have significant interests in this region and see the Caucasus countries impeding the cross-border movement of transnational threats while allowing free flow of valuable hydrocarbon assets out of the Caspian basin. Both Turkey and the U.S. have significant security cooperation programs to achieve these goals, and, with continued dialogue, these programs can complement one another. We've done this well in the past in Georgia, and have begun to look at ways to cooperate in Azerbaijan. We have to be careful not to provide capabilities that will upset the military balance or that hurt movement towards resolution of the frozen conflicts, but again that can be done through good dialogue.

AFRICA

Question. A January 2006 CFR report argued that Africa is of increasing strategic importance to the United States and our allies, including Africa's role in energy security, combating the spread of terrorism, and halting the devastation of HIV/AIDS. EUCOM has been active in addressing security threats in Africa, through efforts such as the Trans-Sahel Counter-Terrorism Initiative (TS/CTI) to combat terrorist networks and deny safe havens throughout the Sahel region.

In your view, what are the most significant security threats in Africa today? What do you foresee as EUCOM's role in addressing those threats?

Answer. Foremost among African security threats to U.S. interests is the trans-Sahel's increasing attraction to terrorist groups; the undergoverned region provides a sanctuary for terrorist planning and training to a ready pool of extremists.

Other notable threats to U.S. interests in Africa include the spread of HIV/AIDS, the spillover effects of insecurity in central and eastern Africa, the instability in West Africa that threatens to spread and disrupt hydrocarbon production, and the dramatic growth in the level and nature of Chinese activities throughout Africa.

- HIV/AIDS continues to contribute to social and economic instability. AIDS has surpassed malaria as the leading cause of death in sub-Saharan Africa, and its impact is worsened by the disproportionate toll it takes on their populations. Forty percent of Africans are under the age of 15, and their poverty and lack of economic prospects exacerbates both a growing extremist sentiment and illegal emigration into Europe.

- Fighting and lawlessness in Sudan's Darfur region and eastern Democratic Republic of the Congo has created the largest humanitarian crisis in decades.
- A rise in both criminal and militant activity in Nigeria's oil-producing delta region this year has disrupted the country's oil output by between 500,000 and 1 million barrels per day. Foreign oil workers, especially Americans and other westerners, are increasingly at risk of being kidnapped for ransom.
- While developed countries will continue to rely on Africa to supply much needed raw materials, other major developing economies of the world will compete with the west's demand for these resources. For example, China is the world's leading consumer of copper, steel, cobalt, and aluminum, is second only to the U.S. as an importer of African oil, and is investing heavily in these African resource sectors.

Despite these challenges, today, Africa is on a course to slowly move away from its recent history of mass ethnic violence and dictatorial regimes. However, if gradual improvements to security and democracy are unable to keep pace with popular expectations for meeting basic needs, security will again deteriorate. These conditions could provide a fertile environment in which terrorist networks could encroach, emerge, and prosper in coming years.

Question. What do you foresee EUCOM's role in addressing those threats?

Answer. We see our role as conducting operations which contribute to an environment inhospitable to violent extremists and their ideology. EUCOM is executing Operation Enduring Freedom-Trans Sahara (OEF–TS). OEF–TS is the DOD operation supporting the DOS TS/CTI. It addresses the defeat of violent extremist networks in Trans-Saharan Africa largely through capacity building, information sharing, Strategic Communication/Information Operations, and Theater Security Cooperation (TSC). It provides a long-term solution, aimed at both defeating violent extremist networks, and reducing their underlying conditions.

Question. Are there resource or other challenges that EUCOM is facing in effectively executing the TS/CTI or similar initiatives?

Answer. DOD's top three global war on terrorism efforts (OIF, OEF–A, OEF–TS) are all currently funded by supplementals. Unless OEF–TS becomes a Program of Record in fiscal years 2008–2013, OEF–TS will continue living through the supplemental venue. I am encouraged that OSD is seeking to find better ways to resource COCOM initiatives and is using OEF–TS as their business case for this endeavor.

Other challenges for TS/CTI/OEF–TS primarily deal with access. Policy restrictions, legal roadblocks, lack of service men protections, and differing country team perspectives relating to counterterrorism create challenges that must be overcome.

DARFUR

Question. NATO is currently assisting the African Union (AU) in Ethiopia by helping to build the capacity of AU forces that will serve in Darfur, and by providing strategic lift in and out of Darfur for AU forces that are serving there.

Do you anticipate that NATO could be asked to play an expanded role in providing security and stopping the genocide in Darfur?

Answer. NATO could be asked to play an expanded role, but any such request will have to be carefully weighed against the realities of the current strategic situation. Many NATO Allies have commitments in the Balkans, Lebanon, Afghanistan as well as supporting our efforts in OIF and OEF.

Question. Is NATO planning for the possibility of an expanded mission there?

Answer. NATO is limited in its ability to plan by political decisions reached by the NAC. The NAC has authorized current levels of assistance in strategic movement support and capacity building in support of AMIS to be extended. NATO military authorities are prepared to do more in terms of providing training and support to AMIS and NATO is prepared and engaged with the United Nations (U.N.) to explore ways for NATO to support U.N. efforts as well. NATO is prepared and ready to do more than it has been asked to do by the AU. The key to any increased NATO assistance will lie with those who are requesting the assistance.

UNIFIED COMMAND PLAN (UCP)

Question. In 2004, DOD conducted a review of the UCP. While the Department reviewed the command structure in Africa, it did not approve establishing a separate command or realigning the existing command structure. Under the existing command structure, EUCOM, U.S. Central Command (CENTCOM), and U.S. Pacific Command (PACOM) have responsibilities for Africa. Since the establishment of the current command structure, Africa has become more strategically important to the

United States. Since 2001, the Department has increased its presence and activities in Africa. What is your view on the present command structure in Africa?

Answer. As you've accurately stated, Africa is split between three geographic combatant commands under the current UCP. From a unity of command and unity of effort perspective, a change in U.S. command arrangements in Africa has merit and should be considered. A separate command for Africa would provide better focus and increased synergy in support of U.S. policy and engagement, but it would also require a significant commitment of resources. Establishment of Africa Command as a geographic combatant command is included as an initiative in the UCP 2007 review.

Question. In carrying out your duties, how will you ensure that no seams exist in the operations and activities being carried out in Africa between EUCOM, CENTCOM, and PACOM, as well as with other Federal agencies of the United States operating in the region?

Answer. There will always be seams or boundaries; our challenge is to mitigate the seams through either UCP changes, where it makes sense, or through effective coordination with our respective counterparts both within DOD, the Interagency, and our allies and partners. To be effective in support of U.S. policy we all have to work as a team. That implies sharing information, participating in planning and coordination forums, establishing supported and supported relationships, and at times establishing a Joint Task Force to operate on the seam, to address a specific problem or task. The key to success in working with the interagency is not only effective communication and coordination within the beltway, but also integrating a full spectrum Joint Interagency Coordination Group within the Unified Commands as well.

THEATER SECURITY COOPERATION OPERATION REFORMS

Question. Recent changes in the Security Cooperation Guidance require all DOD components to coordinate their Security Cooperation Guidance implementation strategies, plans, and activities with the relevant geographic combatant commanders.

Based on your experience, what is your view of the extent to which these changes are being implemented? What impact are they having on the development of theater security cooperation programs?

Answer. The welcomed changes to the Security Cooperation Guidance are being implemented in a slow but sure way. Since the release of the guidance, many agencies have had to make significant course corrections in how they do business, and EUCOM is no different. The process to improve interaction takes time and I expect our interagency cooperation will improve significantly as we enter the next planning cycle. We believe that the increased interagency cooperation will bring about better synergy and collaboration at many levels, improving the overall coherency of our security cooperation activities.

Question. Do you anticipate that other changes may be necessary? If so, what areas do you believe may need to be addressed?

Answer. While some security cooperation reform measures have been embraced, there still is some work to be done. Specifically, the focus of our efforts should be on three areas: DOD reform, interagency reform, and legislative action. Within the DOD, the GCC still does not have adequate visibility over activities within our AOR nor do we have sufficient influence over service Foreign Military Sales decisions affecting theater security cooperation programs. Within the interagency arena, steps should be taken that allow for true flexibility and interagency cooperation at the regional and GCC levels. The GCC should have greater input into the FMF/IMET process, integration into the budget development process, resource visibility, and an empowered Joint Interagency Coordination Group. Finally, legislative action that supports funding flexibility designed to allow greater logistics support and training for purposes of interoperability, coalition operations, and foreign forces fighting in lieu of U.S. forces must be pursued. The reform requested should enable proactive capacity building, true synchronization of title 10 and 22 funds, and a systemic multi-year approach to security cooperation budgeting processes.

Question. What is your assessment of the effectiveness of the interagency process for developing our theater security cooperation strategy? What, if any, reforms might be necessary to develop a more effective, integrated approach toward our theater security cooperation programs?

Answer. The interagency process has yielded some positive results, but the concept and execution still require significant work to achieve the integration necessary for security cooperation success on a regional and global scale. The EUCOM Joint Interagency Coordination Group has been in place for 4 years, and its efficacy has

been limited due to a shortage of appropriate personnel and limited authorities. The representation provided by the interagency is insufficient, in both rank and numbers, to coordinate the myriad of activities conducted in the AOR. The Joint Interagency Coordination Group needs to be staffed and empowered to make decisions for their agencies in theater on strategy and objectives. The GCC should look into a reciprocal arrangement and provide liaison officers in key agencies that have a significant footprint within the AOR.

INTERAGENCY SUPPORT AND PROCESSES

Question. In his 2006 testimony, General Jones noted that due to the modern complexity of the EUCOM theater's security challenges, U.S. efforts require a broad interagency approach and that EUCOM works "to improve interagency coordination across the spectrum of governmental and nongovernmental organizations in order to achieve optimal national results." It has been suggested that the methods in place for interagency cooperation between, for instance, the Defense and State Departments overseas, are less than optimal. Some have suggested that an overhaul on the pattern of the Goldwater-Nichols Act is needed. What is your opinion as to the existing interagency processes for coordination and support?

Answer. Our processes are too cumbersome to deal with in our present day security environment and challenges presented in the 21st century. Our society allows our enemies to understand how we operate and they are exploiting certain limitations to their advantage. An overhaul within DOD's other agency partners, patterned after Goldwater-Nichols, would be a welcome reform.

Question. What improvements, if any, would you suggest?

Answer. The improvements necessary for this type of reform point toward the concept of unity of command. While the United States Government has many tools capable of affecting the various regions, the current efforts are not directed by a single entity since there is no legally binding requirement for agencies to coordinate their activities to create efficiencies and synergy. Coordination towards a collective interagency effort in order to deconflict departmental or agency priorities should guide any effort to address this issue, one that I believe is overdue for detailed study.

EUCOM AND NATO MISSILE DEFENSE

Question. NATO territory is currently within range of a variety of short- and medium-range ballistic missiles from potentially hostile states. Some NATO nations (United States, Germany, and Italy) are partners in the Medium Extended Area Defense System (MEADS) that will use some components of the Patriot PAC–3 system.

What is your view of the priority of ballistic missile defense in the overall NATO/EUCOM security situation? Where does it fit in relative to other priorities like combating terrorism, cruise missile defense, and providing peacekeeping forces?

Answer. Rogue states in the Middle East and Southwest Asia possess a current ballistic missile capability that threatens a major portion of Europe. Iran is aggressively expanding the range and sophistication of its ballistic missiles and is pursuing nuclear capabilities that dramatically expand the threat to the entire European region. The deployment of ballistic missile defense assets in Europe would make a significant contribution to the protection of the United States and Europe from a Middle Eastern ballistic missile threat. Ballistic missile defense must remain a priority so that we are postured to counter threats to the United States, deployed forces, and allies. Ballistic missile defense is directly linked to the other theater priorities such as deterring/defeating the use of missiles and WMD as a means of terrorism, defending against cruise missiles, and protecting peacekeeping forces from these threats.

Question. What role do you see for U.S. and NATO missile defenses in protecting Europe against existing and near-term missile threats? For example, what role do you envision for the Aegis BMD and THAAD systems?

Answer. United States ballistic missile defense assets are dedicated not only to defense of the U.S. homeland, but also to the defense of deployed forces and allies from the growing ballistic threat from rogue states. Sea-based and mobile assets are integral components of a comprehensive ballistic missile defense system, but cannot defeat the entire range of threats by themselves. Sophisticated sensors are required for early acquisition and target discrimination and ground-based interceptors are needed to defeat longer-range missiles. U.S. ballistic missile defenses can synergistically integrate with emerging NATO concepts for a missile defense system. The United States is fully committed to treaties and alliances and the collective defense of Europe.

Question. Do you believe there are sufficient U.S. and allied Patriot/PAC–3 capabilities currently available in the EUCOM AOR, or are additional capabilities needed?

Answer. Joint Staff tasked STRATCOM, in coordination with other combatant commanders and force providers, to develop a worldwide Patriot Theater Ballistic Missile Risk and Threat Assessment in order to recommend to SECDEF an allocation of ballistic missile defensive capabilities to cover global requirements. It would not be appropriate for EUCOM to preempt that ongoing process. However, we can say that EUCOM's current requirement for one Patriot Battalion has been given a relatively high priority thus far and does not appear to be at risk for deployment to another theater. The Patriot Battalion stationed in Germany is currently configured with PAC–2. It is scheduled for upgrade to PAC–3 by 2009. The Missile Defense Agency, Joint Staff, combatant commanders, and force providers are also engaged in a number of assessments intended to develop a comprehensive missile defense acquisition, development, and deployment plan. EUCOM is engaged in this process and is satisfied with its current progress.

GROUND-BASED MIDCOURSE DEFENSE (GMD) SITE IN EUROPE

Question. The Department is requesting funds in fiscal year 2007 to acquire and deploy 10 ground-based interceptor missiles at a site to be located in a European country by the end of the decade. This missile defense site is planned to provide protection for the United States and most of Europe against future long-range ballistic missile threats from Iran and other locations.

What is your view on the requirement for such a capability deployed in the EUCOM AOR?

Answer. Rogue states in the Middle East and Southwest Asia possess a current ballistic missile capability that threatens a major portion of Europe. Iran is aggressively expanding the range and sophistication of its ballistic missiles and is pursuing nuclear capabilities that dramatically expand the threat to the entire European region. The deployment of ballistic missile defense assets in Europe would make a significant contribution to the protection of the United States and Europe from a Middle Eastern ballistic missile threat. Sea-based and mobile assets are integral components of a comprehensive ballistic missile defense system, but cannot defeat the entire range of threats by themselves. Sophisticated sensors are required for early acquisition and target discrimination and ground-based interceptors are needed to defeat longer-range missiles. Ballistic missile defense must remain a priority so that we are postured to counter threats to the United States, deployed forces, and allies. It will also stand as a testament of our commitment to the region and attest to the strength of our partnership with our NATO allies.

Question. What role, if any, should NATO play in the decision to build, operate, or pay for a European GMD site?

Answer. Discussions with NATO allies, potential host nations, and others are being led by the OSD. Related questions can be answered best by OSD. It is our understanding that it is OSD's intent to keep NATO allies, potential host nations, and other significant international actors informed about its missile defense program and plans, but that the U.S. will not ask other countries to assist in building, operating, or paying for the system at this time. Potential host nation(s) may be asked to share in some costs such as related infrastructure requirements.

Question. What role, if any, will NATO have in developing a concept of operations for the employment of a GMD system located in Europe, and what role would the Commander, EUCOM, play in executing the GMD mission either for the defense of the United States or Europe?

Answer. These issues are being studied by the Joint Staff, STRATCOM, NORTHCOM, Missile Defense Agency, and others. Answers to questions regarding command and control of U.S. ballistic missile defense forces in Europe have not yet been developed, coordinated, or approved. We anticipate that command and control the forces under the operational control of EUCOM will be compatible and similar to the doctrinal models in use in other AORs. We anticipate that the U.S. will exercise sole command and control of the system for the foreseeable future.

COMBAT TRAINING CENTERS

Question. The Army's combat training centers (CTCs) in the United States are heavily utilized in preparing units for rotations to Iraq and Afghanistan. Once the proposed drawdown of U.S. forces from Germany, is completed, there is a potential that the Combat Maneuver Training Center in Hohenfels will be underutilized even as the CTCs in the United States are fully subscribed. The addition of new modular brigades to the Army over the next few years will increase the demand for training

rotations at the CTCs. Do you believe there are ways the training center at Hohenfels can help absorb this increased demand without having to deploy troops from the United States to Germany solely to conduct a training rotation?

Answer. The Joint Multinational Training Center at Hohenfels, Germany, is a dual-mission maneuver CTC that is capable of training the modular brigades in USAREUR and to export this training capable to support units based in. The JMRC can conduct four brigade level training rotations at Hohenfels and support four rotations external to Hohenfels, including continental United States (CONUS), as part of its exportable training capability, thereby providing additional raining support to CONUS-based units.

ACQUISITION REFORM

Question. Within the past year, several major studies (e.g., the Quadrennial Defense Review 2006; Beyond Goldwater Nichols by the Center for Strategic and International Studies; the Defense Acquisition Performance Assessment (DAPA); and Transformation, a Progress Assessment by the Defense Science Board) have been completed that address the issue of defense acquisition reform. Each of these reports emphasized the need for reduced program risk and greater stability with respect to acquisition procedures.

What concerns, if any, do you have regarding the process the Services use to acquire capabilities to support the needs of the combatant commanders?

Answer. While improvements in DOD acquisition processes are continually being made, I believe it is important that the combatant commanders have a larger voice in Defense-wide and Service-specific programs early in the acquisition cycle to ensure the COCOM views/capability requirements are met in a timely manner. The existing defense acquisition process is challenged to rapidly fill hardware and personnel requirements as changes are identified by COCOMs.

Question. The studies mentioned above make numerous recommendations regarding the role of the service acquisition executives and the combatant commanders in improving military acquisition processes and outcomes.

What are your views regarding proposals for the establishment of service acquisition commands that would report to the services' chiefs of staff and acquisition executives?

Answer. Existing service acquisition commands generally accomplished their missions in generating material solutions to meet existing emerging operational needs. However, defense acquisition processes writ large, still struggle to rapidly produce large capital investments in a timely fashion. In addition, the recent efforts to ensure that joint capabilities are considered over larger acquisition programs need to continue. I am encouraged by the direction the department has taken thus far and the emphasis both from DOD and Congress continue to focus on the issue. In your judgment, would such proposals improve the acquisition process?

Answer. I don't believe establishing more service acquisition commands, without significantly altering the requirements generation process and existing acquisition rules, will improve the current acquisition process. As stated above, the laws regulating acquisition processes need to be streamlined while maintaining effective oversight.

Question. In your view, what improvements should be made to enhance the combatant commanders' role in the acquisition process?

Answer. Geographic combatant commanders, as the supported commander, should have a larger role in Defense-wide and Service-specific programs early in the acquisition cycle. This is particularly important as it pertains to resourcing capabilities required to prosecute the global war on terrorism and theater security cooperation initiatives.

QUALITY OF LIFE PROGRAMS FOR MILITARY FAMILIES

Question. The top three quality of life issues in the EUCOM AOR include obtaining quality living accommodations; gaining predictable access to health care to include family member dental support; and ensuring dependent education programs provided by the DOD Dependent Schools. In this regard, General Jones has noted that 44 percent of EUCOM personnel have children and that commanders in the EUCOM region have emphasized their support for and reliance on EUCOM resources to provide crucial morale programs, enhance retention, and foster esprit de corps.

What do you see as the most significant longer-term challenges for EUCOM in preserving and enhancing the quality of life for assigned personnel while force redeployments to the United States proceed?

Answer. As we transform, it is essential that we stabilize our base operational support funding to maintain quality of life programs and services comparable to those available stateside. As resources are shifted to support expansion of stateside mission locations, we are challenged in maintaining EUCOM theater programs and services. While expanding our host nation partnerships and creating joint service solutions will help minimize the erosion of services and military family benefits, maintaining stable base operational support funding in the coming years will ensure a mission-focused, fully supported military family.

Question. If confirmed, what steps would you take to ensure the adequacy of support services for military families during the transition to ensure that vital support mechanisms, such as DOD schools; morale, welfare, and recreation services; housing; and commissary and exchange continue to serve military personnel?

Answer. Providing an optimal quality of life remains essential to maintaining readiness. Listening to the needs of our warfighters and military families is job one in meeting their needs. Each year we ask grassroots representatives to meet with senior leaders and subject matter experts to identify and tackle theater quality of life challenges. Issues that cannot be fixed or supported in theater are forwarded to OSD and armed services leaders for the identification of joint strategic pathways leading to improvements. The EUCOM quality of life office, the link between senior leaders, our joint service infrastructure, and theater personnel will remain the critical pulse point for identifying and resolving quality of life challenges. I will directly champion for support with senior leaders and congressional representatives those issues that cannot be fixed in theater. Listening and responding to the needs of our military family will continue to be one of my top priorities.

RESERVE DUTY STATUS IN EUCOM

Question. There are currently 32 different duty status categories affecting operational access and benefits for reservists who drill and otherwise perform duties in the EUCOM AOR.

What is your understanding of the nature of the problems caused by variations in Reserve duty status? What progress, if any, has been made in addressing and resolving this issue?

Answer. The complexity of Reserve duty status categories makes it difficult to access and efficiently utilize reservists. The labyrinth of processes, policies, and funding streams results in servicemembers working side-by-side, doing the same work, but getting entirely different pay and benefits. As you can imagine, these inequities in pay and benefits cause morale issues within a command. The section in title 10 regarding Reserve duty status categories is a cold war relic. I advocate for OSD and Congress to work together to completely review and rewrite the sections in title 10 regarding Reserve duty status categories. The objective of this review should be to simplify access.

AMERICAN SERVICEMEMBERS' PROTECTION ACT

Question. The American Servicemembers' Protection Act (ASPA) precludes foreign military financing and international military exchange training with countries which have not executed an article 98 bilateral agreement in which they pledge not to extradite serving or former U.S. personnel, officials, or citizens to the International Criminal Court. You previously have testified that this law affects 11 countries in Latin America and has resulted in lost opportunities in engaging with generations of military officers and noncommissioned officers in nations in the U.S. Southern Command AOR.

What is your understanding of the impact of this law on military-to-military relations in the EUCOM AOR?

Answer. My understanding, based on discussions with General James Jones, is the same affect is occurring in the EUCOM AOR.

Question. If confirmed, would you support modifying ASPA so that military assistance programs would not be prohibited for countries that have not signed article 98 agreements?

Answer. I have and continue to support ASPA as protection for our servicemembers worldwide. Having said that—I believe there are negative unintended consequences that impact one half of the 92 countries in Europe and Africa through lost opportunities to provide professional military training with military officers and noncommissioned officers. I have and will continue to advocate for a "delinking" of International Military Education and Training (IMET) funding from the ASPA sanction.

BURDENSHARING IN EUROPE

Question. The United States is in the process of reducing the number of military personnel stationed in Germany and closing installations, while at the same time increasing troop levels in Italy and Eastern Europe. Both changes have resulted in substantial investments to be made in military construction over the next few years. This committee has historically advocated for prudent management of facility and infrastructure requirements within EUCOM in the theater. This includes a constant assessment of opportunities to share the financial burden for constructing and maintaining facilities that will support NATO or allied operations, and the receipt of residual value amounts for improvements funded by the U.S. on installations to be returned to the host nation. What is your assessment of the current effectiveness of burden-sharing arrangements in Europe?

Answer. EUCOM actively seeks NATO Security Investment Program (NSIP) funding to share the burden of constructing facilities used by the U.S. to support NATO operations. The U.S. contributes approximately 23 percent annually to the NSIP, a 4-percent decrease in our annual contribution amount from 10 years ago. In fiscal year 2006, EUCOM benefited from over $130 million in NATO construction investment at Ramstein, RAF Lakenheath, Rota, Incirlik, and Souda Bay. The U.S. share for this investment was $30 million. Through existing and emerging NATO Capability Packages, the U.S. has the potential of realizing over $350 million in planned NATO construction at Aviano, Ramstein, Rota, Souda Bay, Moron, and Sigonella over the next 5 years. Additionally, through the use of NATO pre-financing statements, we are also ensuring that U.S.-funded projects have the future potential to be accepted by NATO under emerging capability packages. These statements, although not binding in nature, establish the foundation for future acceptance of U.S.-funded projects by NATO and the mechanisms by which we may recoup our investment.

Question. If confirmed, how will you ensure that the burdensharing and residual value programs are carried out in a manner that ensures maximum benefit?

Answer. We understand congressional concerns over burdensharing, and we will continue to aggressively leverage NSIP investment in facilities and infrastructure the U.S. requires to maintain its commitment to the common defense of our NATO allies. Our ability to gain residual value from returned facilities is tied to the re-use of those facilities. During closure negotiations, EUCOM coordinated closely with the respective host nation in identifying potential re-use of returned facilities. After concluding negotiations, we will continue to protect U.S. interests by monitoring host nation utilization of returned facilities while remaining vigilant to other potential re-use opportunities.

CONGRESSIONAL OVERSIGHT

Question. In order to exercise its legislative and oversight responsibilities, it is important that this committee and other appropriate committees of Congress are able to receive testimony, briefings, and other communications of information.

Do you agree, if confirmed for this high position, to appear before this committee and other appropriate committees of Congress?

Answer. Yes. I fully recognize and understand the importance of congressional oversight as it is clearly outlined in the Constitution of the United States.

Question. Do you agree, when asked, to give your personal views, even if those views differ from the administration in power?

Answer. Yes. Although the President is my Commander in Chief, and he and the SECDEF constitute my chain of command, I recognize that my oath is to the Constitution. That document clearly divides responsibilities with regard to defense between the executive and legislative branches. For both the administration and Congress to execute their respective responsibilities appropriately, it is incumbent upon me to be honest and forthright with both while offering my best military advice.

Question. Do you agree, if confirmed, to appear before this committee, or designated members of this committee, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as the Commander, U.S. EUCOM and SACEUR?

Answer. Yes. That is an inherent part of my responsibilities as outlined above, and I will be happy to appear when called.

Question. Do you agree to ensure that testimony, briefings, and other communications of information are provided to this committee and its staff and other appropriate committees?

Answer. Yes.

[Questions for the record with answers supplied follow:]

QUESTIONS SUBMITTED BY SENATOR CARL LEVIN

NATO INTEROPERABILITY

1. Senator LEVIN. General Craddock, what will you do, if confirmed, to ensure that the United States works more closely with its allies on technology-sharing, especially in areas such as counter-improvised explosive device research, and generally on improving interoperability?

General CRADDOCK. Operations in Iraq and Afghanistan highlight the need for interoperability as we increasingly rely on coalition partners and allies to support the global war on terror. Technology cooperation provides us not only interoperability, but an increase in coalition partner capacity, political cohesion, and common operational systems. Technology cooperation is a key piece of Theater Security Cooperation planning and I intend to integrate technology cooperation into all such plans. Another key piece to this equation is the Office of Defense Cooperation personnel at United States embassies. They are the front line of communication with the armaments development communities of foreign nations, and I would support resourcing this valuable asset.

European Command (EUCOM) is continually looking for new and more effective ways to both share technology amongst our partner nations as well as to increase the interoperability of our systems. I will build on that trend by continuing to focus our technology efforts and programs in ways that broaden and mature the participation of our traditional partners, while developing new avenues of participation by our emerging partners.

PROVINCIAL RECONSTRUCTION TEAMS—AFGHANISTAN

2. Senator LEVIN. General Craddock, some Provincial Reconstruction Teams (PRTs) are being turned over to the North Atlantic Treaty Organization (NATO) to lead, but we are told that U.S. personnel will still participate in the teams. Do you support continuing to provide Commanders Emergency Response Funds for the PRTs under NATO leadership, and if so, what mechanism should be used to provided funding for those non-U.S.-led PRTs?

General CRADDOCK. Nations volunteering to lead PRTs employ a structure appropriate for their area and task based upon their assessment of both. The NATO provided a set of minimum standards required to ensure a consistency of approach in NATO's PRTs in its recent operations plan revision. Based on this information, nations are able to build on that guidance to standardize the organizational structure and methods of operation of PRTs. Many of the ideas on best practices come from the PRT's deployed in the northern region of Afghanistan and in particular the German model. These PRTs are civilian-led (unlike U.S. PRTs) but include military personnel. Together they deliver a coherent multi-agency approach to long-term reconstruction and development in Afghanistan. How these NATO PRTs are funded is a national decision.

U.S. PRTs reflagged to International Stabilization and Assistance Force (ISAF) will continue to be led by U.S. personnel and, as such, should continue to receive Commander's Emergency Response Program (CERP) funding. Other PRTs operating under ISAF are led by allied or partner nations; those lead nations should be encouraged to establish (or maintain, where they already exist) funding arrangements similar to CERP for their respective PRTs.

FORCE POSTURE IN EUROPE

3. Senator LEVIN. General Craddock, the United States is in the process of building new forward operating locations in Eastern Europe. Are you satisfied with the current plans, including the proposed locations and activities to be conducted at those locations, or do you plan to review these current and proposed arrangements, if confirmed?

General CRADDOCK. We have just completed Defense Cooperation Agreements with the countries of Romania and Bulgaria to station U.S. forces for training and Theater Security Cooperation. The plan is to only add U.S. specific or modernize existing facilities to provide adequate work spaces for a small permanent Joint Task Force-East (JTF–E) headquarters force of approximately 120 personnel at Mihail Kogalniceanu (MK) Airbase in Romania, and life support and maintenance facilities to support rotational forces during their training cycles.

JTF–E headquarters will have operational control of rotational and assigned forces working out MK Airbase, and rotational ground forces split-based between Forward Operating Sites at the 34th Mechanized Brigade Base, Romania, and Novo Selo, Bulgaria. Commanded by a general officer, this joint headquarters will orchestrate security cooperation activities with the newest members of NATO and partners in Eastern Europe, including the Black Sea and Caucasus regions.

Our current plans for this important transformational effort are tracking very well and I will continue to support this EUCOM effort to improve the military capability of new NATO allies and Eastern European partners. While I am satisfied with these current efforts, I intend to routinely assess actual activities against the planned efforts to ensure we are achieving expected objectives.

4. Senator LEVIN. General Craddock, do you believe the EUCOM should have Special Operations Forces (SOF) assigned to/stationed in your area of responsibility (AOR)?

General CRADDOCK. Having SOF in the EUCOM's AOR provides the operational flexibility required to respond to emerging crises and contingencies. SOF remain a key asset in building and developing Irregular Warfare and Partner Nation capacity in the regional war on terror campaign, as directed in the Quadrennial Defense Review.

Additionally, SOF demonstrates U.S. regional commitment, and allows a rapid response to opportunities, as they arise, in the EUCOM theater. SOF are a force multiplier that produce additional value through the "partner engagement" realized in local training and exercises with our partner nations.

QUESTIONS SUBMITTED BY SENATOR EDWARD M. KENNEDY

GUANTANAMO DETAINEE OVERSIGHT

5. Senator KENNEDY. General Craddock, the riots of this past May and the coordinated suicides of this past June have raised concerns about the treatment of detainees in Guantanamo. To what extent did you exercise oversight as to the management of conditions in the camp during the period leading up to these unfortunate events, and would you please enumerate the responsive measures you took in their aftermath?

General CRADDOCK. As the Commander of U.S. Southern Command, I am responsible for all U.S. military operations in the Caribbean, Central America, and South America, including the operation of Joint Task Force-Guantanamo (JTF–GTMO), a strategic level detention and interrogation facility in support of the global war on terrorism. In that regard, I am responsible for ensuring that all detainees at such a facility are treated humanely and in accordance with U.S. law, the law of war, and U.S. policy. JTF–GTMO is under the command and control of a General/Flag Officer (previously Major Genera] Jay Hood and currently Rear Admiral Harry Harris, Jr.), who oversees the day-to-day operations of the detention facility.

While exercising oversight of camp conditions, I have ensured JTF–GTMO complies with new congressional and Department of Defense directives and policy. Specifically, I directed compliance with the Detainee Treatment Act of 2005. Upon receiving the 30 December 2005 memorandum from Deputy Secretary England, I forwarded it on 1 January 2006 to Major General Jay Hood, who, on 2 January 2006. confirmed that JTF–GTMO was in compliance with the Detainee Treatment Act. On 3 January 2006, I endorsed a memorandum from Major General Hood to Deputy Secretary England that informed Deputy Secretary England of JTF–GTMO's compliance.

Likewise, on my receipt of the 7 July 2006 memorandum from Deputy Secretary England on the application of Common Article 3 to the Geneva Conventions of 1949, I forwarded it to Rear Admiral Harris, who on 14 July 2006 confirmed that JTF–GTMO's directives, policies, practices, and procedures comply with Common Article 3 standards. On 24 July 2006, I informed the Deputy Assistant Secretary of Defense for Detainee Affairs of JTF–GTMO's compliance.

More recently, following the issuance of Department of Defense Directive (DODD) 2310.01E. The Department of Defense Detainee Program, on 15 September 2006. I submitted implementing guidance concerning DODD 2310.01E to the Under Secretary of Defense for Policy for his review and approval. On 3 October 2006, Under Secretary Edelman approved my proposed guidance to JTF–GTMO concerning DODD 2310.01E, which I will be issuing to JTF–GTMO shortly.

Additionally, in exercising oversight of camp operations, I have, since assuming command in November 2004, visited Guantanamo 12 times, including visits on 11

and 19 June 2006 immediately following the detainee suicides. During those visits, I was briefed by JTF–GTMO personnel as well as Naval Criminal Investigative Service (NCIS) agents. I was also provided an interim brief on 2 August 2006 by NCIS as to the progress of their ongoing investigation of the suicides.

Finally, I exercise oversight and maintain awareness of camp operations through the receipt of daily reports from JTF–GTMO and through a multi-disciplined U.S. Southern Command Detainee Coordination Team, which I established in November 2005.

DARFUR

6. Senator KENNEDY. General Craddock, in your written testimony, you stated: "The increasing strategic significance of Africa will continue to pose the greatest security stability challenge in the EUCOM AOR." You also stated that planning for contingencies in the Darfur region of Sudan would be dependent upon the scope of authorization granted by the North Atlantic Council (NAC) and by the "realities of the current strategic situation" at the time NAC authorization is granted. However, due to the African Union Mission in Sudan's (AMIS) inability to provide effective security or to stop genocide in Darfur, there is an increasing demand within the international community for NATO to enforce the no-fly zone set forth in prior United Nations Security Council Resolutions, to increase AMIS's current capabilities, and to help AMIS prepare for a transition to a United Nations peacekeeping force. Assuming the NAC grants you broad authority, what measures are you prepared to take as Supreme Allied Commander, Europe (SACEUR), beyond supporting AMIS with strategic movements and capacity building efforts, to end the military and humanitarian crises and establish strategic stability in the region?

General CRADDOCK. NATO decisions are taken on the basis of consensus after discussion and deliberation among member countries. Prior to a decision being reached by the Alliance to undertake a mission or operation, the NATO Military Authorities provide their advice regarding the military requirements necessary to achieve the desired outcome as stated by the NAC. Once the council reaches a decision to embark on a mission or operation, the role of the SACEUR is to execute all the agreed military measures within the authorities and capabilities afforded by the alliance. The SACEUR is generally not afforded "broad authority" to undertake additional measures without the specific authorization of the NAC.

The NAC has recently endorsed the African Union's formal request for additional Staff Capacity Building Seminars. This training should impart the principle of how a civilian-controlled military operates in a democracy and ensure respect for human rights and lay the foundation for the development of competent forces. As long as the Alliance remains in a supporting role to the African Union, it must remain sensitive to the desires of that organization.

FORCE LIMITATIONS

7. Senator KENNEDY. General Craddock, the war in Iraq has placed a strain on our ground and amphibious capabilities, and it may be compromising our preparedness to address other contingencies. For instance, the United States was unable to respond in a timely manner to the onset of crisis in Lebanon. As it happened, the seagoing assets of the Iwo Jima Expeditionary Strike Group, including the 24th Marine Expeditionary Unit, had to be moved to the eastern Mediterranean from exercises in the Red Sea to conduct evacuations. What will you do to prevent force limitations from compromising the mission of EUCOM in its AOR?

General CRADDOCK. The U.S. military is one of many instruments of political power and does not act unilaterally with regard to U.S. policy. The decision to begin evacuations of noncombatants belongs to the U.S. ambassador of the affected country and involves far more subtle considerations than the proximity of an individual naval vessel. I think a more accurate accounting of the EUCOM response to the onset of crisis in Lebanon is that the U.S. Embassy in Lebanon received exactly the measure and pace of response it requested, with remarkably effective results from the perspective of American citizens concerned.

It would be disingenuous for a combatant commander to tell Congress that force limitations don't matter in any AOR. The fact is that whether at war or during peacetime, there would never be enough troops or equipment to have a robust force omnipresent in an area spanning 92 countries on 2 continents to mitigate resource constraints across this vast area. I plan to continue the EUCOM best practices: proactive "phase zero" operations that reinforce democratic government's ability to participate in the regional war on terror; robust security cooperation with partner

nations around the theater; and effective use of the Global Force Management system to provide or request capability wherever needed.

ISRAEL/PALESTINE

8. Senator KENNEDY. General Craddock, your written testimony describes the current role of EUCOM in Lebanon, but it does not mention EUCOM's role with respect to instability in Israel and the Palestinian territories. What specific missions are currently assigned to EUCOM with respect to the current state of affairs in Israel and the Palestinian territories?

General CRADDOCK. EUCOM's primary mission with respect to Israel is in the area of Theater Security Cooperation, and is primarily focused on military-to-mHilary engagement. The Palestinian Authority program is managed by Department of State and handled by General Dayton's team which is not associated with EUCOM. EUCOM does not conduct any programs within the Palestinian Territories.

9. Senator KENNEDY. General Craddock, what specific contingencies concerning the safety and security of Israelis and Palestinians can you foresee EUCOM taking an active role in situating?

General CRADDOCK. Israel's security is a U.S. national priority and as such it continues to be a significant part of EUCOM planning efforts. I will continue to work to improve and expand the ongoing military dialogue with the Israeli Defense Forces, as well as ensure our military-to-military activities remain relevant to Israel's security and EUCOM's regional engagement activities. Transformation initiatives and information exchanges will continue to encourage our mutual interests and further broaden what has been a positive and productive relationship.

EUCOM is not currently authorized to interact or participate in activities in the Palestinian territories or with the authorities therein.

QUESTIONS SUBMITTED BY SENATOR DANIEL K. AKAKA

STRATEGY FOR COMMAND

10. Senator AKAKA. General Craddock, EUCOM has recently added Israel and Lebanon to its AOR in addition to all of Europe. To what extent do you believe that it is possible to have one overarching and comprehensive strategy for EUCOM given the extraordinary geographic and cultural diversity of this region?

General CRADDOCK. Lebanon was temporarily added to the EUCOM AOR in effort to consolidate efforts between two combatant commands (Central Command (CENTCOM) and EUCOM) when dealing with one common problem. However, as of 30 September 2006, responsibility for Lebanon was returned to CENTCOM. This places Lebanon back in alignment with the current Unified Command Plan.

The strategy that EUCOM pursues is in compliance with the National Security Strategy and serves to support allies and partners in the region. EUCOM strategy leverages military cooperation in a balanced approach with Department of State diplomatic efforts to achieve U.S. Government strategic objectives.

EUCOM strategy is designed to be flexible in order to respond to the cultural and geographic diversity of U.S. partners and allies. This allows a consistent approach to country and regional issues. Consistency is the key to successful policy and a flexible approach allows EUCOM to adjust to the individual needs of the partners, create a level of understanding between EUCOM and U.S. allies, and to promote positive presence in the EUCOM AOR.

AFRICAN COMMAND

11. Senator AKAKA. General Craddock, there has been some discussion by the DOD of establishing a new African command. Do you believe that a separate command for Africa is necessary or does EUCOM have the resources it needs to devote to the African continent given its potentially important role in the global war on terror?

General CRADDOCK. I think that our growing focus on the African continent is appropriate and critical to U.S. national interests. The reasons include: denying terrorists an opportunity to find fertile ground, helping to eradicate disease, reducing bloodshed in places such as Darfur, and countering China's growing economic activities in Africa. EUCOM has committed increasing resources toward Africa and the time has come to take steps to formalize these actions. I believe there is a place

for a unified command focused on this continent, but I also believe it must be a deliberate step and that the resources necessary for success be provided. This command should ultimately be in Africa, it should likely include all of Africa, and it should be established over a period of time that permits the United States to take executable and effective steps to realize the potential of this important initiative.

QUESTIONS SUBMITTED BY SENATOR BILL NELSON

U.S. SOUTHERN COMMAND

12. Senator BILL NELSON. General Craddock, Southern Command's (SOUTHCOM) Miami headquarters are at the crossroads of Latin America, facilitating contact with regional political and military leadership. Why is Miami the best location for this headquarters (HQ)?

General CRADDOCK. Miami is without a doubt the best strategic location for U.S. SOUTHCOM to accomplish its assigned missions.

- LATAM Expatriates—Miami is home to expatriate communities from every country in the hemisphere.
- Transportation and Logistical Hub for the Americas—Miami International Airport is the third largest international passenger hub in the U.S. Latin American destinations account for 70 percent of the outgoing and 81 percent of the incoming cargo traffic.
- Proximity to Educational Institutions—Nearby multi-cultural universities (FIU, UM, and FAU) partner with SOUTHCOM for collaboration on Latin American studies.
- Abundant Interagency Partners—U.S. Government agency satellite offices in Miami (DHS–USCG, DOJ–DEAICE, DOS, FAA, Treasury) enhance interagency collaboration.

13. Senator BILL NELSON. General Craddock, what is the status of the Department's efforts to conclude an arrangement to modernize the HQ?

General CRADDOCK. The U.S. Senate Environment and Public Works Committee and U.S. House Transportation and Infrastructure Committee each passed a resolution approving the new SOUTHCOM HQs Facility (IAW 40 U.S.C. 3307). Title 10 notification to Senate and House Armed Services Committees is complete (IAW 10 U.S.C. 2662). To gain full congressional authority, the Department of the Army is seeking written permission to proceed from the Readiness Subcommittee of the House Armed Services Committee. The State of Florida, in collaboration with the General Services Administration (GSA) and DOD, is leading the procurement which is scheduled to conclude in a lease agreement between the State and GSA by 22 December 2006. The new facility is scheduled to achieve full operating capability by 30 March 2010.

NATO

14. Senator BILL NELSON. General Craddock, are more NATO troops needed in Afghanistan?

General CRADDOCK. The NATO objective in Afghanistan is to enable a self-sustaining, moderate, and democratic Afghan government able to exercise its sovereign authority, independently, throughout Afghanistan.

The NATO military authorities have created, and the NAC has approved, a Combined Joint Statement of Requirements (CJSOR) outlining the minimum military requirements for the ISAF mission. Presently, that CJSOR is not fully resourced by the alliance. However, the forces currently operating as part of the ISAF are meeting current mission needs and recent pledges of additional forces have reduced the existing shortfall. I intend to go to Afghanistan and after making a personal evaluation of force levels and conferring with operational commanders, I will present my findings to the Secretary General.

Perhaps more importantly, however, is the need for greater resources to be applied by the entire international community in the areas of reconstruction and development. We should all understand that the conflict in Afghanistan will not be resolved militarily. It will be resolved when the people of that country see improvements in their lives as a result of the growing positive influence and capacity of the Government of Afghanistan. Progress on that front is beyond the ability of NATO to effect alone.

15. Senator BILL NELSON. General Craddock, what is NATO's will and capacity to support expanding the mission?

General CRADDOCK. Currently 37 nations provide forces for the ISAF and by the end of this year, we anticipate that this number may increase. Alliance nations understand that the mission in Afghanistan is a long-term commitment. As ISAF's roles and responsibilities increase, member nations' willingness to provide the capabilities required have correspondingly increased. The alliance recently completed a Joint Declaration with the Government of Afghanistan titled "Framework for Enduring Cooperation and Partnership." This declaration reflects the alliance's recognition of the long-term nature of its relationship with Afghanistan.

16. Senator BILL NELSON. General Craddock, NATO commanders' hands are tied by many countries putting specific limitations on what their troops can or cannot do on NATO missions. How damaging are these so-called "national caveats" and what will do you do as SACEUR to limit them?

General CRADDOCK. A national caveat is a limitation, restriction, or constraint on any national military forces or civilian elements under NATO command and control that preclude NATO commanders from deploying and employing these assets according to the approved operational plan. Restrictions may limit freedom of movement within the designated joint operations area and/or constraints upon the approved rules of engagement. Allied Command Operations continually review national caveats and provide periodic operational evaluations of the individual and collective effects of these caveats to the NAC for their information and action by national authorities.

General Jones has expressed concern regarding the effects of national caveats on NATO's ability to carry out various missions. Certain NATO units' inability to operate due to national caveats is an issue I am prepared to address early in my tenure as SACEUR. I believe it is very important to work with the various Chiefs of Defense to overcome reticence to lift these restrictions to provide operational and tactical commanders the greatest flexibility possible to facilitate the accomplishment of assigned missions.

17. Senator BILL NELSON. General Craddock, please describe the division of labor between NATO's operations in Afghanistan and the nearly 20,000 American troops in the country? How should this be rebalanced in light of NATO's struggles?

General CRADDOCK. Since the transfer of authority on 5 October for Stage 4 of the ISAF mission, the majority of Operation Enduring Freedom's (OEF) U.S. forces came under the direct operational control of Commander ISAF. Currently, approximately 12,500 U.S. personnel are serving in Afghanistan under NATO (ISAF) control, and approximately 10,500 are under U.S. control.

The Commander of OEF is also designated the Deputy Commander Security for ISAF. This ensures operations involving OEF and ISAF troops are coordinated and synchronized at the highest levels. It is also important to note that ISAF troops have effectively operated with coalition OEF forces.

[The nomination reference of GEN Bantz J. Craddock, USA, follows:]

NOMINATION REFERENCE AND REPORT

SENATE OF THE UNITED STATES,
July 14, 2006.

Ordered, That the following nomination be referred to the Committee on Armed Services:

The following named officer for appointment in the United States Army to the grade of indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be General

GEN Bantz J. Craddock, USA, 0000.

[The biographical sketch of GEN Bantz J. Craddock, USA, which was transmitted to the committee at the time the nomination was referred, follows:]

RÉSUMÉ OF GEN BANTZ J. CRADDOCK, USA

Source of commissioned service: ROTC.

Military schools attended:
Armor Officer Basic and Advanced Courses.
United States Army Command and General Staff College.
United States Army War College.

Educational degrees:
West Virginia University—BA—Political Science.
United States Army Command and General Staff College—MMAS—Military Art and Science.

Foreign language(s): None recorded.

Promotions:

Promotions	Dates of appointment
2LT	15 Aug 71
1LT	20 Apr 73
CPT	20 Aug 75
MAJ	1 Apr 83
LTC	1 May 89
COL	1 Sep 93
BG	1 Aug 98
MG	1 Dec 01
LTG	21 Aug 02
GEN	1 Jan 05

Major duty assignments:

From	To	Assignment
Jan 72	Jun 74	Platoon Leader, C Company, later Assistant S–3 (Operations), 1st Battalion, 36th Infantry, 3d Armored Division, United States Army Europe and Seventh Army, Germany.
Jun 74	Dec 74	Anti-Tank Platoon Leader, Combat Support Company, 1st Battalion, 36th Infantry, 3d Armored Division, United States Army Europe and Seventh Army, Germany.
Jan 75	Aug 78	Service Test Project Officer, Armor Test Division, United States Army Armor and Engineer Board, Fort Knox, Kentucky.
Aug 78	Mar 79	Student, Armor Officer Advanced Course, Fort Knox, Kentucky.
Apr 79	Oct 81	S–3 Air (Operations), later Commander, C Company, 1st Battalion, 32d Armor, 3d Armored Division, United States Army Europe and Seventh Army, Germany.
Nov 81	May 84	Systems Analyst, later Executive Officer, Office of the Program Manager, M–1 Abrams Tank Systems, Warren, Michigan.
Jun 84	Jun 85	Student, United States Army Command and General Staff College, Fort Leavenworth, Kansas.
Jul 85	Jun 87	Executive Officer, 4th Battalion, 69th Armor, 8th Infantry Division (Mechanized), United States Army Europe and Seventh Army, Germany.
Jul 87	Apr 89	Deputy G–3 (Operations), 8th Infantry Division (Mechanized), United States Army Europe and Seventh Army, Germany.
May 89	Jul 91	Commander, 4th Battalion, 64th Armor, 24th Infantry Division (Mechanized), Fort Stewart, Georgia and Operations Desert Shield/Storm, Saudi Arabia.
Jul 91	Jul 92	G–3 (Operations), 24th Infantry Division (Mechanized), Fort Stewart, Georgia.
Jul 92	Jun 93	Student, United States Army War College, Carlisle Barracks, Pennsylvania.
Jul 93	Jun 95	Commander, 194th Separate Armored Brigade, Fort Knox, Kentucky.
Jul 95	Aug 96	Assistant Chief of Staff, G–3 (Operations), III Corps, Fort Hood, Texas.
Aug 96	Aug 98	Assistant Deputy Director for Strategy and Policy, J–5, The Joint Staff, Washington, DC.
Aug 98	Aug 99	Assistant Division Commander (Maneuver), 1st Infantry Division, United States Army Europe and Seventh Army, Germany and Commander, Multinational Brigade (Southeast), Kosovo.
Aug 99	Sep 00	Commander, 7th Army Training Command, United States Army Europe and Seventh Army, Germany.
Sep 00	Aug 02	Commanding General, 1st Infantry Division, United States Army Europe and Seventh Army, Germany.
Aug 02	Jul 04	Senior Military Assistant to the Secretary of Defense, Office of the Secretary of Defense, Washington, DC.

Summary of joint assignments:

Assignment	Dates	Grade
Assistant Deputy Director for Strategy, J–5, The Joint Staff, Washington, DC	Aug 96–Aug 98	Colonel/Brigadier General

Assignment	Dates	Grade
Senior Military Assistant to the Secretary of Defense, Office of the Secretary of Defense, Washington, DC.	Aug 02–Jul 04	Lieutenant General
Commander, United States Southern Command, Miami, Florida	Nov 04–Present	General

U.S. decorations and badges:
Valorous Unit Award
Defense Distinguished Service Medal
Distinguished Service Medal
Silver Star
Defense Superior Service Medal (with Oak Leaf Cluster)
Legion of Merit (with 2 Oak Leaf Clusters)
Bronze Star Medal
Meritorious Service Medal (with 3 Oak Leaf Clusters)
Army Commendation Medal (with 2 Oak Leaf Clusters)
Army Achievement Medal
Office of the Secretary of Defense Identification Badge
Joint Chiefs of Staff Identification Badge

[The Committee on Armed Services requires certain senior military officers nominated by the President to positions requiring the advice and consent of the Senate to complete a form that details the biographical, financial, and other information of the nominee. The form executed by GEN Bantz J. Craddock, USA, in connection with his nomination follows:]

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

(202) 224–3871

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior to the hearings and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)
Bantz J. Craddock.

2. **Position to which nominated:**
Commander, United States European Command and Supreme Allied Commander, Europe.

3. **Date of nomination:**
14 July 2006.

4. **Address:** (List current place of residence and office addresses.)
[Nominee responded and the information is contained in the committee's executive files.]

5. **Date and place of birth:**
24 August 1949; Parkersburg, WV.

6. **Marital Status:** (Include maiden name of wife or husband's name.)
Married to Linda Eaton Craddock.

7. **Names and ages of children:**
Zachary W. Craddock (31) and Amanda E. Craddock (29).

8. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed in the service record extract provided to the committee by the executive branch.
None.

9. **Business relationships:** List all positions currently held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, firm, partnership, or other business enterprise, educational or other institution.
None.

10. **Memberships:** List all memberships and offices currently held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.
Association of the United States Army—Member.
Society of the 1st Infantry Division—Member.
U.S. Army Armor Association—Member.
Veterans of Foreign Wars—Member.
Orange Bowl Committee—Ex-oficio Member.
Florida Committee of 100—Ex-oficio Member.

11. **Honors and Awards:** List all scholarships, fellowships, honorary society memberships, and any other special recognitions for outstanding service or achievements other than those listed on the service record extract provided to the committee by the executive branch.
Armor Association—Order of St. George.
Infantry Association—Order of St. Maurice.
Ordnance Association—Order of Samuel Sharpe.
Artillery Association—Order of St. Barbara.
Honorary Kentucky Colonel.
Honorary Texan.

12. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to appear and testify upon request before any duly constituted committee of the Senate?
Yes.

13. **Personal views:** Do you agree, when asked before any duly constituted committee of Congress, to give your personal views, even if those views differ from the administration in power?
Yes.

[The nominee responded to the questions in Parts B–E of the committee questionnaire. The text of the questionnaire is set forth in the appendix to this volume. The nominee's answers to Parts B–E are contained in the committee's executive files.]

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

BANTZ J. CRADDOCK.

This 14th day of July, 2006.

[The nomination of GEN Bantz J. Craddock, USA, was reported to the Senate by Chairman Warner on September 28, 2006, with the recommendation that the nomination be confirmed. The nomination was confirmed by the Senate on September 29, 2006.]

[Prepared questions submitted to VADM James G. Stavridis, USN, by Chairman Warner prior to the hearing with answers supplied follow:]

QUESTIONS AND RESPONSES

DEFENSE REFORMS

Question. The Goldwater-Nichols Department of Defense Reorganization Act of 1986 and the Special Operations reforms have strengthened the warfighting readiness of our Armed Forces. They have enhanced civilian control and the chain of command by clearly delineating the combatant commanders' responsibilities and authorities and the role of the Chairman of the Joint Chiefs of Staff. These reforms have also vastly improved cooperation between the Services and the combatant commanders, among other things, in joint training and education and in the execution of military operations.

Do you see the need for modifications of any Goldwater-Nichols Act provisions?

Answer. Yes, I do.

Question. If so, what areas do you believe might be appropriate to address in these modifications?

Answer. The National Defense Authorization Act of 1986 vastly improved the way our joint force operates.

An area that I believe could be readdressed is the resourcing of joint requirements. As an example, combatant command headquarters are funded through a Service as an executive agent. As a result, Joint Commands with different Service Executive Agents are resourced according to the budgeting priorities of the respective Service. The Quadrennial Defense Review (QDR) highlighted the need to review this resourcing approach. The Joint Task Assignment Process development project, currently underway by the Department as part of a QDR roadmap, is looking at potential improvements in joint management constructs. The analysis and recommendations of the group led by the Office of the Director, Administration and Management, may provide courses of action to strengthen the Goldwater-Nichols Act.

Additionally, there may be benefit in amending the Goldwater-Nichols Act to encourage professional education in the civil service employee sector, as the original legislation did for military officers. As more of the force is civilianized, it is in the Department's interest to promote joint educational opportunities for civilian employees of the Department of Defense.

DUTIES

Question. What is your understanding of the duties and functions of the Commander, U.S. Southern Command?

Answer. The commanders of combatant commands (COCOM) exercise of assigned forces and are directly responsible for the preparedness of their respective commands as well as the performance of assigned missions. Combatant commanders prescribe the chain of command within their combatant commands and designate the appropriate command authority to be exercised by subordinate commanders.

As the Commander of U.S. Southern Command, the duties and functions would include responsibility for the geographical area of responsibility (AOR) defined in the Unified Command Plan, which now includes 32 countries and 13 territories/protectorates. The duties and functions also include, but are not limited to, the authoritative direction for all military operations, joint training, and logistics in the AOR.

Question. What background and experience do you possess that you believe qualifies you to perform these duties?

Answer. I am deeply honored by the President's nomination to be the Commander of U.S. Southern Command. Over the past decades, I have served in a wide variety of Navy and Joint Commands that I believe will prepare me well for the challenges ahead if confirmed by the U.S. Senate.

Operationally, I have served in several key command positions for the Navy, culminating in command as a Rear Admiral of a Navy Carrier Strike Group, which conducted operations in the Southern Command AOR as well as in the Mediterranean and the Arabian Gulf. I have also served on the Joint Staff, the Secretary of Defense staff, the Secretary of the Navy staff, and Chief of Naval Operations staff. During my time in each of these locations, I actively worked on issues involving Southern Command's AOR.

Most recently, while serving as the Senior Military Assistant to the Secretary of Defense, I had the opportunity to travel widely with the Secretary throughout Latin America and the Caribbean. This experience allowed me to observe international, interagency, joint, and combined strategy and policy formulation pertaining to the region.

Other specific experiences and background include:

• Maritime operations with numerous Latin American and Central American naval forces throughout my operational career—1976 to present, including counternarcotic operations in the Caribbean and Eastern Pacific and multiple combined training operations with most significant militaries in the region at one time or another.
• Integration of an Argentine destroyer, *Sarandi,* into the Carrier Strike Group I commanded 2002–2004, including a full training work-up and deployment to the Mediterranean during Operation Solid Step, leading to the award to me of the Argentine Naval Cross.
• Ph.D. in International Relations from the Fletcher School of Law and Diplomacy at Tufts University, where my regional work was focused on Latin America.
• Many strategic projects involving Latin America during staff assignments in the Pentagon, including, for example, the Unified Command Plan process shaping Southern Command responsibilities in the late 1990s.
• Numerous visits to the region over the past 2 years, including attending small group meetings with many of the Defense Ministers and Heads of State, as well as attendance at the most recent Defense Ministerial of the Americas in Quito, Ecuador, as a result of my present assignment.
• Working knowledge of Spanish and French, and continuing study of Spanish.

Question. Do you believe that there are any steps that you need to take to enhance your expertise to perform the duties of the Commander, U.S. Southern Command?

Answer. If confirmed, I will engage with key officials and personnel within the executive and legislative branches of the U.S. Government to uphold and advance the national policies and interests of the United States for the region through the missions established and executed within the command. To this end, I will also engage with the governments and militaries of partner nations to understand the magnitude and interdependent issues within the region. I will seek the cooperation of the Latin American and Caribbean leadership to work together to engage on vital regional issues. Additionally, I intend to continue to study Spanish.

RELATIONSHIPS

Question. Section 162(b) of title 10, U.S.C., provides that the chain of command runs from the President to the Secretary of Defense and from the Secretary of Defense to the combatant commands. Other sections of law and traditional practice, however, establish important relationships outside the chain of command.

Please describe your understanding of the relationship of the Commander, U.S. Southern Command, to the following:

The Secretary of Defense.

Answer. The President and the Secretary of Defense, or their authorized alternates, exercise authority over the Armed Forces through the combatant commanders for those forces assigned to the respective commands. The combatant commander exercises command authority over assigned forces and is directly responsible to the National Command Authority for the performance of assigned missions and the preparedness of the command.

Question. The Deputy Secretary of Defense.

Answer. The Deputy Secretary of Defense is delegated full power and authority to act for the Secretary of Defense and to exercise the powers of the Secretary on any and all matters for which the Secretary is authorized to act pursuant to law. The commander coordinates and exchanges information with the Deputy Secretary on matters delegated by the Secretary. The commander directly communicates with the Deputy Secretary on a regular basis.

Question. The Under Secretary of Defense for Policy.

Answer. A direct command relationship between the Under Secretary of Defense for Policy and the combatant commander does not exist. However, the combatant commander regularly interacts, coordinates, and exchanges information with the Under Secretary of Defense for Policy.

Question. The Under Secretary of Defense for Intelligence.

Answer. A direct command relationship between the Under Secretary of Defense for Intelligence and the combatant commander does not exist. However, the combatant commander regularly interacts, coordinates, and exchanges information with the Under Secretary of Defense for Intelligence.

Question. The Assistant Secretary of Defense for International Security Affairs.

Answer. A direct command relationship does not exist between the Assistant Secretary of Defense for International Security Affairs and the combatant commander.

Although, the combatant commander and the Assistant Secretary of Defense for International Security Affairs work together on mutual issues of concern.

Question. The Assistant Secretary of Defense for Special Operations and Low Intensity Conflict (SOLIC).

Answer. A direct command relationship does not exist between the SOLIC and the combatant commander. The Assistant Secretary of Defense for SOLIC works with the combatant commander on mutual issues of concern.

Question. The Assistant Secretary of Defense for Homeland Defense.

Answer. There is no direct command relationship between the Assistant Secretary of Defense for Homeland Defense and the combatant commander. The Assistant Secretary of Defense for Homeland Defense works closely with all DOD components, to include combatant commanders.

Question. The Chairman of the Joint Chiefs of Staff.

Answer. The Chairman functions under the authority, direction, and control of the National Command Authority. The Chairman transmits communications between the National Command Authority and combatant commanders as well as oversees the activities of a combatant commander as directed by the Secretary of Defense. As the principal military advisor to the President and the Secretary of Defense, the Chairman is a key conduit between the combatant commander, interagency, and Service Chiefs. The combatant commander continues to keep the Chairman informed on significant issues regarding his command and its AOR.

Question. The Secretaries of the Military Departments

Answer. The Secretaries of Military Departments are responsible for administration and support of forces that are assigned or attached to combatant commands. The Secretaries fulfill their responsibilities by exercising administrative control through the Service Component Commands assigned to the combatant commands.

Question. The Chief of Staff of the Army, Chief of Naval Operations, Commandant of the Marine Corps, and Chief of Staff of the Air Force.

Answer. The Service Chiefs are responsible for ensuring the organization and readiness of each respective Service branch and for advising the President. However, as with the other Joint Chiefs, the Service Chiefs do not have operational command authority. The combatant commander must rely upon the Service Chiefs to provide properly equipped and capable forces to accomplish missions in his assigned AOR.

Question. The other combatant commanders.

Answer. Formal relationships between the combatant commanders are based upon operational plans. The plans lay out clearly the roles of the commanders as "supporting" or "supported." These planned relationships mandate close coordination in peacetime and training.

Question. U.S. Chiefs of Mission within the U.S. Southern Command AOR.

Answer. A formal command relationship between the Chiefs of Mission and the commander does not exist. In a foreign country, the U.S. Ambassador is responsible to the President for directing, coordinating, and supervising all U.S. Government elements in the host nation except for those under the command of a combatant commander. Geographic combatant commanders are responsible for coordinating in their AOR as necessary, across the range of military operations and for negotiating force protection agreements with the Chief of Mission in designated countries. The commander also coordinates and exchanges information with chiefs of mission regularly on matters of mutual interest, to include military operations and engagement activities. I understand that in addition to the regular exchange of information with the Chiefs of Mission, Southern Command Commanders in the past have hosted annual subregional conferences with each country's respective U.S. Ambassador. If confirmed, I intend to continue these conferences.

MAJOR CHALLENGES

Question. In your view, what are the major challenges and problems you would confront if confirmed as the next Commander, U.S. Southern Command?

Answer. If confirmed, I would seek to learn more about the many challenges and transnational threats within the region. Challenges include conditions of poverty, inequality, and corruption that create an environment conducive to threats such as illicit trafficking and narcoterrorists. There are also undergoverned areas within the AOR that may be used by individuals affiliated with terrorist organizations and criminal groups for logistical support and revenue generation.

There are also key challenges facing the United States in Cuba, where we must remain hopeful that a transition to true democracy will begin to unfold soon; in Colombia, where we must continue to aid an important regional partner in the fight against narcoterrorism; in Haiti, where a fragile democracy struggles against crime

with the assistance of an important United Nations (U.N.) mission; throughout Central America, where important partners combat crime and drugs; and in other venues throughout the region. The U.S. Southern Command must also be poised and ready to support U.S. Government efforts to provide humanitarian assistance throughout the AOR.

Another important challenge for U.S. Southern Command is running a safe, secure, and effective detention facility at Guantanamo Bay, Cuba, in full compliance with applicable law, policy, and regulation.

Question. If confirmed, what plans do you have for addressing these challenges and problems?

Answer. By working collaboratively with our partner nations to enhance their capabilities at both national and regional levels, we can best ensure the forward defense of the United States. If our partner nations are better equipped and trained to face the transnational threats facing us all, the entire region, including the U.S., will be safer. If confirmed, I would continue to reach out to those countries that have been distancing themselves from the U.S. to encourage military engagement. Also, if confirmed, I will ensure that the U.S. Southern Command develops and executes a comprehensive regional plan to address the challenge of regional security throughout the entire AOR.

Finally, if confirmed as Commander of U.S. Southern Command, I will maintain command focus on the detention center in Guantanamo Bay, where we must ensure all laws, regulations, and policies are followed fully at all times and that we uphold the highest standards in the execution of our assigned mission.

ROLE OF U.S. SOUTHERN COMMAND

Question. If confirmed as the Commander of the U.S. Southern Command, you will be responsible for all military operations in that region. These include operations supporting homeland defense and security, the Department's counternarcotics efforts in the source nations and transit zone, detainee and interrogation operations at Guantanamo Bay, security of the Panama Canal, and development of democratic values within the military organizations of the region. If confirmed, you will face the challenge of pursuing these missions at a time when there appears to be movement away from democracy in some nations, and increasing instability in other nations.

If confirmed, what will be your highest priorities?

Answer. If confirmed as Commander, U.S. Southern Command, my highest priority would be to ensure the forward defense of the United States. In working toward this, it is imperative to work cooperatively with partner nations to meet our shared security challenges. I would also continue to support the global war on terrorism by conducting safe, secure, and legal detainee operations at the Joint Task Force Guantanamo (JTF–GTMO) and through operations to deter and disrupt terrorist activity within the region.

Question. What actions would you propose to counter the growing threat to democracy in the region?

Answer. The key to safeguarding democratic institutions is to encourage security, stability, and adherence to the rule of law, which allows economic growth and prosperity. Without appropriate security, illegal activities and corruption flourish and over time can undermine democracy. Southern Command can improve security in the region by helping to build Partner Nation security force capabilities through a focused Theater Security Cooperation program. Additionally, we can further seek opportunities to partner together to promote regional security.

Question. What is your assessment of the strengths and weaknesses of military-to-military exchange programs and contacts in the U.S. Southern Command AOR?

Answer. My impression is that Southern Command has an extensive and robust defense military exchange and contact program with a broad reach from the ministerial to the operational levels. During fiscal year 2006 alone, there were 503 events. Unfortunately, Southern Command military-to-military exchanges and contacts have been reduced with some countries as political events unfold in those countries. If confirmed, I will work hard to increase the military-to-military programs.

COUNTERNARCOTICS EFFORTS

Question. Each year, the Department of Defense spends several hundred million dollars for counternarcotics programs. Despite the expenditure of about $5 billion since 2000 for these programs, the flow of illegal drugs into the United States and the availability of drugs on the street have not been significantly reduced, and countries such as Colombia and Peru continue to face tremendous internal security chal-

lenges in responding to this threat. This has led many to question the effectiveness and focus of our counternarcotics programs.

How would you recommend that the success of the Department's counternarcotics programs be measured?

Answer. This is a complicated problem. My impression is that there is no single metric to measure Department of Defense success with regards to counternarcotics efforts. The Department of Defense is the lead agency for detection and monitoring in the source and transit zone and we concentrate on successful detections and resultant endgames. Recent interdiction and disruption data for the source and transit zones indicate the Department's success with 252 metric tons of narcotics being seized or disrupted during calendar year 2005. This is 252 metric tons of cocaine that will not reach its destination. Additionally, Department of Defense efforts to train and provide logistical support to Partner Nation militaries, and drug law enforcement agencies, has substantially improved Partner Nation ability to contribute to counternarcotics efforts.

Question. Do you believe that the current programs that the Department is pursuing are the most effective for the region, or should the Department's efforts focus elsewhere?

Answer. My belief is that U.S. Southern Command constantly evaluates their efforts and continuously seeks ways to improve results. Department of Defense programs are complementary to other U.S. programs, such as the Department of State's (DOS) eradication and economic development programs. No single focus program is a panacea. I believe that current Department of Defense programs are appropriately synchronized with other agency efforts, but if confirmed, I would continue to explore ways to increase efficiency.

Question. Compared to other missions that you would be responsible for as Commander, U.S. Southern Command, if confirmed, where would you rank counternarcotics in terms of its contribution to our national security and the ability of the Department of Defense to make a meaningful contribution?

Answer. If confirmed, my number one priority would be supporting the global war on terrorism. My impression is that the counternarcotics mission is intertwined with the U.S. Southern Command's top priority. I believe the Department needs to continue to provide support to U.S. and partner nation drug enforcement efforts to deny narcotraffickers the freedom of movement they require to transport illegal drugs to the United States.

COCA ERADICATION

Question. In Ecuador and Bolivia, the governments have adopted policies of "Zero Cocaine—Not Zero Coca," asserting that legitimate uses of coca crops exist and that coca farmers should be protected. Opponents of U.S. policies regarding eradication have argued that its side effects of environmental and social damage caused by migrating cultivation zones outweigh its benefits and that the policy fundamentally isn't working.

What is your view of the costs versus the benefits of the existing eradication policy?

Answer. My impression is that coca eradication is one of a combination of mutually supportive efforts necessary to effectively reduce the availability of cocaine in the U.S. market. It appears sensible to continue the eradication program while at the same time more effectively disrupting the cocaine market by targeting key organizers and narcotrafficking leaders.

Question. In what areas of the counterdrug eradication program, if any, is change most needed?

Answer. Although the DOS is the lead agency for the eradication program, my preliminary impression is that the U.S. Southern Command needs to continue to seek engagement opportunities with Partner Nation forces in order to improve their ability to support DOS-sponsored eradication. However, current governments have limited military engagement with the United States.

HAITI

Question. The U.N. Security Council voted unanimously on August 15, 2006, to extend the U.N. peacekeeping mission in Haiti for 6 months. Haiti continues to experience turmoil and instability.

How would you characterize the current military, economic, and political situation in Haiti, including the role of the U.N. multinational peacekeeping force and the U.S. military?

Answer. The challenges continue in this fragile democracy. The U.N. Stabilization Mission in Haiti maintains a peace-enforcement role in Haiti. The U.N. mandate

calls for a modest increase in police support, a decrease in troop involvement, and support from member nations to assist the Government of Haiti in addressing the shortcomings of the prison system.

Question. How do you assess the security situation in Haiti now and what is your estimate of how the situation will look in 6 months?

Answer. The U.N. is directly involved in addressing the security situation in Haiti, which continues to be complex and gang-centric. The primary threats are turf wars and kidnappings for profit and the Government of Haiti continues to address this problem while rebuilding their police forces. With continued U.N. involvement, I am hopeful that the security situation in 6 months will be improved over that of today.

Question. What conditions or indicators do you consider important in determining whether there will be another wave of Haitian emigration?

Answer. A significant condition for a potential mass migration from Haiti is the Haitian perception that they will not be quickly interdicted and repatriated by the U.S. Coast Guard and/or other U.S. authorities. Another factor is the Haitian perception of the country's ability to ensure their safety and develop an effective economy. Between June and July 2006, for example, there was a spike in violence in Haiti and Haitian emigration increased over 300 percent within that period. In August 2006, violence decreased with a commensurate decrease in migration.

Question. In your view, what is the cost and effectiveness of U.S. assistance to Haiti?

Answer. All assistance provided to the people of Haiti is valuable as a humanitarian effort. The monetary cost, however, is high for military humanitarian projects in Haiti because of force protection requirements driven by the current security environment. Fortunately, our allies are involved and helpful.

CUBA

Question. The Commander of U.S. Southern Command, General Craddock, has stated that he does not view Cuba as a military threat to the United States and that policies and laws regarding Cuba need to be reviewed "stem to stern" in order to determine if they make sense. General Craddock questioned whether the continuing ban on U.S./Cuban military-to-military contacts should remain in effect.

What is your opinion about the need for and pros and cons of military-to-military contact with Cuba?

Answer. I believe General Craddock was referring to the fact that we now live in a multi-polar, globalized world in which it would be prudent for the U.S. to reexamine our engagement policies throughout the world. Generally, military-to-military engagement is valuable; however, any engagement must be consistent with U.S. Government law and policy. Currently, the only authorized military-to-military contacts in Cuba are minimal administrative conversations surrounding the military facility at Guantanamo Bay. If confirmed, I will assess the specific situation regarding military engagement with Cuba.

Question. What is your view of the need for review and potentially, revision of U.S. policies regarding Cuba?

Answer. I believe the U.S. policy toward Cuba, like all policy, should be periodically reviewed and reassessed to ensure it is relevant to the changing environment. When adjustments to policy are recommended, we should feel free to openly debate both the pros and cons of any given proposal for change.

BOLIVIA

Question. In the past few years, Bolivia has experienced extreme political unrest and lately, President Morales has taken some positions that could complicate U.S. relations with Bolivia.

How do you assess the situation in Bolivia and, if confirmed, how would you seek to accomplish the goals of combating drug trafficking and enhancing military engagement goals?

Answer. The Bolivian Armed Forces continue to pursue military engagement with the U.S. If confirmed, I would hope to maintain this relationship. My understanding is that Bolivian security forces remain cooperative in the interdiction of narcotics and their precursor chemicals. My understanding is that although the eradication of illegal coca has decreased, Southern Command through its Military Group in La Paz intends to supplement the DOS's International Narcotics and Law Enforcement division's counternarcotics programs by coordinating training and serving as the conduit for equipment as appropriate.

JOINT INTELLIGENCE OPERATION CENTERS

Question. Earlier this year, the Secretary of Defense approved an executive order that established Joint Intelligence Operations Centers (JIOC) in each combatant command as a means to reduce "stovepiping" of communications and improve the integration of intelligence and operations staffs.

Do you think that U.S. Southern Command will benefit from the formation of a JIOC and if so, how?

Answer. My initial impression is that the command will benefit from the reduced time required to plan and execute intelligence driven operations. I prefer, however, to reserve judgment until I have the benefit, if confirmed, of personal experience as a combatant commander.

Question. What is your understanding of the steps that must be taken within U.S. Southern Command to implement this directive, and what resources must be made available to U.S. Southern Command to do so?

Answer. Generally speaking, it appears that we should pursue measures that give combatant commanders the authority to task intelligence sources relevant to their regions; to possess well developed processes that integrate intelligence, planning, and operations; have qualified people with appropriate skill sets; and the right management tools to produce the most quality intelligence products possible.

VENEZUELA

Question. In 2006, U.S.-Venezuelan relations have continued to be strained as President Chavez has allied himself with Fidel Castro, imported increasing amounts of military armament, politicized the Venezuelan military forces, and exported his brand of populism to the region.

How would you characterize the current state of military-to-military relations between the U.S. and Venezuela?

Answer. It has been U.S. policy to maintain as much dialogue as possible between our militaries. Opportunities for contact have been increasingly limited. My understanding is that the Government of Venezuela has not been responsive to invitations from the U.S. to participate in international and regional military forums. If confirmed, I would seek opportunities to engage with the Venezuelan military as responsible members of the region.

Question. What is your view of President Chavez's intentions in the region?

Answer. My impression is that the Government of Venezuela intends to create a cooperative group of regional partners, which, they hope will coalesce into Latin America's dominant diplomatic, military, and economic bloc. All indicators are that this bloc would not be generally supportive of U.S. policies.

Question. What role do you see President Chavez playing in national elections throughout the U.S. Southern Command's area of operations?

Answer. Allegations of the Government of Venezuela's support to political parties, grass-roots organizations, and anti-U.S. candidates will probably continue as long as the current government is in a position to use its nation's oil wealth to attempt to establish governments supportive of its regime's efforts.

Question. How would you assess Venezuelan relations with Cuba, China, and Iran vis-a-vis the national interests of the United States?

Answer. The Government of Venezuela is apparently continuing to develop relationships with countries it views as anti-U.S. These relationships with Cuba and Iran may be meant to develop ties with U.S. antagonists. The Government of Venezuela may hope that its relationship with the People's Republic of China (PRC) will give it more credibility and a louder voice on the world stage.

PANAMA

Question. How do you assess the current political and economic situation in Panama?

Answer. The country seems largely stable and is developing well economically.

Question. To what extent do you assess that the Panamanian government attempts to interdict the drug flow out of South America through Panama?

Answer. My impression is that Panama actively cooperates with United States' counterdrug efforts within the constraints of their resources. The Panamanian government is actively engaged in restructuring their law enforcement agencies. Resources available to traffickers and associated networks challenge the Government of Panama's interdiction efforts.

Question. What is your assessment of how Panama is protecting and maintaining the Panama Canal?

Answer. My preliminary assessment is that protecting and maintaining the Panama Canal is a very complex and difficult operation. Since the canal plays such a significant role in Panama's economic and national identity, the Government of Panama has made the security and maintenance of the canal a top priority. Panama continues to invest in technology and security training and continues to work collectively with allies to protect this very important resource through a number of ways to include the annual Southern Command sponsored exercise "Panamax," which just successfully concluded last month with its largest multinational participation to date.

Question. How vulnerable is the Panama Canal to attack by terrorists, and what would be the consequences of an attack to U.S. national security interests?

Answer. Challenges of securing the Canal will continue to exist. There has been some reported Islamic extremist operational/pre-operational activity in Panama. These events include occasional surveillance of the locks and other areas around the Panama Canal. For example, in 2001, known al Qaeda operative traveled through the Caribbean region and into Panama, reportedly to conduct surveillance on the Panama Canal. A successful attack on the Panama Canal would severely hamper U.S. commerce and trade as, since nearly 15,000 ships pass through the canal each year, of which 65 percent are traveling to or from U.S. ports. Any degradation of the canal's functioning would also restrict the U.S. Navy's ability to swing ships between the Pacific and Atlantic fleets.

FORWARD OPERATING LOCATIONS

Question. One of the elements of the regional counternarcotics strategy is the U.S. Southern Command's establishment of forward operating locations (FOLs) in the source and transit zone. There is some concern that the Department has not deployed sufficient aircraft and other resources to these FOLs to justify sustainment costs and continued improvements. There is also concern that after U.S. investment of several million dollars on these facilities, the host nations will restrict our use of these facilities.

What is the role that these FOLs play in the Department's counterdrug efforts?

Answer. My understanding is that the U.S. Southern Command currently has the capability to operate from four FOLs, now called Cooperative Security Locations (CSLs): Manta, Ecuador; Curacao and Aruba, Netherlands Antilles; and Comalapa, El Salvador. Ongoing counterdrug operations are actively conducted from Manta, Curacao, and Comalapa. These CSLs are used by command for the strategic basing of assets used in the regional detection and monitoring (D&M) operations targeting illicit air and sea movement and drug production. They provide vital forward basing of aircraft in support of the Department of Defense's statutory mission to be the lead Federal agency for D&M in the source and transit zones.

Question. Does current use continue to justify the costs of sustaining these locations?

Answer. From what I have learned thus far, I believe so. Specifically, these CSLs continue to support the National Drug Control Strategy by targeting the flow of narcotics to the United States. The current use of these CSLs appears to justify the costs of sustaining these four locations. For example, the CSLs supported the seizure or disruption of 252 metric tons of cocaine during 2005.

Question. What assurance do we have from host nations that these locations will continue to be available to us, and under what conditions?

Answer. I am told that there are no concrete assurances from any of the host nations with which we have agreements that U.S. Southern Command will be able to continue counternarcotics operations from them beyond the initial 10-year agreement. However, Southern Command is hopeful of maintaining CSLs at all three locations. The command will have to monitor that situation closely.

COLOMBIA

Question. Under President Uribe's leadership, Colombia has improved its military performance in pursuing the narcoterrorist groups, and demonstrated an increased willingness and commitment to decisively address and defeat the terrorist insurgency.

Please outline your views regarding the current situation in Colombia focusing upon: (1) the current military and political situation in Colombia; (2) the ability of the Colombian military to regain control of its territory; and (3) ongoing Department of Defense programs, including the effects of the caps on U.S. troops and contractor personnel.

Answer. As I learn about Colombia, it appears that:

(1) The military's capabilities continue to improve as the Illegally Armed Groups (IAGs) in Colombia are attrited either through combat operations or through demobilization. The Uribe administration has done a good job providing support so the Colombian military can effectively prosecute their war.

(2) Having said this, Colombia has not yet fully defeated the violent terrorist groups within its borders and has not yet fully gained complete control of all of its territory. To do so, they are working to better synchronize actions against IAG centers of gravity.

(3) The Uribe administration is developing a focused strategy aimed at achieving further success in Colombia within the next 4 years. In support, I understand that Southern Command is conducting a review of current programs and is determining how best to support the Government of Colombia in the future.

When the U.S. began providing increased support through Plan Colombia for Colombia's efforts to significantly reduce or eliminate narcoterrorists operating in their country, much concern was expressed about human rights abuses that the Colombian military forces had committed.

Question. What is your assessment of the record of the Colombian military with regard to respect for human rights over the past 3 years?

Answer. I am told that the Colombian military is one of the most respected institutions in Colombia today. While waging a civil war with an accelerating operational tempo and increased military presence throughout Colombia's territory, the Colombian government and military leadership also worked hard to establish a human rights and international humanitarian law program. Colombia's human rights program has included mandatory human rights training for every officer and soldier at every stage of their military careers. The Colombian military continues to partner with civil society groups, universities, and international organizations to collaborate on strengthening their human rights programs. These programs have been instrumental in reducing the number of human rights complaints against the Colombian military.

Question. What more remains to be done and how would you approach the issue of respect for human rights in the Colombian military?

Answer. The Colombian government views human rights as a vital element in its national strategy. If confirmed, I intend to continue to make respect for human rights a key component of U.S. Southern Command interaction with Colombia.

WESTERN HEMISPHERE INSTITUTE FOR SECURITY COOPERATION (WHINSEC)

Question. WHINSEC, which replaced the School of the Americas in 2001, has the mission of contributing to theater cooperation activities through the education and training of students in the Western Hemisphere from Canada to Chile. Earlier this year, Bolivia, Argentina, and Uruguay joined Venezuela in no longer sending their military personnel for instruction at WHINSEC.

What is the relationship between U.S. Southern Command and WHINSEC?

Answer. WHINSEC is not subordinate to U.S. Southern Command. However, the Commander of Southern Command is a member of the Board of Visitors.

Question. How does U.S. Southern Command participate in command oversight and curriculum development?

Answer. Southern Command reviews the WHINSEC curriculum to ensure the school's curriculum supports theater security cooperation strategic objectives and the combatant commander's regional priorities and makes appropriate recommendations.

Question. What is your assessment of the impact on regional cooperation of the decisions by Venezuela, Argentina, Bolivia, and Uruguay to no longer send military personnel to WHINSEC for instruction?

Answer. I have been briefed that Bolivia has 59 students programmed to attend WHINSEC in 2006. It is my understanding that Venezuela, Argentina, and Uruguay have not stated that they will no longer send military personnel to WHINSEC. However, these three countries do not currently have any students programmed to attend the institution. These countries will miss opportunities to establish lasting relationships with the future leaders from the rest of the hemisphere.

Question. In your view, what more, if anything, does WHINSEC need to do to emphasize human rights in its curriculum?

Answer. I am told that WHINSEC currently has the most complete human rights program available to the militaries and police forces of the Western Hemisphere. The school has maximized the quantity and quality of human rights instruction in its curriculum.

Question. How can WHINSEC improve its outreach efforts to individuals or groups interested in its activities, particularly those who have accused the school of contributing to human rights violations by former students?

Answer. In a word, "transparency." It is my understanding that WHINSEC has consistently responded with a strong and open program of information that allows individuals and groups to see the professionalism associated with its instructors and effective human rights curriculum. During Human Rights Week, I am told that NGOs are invited to participate in classroom discussions and practical exercises. Additionally, on an annual basis, WHINSEC invites critics to an open house to tour the institute and receive briefings.

AMERICAN SERVICEMEMBERS' PROTECTION ACT

Question. The American Servicemembers' Protection Act (ASPA) precludes foreign military financing and international military exchange training with countries which have not executed an article 98 bilateral agreement in which they pledge not to extradite serving or former U.S. personnel, officials, or citizens to the International Criminal Court. General Craddock has testified that this law affects 11 countries in Latin America and has resulted in lost opportunities in engaging with generations of military officers and noncommissioned officers in nations in the U.S. Southern Command AOR.

What is your assessment of the impact of the ASPA on WHINSEC?

Answer. I believe ASPA sanctions have not impacted the total number of yearly WHINSEC graduates. Most recently, the number of students from sanctioned countries has been offset by additional students from nonsanctioned countries. However, although the total number of graduates has not been impacted, there are hundreds of military officers and noncommissioned officers from those 11 sanctioned countries that have missed out on the opportunity to attend WHINSEC. The United States has lost the opportunity to forge relationships with the military officers from those countries and to educate them on the democratic principles by which our military operates.

Question. What changes, if any, in your view are needed to the ASPA?

Answer. My preliminary view is that the exemption of the International Military Education and Training (IMET) program from sanctions is necessary. The ASPA contains provisions for Presidential National Interest Waivers, and while a legislative change is debated, I support Presidential National Interest Waivers to allow IMET funding to our partner nations.

Question. What actions, if any, do you believe are needed to ameliorate the adverse effects of existing law?

Answer. I agree with General Craddock that the sooner we can reinstate the IMET programs for the currently sanctioned countries, the sooner we can begin offering educational opportunities to all our partner nations' security forces. The best way to ameliorate the adverse effects is to ensure the IMET program is adequately funded to support the needs of our partner nations.

DETAINEE AND INTERROGATION OPERATIONS

Question. U.S. Southern Command has been given significant responsibility for managing detainee and interrogation operations in the global war on terrorism, and is responsible for these operations at Guantanamo Bay, Cuba.

What is U.S. Southern Command's overall role in managing detainee and interrogation operations, not only at Guantanamo Bay, but in the larger global war on terrorism?

Answer. I am told that U.S. Southern Command is responsible for the operation of a strategic level detention and interrogation facility to collect and exploit intelligence in support of the global war on terrorism, and Southern Command is responsible for ensuring that all detainees at such a facility are treated humanely and in accordance with U.S. law, the law of war, and U.S. policy. Southern Command exercises these responsibilities through the Joint Task Force-Guantanamo (JTF–GTMO) at Naval Station Guantanamo, Cuba. Additionally, Southern Command and JTF–GTMO are charged with supporting law enforcement and war crime investigations, as well as military commissions when and if such proceedings are resumed.

Question. Congress has authorized and appropriated considerable sums for military construction and operation of detainee facilities. In June 2006, President Bush declared that he would "like to close Guantanamo."

Under what circumstances, if any, would you recommend that the detainee facilities at Guantanamo should be closed?

Answer. The Department of Defense and the U.S. Southern Command support the global war on terrorism as directed by the Secretary of Defense and Joint Staff. If

confirmed, I will provide the Secretary and Chairman of the Joint Chiefs of Staff with my candid assessment and recommendation on all issues affecting U.S. interests within Southern Command's AOR, including detention operations.

As the President recently stated, "America has no interest in being the world's jailer" and that "we will move toward the day when we can eventually close the detention facility at Guantanamo Bay," but so long as the United States remains engaged in the global war on terrorism, our Nation will likely need to remove from the battlefield and detain those who would do our country harm. We must do so in accordance with our own law and policy.

Question. What do you expect to be the population of the Guantanamo detainee facilities for the next several years?

Answer. Since its inception, JTF–GTMO has detained 770 enemy combatants. More than 300 have been returned to their country of origin leaving approximately 455 detainees at Guantanamo today. I, like the President and the Secretary of Defense, hope that the future detainee population at Guantanamo continues to diminish. However, that will ultimately depend on many factors, including the willingness of other countries to accept transfer of their nationals being detained at Guantanamo or to provide assurances that those detainees will be treated humanely upon return to their own nations or to prevent those detainees from returning to the battlefield. Beyond that, I cannot speculate how many unlawful enemy combatants JTF–GTMO will be required to detain in the future.

Question. Would you advocate bringing new detainees to the facility?

Answer. JTF–GTMO provides a secure facility for the humane detention and interrogation of unlawful enemy combatants. I support the transfer of any detainee to Guantanamo if, after an appropriate assessment, it is determined by President or Secretary of Defense that such transfer is legal and will further U.S. interests in support of the global war on terrorism.

Question. Do you believe that military commissions can and should be held at Guantanamo?

Answer. I have not been fully briefed as yet on this issue, and there are clearly issues that must be worked out between the executive, legislative, and judicial branches of the Federal Government. From what I know now, I believe that the Secretary of Defense has directed Southern Command to provide administrative, personnel, logistics, facilities, security, linguists, and media support to the Office of Military Commissions. To that end, JTF–GTMO has developed procedures, prepared facilities, and is well postured to support military commissions once prescribed by the President and Congress.

Question. The Assistant Secretary of Defense for Health Affairs has recently issued new guidance on medical support for detainee operations (Department of Defense Instruction 2310.08E dated April 28, 2006). The new guidelines appear to reaffirm the role of mental health professionals, including physicians, in providing assistance to interrogators. Standards and procedures are also authorized for behavioral science consultants, comprising Behavioral Science Consultant Teams (BSCT), in the interrogation of detainees.

Please describe your understanding of the requirements of this policy and what your role would be, if you are confirmed, in its implementation at Guantanamo Bay.

Answer. As I understand it, the policy authorizes mental health professionals to provide direct support to interrogators and detention personnel as consultants to ensure safe, legal, ethical, and effective interrogation and detention operations. However, the policy also states that mental health professionals who serve as Behavioral Science Consultants to interrogation and detention operations may not serve as mental health clinicians who treat mental health issues of detainees or staff. If confirmed, I would ensure this policy is followed.

Question. If confirmed, what criteria would you establish for the training and employment of BSCTs in the interrogation of detainees?

Answer. I am not fully briefed on this program, but my inclination is to continue to ensure that each member of the BSCT is properly trained in the current policies to work with interrogation teams. As part of this training, each member of the BSCT must know the ethical standards of their profession—psychology or psychiatry. I will learn more about this issue if confirmed and will look at it carefully.

FACILITIES FOR HEADQUARTERS, U.S. SOUTHERN COMMAND

Question. The headquarters complex for U.S. Southern Command in Miami, Florida, has consistently been an issue for Congress since the command moved from Panama in 1997. The Department of Defense is considering a proposal by the State of Florida that would provide leased facilities constructed by a private developer to meet the military and space requirements for the 2,884 personnel assigned to head-

quarters at Southern Command. This committee has expressed concern that this lease may cost up to $24 million annually, and may not be in the best economic interests of the Department over the long-term as compared to other alternatives for new headquarters facilities, such as new construction on a military installation.

FACILITIES FOR HEADQUARTERS, U.S. SOUTHERN COMMAND

Question. What is your understanding of the Department's position on this proposal?

Answer. I am told that the Department of Defense currently recommends build-to-lease of the new Southern Command Headquarters Facility on no-cost State of Florida land. It is my understanding that the economic analysis report submitted by the Department of Defense to Congress cites this as the best option.

Question. What are your views about the most desirable location for the headquarters complex for U.S. Southern Command?

Answer. I am not an expert on this issue. It is certainly an important one. My current sense is that the best location for Southern Command Headquarters is Miami, Florida.

COMMAND RESPONSIBILITY

Question. In recent years, you have authored and co-authored several books including Command at Sea, The Watch Officers Guide, and The Division Officers Guide. The topics covered in these books reflect the historical and traditional skills and expectations of the U.S. Navy for its officer corps. Developments such as the emphasis on joint warfighting, technological advances in communications, information sharing, and weaponry, and the asymmetric threats of the 21st century may require a re-examination of the responsibilities and accountability traditionally placed upon commanders and commanding officers.

What is your assessment of the responsibility and accountability that vests in commanding officers in today's Armed Forces?

Answer. A commanding officer, first and foremost, must assume the role of leader. As leader, that individual is answerable for the people and resources entrusted to them. To that end, the commanding officer is ultimately responsible for all that happens within his or her command. That is the essence of command, and it remains a bedrock principle of the U.S. military, even in the changing world of the 21st century.

Question. Do you believe that evaluating a commander's performance and culpability for errors based on whether the actions taken or not taken would have made a difference in the outcome is an appropriate standard?

Answer. I believe a commander is responsible and accountable whenever the commander or his or her command fails to meet relevant standards. The judgment whether standards have been met in a particular case must be based on a careful review of the facts and circumstances.

CONGRESSIONAL OVERSIGHT

Question. In order to exercise its legislative and oversight responsibilities, it is important that this committee and other appropriate committees of Congress are able to receive testimony, briefings, and other communications of information.

Do you agree, if confirmed for this high position, to appear before this committee and other appropriate committees of Congress?

Answer. Yes, I do.

Question. Do you agree, when asked, to give your personal views, even if those views differ from the administration in power?

Answer. Yes, I do.

Question. Do you agree, if confirmed, to appear before this committee, or designated members of this committee, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as the Commander, U.S. Southern Command?

Answer. Yes, I do.

Question. Do you agree to ensure that testimony, briefings, and other communications of information are provided to this committee and its staff and other appropriate committees?

Answer. Yes, I do.

[Questions for the record with answers supplied follow:]

QUESTIONS SUBMITTED BY SENATOR CARL LEVIN

COUNTERDRUG POLICY—CENTRAL TRANSFER ACCOUNT

1. Senator LEVIN. VADM Stavridis, Congress created a Central Transfer Account in 1998 to fund the Department of Defense's (DOD) counternarcotics activities. Over the last couple of years, in response to the Department's requests, Congress has granted permission to the Department to use these funds also to combat terrorism where there was a nexus between drugs and terrorism. I understand that as part of the reorganization of the policy office within the Office of the Secretary of Defense this fund may be moved from the policy office and that there may be a request to Congress to use these funds also for purely counterterrorist operations. Congress' intent, however, was to dedicate these funds to counternarcotics operations. Do you have an opinion regarding the need for dedicated counternarcotics funds?

Admiral STAVRIDIS. As I understand the current state of the proposed reorganizations, there will be no change to the management of the Department's counternarcotics Central Transfer Account or impacts to the Command's operations and support efforts. I feel it is important to have dedicated counternarcotics funds. However, I support the use of counternarcotics funds to attack terrorism where there is a clear nexus between terrorist organizations and narcotrafficking. Southern Command continues to receive authority from Congress to use these funds to support counternarcoterrorist activities in Colombia. Due to the significant threat demonstrated by narcoterrorist organizations within the region, the Central Transfer Account is a vital component and I intend to monitor the effectiveness and administration of this funding.

2. Senator LEVIN. VADM Stavridis, if confirmed, would you look into the issue and report back to the committee on the likely impact to Southern Command operations of any potential change in the way the Counternarcotics Central Transfer Account is administered?

Admiral STAVRIDIS. Yes, I will look into the issue and report to the committee on the impact of any potential changes in the way the Counternarcotics Central Transfer Account is administered.

COLOMBIA

3. Senator LEVIN. VADM Stavridis, President Uribe, with the help of the U.S. military, has made great strides in taking control of his country. However, all the resources we have put into the counternarcotics effort do not seem to have yielded much progress. Cultivation has increased, and kept up with eradication. Do you believe that the U.S. counternarcotics policy has been successful? What would you propose we alter, given the poor results?

Admiral STAVRIDIS. As I understand, U.S. counternarcotics policy is a balance of complementary programs such as eradication, interdiction, alternative development, extraditions, and demand reduction. I believe that no single program is a panacea, nor should we rely on any one metric to measure U.S. assistance to the Government of Colombia.

I agree that Colombia has made great strides towards stability with U.S. assistance. The Government of Colombia has restored government presence to all of its municipalities; lowered violent crimes to the lowest levels in 18 years; reformed the judicial system; increased gross domestic product, foreign direct investment, and stock market capitalization while keeping interest rates, inflation, and unemployment at historical lows; negotiated the demobilization of over 30,000 illegally armed paramilitary members of the United Self-Defense Forces of Colombia (AUC) and entered preliminary talks with the second largest insurgency group, the National Liberation Army.

Additionally, Southern Command executes its "Detection and Monitoring" mission in support of counternarcotics activities of law enforcement agencies. Recent interdiction and disruption data for the source and transit zones indicate success with 252 metric tons of illegal narcotics being seized or disrupted during calendar year 2005. This is 252 metric tons of cocaine that will not reach its final destination.

These metrics represent a remarkable turnaround from the late 1990s. The problems facing Colombia are certainly complicated and although the Government of Colombia has made great progress during the past 6 years, our job there is incomplete.

I believe we should continue to explore ways to increase efficiency, advance information sharing among nations, promote partner nation capability to stem the transnational flow of illicit drugs, and ensure DOD programs are appropriately synchronized with other agency efforts.

4. Senator LEVIN. VADM Stavridis, I understand that the Colombian government's priority is to deal with the cultivation and the narcoterrorists, but do you believe that we ought to do more on the interdiction side, particularly with regard to maritime interdiction?

Admiral STAVRIDIS. After the change of command, I will need to assess the current levels of interdiction and the resources available to the command before offering an opinion on the interdiction efforts. I am aware that Southern Command has provided significant maritime interdiction capability, most recently with the purchase of 12 Midnight Express Interceptor boats to contend with the littoral threat. Additionally, it is my understanding that the command has also provided significant support to the Colombian Navy and Marine Corps to increase riverine capability.

5. Senator LEVIN. VADM Stavridis, there are reports that the Colombian demobilization program is not succeeding, that paramilitaries are forming new armed groups, and that demobilized paramilitaries are infiltrating the political process. What, if anything, do you think the U.S. military can do to help the U.S. and Colombian governments to address the weaknesses of this program?

Admiral STAVRIDIS. The Department of State is the lead U.S. Government agency for the demobilization program. However, it is my understanding that Southern Command has provided some administrative support to the Revolutionary Armed Forces of Colombia (FARC) individual demobilization program with Civil Affairs elements. Southern Command has not been involved in the AUC force demobilization program, which is a program separate and distinct from the FARC individual demobilization program and assisted by the Department of State's International Law Enforcement—Narcotics Affairs Section.

Since I have not been fully briefed on this program, it may be premature for me to recommend what type of assistance Southern Command could provide. I do believe that if Southern Command assistance is available, it would have to be carefully weighed against all prevailing factors and interagency concerns.

CUBA

6. Senator LEVIN. VADM Stavridis, in May, General Craddock stated that he is in favor of a complete review of U.S.-Cuban relations, including military-to-military contacts. What is your opinion regarding whether the United States should have military contacts with Cuba?

Admiral STAVRIDIS. As previously stated, I believe that General Craddock was referring to the fact that we now live in a multi-polar, globalized world in which it would be prudent for the U.S. to reexamine our engagement policies throughout the world. Generally, military-to-military engagement is valuable; however, any engagement must be consistent with U.S. Government law and policy. Currently, the only authorized military-to-military contacts in Cuba are minimal administrative conversations surrounding the military facility at Guantanamo Bay. I will need to assess the specific situation regarding military engagement with Cuba once I assume command.

QUESTIONS SUBMITTED BY SENATOR EDWARD M. KENNEDY

GUANTANAMO OVERSIGHT

7. Senator KENNEDY. VADM Stavridis, the riots of this past May and the coordinated suicides of this past June have raised concerns about the treatment of detainees in Guantanamo. What specific measures will you take at U.S. Southern Command (SOUTHCOM) to ensure that the United States consistently honors all of its international treaty obligations with respect to detainees; that detention and interrogation operations at Guantanamo are compliant with all applicable laws, regulations, and policies; and that the standards of the revised Army Field Manual are upheld by all DOD personnel and affiliates under your command?

Admiral STAVRIDIS. I will faithfully and diligently discharge my duties as Commander, U.S. SOUTHCOM, to the best of my ability in conformance with existing laws, regulations, and orders. This includes ensuring that the mission of Joint Task Force-Guantanamo (JTF–GTMO), a strategic level detention and interrogation facility in support of the global war on terrorism, is accomplished in accordance with U.S. law, the law of war, and U.S. policy. General Craddock has previously certified that JTF–GTMO's policies, practices, and procedures are in compliance with the Detainee Treatment Act of 2005 and Common Article 3 to the Geneva Conventions of 1949. Furthermore, I understand that General Craddock has, in accordance with

current directives, submitted implementing guidance to the Under Secretary of Defense for Policy and the Under Secretary of Defense for Intelligence for review and approval. Once such implementing guidance is approved, I will issue it to JTF–GTMO and ensure it is followed.

8. Senator KENNEDY. VADM Stavridis, what measures will you take to ensure proper accountability standards (as you describe them in your written testimony) are applied to commanding officers?

Admiral STAVRIDIS. As I previously testified, I believe a commanding officer is responsible and accountable whenever an officer of his or her command fails to meet relevant standards. These standards, which are the essence of command, are embodied in the Navy's Core Values—Honor, Courage, and Commitment. Very simply, all servicemembers, including commanding officers, should be focused on "doing the right thing, in the right way, for the right reasons." With this in mind, any judgment on whether standards have been met in a particular case must be based on a careful review of the facts and circumstances surrounding that particular case.

9. Senator KENNEDY. VADM Stavridis, if confirmed, would you apply those standards to commanders alleged to have committed wrongdoing at Guantanamo prior to your tenure at SOUTHCOM?

Admiral STAVRIDIS. I will investigate all credible allegations of misconduct occurring within the U.S. SOUTHCOM geographic area of responsibility, including Guantanamo. This includes alleged misconduct not previously reported or investigated that occurred prior to my assumption of command. Absent new information, I am not authorized, nor would I seek, to re-investigate or re-evaluate previously made findings, decisions, or determinations as to allegations of wrongdoing.

QUESTION SUBMITTED BY SENATOR DANIEL K. AKAKA

TERRORIST ACTIVITY

10. Senator AKAKA. VADM Stavridis, in your testimony you asserted that if confirmed your number one priority as Commander of SOUTHCOM would be supporting the global war on terror. What evidence exists to suggest that the terrorist activity conducted by guerilla groups in South America against local and regional political leaders are definitively tied to international terrorist threats to U.S. national security?

Admiral STAVRIDIS. Colombia's FARC is an international terrorist group, recognized as such by the U.S. State Department and the European Union. FARC leadership has declared U.S. persons and interests as legitimate targets. Members of the Islamic radical group, Jama'at al-Musilmeen, based in Trinidad and Tobago, initiated a coup there in 1990 with the goal of establishing an Islamic state. The group remains active, and over the past 2 years members have issued threats against U.S. interests on the islands. Islamic extremists affiliated with Hizballah, al-Gama'at al-Islamiyya, and HAMAS are present in the region. Members of these organizations have been caught by local officials performing surveillance of U.S. facilities and doing other preoperational activities. Hizballah proved capable of attacks in the region when it conducted attacks against Jewish interests in Buenos Aires in the 1990s.

QUESTIONS SUBMITTED BY SENATOR BILL NELSON

U.S. SOUTHERN COMMAND

11. Senator BILL NELSON. VADM Stavridis, SOUTHCOM's Miami headquarters are at the crossroads of Latin America, facilitating contact with regional political and military leadership. Why is Miami the best location for this headquarters (HQ)?

Admiral STAVRIDIS. The best location for SOUTHCOM HQs is Miami, FL, which provides a wide range of benefits.

- Quick access to area of operations—proximity to Miami International Airport, the only U.S. airport with daily non-stop flights to partner nations, reduces travel costs and travel time.
- Proximity to Partner Nation Consulates—Partner Nation consulates are located in Miami Dade, expediting visa processing and enhancing quick access to Latin America.

• Miami is considered the "Capital of Latin America"—SOUTHCOM members stay culturally tied to the area of responsibility. Partner nations are more likely to assign quality liaison officers.
• Communications—Hispanic media has a major presence in South Florida. Univision, the premier Spanish-language media company, operates one of its two production facilities in Miami. Miami's El Nuevo Herald is recognized as the best Spanish language newspaper in the U.S. and a preferred source of information for Latin Americans.

12. Senator BILL NELSON. VADM Stavridis, what is the status of the Department's efforts to conclude an arrangement to modernize the HQ?

Admiral STAVRIDIS. The U.S. Senate Environment and Public Works Committee and U.S. House Transportation and Infrastructure Committee each passed a resolution approving the new SOUTHCOM HQs facility (IAW 40 U.S.C. 3307). Title 10 notification to Senate and House Armed Services Committees is complete (IAW 10 U.S.C. 2662). To gain full congressional authority, the Department of the Army is seeking written permission to proceed from the Readiness Subcommittee of the House Armed Services Committee. The State of Florida, in collaboration with General Services Administration and DOD, is leading the procurement which is scheduled to conclude in a lease agreement between the State and GSA by 22 December 2006. The new facility is scheduled to achieve full operating capability by 30 March 2010.

REVOLUTIONARY ARMED FORCES OF COLOMBIA

13. Senator BILL NELSON. VADM Stavridis, three Florida residents, Keith Stansell, Marc Gonsalves, and Thomas Howes, were under contract with the DOD when they were taken hostage by the FARC 3 years ago. What additional resources do you need to find and rescue these Americans?

Admiral STAVRIDIS. The command's highest priority in Colombia is the safe return of the three American hostages. Southern Command's efforts remain focused on assuring the safe return of these courageous men. As you are aware, the challenging environment in Colombia makes obtaining actionable intelligence extremely difficult. Additionally, reliable Human Intelligence sources remain a challenge. Although these challenges exist, if actionable intelligence is obtained, we are confident that appropriate recovery assets will be available to affect a rescue.

14. Senator BILL NELSON. VADM Stavridis, is a prisoner exchange between the Colombian Government and the FARC possible?

Admiral STAVRIDIS. It is my understanding that a prisoner exchange is possible.

The Government of Colombia has conducted a preliminary discussion with the FARC on how to move forward with any such proposal. Both sides seem willing to conduct an exchange. Currently, the Government of Colombia and the FARC are discussing potential sites and stipulations for establishing a "Meeting Zone" (Zona de Encuentro) for furthering negotiations and conducting the exchange.

However, both sides have made stipulations to any exchange that complicates the situation from the U.S. Government perspective. President Uribe has stated that the three Americans held hostage would have to be included in any negotiation. The FARC has responded that the two senior FARC members who have been extradited to the U.S. Government would also have to be included in the exchange.

There has also been discussion between both parties on approaching a potential third party moderator.

CUBA

15. Senator BILL NELSON. VADM Stavridis, what should SOUTHCOM's role be in any mass migration/emergency situation in Cuba, should the political situation change rapidly?

Admiral STAVRIDIS. Southern Command's role in any mass migration/emergency situation would be to support the Department of Homeland Security to interdict migrants at sea in its area of responsibility and assume the duties for migrant operations at Naval Base Guantanamo Bay or other locations in the area of responsibility when directed to do so.

VENEZUELA/IRAN

16. Senator BILL NELSON. VADM Stavridis, how extensive is the developing relationship between President Chavez of Venezuela and the leader of Iran?

Admiral STAVRIDIS. Venezuela's President Chavez traveled to Iran on July 21, 2006, and Iran's President Ahmadinejad visited Caracas for the first time on September 17, 2006. It is my understanding that this was the 10th visit between high-level Venezuelan and Iranian officials in the last 2 years. Chavez and Ahmadinejad's relationship will continue to strengthen, with Iran supporting Venezuela's bid for the United Nations Security Council seat, Venezuela supporting freedom for Iran to act in the field of nuclear energy, and both nations expanding bilateral economic agreements beyond the current U.S. $11 billion estimate. Both leaders will continue to seek to legitimize their radical agendas and to build worldwide alliances to counter U.S. interests.

17. Senator BILL NELSON. VADM Stavridis, are you seeing cooperation in the nuclear area? Are they cooperating on any other military issues?

Admiral STAVRIDIS. [Deleted.]

HAITI

18. Senator BILL NELSON. VADM Stavridis, can you give me your evaluation of the effectiveness of the peacekeeping forces in Haiti? Are there enough? Are they improving?

Admiral STAVRIDIS. From my initial observation, the Commander of the United Nations Stabilization Mission in Haiti (MINUSTAH) forces, Lieutenant General Elito of Brazil, has provided capable and effective leadership. Under his direction, MINUSTAH has increased its effectiveness by deploying additional troops around Port-au-Prince to address the violence there. The new United Nations Security Resolution passed on August 15, 2006, calls for the reduction of military forces from 7,500 to 7,200 but increases the United Nations Police (UNPOL) authorized strength from 1,897 to 1,951. This is part of the United Nations' plan to slowly strengthen the Haitian National Police (HNP) while also strengthening the mentorship offered by the UNPOL. The MINUSTAH troop level will remain roughly consistent until the HNP is able to begin effective policing of both the civilian population and itself

This effort, coupled with increased UNPOL and the ever increasing cadre of HNP is enough force for the present time. Once the HNP is adequately manned and trained, improvements to the HNP will be evident with increased arrests of criminals, reduced crime and corruption, and increased business activities.

[The nomination reference of VADM James G. Stavridis, USN, follows:]

NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
May 4, 2006.

Ordered, That the following nomination be referred to the Committee on Armed Services:

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be Admiral

VADM James G. Stavridis, 0000.

[The biographical sketch of VADM James G. Stavridis, USN, which was transmitted to the committee at the time the nomination was referred, follows:]

RÉSUMÉ OF VADM JAMES G. STAVRIDIS, USN

15 Feb 1955	Born in West Palm Beach, Florida
01 Jun 1976	Ensign
02 Jun 1978	Lieutenant (junior grade)
01 Jul 1980	Lieutenant
01 Oct 1984	Lieutenant Commander
01 Nov 1990	Commander
01 Jun 1997	Captain
08 Jan 2001	Designated Rear Admiral (lower half) while serving in billets commensurate with that grade
01 Mar 2002	Rear Admiral (lower half)
01 Jan 2005	Rear Admiral
01 Sep 2004	Vice Admiral, Service continuous to date

Assignments and duties:

	From	To
U.S. Naval Academy (Instructor)	Jun 1976	Aug 1976
Naval Amphibious Base, Coronado, San Diego, CA (DUINS)	Aug 1976	May 1977
Service School Command, Naval Training Center, Great Lakes, IL (DUINS)	May 1977	Jun 1977
U.S.S. *Hewitt* (DD 966) (Anti-Submarine Warfare Officer)	Jul 1977	Apr 1979
Surface Warfare Officers School Command Newport, RI (DUINS)	Apr 1979	Aug 1979
U.S.S. *Forrestal* (CV 59) (Electrical Officer)	Aug 1979	Mar 1981
Office of the CNO (Strategic Concepts Group) (OP–603)	Mar 1981	Aug 1981
Tufts University (Student)	Aug 1981	Oct 1983
Surface Warfare Officers School Command Newport, RI (DUINS)	Oct. 1983	May 1984
Combat Systems Engineering Development Site, Moorestown, NJ (DUINS)	May 1984	Sep 1984
U.S.S. *Valley Forge* (CG 50) (Operations Officer)	Oct. 1984	Aug. 1987
Office of the CNO (Assistant for Long Range Requirements)	Sep 1987	Jul 1989
Surface Warfare Officers School Command Newport, RI (DUINS)	Jul 1989	Oct 1989
XO, U.S.S. *Antietam* (CG 54)	Oct 1989	Jul 1991
National War College (Student)	Jul 1991	Jul 1992
Office of the Secretary of the Navy (Special Assistant and Speechwriter)	Jul 1992	Mar 1993
Ships Material Readiness Group, Newport, RI (DUINS)	Mar 1993	Jun 1993
CO, U.S.S. *Barry* (DDG 52)	Jun 1993	Dec 1995
Joint Staff (Branch Chief, Force Policy Branch) (J5)	Dec 1995	Nov 1997
Commander, Destroyer Squadron Two One	Nov 1997	Dec 1998
Office of the Secretary of the Navy (Executive Assistant)	Jan 1999	Mar 2001
Office of the CNO (Deputy Director for Requirements Assessment, N81D/Director, CINC Liaison Division, N83).	Mar 2001	Jan 2002
Office of the CNO (Director, Naval Operations Group)	Jan 2002	Aug 2002
Commander, Cruiser Destroyer Group Twelve	Aug 2002	Jul 2004
Office of the Secretary of Defense (Senior Military Assistant to the Secretary of Defense)	Jul 2004	To Date

Medals and awards:

Defense Superior Service Medal
Legion of Merit with four Gold Stars
Meritorious Service Medal with two Gold Stars
Navy and Marine Corps Commendation Medal with three Gold Stars
Navy and Marine Corps Achievement Medal
Joint Meritorious Unit Award with Bronze Oak Leaf Cluster
Navy Unit Commendation
Meritorious Unit Commendation
Navy "E" Ribbon with "E" Device
Navy Expeditionary Medal
National Defense Service Medal with one Bronze Star
Armed Forces Expeditionary Medal with two Bronze Stars
Southwest Asia Service Medal with one Bronze Star
Global War on Terrorism Expeditionary Medal
Global War on Terrorism Service Medal
Armed Forces Services Medal with two Bronze Stars
Sea Service Deployment Ribbon with three Bronze Stars
NATO Medal
Kuwait Liberation Medal (Kingdom of Saudi Arabia)
Kuwait Liberation (Kuwait)
Expert Rifleman Medal
Expert Pistol Shot Medal

Special qualifications:
BS (English) U.S. Naval Academy, 1976
Designated Surface Warfare Officer, 1978
Ph.D. (Foreign Affairs) Tufts University, 1984
Graduate of Naval War College, 1985
Graduate of National War College, 1992
Designated Joint Specialty Officer, 1999

Personal data:
Wife:
Laura Elizabeth Hall of Ann Arbor, Michigan.
Children:
Christina A. Stavridis (Daughter), Born: 20 August 1985.
Julia E. Stavridis (Daughter), Born: 14 February 1991.

Summary of joint duty assignments:

Assignment	Dates	Rank
Joint Staff (Branch Chief, Force Policy Branch) (J5)	Dec 95–Dec 97	CDR/CAPT
Office of the Secretary of Defense (Senior Military Assistant to the Secretary of Defense).	Jul 04–To date	VADM

[The Committee on Armed Services requires certain senior military officers nominated by the President to positions requiring the advice and consent of the Senate to complete a form that details the biographical, financial, and other information of the nominee. The form executed by VADM James G. Stavridis, USN, in connection with his nomination follows:]

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

(202) 224–3871

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior to the hearings and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)
VADM James G. Stavridis, USN.

2. **Position to which nominated:**
Commander, United States Southern Command.

3. **Date of nomination:**
24 April 2006.

4. **Address:** (List current place of residence and office addresses.)
[Nominee responded and the information is contained in the committee's executive files.]

5. **Date and place of birth:**
15 February 1955; West Palm Beach, Florida.

6. **Marital Status:** (Include maiden name of wife or husband's name.)
Married to Laura Elizabeth Stavridis (maiden name: Hall).

7. **Names and ages of children:**
Christina, 20.
Julia, 15.

8. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.
None.

9. **Business relationships:** List all positions currently held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational, or other institution.
None.

10. **Memberships:** List all memberships and offices currently held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.
U.S. Naval Institute, Surface Navy Association.

11. **Honors and Awards:** List all scholarships, fellowships, honorary society memberships, and any other special recognition's for outstanding service or achievements other than those listed on the service record extract provided to the committee by the executive branch.
None.

12. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to appear and testify upon request before any duly constituted committee of the Senate?
Yes.

13. **Personal views:** Do you agree, when asked before any duly constituted committee of Congress, to give your personal views, even if those views differ from the administration in power?
Yes.

[The nominee responded to the questions in Parts B–E of the committee questionnaire. The text of the questionnaire is set forth in the Appendix to this volume. The nominee's answers to Parts B–E are contained in the committee's executive files.]

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

JAMES G. STAVRIDIS.

This 2nd day of May, 2006.

[The nomination of VADM James G. Stavridis, USN, was reported to the Senate by Chairman Warner on September 28, 2006, with the recommendation that the nomination be confirmed. The nomination was confirmed by the Senate on September 29, 2006.]

[Prepared questions submitted to Nelson M. Ford by Chairman Warner prior to the hearing with answers supplied follow:]

QUESTIONS AND RESPONSES

DEFENSE REFORMS

Question. The Goldwater-Nichols Department of Defense (DOD) Reorganization Act of 1986 and the Special Operations reforms have strengthened the warfighting readiness of our Armed Forces. They have enhanced civilian control and the chain of command by clearly delineating the combatant commanders' responsibilities and authorities and the role of the Chairman of the Joint Chiefs of Staff. These reforms have also vastly improved cooperation between the Services and the combatant com-

manders, among other things, in joint training and education and in the execution of military operations.

Do you see the need for modifications of any Goldwater-Nichols Act provisions?

Answer. The Goldwater-Nichols Act changed DOD operations profoundly and positively. Although I believe that the framework established by Goldwater-Nichols has significantly improved inter-service and joint relationships and promoted the effective execution of responsibilities, the Department, working with Congress, should continually assess the law in light of improving capabilities, evolving threats, and changing organizational dynamics. Although I am not currently aware of any specific proposals to amend Goldwater-Nichols, I will, if confirmed, have the opportunity to evaluate those proposals that might come before us.

Question. If so, what areas do you believe might be appropriate to address in these modifications?

Answer. This milestone legislation is now 20 years old and has served the Nation well. It may be appropriate to consider whether it addresses the current requirements of combatant commanders and the needs and challenges of the military departments in light of today's security environment. If Congress believes that a review is required and if I am confirmed, I would be pleased to take part in such a review.

DUTIES OF THE ASSISTANT SECRETARY OF THE ARMY FOR FINANCIAL MANAGEMENT AND COMPTROLLER

Question. As set forth in section 3016(b)(4) and 3022 of title 10, U.S.C., the Assistant Secretary of the Army for Financial Management and Comptroller (ASA(FM&C)) has the principal responsibility for the exercise of the comptroller functions of the Department of the Army and shall direct and manage financial management activities and operations of the Department of the Army.

What is your understanding of the duties and functions of the ASA(FM&C)?

Answer. If confirmed, I will be responsible for advising the Secretary of the Army on financial matters and directing all Comptroller and Financial Management functions of the Department of the Army.

Question. What background and experience do you possess that you believe qualifies you to perform these duties?

Answer. I have spent the last 30 years in a wide variety of financial management positions and currently serve as the Principal Deputy ASA(FM&C). Previously, I was the Deputy Assistant Secretary of Defense for Health Budgets and Financial Management, where I was responsible for the financial performance of the Defense Health Program and Tricare. I have more than 10 years of executive branch experience in Department of Health, Education and Welfare, the Office of Management and Budget, the Department of Health and Human Services, and the DOD. Earlier in my career, I was the Chief Executive Officer of a privately held medical manufacturing company, the Chief Financial Officer and Chief Operating Officer of Georgetown University Medical Center, and a partner in Coopers & Lybrand, a public accounting firm. I have served on the finance committees or as treasurer of a number of not-for-profit organizations, including AcademyHealth, the McLean Little League, Westminster-Canterbury of Winchester, and the Hospice of Northern Virginia. I am familiar with the fiduciary responsibilities of Federal officials, particularly those that are applicable to Army personnel, and feel confident that I can meet those high standards.

Question. Do you believe that there are any actions that you need to take to enhance your ability to perform the duties of the ASA(FM&C)?

Answer. Any new position presents new challenges and opportunities for learning. Because my current role has focused on improving internal controls and program costing methodologies, I will need to become more familiar with Army programming and budgeting procedures. I also will need to strengthen my relationships with other senior leaders and staff in the executive and legislative branches.

RELATIONSHIPS

Question. What is your understanding of the relationship between the ASA(FM&C) and each of the following?

The Secretary of the Army.

Answer. The roles and responsibilities of the ASA(FM&C) are laid out in sections 3016(b)(4) and 3022 of title 10, U.S.C., and Headquarters, Department of the Army General Order 3. As the principal advisor to the Secretary of the Army on financial matters, the ASA(FM&C) directs the comptroller and financial management functions of the Department of the Army.

Question. The Under Secretary of the Army.

Answer. The Under Secretary of the Army is the Secretary's principal civilian assistant and senior civilian advisor. I will strive to maintain a cooperative and open relationship with the Under Secretary and keep him apprised of significant issues.

Question. The other Assistant Secretaries of the Army.

Answer. My relationship with the other Assistant Secretaries would support my responsibility to advise the Secretary of the Army on financial matters and to direct all comptroller and financial management functions and activities of the Department of the Army. The Assistant Secretaries work together to bring a civilian perspective to Army management and program planning and, in conjunction with the Army staff, support the Army leadership in the discharge of its duties.

Question. The General Counsel of the Army.

Answer. I would consult and coordinate with the General Counsel on all legal matters and financial management and comptroller issues requiring legal review.

Question. The Under Secretary of Defense (Comptroller).

Answer. If confirmed, I would work closely with the Under Secretary of Defense (Comptroller) to ensure that Army financial management and comptroller policies dovetail with those of the Office of the Under Secretary of Defense (Comptroller).

Question. The Assistant Secretary of Defense for Networks and Information Integration/Chief Information Officer.

Answer. Financial management systems are critical to enabling the Army to perform accurate, timely financial management, and are crucial to achieving auditable financial statements. The Army's financial managers are working with the Office of the Secretary of Defense (OSD) staff, including the Chief Information Officer, to ensure that all financial management systems and other Army systems that feed information to them meet all relevant OSD standards and milestones during their planning and implementation.

Question. The Director, Office of Program Analysis and Evaluation.

Answer. If confirmed, I would support the Director, Office of Program Analysis and Evaluation (PA&E), in fulfilling his or her role of providing independent assessments of Army program alternatives and priorities. I also would work with the Director, PA&E, to ensure the success of the planning, programming, budgeting, and execution process.

Question. The Chief of Staff of the Army.

Answer. If confirmed, I would work closely with the Chief of Staff of the Army and the rest of the Army staff to ensure that resourcing and financial management decisions support the Army's operational and strategic objectives.

Question. The Assistant Secretaries for Financial Management of the Navy and Air Force.

Answer. If confirmed, I would work with the Navy and Air Force Assistant Secretaries for Financial Management to serve as advisors and liaisons to the Office of the Under Secretary of Defense (Comptroller) and to develop suggestions for more effective and efficient joint operations.

MAJOR CHALLENGES

Question. In your view, what are the major challenges that will confront the ASA(FM&C)?

Answer. I believe that, if confirmed as the ASA(FM&C), I will face multiple challenges. In the near-term, the ASA(FM&C) must obtain funding sufficient to prosecute the global war on terrorism while simultaneously improving and maintaining the readiness of the Army—Active, Guard, and Reserve. The Army greatly appreciates the strong congressional support in providing the necessary resources but the unpredictability inherent in supplemental appropriations can create inefficiencies in the resource allocation process. Longer-term, the challenge will be to improve financial management processes to foster more efficient operations and to achieve an auditable financial statement. The Army must meet its responsibility to the taxpayers to account for the resources that have been provided to support its mission.

Question. Assuming you are confirmed, what plans do you have to address these challenges?

Answer. Central to addressing the near-term challenge of predictable and timely funding for both the global war on terrorism and the Army's base mission is providing clear and concise explanations of those challenges to the Office of the Under Secretary of Defense (Comptroller), the Office of Management and Budget, and Congress. Further, the Army must encourage, in particular, accelerated submission of supplemental budgets for the global war on terrorism. While the war continues to be dynamic and unpredictable, there are many aspects of the Army's wartime mission that we can now forecast with some degree of certainty. With regard to improving our financial stewardship and eventually obtaining auditable financial state-

ments, the Army must continue development and deployment of the General Funds Enterprise Business System (GFEBS) and ensure that its business processes are streamlined to take advantage of GFEBS' capabilities. Success will require the continued involvement of the Army's senior leaders, both military and civilian, and adoption of a more business-like culture.

PRIORITIES

Question. If confirmed, what broad priorities would you establish in terms of issues which must be addressed by the ASA(FM&C)?

Answer. If confirmed, I would revalidate the current priorities for preparation of auditable financial statements, preparation of fully justified budget submissions, and implementation of more efficient financial management systems compliant with joint DOD architectures. I also would work to strengthen cost management and cost controls as part of the Army culture and to improve cost estimating for procurement and program planning. Finally, I would expend every effort to ensure that adequate funds are available to support our Army to fight and win the global war on terrorism and to take care of soldiers and their families.

CIVILIAN AND MILITARY ROLES IN THE ARMY BUDGET PROCESS

Question. What is your understanding of the division of responsibility between the ASA(FM&C) and the senior military officer responsible for budget matters in the Army Financial Management and Comptroller office in making program and budget decisions, including the preparation of the Army Program Objective Memorandum (POM), the annual budget submission, and the Future Years Defense Program (FYDP)?

Answer. If confirmed as the ASA(FM&C), I would hold responsibility for all budget matters within the Department of the Army. The Military Deputy to the ASA(FM&C) would serve under my direct supervision. Additionally, if confirmed, I would have formal oversight responsibility for all financial aspects of POM preparation, the Army's portions of the annual President's budget submission, and all Army entries in the FYDP.

SUPPLEMENTAL FUNDING AND ANNUAL BUDGETING

Question. Since September 11, 2001, the DOD has paid for much of the cost of the global war on terrorism through supplemental appropriations. These costs, coupled with the Army's costs of transforming and modularizing, have grown every year. Increasingly, the reliance on emergency supplemental appropriations as a source for funding, rather than the annual budget, has met with opposition.

What are your views regarding the use of supplemental appropriations to fund what can be classified as predictable costs associated with ongoing operations?

Answer. I believe it is appropriate to address contingency operation costs within the annual defense budget, if those costs can be predicted accurately. Because the annual budget is prepared about a year before appropriations are available, in most instances an operation needs to have achieved some level of stability before the resource requirements can be included in the budget process. In the case of current military operations in Iraq and Afghanistan, there are some areas where the costs have been reasonably stable and other cases with much greater variation. Given that the Army faces an intelligent and adaptive enemy in a dynamic operational and security environment, everyone involved must make sure that the budget process retains enough flexibility to respond to the battlefield's changing conditions.

Question. In your opinion, should modernization programs under any circumstances be funded using supplemental or emergency appropriations?

Answer. In those instances where modernization is required to meet current readiness shortfalls, it is appropriate to use supplemental or emergency appropriations to adapt or accelerate ongoing modernization programs. In addition, supplemental or emergency appropriations should be used to cover battle losses and procurement of force protection equipment, even when that occurs through a modernization program.

ARMY REPROGRAMMING ACTIONS

Question. For the past 2 years, as the end of the fiscal year has approached, the Army has sought to reprogram billions of dollars in order to pay end-of-year bills, particularly personnel costs. The sources for these reprogramming requests in many instances have involved borrowing from future year budgets in order to pay today's bills.

What is your view of a budgetary approach that relies on future year funds to pay current year bills?

Answer. It is unwise to use future year funds (usually set aside for procurement or research and development) for current year operations. However, the fiscal demands placed on the Army over the last 2 years have required an unprecedented use of reprogramming, which offered the only option for meeting these demands. For example, personnel costs have proven to be very dynamic and they are a must-pay requirement. Furthermore, the global war on terrorism-generated operational tempo of the last several years has created some "color-of-money" mismatches that must be balanced before the fiscal year ends.

Generally, I do not consider the reprogramming process to be a budgetary approach, but rather a means to accommodate changing priorities and emerging requirements within a given fiscal year.

Question. If confirmed, what management changes would you implement or recommend to the Secretary of the Army to correct this budgetary practice?

Answer. The Army has made substantial improvements in its ability to predict personnel costs. To ensure that estimates are as accurate as possible, we are instituting a more vigorous review of the personnel accounts and assumptions made to build them before submitting those figures to OSD and the Office of Management and Budget (OMB). To facilitate getting the right amount of military personnel funding, it is incumbent upon the Army to advise congressional committees of any changes in the assumptions that might have a significant impact on the Army's budget estimates. I also would recommend to the Secretary that the Army pursue whatever means necessary to ensure that must-fund requirements, especially for personnel, are fully accommodated within the Army's annual base budget.

INFORMATION ACCESS BY CBO AND GAO

Question. The cost of current operations in Iraq and Afghanistan has more than doubled over the past 2 years. The Army has refused requests by the Congressional Budget Office (CBO) and the Government Accountability Office (GAO) to share its modeling assumptions and programs.

If confirmed, would you be willing to share with agencies such as the CBO and the GAO information about how the Army estimates its ongoing war costs, including modeling assumptions and programs?

Answer. I am not aware of any instance in which the Army has refused to share the assumptions used to develop estimates of ongoing war costs. The model itself—the Contingency Operations Support Tool—is not an Army model, but is managed by the OSD and used by all military departments and the Joint Staff.

FINANCIAL MANAGEMENT AND ACCOUNTABILITY

Question. DOD's financial management deficiencies have been the subject of many audit reports over the past 10 or more years. Despite numerous strategies and inefficiencies, problems with financial management and data continue.

What do you consider to be the top financial management issues that must be addressed by the Department of the Army over the next 5 years?

Answer. I believe the Department of the Army must improve pay services to soldiers, and improve financial management systems and processes. There are only two metrics for soldier pay: paying soldiers the right amount and paying them on time. This has proven challenging for an Army at war. The Army has, however, worked through the challenges and, through successful collaborations with the GAO and Congress, solved many of them. For example, the Army improved delivery of pay services to wounded soldiers and successfully implemented legislative changes to waive or remit certain types of debt previously collected from wounded soldiers.

The Army must have financial management systems that provide accurate, timely, and reliable information that enables sound business decisions regarding the allocation of resources during the year of execution and over the program years. To accomplish this, the Army must replace inefficient, nonintegrated systems and processes with modern solutions and best practices that fit within the DOD Business Enterprise Architecture. The Army must also instill a strong system of management controls to ensure that the information provided by financial statements is reliable.

Question. If confirmed, how would you plan to ensure that progress is made toward improved financial management in the Army?

Answer. I will continue to work closely with the Army leadership, the Under Secretary of Defense (Comptroller), and the Defense Finance and Accounting Service to improve our financial management practices. The Army has made significant contributions to the Department's Financial Improvement and Audit Readiness plan. This plan provides a detailed, disciplined roadmap to sustainable improvements in

financial management practices, which ultimately will enable the Army to produce accurate financial statements. I will work to ensure that funds are made available to pay for these improvement initiatives because, without resources, these objectives cannot be achieved.

Question. If confirmed, what private business practices, if any, would you advocate for adoption by the DOD and the Department of the Army?

Answer. There are many private business practices that could be valuable in improving the Army's effectiveness and efficiency. One embraced by the Secretary of the Army is "Lean Six Sigma," a structured business process reengineering designed to generate specific financial savings and better outcomes. Another example that holds significant potential for the Army is the adoption of commercially available software products and associated business practices. For instance, the Army's GFEBS initiative is based on commercial off-the-shelf software. GFEBS will enable the Army to manage financial resources, both assets and funding, as an enterprise instead of as a conglomeration of disparate activities.

Question. What are the most important performance measurements you would use, if confirmed, to evaluate changes in the Army's financial operations to determine if its plans and initiatives are being implemented as intended and anticipated results are being achieved?

Answer. Key performance measures would include production of timely, relevant, and accurate financial information; timely and accurate pay for soldiers; and continued use of metrics established in the President's Management Agenda.

BUDGET JUSTIFICATION INFORMATION

Question. If confirmed, what changes, if any, do you intend to initiate to improve the timeliness and accuracy of the budget justification books provided to Congress by the Army?

Answer. The Army has made great strides in improving timeliness and accuracy of the Budget Justification Books by initiating the budget cycle earlier and by extending coordination actions across the entire Army staff (and frequently with Army commands, Army service component commands, and Army direct reporting units). These changes already have helped the Army to prepare two budgets concurrently, the base budget and the supplemental, with the same staffing. Despite some current funding challenges, I would continue to oversee, assess, and revise, as necessary, the Army's methodology in order to improve further accuracy and timeliness. For instance, the Army may be losing precious staff time in preparing documents of marginal use. I would propose, working through OSD(C), that the Army streamline the amount of data provided so that exhibits can be submitted more promptly to the committees. Additional information, including specific documentation required by the committees, could be provided as needed at a later date.

TRAVEL AND GOVERNMENT PURCHASE CARDS

Question. The increased use of government travel and purchase cards within the Department came about as a result of significant financial and acquisition reform initiatives over the past decade. Following numerous well publicized instances of abuse of travel and purchase cards, however, concerns have arisen about the adequacy of internal controls in place for both the travel and purchase cards.

What is the status of Army efforts to ensure that proper internal controls exist and that availability of the cards does not enable fraud, waste, and abuse?

Answer. The Army currently has about 331,000 active individual travel cards, which are held by soldiers and civilian employees. This represents a 30-percent decrease in the number of travel cards held by individuals, and reduces the Army's exposure to fraud, waste, and abuse. The Army monitors travel card use, and closes accounts that have not been used in the past 12 months. The Army also monitors travel card delinquency metrics on a monthly basis, focusing on the delinquent dollar amount and the number of delinquent accounts. Currently, about 1.5 percent of the Army's travel card accounts are delinquent, which compares quite favorably to the industry travel card standard of 6.1 percent.

The Army's government purchase card program is managed by the Assistant Secretary for Acquisition, Logistics, and Technology. The Army has nearly 56,000 purchase cards with monthly transactions of nearly $300 million. During fiscal year 2005, the program generated $25.5 million in rebates to the Army. The ASA(FM&C) is responsible for ensuring that proper controls are in place to mitigate the risk of waste, fraud, and abuse. These controls include ensuring at least a one-to-seven ratio of approving officials to card holders; the Army's current ratio is one approving official for every 2.4 cards assigned. In addition, the Army has worked with DOD and the bank to review purchase data and to identify high-risk transactions.

ASA(FM&C) also routinely monitors purchases against merchant category codes assigned by the bank to check for propriety.

BUSINESS TRANSFORMATION AGENCY

Question. The Department recently established the Business Transformation Agency (BTA) to strengthen management of its business systems modernization effort.

What is your understanding of the mission of this agency?

Answer. The Deputy Secretary of Defense established the Defense BTA in October 2005 in order to ensure consistency, consolidation, and coordination of DOD enterprise-level business systems; and to reduce redundancies in business systems and overhead costs. The BTA's mission is to transform business operations in order to augment warfighter support while enabling financial accountability and improving investment governance across the DOD.

Question. What role does the BTA play in the financial management of the Department of the Army?

Answer. The BTA's Enterprise Transition Plan and its Business Enterprise Architecture are helping to steer development and fielding of all of the Army's major business system implementations, including the GFEBS, the Defense Integrated Military Human Resources System (DIMHRS), and others. For example, GFEBS will consolidate several accounting and financial management systems, giving Army and Defense Department officials a holistic view of how money is disbursed. It will feed vital, up-to-the-minute information to senior civilians and Army leadership, providing top-tier Army and DOD leaders with the timely, accurate data needed to make sound business decisions in support of the warfighter. It will facilitate congressional oversight and give taxpayers the level of financial accountability they expect from the Army. ASA(FM&C) works constantly and effectively with the BTA to make sure that all Army systems meet the standards set by DOD.

Question. What benefits, if any, does the establishment of the BTA have for the Department of the Army?

Answer. The BTA provides the DOD a "unity of command" and an integrated "unity of effort" for transforming its business domains. The Army has established effective working relationships with that office and its staff.

ARMY PAY PROBLEMS

Question. The GAO has reported on extensive problems with the National Guard's and Reserve's pay system. Modernizing the military payroll system is part of the longer-term Business Management Modernization Program (BMMP); however, it is essential that corrections be made immediately in this system to minimize personal hardships on deployed guardsmen, reservists, and their families.

If confirmed, what would you do to address these pay problems in both the short- and long-term?

Answer. Timely, accurate pay for soldiers, particularly those mobilized or deployed, is one of the highest priorities for the Army's leadership and for me in my current position. The Army already has made tremendous improvements in pay support for mobilized and deployed soldiers since the inception of current operations. While true integration of pay and personnel functions into a single, modern system is the objective state the Army needs to achieve (Army implementation of DIMHRS is scheduled for fiscal year 2008), there has been and continues to be much that the Army can do in the interim. The Army has implemented numerous near-term actions to increase training, to streamline processes, to expand or to stabilize staffing, and to improve accountability. Starting in late 2003, the Army initiated an 88-item soldier pay improvement action plan for the purpose of improving pay and travel reimbursement support to mobilized soldiers. To date, 70 of those actions have been implemented, leaving only 3 open items that are not tied to longer-term system solutions.

Over the past year, the Army also significantly improved pay services for wounded soldiers. In less than a year, the Army reviewed, and when needed, corrected the pay accounts of more than 60,000 soldiers who, since September 2001, were wounded or experienced medical problems while deployed. Additionally, the Army installed processes to preclude problems in the future. The support of Congress has been critical, particularly regarding the introduction of new legislation that supports wounded soldiers. If confirmed, I intend to continue to work for near-term improvements in training, procedures, and current systems, while simultaneously working towards the longer-term goal of an integrated, modern personnel/pay system.

DEFENSE INTEGRATED MILITARY HUMAN RESOURCES SYSTEM

Question. For several years, the Department has been working on the DIMHRS, an integrated joint military personnel and pay system for all the military Services, as a means to eliminate obsolete legacy payroll and personnel management systems. The Army is the first Service that has begun to implement DIMHRS. The committee has been informed that the DIMHRS program is underfunded in both fiscal years 2007 and 2008.

What is the role of the ASA(FM&C) with respect to DIMHRS?

Answer. Although the Army Deputy Chief of Staff, G–1 has the lead for DIMHRS implementation, the ASA(FM&C) provides critical support to the Army's human resources community in the system's development and fielding. This support includes requirements determination and validation, development of test scenarios and associated metrics, and training tactical finance units on DIMHRS operations. The financial management community also is supporting the human resources community in the reengineering of current personnel and pay processes in order to align them in a manner that will optimize the capabilities of an integrated, commercial personnel and pay enterprise system.

Question. What is your understanding of the Army's requirement for DIMHRS and its alternatives if DIMHRS is not successfully implemented?

Answer. From a very basic level, the Army requires an integrated personnel and payroll system that will eliminate the dozens of disparate, stand-alone systems in operation today and that will enhance the Army's ability to pay soldiers correctly and on time. Although the Army has made improvements in soldier pay performance, additional improvement is needed. As personnel information is vital to the payroll process, this additional improvement will not be achieved until the personnel and payroll processes are integrated. Several alternatives have been studied, including improving status quo systems and processes and developing a government-unique personnel and payroll system. Evaluation of these alternatives determined that DIMHRS presents the best opportunity for the Army.

Question. What are your views regarding the pros and cons of DIMHRS implementation into the Army?

Answer. Implementation of an enterprise-wide system on the scope and scale of DIMHRS always entails significant risk. The success rate of these endeavors in both industry and government is, at best, very modest. I believe, however, that the Army and DOD have implemented a governance structure that is capable of managing the risk and that offers a solid opportunity to successfully deploy DIMHRS.

Question. If confirmed, what, if anything, would you do to ensure adequate resources are provided for DIMHRS implementation?

Answer. We are working with the Army's human resources community to ensure that the proper performance metrics and milestones are established and that a robust oversight process is in place to manage effectively the development and deployment of DIMHRS. I currently am working to ensure that adequate resources (human capital and funding) are made available to the DIMHRS effort, with the proviso that DIMHRS development and deployment meets key milestones.

INVENTORY MANAGEMENT

Question. Do you believe that the Army has adequate information about and controls over its inventory?

Answer. I am aware that the Army's inventory management controls need to be improved.

Question. If not, what steps would you take, if confirmed, to improve inventory management?

Answer. The Army is taking necessary actions now to improve the financial accounting and reporting of its inventories. For example, the Army is working extensively with the Office of the Secretary of Defense (Acquisition, Technology, and Logistics) to establish the baseline value of the Army's 391 military equipment programs. This work is vital to the Army's ability to positively address financial statement assertions regarding the existence, completeness, and valuation of military equipment inventories. For its $22 billion of capitalized real property assets, the Army is developing sustainable business processes designed to establish in financial records the value and condition of all real property. These efforts are starting to obtain results. The Army has successfully captured the financial accountability of equipment provided to contractors, as well as internal-use software, on its financial statements. In addition to these efforts, the Army is participating in the DOD-led initiative to implement unique identifier technology which will enhance visibility and accountability of its inventories. ASA(FM&C) has worked with the appropriate DOD and Army organizations to document 330 tasks in the Financial Improvement

and Audit Readiness Plan that must be accomplished in order to provide adequate information regarding inventories.

BUSINESS MANAGEMENT MODERNIZATION PROGRAM

Question. For the past several years, the administration has pursued a BMMP aimed, in part, at correcting deficiencies in the DOD's financial management and ability to receive an unqualified "clean" audit. What is the role of the Army Comptroller in the business modernization effort?

Answer. The Army Comptroller has been a leader within DOD in embracing BTA guidance, both in terms of adopting business practices that conform to the Business Enterprise Architecture (BEA) and providing feedback as to their efficacy. The Single Army Financial Enterprise architecture explicitly aligns its operational activities with those of the BEA. Moreover, the Army's core financial management modernization program, the GFEBS, adopted early BEA-initiated data standardization initiatives, such as the Standard Financial Information Structure and Real Property Inventory Requirements.

Question. Do you support continuing the BMMP?

Answer. Over the past few years, the Department has worked to coordinate modernization efforts across the DOD enterprise. These initiatives will address deficiencies in financial management, implement leading commercial business practices, and help the Army to achieve a clean audit opinion. Central to these coordination efforts is the work of the BMMP and its successors, the BTA and the Department's BEA initiatives. The BTA and BEA have a realistic potential for orchestrating transformation of business operations across the Department and could be key agents of organizational change. To be effective, however, the BTA's federated approach to modernization will need more clarity and the service components, component domains, and program offices will require more specific direction regarding how to work together to achieve synchronized modernization.

Question. The BMMP advocates top-down leadership in establishing enterprise architecture for business systems modernization. The Services, however, appear to be pursuing independent pilot programs for modernizing business systems, despite the risk that a Service-led approach could produce numerous incompatible systems.

Do you support an OSD-led approach to business modernization?

Answer. It is reasonable for an enterprise modernization effort to be led by the enterprise. Of course, with an organization as large and complex as the DOD, some measure of sub-organizational flexibility is important to success. The Department's coordinated business modernization approach recognizes the value of providing the Service components the flexibility they need to fulfill their missions within an overall framework that ensures interoperability within a defined set of standards.

Question. If so, what would you do, if confirmed, to ensure that the Army supports such an approach?

Answer. If confirmed, I will continue to work to build a support structure for collaborative modernization. Under my direction, the Army would continue its active participation in DOD's modernization efforts and would provide regular feedback regarding its design. Moreover, the Army would align its operations with the BEA and execute its mission within the bounds of DOD modernization guidance.

Question. A critical requirement of the BMMP is an "enterprise architecture" that would establish standards and requirements for modernization or new acquisition of business information technology systems.

Why is establishing an effective enterprise architecture so important?

Answer. Enterprise architecture provides a vision for modernization. Much as a building's architecture supplies structural, electrical, mechanical, and aesthetic perspectives, enterprise architecture provides a range of integrated vantage points regarding an organization's design, for today and tomorrow. Without it, our systems and processes will be fragmented, reactive, and inefficient in responding to the threats of the 21st century.

GAO RECOMMENDATIONS FOR REFORM

Question. In testimony before the Readiness and Management Support Subcommittee, the Comptroller General of the United States, David M. Walker, offered a suggestion for legislative consideration which, in his words, is intended "to improve the likelihood of meaningful, broad-based financial management and related business reform at DOD." The suggestion entailed establishing a senior management position in the DOD to spearhead Department-wide business transformation efforts.

What is your view of this suggestion?

Answer. The Department has taken meaningful steps to act on Mr. Walker's suggestion. The Department created the Defense Business Systems Management Council (DBSMC), chaired by the Deputy Secretary of Defense. This council is responsible for developing the Department's business enterprise transition plan and has final approval of all business system initiatives. DOD also recently established the Defense Business System Acquisition Executive (DBSAE), who reports directly to the DBSMC. The DBSAE has direct oversight of Department-level systems development, with a vast portfolio that includes DIMHRS. I believe that these two actions implement the intent of Mr. Walker's recommendation and the Army fully supports DOD's efforts.

Question. Mr. Walker testified that the DOD should fix its financial management systems before it tries to develop auditable financial statements. He explained that: "Given the size, complexity, and deeply ingrained nature of the financial management problems facing DOD, heroic end-of-the-year efforts relied on by some agencies to develop auditable financial statement balances are not feasible at DOD. Instead, a sustained focus on the underlying problems impeding the development of reliable financial data throughout the Department will be necessary and is the best course of action."

Do you agree with this statement? Please explain your view.

Answer. The Army is too large and complex an organization to implement labor-intensive, end-of-fiscal-year efforts designed to produce auditable financial statements. I completely agree with Mr. Walker on this issue. The right course for the Army is to implement sustainable business practices designed to improve financial management processes and to produce reliable financial management information. These processes must be supported by compliant business systems and an effective set of management controls.

AUTHORIZATION FOR NATIONAL DEFENSE PROGRAMS

Question. Section 114 of title 10, U.S.C., provides that no funds may be appropriated for any fiscal year to or for the use of any armed force or obligated or expended for procurement, military construction, and operation and maintenance, unless funds have been specifically authorized by law.

What is your understanding of the meaning of this provision, and what exceptions, if any, in your view exist?

Answer. The National Defense Authorization Act provides the authority for the Department to execute programs. If confirmed, I will follow the guidance provided by the Secretary of Defense regarding how to approach any issue where there is a disparity between what is appropriated and what is authorized. It is normal practice for the DOD to work out suitable procedures for these unusual circumstances with the relevant congressional committees.

FUTURE COMBAT SYSTEMS

Question. What are your views regarding the requirement for the Future Combat Systems (FCS) program and the Army's ability to fund the program over the Future Years Defense Program and beyond?

Answer. The challenges the Nation faces in the future—informed by the challenges confronting us today—make it imperative to build a more adaptive, expeditionary, and supportable force. The Army is proceeding with a holistic modernization plan that includes significant changes to organization, leader development, doctrine, and training. The next generation of equipment necessary for this modernized force will be procured through the FCS effort.

I believe that FCS will be a cost-effective way to modernize the Army. FCS is the first comprehensive modernization of the Nation's ground forces in more than 40 years—nearly two generations. The near-concurrent procurement of 18 platforms and systems has reduced system development and demonstration costs by an estimated $12 billion. In addition, the Army believes that FCS will help to reduce future costs by lowering personnel and fuel requirements and easing the logistics support burden. At the same time, these qualities will help make the force more expeditionary. With unprecedented levels of oversight, the program is making sound progress. An extensive testing plan is validating performance and reducing development risk. The Army believes that bringing FCS to fruition is essential to providing the soldier the best warfighting platform possible and to making the future Army affordable to the American taxpayer.

ARMY FUTURE YEARS PROGRAM OBJECTIVE MEMORANDUM

Question. Recent press reports have described efforts by the Army to increase its funding allocation for the Army POM, which was due August 15, and asserted that

the Army has not been provided sufficient resources by the Department to execute the tasks it has been directed to carry out, including conventional operations, irregular warfare, and homeland defense?

To your knowledge, has the Army POM been submitted? If not, is there a timetable for completion?

Answer. As of September 12, 2006, the fiscal year 2008–2013 POM/Budget Estimate has not been submitted to OSD. The Army's senior leadership is currently conducting discussions with OSD and OMB about the issues faced by the Army in meeting its mission. If these issues can be resolved in early October, the Army will be able to make its submission in November.

Question. What is your understanding of the Army's budgetary requirements vis-a-vis planned funding by DOD and OMB?

Answer. My understanding is that the difference between the current fiscal guidance and the resources necessary to accomplish the Army's mission as delineated by the Quadrennial Defense Review is significant, and that the Army's current operational and readiness requirements are greater than both the current fiscal guidance and DOD-directed mission. We are working now with DOD and OMB to understand the magnitude of these shortfalls and to identify solutions that address this strategy-resources mismatch.

PROPOSED REDUCTIONS IN RESERVE COMPONENT PERSONNEL FOR FISCAL YEAR 2007

Question. Proposed cuts in the numbers of Army reservists and Army National Guardsmen in the fiscal year 2007 budget submitted by the Department were met with a storm of criticism by Congress and State Governors about the process by which these proposed reductions were arrived at.

What is your understanding of the reasons for this controversy and criticism, and what lessons have been learned?

Answer. The Army was directed to accommodate a number of fiscal adjustments near the end of the fiscal year 2007 budget cycle. Army leadership was given limited time to make these adjustments and chose to reduce force structure in all components. Those decisions were designed to minimize the impact on the operational Army and took into account actual Reserve component end strengths at the time. We fully understand the importance of the Army National Guard and the Army Reserve in executing the homeland defense mission and the National Military Strategy. The Army and the Federal Government cannot execute their charter missions without participation from all three components. As always, decisions of this magnitude must be well coordinated with all affected parties.

Question. If confirmed, what steps would you take to ensure that the situation is not repeated in future budget submissions?

Answer. We are one Army that includes Active, Guard, and Reserve personnel. Any future changes to end strength or force structure should be fully vetted with all impacted organizations. The Secretary and the Chief are committed to an inclusive process and I fully support their view.

COST OF RESETTING THE ARMY

Question. One of the most challenging issues that Congress will face in the years ahead will be the costs of re-equipping and training the Army. The Chief of the National Guard Bureau, LTG Blum, has stated that it will take $21 billion to reset the Army National Guard and $2 billion for the Air National Guard. It has been estimated that the Active Army needs about $17 billion.

If confirmed, what role do you foresee in validation of the requirements for funding for resetting the Army total force?

Answer. The $17 billion requirement is for fiscal year 2007 and includes $2.5 billion to replace Reserve component equipment, both Army National Guard and U.S. Army Reserve. The validation of these requirements has been a joint effort among Active Army commands, the Reserve component, and the full range of Army staff oversight officials. If confirmed, I would ensure a continued leadership role for the Army financial management community, not just in validating requirements but in guaranteeing accountability for the execution and reporting of costs to reset the force.

Question. Where will the tradeoffs be in terms of modernization and support of current operations?

Answer. Reset is a cost of war that should not come at the expense of modernization efforts. The Army must continue to adapt and improve its capabilities in order to provide the combatant commanders with the forces and resources required to sustain the full range of global commitments. Cutting modernization programs to sustain current operations would compromise the Army's ability to win in the 21st cen-

tury's evolving battlefields. Any tradeoffs, if absolutely necessary, would be made in accordance with the priorities already established by the Secretary and the Chief of Staff of the Army. The top priority will remain support of the fighting force.

Question. What is your current assessment of the Army's readiness for support of future conflicts in light of the cost of sustaining modernization, reset, and support of current operations?

Answer. The requirement to reset equipment and to restore units to full readiness upon their return from operational deployments is fundamental to sustaining the full range of current global commitments and to preparing for emerging threats. Resetting the force while simultaneously fighting the global war on terrorism and transforming to become a more powerful, more flexible, more deployable force is a complex task that necessitates a sustained national commitment and a careful balancing of resources. My assessment is that the Army is meeting the challenges it faces in current operations but needs to do more to be ready for other threats. With the continued support of Congress, the Army hopes to be able to fulfill today's responsibilities and to meet the challenges posed by future conflicts.

MILITARY QUALITY OF LIFE AND FAMILY ADVOCACY

Question. The committee places a high priority on sustainment and improvement of quality of life programs, including health care, family assistance, child care, morale, welfare and recreation, education, and employment assistance for family members.

How do you perceive the relationship between quality-of-life programs and the Secretary of the Army's top priorities for recruitment, retention, and readiness of Army personnel?

Answer. They are inherently related. To meet recruiting and retention goals, the Army must sustain improvements already made to the quality of life of soldiers and their families, and rectify problems as it becomes aware of them.

Question. If confirmed, how will you guard against erosion of these critical quality-of-life programs in a tightly constrained fiscal environment?

Answer. I will carry out the guidance of the Secretary and the Chief to protect key quality-of-life programs and to avoid inequitable reductions in these programs during the program and budget review processes.

CONGRESSIONAL OVERSIGHT

Question. In order to exercise its legislative and oversight responsibilities, it is important that this committee and other appropriate committees of Congress are able to receive testimony, briefings, and other communications of information.

Do you agree, if confirmed for this high position, to appear before this committee and other appropriate committees of Congress?

Answer. Yes.

Question. Do you agree, if confirmed, to appear before this committee, or designated members of this committee, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as the ASA(FM&C)?

Answer. Yes.

Question. Do you agree to ensure that testimony, briefings, and other communications of information are provided to this committee and its staff and other appropriate committees?

Answer. Yes.

[Questions for the record with answers supplied follow:]

QUESTIONS SUBMITTED BY SENATOR CARL LEVIN

LEGISLATIVE RELIEF FOR LOGCAP CONTRACTS

1. Senator LEVIN. Mr. Ford, the Army has submitted an unofficial request to Congress to provide retroactive legislative authority for fiscal years 2003 through 2006 to allow the unlimited purchase of equipment or military construction through Logistics Civil Augmentation Program (LOGCAP) funds. My staff has been advised that several military construction projects in the Central Command region are on hold pending Anti-Deficiency Act or other legal reviews. Please provide a list of military construction projects that have been halted pending any legal or audit review that would be affected by the Army's proposed legislation.

Mr. FORD. My understanding is that, following a staff delegation trip to Iraq in August 2006, several congressional staff asked for a list of Army priorities to sup-

port operations in Iraq. The Army staff provided a document listing several congressional priorities. This document was not cleared by the Office of the Secretary of Defense or the Office of Management and Budget and, therefore, did not represent the administration position. In fiscal year 2004 and fiscal year 2005, the Army awarded 103 military construction projects in Iraq through the LOGCAP. Construction was not initiated on 37 of those projects, and 4 projects were found to be below the unspecified minor military construction threshold of $750,000 and could therefore be funded with operation and maintenance appropriations, under title 10, U.S.C., section 2805. Since the projects were halted, the Army has received authority to undertake 12 of the remaining 62 projects with operation and maintenance funds, pursuant to the contingency construction authority conferred by section 2808 of the National Defense Authorization Act, 2004. Projects are as follows:

(Project Number 66276) Class I Storage Warehouse at Anaconda, Iraq
(Project Number 66279) Incinerator Facility at Anaconda, Iraq
(Project Number 66358) Multi-Purpose Warehouse at Anaconda Iraq
(Project Number 66359) Forward Redistribution Point Warehouse at Anaconda, Iraq
(Project Number 66354) Dining Facility at Anaconda, Iraq
(Project Number 66361) Laundry Facility at Al Asad, Iraq
(Project Number 66280) Incinerator Facility at Al Asad, Iraq
(Project Number 66352) Personnel Bed-Down Area at Al Asad, Iraq
(Project Number 66360) Materials Storage Warehouse at Victory Base Camp, Iraq
(Project Number 66356) Incinerator Facility at Victory Base Camp, Iraq
(Project Number 66278) Combat Logistic Support Area at Camp Speicher, Iraq
(Project Number 66353) Staging/Marshalling Area at Q-West, Iraq

The report attached contains the listing of those construction projects halted in July 2005.

KBR #	Project Number	FY Awarded	Area	Site name	Project	% Construction Complete	DD Form 1391 PA ($1,000)	Total Cost	Total Construction Cost	Construction Cost to Complete	Cost to Complete
39	66276	2004	Anaconda	Anaconda	Storage warehouse for Class I materials	84%	22,000	$22,000,000		$1,274,099	$1,274,099
211	66277	2005	Tikrit	Spiecher	Provide Power Generation to Life Support Systems	25%	13,400	$3,256,387			$2,442,290
217	66278	2004	Tikrit	Spiecher	Construction of CLSS LSA.	78%	14,000	$14,000,000			$2,348,473
34	66279	2004	Anaconda	Anaconda	Municipal Incinerator Project	96%	15,000	$15,000,000		$482,269	$482,269
122	66280	2004	Fallujah	Al Asad	Incinerator Facility	0%	4,250	$4,250,000			$2,000,000
96	66281	2004	Baghdad	Industrial Zone (VBC)	WWTP	12%	22,000	$22,000,000	$17,932,464	$802,000	$802,000
115	66352	2005	Fallujah	Al Asad	1,900 pax Military Bed down	35%	5,600	$5,600,000			$3,445,000
187	66353	2005	Mosul	Q-West	Repair taxiway, complete 1/2 TCN marshalling yard, shuttle bus service	50%	930	$940,000			$402,500
33	66354	2005	Anaconda	Anaconda	DFAC 2 - New/replacement DFAC facility on east side	27%	14,000	$14,000,000		$4,322,220	$4,322,220
95	66356	2004	Baghdad	Industrial Zone (VBC)	Waste Incinerator	10%	8,600	$8,600,000	$3,455,193	$560,000	$560,000
31	66358	2004	Anaconda	Anaconda	Multi-class Warehouse	68%	6,500	$6,500,000		$1,976,000	$1,976,000
X	66359	2004	Anaconda	Anaconda	FRP Warehouse	28%	5,500	$5,500,000		$2,294,000	$2,294,000
102	66360	2004	Baghdad	Industrial Zone (VBC)	Materials Warehouse	25%	2,300	$2,300,000	$1,095,000	$470,000	$470,000
127	66361	2004	Fallujah	Al Asad	Laundry B1.2	0%	5,000	$5,000,000			$3,500,000
106	66892	2004	Baghdad	Industrial Zone (VBC)	Water Point/ROWPU Building	50%	15,000	$15,000,000	$7,190,000	$890,000	$890,000
45	66893	2004	Anaconda	Anaconda	DS Maintenance Buildings and Shops	88%	8,300	$8,300,000		$682,096	$682,096
47	66897	2004	Anaconda	Anaconda	DFAC 5 - 500' x 200' split dining facility	98%	12,800	$12,800,000		$133,000	$133,000
43	66898	2004	Anaconda	Anaconda	Double stacked living containers 600 personnel	93%		$13,670,750	$4,297,950	$949,375	$949,375
20	66927	2004	Anaconda	Anaconda	Fire Hydrants	10%		$3,772,317			$3,395,085
24	66928	2004	Anaconda	Anaconda	Texas Ave & Sapper Rd Improvements	30%		$1,187,158			$831,011
27	66929	2004	Anaconda	Anaconda	Gymnasium with second story mezzanine track	74%		$5,310,207		$1,393,939	$1,393,939
34	66930	2005	Anaconda	Anaconda	Medical Incinerator Project	73%		$1,493,252	$400,000		
80	66931	2004	Baghdad	Camp Evans (Liberty)	HVAC Shop WW	1%		$910,000			$900,900
87	66937	2005	Baghdad	Liberty (VBC)	MWR Movie Center	3%		$910,000	$910,000	$510,000	$510,000
89	66939	2004	Baghdad	Liberty (VBC)	MWR Civic Center	3%		$1,110,000	$1,110,000	$510,000	$510,000
91	66940	2004	Baghdad	Rustamiyah	Laundry Facility	5%		$1,600,000			$1,520,000
109	66941	2004	Baghdad	Industrial Zone (VBC)	Center Laundry	67%		$3,820,000	$3,820,000	$620,000	$620,000
31	66947	2004	Anaconda	Anaconda	CL IX Aviation Warehouse	100%		$3,186,687	$0		
50	66948	2004	Anaconda	Anaconda	Outdoor covered dining/cooking area for special events and BBQs	100%		$3,300,745			$0
178	66951	2005	Mosul	Endurance	Firefighting Q-West	10%		$14,143,825			$12,729,443
191	66952	2004	Mosul	Sykes	MWR facility	80%		$2,685,334			$537,067
200	66953	2004	Taji	Cooke	Waste Water Treatment Plant	7%		$16,367,405			$15,221,687
201	66954	2004	Taji	Cooke	30T Incinerator	14%		$4,800,000			$4,128,000
202	66955	2005	Taji	Cooke	3 Bay Fire Station	16%		$1,500,000			$1,260,000
212	66957	2004	Tikrit	Summerall	Construct MWR Recreation Center C8.	41%		$1,227,450			$724,196
218	66959	2004	Tikrit	Warrior	Construct MWR recreation center & gym C7	79%		$3,114,870			$654,123
225	66960	2004	Tikrit	War Horse	Construct MWR recreation center & gym	90%		$2,158,170			$215,817
171	66961	2004	Fallujah	Al Qa'im	KBR Man Camp	42%		$2,300,000			$1,334,000
223	66962	2004	Tikrit	Spiecher	Construction of reception center and dormitories.	87%		$5,549,301			$721,409
227	66963	2004	Tikrit	Summerall	KBR LSA	95%		$1,919,399			$95,970
229	66964	2004	Tikrit	Warrior	Laundry Project	95%		$2,240,203			$112,010
X	66966	2004	Anaconda	Anaconda	Talon Road Sewer Line	100%		$4,995,872			
85	66975	2004	Baghdad	Liberty	Main water line	1%		$11,000,000	$3,100,000		$10,890,000

KBR #	Project Number	FY Awarded	Area	Site name	Project	% Construction Complete	DD Form 1391 PA ($1,000)	Total Cost	Total Construction Cost	Construction Cost to Complete	Cost to Complete
82	66980	2004	Baghdad	Camp Evans (Liberty)	Power Generation Shop WW	1%		$975,000			$965,250
86	66981	2005	Baghdad	Baghdad Cntrl Crctnl Fac	Waste Incinerator	3%		$1,161,002			$1,126,172
111	66983	2004	Baghdad	Victory/Freedom Village	Gravel & Sidewalk	76%		$1,273,608			$305,666
141	66992	2004	Fallujah	Fallujah	Ice Plant	22%		$800,000			$624,000
136	66998	2005	Fallujah	Fallujah	Bed Down PII	78%		$9,000,000			$1,980,000
135	66999	2005	Fallujah	Blue Diamond	ROWPU	65%		$1,500,000			$525,000
134	67000	2005	Fallujah	Blue Diamond	DFAC & Laundry Generator sets	75%		$1,000,000			$250,000
121	67004	2005	Fallujah	Al Asad	CLSS Warehouse	5%		$9,900,000			$9,405,000
118	67007	2004	Fallujah	Al Asad	Recreation Center	90%		$1,100,000			$110,000
114	67009	2004	Fallujah	Al Asad	COSCOM Tent City	98%		$5,900,000			$118,000
156	67051	2004	Fallujah	TQ - Taqaddum	Bed Down 3300 PAX	15%		$24,000,000			$20,400,000
158	67054	2005	Fallujah	TQ - Taqaddum	DFAC	7%		$22,000,000			$20,460,000
160	67055	2004	Fallujah	TQ - Taqaddum	CLSS Warehouse	20%		$20,000,000			$16,000,000
161	67056	2004	Fallujah	TQ - Taqaddum	Recreation Center	5%		$3,600,000			$3,420,000
163	67058	2004	Fallujah	TQ - Taqaddum	TTM Yard & Maintenance Shop	5%		$5,000,000			$4,750,000
166	67060	2004	Fallujah	TQ - Taqaddum	KBR Man Camps 4ea Dorms	25%		$5,000,000			$3,750,000
167	67061	2004	Fallujah	TQ - Taqaddum	KBR MMR & Gym & Recreation center	98%		$3,300,000			$66,000
97	67078	2004	Baghdad	Rustamiyah	Building Renovation Electrical	13%		$37,979,145			$33,041,856
42	67081	2004	Anaconda	Anaconda	New STP Plant	100%		$3,760,220			$0
								$314,921,920			$176,683,974

2. Senator LEVIN. Mr. Ford, why does the Army believe that any additional authority to use operation and maintenance funds for military construction is required beyond the authority for fiscal years 2004 through 2006 provided in section 2808

of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136), as amended?

Mr. FORD. Combatant commanders have expressed the desire to have more flexibility to satisfy temporary operational requirements and believe the current Department of Defense (DOD) process for invoking the contingency construction authority under section 2808 is too slow. We need to review our internal DOD policies and procedures and streamline them where possible. Legislative relief should only be requested if necessary.

3. Senator LEVIN. Mr. Ford, have the Army or DOD Audit Agency or Inspector General offices undertaken or completed reviews of the activities for which the Army is seeking legislative relief? Please provide the results of any such reviews that have been completed, or the estimated completion date of any ongoing reviews.

Mr. FORD. The Army has initiated investigations into potential violations of the Antideficiency Act associated with LOGCAP funded construction activities. One of the investigations is being conducted by the DOD Inspector General. The Special Inspector General for Iraq Reconstruction has conducted extensive investigations into a variety of contract activity in Iraq. In addition, the Army Audit Agency has conducted several audits of financial operations. I will consult with the Army's Auditor General, Inspector General, and DOD Inspector General to identify audits or inspections specifically related to activities for which we are seeking informal relief and provide results to the committee. Additionally, the Government Accountability Office has conducted extensive reviews of the LOGCAP and other logistics support contracts (GAO 04–854, GAO 05–328).

4. Senator LEVIN. Mr. Ford, do you believe that construction or procurement activities contracted through the LOGCAP process should be subject to different legal standards than if those items were procured through any other contracting mechanism? If so, why?

Mr. FORD. No. While LOGCAP is just one of many contracting vehicles available to commanders, construction and procurement activities undertaken pursuant to LOGCAP task orders should be subject to the same rigorous legal standards that govern other government contracting vehicles. However, commanders should not be constrained by policies that are unresponsive to operational needs. We must ensure we provide the combatant commanders the authorities and tools they need to accomplish their mission while at the same time ensuring Congress has sufficient oversight to perform their constitutional duties. I will work with the Office of the Secretary of Defense to identify those areas where new authorities might be needed and attempt to rectify cumbersome regulations that hinder accomplishment of operational objectives.

QUESTION SUBMITTED BY SENATOR DANIEL K. AKAKA

FINANCIAL MANAGEMENT PROCESSES

5. Senator AKAKA. Mr. Ford, you asserted in your advanced testimony that a long-term challenge of the Army will be to improve financial management processes and to achieve an auditable financial process. What do you believe are the primary obstacles to achieving this long-term goal?

Mr. FORD. The primary obstacle to improving financial management in the Army has been the absence of realistic, integrated plans backed up by appropriate resources and senior leader commitment.

As the Army's senior financial officer, I am fully committed to improving the Department's financial management processes but recognize that attainment of this goal will require sustained efforts over several years. The Secretary of the Army has a strong interest in these efforts and has made improved financial management a top priority in the Army.

The Army has developed and is implementing a strategic action plan for improving financial management that contains 1,776 discrete tasks designed to correct existing problems and provide long-term financial management improvements. Our plan integrates technology and process requirements and is a key component of DOD's Financial Improvement and Audit Readiness (FIAR) Plan and Enterprise Transition Plan. The Army plan also identifies the resources needed to develop and implement the required technology and business process changes. We monitor our progress towards achieving our financial management improvements biweekly (and sometimes more often) and believe the Army will be able to meet the target for auditable financial statements contained in the FIAR Plan.

[The nomination reference of Nelson M. Ford follows:]

NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
August 3, 2006.

Ordered, That the following nomination be referred to the Committee on Armed Services:

Nelson M. Ford, of Virginia, to be an Assistant Secretary of the Army, vice Valerie Lynn Baldwin.

[The biographical sketch of Nelson M. Ford, which was transmitted to the committee at the time the nomination was referred, follows:]

BIOGRAPHICAL SKETCH OF NELSON M. FORD

Nelson Ford currently serves as Principal Deputy Assistant Secretary of the Army for Financial Management and Comptroller. From 2001 through 2004, he was Deputy Assistant Secretary for Health Budgets & Financial Policy in the Department of Defense where he was responsible for financial management, policy development, and program evaluation for the Defense Health Program.

Mr. Ford has held senior management positions in academic medicine, medical manufacturing, and health insurance, as well as providing strategic and financial advice to a wide range of clients in the health care field. From 1997 to 2000, he was President and Chief Executive Officer of Clinipad, a manufacturer of disposable medical products. During the 1990s, he was Chief Operating Officer of Georgetown University Medical Center, with responsibilities including management of Georgetown Hospital and practice plans, research activities, and academic budgets of the medical and nursing schools.

Earlier in his career, Mr. Ford was a partner with Coopers & Lybrand and was responsible for health care consulting in the Mid-Atlantic region. He was the Executive Secretary of the Health Care Financing Administration and worked on health policy matters in the Office of Management and Budget during the 1970s. He serves on the board of the AcademyHealth and has served on many other not-for-profit boards and advisory committees.

Mr. Ford holds a bachelor's degree in history from Duke University, a master's in education from the University of Delaware, and has completed additional professional training at the University of Pennsylvania.

[The Committee on Armed Services requires all individuals nominated from civilian life by the President to positions requiring the advice and consent of the Senate to complete a form that details the biographical, financial, and other information of the nominee. The form executed by Nelson M. Ford in connection with his nomination follows:]

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

(202) 224–3871

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior to the hearings and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)
Nelson M. Ford.

2. **Position to which nominated:**
Assistant Secretary of the Army for Financial Management and Comptroller.

3. **Date of nomination:**
August 3, 2006.

4. **Address:** (List current place of residence and office addresses.)
[Nominee responded and the information is contained in the committee's executive files.]

5. **Date and place of birth:**
June 3, 1947; Wilmington, DE.

6. **Marital Status:** (Include maiden name of wife or husband's name.)
Married to Cecilia Sparks Ford (maiden name: Sparks).

7. **Names and ages of children:**
Aven Walker Ford, 27; Alexander Sparks Ford, 25; and Mary Bartlett Ford, 19.

8. **Education:** List secondary and higher education institutions, dates attended, degree received, and date degree granted.
Alexis I DuPont HS (9/1959–6/1965), HS Diploma, June 1965.
Duke University (9/1965–6/1969), B.A., June 1969.
University of Delaware (1/1971–6/1972), M.Ed, January 1973.
University of Pennsylvania (9/1975–6/1977), no degree.

9. **Employment record:** List all jobs held since college or in the last 10 years, whichever is less, including the title or description of job, name of employer, location of work, and dates of employment.
Principal Deputy Assistant Secretary of the Army (FM&C), Department of the Army, Pentagon, 6/2005–Present.
Director-Senior Products, Humana, Washington, DC, 9/2004–6/2005.
Deputy Assistant Secretary of Defense-Health Affairs (HB&FP), Falls Church VA, 1/2002–9/2004.
Executive Vice President-Finance and Strategy, GMI Networks Inc., Vienna VA, 9/2000–3/2001.
Presidents Chief Executive Officer, Clinipad Corporation, Rocky Hill, CT, 10/1997–3/2000.
Chief Operating Officer, Georgetown University Medical Center, Washington, DC, 9/1992–2/1997.

10. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.
None.

11. **Business relationships:** List all positions currently held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corpora-

tion, company, firm, partnership, or other business enterprise, educational, or other institution.

Director, AcademyHealth.

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

AcademyHealth, Director.

Washington Golf & Country Club, Member.

Immanuel Presbyterian Church, Asst. Treasurer.

George Washington University, Adjunct Associate Professor.

13. **Political affiliations and activities:**

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

None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 5 years.

Republican Party, member.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $100 or more for the past 5 years.

None.

14. **Honors and Awards:** List all scholarships, fellowships, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievements.

Secretary of Defense Medal for Outstanding Civilian Service.

USOE Fellowship.

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

I've published no books, articles, or reports. I was listed as a co-author on two HEW publications on the cost of educating handicapped children in the early 1970s but do not remember their titles.

16. **Speeches:** Provide the committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

(See attached.)

[Nominee responded and the information is contained in the committee's executive files.]

17. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to respond to requests to appear and testify before any duly constituted committee of the Senate?

Yes.

[The nominee responded to the questions in Parts B–F of the committee questionnaire. The text of the questionnaire is set forth in the Appendix to this volume. The nominee's answers to Parts B–F are contained in the committee's executive files.]

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

NELSON M. FORD.

This 16th day of August, 2006.

[The nomination of Nelson M. Ford was reported to the Senate by Chairman Warner on September 28, 2006, with the recommendation that the nomination be confirmed. The nomination was confirmed by the Senate on September 29, 2006.]

[Prepared questions submitted to Ronald J. James by Chairman Warner prior to the hearing with answers supplied follow:]

QUESTIONS AND RESPONSES

DEFENSE REFORMS

Question. The Goldwater-Nichols Department of Defense Reorganization Act of 1986 and the Special Operations reforms have strengthened the warfighting readiness of Armed Forces. They have enhanced civilian control and clearly delineated the operational chain of command and the responsibilities and authorities of the combatant commanders, and the role of the Chairman of the Joint Chiefs of Staff. They have also clarified the responsibility of the military departments to recruit, organize, train, equip, and maintain forces for assignment to the combatant commanders.

Do you see the need for modifications of any Goldwater-Nichols Act provisions?

Answer. The Goldwater-Nichols Act has had a positive influence on the operations of the Department of Defense (DOD), particularly in the relationships between the combatant commands and the military departments. If confirmed, I will have an opportunity to assess whether the challenges posed by today's security environment require enhancements to the legislation.

Question. If so, what areas do you believe might be appropriate to address in these modifications?

Answer. If confirmed, I look forward to reviewing this milestone legislation and assessing whether any modifications should be considered to address the challenges faced in today's security environment.

DUTIES

Question. Section 3016 of title 10, U.S.C., provides that the Assistant Secretary of the Army for Manpower and Reserve Affairs shall have the principal duty of "overall supervision of manpower and Reserve component affairs of the Department of the Army."

Assuming you are confirmed, what duties do you expect that Secretary Harvey will assign to you?

Answer. Although Secretary Harvey has not discussed with me the duties and functions he will expect that I perform if I am confirmed, I anticipate that he will rely on me to provide accurate and timely advice in the area of Army manpower and Reserve affairs, as the statute establishing the position of the Assistant Secretary of the Army for Manpower and Reserve Affairs provides. I presume also that the specific duties assigned to this position would be consistent with the responsibilities assigned to the Assistant Secretary for Manpower and Reserve Affairs in the Department of the Army's General Order Number 3, which sets forth the duties of each principal office of the Headquarters, Department of Army. In addition, I believe the Secretary of the Army would expect me to continue pursuing an effective, professional relationship with the Under Secretary of Defense (Personnel and Readiness) and other key officials within the Office of the Secretary of Defense, our Military Department Assistant Secretaries for Manpower and Reserve Affairs, and the other Army Assistant Secretaries. I anticipate that Secretary Harvey will expect me to continue and to build upon the effective and professional working relationships between the Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs) and the Deputy Chief of Staff, G–1 (Personnel), The Surgeon General, the Chief, Army Reserve, the Chief, National Guard Bureau, and the Director of the Army National Guard.

RELATIONSHIPS

Question. If confirmed, what will be your relationship with:

The Secretary of the Army.

Answer. If I am confirmed, my relationship with the Secretary of the Army would be close, direct, and supportive. I would work to communicate as effectively as possible with the Secretary regarding the advice, views, and plans of the Secretariat and Army Staff and to oversee the implementation of the Secretary's decisions through the Army. If I am confirmed, I understand that my actions would be subject to the authority, direction, and control of the Secretary of the Army.

Question. The Under Secretary of the Army.

Answer. If confirmed, I would establish a close, direct, and supportive relationship with the Under Secretary of the Army. Within the Department of the Army, my responsibilities would also involve communicating the Secretariat and Army Staff advice, views, and plans to the Under Secretary of the Army and to oversee the implementation of his decisions falling within my area of responsibility.

Question. The other Assistant Secretaries of the Army.

Answer. The other Assistant Secretaries of the Army set strategic direction by formulating and overseeing policies and programs within their respective functional areas of responsibility, consistent with applicable laws and regulations and in accordance with the objectives and guidance of the Secretary of the Army. If confirmed, I will establish and maintain close and professional relationships with each of the Assistant Secretaries and seek to foster an environment of cooperative teamwork, working together on the day-to-day management and long-range planning needs of the Army.

Question. The General Counsel of the Army.

Answer. The General Counsel is the chief legal officer of the Department of Army. His duties include providing legal and policy advice to officials of the Department of the Army, as well as determining the position of the Army on any legal question or procedure. If confirmed, I will establish and maintain a close and professional relationship with the General Counsel of the Army.

Question. The Under Secretary of Defense for Personnel and Readiness.

Answer. Acting on behalf of the Secretary of Defense, the Under Secretary of Defense for Personnel and Readiness performs responsibilities that require the issuance of guidance to the military departments. If confirmed, I will communicate openly and directly with the Under Secretary of Defense for Personnel and Readiness in articulating the views of the Department of the Army. I will have a close and professional relationship with the Under Secretary of Defense for Personnel and Readiness, characterized by continuous consultation, communication, and cooperation on matters of mutual interest, in furtherance of the best interests of the Army and the DOD.

Question. The Principal Deputy Under Secretary of Defense for Personnel and Readiness.

Answer. Acting on behalf of the Secretary of Defense and Under Secretary of Defense for Personnel and Readiness, the Principal Deputy Under Secretary of Defense for Personnel and Readiness performs responsibilities that require, from time to time, the issuance of guidance to the military departments. If confirmed, I will communicate openly and directly with the Principal Deputy Under Secretary of Defense for Personnel and Readiness in articulating the views of the Department of the Army. I will work closely with the Principal Deputy Under Secretary of Defense for Personnel and Readiness to ensure that the Department of the Army is administered in accordance with the guidance and direction issued by the Office of the Secretary of Defense.

Question. The Assistant Secretary of Defense for Reserve Affairs.

Answer. Acting on behalf of the Secretary of Defense and Under Secretary of Defense for Personnel and Readiness, the Assistant Secretary of Defense for Reserve Affairs performs responsibilities that require, from time to time, the issuance of guidance to the military departments regarding the Reserve component. If confirmed, I will communicate openly and directly with the Assistant Secretary of Defense for Reserve Affairs in articulating the views of the Department of the Army. I will work closely with the Assistant Secretary of Defense for Reserve Affairs to ensure that the Department of the Army is administered in accordance with the guidance and direction issued by the Office of the Secretary of Defense.

Question. The Chief of Staff of the Army.

Answer. The Chief of Staff of the Army is the Secretary's senior military advisor in all matters and has responsibility for the effective and efficient functioning of Army organizations and commands in performing their statutory missions. If confirmed, I will work closely with the Chief of Staff to supervise the implementation of the Secretary's decisions through the Army staff, Army organizations, and commands. I anticipate working closely and in concert with the Chief of Staff.

Question. The Deputy Chief of Staff of the Army for Personnel.

Answer. The Deputy Chief of Staff, G–1, serves as the principal military advisor to the Assistant Secretary for Manpower and Reserve Affairs and formulates, manages, evaluates, and executes military and civilian personnel plans and programs for the Army for peacetime, contingency, and wartime operations. If confirmed, I will establish a close, professional relationship with the Deputy Chief of Staff, G–1 (Personnel). I will consult with him frequently and communicate with him directly and openly as he performs his prescribed duties. I expect that, if I am confirmed, he and I will work together as a team on a daily basis.

Question. The Surgeon General of the Army.

Answer. The Surgeon General is a special advisor to the Secretary of the Army and to the Chief of Staff on all matters pertaining to the military health service system. In that role, The Surgeon General assists the Secretary and the Chief in carrying out their responsibilities by ensuring a medically ready force as well as a trained and ready medical force. If confirmed, I intend to work closely with The Sur-

geon General to ensure that the Army's health care systems and medical policies support the Army's objectives, responsibilities, and commitments effectively and uniformly across the total force.

Question. The Chief, National Guard Bureau.

Answer. The Chief, National Guard Bureau, is the principal advisor to both the Secretary and Chief of Staff of the Army, and to the Secretary and Chief of Staff of the Air Force on all matters relating to the National Guard and the National Guard of the United States. Because the National Guard is a key element of the Reserve component, the Assistant Secretary of the Army for Manpower and Reserve Affairs must work closely with the Chief, National Guard Bureau, to provide overall supervision of National Guard matters across all aspects of Army business. If confirmed, I will establish a close, professional relationship with the Chief, National Guard Bureau. I will communicate with him directly and openly as he performs his prescribed duties.

Question. The Director of the Army National Guard.

Answer. The Director, Army National Guard, is responsible to the Secretary and Chief of Staff of the Army for assisting the Chief, National Guard Bureau, in carrying out his functions as they relate to the Army National Guard. Because the National Guard is a key element of the Reserve component, the Assistant Secretary of the Army for Manpower and Reserve Affairs must work closely with the Chief, Army Reserve, to provide overall supervision of Reserve matters across all aspects of Army business. If confirmed, I will establish a close, professional relationship with the Director of the Army National Guard. I will communicate with him directly and openly as he performs his prescribed duties.

Question. The Chief, Army Reserve.

Answer. The Chief, Army Reserve, is the principal advisor to both the Secretary of the Army and Chief of Staff of the Army on all Army Reserve matters. Because the Army Reserve is a key element of the Reserve component, the Assistant Secretary of the Army for Manpower and Reserve Affairs must work closely with the Chief, Army Reserve, to provide overall supervision of Reserve matters across all aspects of Army business. If confirmed, I will establish a close, professional relationship with the Chief, Army Reserve. I will communicate with him directly and openly as he performs his prescribed duties.

Question. Soldiers and their families.

Answer. The Army owes its success to the versatile young Americans who answer the call to duty. These soldiers serve as the centerpiece of the Army. Caring for soldiers and the Army families through effective quality-of-life programs both demonstrates the Army's commitment to the total Army family and endeavors to reflect the value of their service to our Nation. If confirmed, I will work diligently to ensure the needs of soldiers and their families are addressed across the total Army.

QUALIFICATIONS

Question. What background and experience do you have that you believe qualifies you for this position?

Answer. The diversity and complexity of issues confronting the Department of the Army are such that no one can have in-depth experience in all of them. However, an Assistant Secretary of the Army must possess absolute integrity, mature judgment, and strong interpersonal and leadership abilities. I believe that my background and diverse legal experiences in both the public and private sectors have prepared me to meet the challenges of this office.

I have more than 45 years of organizational experience, executive leadership and distinguished service, both in the public and private sectors. I believe that my human capital background and experience, including my most recent service as the Chief Human Capital Officer for the Department of Homeland Security, a legal career in the private sector focusing on employment, labor, and regulatory law cases, and a myriad of professional assignments at various levels of government, have prepared me to meet the challenges of this office.

I started my professional career by honorably serving as an officer in the U.S. Army. I received my undergraduate degree from the University of Missouri, a Masters of Arts from the Southern Illinois University, and my law degree from American University Law School. For the previous 3 years, I have served the Department of Homeland Security, primarily as the Senior Human Capital Officer, and my duties, among others, included serving as the Senior Policy Advisor to the Secretary of Homeland Security on management, personnel, and employee relations. Before that, I worked for 26 years in the private sector, culminating in my service as a partner in a law firm that counseled and represented national and international clients in regulatory, labor, and employment matters. Additionally, I have served at

both local and national levels of government. Locally, I served as a Director on Commission of Human Rights and then an Assistant County Prosecutor in the State of Iowa. At the national level, I have served in diverse positions at numerous agencies and organizations throughout the Federal Government: as an Analyst at the U.S. Commission on Civil Rights; a Special Assistant to the Counselor to the President and Director of Office of Economic Opportunity; a Trial Attorney at the Department of Transportation; an Assistant General Counsel at the Equal Employment Opportunity Commission; and the Administrator for the Wage-Hour Division of the Department of Labor.

If I am confirmed, I pledge my best effort every day to be worthy of the trust placed in me and to uphold the proud tradition of selfless service and duty that characterizes the United States Army.

Question. Do you believe that there are any steps that you need to take to enhance expertise to perform the duties of the Assistant Secretary of the Army for Manpower and Reserve Affairs?

Answer. Based on over 45 years of private sector experience and public service in both the legislative and executive branches of government, I believe I have the requisite management abilities and leadership skills to serve as the Army Manpower and Reserve Affairs Assistant Secretary. I look forward to learning about and addressing the full array of manpower and Reserve affairs' issues associated with Army operations. If I am confirmed, I will work diligently to further my understanding and knowledge of the Army, its people, the resources necessary to sustain and transform it, and the challenges it faces. I will take advantage of the many educational programs available to senior Army officials and draw on the wealth of knowledge and experience available from dedicated professionals, civilian and military, in the DOD and throughout the Army family. I will seek advice and counsel from the many and diverse stakeholders dedicated to the success of the Army, including Members and staff of Congress.

MAJOR CHALLENGES AND PROBLEMS

Question. In your view, what are the major challenges and problems confronting the Assistant Secretary of the Army for Manpower and Reserve Affairs?

Answer. In my view, the fundamental challenge facing the Assistant Secretary of the Army for Manpower and Reserve Affairs is manning the force. I view the recruitment and retention of high caliber citizens to man the Active, Reserve, and civilian ranks as an important aspect of maintaining Army readiness. The Army's ability to staff the Army fully with military members (Active and Reserve), and civilians necessary to execute the complex and challenging missions of the Army today, and in the future, presents unprecedented challenges. The Army will continue to have a compelling need to garner support for soldiers, obtain sufficient funding to achieve critical recruiting and retention goals, and maintain the financial investment in the quality-of-life programs that help to sustain the All-Volunteer Force. I believe that the Army must continue to actively engage in proactive advertising campaigns, pursue robust and attractive initiatives and incentives, and continue to seek ways to improve health and well-being programs. If confirmed, I would candidly assess the Army recruiting and retention posture and work to initiate or enhance programs of the type and quality most likely to support the Army's recruiting and retention needs.

Second, I believe that the Army's ability to prevail in the war on terror and to sustain global commitments is critical. The Army must continue to maintain the momentum of transformation by adapting the Army forces and balancing the employment of Active and Reserve component units and soldiers. If confirmed, I would lead and partner on efforts to formulate policies that will help facilitate the Department's adaptation to the changing operational environment.

Finally, among the major challenges I would face, if confirmed, is the need to foster and maintain an environment in which soldiers and civilian employees, regardless of race, creed, or gender, can serve free of discrimination and harassment and pursue assignments and advancement, that while responsive to the needs of the Army, are based on individual qualification and performance.

Question. Assuming you are confirmed, what plans do you have for addressing these challenges?

Answer. If confirmed, I will focus immediately on these matters, review those actions that are underway, and join with other civilian leaders and with my counterparts in uniform to resolve them to the best of my ability.

END STRENGTH

Question. The 2006 Quadrennial Defense Review Report recommended stabilizing the Army's end strength at 482,400 Active personnel and 533,000 in the Army Reserve components (consisting of 333,000 in the National Guard and 200,000 in the Army Reserve) by 2011. Subsequently, after an expression of bipartisan concern in Congress and by the Governors, senior Army leadership committed to retaining the Army National Guard at its current end strength of 350,000, if the Army National Guard could recruit to that level. Recently, strains on Army manpower have been demonstrated by extending the tour of at least one major ground combat unit serving in Iraq beyond 12 months, and additional troops have augmented forces in Iraq in an effort to stem sectarian violence. What is your opinion of the long-term Active-Duty end strength necessary to support ongoing operations in Iraq and Afghanistan?

Answer. It appears to me that there is general agreement on the need to increase the size of the pool of soldiers available for world-wide deployments. I understand that the Army leadership has developed a plan to increase the number of high demand soldiers and capabilities through a temporary increase in Active component end strength and transformation of all three components of the Army. Included in this plan is the increase in the size of the Active component operational force from 315,000 to 355,000. It will require careful execution and sustained support and funding to be successful. The Army has been evaluating force requirements within the end strength plan outlined by the Secretary of the Army in August 2005. If confirmed, I will undertake to review the Army's end strength plan to ensure that it is appropriate to building an expeditionary, campaign quality force, capable of meeting a broad and complex array of challenges, while ensuring its forces remain the preeminent land power and ultimate instrument of national resolve.

Question. Based on demands on the National Guard and the Army Reserve, what is your opinion of the optimal end strength for the Army National Guard and Army Reserve?

Answer. I understand that the Army is working to balance force capabilities within and across the Active, Guard, and Reserve to develop a total force with greater capabilities and greater accessibility. This rebalancing is designed to create a larger operational Army, improve readiness, and reduce the impact on Reserve component structure. Based on my initial review, I support the current plan calling for Army Reserve end strength of 205,000, with 58 supporting brigades and to fund the Army National Guard to the level it can recruit, up to its congressionally mandated end strength of 350,000.

Question. How many troops have been shifted from the institutional Army to the operational Army in order to increase the number of soldiers who can be deployed without increasing end strength, and what is your understanding of how the Army will make up for the loss of manpower in the institutional Army?

Answer. I understand that the Army's plan incorporates military-to-civilian conversions and business transformation efforts to accomplish the necessary changes. The Army plan will build the operational force up to 355,000, a growth of nearly 40,000 spaces over the fiscal year 2004 total through a combination of military-civilian conversions, Base Realignment and Closure and Global Defense Posture realignments, and business transformation. I have been advised that the Army is currently embarked on a holistic business transformation effort that relies on continuous process improvement techniques (using Lean Six Sigma) aimed at increasing quality, productivity, reliability, and safety, while reducing costs and cycle time.

RESERVE AND NATIONAL GUARD DEPLOYMENTS

Question. Current policy of the Department provides that under section 12302 of title 10, U.S.C., members of Reserve components shall not be required to involuntarily deploy more than 24 months cumulatively in response to the existing national emergency. This policy has exempted thousands of members of the Selected Reserve from additional involuntary call ups in support of overseas operations in Iraq and Afghanistan.

What is your understanding of the current number of members of the Army Reserve who are unavailable for deployment as a result of the 24-month policy?

Answer. I have been informed that to date, more than 425,000 Army National Guard and U.S. Army Reserve soldiers have served in the global war on terror. It is my understanding that there are currently 263,000 National Guard and Reserve soldiers still in uniform who are or have served a portion or all of the 24 months associated with this policy. I understand that 40,000 soldiers have served between 18 and 24 months.

Question. What is your assessment of the Army's ability to support scheduled troop rotation planning beyond 2006, particularly in combat support and combat service support missions, given the 24-month policy?

Answer. It is my understanding that the Reserve component contributions to next rotations for overseas global war on terror missions have almost all been sourced and are on track for deployment. Discussions on sourcing solutions for later in 2007 and beyond are ongoing and I am not familiar with the details of that planning. If confirmed I would work toward ensuring that the Army's Reserve components can continue to serve alongside their Active component brothers and sisters by developing and executing robust manning strategies, including recruiting and retention programs, that enhance the Guard and Reserve capabilities to continue the fight.

Question. What is your understanding of the measures that are being taken in the Department to respond to operational requirements for low density, high demand units and personnel whose skills are found primarily in the Reserve components, e.g., civil affairs, special operations, military police, truck drivers?

Answer. I have been advised that the Army is pursuing several ways to ensure low density, high demand Reserve component units are available for operational missions. First, the Army is implementing the Army Force Generation (ARFORGEN) readiness process, the structured progression of increased unit readiness over time, resulting in recurring periods of availability of trained, ready, and cohesive units prepared for operational deployment in support of civil authorities and combatant commander requirements.

Second, the Army has implemented the Active component/Reserve component rebalance initiative which is an incremental process that has evolved over time in a series of phases to hasten the transformation of post-cold war Army into a force capable of efficiently and effectively addressing the global war on terror. I have been advised that to date, the cumulative effects of all phases have resulted in a rebalance or programmed rebalance of more than 234,000 of force structure spaces across all three components.

Third, I also understand that the Army has transferred the U.S. Army Civil Affairs and Psychological Operations Command from U.S. Army Special Operations to the U.S. Army Reserve Command. The transfer was intended to integrate Civil Affairs and Psychological Operations units into conventional operations, while maintaining support for special operations.

MOBILIZATION AND DEMOBILIZATION OF NATIONAL GUARD AND RESERVES

Question. In the aftermath of the attacks of September 11, 2001, the National Guard and Reserves have experienced their largest and most sustained employment since World War II. Numerous problems have been identified in the past in the planning and procedures for mobilization and demobilization, including inadequate health screening and medical readiness monitoring, antiquated pay systems, limited transitional assistance programs upon demobilization, and, most recently, lack of money to transport by Air National Guardsmen returning from deployment to their home station.

What is your assessment of advances made in improving mobilization and demobilization procedures, and in what areas do problems still exist?

Answer. The Army's Reserve component soldiers are an essential element in the global war on terror. It is my understanding that there is little difference in the processes and standards used to deploy Active or Reserve soldiers which results in a homogeneous force in theater. It is also my understanding Reserve soldiers are also afforded the same demobilization processes and procedures as Active soldiers. The Army recognizes the inherent differences between the components and makes necessary adjustments in mobilization and demobilization procedures to accommodate the differences.

I understand the Army has made progress in policy, health screening, and medical readiness tracking. Individual Medical Readiness has been made a measure of unit readiness.

Another example of improvement is TRICARE Reserve Select which is a medical insurance program tailored specifically for the Reserve component. I have been informed that the Federal Strategic Health Alliance contract has been very successful and serves as a critical tool for medical screening of Army Reserve component soldiers. If confirmed, I will continue to seek opportunities to improve the medical screening of Reserve component soldiers.

I understand that one area currently being improved is the automated systems that will improve and expedite the delivery of services to soldiers and families, and provide commanders, at all echelons, visibility of the status of their soldiers throughout the mobilization and demobilization process. The Army is taking the

lead to field the Defense Integrated Military Human Resources System which will provide more timely and accurate recordkeeping and the delivery of compensation, benefits, and entitlements.

Question. What do you consider to be the most significant enduring changes to the organization and policies affecting the Reserve components aimed at ensuring their readiness for future mobilization requirements?

Answer. The Army National Guard and the Army Reserve are crucial to the success of the Nation in fighting and winning the global war on terror. This fight places a high demand on the Reserve component. To best manage and meet these requirements, the Army is implementing the ARFORGEN process. Fundamentally, ARFORGEN is a cyclic training and readiness process that synchronizes strategic planning, prioritizing, and resourcing to generate trained and ready modular expeditionary forces tailored to joint mission requirements. In addition to providing the right force mix in support of the National Military Strategy, I understand that ARFORGEN provides soldiers and their families with needed predictability, enabling them to foresee and plan out their future, which benefits recruiting and retention. I have been advised that ARFORGEN will also provide a means to integrate and prioritize medical and dental screening throughout the deployment cycle.

Question. To your knowledge, what measures have been taken to avoid situations which would require demobilizing reservists to travel by bus from Camp Atterbury and other demobilization sites to distant home stations?

Answer. I understand that this event was an anomaly in the demobilization and home station transportation process. A delay in the unit's movement from theater back to the United States compressed the demobilization timeline in such a way that the originally planned air travel to home station was not sufficient to meet homecoming events already scheduled in Massachusetts. The 1st Army and supporting garrison are examining this particular event to see what lessons can be learned and applied to future cases as they may arise. I understand that the Army's demobilization process is constantly reviewed to introduce improvements that will ensure that each soldier is provided the best transition service and is reunited with families and communities in the most expeditious way. Soldiers' well-being and benefits should not be compromised in the interest of saving time or resources.

RECRUITING

Question. The Active-Duty component of the Army missed its fiscal year 2005 recruiting goal of 80,000 by about 6,600. The Active Army's goal for fiscal year 2006 is another 80,000. What is your assessment of the Army's ability to reach its active-duty recruiting goal in fiscal year 2006 and 2007?

Answer. Based on initial briefings I have had, I understand that the Army is optimistic about meeting its recruiting goal for all three components for fiscal year 2006. The Army is facing a similar challenge for fiscal year 2007 given the relatively strong economy and the continued deployments in support of the global war on terror. I believe that the Army must continue to implement innovative recruiting programs, improve recruiter productivity, and offer attractive incentives to meet the challenges.

Question. What is your view about the appropriate assignment and overall numbers, if any, of "Category IV" recruits in the Army, i.e., those individuals who score below the 31st percentile on the Armed Forces Qualification Test (AFQT)?

Answer. The Army has entrance standards for all specialties based on scores taken from the AFQT. These standards are used to screen applicants and assign recruits to specialties commensurate with their ability. Given all of the circumstances, I believe it is appropriate to give an opportunity to a portion of those scoring below the 31st percentile to serve. The 4-percent standard is probably the right percentage based on the DOD goal.

Question. What is your understanding of trends in the Army with respect to incidents of recruiter sexual misconduct with potential recruits, and, if confirmed, what actions, if any, would you take to prevent such incidents?

Answer. If confirmed, I would ensure that Army programs and policies focus on preventing recruiter sexual misconduct and fully investigating all allegations. If confirmed, I would monitor this area closely to ensure that policies and practices are effective.

IMPLEMENTATION OF TRICARE FOR RESERVISTS

Question. The National Defense Authorization Act for Fiscal Year 2006 authorized new categories of eligibility for TRICARE for members of the Selected Reserve, which are required to be implemented by October 1, 2006. What is your assessment

of the Army's ability to timely implement the new benefits and the challenges it will have to overcome?

Answer. I understand that on October 1, 2006, the Army will implement the TRICARE Reserve Select benefits required by the National Defense Authorization Act of Fiscal Year 2006. I understand that the Army has published a plan for each Army component which establishes policies and procedures for administration of the TRICARE Reserve Select program. I have been advised that the Army will be able to meet the challenges associated with TRICARE Reserve Select implementation.

Question. If confirmed, what role would you play in leading the Army's efforts implementing these new benefits?

Answer. If confirmed, I would fulfill my responsibilities as the Secretariat's principal advisor on all military health affairs. This includes providing the programming and oversight responsibility for implementing the TRICARE Reserve Select benefits required by the National Defense Authorization Act of Fiscal Year 2006. Additionally, the Assistant Secretary for Manpower and Reserve Affairs assumes planning and marketing coordination responsibility for programs affecting medical readiness, force protection, and Army maintenance of the TRICARE Reserve Select program for the military health system. If confirmed, I will support any appropriate health care benefits which assist contingency efforts and positively impact readiness, recruitment, and/or retention for soldier and their family members.

EMPLOYMENT OF MILITARY SPOUSES

Question. In your view, what progress has been made, and what actions need to be taken in the Army to provide increased employment opportunities for military spouses?

Answer. I understand over the last 4 years great progress has been made in providing increased employment opportunities for military spouses. In December 2002, the Chief of Staff of the Army hosted a summit with private and public sector senior executives to establish a framework for a collaborative partnership that would increase opportunities for spouse employment and career advancement. In October 2003, the Army formally established the Army Spouse Employment Partnership (ASEP) by signing a Statement of Support with 13 Fortune 100 and 500 companies and 2 military agencies who pledged their best effort to increase employment and career opportunities for Army spouses. I understand that ASEP has 21 partners and that, through this program, more than 11,000 spouses have been hired. The Army continues to recruit additional partners and plans to enter into a memorandum of agreement with a nonprofit agency dedicated to providing career opportunities and job portability for military spouses.

OFFICER SHORTAGES

Question. A report issued by the Congressional Research Service (CRS) in July 2006 found that the Army projects an officer shortage of nearly 3,000 in fiscal year 2007, with the most acute shortfalls in the grades of captain and major with 11 to 17 years of service. Unless corrective action is taken, CRS found that shortages will persist through 2013 unless accessions are increased and retention improves.

What is your understanding of the reasons for the current shortfall, and what steps is the Army taking to meet this mid-career officer shortfall?

Answer. I have been advised that the shortage of officers is a result of increased officer force structure at the mid-grade ranks (senior captain and major ranks). With the increase in end strength (482,000 to 512,000), the Active component picked up an additional 8,000 officer authorizations. Most of the growth (88 percent) was in the mid-grade officer ranks.

Because it takes 10 years to "grow" a major, the immediate addition of force structure creates officer shortages which the Army estimates total approximately 3,000 by fiscal year 2008.

Question. If confirmed, what actions would you take to ensure adequate numbers of highly qualified captains and majors are serving on active duty over the next 10 years?

Answer. Clearly, the Army must retain more of the "best and brightest" officers to meet future manning requirements. I believe that the Army needs to continue to look at innovative ways to achieve this. If confirmed, I would pursue initiatives that include a balance between monetary and non-monetary incentives.

MEDICAL PERSONNEL SHORTFALLS

Question. The Army Surgeon General has stated that the Health Professions Scholarship Program is failing to attract critically needed medical personnel. Short-

falls in health professional recruiting endanger future medical readiness for all the Services.

If confirmed, what approach would you take to address this looming problem for the Army?

Answer. If confirmed, I would evaluate current recruiting approaches and partner with my counterparts in other Services, DOD, the private sector, and Members of Congress and their staffs to ensure that the Army has relevant and competitive programs in today's market place without endangering other existing programs.

NATIONAL SECURITY PERSONNEL SYSTEM

Question. Congress enacted broad changes in the DOD civilian personnel system in 2004 to provide the Department with more flexible tools for the management of its civilian workforce in support of national security. Although the Department is presently enjoined from implementation of a new labor-relations system, the Department is planning to move ahead in the implementation of a new pay-for-performance system for its non-union employees.

Based on your experience, what are the critical factors for successful implementation of a total transformation of workforce policies and rules, including performance-based pay?

Answer. Trust, leadership, communication, and training are vital to successful implementation of this new system. DOD is making fundamental changes to its pay and performance system, moving away from a one-size-fits-all, longevity-based approach, to one that is based on performance and results. There are challenges associated with ensuring the credibility and transparency of this system. DOD is mitigating this challenge by taking a deliberate, spiraled implementation approach, permitting the early identification of problems in early spirals and facilitating the correction of those problems before the system is implemented throughout the entire department. Training employees and managers on the behavioral and functional aspects of National Security Personnel System (NSPS) is key to the system's success. Participants need to be informed and educated about the NSPS and trust and value it as a system that fosters accountability, respects the individual, and protects rights under the law. Senior leadership commitment and involvement is critical to ease the transition process and to help create an environment where people can excel every day.

Question. If confirmed, how would you monitor the acceptance of the NSPS and what role would you expect to play in managing the NSPS implementation in the Army?

Answer. If confirmed, I expect to play a critical role in monitoring the acceptance of NSPS and managing NSPS implementation in the Army. Managers must be held accountable and evaluated on how well they perform their NSPS responsibilities and their effectiveness should affect their pay increases. As the Department moves away from the General Schedule System, it will become more competitive in setting salaries. A more flexible, mission-driven human resources system will provide a more cohesive total force. DOD's senior leaders must carefully monitor workforce data to ensure that the Department has leveraged the flexibilities and advantages that NSPS offers. Ongoing evaluation, as well as workforce surveys, will be critical to ensuring that the system is credible, trusted, and transparent. Employee perceptions of the new system are important.

If confirmed, I will seek to leverage authorities within NSPS to promote a performance culture in which the performance and contributions of the civilian workforce are more fully recognized and rewarded. The NSPS will allow the Army to be more competitive in setting salaries and to attract and retain skilled, talented, and motivated people. The NSPS will provide greater opportunities for Army civilians by easing the administrative burden routinely associated with the current system and providing incentives for managers to turn first to civilian employees to accomplish certain vital tasks. This will free Army soldiers to focus on matters unique to the military.

If confirmed, I will help lead the Army in adopting the NSPS by providing reliable and consistent information to all employees, and ensuring ongoing communications to the workforce. Additionally, I will develop and implement methodologies for measuring, evaluating, and improving Human Capital results to ensure mission alignment, effective Human Resources management programs, efficient Human Relations processes, and merit-based decisionmaking in compliance with laws and regulations.

MANAGEMENT AND DEVELOPMENT OF THE SENIOR EXECUTIVE SERVICE (SES)

Question. The transformation of the Armed Forces has brought with it an increasing realization of the importance of efficient and forward thinking management of senior executives. What is your vision for the management and development of the Army senior executive workforce, especially in the critically important areas of acquisition, financial management, and the scientific and technical fields?

Answer. The Army should carefully manage and develop the senior executive workforce to meet the evolving workforce challenges facing the Department. With transformation, members of the SES are increasingly being looked to as military replacements in critically important areas of acquisition, financial management, and the scientific and technical fields. To support this effort, I understand the Army is reviewing the quality and potential of the existing senior executive pool, reallocating positions to ensure senior executives are aligned with evolving business strategy. Since January 2006, 22 senior executives have been reassigned within the Department of Army to fully utilize their capabilities to lead and manage complex organizations during the transformation of the Armed Forces. I understand that the current Army's senior executive program also includes periodic education and development opportunities and performance-based evaluations.

Question. If confirmed, what role will you, as Assistant Secretary of the Army for Manpower and Reserve Affairs, have in the management of the Army's SES personnel?

Answer. I understand that the Army has centralized the day-to-day management of its senior executives in a new office that reports directly to the Secretary of the Army. Therefore, if confirmed, I would not directly manage the Army SES personnel program. However, if confirmed, I would have the responsibility for management, development, and mentoring of senior executives assigned in the Office of the Assistant Secretary of the Army for Manpower and Reserve Affairs.

It is the Army's intent to develop these executives in a manner similar to that in which it has historically developed general officers. This includes implementing a systemic and progressive assignment pattern leading to positions of greater responsibility. The Civilian Senior Leader Management Office, reporting to the Secretary of the Army, manages the development and assignment of the Army's senior executive workforce and ensures that succession planning is an integral part of the management process.

SUPPORT FOR SEVERELY WOUNDED SOLDIERS

Question. The committee has been concerned by reports that some severely-wounded or ill soldiers who do not remain on active duty have encountered significant problems in obtaining needed health care, and rehabilitative and employment related services upon separation from active duty service and that the Army's Wounded Warrior (AW2) program is insufficiently resourced to adequately perform its mission. What is your understanding of the sufficiency of the manning and resources devoted to the AW2 program?

Answer. The Army has established the U.S. AW2 program as an outreach-driven program to provide severely-wounded soldiers and their families with a system of advocacy and personal support from the time of initial notification to return to military service or to the civilian sector. From what I have learned thus far, this program has been effective. Although I have not been briefed on the details of manning and resources for this program, if confirmed, I will be committed to ensuring that injured soldiers receive the best care possible and receive support to address their needs and issues throughout the recovery process and beyond. I will continually assess the effectiveness of this program.

Question. What suggestions do you have for improving the Army's support for severely-wounded soldiers?

Answer. If confirmed, I would work with Department leaders, Department of Veteran Affairs, and Congress to seek innovative approaches to this critical challenge. The Department must also continue strategies that will result in health care advances and promote rehabilitation research for its soldiers with traumatic injuries. Additionally, private industry should be engaged in pursing strategies for expanded employment opportunities.

INDIVIDUAL READY RESERVE RECALL POLICY

Question. A recent July 2006 report by the Center for Strategic and International Studies recommended that the Army revitalize its Individual Ready Reserve (IRR) program by culling existing IRR databases and ensuring that the Army has valid contact information on IRR members who may be recalled to serve.

What has the Army done to clarify the mobilization policy that applies to both officer and enlisted members of the IRR?

Answer. I am informed that the Army continues to mobilize members of the IRR in accordance with statute and existing DOD and Army policies. My understanding is that the Army has made changes in enlistment contracts to emphasize, in greater detail, the totality of mandatory service obligations undertaken. Army Transition Centers now brief soldiers who are completing their initial enlistments or service obligations on their future service options, to include membership in the IRR. Current selection criteria for mobilizing the IRR eliminates from mobilization consideration those soldiers who are within 9 months of completing their military service obligation and those officers that are within 3 months of completing their military service obligation. Those IRR soldiers and officers that are called back to active duty are afforded the opportunity to request exemption from mobilization through a Delay and Exemption Board.

Question. What has the Army done to update its IRR mobilization database?

Answer. As part of the recent Secretary of the Army approved IRR Transformation Plan, the Army Human Resources Command (HRC) is making progress to capture and record IRR member records. The IRR database is constantly evaluated to ensure it accurately reflects the status of the IRR as a viable mobilization asset.

INTERSERVICE TRANSFERS

Question. At the same time that the Army and Marine Corps are working harder than ever to achieve recruiting goals, the Navy and the Air Force are planning for significant reductions in Active-Duty and Reserve military personnel. Under section 641 of the National Defense Authorization Act for Fiscal Year 2006, an interservice bonus of $2,500 for transfer was authorized and recently has been implemented.

What is your assessment of the adequacy of existing incentives for interservice transfers?

Answer. I understand that the response to the interservice bonus has been positive. The number of interservice transfers increased from 11 in fiscal year 2004 to 156 for fiscal year 2006.

Question. If confirmed, what steps would you take to enhance the number of "Blue-to-Green" interservice transfers?

Answer. I have been advised that the interservice monetary incentive will increase to $10,000 for fiscal year 2007. If confirmed, I will work with the other military departments to garner continued support for the "Blue-to-Green" program. I will continually monitor its progress and I will ensure the Army continues to research and address any shortcomings or issues that may cause a lack of attractiveness of the interservice transfer option.

DIVERSITY IN THE ARMY

Question. In its policies and practices, the Army is committed to the principles of equal opportunity and promoting fairness, justice, and equity, eliminating unlawful discrimination, and building teamwork and readiness. What is your understanding of the Army's current policies regarding affirmative action and achievement of diversity with respect to race, gender, and ethnic origin?

Answer. I believe that Army policies and programs must be committed to ensure that the Department's diverse workforce is valued and is afforded equal opportunity to reach its potential and to help execute the Army's mission. Although the Army is already a diverse institution in terms of race, ethnicity, and gender, the true value of workforce diversity can best be achieved by removing any identified obstacles, barriers, or practices that may compromise the organizational vision of equal opportunity treatment of all individuals consistent with legal requirements. I understand that the Army recently established the Army Diversity Office to develop and coordinate policy, plans, and programs that support the Army mission.

Question. Do the Army's published regulations on equal opportunity reflect this policy?

Answer. In my initial assessment, I believe that the Army's equal opportunity policy and program are effective in ensuring fair treatment for all persons based solely on merit, fitness, and capability in support of the Army mission. I understand that the Army policies are aligned with DOD directives and instructions. If confirmed, I would work diligently toward ensuring Army policies and programs are effective in eliminating discriminatory behaviors and practices that undermine teamwork, mutual respect, loyalty, and shared sacrifice.

Question. What is your view of the proper use of affirmative action plans and measures aimed at achieving or nurturing diversity in the Army?

Answer. An affirmative action plan is a management tool intended to assist in overcoming the present effects of discriminatory treatment as it affects equal opportunity, upward mobility, and the quality of life for all qualified personnel, consistent with the law.

Question. In your opinion, how, if at all, should considerations relating to gender and minority status with respect to race, ethnicity, and national origin be addressed in the guidance provided by the Secretary of the Army to promotion selection boards and how have Federal court decisions involving the Army affected that decision?

Answer. It is my opinion that the Army, consistent with DOD policy, is making every effort to encourage service by individuals from all backgrounds by providing for the equal treatment and equitable consideration of all personnel considered for promotion.

Question. What is your understanding of the manner in which considerations relating to gender and race, ethnicity, and national origin are used in selection processes for the U.S. Military Academy (USMA), and do you agree with this approach?

Answer. I understand that the USMA has implemented an admissions strategy carefully tailored to expand interest on the part of a number of highly-qualified candidates, regardless of race, gender, ethnicity, or national origin. The admissions office has a minority outreach section whose specific focus is to inspire quality minority candidates to apply to USMA and nurtures these candidates throughout the admissions process. If confirmed, I would support an approach that ensures that qualified individuals regardless of their background have an opportunity for commissioning in the Army through the USMA.

SEXUAL ASSAULT

Question. On February 25, 2004, the Senate Armed Services Committee Subcommittee on Personnel conducted a hearing on policies and programs of the DOD for preventing and responding to incidents of sexual assault in the Armed Forces at which the Service Vice Chiefs endorsed a "zero tolerance" standard. Subsequently, in response to congressional direction, the Department developed a comprehensive set of policies and procedures aimed at improving prevention of and response to incidents of sexual assaults, including appropriate resources and care for victims of sexual assault.

What is your understanding of the practices currently in use in the Army to ensure awareness of and tracking of the disposition of reported sexual assaults?

Answer. It is my understanding that the Army recently implemented a comprehensive Sexual Assault Prevention and Response Program. A key element of this program is the awareness training developed and taught at every level of the Army's institutional training—from initial entry to the Army War College. Additionally, unit refresher training is an annual requirement for all Army units. As part of this program, the Army collects and analyzes selected sexual assault incident data which is provided for quarterly and annual reports to the DOD for consolidation into the Secretary of Defense's annual report to Congress.

Question. What progress has been made in ensuring that adequate numbers of sexual assault victim advocates are available in Army units worldwide?

Answer. I understand that the Army has taken significant steps to improve the assistance to victims of all sexual assaults, with enhanced recognition of the special circumstances that apply to deployments. The Army recently implemented a comprehensive Sexual Assault Prevention and Response Program. I understand that a key element of the program is the victim advocacy component which is led by Sexual Assault Response Coordinators at every Army installation. These Sexual Assault Response Coordinators are supported by a cadre of full-time, professional Installation Victim Advocates and Unit Victim Advocates who interact directly with victims of sexual assault. Deployable Sexual Assault Victim Coordinators and Unit Victim Advocates provide advocacy services in a deployed environment. Deployable Sexual Assault Response Coordinators are soldiers trained and responsible for coordinating the sexual assault prevention and response program in a specified area of a deployed theater. Current Army policy requires one deployable Sexual Assault Response Coordinator at each brigade level unit and higher echelon. Unit Victim Advocates are soldiers trained to provide victim advocacy as a collateral duty while deployed. Army policy requires two Unit Victim Advocates for each battalion sized unit. If confirmed, I will stress the importance of ensuring that the Army is taking appropriate steps to provide help to soldiers who are victims of sexual assault, both in garrison and in deployed locations.

Question. If confirmed, what oversight role, if any, would you expect to play?

Answer. If confirmed, I will ensure compliance with established policies, procedures, and program implementation at all levels of command, including those at the Army National Guard and U.S. Army Reserve.

U.S. MILITARY ACADEMY

Question. The Service Academy 2005 Sexual Harassment and Assault Survey found that even with the implementation of corrective measures, sexual assault and harassment continue to be factors negatively affecting female cadets at the military academies.

What is your evaluation of the conclusions and recommendations of the Service Academy 2005 Sexual Harassment and Assault Survey and the Report of the Defense Task Force on Sexual Harassment and Violence at the Military Service Academies?

Answer. The Academy must continue to evaluate and shape its culture to create an environment in which the cadets understand that sexual harassment and sexual assault is in opposition to everything the Army stands for and will not be tolerated. If confirmed, I will support the Academy's progress toward this goal. This important survey has identified several critical problems that must be addressed, and, if confirmed, I will work with Academy officials to ensure that policies and programs are in place to correct them.

Question. What actions would you expect to take, if confirmed, to address the problems of sexual assault and sexual harassment at the USMA and with respect to the Army's programs in this regard?

Answer. I understand that the USMA has developed a comprehensive action plan to address the findings and recommendations from the 2005 Report of the Defense Task Force on Sexual Harassment and Violence at the Military Service Academies. I have been advised that the Superintendent provides quarterly reports to the Secretary of the Army on the progress the Academy has made with respect to its action plan. If confirmed, I will ensure that the USMA leadership continues to take this mission seriously and aggressively pursues actions to better educate cadets and to foster a climate geared to eliminating the behaviors that may lead to incidents of sexual assault. If confirmed, I will work to ensure that the Superintendent of the USMA has the resources and support necessary to advance the Army's commitment to attacking this problem.

Question. What do you consider to be the policy and procedural elements that must be in place at each of the Service Academies in order to prevent and respond appropriately to sexual assaults and sexual harassment and to ensure essential oversight?

Answer. I have been advised that the USMA policy is consistent with that of the Army and the DOD: sexual assault and sexual harassment will not be tolerated. Taking care of victims and holding offenders accountable are essential elements of their programs.

RELIGIOUS PRACTICES IN THE ARMY

Question. What is your assessment of policies within the Army aimed at ensuring religious tolerance and respect?

Answer. I have been informed that the Army's policies support religious tolerance and respect and are consistent with the First Amendment. If confirmed, I would make it an objective to continue the Army's firm commitment to upholding the Constitutional tenets of the "free exercise" and "establishment" clauses. I am informed that as they now stand, Army policies require chaplains to support all unit personnel, regardless of their beliefs.

WOMEN IN COMBAT

Question. Section 541 of the National Defense Authorization Act for Fiscal Year 2006 requires the Secretary of Defense to report to Congress not later than March 31, 2006, on his review of the current and future implementation of the policy regarding assignment of women in combat. In conducting the review, the Secretary of Defense is directed to closely examine Army unit modularization efforts and associated personnel assignment policies to ensure their compliance with the DOD policy on women in combat that has been in effect since 1994.

What is your view of the appropriate combat role for female soldiers on the modern battlefield?

Answer. It is my view that women have been and will continue to be an integral part of the Army team, performing exceptionally well in all specialties and positions open to them. Men and women serving in combat service and combat service support branches are performing in an outstanding manner, particularly given the com-

plexity and ambiguity of combat. Female soldier duty performance in Operation Iraqi Freedom and Operations Enduring Freedom has been exemplified by competence, dedication, and bravery.

Question. In your opinion, is the current and planned future Army personnel assignment policy for women consistent with the DOD ground combat exclusion policy in effect since October 1994?

Answer. I have been advised that the Army policy is consistent with the DOD policy, and if confirmed, I will continue to monitor the execution of this assignment policy to ensure the Army maintains compliance.

Question. How do you anticipate you will participate in the review of the policy required by section 541?

Answer. I am informed that the Office of the Secretary of Defense has undertaken to complete the comprehensive review requested by this committee and Congress. It is an important study of complex issues critical to the Department. The Army, DOD, and Congress must work together closely on this issue. If confirmed, I will work to provide the Secretary with cogent advice regarding implementation of this policy.

FOREIGN LANGUAGE TRANSFORMATION ROADMAP

Question. A Foreign Language Transformation Roadmap announced by the Department on March 30, 2005, directed a series of actions aimed at transforming the Department's foreign language capabilities, to include revision of policy and doctrine, building a capabilities based requirements process, and enhancing foreign language capability for both military and civilian personnel.

What is your understanding of steps being taken within the Army to achieve the goals of the Defense Language Transformation Roadmap?

Answer. I understand that the Army's Senior Language Authority (Deputy Chief of Staff, G–3/5/7 and Deputy Chief of Staff, G–2) offices led the Army's efforts to accomplish actions required by the Defense Language Transformation Roadmap, working in accordance with validated requirements and approved resourcing. I have been advised that the Army will continue to integrate its efforts for increasing cultural understanding, regional awareness, and language proficiency while supporting the Defense Language Transformation Roadmap goals. The Army is actively pursuing a number of directed measures, while continuing to refine its strategic vision of leader skill needs. Some examples of these measures are improving the foreign language testing system, providing language support to warfighters in theater, and expanding immersion opportunities for Military Academy Cadets, foreign area officers, and the professional linguist corps. The most critical challenge facing the Army appears to be determining what will be needed 10–20 years from now in terms of foreign language, cultural awareness, and regional expertise. Currently, language familiarization and cultural awareness training are integrated into every phase of pre-deployment training.

Question. What is your assessment of an appropriate timeframe within which results can be realized in this critical area?

Answer. I have been advised that there are several areas that meet the Defense Language Transformation Roadmap timeline, such as the expansion of the Translator Aide Program, on-line language training for the entire force, and web-delivered Defense Language Proficiency testing. I understand that the Army is striving to fulfill the actions required by the Defense Language Transformation Roadmap with the introduction of programs and processes that brings us closer to DOD goals within resource availability. I fully appreciate that this is a dynamic requirement that changes as the challenges of global war on terror moves from region to region, demanding different language skills.

MILITARY QUALITY OF LIFE

Question. In May 2004 the Department published its first Quadrennial Quality-of-Life Review, which articulated a compact with military families on key qualify of life factors, such as family support, child care, education, health care, and morale, welfare and recreation services.

How do you perceive the relationship between qualify of life and your own top priorities for recruitment, retention, and readiness of Army personnel?

Answer. To sustain an All-Volunteer Force composed of highly competent soldiers, I believe the Army must ensure soldiers and their families are provided a high quality of life. Caring for soldiers and Army families through tangible quality-of-life programs provides a sense of belonging and sustains motivation for continued service. This will be one of my high priorities if I am confirmed.

Question. If confirmed, what further enhancements to military quality of life would you make a priority, and how do you envision working within the Army to achieve them?

Answer. My understanding is the Army Well-Being programs provide Army's leaders a variety of ways to care for soldiers and their families. If confirmed, I will partner with other Army leaders in their commitment to enhance numerous programs such as soldier and family housing, education, health care, morale, welfare, and recreation; family programs, and the U.S. AW2 Program which will have an enduring effect on soldiers' morale and contribute immeasurably to the Army's ability to sustain a volunteer force.

CONGRESSIONAL OVERSIGHT

Question. In order to exercise its legislative and oversight responsibilities, it is important that this committee and other appropriate committees of Congress are able to receive testimony, briefings, and other communications of information.

Do you agree, if confirmed for this high position, to appear before this committee and other appropriate committees of Congress?

Answer. Yes.

Question. Do you agree, if confirmed, to appear before this committee, or designated members of this committee, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as the Assistant Secretary of the Army for Manpower and Reserve Affairs.

Answer. Yes.

Question. Do you agree to ensure that testimony, briefings, and other communications of information are provided to this committee and its staff and other appropriate committees?

Answer. Yes.

[Questions for the record with answers supplied follow:]

QUESTIONS SUBMITTED BY SENATOR JOHN WARNER

SENIOR EXECUTIVE SERVICE CORPS

1. Senator WARNER. Mr. James, I note that there has been significant movement and reassignment of Senior Executive Service (SES) positions in the Army. Please give the committee your views on where the Army is going with this process and what the desired end state is with the distribution of SESs throughout Army organizations.

Mr. JAMES. I believe that it is the Army's intent to develop its civilian senior executives in a manner similar to that in which they have historically developed their general officers. As the Army continues their systemic and progressive assignment pattern, the desired end state will generate an executive talent pool of adaptive, multi-skilled leaders capable of filling increasingly more complex senior executive positions vital to supporting the Army's joint, interagency, and multinational operations.

2. Senator WARNER. Mr. James, do you think the SES corps should routinely be organizationally and geographically reassigned every few years, as military officers are?

Mr. JAMES. I think that the SES corps should periodically be reviewed and evaluated for organizational and, as applicable, geographical reassignments in support of SES development and the Army mission. This systemic and progressive reassignment pattern the Army leadership has implemented aligns with and reinforces succession planning goals, it provides professional career development of senior executives similar to that of general officers, and it facilitates interchangeability of general officers and civilian executives, when necessary and where practicable. It also reinforces the concept of "One Army."

3. Senator WARNER. Mr. James, the committee understands that there are different categories of senior civilian leadership—SES, ST, and SL—which typically are comprised of supervisory managing engineers (SES), and nonsupervisory scientific specialists (ST) (the SL category is apparently not widely used). We also are aware that the Army leadership wants to replace SES program management positions with nonsupervisory ST positions, at the same pay level. Does this make sense to you?

Mr. JAMES. I believe that it is imperative for leadership to utilize its resources in a manner that aligns with and reinforces the organization's mission. I understand that the Army is taking a critical look at the distinct functions and roles of the SES, ST, and SL positions and ensuring that these resources are appropriately utilized and aligned. Therefore, when appropriate, Army would replace SES with or intermix ST or SL positions strategically in areas involving the performance of high-level research and development, such as physical, biological, medical, and engineering sciences, and special assistant and/or highly specialized work. I further understand that the Army intends to manage its executive and senior professional positions in a manner consistent with the business transformation goals and objectives.

QUESTIONS SUBMITTED BY SENATOR DANIEL K. AKAKA

ARMY MANPOWER CAPABILITY

4. Senator AKAKA. Mr. James, in your advanced testimony you state that the Army's ability to be fully staffed remains one of the most complex and challenging missions of the Army today and in the future. I am concerned that ongoing operations in Iraq and Afghanistan have had an adverse impact on this Nation's ability to respond to crises in both the Middle East and other regions. Given that the Army's manpower capability is already stretched thin, to what extent do you believe that an All-Volunteer Army will be able to effectively respond to additional conflicts?

Mr. JAMES. For the first time in our country's history, we are fighting a protracted war with an All-Volunteer Army. During this ongoing war on terrorism both recruiting and retention have remained strong. In fact the Army has experienced some of its strongest retention rates over the past 3 years. We have experienced some problems but overall both recruiting and retention continue to meet and exceed goals. Our Army is sustaining combat operations and meeting its obligations worldwide. Soldiers serving combat tours continue to reenlist at high rates. Today's Army is the finest Army in the history of our country. The All-Volunteer Force is strong and capable and has the ability to respond to our Nation's needs.

5. Senator AKAKA. Mr. James, what contingency plans have been put into place in order to effectively respond to new crises?

Mr. JAMES. The Army, as a member of the Joint Force, is fully capable for executing the missions assigned to it by the Secretary of Defense or the President. The Army is rebalancing its force structure to increase capacities for Special Operations Forces and general purpose forces while transforming to a more modular force to improve its agility to be decisive against any potential threat. We are implementing the Army Force Generation Model to create predictable, sustainable force readiness for steady state and surge requirements. Also, we are continually reviewing the status of recruiting and retention to ensure that we have the necessary skill sets for future capabilities as documented in the force structure.

[The nomination reference of Ronald J. James follows:]

NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
July 21, 2006.

Ordered, That the following nomination be referred to the Committee on Armed Services:

Ronald J. James, of Ohio, to be an Assistant Secretary of the Army, vice Reginald Jude Brown.

[The biographical sketch of Ronald J. James, which was transmitted to the committee at the time the nomination was referred, follows:]

BIOGRAPHICAL SKETCH OF RONALD J. JAMES

On May 19, 2003, Ronald James joined the Department of Homeland Security (DHS) when he was appointed as the first Chief Human Capital Officer (CHCO). The CHCO serves as the Department's lead executive for all matters relating to

Human Resource management, including policy, strategic planning, learning and development, recruitment, performance management, compensation, benefits, union relations, employee relations, and other areas. Mr. James served in this position until September 2005 when he was asked by the Secretary to serve as a special advisor on human resource issues. Mr. James agreed to return to the position of CHCO in an acting capacity as of June 12, 2006, until a new CHCO is selected.

Prior to joining DHS, Mr. James was a partner at the international law firm of Squire Sanders and Dempsey in Cleveland, Ohio, where he specialized in regulatory, labor, and employment matters. He was appointed by former President Ford and confirmed by the U.S. Senate to the position of Administrator of the Wage and Hour Division, U.S. Department of Labor, where he managed the enforcement activities, procedures, and standards of 300 offices nationwide,

He graduated from the University of Missouri in Columbia, Missouri, with a Bachelor of Arts in Political Science and received a Master of Arts in Economics and Political Science from Southern Illinois University in the Washington, DC, extension. He also earned a Juris Doctor from American University Law School in Washington, DC.

Mr. James also served as a lieutenant in the 101st Airborne Division Artillery in the United States Army.

[The Committee on Armed Services requires all individuals nominated from civilian life by the President to positions requiring the advice and consent of the Senate to complete a form that details the biographical, financial, and other information of the nominee. The form executed by Ronald J. James in connection with his nomination follows:]

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

(202) 224–3871

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior to the hearings and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)
Ronald J. James.

2. **Position to which nominated:**
Assistant Secretary—Manpower and Reserve Affairs, Department of the Army.

3. **Date of nomination:**
July 21, 2006

4. **Address:** (List current place of residence and office addresses.)
[Nominee responded and the information is contained in the committee's executive files.]

5. **Date and place of birth:**
April 8, 1937; Centerville, Iowa.

6. **Marital Status:** (Include maiden name of wife or husband's name.)
Married to Patricia S. (O'Donnell) James.

7. **Names and ages of children:**
Kevin D. James, 44; Ronad James, Jr., 42; Kelly A. James, 30; Shannon M. James, 32; Catlin James-Stewart, 25.

8. **Education:** List secondary and higher education institutions, dates attended, degree received, and date degree granted.
Southern Illinois University, Master of Arts, September 1972.
American University School of Law, Juris Doctorate, June 1966.
University of Missouri, Bachelor of Arts, August 1959.

9. **Employment record:** List all jobs held since college or in the last 10 years, whichever is less, including the title or description of job, name of employer, location of work, and dates of employment.
Chief Human Capital Officer, Department of Homeland Security, Washington, DC, June 2006–Present.
Senior Policy Advisor to the Under Secretary for Management, Department of Homeland Security, Washington, DC, September 2005–May 2006.
Chief Human Capital Officer, Department of Homeland Security, Washington, DC, May 2003–August 2005.
Partner, Squire Sanders & Dempsey, International Law Firm, Cleveland, OH, March 1977–May 2003.

10. **Government experience:** List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above.
White House Staff, Donald Rumsfeld.
Assistant County Attorney, Blackhawk County, Iowa.
Staff, Congressman Donald Rumsfeld (IL).
Staff, Congressman Jim Bromwell, (IA).
Regional Attorney-Chicago, EEOC.
Administrator, Wage & Hour Division, U.S. Department of Labor.

11. **Business relationships:** List all positions currently held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational, or other institution.
None.

12. **Memberships:** List all memberships and offices currently held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.
American Bar Association.
Iowa Bar Association.
Member, Delta Sigma Rho, National Speech Honor Society.
Catholic Youth Organization, Soccer Coach.

13. **Political affiliations and activities:**
Republican.
Volunteer, Presidential Campaign, Nelson Rockefeller, 1959.
Volunteer, Presidential Campaign, John McCain, 2000.
Congressional Campaign Worker, James Bromwell, R–Iowa, 1964.

(a) List all offices with a political party which you have held or any public office for which you have been a candidate.
None.
(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 5 years.
None.
(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $100 or more for the past 5 years.
None.

14. **Honors and Awards:** List all scholarships, fellowships, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievements.
Distinguished Alumnus, Centerville High School, Centerville, Iowa.
Numerous soccer coaching, volunteer awards, e.g. Catholic Youth Organization.

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.
Please see attached list.
[Nominee responded and the information is contained in the committee's executive files.]

16. **Speeches:** Provide the committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

None.

17. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to appear and testify upon request before any duly constituted committee of the Senate?

Yes, I agree.

[The nominee responded to the questions in Parts B–F of the committee questionnaire. The text of the questionnaire is set forth in the Appendix to this volume. The nominee's answers to Parts B–F are contained in the committee's executive files.]

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

RONALD J. JAMES.

This 30th day of August, 2006.

[The nomination of Ronald J. James was reported to the Senate by Chairman Warner on September 28, 2006, with the recommendation that the nomination be confirmed. The nomination was confirmed by the Senate on September 29, 2006.]

NOMINATIONS OF SCOTT W. STUCKY TO BE A JUDGE OF THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES; AND MARGARET A. RYAN TO BE A JUDGE OF THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

MONDAY, DECEMBER 4, 2006

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC.

The committee met, pursuant to notice, at 2:34 p.m. in room SR–222, Russell Senate Office Building, Senator John Warner (chairman) presiding.

Committee members present: Senators Warner and Levin.

Committee staff members present: Charles S. Abell, staff director; Leah C. Brewer, nominations and hearings clerk; and Catherine E. Sendak, special assistant.

Majority staff members present: Regina A. Dubey, professional staff member; Ambrose R. Hock, professional staff member; Gregory T. Kiley, professional staff member; Sandra E. Luff, professional staff member; Derek J. Maurer, professional staff member; David M. Morriss, counsel; Stanley R. O'Connor, Jr., professional staff member; Lynn F. Rusten, professional staff member; Diana G. Tabler, professional staff member; and Richard F. Walsh, counsel.

Minority staff members present: Richard D. DeBobes, Democratic staff director; Jonathan D. Clark, minority counsel; Gabriella Eisen, professional staff member; Gerald J. Leeling, minority counsel; Peter K. Levine, minority counsel; and William G.P. Monahan, minority counsel.

Staff assistants present: David G. Collins and Benjamin L. Rubin.

OPENING STATEMENT OF SENATOR JOHN WARNER, CHAIRMAN

Chairman WARNER. Good afternoon, everyone. The committee will now come to order.

I'm very pleased to have before the committee this morning Scott Stucky and Margaret Ryan, who have been nominated to be judges on the United States Court of Appeals for the Armed Forces (USCAAF).

We welcome Mr. Stucky, his wife, Jean, and their children, Mary-Clare and Joseph, who have joined us today, and I wonder

if you'd introduce, Mr. Stucky, at this time, the rather large group that you, fortunately, are having to backstop this nomination? [Laughter.]

Mr. STUCKY. Thank you, Mr. Chairman.

In addition to my immediate family, I have here my sister, Judi Jacobson, from Kansas City; my sister-in-law, Catherine Seibert, her husband, Fred, and their daughter, Emma, from Bethesda, Maryland; my brother-in-law, Dick Joyce, and my sister, Valerie Stucky, retired Federal employees, who live in Fairfax, Virginia; my father-in-law, Ed Seibert, from Oxon Hill, Maryland; my wife's cousin and a good friend, Phil Seibert, from Cincinnati—Phil served in the 1st Cavalry in Vietnam and was awarded the Bronze Star for Valor—and his son, Chad.

Chairman WARNER. Thank you very much.

I think it's so important when families come. I'll address it later, but we take note that you join a court that's presided over by a chief judge, who, like you, was a member of the staff of the Armed Services Committee.

Mr. STUCKY. Yes, sir.

Chairman WARNER. I think it's very important, from time to time, that the extraordinary staffs that we have on this committee, a number of whom are here today to pay their respects to you, Mr. Stucky and your family, are selected by the President to hold down positions of great importance outside of Congress, drawing on their extensive experience that they've had with this committee.

It is often said that our committee—and I say this with a sense of humility, and I'm sure my distinguished friend, and the oncoming chairman, will share with me—this committee is recognized in the institution of the Senate as having one of the finest combined professional and personal staff members of any committee of the United States Senate. You are an extraordinary representative of that distinguished pool, Mr. Stucky.

Mr. STUCKY. Thank you, sir.

Chairman WARNER. We welcome Ms. Ryan and her husband, Michael Collins, and their family and friends. Would you kindly introduce your family for the record?

Ms. RYAN. Yes, Mr. Chairman.

My husband, Michael Collins; my father, Dan Ryan, and my mother, Suzanne Ryan; my mother- and father-in-law, Cathy and Tom Collins, from Westchester, Pennsylvania; my dear friends, Kate and Gordon Todd, from Alexandria, Virginia; and my colleague and friend, Fred Fielding—also from Virginia.

Chairman WARNER. I will put into the record, of course, the detailed biography of each of you, but I note, Ms. Ryan, you've had a very distinguished career in the United States military, coupled with your legal career, and we're fortunate to have the benefit of that experience. We thank you and your family for undertaking this, now, a new chapter in your otherwise distinguished career. Thank you.

The USCAAF was established in 1951 under the provisions of the Uniform Code of Military Justice (UCMJ). Since then, the court has become firmly established as the guardian and provider of civilian oversight over the military justice system and has produced a body of jurisprudence that the legal profession and all judge ad-

vocates can point to with great professional pride. It is a great honor to be nominated to serve as a judge on the USCAAF, and I commend both of you for having received that recognition.

In light of your respective resumes of service and legal achievement, I believe that the President has chosen wisely and that you will take your place among the distinguished members of this court and continue to uphold its highest professional traditions.

Mr. Stucky is a graduate of Wichita State University and the Harvard Law School, holds an LL.M. from George Washington University, and served on Active-Duty with the Air Force as a judge advocate from 1973 to 1978, including a year-long assignment in Thailand in support of the operational forces. After leaving Active-Duty, Mr. Stucky continued to serve in the Air Force Reserve for over 21 years, rising to the rank of colonel. In a memorable ceremony in the Caucus Room in November 2003, Mr. Stucky retired from the military service with the Air Force, receiving the Legion of Merit Award.

You've also served as a civilian attorney with the Nuclear Regulatory Commission and with the Department of the Air Force for over 13 years before joining the professional staff of our committee as general counsel in 1996.

In that decade of service, you played a vital role in the committee's achievements, and demonstrated your mastery of the law. That's a pretty big word, "mastery of the law." [Laughter.]

I think I'll strike that and say your "understanding of the law." [Laughter.]

None of us have mastered it, not even those of us who sit here and write it. [Laughter.]

The unique rules and practices of the Senate and the congressional history and precedents on which we rely. Mr. Stucky is known for his integrity, his unerring wisdom and advice, and his generosity of time and spirit in serving all of the Senate and staff who have worked with him on this committee. We thank you and your family for your dedicated service on this committee and to the Senate.

Mr. STUCKY. Thank you, Mr. Chairman.

Chairman WARNER. Now, Ms. Ryan attended Knox College and the University of Notre Dame and served as a law clerk for Judge Michael Luttig of the U.S. Court of Appeals for the Fourth Circuit, and for Justice Clarence Thomas on the United States Supreme Court. That's quite an achievement. I was privileged to serve as a law clerk to a Federal Circuit Court of Appeals judge, and I'm fully aware of the competition and the challenge to serve in those positions.

Ms. Ryan served on Active-Duty in the Marine Corps from 1987 through 1999 as a communications officer. I, likewise, served in the Marine Corps, first as an infantry officer, then as a communications officer. That was before you were born. [Laughter.]

She served as judge advocate, and served as a company commander, platoon commander, operations officer, and trial attorney. She deployed to the Philippines and to Saudi Arabia during Operations Desert Shield and Desert Storm. Her last tour on Active-Duty was as aide-de-camp to General Charles Krulak. That was a

challenge under the former Commandant of the Marine Corps. [Laughter.]

Ms. RYAN. Yes, sir. [Laughter.]

Chairman WARNER. I have the highest regard for General Krulak, and was privileged to know his father, who was a lieutenant general in the Marine Corps, and he was quite a challenge, also. [Laughter.]

We received a letter from General Krulak supporting your nomination. Without objection, I, with great respect for the general, place it in today's record of proceedings.

[The information referred to follows:]

November 27, 2006

The Honorable John Warner
Chairman
Senate Armed Services Committee
228 Russell State Office Building
Washington, DC 20510

Dear Mr. Chairman:

It is not possible for me to be there in person to speak in support of Margaret A. Ryan's nomination to be a Judge of the United States Court of Appeals for the Armed Forces – duty calls me elsewhere. But I hope that you will accept these comments to help introduce her to the Senate Armed Services Committee as a nominee.

It is an honor and a privilege to commend Ms. Ryan to this Committee. I have known Ms. Ryan, both personally and professionally, for well over 10 years. I first knew Ms. Ryan when she was a Communications Officer at the 2nd Force Services Support Group, under my command, and she came to my attention again while I was serving as the 31st Commandant of the Marine Corps. I had been searching, Marine Corps wide, for an Aide de Camp and was seeking an officer of uncommon integrity, great credibility with contemporaries, recognized moral courage, and wisdom/maturity beyond their age. After personally screening hundreds of record books, the choice was narrowed down to 3 officers...two males and a female. After personal interviews, the clear standout was a young female lawyer who had not only stood number one in her law school class at Notre Dame but who had also deployed to South West Asia under my command during Desert Shield/Desert Storm. That Woman Marine was Major Margaret A. Ryan and she appears before you today.

Ms. Ryan possesses all of the attributes essential to be a man or woman of character. She is selfless, she has great moral courage, and her integrity is beyond reproach. She is a kind and caring leader but also one who can make the hard calls. She is fair and has earned the reputation of fairness not only during her service in the Marine Corps but also during her time in the Private Sector. Brilliant is not a word to be used lightly...yet Ms Ryan has a brilliant mind that can amass large quantities of information and break that information down into "bite-size" pieces and come up with sound judgments and decisions. I personally observed her do this on many occasions where, as a result, her contributions far exceeded her rank or position.

Knowing the importance of the role for which she has been nominated, I can assure the Committee that Margaret A. Ryan will not fail in this critical arena. She will make you proud....just as she has made me proud.

Semper Fidelis,

Charles C. Krulak
General USMC(Ret)
31st Commandant of the Marine Corps

Chairman WARNER. I congratulate you and your family, and thank you for your continued willingness to be a public servant.

Senator Levin?

STATEMENT OF SENATOR CARL LEVIN

Senator LEVIN. Thank you, Mr. Chairman.

First let me join you in welcoming our nominees, Mr. Stucky and Ms. Ryan, for these very important judgeships. We join our chairman, who was also around before I was born. [Laughter.]

That's not quite true. He's only a couple of years older than me, but, nonetheless, we exaggerate a little bit when it comes to age. Usually we exaggerate both our ages downward. [Laughter.]

It's been a joy to work with our chairman, and a joy to work with you, Mr. Stucky.

Mr. STUCKY. Thank you, sir.

Senator LEVIN. I thank your families for coming here, and all your friends. Your support for the public service of these nominees, may I just tell your family and your friends, is absolutely essential to their well-being and to those who they serve. We thank you for your support of these nominees over the years.

The USCAAF is an essential component of the military justice system. This court, which is sometimes referred to as the "Supreme Court for the Military," is, in most cases, the final arbiter of the fairness and correct application of the UCMJ. This court consists of civilian judges who ensure that servicemembers receive the due process and the fair trials that they are entitled to while taking into account the military's unique requirement for good order and discipline. Through their independent judicial review of military justice matters, they provide critical civilian oversight to the military justice system, and it takes talented judges to strike the correct balance. It appears to me that the nominees before us today have the skill and the background for these positions.

As our chairman has pointed out, Mr. Stucky has served as general counsel and minority counsel of this committee for the last 10 years. He has very ably advised the committee on a wide array of legal issues, including issues involving the application of the UCMJ. He has worked in a bipartisan manner with Senators and staffs—in other words, he's worked with staff and members on both sides of the aisle—ensuring the smooth operation of the committee.

The chairman made reference to your unerring wisdom. I'm not sure I'd go that far about anybody, but you have shown, indeed, wisdom and balance and fairness in all of your activities in the committee, and we're grateful for that.

So, Scott, you can be proud of your service on this committee. We're very proud of you and proud of it.

Mr. STUCKY. Thank you, sir.

Senator LEVIN. You've also had more than 25 years of experience in dealing with military law, including 4 years as an appellate counsel and 7 years as an appellate judge on the Air Force Court of Military Review.

Ms. Ryan is similarly well-qualified. Her Active-Duty service in the Marine Corps, both as a line officer and as a judge advocate, will give her a unique perspective on military justice issues as one who was subject to the UCMJ, a commander who used the UCMJ to maintain good order and discipline, and as a judge advocate. She's also very familiar with appellate issues and procedures as a result of her experience as a law clerk for two Federal appellate judges, as our chairman has pointed out.

So, Mr. Chairman, I commend the President on these nominations, and I look forward to hearing from our nominees.

Chairman WARNER. Thank you very much, Senator Levin.

I also wish to recognize the presence of Mr. Fred Fielding. I have been associated with and known Mr. Fielding for many years, a distinguished public servant and a partner to Ms. Ryan in that law firm.

The committee has asked Mr. Stucky and Ms. Ryan to answer a series of advance policy questions. Those have been responded to. Without objection, I'll make the questions and responses a part of today's record.

I also have certain standard questions we ask of nominees who appear before the committee, and I ask Mr. Stucky and Ms. Ryan, please respond to each question.

You have written these questions through the years, Mr. Stucky; now it's up to you to answer them, and answer them properly.

Have you, Mr. Stucky and Ms. Ryan, adhered to applicable laws and regulations governing conflicts of interest?

Mr. STUCKY. Yes, sir.

Ms. RYAN. Yes, sir.

Chairman WARNER. Thank you.

Have you assumed any duties or undertaken any actions which would appear to presume the outcome of this confirmation process of the United States Senate?

Mr. STUCKY. No, sir.

Ms. RYAN. No, sir.

Chairman WARNER. Will you ensure that your staff complies with deadlines established for requested communications, to the extent that that is appropriate in your unusual positions to which you're going?

Mr. STUCKY. Yes, sir.

Ms. RYAN. Yes, sir.

Chairman WARNER. Now, I call on both nominees to provide their opening remarks to the committee.

Mr. Stucky?

STATEMENT OF SCOTT W. STUCKY, TO BE A JUDGE OF THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

Mr. STUCKY. Mr. Chairman, Senator Levin, it is a great privilege to appear before the committee as the President's nominee to be a judge of the USCAAF.

I would first like to thank the President for his confidence in me. If confirmed and appointed, I will do my very best to vindicate that confidence.

Mr. Chairman, I am profoundly grateful to you for your unfailing support of me throughout this process, and, in particular, for holding this hearing in such a timely manner.

Finally, I would like to thank my family, my wife, Jean, my children, Mary-Clare and Joseph, and all my relatives and friends who are here today. Your love and support have made this day possible.

I would also like to thank my parents, Joe and Emma Clara Stucky, of Pretty Prairie, Kansas, who cannot be here today. It was from them that I first learned the values of duty and hard work. I would not be here today if it were not for them and their influence.

Mr. Chairman, the administration of military justice under law is one of the most important legislative responsibilities of this committee. Our country is a democratic republic that is also a world power, which maintains large Armed Forces without resorting to conscription. In such a situation, a successful system of military justice must carefully balance the absolute necessity of good order and discipline with due process and the rights of the accused. History teaches that Armed Forces that lack good order and discipline are not only incapable of protecting the liberties of the people, but are a positive danger to those liberties. At the same time, to be acceptable in a republic of free citizens who serve voluntarily, such a system must not only be fair, it must be seen to be fair. A great responsibility, therefore, lies upon everyone who labors in the vineyards of military justice, from the junior judge advocate drafting charges and specifications, or the junior enlisted person preparing paperwork, to the judges of the Court of Appeals.

Mr. Chairman, you stated, in a different context earlier this year, that "Congress must get this right." Fifty-five years ago, this committee and Congress got it right when it enacted the UCMJ. While nothing human is perfect, the fact that the code has endured since the Korean War with only two major amendments, and is in daily use today in circumstances vastly different from those that obtained in the Armed Forces when it was enacted, is proof of that fact.

One of the major innovations of the UCMJ was the introduction of an independent civilian court, originally called the Court of Military Appeals, to provide final review of courts-martial. One who studies the history of the court will find that there existed a substantial amount of opposition to the idea of an independent court at the top of the military justice system. Even after the code was enacted, there was some question as to what the court would become, a real court, or some sort of administrative body within the Department of Defense. To the great credit of the early judges of that court, it soon became apparent that this would be a true court of appeals, acting as such within the jurisdiction that Congress gave to it. No one today denies or questions the court's status. If confirmed and appointed, I intend to build on the work of the first judges and those who came after them, continuing the tradition of judicial independence and jurisprudence that has marked the court since those early days.

Mr. Chairman, this concludes my formal opening statement. I cannot close, however, without saying one other thing. I have served as the general counsel or minority counsel of this committee for 10 years. To have worked under chairmen like you and Senator Thurmond; under staff directors like Les Brownlee, Judy Ansley, and Charlie Abell; with colleagues like Dick Walsh, Diana Tabler, Patty Lewis, Dave Morriss, and Ann Mittermeyer; and with minority staff of the caliber of Peter Levine, Rick DeBobes, and Gary Leeling has been one of the great privileges of my life. If confirmed, I look forward to the challenges of the future, but I will never forget the experience that I had here. This committee is proof that bipartisan cooperation in the interest of the Nation works. Legislation at the level at which this committee operates can only be done

in that spirit. Mr. Chairman, Senator Levin, you have exemplified that spirit.

Thank you, Mr. Chairman. I await your questions.

Chairman WARNER. Thank you for a very thoughtful statement, Mr. Stucky.

I would say to my distinguished colleague, Senator Levin, in the years to come I would hope that I can reciprocate for the strong support that you've given this nomination and persons perhaps of your choice in the years to come.

Senator LEVIN. Thank you.

Chairman WARNER. They are most deserving, our staff people.

Now, Ms. Ryan?

STATEMENT OF MARGARET A. RYAN, TO BE A JUDGE OF THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

Ms. RYAN. Thank you.

Mr. Chairman and Senator Levin, thank you for the honor and privilege of appearing before you as nominee to be a judge on the USCAAF.

Like Mr. Stucky, I want to express my thanks to the President for his confidence and trust in nominating me for this position. If I'm confirmed by the Senate, I pledge to do everything I can to live up to that confidence and trust.

To my friends and family that traveled to be here with me today, thank you very much. To my mother and father, Dan and Suzanne Ryan, you raised six children to be honest, to give their best efforts to every job that they had, and to have compassion for others. I thank you for those lessons.

I spent over 12 years in the United States Marine Corps in diverse roles and places. The Marine Corps values of integrity, honor, courage, and commitment define a way of life, and it's a life that I am thankful for having had the opportunity to embrace. Over the course of my career in the military, as a law clerk, and as a practitioner, I have had the privilege and opportunity to work for, and learn from, some very exceptional and fine people. I am humbled and grateful for the examples and opportunities that I have been given.

If I am confirmed, I welcome the opportunity for additional public service on the USCAAF. The men and women of this Nation's Armed Forces are people, men and women, of integrity and intelligence, and they are people who sacrifice so much for us every day.

The USCAAF serves an important role in maintaining the rule of law in our system of military justice and in ensuring public confidence in that system. If I am confirmed, I pledge to undertake this grant of public trust with integrity and humility, to approach each case with an open mind, and to fully and fairly analyze the legal arguments presented, and decide each case according to the rule of law. The men and women of this Nation's Armed Forces deserve nothing less.

Thank you for allowing me to appear before you today, and I will be happy to answer any questions you may have.

Chairman WARNER. Thank you for your statement; likewise, with Mr. Stucky, it was a well-prepared and well-delivered and a meaningful statement.

I must say I thank you for the recognition of what the Marine Corps did for you. It certainly did the same for me. I'm sure that all who are privileged to serve in the uniform of our country look back upon that as a valued chapter in their own careers. I appreciate that recognition that you gave; likewise, both of you, to your parents.

So, I'll start off the questions here.

Each of you has served as a judge advocate on Active-Duty and has a wealth of experience with the Armed Forces, the military justice system, and the men and women who proudly serve in the uniform of our forces. Do you believe that the rights afforded to servicemembers who are tried by court-martial are comparable and equal to the rights of individuals who are tried in civilian courts?

Mr. Stucky?

Mr. STUCKY. Yes, Mr. Chairman, I do. In many respects, the rights afforded the accused under the UCMJ are better protected and better secured than those afforded the accused in, say, a typical State criminal justice system. For one thing, the accused is guaranteed competent, trained, free defense counsel, provided at Government expense. The accused is tried in a system that is protected statutorily and by the oversight of the USCAAF from unlawful command influence. The accused is tried in a system where the necessary resources are available so that the pressure to plea bargain cases, to settle cases, is not present, as it is in many civilian court systems. So, I would state, Mr. Chairman, that the rights of the accused are at least as well—and, in many respects, better—secured under the UCMJ than in your average State criminal system.

Chairman WARNER. Thank you very much.

Ms. Ryan?

Ms. RYAN. Yes, Mr. Chairman, I join the comments of Mr. Stucky and would simply add that I believe that the Article 31 rights that are afforded to our servicemembers give them greater protection against interrogations than people have in the civilian world, and that there's also a greater ability to have access to information at the investigatory stage, and to participate in an Article 32 investigation before any serious charges could be referred to a general court-martial. I think that that's a very different system than the grand jury system that you find in the civilian world.

Chairman WARNER. Thank you.

Are there any aspects of the military justice procedures of criminal law that you feel should be examined by Congress and perhaps appropriate legislation placed in the code?

Ms. Ryan, why don't you lead off on that.

Ms. RYAN. Mr. Chairman, based on the information that I have today, I am confident that the military justice system, as it is currently established, is working and functioning as it is intended to. I also understand that there are annual reviews of the military justice system and of the UCMJ, and believe that, if any changes are necessary, that they will be brought to the attention of this com-

mittee, and that the change will be made through the legislative process.

Chairman WARNER. Thank you. I would invite you to either incorporate in such opinions as you may write those views, should they change.

Ms. RYAN. Thank you, Mr. Chairman.

Chairman WARNER. Mr. Stucky?

Mr. STUCKY. I would agree with Ms. Ryan, and I would simply say, Mr. Chairman, that one of the great benefits of this court's status is the fact that it receives meaningful, and, I would say, expert oversight, from this committee and the staff of this committee in ways that the Article 3 courts don't. As Ms. Ryan pointed out, under Article 146 of the code there is a Statutory Code Committee that is supposed to conduct an annual survey of the code and make legislative recommendations to Congress. There is also a nonstatutory Joint Service Committee made up of experienced military justice practitioners within the Services that does the same thing. The Judge Advocates General and the Department annually recommend such changes as they think are necessary to the code.

Chairman WARNER. The jurisdiction of the USCAAF is set forth in the UCMJ, but, under our system of federalism, each State has the authority and responsibility to establish its own criminal code to be applied to the National Guard of the respective States. A model UCMJ has been drafted, at congressional direction, but implementation has been slow to change that. Would there be advantages of a UCMJ for the National Guard? What role, if any, do you think the USCAAF should play in generating that support?

Mr. STUCKY. Mr. Chairman?

Chairman WARNER. Yes.

Mr. STUCKY. A few years ago, in the National Defense Authorization Act, this committee and the House committee produced legislation that, to some extent, cleaned up the very ancient statutes in title 32, U.S.C., that governed courts-martial in the Guard when not in Federal service. Report language accompanying that statutory amendment called on the Department to develop such a model code for the States, which the Department has done, and has forwarded to the States.

My personal opinion is that the States, while this is under our Federal system, this is a matter for the State legislatures—is that the States would benefit from adoption of such a code. I have not reviewed the model State code, but I believe that the States would benefit from more uniformity in this area.

Because of the court's status, I don't see the court acting as a legislative proponent for this kind of thing with the States. That's something the Department would have to do, but I do think that the States would benefit from greater uniformity in this area, if their legislatures see fit to adopt it.

Chairman WARNER. Counselor Ryan?

Ms. RYAN. Yes, Mr. Chairman, I agree with Mr. Stucky that this is a matter for the State legislatures to decide, and that there would certainly potentially be some benefit to uniformity with respect to the National Guard units, but that that's a matter for the State legislatures and one over which the USCAAF would not have any input or jurisdiction.

Chairman WARNER. Thank you very much.

Senator Levin.

Senator LEVIN. Thank you, Mr. Chairman.

Ms. Ryan, in response to your advance policy questions, you identified three areas as weaknesses in the military justice system: unlawful command influence, the commander's role in the military justice system, and the potential for significant variances in treatment of similar offenses by different commands. Commanders serve in several roles in the military justice system. The lower-level commanders routinely profer charges and recommend the type of court to adjudicate the charges. More senior commanders refer charges to various levels of courts, select court members, conduct post-trial reviews, and either approve or reduce sentences adjudged by courts-martial. Which of the roles, in particular, cause you concern and tell us why, if you would.

Ms. RYAN. Senator Levin, I don't have a particular concern about unlawful command influence or about the role of the commander in any particular phase of the military justice system. I think that my answer is pointing out the fact that if you look at the military justice system, and if you look at places where there would be potential for concern, that those were the three that I identified. I understand that there is a lot of public discussion about the issue of the commander having a role in every aspect of the military justice system, and I would simply respond, sir, that those decisions were made by the legislature and are set forth within the UCMJ, which is intended to allow commanders to deal with legal issues in matters of command discipline at the lowest level possible.

Senator LEVIN. Could each of you give us your opinion on how well the military Services are doing in preventing unlawful command influence?

Mr. Stucky?

Mr. STUCKY. Senator Levin, my impression from reading the advance sheets of the USCAAF and from my service on the Air Force court is that the Services and the USCAAF are extremely attuned to the danger of unlawful command influence. Certainly, the USCAAF is very awake to the danger of it, and, in cases in which unlawful command influence is alleged, is very eager to look at these things.

I believe the Services do a good job at trying to put down unlawful command influence, but, because of the nature of the beast, and, because, as you point out, the commanders at various levels are interwoven throughout the system, the potential always exists; and, therefore, everyone, particularly everyone in a supervisory responsibility in the military justice system, has to keep eternally alert for evidence of unlawful command influence in particular cases.

Senator LEVIN. Thank you.

Ms. Ryan?

Ms. RYAN. Yes, Senator Levin. I agree with Mr. Stucky that there is certainly a concern about unlawful command influence at every level of the military. I believe that the men and women that serve in our Armed Forces, across the board, are men and women of intelligence and integrity, but I also understand that there are times when people don't always do what is right. Certainly, the de-

cisions of the USCAAF have dealt very carefully with the issue of unlawful command influence, which, of course, we all understand is not just the commander, but is behavior by any person that is subject to the code that attempts to coerce or influence the results of the courts-martial. Because the USCAAF has dealt with instances of unlawful command influence firmly and with results that I'm sure that commanders were not happy with, I would expect that they have been educating themselves and their subordinates to try and deal with the issue at those levels, as well.

Senator LEVIN. Thank you.

I've been calling you "Stucky" for 10 years or "Mr. Stucky."

Mr. STUCKY. Sir, most people do. [Laughter.]

Senator LEVIN. So, it's kind of hard to call you "Mr. Stooky." [Laughter.]

I gather when you introduced your dad, your pronounced his name "Stooky." I turned around and checked with the staff here, and said, "Have I been mispronouncing your name for 10 years?" So have they. So, will you forgive, not only me, but the entire staff for mispronouncing your name for all these years? [Laughter.]

Mr. STUCKY. Indeed, sir.

Senator LEVIN. So, now I'm going to call you "Mr. Stooky," for the first, and probably the last, time that we'll be talking. [Laughter.]

As general counsel for this committee, Mr. Stucky, you've advised Senators on the shaping of legislation, including changes to the UCMJ. Is there some aspect of your work on this committee that might disqualify you from acting on certain cases?

Mr. STUCKY. Sir, I think the definitive essay on that very question can be found in volume 48 of Military Justice (MJ) Reporter and was written by my predecessor, Chief Judge Andrew Effron, when faced with a similary situation in a case called *United States* v. *Gorski.* The rule, as I understand it, sir, is that involvement with a justice issue in a legislative context, without involvement in a particular matter that may come before the court, is not disqualifying. In other words, working on military justice issues, even working on a specific military justice issue that may eventually be construed by the court, is not, in and of itself, disqualifying, but handling any sort of particular matter, as might be done in casework or that kind of thing, would require recusal. Now, if presented with an issue in which I thought there was any danger of not only a conflict of interest, but the appearance of a conflict of interest that might raise questions about my status on the court, I would err on the side of caution and probably recuse myself. But Judge Effron was faced with that very question, and he wrote a very elegant essay on the question, which you can read.

Senator LEVIN. What about interpreting or ruling on the constitutionality of legislation that you helped to shape, would that fall in the recusal area?

Mr. STUCKY. Again, sir, absent involvement in a particular matter, as a member of the legislative staff, I don't believe so.

Senator LEVIN. Let me ask this to both of you. When Congress considered the military commissions bill in September, we considered giving appellate jurisdiction to the USCAAF, the court that you will be soon, hopefully, confirmed to. We decided to do some-

thing differently, and, rightly or wrongly, in one sense, I guess—this is overtaken by events, but—in your view, would the court have the appropriate qualifications and expertise to handle such jurisdiction? Should we change course?

Mr. STUCKY. Sir, if what is contemplated is simply taking direct review of final decisions of the commissions from the D.C. Circuit and placing it in USCAAF, in my opinion USCAAF has the personnel and the organization to do that. If what were contemplated were something more, like taking the whole Combatant Status Review Tribunal (CSRT) habeas process and moving it, that would, in my judgment, completely change the character of the court, and would place in it administrative litigation of a kind it's never seen. That would be a different matter. Your question went to resources and ability. I'm not sure that, if the whole CSRT thing were placed over there, the court would be set up to handle that.

Senator LEVIN. Okay, thank you.

Ms. Ryan?

Ms. RYAN. Yes, Senator Levin. I'm not familiar with the scope of persons or the number of cases that we're talking about that would be subject to the Military Commissions Act, so I can't comment, in that respect, with respect to resources, but I can say that, with respect to the judges that are currently sitting on the USCAAF, and with respect to my review of Mr. Stucky's qualification—"Mr. Stooky's" qualifications——[Laughter.]

—that they all certainly appear to have the requisite integrity, intellectual capability, and other abilities and resources to handle those matters.

Senator LEVIN. Thank you.

Mr. Chairman, thank you, and I look forward to a prompt vote on their confirmations.

Chairman WARNER. I thank you, my distinguished friend and colleague.

I'll ask but one question, then I'll put two into the record for purposes of a response by the nominees.

This intrigues me. The assignments of career-minded judge advocates in each of the Services of our Department of Defense often involve a wide variety of legal and sometimes operational and leadership responsibilities. In other words, he doesn't, or she doesn't, have the luxury, as Mr. Fielding—are you still paying attention there, Mr. Fielding? [Laughter.]

—of staying in his office and practicing law, and going to and from the courthouse and the library, and he doesn't have to wake up and conduct a parade one day, and perhaps a lot of other activities. Yet we must recognize that their development professionally can be no less than what is afforded in the private sector. That is, your level of expertise and professional competence must match those of your civilian counterparts. So, therefore, my question is, what challenges do you see for the Services in ensuring sufficient members of judge advocates who are adequately trained in the profession of law and so forth, and, at the same time, they have to perform these other duties? Perhaps you could comment on that, Colonel, since you, perhaps, most recently have departed the uniform.

Mr. STUCKY. Sir, there's no question that in the area of trial advocacy in the military justice system, all of the Services have a

problem that was not the case 20 to 30 years ago, when those of us who came out of the Vietnam period as JAGs served. In those days, one didn't lack for opportunities to prosecute or defend, because, in those days, the base office did both—to prosecute or defend accused in courts-martial. There were lots of courts-martial. There were lots of administrative boards, discharge boards, and the like, where one could also get relevant experience.

If you look at court-martial statistics over the last 30 to 35 years, in all Services, they have declined a great deal. Some of that's due to the fact that the Services have gotten smaller. Some of that's due to the fact that we no longer have conscription. But a lot of it's due simply to the fact that the court-martial rate per thousand personnel, or however you want to take it, even given into account the reduction in the size of the Services, has gone way down. Young judge advocates in the Services do not get the opportunities they once had to try courts-martial, or to defend the accused in courts-martial. I know the Services have done a variety of things to deal with this. Their academic endeavors at the JAG schools are far more professional than they once were, but it is a continuing problem, and it's something the Services have to watch and, I know, are very acutely aware of.

Chairman WARNER. Counselor Ryan?

Ms. RYAN. Yes, Mr. Chairman. My view of the training that is received by judge advocates, which is one part of the question I think you're asking—and the other part is, their need to do additional things to be part of the military—is perhaps slightly different than Mr. Stucky's. As someone who had been a line officer in the Marine Corps, when I became a judge advocate I think that those experiences as a line officer helped me very much in terms of dealing with convening authorities and working on cases and understanding where to go to find the information I needed to. The lawyers that came in that did not have the line experience, the only way that they could get that same sort of understanding and respect of their peers was to participate in the military aspects of being on Active-Duty in the military, even though they were judge advocates. But I absolutely agree that those create tensions between the things that they need to do, in terms of their job, and their need to be an Active-Duty military member or military officer. My view is that the training that is received by judge advocates in the military is certainly in excess of what you need to go and begin practicing law in a private law firm. So, for example, though I had graduated from Notre Dame and done very well there, the Marine Corps did not say that I could simply go and start working on courts-martial, it required me to go to Naval Justice School. If I had stayed on Active-Duty, there were additional schools that were available. My view, based on the experiences I had as a judge advocate in the military, is that the staff judge advocates that were in charge of the different legal centers did everything that they could to ensure that the young lawyers that were in their charge had every opportunity to learn a great deal about the military justice system, and to get on their feet, if that's what they were interested in doing.

Chairman WARNER. Thank you very much. I think that will have to bear constant oversight by this committee.

If you have no further matters, colleague, this committee will now stand in recess. We'll forward these nominations, as soon as the full committee has had an opportunity to vote on them, to the floor.

I thank all of the family members and others who have joined in this most important chapter in the distinguished careers of our two nominees.

Thank you. The hearing is adjourned.

[Whereupon, at 3:18 p.m., the committee adjourned.]

[Prepared questions submitted to Scott W. Stucky by Chairman Warner prior to the hearing with answers supplied follow:]

QUESTIONS AND RESPONSES

DUTIES

Question. Subchapter XII of chapter 47 of title 10, U.S.C., establishes the United States Court of Appeals for the Armed Forces (USCAAF) and provides for its organization and administrative procedures.

What is your understanding of the duties and functions of USCAAF and its judges?

Answer. Congress established USCAAF (then known as the Court of Military Appeals) in 1950 to provide appellate review of courts-martial by a specialized civilian court that possessed both judicial independence and the requisite expertise, in order to promote good order and discipline in the Armed Forces while ensuring that justice was done in individual cases.

Question. What background and experience do you possess that you believe qualifies you to perform these duties?

Answer. I have more than 25 years of experience with military law; indeed, if the term is broadly defined, my entire career, other than my time in private practice from 1978 to 1982, has been engaged in military law. With respect to the appellate review of courts-martial, I served for 4 years (1987–1991) as a Reserve appellate government counsel in the Air Force, writing more than 100 briefs for the government in appeals before the Air Force Court of Military Review and the U.S. Court of Military Appeals. I then served for 7 years (1991–1995, 1997–1998, 2001–2003) as a Reserve appellate military judge on the Air Force Court of Military Review (later the Air Force Court of Criminal Appeals), one of the Service courts directly below USCAAF in the military justice system. During this time, I wrote approximately 75 judicial opinions on a wide variety of issues.

Question. Do you believe that there are actions you need to take to enhance your ability to perform the duties of a judge on the USCAAF?

Answer. I have attempted to keep abreast of developments in USCAAF's jurisprudence by regularly reading the Court's advance sheets. I do not believe that there are other actions that I need to take at this time.

RELATIONSHIPS

Question. What are the respective roles of each of the following with respect to the military justice system and, if confirmed, what would your relationship be with:

The Secretary of Defense.

Answer. The Secretary of Defense, under 10 U.S.C. 113, exercises "authority, direction, and control" over the Department of Defense. He normally would not be involved in particular military justice matters, but is ultimately responsible for policy in all areas of the Department.

Article 141 of the UCMJ provides that USCAAF "is located for administrative purposes only in the Department of Defense." Thus, my relationship with the Secretary would be that of a member of an independent judicial establishment within the Department. The drafters of the Code and subsequent Congresses clearly intended that the military justice system, including USCAAF, be truly independent of command influence (see Article 37). In practice, colorable examples of interference with the system by senior officials of the Department (as opposed to local commanders) have been very rare. See, e.g., *United States Navy-Marine Corps Court of Military Review* v. *Carlucci,* 26 M.J. 328 (C.M.A. 1988). Nevertheless, it is essential that the judges of USCAAF be ever vigilant to guard the system against any such possibility, as the Court of Military Appeals did in the Carlucci case.

Question. The Chief Judge of the USCAAF.

Answer. Under Article 143 of the UCMJ, the Chief Judgeship of USCAAF is determined by seniority of commission. The Chief Judge has certain administrative responsibilities, but is essentially first among equals with respect to the other judges of the Court. I would expect that my relationship with the Chief Judge would be one of mutual respect and collegiality, such as should be the case in an appellate court. The fact that the present Chief Judge is a friend for whom I have always had the highest respect would only serve to strengthen the relationship.

Question. Judges of the USCAAF.

Answer. Except for the administrative duties lodged in the Chief Judge, the judges of USCAAF are equal, differing only in seniority. I would expect that my relations with my fellow judges would be marked by that mutual respect and collegiality that should characterize relations among judges on any well-functioning appellate court.

Question. The General Counsel of the Department of Defense.

Answer. Under 10 U.S.C. 140(b), the General Counsel of the Department of Defense is the chief legal officer of the Department, and performs such duties as the Secretary may prescribe. The General Counsel is not normally involved in the day-to-day operation of the military justice system, but is substantially involved in the formulation of the Department's legal policy and its legislative recommendations to Congress. Subject to the caveats on the independence of USCAAF mentioned above in the context of the Secretary of Defense, I would anticipate that my relationship with the General Counsel would be one of respect, but would not be marked by frequent interaction. It should be noted that the judges of USCAAF serve on the Statutory Code Committee established by Article 146 of the UCMJ, which is charged with the responsibility of making an annual survey of the operation of the UCMJ. As members, the judges may have interaction with the General Counsel in making recommendations for statutory amendments to the UCMJ.

Question. The Judge Advocates General of the Army, Navy, and Air Force and the Staff Judge Advocate to the Commandant of the Marine Corps.

Answer. Under Article 6 of the UCMJ, the Judge Advocates General are statutorily responsible for the administration of military justice within their respective Armed Forces. The relationships of the judges of USCAAF to the Judge Advocates General must therefore, while remaining mutually respectful, always maintain the distance essential to the appearance, as well as the actuality, of judicial neutrality and independence.

LEGAL ISSUES

Question. What do you anticipate would be the most significant legal issues you will face if confirmed as a judge of the USCAAF?

Answer. The very significant growth in sex offenses, particularly those involving children and child pornography, continues unabated. USCAAF continues to decide cases involving the Child Pornography Protection Act, 18 U.S.C. 2252A, e.g., *United States* v. *Cendejas,* 62 M.J. 334 (2006), and may be expected to continue to do so.

The USCAAF recently entered the field of privacy rights in e-mail sent and maintained on a government server, see *United States* v. *Long,* 64 M.J. 57 (2006). This area will no doubt be productive of litigation for years to come.

Allegations of ineffective assistance of counsel continue to occupy a substantial amount of the USCAAF's attention. See, e.g., *United States* v. *Miller,* 63 M.J. 452 (2006); *United States* v. *Osheskie,* 63 M.J. 432 (2006); *United States* v. *Edmond,* 63 M.J. 343 (2006).

The question of whether Article 125 of the UCMJ (the sodomy article) is constitutional in light of *Lawrence* v. *Texas,* 539 U.S. 558 (2003), in the absence of facts such as those present in *United States* v. *Marcum,* 60 M.J. 198, and its progeny, remains unresolved.

Question. What challenges, if any, do you anticipate that the Armed Services and the USCAAF will encounter in implementing the changes to article 120 of the UCMJ regarding the offense of rape by October 1, 2007, as provided in section 552 of the National Defense Authorization Act for Fiscal Year 2006?

Answer. The revised article 120 was based upon a draft uniform State code which has been enacted, as I understand, by several States in whole or in part. Thus there should exist some body of precedent upon which the USCAAF may draw, as it sees fit, in construing article 120. Since virtually all the substantive offenses under the new article could have been charged under the UCMJ prior to its enactment, I do not anticipate any major changes in substantive offenses.

The revised article 120 may present problems in implementation for the Armed Forces, at least initially. Congress in the UCMJ has traditionally enacted rather broad statutory language and then left the details of implementation to the Execu-

tive in the Manual for Courts-Martial. It has been thought that this approach preserved the ability of the Executive to take into account the exigencies of military operations. The highly-detailed nature of the revised article will likely reduce the area for Executive discretion in the Manual, thus prompting a different approach to its implementation.

JURISDICTION OF THE USCAAF

Question. In your view, has the USCAAF fulfilled the expectations of Congress when the Court was established in 1951?

Answer. Yes.

Question. In your view, are there any legislative changes needed regarding the role and responsibilities or the jurisdiction of the USCAAF?

Answer. No. Section 552 of the John Warner National Defense Authorization Act for Fiscal Year 2007 amended article 2 of the UCMJ to clarify the applicability of court-martial jurisdiction to persons accompanying the Armed Forces in the field in time of declared war or a contingency operation. Section 4(a) of the Military Commissions Act of 2006 amended that article to clarify the applicability of such jurisdiction to lawful enemy combatants who violate the law of war. I do not believe that further modification of court-martial jurisdiction in general, or USCAAF's jurisdiction in particular, is necessary at the present time.

DECISIONS OF THE USCAAF

Question. Please describe the three decisions of the USCAAF since 2001 which you believe to have been the most significant.

Answer. *United States* v. *New,* 55 M.J. 95 (2001) (status of legality of an order as question of law; application of political question doctrine to courts-martial).

United States v. *Marcum,* 60 M.J. 198 (2004) (constitutionality of article 125 of the UCMJ as applied, in light of *Lawrence* v. *Texas,* 539 U.S. 558 (2003)).

United States v. *Moreno,* 63 M.J. 129 (2006) (due process implications of excessive delays in post-trial review; applicability of *Barker* v. *Wingo,* 407 U.S. 514 (1972) to courts-martial).

Question. What is your view of the role of stare decisis in terms of prior decisions of the USCAAF?

Answer. Consistency in decisionmaking and respect for precedent are essential to any appellate court. Indeed, the need for stability in doctrine over time was the principal reason that this committee cited for the expansion of USCAAF from three judges to five in 1989. While USCAAF must retain the flexibility to meet changed circumstances, the doctrine of stare decisis should normally be followed. In the rare case when an applicable precedent is overruled, the USCAAF owes to the lower courts and to practitioners in the military justice system a clear explanation of its rationale for doing so.

Question. In view of article 36 of the UCMJ, what is your view as to the hierarchy of sources of law that must be applied by the USCAAF in determining appropriate rules of evidence and procedure in courts-martial?

Answer. As in all judicial decisionmaking in the United States, the Constitution comes first. Next is Federal statutes, primarily the UCMJ but also other Federal laws that may be applicable in a particular case (for example, the statutes concerning child pornography, which have been construed by USCAAF on a number of occasions). Then come the rules and procedures set out in the Manual for Courts-Martial, which is an executive order. In the military justice system, the Manual is particularly important, since Congress in the UCMJ has usually chosen to employ broad statutory language and left implementation up to the President. The rules of evidence and much of the procedure of courts-martial are to be found in the Manual. Next would be DOD and Service regulations.

Question. In your view, what is the appropriate standard for determining when the USCAAF should apply a rule that is different from the rule generally applied in the trial of criminal cases in the Federal district courts?

Answer. Article 36 of the UCMJ provides that the President may prescribe rules which, so as he considers practicable, shall apply the principles of law and rules of evidence applicable in the U.S. district courts, but which may not be contrary to or inconsistent with the UCMJ. Thus, the rule prescribed by the President in the Manual for Courts-Martial will normally take precedence, whether or not it is the same as that applied in the district courts. If the Manual is silent on a particular question, then recourse should be had to the rule applicable in the district courts, if one exists and it is not contrary to the UCMJ. If a Manual rule itself contravenes the Constitution or the UCMJ, then the rule applicable in the district courts (if it differs from the Manual rule and is not subject to the same infirmities) should be applied.

MILITARY JUSTICE SYSTEM

Question. In your view, what are the major strengths and weaknesses of the military justice system?

Answer.

Strengths:

- Free, trained, defense counsel are provided to the accused at both the trial and appellate levels.
- Article 31 of the UCMJ affords the accused greater protection against self-incrimination than most civilian criminal justice systems.
- An elaborate system of appellate review is provided, both within each Service and by USCAAF, with certiorari to the U.S. Supreme Court.
- The independence of defense counsel and trial and appellate judges against command influence is carefully secured by law, regulation, and judicial oversight.
- Sufficient resources are available to ensure that each case receives proper attention, without the pressure to plea-bargain that is common in civilian courts.

Weaknesses:

- The public does not have a good understanding of the workings of the system, and sometimes perceives it to afford fewer rights than it does, or to be an instrument of command influence.
- Occasional incidents of actual (or attempted) command influence sully the reputation of the system.
- The role of the commander as convening authority continues to be controversial, since it combines judicial and disciplinary functions in ways that are foreign to civilian criminal justice systems.

Question. What is your view of the relationship between the rights of Service personnel and the disciplinary role of commanders?

Answer. Congress, in the UCMJ, provided a subtle and largely successful balancing of the two. On the one hand, public and professional reaction to the operation of military justice during World War II necessitated the construction of a uniform system that would afford the accused substantially more rights, and secure them more firmly, than the old Army and Navy systems. On the other hand, Congress also recognized that the imperatives of war require that the Armed Forces be different from civilian society. Commanders must have the authority to enforce good order and discipline, both to maintain morale and to ensure readiness for combat. Thus, the UCMJ retained the commander's role as the convening authority with respect to referring charges, selecting court members, and post-trial review, while providing statutory protection against command influence and ultimate review of serious cases by a civilian court insulated from command. The fact that the UCMJ has had only two major overhauls since its enactment in 1950, and is being used successfully in Armed Forces and in situations far removed from those of that time, illustrates the success of Congress in balancing these equities.

Question. Do you think that changes to the military justice system are called for in light of the experiences of the armed services in Operations Enduring Freedom and Iraqi Freedom?

Answer. My perception is that the system has adapted successfully to the exigencies of the operations in Afghanistan and Iraq. The committee should carefully consider any proposals for changes suggested by the Judge Advocates General in light of these experiences, if such suggestions are made.

COMMAND INFLUENCE

Question. The problem of command influence, including instances involving judge advocates as well as commanders, is a constant threat to the military justice system.

What is your view as to the role of the USCAAF in addressing this problem?

Answer. The USCAAF stated in *United States* v. *Thomas,* 22 M.J. 388 (C.M.A. 1986) that "command influence is the mortal enemy of military justice." Indeed, the problem of command influence under the pre-UCMJ systems was one of the principal reasons for the establishment of an independent civilian court in the UCMJ. Accordingly, USCAAF has a continuing responsibility carefully to supervise the military justice system and to take action whenever unlawful command influence threatens the rights of individuals and the integrity of the system. My reading of recent cases strongly supports the conclusion that the USCAAF takes allegations of such influence very seriously.

[Questions for the record with answers supplied follow:]

QUESTIONS SUBMITTED BY SENATOR JOHN WARNER

CONVENING AUTHORITIES AND ACCOUNTABILITY

1. Senator WARNER. Mr. Stucky, unlawful command influence by commanders has rightly been called the "mortal enemy of military justice." There can be situations, however, in which commanders in their role as convening authorities decide not to take court-martial action when, arguably, it is appropriate to do so. Under these circumstances, the requirements of good order and discipline may not be met. Do you think that it could be helpful to have an independent authority in the military justice system whose role it could be to formally review prosecutorial decisions by convening authorities?

Mr. STUCKY. The establishment of such an authority would represent a major departure for the military justice system, which has always relied on the discretion of the convening authority to make these decisions. While the convening authority's decisions on these matters are normally unreviewable, it should be pointed out that a superior authority may direct that charges, whether or not referred for trial, be forwarded to that authority for further consideration, including referral, if deemed appropriate. (R.C.M. 601(f)). Given that the role of the convening authority is the most frequently criticized feature of the system, any measure of this sort should, in my opinion, be part of a more general review by Congress of the role of the convening authority in the system.

PERSONAL EXPERIENCES

2. Senator WARNER. Mr. Stucky, you served on Active-Duty as a judge advocate performing military justice duties. What were your most memorable experiences and challenges while serving as a judge advocate performing military justice duties?

Mr. STUCKY. My most memorable experience as a judge advocate performing military justice duties, narrowly defined, was my service as a Reserve appellate military judge on the Air Force Court of Criminal Appeals. It was in this capacity that I first learned the art and craft of appellate judging, and realized how well my abilities and temperament fit into service on an appellate court. More broadly, my most memorable experience and challenge was my service as a young judge advocate at U-Tapao Airfield, Thailand. My principal duty there was foreign criminal jurisdiction—handling the cases of servicemembers who were accused of violations of local law and tried in the local courts. To deal with a completely different legal system, based upon different assumptions and using different procedures, and protect the rights of our personnel, called upon all the abilities and knowledge that I possessed.

3. Senator WARNER. Mr. Stucky, what did you consider to be the greatest strengths and weaknesses of the military justice system as you observed it?

Mr. STUCKY. The two greatest strengths of the system are: (1) the availability of free, trained, defense counsel to the accused at all levels of the system; and (2) the availability of sufficient resources to preclude the pressure to plea-bargain cases simply to clear dockets, as often occurs in civilian criminal justice systems.

The greatest weakness is the perception that the role of convening authority, especially in appointing members to courts-martial, combines prosecutorial and judicial functions in an undesirable way.

QUESTIONS SUBMITTED BY SENATOR JOHN THUNE

MISCONCEPTIONS ABOUT MILITARY JUSTICE

4. Senator THUNE. Mr. Stucky, one of the biggest misconceptions about the military justice system is that it affords fewer protections to criminal defendants than the civilian justice system. As you note in your prepared answers to the committee's advance policy questions, the Uniform Code of Military Justice (UCMJ) actually affords criminal defendants greater protection against self-incrimination than most civilian criminal justice systems. Could you explain for the record the rationale behind giving our soldiers who are criminal defendants greater protections against self-incrimination within the military justice system than exist in the civilian system?

Mr. STUCKY. The system affords the protections it does at least in part because interrogations in the Armed Forces are frequently conducted by persons who are not only acting as interrogators, but who are also the military superiors of the accused,

clothed with the power to issue orders that have the sanction of law. This situation may be seen as inherently coercive, and these protections are designed to counteract that coercion.

5. Senator THUNE. Mr. Stucky, does it represent an effort to counteract the risk of any unlawful exercise of command influence?

Mr. STUCKY. Yes, at least in part.

6. Senator THUNE. Mr. Stucky, what, in your estimation, contributes to the misconception of the military justice system extending fewer rights to a criminal defendant?

Mr. STUCKY. A number of factors may contribute to this misconception, including uninformed or inaccurate stories in the media and the fact that fewer American families have any direct experience with military service, let alone experience with the military justice system.

RISE IN SEX OFFENSES

7. Senator THUNE. Mr. Stucky, in your answers to the committee's advance policy questions, you note that there has been significant growth in sex offenses, particularly those involving children and child pornography. While this is probably also true in the civilian sector, I wonder if you could elaborate on the data regarding sex offenses within the military. Could you give the committee a broader picture of the problems of sex offenses within our armed services?

Mr. STUCKY. While the statistics on courts-martial for such offenses present a mixed picture, the subject of sex offenses in the Armed Forces has certainly attracted more public attention in recent years. Widely publicized allegations of such misconduct at the Air Force Academy, for one, prompted Congress to include in the National Defense Authorization Act for Fiscal Year 2005 a requirement that the Secretary of Defense report to the Armed Services Committees with recommendations for legislative changes in the UCMJ provisions dealing with such offenses. The Secretary did so, and in the Fiscal Year 2006 Act Congress enacted a broad rewrite of Article 120 of the Code, which is now a comprehensive sexual offense statute. Because Congress delayed the effective date of these amendments to October 1, 2007, in order to give the President time to amend the Manual for Courts-Martial, there is not yet any experience with the revised statute.

8. Senator THUNE. Mr. Stucky, are the number of courts-martial for sex offenses increasing from year to year?

Mr. STUCKY. Statistics from the Services present a mixed picture. Courts-martial for such offenses in the Army were virtually the same (between 120 and 130 annually) from 2001 to 2003, but them rose by over 20 percent, to 162, in 2004, and rose again to 183 in 2005. In the Air Force, courts-martial for such offenses rose from 96 in 2003 to 129 in 2004, but then fell to 115 in 2005 and to approximately 103 (annualized) in 2006. Sex offense courts-martial in the Air Force have represented 10–11 percent of total courts-martial for the past 4 years, except in 2004 when they were 12.6 percent of the total.

[The nomination reference of Scott W. Stucky follows:]

NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
November 15, 2006.

Ordered, That the following nomination be referred to the Committee on Armed Services:

Scott Wallace Stucky, of Maryland, to be a Judge of the United States Court of Appeals for the Armed Forces for the term of 15 years to expire on the date prescribed by law, vice Susan J. Crawford, term expired.

[The biographical sketch of Scott W. Stucky, which was transmitted to the committee at the time the nomination was referred, follows:]

BIOGRAPHICAL SKETCH OF SCOTT W. STUCKY

Scott W. Stucky is the General Counsel of the Senate Committee on Armed Services. He has served as General Counsel from 1996 to the present, except for the period of Democratic control of the Senate in 2001–2003. In his present capacity, he is responsible for all legal matters for the committee majority. From 1987 to 1996, he was the Chief of the Legislative Branch, General Law Division, Office of The Judge Advocate General, Headquarters U.S. Air Force. He was the principal legislative counsel and statutory analyst for the Department of the Air Force.

Mr. Stucky was born on 11 January 1948 in Hutchinson, Kansas. He attended Wichita State University, where he was president of the Student Government Association and of Sigma Phi Epsilon Fraternity, and was a member of Phi Alpha Theta, Omicron Delta Kappa, and Phi Kappa Phi. He was awarded an Air Force ROTC scholarship, and was graduated in 1970 with a B.A. in history, summa cum laude, and a commission as a Reserve second lieutenant, USAF. He then entered Harvard Law School, where he was president of the Republican Club and vice-president of his moot court club. He received his J.D. from Harvard in 1973. Mr. Stucky also holds the M.A. in history from Trinity University in San Antonio (1980), and the LL.M. in international law, with highest honors, from George Washington University (1983). He is a 1988 graduate of the Federal Executive Institute, a 1990 graduate of the Harvard Program for Senior Officials in National Security, and a 1993 graduate of the National War College.

Mr. Stucky served on Active-Duty as an Air Force judge advocate from 1973 to 1978, including a year in Southeast Asia. His duties included international law, military justice, administrative law, claims, government contracts, medical affairs, and general civil legal assistance. Upon leaving Active-Duty, he joined the firm of Ginsburg, Feldman, and Bress in Washington, DC, practicing in the field of transportation regulation. In 1982, he joined the U.S. Nuclear Regulatory Commission as Chief of the Docketing and Service Branch, where he remained until joining the Air Force's Legislative Division in 1983.

He is a retired colonel in the Air Force Reserve; his last attachment was as the Senior Individual Mobilization Augmentee to the Chief Judge of the Air Force Court of Criminal Appeals. He is a graduate of the Air War College and the Air Command and Staff College. His military decorations include the Legion of Merit, the Meritorious Service Medal with two oak leaf clusters, the Air Force Commendation Medal with one oak leaf cluster, the Air Force Achievement Medal, the National Defense Service Medal, and the Armed Forces Reserve Medal with silver hourglass.

Mr. Stucky is admitted to the Kansas and District of Columbia bars. He is a past Commander in Chief of the Military Order of the Loyal Legion of the United States (a national Civil War commemorative society) and is member of the Federal Bar Association, the Judge Advocates Association, the Reserve Officers Association, and the Army and Navy Club.

Mr. Stucky is married to the former Jean Seibert of Oxon Hill, Maryland, who is Contractor Labor Counsel for the U.S. Department of Energy. The Stuckys have two children, Mary-Clare, 14, and Joseph, 11. They live in Potomac, Maryland.

[The Committee on Armed Services requires all individuals nominated from civilian life by the President to positions requiring the advice and consent of the Senate to complete a form that details the biographical, financial, and other information of the nominee. The form executed by Scott W. Stucky in connection with his nomination follows:]

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

(202) 224–3871

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior to the hearings and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)
Scott W. Stucky.

2. **Position to which nominated:**
Judge, United States Court of Appeals for the Armed Forces.

3. **Date of nomination:**
15 November 2006.

4. **Address:** (List current place of residence and office addresses.)
[Nominee responded and the information is contained in the committee's executive files.]

5. **Date and place of birth:**
11 January 1948; Hutchinson, Kansas.

6. **Marital Status:** (Include maiden name of wife or husband's name.)
Married to the former Jean Elsie Seibert on 18 August 1973.

7. **Names and ages of children:**
Mary-Clare Frances Seibert Stucky, 14; and Joseph Edward Wallace Seibert Stucky, 11.

8. **Education:** List secondary and higher education institutions, dates attended, degree received, and date degree granted.
Pretty Prairie Rural High School, Pretty Prairie, KS (Diploma, 1966).
Wichita State University, Wichita, KS (B.A. in History, summa cum laude, 1970).
Harvard Law School (J.D., 1973).
Trinity University, San Antonio, TX (M.A. in History, 1980).
George Washington University (LL.M. in International and Comparative Law, with highest honors, 1983).

9. **Employment record:** List all jobs held since college or in the last 10 years, whichever is less, including the title or description of job, name of employer, location of work, and dates of employment.
General Counsel, Senate Committee on Armed Services, 1996–2001 and 2003–present (Minority Counsel, 2001–2003).
Chief, Legislative Branch, General Law Division, Office of the Judge Advocate General, Headquarters U.S. Air Force, 1987–1996 (located at the Pentagon).

10. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.
Deputy Chief (1984–1987) and Attorney-Advisor (1983–1984), Legislative Division, Office of the Judge Advocate General, HQ U.S. Air Force (located at the Pentagon) Chief, Docketing and Service Branch, Office of the Secretary, U.S. Nuclear Regulatory Commission (1982–1983) (located at 1717 H Street, NW).
Captain, U.S. Air Force, Judge Advocate General's Department (Active-Duty). Served at Brooks AFB, TX (1973–1975); U-Tapao Royal Thai Naval Airfield, Thailand (1975–1976), and Hancock Field, NY (1976–1978).

U.S. Air Force Reserve (judge advocate), 1982–2003. Served at the Pentagon; Bolling AFB, DC; and at the former Lowry AFB, CO. Retired in 2003 as a colonel.

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

Director, Adoption Service Information Agency, Silver Spring, MD (1998–2002 and 2004–present) (nonprofit adoption agency).

Director, Omicron Delta Kappa Society, Lexington, KY (2006 –present) (nonprofit college leadership society).

Both of these positions are uncompensated.

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

Federal Bar Association
Judge Advocates Association
District of Columbia Bar
Air Force Retired Judge Advocates Association
Military Order of the Loyal Legion of the U.S.
Sons of Union Veterans of the Civil War
Sons of the American Revolution
General Society, Sons of the Revolution
St. Andrew's Society of Washington, DC
Army and Navy Club of Washington, DC
Military Order of Foreign Wars of the U.S.
Military Order of the World Wars
Wichita State University Alumni Association
National War College Alumni Association
Reserve Officers Association
American Legion
Sigma Phi Epsilon Fraternity.

13. **Political affiliations and activities:**

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

None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 5 years.

None.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $100 or more for the past 5 years.

I gave $750 to the Republican National Committee early in 2002.

14. **Honors and Awards:** List all scholarships, fellowships, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

Air Force ROTC Scholarship and several other scholarships at Wichita State.
OPM LEGIS Fellow for Senator John Warner, 1986–1987.
Phi Alpha Theta (history honorary society).
Phi Kappa Phi (scholastic honorary society).
Omicron Delta Kappa (leadership honorary society).
Phi Delta Phi (law honorary society).
Legion of Merit.
Meritorious Service Medal (3 awards).
Air Force Commendation Medal (2 awards).
Air Force Achievement Medal.
National Defense Service Medal (3 awards).
Armed Forces Reserve Medal with silver hourglass.
Global War on Terrorism Service Medal.
NWC Alumni Association Writing Award, National War College, 1993.

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

"A Year in Thailand," 27 The Reporter (June 2000) at 31.

"Joint Operations in the American Civil War," in Essays on Strategy (Volume XI) (National Defense University Press, 1994), excerpted in Joint Force Quarterly 92 (Autumn/Winter 1994–1995).

"The Paquete Habana: A Case History in the Development of International Law," 15 U. Baltimore L Rev. 1 (1985).

"*Elkison* v. *Deliesseline:* Race and the Constitution in South Carolina, 1823," 14 N.C. Central L.J. 361 (1984).

Note, "Federal Tort Claims Act Liability for False Arrest and Imprisonment Under 10 U.S.C. 808," 20 A.F.L. Rev. 316 (1978).

16. **Speeches:** Provide the committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

I have given a number of speeches, but I never write them out ahead of time; rather, I speak from rather sketchy notes. Therefore, I have nothing to provide to the committee.

17. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to respond to requests to appear and testify before any duly constituted committee of the Senate?

Yes.

[The nominee responded to the questions in Parts B–F of the committee questionnaire. The text of the questionnaire is set forth in the Appendix to this volume. The nominee's answers to Parts B–F are contained in the committee's executive files.]

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

SCOTT WALLACE STUCKY.

This 21st day of November, 2006.

[The nomination of Scott W. Stucky was reported to the Senate by Chairman Warner on December 5, 2006, with the recommendation that the nomination be confirmed. The nomination was confirmed by the Senate on December 9, 2006.]

[Prepared questions submitted to Margaret A. Ryan by Chairman Warner prior to the hearing with answers supplied follow:]

QUESTIONS AND RESPONSES

DUTIES

Question. Subchapter XII of chapter 47 of title 10, U.S.C., establishes the United States Court of Appeals for the Armed Forces (USCAAF) and provides for its organization and administrative procedures.

What is your understanding of the duties and functions of USCAAF and its judges?

Answer. It is my understanding that the function of the USCAAF is to provide civilian oversight of the military justice system through independent judicial review of the intermediate military courts, in accordance with its jurisdiction. The scope of the USCAAF's jurisdiction is set forth in article 67 of the Uniform Code of Military Justice (UCMJ), and includes mandatory review of all cases in which the sentence, as affirmed by a Court of Criminal Appeals, extends to death; cases reviewed by a Court of Criminal Appeals that a Service Judge Advocate General orders sent to the USCAAF for review; and discretionary review of cases reviewed by a Court of Criminal Appeals, upon petition of the accused. The USCAAF also has jurisdiction to consider petitions for extraordinary relief under the All Writs Act, 28 U.S.C. § 1651.

The duty of the USCAAF's judges is to ensure independent civilian oversight of the military courts through appellate review of the decisions of the criminal courts of appeal, and to provide guidance to the military trial courts and criminal courts of appeal through the opinions of the USCAAF.

The judges of the USCAAF have another statutory duty, which is advisory rather than judicial in nature. The judges of the USCAAF are part of the Code Committee, prescribed by article 136 of the UCMJ. The Code Committee is tasked with providing an annual report to this committee and to the Secretary of Defense, among others. The report includes information on the number and status of pending cases and.

any recommendations relating to the uniformity of policies as to sentences or proposed amendments to the UCMJ.

Question. What background and experience do you possess that you believe qualifies you to perform these duties?

Answer. My background and experience includes service in the U.S. Marine Corps as a communications officer, a company and platoon commander, a judge advocate, and the Aide de Camp to the 31st Commandant of the Marine Corps (General Charles G. Krulak); service as a law clerk to two Federal appellate judges (the Honorable Clarence Thomas, Associate Justice of the Supreme Court of the United States, and the Honorable J. Michael Luttig, Circuit Judge of the U.S. Court of Appeals for the Fourth Circuit); and representation of private sector clients in a variety of litigation forums throughout the United States, currently as a Partner in the litigation and appellate practices at the law firm of Wiley Rein & Fielding LLP. At all times, I have endeavored to perform these services and duties to the highest standards of excellence and with the civility, fairness, and integrity that are the hallmarks of the judicial temperament that I believe a member of the USCAAF should possess.

Due to the dual interests that underlie the UCMJ—namely, the protection of the rights of service personnel and the disciplinary role of commanders—I believe that a familiarity with the military and the military justice system is also ideal, keeping in mind that Article 142 of the UCMJ specifically provides that each judge of the USCAAF is to be appointed from civilian life by the President, with the advice and consent of the Senate. Through my military service, I became familiar with the military justice system both as a client, from my time as a commander, and as an advocate, from my duties as a judge advocate.

Question. Do you believe that there are actions you need to take to enhance your ability to perform the duties of a judge on the USCAAF?

Answer. Any position, particularly one as important as a judge on the USCAAF, requires ongoing efforts to improve one's own abilities. If confirmed, I would review and stay abreast of amendments to the UCMJ, the Rules for Courts-Martial, and the Military Rules of Evidence. I would also continue to read cases rendered by the USCAAF and relevant decisions of the Supreme Court of the United States. If confirmed, communicating with judges on the USCAAF and other courts, reviewing analogous cases by other Federal appellate courts, and reviewing scholarly articles on the military justice system would be key ways to continue to enhance my perspective as a judge.

RELATIONSHIPS

Question. What are the respective roles of each of the following with respect to the military justice system and, if confirmed, what would your relationship be with:

The Secretary of Defense.

Answer. As set forth in article 141 of the UCMJ, the USCAAF falls under the Department of Defense for administrative purposes only and is wholly independent of the Secretary of Defense. The Secretary of Defense is responsible for the formulation of policy related to all matters of direct concern to the Department of Defense. In part at least, that responsibility for military justice policy is exercised through the Joint Services Committee. The Joint Services Committee reviews the Manual for Courts-Martial (MCM) and the UCMJ annually to ensure that they fulfill their function as a comprehensive body of criminal law and procedure, and recommends legislation or other changes.

The Secretary of Defense is directly involved in the military justice system in other ways. For example, he is authorized to be a convening authority for a general or special courts-martial and also has the ability to promulgate orders and regulations, violations of which may be actionable under the UCMJ. If confirmed, I would perform my duties independently, and with the expectation that I would not have any direct relationship with the Secretary of Defense.

Question. The Chief Judge of the USCAAF.

Answer. The Chief Judge of the USCAAF is senior in commission among the judges of the court who have not previously served as the chief judge, and serves in that position for a term of 5 years. The Chief Judge has precedence and presides at any session he attends, and it is my understanding that he oversees the administrative functioning of the USCAAF. If confirmed, my relationship with the Chief Judge would be independent on any issue requiring or related to a vote on a petition, argued case, or writ, and my expectation is that the relationship would be collegial and professional.

Question. Judges of the USCAAF.

Answer. If confirmed, my relationships with the other judges on the Court would be independent on any issue requiring or related to a vote on a petition, argued case, or writ, and my expectation is that the relationships would be collegial and professional.

Question. The General Counsel of the Department of Defense.

Answer. As set forth in article 141 of the UCMJ, the USCAAF falls under the Department of Defense for administrative purposes only and is wholly independent of the Department of Defense. The General Counsel of the Department of Defense is the chief legal officer of the Department of Defense. He performs such functions and delegated duties with respect to the military justice system as the Secretary of Defense may prescribe. As one example of his delegated duties, the General Counsel is responsible for coordinating any recommended legislation or changes recommended by the Joint Services Committee. If confirmed, my relationship with the General Counsel of the Department of Defense would be independent, and my expectation is that the relationship would be collegial and professional.

Question. The Judge Advocates General of the Army, Navy, and Air Force and the Staff Judge Advocate to the Commandant of the Marine Corps.

Answer. The USCAAF is independent of both the Department of Defense and the Services. Each Service Chief has a Judge Advocate General, who both provides advice on military justice matters to the Service Chief and oversees the judge advocates throughout that Service. In addition, each Judge Advocate General has specific duties under the UCMJ and Rules for Courts-Martial with respect to the military justice system. For example, each Judge Advocate General is responsible for: (1) ensuring field visits, either personally or through senior representatives, to supervise the administration of military justice; (2) the professional supervision of military judges and counsel; and (3) review of and action on certain records of trial. A Judge Advocate General may also certify questions to the USCAAF after a decision of a Criminal Court of Appeals. Moreover, each of the listed Judge Advocate Generals are members of both the Joint Services Committee and the Code Committee.

If confirmed, my relationship with each Judge Advocate General would be independent, and my expectation is that the relationships would be collegial and professional.

LEGAL ISSUES

Question. What do you anticipate would be the most significant legal issues you will face if confirmed as a judge of the USCAAF?

Answer. It is of great importance that the USCAAF continues to serve the function for which it was created and remains vigilant against unlawful command influence. Every legal issue faced by USCAAF is significant, both as to the individual appellant in a given case, and because it gives guidance to the trial and criminal courts of appeal. The specific legal issues USCAAF will face in the future will be determined by decisions of the criminal courts of appeal, the issues presented to USCAAF, and the petitions granted.

Question. What challenges, if any, do you anticipate that the armed services and the USCAAF will encounter in implementing the changes to article 120 of the UCMJ regarding the offense of rape by October 1, 2007, as provided in section 552 of the National Defense Authorization Act for Fiscal Year 2006?

Answer. My understanding is that article 120 of the UCMJ was amended in regard to the definition of the offense of rape, among other changes. As with any amendment to a criminal statute, the challenges of implementing article 120 will be revealed through its application and interpretation in specific cases. I expect that some of those issues may ultimately reach the USCAAF.

JURISDICTION OF THE USCAAF

Question. In your view, has the USCAAF fulfilled the expectations of Congress when the Court was established in 1951?

Answer. I believe that the USCAAF has fulfilled the expectation of Congress that it would provide independent judicial review of the military courts and civilian oversight of the military justice system.

Question. In your view, are there any legislative changes needed regarding the role and responsibilities or the jurisdiction of the USCAAF?

Answer. None that I am aware of at this time.

DECISIONS OF THE USCAAF

Question. Please describe the three decisions of the USCAAF since 2001 which you believe to have been the most significant.

Answer.

- *United States* v. *Wiesen,* 56 M.J. 172 (C.A.A.F. 2001)—analyzing challenge for cause based on implied bias of a member and recognizing that implied bias undermines public confidence in the military justice system.
- *Diaz* v. *The Judge Advocate General of the Navy*, 59 M.J. 34 (C.A.A.F. 2003) emphasizing that the petitioner's right to a full and fair review of findings and sentence under article 66 embodies the concomitant right to have that review conducted in a timely fashion, and that these rights must be recognized, enforced, and protected by the government, by the appellate attorneys, and by the USCAAF.
- *United States* v. *Lewis,* 63 M.J. 405 (C.A.A.F. 2006)—reemphasizing that unlawful command influence is the mortal enemy of military justice and that, where it is found to exist, judicial authorities must take those steps necessary to preserve both the actual and apparent fairness of criminal proceedings.

Question. What is your view of the role of stare decisis in terms of prior decisions of the USCAAF?

Answer. Stare decisis, or adherence to principles of law set forth in prior decisions, is a fundamental judicial principle. Adherence to precedent promotes the evenhanded, predictable, and consistent development of legal principles; fosters reliance on judicial decisions; and contributes to the actual and perceived integrity of the judicial process. Stare decisis is a well-recognized principle of judicial decision-making, but an appellate court may re-evaluate previous decisions if, for example, the precedent at issue has been called into question by subsequent legal developments.

Question. In view of Article 36 of the UCMJ, what is your view as to the hierarchy of sources of law that must be applied by the USCAAF in determining appropriate rules of evidence and procedure in courts-martial?

Answer. As a general matter, cases subject to the UCMJ, to which Article 36 applies, have applied the rules of evidence and procedure set forth in the Manual for Courts-Martial, which includes the Rules for Courts-Martial, governing pretrial, trial, and post-trial procedures, and the Military Rules of Evidence. The USCAAF should apply these rules unless it concludes that they are inconsistent with the Constitution of the United States or the UCMJ. The USCAAF is also guided by its own precedent and bound by the decisions of the Supreme Court of the United States.

Question. In your view, what is the appropriate standard for determining when the USCAAF should apply a rule that is different from the rule generally applied in the trial of criminal cases in the Federal district courts?

Answer. Where the Rules for Courts-Martial and Military Rules of Evidence are not contrary to or inconsistent with the Constitution, the UCMJ, or controlling precedent, they should be applied. If they are silent on an issue, or set forth a rule contrary to or inconsistent with the Constitution or the UCMJ, it is appropriate to look to analogous rules applied in the Federal district courts. Military Rule of Evidence 101 provides that where no rule governs an evidentiary issue, the rule of evidence generally applicable in the trial of criminal cases in the Federal district courts applies. Where both sources are silent, the Military Rules of Evidence, much like the Federal Rules of Evidence, applies the rule of evidence applicable at common law.

MILITARY JUSTICE SYSTEM

Question. In your view, what are the major strengths and weaknesses of the military justice system?

Answer.

Major Strengths:

- Greater protections against self-incrimination under Article 31.
- Ability to participate in pre-trial proceedings in front of an impartial investigating officer under article 32, including the right of accused and defense counsel to be present, and the right to present evidence and cross-examine witnesses.
- The right of every defendant to qualified defense counsel at every phase of trial, post-trial, and appellate proceedings.

Major Weaknesses:

- Actual or perceived instances of unlawful command influence.
- Perception that commanders play too great a role in the military justice system.

- Potential for significant variances in the treatment of similar offenses between different commands.

Question. What is your view of the relationship between the rights of service personnel and the disciplinary role of commanders?

Answer. The military justice system is intended to protect both the rights of service personnel and the disciplinary role of commanders, as the preamble to the Manual for Courts-Martial recognizes. The UCMJ seeks to ensure fairness to servicemembers, while ensuring that commanders maintain the ability to ensure good order and discipline necessary for national security. It is crucial to morale and public confidence that the military justice system vigorously protect the right of servicemembers, and both be fair and perceived to be fair. It is also necessary for the good order and discipline of the military that commanders are able to enforce standards of behavior not applicable in civilian society.

Question. Do you think that changes to the military justice system are called for in light of the experiences of the armed services in Operations Enduring Freedom and Iraqi Freedom?

Answer. The military justice system is intended to operate in a decentralized fashion and to contain the flexibility necessary to adjust to operations and deployments. I am not aware of any changes that are needed in light of the experiences of the armed services in Operations Enduring Freedom and Iraqi Freedom based on the knowledge I have at this time. However, the Services, the Joint Services Committee, and the Code Committee are charged with annual review of the UCMJ and the military justice system. I am confident that if changes are needed, recommendations for change will be made to or by the Senate Armed Services Committee.

COMMAND INFLUENCE

Question. The problem of command influence, including instances involving judge advocates as well as commanders, is a constant threat to the military justice system.

What is your view as to the role of the USCAAF in addressing this problem?

Answer. It has long been recognized that unlawful command influence is the mortal enemy of military justice. Article 37 of the UCMJ prohibits unlawful command influence; the USCAAF, comprised of civilian judges, is a further bulwark against unlawful command influence. As such, USCAAF has, and must continue: to be vigilant against the taint of unlawful command influence at any stage of legal proceedings; to ensure that allegations of unlawful command influence have been properly litigated at trial and on appeal; and to ensure remedies appropriate to the circumstances of the particular case.

QUESTIONS SUBMITTED BY SENATOR JOHN WARNER

CONVENING AUTHORITIES AND ACCOUNTABILITY

1. Senator WARNER. Ms. Ryan, unlawful command influence by commanders has rightly been called the "mortal enemy of military justice." There can be situations, however, in which commanders in their role as convening authorities decide not to take court-martial action when, arguably, it is appropriate to do so. Under these circumstances, the requirements of good order and discipline may not be met. Do you think that it could be helpful to have an independent authority in the military justice system whose role it could be to formally review prosecutorial decisions by convening authorities?

Ms. RYAN. As with any system of justice, within the military justice system there are elements of discretion as to when individuals will be charged and on what charges. As a practical matter, those decisions are initially made by the servicemember's commander in his or her role as convening authority. While the initial decision is the commander's, it is my understanding that the men and women who serve as commanders in the Armed Forces generally seek the counsel of Judge Advocates on the appropriate disposition in any given case. The appropriate disposition will likely depend on many factors, including the admissible evidence available, the need for a defendant to testify against others potentially more culpable, and the commander's view of both the seriousness of the offense and the disposition necessary to maintain good order and discipline within his or her command. The Rules for Courts-Martial appear to provide a viable mechanism for the situation described: A decision by a commander not to take court-martial action ordinarily does not bar a different disposition by a superior authority. See R.C.M. 401(c), 601(f). Based on all of these factors, I do not currently have reason to believe that an independent prosecutorial review authority is necessary. If that policy decision is made, it will

be both made and implemented by the legislative and executive branches and require amendments to the UCMJ and the Rules for Courts-Martial.

PERSONAL EXPERIENCES

2. Senator WARNER. Ms. Ryan, you served on Active-Duty as a judge advocate performing military justice duties. What were your most memorable experiences and challenges while serving as a judge advocate performing military justice duties?

Ms. RYAN. I welcome the opportunity to comment on how much I enjoyed my time as a Judge Advocate in the United States Marine Corps. I met many wonderful attorneys while on Active-Duty. Each of us—trial counsel and defense counsel—Ioved our work and was zealous in representing our client, whether it was the United States or a defendant. But there was a civility between lawyers on the opposite sides of the case in the military. My most memorable experiences revolve around the outstanding attorneys and support staff with whom I had the opportunity to work while on Active-Duty and the opportunities I had, as a brand new attorney, to work as a trial counsel representing the United States on serious felony cases. The greatest challenges I recall were two. One was that when I arrived on Okinawa, Japan, by virtue of my seniority in rank, I became the Chief Trial Counsel, although I had relatively little litigation experience. In contrast, the Senior Defense Counsel was a seasoned court room veteran. The learning curve was very steep, but I believe I met that challenge and ably served my client. The second challenge that is most memorable to me was the responsibility of working with victims of personal crimes such as rape and child sexual abuse.

3. Senator WARNER. Ms. Ryan, what did you consider to be the greatest strengths and weaknesses of the military justice system as you observed it?

Ms. RYAN. Based on my experience, I believe that the greatest strengths of the military justice system were the fact that the overall protections provided to defendants are greater than those provided in the civilian world and my observation that commanders and judge advocates understood the requirements of the UCMJ and Rules for Courts-Martial and did their very best to comply. I did not personally observe any weaknesses in the military justice system, although I am aware of the potential for unlawful command influence, among other potential weaknesses. Like any commander on the ground, there were times that I recall being frustrated with the process when trial level cases or administrative discharge boards did not seem to move quickly. However, taking a larger view, I believe that such cases and boards in the military justice system generally proceed along a timeline that comports with the needs and concerns of the defendant, as required by the UCMJ, Rules for Courts-Martial, and the U.S. Constitution.

QUESTIONS SUBMITTED BY SENATOR JOHN THUNE

VARIANCES IN TREATMENT OF CASES

4. Senator THUNE. Ms. Ryan, I note from one of your answers to the committee's advance policy questions that you believe one of the weaknesses of the military justice system is the "potential for significant variances in the treatment of similar offenses between the different commands." Do significant variances in the treatment of similar offenses currently exist in the system?

Ms. RYAN. I do believe the potential exists for a situation where servicemembers with different convening authorities and/or from different Services might all be involved in the same alleged incident and there could be significant variances in the way the commands dealt with the servicemembers. However, I am not aware of specific instances where such significant variances in the treatment of similar offenses from the same incident exist within the system.

5. Senator THUNE. Ms. Ryan, is there a way to remedy these potential variances through legislation, such as instituting uniform guidelines for the treatment of similar offenses between the different commands?

Ms. RYAN. As with any system of justice, within the military justice system there are elements of discretion as to when individuals will be charged and on what charges. As a practical matter, those decisions are initially made by the servicemember's commander in his or her role as convening authority. While the initial decision is the commander's, it is my understanding that the men and women who serve as commanders in the Armed Forces generally seek the counsel of Judge Advocates on the appropriate disposition in any given case. The appropriate disposi-

tion will likely depend on many factors, including the admissible evidence available, the need for defendant to testify against others potentially more culpable, the commander's view of the seriousness of the offense and the disposition necessary to maintain good order, and discipline within his or her command. I am not aware of specific instances where such significant variances in the treatment of similar offenses from the same incident exist within the system. If such variances were to arise, any policy decision aimed at addressing them will be both made and implemented by the legislative and executive branches and require amendments to the UCMJ and the Rules for Courts-Martial.

MILITARY APPELLATE PROCESS

6. Senator THUNE. Ms. Ryan, the military justice system has two levels of intermediate review, which makes it distinct from the civilian Federal justice system, which has one level of intermediate review. Generally, a soldier convicted at a court-martial may appeal to his Service branch's court of criminal appeals, such as the Army Court of Criminal Appeals, and subsequently may also appeal to the Court of Appeals for the Armed Forces. Do two levels of intermediate review function as another way that the military justice system provides extra protection of a criminal defendant's rights compared to the civilian justice system? Or do two levels of intermediate review make the system inefficient?

Ms. RYAN. The military justice system has many levels of review, all of which, in my view, provide extra protection to criminal defendants' rights compared to those accorded criminal defendants in the civilian system. For example, in the military justice system the convening authority, the Staff Judge Advocate, and in many cases the Staff Judge Advocate General of the relevant Service, review the findings and sentence, along with any clemency matters submitted by the servicemember, before the case ever reaches the Service's court of criminal appeals. As a result of these reviews, action can be, and in some cases is, taken to disapprove the findings and/or disapprove or mitigate the sentence. The two levels of appellate review ensure that: (a) all eligible cases are reviewed by a military appellate court; and (b) that discretionary review of any case is potentially available by a civilian court, which oversees all the military appellate courts. I am not aware that this extra protection creates any inefficiencies in the system.

7. Senator THUNE. Ms. Ryan, are there ways to improve upon the current appellate process within the military's justice system?

Ms. RYAN. There are always ways in which any process can be improved. But based on the information I have available to me at this time, I am not aware of any specific way in which the current appellate process within the military justice system should be improved. The Services, the Joint Services Committee, and the Code Committee are charged with annual review of the UCMJ and the military justice system. I am confident that if changes to the appellate process are needed recommendations for change will be made to or by the Senate Armed Services Committee.

[The nomination reference of Margaret A. Ryan follows:]

NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
November 15, 2006.

Ordered, That the following nomination be referred to the Committee on Armed Services:

Margaret A. Ryan, of Virginia, to be a Judge of the United States Court of Appeals for the Armed Forces for the term of 15 years to expire on the date prescribed by law, vice Herman F. Gierke, term expired.

[The biographical sketch of Margaret A. Ryan, which was transmitted to the committee at the time the nomination was referred, follows:]

BIOGRAPHICAL SKETCH OF MARGARET A. RYAN

Margaret A. Ryan has been nominated by President Bush to be a Judge of the United States Court of Appeals for the Armed Forces.

Ms. Ryan is currently a Partner in the litigation and appellate practices of Wiley Rein & Fielding LLP, which is located in Washington, DC. Before joining Wiley Rein & Fielding, she was a litigation Partner and Associate at the law firm of Bartlit Beck Herman Palenchar & Scott LLP in Denver, Colorado, and an Associate in the litigation and appellate practice at Cooper Carvin & Rosenthal LLP in Washington, DC. Ms. Ryan served as a law clerk to the Honorable Clarence Thomas, Associate Justice of the Supreme Court of the United States, and to the Honorable J. Michael Luttig, while he served as a judge on the U.S. Court of Appeals for the Fourth Circuit.

Ms. Ryan served on Active-Duty in the United States Marine Corps before entering the private sector. As a Communications Officer, Ms. Ryan served in units within the II & III Marine Expeditionary Forces as a Staff Officer, Company Commander, Platoon Commander, and Operations Officer. Ms. Ryan's tours included deployments to the Philippines, during a coup attempt, and to Saudi Arabia during Operations Desert Shield and Desert Storm.

Ms. Ryan attended law school under the Marine Corps Law Education Program at the University of Notre Dame, where she was a member of the Notre Dame Law Review, received the William T. Kirby Legal Writing Award, and was the recipient of the Colonel William J. Hoynes Award for Outstanding Scholarship for graduating first in the class. As a judge advocate, Ms. Ryan served within the Military Justice System as a Trial Counsel and Chief Trial Counsel in Okinawa, Japan, and Quantico, Virginia. Ms. Ryan was then selected by the 31st Commandant of the Marine Corps, General Charles C. Krulak, to serve as his Aide de Camp.

Ms. Ryan obtained her B.A. cum laude from Knox College in 1985 and her J.D. summa cum laude from the University of Notre Dame Law School in 1995. Ms. Ryan was awarded the Meritorious Service Medal, Navy Marine Corps Commendation Medal (Two Awards), and the Navy Marine Corps Achievement Medal by the Marine Corps. She is admitted to practice in Virginia, Colorado, and the District of Columbia, and before the Supreme Court of the United States, the U.S. Court of Appeals for the Fourth Circuit, the U.S. District Court for the Eastern District of Virginia, the U.S. District Court for the District of Colorado, the U.S. Court of Federal Claims, and the Supreme Courts of Virginia and Colorado. She resides with her husband, Michael J. Collins, and their Soft Coated Wheaten Terriers, Fiona, Reagan, and Dagny, in Arlington, Virginia.

[The Committee on Armed Services requires all individuals nominated from civilian life by the President to positions requiring the advice and consent of the Senate to complete a form that details the biographical, financial, and other information of the nominee. The form executed by Margaret A. Ryan in connection with her nomination follows:]

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

(202) 224–3871

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior

to the hearings and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)
Margaret Ann ("Meg") Ryan.

2. **Position to which nominated:**
Judge of the United States Court of Appeals for the Armed Forces, for the term of 15 years.

3. **Date of nomination:**
November 15, 2006.

4. **Address:** (List current place of residence and office addresses.)
[Nominee responded and the information is contained in the committee's executive files.]

5. **Date and place of birth:**
May 23, 1964; Chicago, Illinois.

6. **Marital Status:** (Include maiden name of wife or husband's name.)
Married to Michael J. Collins.

7. **Names and ages of children:**
None.

8. **Education:** List secondary and higher education institutions, dates attended, degree received, and date degree granted.
Homewood-Flossmoor High School, 1978–1981, no degree.
Knox College, 1981–1985, B.A., cum laude, in Political Science.
University of Chicago, 1985–1986, no degree.
University of Notre Dame Law School, 1992–1995, J.D., summa cum laude.

9. **Employment record:** List all jobs held since college or in the last 10 years, whichever is less, including the title or description of job, name of employer, location of work, and dates of employment.
8/04–present: Partner, Wiley Rein & Fielding LLP, 1776 K Street NW, Washington, DC.
8/02–6/04: Partner, Bartlit Beck Herman Palenchar & Scott LLP, 1899 Wynkoop Street, Denver, CO.
7/01–7/02: Law Clerk to the Honorable Clarence Thomas, Associate Justice, Supreme Court of the United States, One First Street, NE, Washington, DC.
6/00–6/01: Law Clerk to the Honorable J. Michael Luttig, Circuit Judge, United States Court of Appeals for the Fourth Circuit, 401 Courthouse Square, Alexandria, VA.
7/99–6/00: Associate, Cooper Carvin & Rosenthal, 1500 K Street NW, Washington, DC.
11/97–6/99: Aide de Camp to the 31st Commandant of the Marine Corps, The Pentagon.

10. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.
Commissioned Officer on Active-Duty in the United States Marine Corps from October 1987 through August 1999 as a Communications Officer and Judge Advocate.
Enlisted Member of the United States Marine Corps Reserve from October 1986 through October 1987.

11. **Business relationships:** List all positions currently held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational, or other institution.
Partner, Wiley Rein & Fielding LLP.
Trustee, Daniel P. Ryan Trust.

12. **Memberships:** List all memberships and offices currently held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.
Member, Greater Denver Soft Coated Wheaten Terrier Club.
Member, Soft Coated Wheaten Terrier Club of America.

13. **Political affiliations and activities:**
(a) List all offices with a political party which you have held or any public office for which you have been a candidate.
None.
(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 5 years.
None.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $100 or more for the past 5 years.

11/4/02	$250	Wayne Allard for United States Senate Committee
1/22/04	$2,000	Bush/Cheney 04
10/13/05	$150	Jim DeMint
1/24/06	$200	Rely on Your Beliefs Fund
6/23/06	$200	Spencer Bacchus
9/12/06	$200	Tom Davis
9/13/06	$200	Mike McGavick
9/22/06	$500	RNC
10/18/06	$200	Bob Corker
10/18/06	$400	Lincoln Chafee
10/30/06	$200	Richard Pombo.

14. **Honors and Awards:** List all scholarships, fellowships, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

Knox College (1985): Pi Sigma Alpha; B.A. degree cum laude.

USMC Communications Electronics Officers School (1988): Honor Graduate; recipient of the Armed Forces Communications Electronics Association Award.

University of Notre Dame Law School (1995): Notre Dame Law Review Editorial Board; Colonel William J. Hoynes Award for outstanding scholarship (for graduating first in the class); William T. Kirby Legal Writing Award; J.D. degree summa cum laude.

Naval Justice School (1995): Graduated with Honors.

Navy Marine Corps Achievement Medal.

Navy Marine Corps Commendation Medal (two awards).

Meritorious Service Medal.

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

None.

16. **Speeches:** Provide the committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

None.

17. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to respond to requests to appear and testify before any duly constituted committee of the Senate?

Yes.

[The nominee responded to the questions in Parts B–F of the committee questionnaire. The text of the questionnaire is set forth in the Appendix to this volume. The nominee's answers to Parts B–F are contained in the committee's executive files.]

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

MARGARET A. RYAN.

This 27th day of November, 2006.

[The nomination of Margaret A. Ryan was reported to the Senate by Chairman Warner on December 5, 2006, with the recommendation that the nomination be confirmed. The nomination was confirmed by the Senate on December 9, 2006.]

NOMINATION OF ROBERT M. GATES TO BE SECRETARY OF DEFENSE

TUESDAY, DECEMBER 5, 2006

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC.

The committee met, pursuant to notice, at 9:35 a.m. in room SH–216, Hart Senate Office Building, Senator John Warner (chairman) presiding.

Committee members present: Senators Warner, McCain, Inhofe, Roberts, Sessions, Collins, Talent, Graham, Dole, Cornyn, Thune, Levin, Kennedy, Byrd, Lieberman, Reed, Akaka, Bill Nelson, E. Benjamin Nelson, Dayton, Bayh, and Clinton.

Committee staff members present: Charles S. Abell, staff director; and Leah C. Brewer, nominations and hearings clerk.

Majority staff members present: William M. Caniano, professional staff member; Regina A. Dubey, professional staff member; Ambrose R. Hock, professional staff member; Gregory T. Kiley, professional staff member; Sandra E. Luff, professional staff member; Derek J. Maurer, professional staff member; Elaine A. McCusker, professional staff member; David M. Morriss, counsel; Lucian L. Niemeyer, professional staff member; Lynn F. Rusten, professional staff member; Sean G. Stackley, professional staff member; Diana G. Tabler, professional staff member; and Richard F. Walsh, counsel.

Minority staff members present: Richard D. DeBobes, Democratic staff director; Jonathan D. Clark, minority counsel; Daniel J. Cox, Jr., professional staff member; Madelyn R. Creedon, minority counsel; Gabriella Elsen, professional staff member; Evelyn N. Farkas, professional staff member; Richard W. Fieldhouse, professional staff member; Creighton Greene, professional staff member; Michael J. Kuiken, professional staff member; Gerald J. Leeling, minority counsel; Peter K. Levine, minority counsel; Michael J. McCord, professional staff member; William G.P. Monahan, minority counsel; Michael J. Noblet, research assistant; and Arun A. Seraphin, professional staff member.

Staff assistants present: David G. Collins, Micah H. Harris, and Jill L. Simodejka.

Committee members' assistants present: Christopher J. Paul, Richard H. Fontaine, Jr., and Paul C. Hutton IV, assistants to Senator McCain; John A. Bonsell and Jeremy Shull, assistants to Senator Inhofe; Libby Burgess, assistant to Senator Roberts; Arch Galloway II, assistant to Senator Sessions; Mark Winter, assistant to Senator Collins; D'Arcy Grisier, assistant to Senator Ensign; Clyde

A. Taylor IV, assistant to Senator Chambliss; Matthew R. Rimkunas, assistant to Senator Graham; Greg Gross and Arjun Mody, assistants to Senator Dole; Russell J. Thomasson, assistant to Senator Cornyn; Bob Taylor and Stuart C. Mallory, assistants to Senator Thune; Sharon L. Waxman and Mieke Y. Eoyang, assistants to Senator Kennedy; Christina Evans and Erik Raven, assistants to Senator Byrd; Frederick M. Downey, assistant to Senator Lieberman; Elizabeth King, assistant to Senator Reed; Richard Kessler and Darcie Tokioka, assistants to Senator Akaka; William K. Sutey, assistant to Senator Bill Nelson; Eric Pierce, assistant to Senator Ben Nelson; Luke Ballman, assistant to Senator Dayton; Todd Rosenblum and Robert J. Ehrich, assistants to Senator Bayh; and Andrew Shapiro, assistant to Senator Clinton.

OPENING STATEMENT OF SENATOR JOHN WARNER, CHAIRMAN

Chairman WARNER. Good morning, everyone.

Dr. Gates, I think I can safely say, on behalf of the citizens of our country, we are very pleased that you have accepted another challenge, another chapter in public service, subject to the confirmation of the Senate. We are very pleased to have you before us this morning.

Dr. Gates has a long and distinguished record of service to the Nation. After establishing a firm, educational foundation at the College of William and Mary in the Commonwealth of Virginia, he served in the United States Air Force from 1966 through 1969. Dr. Gates then joined the Central Intelligence Agency (CIA), where he spent over 26 years, a quarter of a century, as an intelligence professional, including a period of nearly 9 years assigned to the National Security Council.

Dr. Gates has served as Deputy Director of the CIA from 1986 to 1989, subsequently as Assistant to the President and Deputy National Security Advisor from 1989 until 1991, then nominated by President George Herbert Walker Bush to be the 15th Director of the CIA in June 1991.

In September and October 1991, the Senate Select Committee on Intelligence, under the leadership of Senator David Boren, who's joined us here this morning, and Senator Frank Murkowski, conducted hearings on Dr. Gates' nomination. The committee took the testimony of some 21 witnesses, compiled a record of over 2,500 pages of testimony, and favorably reported Dr. Gates' nomination to the full Senate. On November 15, 1991, Dr. Gates was confirmed by the Senate and served with distinction throughout the remainder of former President Bush's term.

During the Senate floor debate on Dr. Gates' nomination on November 4, 1991, I complimented Senator Boren on the very thorough way in which you, as the chairman of that Intelligence Committee—and I think I'm the only one remaining in the Senate who was on the committee at that time—for what you did. I stated on the floor that, "Bob Gates is a very thoughtful man, an honest man, an experienced official, a good analyst, a no-nonsense manager, and a man with a vision of the future direction of the role of U.S. intelligence." I repeat those comments and stand by them this morning.

I would note that Dr. Gates' additional experience in government and the private sector since his departure from CIA in 1993, and his continuing academic and scholarly pursuits, have enhanced his qualifications to perform the duties of Secretary of Defense.

Dr. Gates, I'd like to address for a few moments the challenges that you will face, if confirmed.

From 1969 to 1974, I had the privilege of serving in the Department of Defense (DOD)—specifically, the Department of the Navy—under three Secretaries of Defense. Subsequently, I've had the opportunity to work as a member of this committee with each of the nine men who have followed that period. Upon returning from my eighth visit to Iraq with my good friend and colleague, the ranking member, and the future chairman of this committee—when we came back from Iraq, in October of this year, I said the following at a press conference: "But I assure the country that, in 2 or 3 months, if this thing hasn't come to fruition, and if this level of violence is not under control, and if the government under Prime Minister Maliki is not able to function, then it's the responsibility of our Government, internally, to determine, is there a change of course that we should take? I wouldn't take any option off the table."

I further observed that the situation was drifting sideways. Regrettably, the levels of violence have continued to escalate in Iraq, and the ability of Prime Minister Maliki and his government to exercise, fully, the range of sovereignty remain an enormous challenge.

Yesterday, I was present at an open forum when General Peter Pace, Chairman of the Joint Chiefs, was asked the question, "are we winning the war?" His response was as follows, and I quote him, "We're not winning, but we're not losing." There seems to me a parallel between what I said when I got back and that distinguished chairman's observation yesterday.

I commend the President, who, for the past 2 months, has directed the appropriate Cabinet officers to perform a complete review of all issues relating to Iraq and Afghanistan, and our future policies, and asked his able executive branch to apply their best judgment in determining the way ahead, specifically in Iraq. Further, he's met with and indicated that he looks forward to receiving the Baker-Hamilton Report, which we, here in Congress, will receive tomorrow. This committee has invited the members of the Iraq Study Group (ISG) to a hearing at 9:30 on Thursday. As yet, I don't think—Senator Levin, they haven't replied to our letter. The ISG, of which you were a member, will formally present its findings and recommendations. I commend the members of that group for their public service. I think it will be a very important contribution to this critical debate at this critical time in our history.

Additionally, General Pace, Chairman of the Joint Chiefs, has his ongoing review. He does that pursuant to his statutory authority, exploring all options. That is a continuing advisory role that he provides for the President and yourself, assuming you're confirmed as Secretary of Defense, and to Congress.

Most importantly, however, the American people expressed their judgment on November 7 that change is needed. The President has responded and stated that he desires to obtain "fresh eyes" on the

situation in Iraq. Your nomination is confirmation of the President's desire to that approach.

Our committee will continue to look at every option as I conclude my chairmanship and the distinguished Senator from Michigan assumes his.

After the President has had the opportunity to review these very important reports, I respectfully—and I repeat, respectfully—suggest to the administration that he privately consult with the bipartisan leadership of the new Congress, members who have responded to the mandate of the people, before making his final decisions. It is my hope that the executive and legislative branches will formulate a bipartisan consensus on the way forward. To me, this fulfills a moral obligation that our Government—executive and legislative—has to the brave men and women of the Armed Forces of the United States, and their families, who have sacrificed very heavily in this fight to preserve our freedom.

Dr. Gates, let me remind you of your own words from your book, "From the Shadows," about the study of those who serve in the executive branch to keep Congress informed in a timely and candid manner. I quote from that book, "I sat in the Situation Room in secret meetings for nearly 20 years, under five Presidents. All I can say is that some awful crazy schemes might well have been approved had everyone present not known, and expected, hard questions, debate, and criticism from the Hill."

Second, from the same book, "And when, on a few occasions, Congress was kept in the dark and such schemes did proceed, it was nearly always to the lasting regret of the Presidents involved. Working with Congress was never easy for Presidents, but then, under the Constitution, it was not supposed to be easy. I saw too many in the White House forget that."

I urge you, my friend—and we have been friends and acquaintances for these many years—to pursue your responsibilities in a manner consistent with these salient observations as you undertake the duties of Secretary of Defense, if confirmed. You have been nominated for one of the most important positions in Government. You will be an important part of the new review process in determining the strategy and the direction this country, together with our partners in the coalition, must pursue. I urge you not to restrict your advice, your personal opinions, regarding the current and future evaluations in these strategy discussions.

In short, you simply have to be fearless—I repeat, fearless—in discharging your statutory obligations as "the principal assistant to the President in all matters relating to DOD." Good luck.

Senator Levin.

STATEMENT OF SENATOR CARL LEVIN

Senator LEVIN. Mr. Chairman, I join you in welcoming Dr. Gates to the committee. Dr. Gates, we appreciate your willingness to return to public life after more than a decade in what is supposed to be a quieter academic area. Sitting next to Senator Boren, who is also in that quiet academic area, I'm not sure I can accurately describe it as being that quiet, but we do welcome your willingness to return.

If confirmed as Secretary of Defense, Robert Gates will face the monumental challenge of picking up the pieces from broken policies and mistaken priorities of the past few years. First and foremost, this means addressing the ongoing crisis in Iraq.

The situation in Iraq has been getting steadily worse, not better. Before the invasion of Iraq, we failed to plan to provide an adequate force for the occupation of the country or to plan for the aftermath of major combat operations. After we toppled Saddam Hussein in 2003, we thoughtlessly disbanded the Iraqi army and also disqualified tens of thousands of low-level Ba'ath Party members from future government employment. These actions contributed to the chaos and violence that followed and to alienating substantial portions of the Iraqi population.

We have failed, so far, to secure the country and defeat the insurgency. We have failed to disarm the militias and create a viable Iraqi military or police force. We have failed to rebuild the economic infrastructure of the country and provide employment for the majority of Iraqis. The next Secretary of Defense will have to deal with the consequences of those failures.

Iraq is not the only challenge that you will face. We're going to be faced by a resurgent Taliban in Afghanistan; an unpredictable nuclear power in North Korea; an Iran that seems to be aggressively pursuing nuclear weapons and causing problems throughout the region; an Army and Marine Corps in need of tens of billions of dollars to replace and repair equipment that has been damaged and destroyed in the course of ongoing operations; the military's nondeployed ground forces that have a declining level of readiness to meet their wartime missions; weapons programs that, despite the expenditure of more than $100 billion a year, are increasingly unaffordable; a military that faces constant challenge in recruiting and retaining the troops that it needs; military families suffering from the increased strains of repeated deployments and a sustained high operational tempo; and a Department whose image has been tarnished by the mistreatment of detainees in Abu Ghraib, in Guantanamo, and elsewhere.

Despite these problems, the next Secretary of Defense will lead a military that is, by far, the most powerful in the world. Our DOD not only has the most capable weapons systems ever deployed, but we are blessed with an extraordinarily talented and committed military and civilian workforce. Unfortunately, the Department's effectiveness has been reduced by a civilian senior leadership that has too often not welcomed differing views, whether from our uniformed military leaders, the Intelligence Community, the State Department, American allies, or Members of Congress of both political parties.

The next Secretary will have to work hard to heal these wounds and address the many problems facing the Department and the country. Success will require more than total commitment; it will require an individual who is creative, fair, and openminded, and, above all, an individual who can listen to, learn from, and work with others. It will also require an individual who is willing to speak truth to power and encourage others to do the same.

Among other things, that means ensuring that the Chairman of the Joint Chiefs of Staff is able, on his own behalf and on behalf

of the other members of the Joint Chiefs and the combatant commanders, to give unvarnished direct military advice to the Commander in Chief. The next Secretary will not only need to respect the Goldwater-Nichols law, which assures that such advice will be given directly to the President and the National Security Council, he will also need to respect that advice himself.

It is no secret that I voted against Dr. Gates' nomination to be Director of Central Intelligence in 1991. I did so because I thought that he had been less than candid about the role that he played in the Iran-Contra affair. As I have said before, however, I, for one, intend to take a fresh and fair look at Dr. Gates' record.

In that regard, I find many of Dr. Gates' responses to the committee's prehearing policy questions to be reassuring. For example, Dr. Gates stated that two lessons we should learn from the war in Iraq are that war planning should be done with the understanding that the post-major-combat phase of operations is critical and that the Intelligence Community should not exaggerate its capabilities or minimize the uncertainty that plagues assessments.

In those prehearing responses, he also stated that there is no purely military solution in Iraq. He stated that we should not be afraid to engage in direct discussions with our adversaries, as we did, "in the worst days of the Cold War," when the United States maintained a dialogue with the Soviet Union and China. He has reassured the committee that the DOD policies and actions relative to detainees must comply not only with the revised Army Field Manual on interrogations, but also with Common Article 3 of the Geneva Conventions. Last, but not least, Dr. Gates has said that he will cooperate with committee requests for information or documents, and that he will comply with legislation requiring that known costs of ongoing operations in Iraq and Afghanistan be funded through the normal budget process rather than through emergency supplementals.

These are all reassuring statements that you have made to the committee.

I look forward to the testimony of our nominee. Again, I thank him for his willingness to leave a job that he loves to undertake a heavy and a demanding responsibility. I also want to thank Senators Dole and Boren, who are such deeply respected members of this body and are such good friends of all of us, and whose endorsement of you, Dr. Gates, has significance for all of us.

Finally, this hearing has a special meaning for members of this committee, because it may well be Senator Warner's last hearing as chairman of this committee. Senator Warner has always chaired this committee with unfailing fairness, dignity, and civility, reflecting his passion for the security of this Nation. His devotion to the well-being of our men and women in uniform who have dedicated their lives to the service of our country has been a hallmark of his chairmanship, as has the bipartisan way in which he has worked with all of us and our staffs. He has truly been one of the great chairmen of the Senate Armed Services Committee.

I thank you.

Chairman WARNER. I thank you, Senator Levin, for those kind remarks. I thank each of my colleagues, whom I've had the privilege to serve here these many years. Twenty-eight years ago, we

came here together, and I pass the gavel to you in but a week or so. Good luck to you, my friend.

Senator Dole, you have been an absolute tower of strength in the institution of the United States Senate. As you were the majority leader at one time, you have just a bare notch of seniority over our colleague, Senator Boren, so we'll let you lead off.

STATEMENT OF HON. ROBERT DOLE, FORMER U.S. SENATOR FROM THE STATE OF KANSAS

Senator ROBERT DOLE. Mr. Chairman, I'm probably here by accident, because the phone rang at home, and I picked it up, and the person on the other end said, "Senator Dole, would you mind introducing me at the hearing?" I said, "yes." Then I learned, later, they were calling for Elizabeth. [Laughter.]

Senator ROBERT DOLE. So I appreciate the fact that she's on the committee, but I appreciate this opportunity, and I'll be very brief.

President John Adams once said, "If we do not lay out ourselves in the service of mankind, whom should we serve?" Bob Gates truly understands this. Granted, I may be a little biased, owing to his Kansas roots. It was Kansas where he first learned the meaning of service, while growing up in Wichita. His appreciation for the interests of others grew as a student at William and Mary and throughout his years as a career intelligence official and through his subsequent leadership of our intelligence services, and, most recently, in his stewardship at Texas A&M, one of our Nation's outstanding universities. Through it all, Bob Gates has given of himself in this great tradition to our Nation and our people.

Mr. Chairman, as we convene, our Nation's defense policy is dominated by a single issue: the war in Iraq. Even those critics of the war who want us to withdraw soon or cut our forces substantially acknowledge that the stakes are high. I believe we can agree with our President, who has said, "This is a massive and difficult undertaking. It is worth our effort, it is worth our sacrifice, because we know the stakes. The failure of Iraq democracy would embolden terrorists around the world, increase dangers to the American people, and extinguish the hopes of millions in the region."

At this critical hour, Mr. Chairman, you and your committee have gathered for an exceedingly rare act, the confirmation of a new Secretary of Defense in wartime. The last time this happened was in 1968, when President Johnson nominated Clark Clifford to replace Bob McNamara. Make no mistake about it, history is being made here today.

Today, Bob Gates is poised to take the helm at the Defense Department at a time of intense debate over the war. Some contend that, with sufficient time and dedication, victory is assured. Yet, there is no denying that, having overthrown Saddam Hussein, we have not secured the peace, that Iraqi's borders remain porous, that the interests and destabilizing involvement of Iran and Syria have not been adequately addressed, and that the current power vacuum creates risk of an even larger scale sectarian conflict. At the same time, those who have been calling for withdrawal or massive date-certain drawdowns should acknowledge that these are tactical shifts, not a radical overhaul of our policies, that the removal of Saddam from power opened the door to democracy, and

that to realize these are goals worthy of sacrifice and that defeat is not an option, but the quality of life in many parts of the country is better than it was 4 years ago.

In the American experience, wars that enjoy equivocal support from our people usually end with equivocal outcomes. This is why our country must unite behind a strategy for a successful military mission, a viable exit plan, and a recognizable vision for Iraq's future. I agree with the President that Bob Gates is the man to make this happen. He is a person of uncommon resolve, intellect, and strength of character. He has the force of will to exercise civilian control over the military, but be sensitive to respect the wisdom and counsel of our generals and admirals, and the men and women who serve under them.

A famous Kansan, Dwight Eisenhower, once said of General George C. Marshall that he typified all that we call on or that we look for in what we call an American patriot. The same may be said of Bob Gates. It is my honor to introduce him formally to this committee, and urge you not only to confirm him as our next Secretary of Defense, but also to give him your full support in the difficult days and months ahead.

Thank you, and God bless America.

Chairman WARNER. Thank you, Senator Dole. You've had a long and distinguished career, beginning as a combat soldier and platoon leader in the closing months of World War II. We have the highest regard for your contributions here this morning.

Senator Boren, former chairman of the Senate Select Committee on Intelligence at the time that this fine American came before us, we're delighted to have you, and have you return to the Senate.

STATEMENT OF HON. DAVID L. BOREN, FORMER U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator BOREN. Thank you very much, Mr. Chairman and members of the committee. Thank you for allowing me the privilege to join with my colleague Senator Bob Dole to present Dr. Robert Gates, the President's nominee for Secretary of Defense.

Mr. Chairman and members, I also have a statement with me of former Senator Sam Nunn, the former distinguished chairman of this committee, that he asked that I submit for the record. It's a strong statement of endorsement of the nomination of Dr. Gates.

Chairman WARNER. Without objection, so admitted.

[The information referred to follows:]

December 4, 2006

The Honorable John Warner, Chairman
The Honorable Carl Levin, Ranking Member
Senate Armed Services Committee
United States Senate
Washington, D.C. 20510

Dear John and Carl:

I wish that I could attend Tuesday's hearing to help my friend David Boren introduce Robert Gates, whom I believe is immensely qualified to serve as Secretary of Defense.

Unfortunately, my travel schedule prevents me from being with you in person, but I have asked David to submit the attached statement into the Record on my behalf.

Best wishes,

Sam Nunn

Enclosure

Nuclear Threat Initiative
1747 Pennsylvania Ave., NW
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f 202.296.4811
www.nti.org

A charitable organization working to reduce the global threat from nuclear, biological and chemical weapons

Statement of Former Senator Sam Nunn

On the Nomination of Robert M. Gates

United States Senate Armed Services Committee

December 5, 2006

Chairman Warner, Senator Levin, and Members of the Committee, although I am unable to join you today, I appreciate the opportunity to share with you my thoughts on the nomination of Robert Gates to be our next Secretary of Defense.

As you know, during my 24 years in the United States Senate, I spent a great deal of time focusing on issues pertaining to the national defense. I had the great pleasure and honor of serving with many of you, including my good friends John Warner and Carl Levin, as we focused on remaining steadfast and prevailing during the Cold War and on helping the Department of Defense meet the challenges involved in transitioning from the Cold War to a new, and vastly different, world. I had the opportunity to work closely with a number of Defense Secretaries and Directors of the CIA.

Even in the best of times, defending our nation while managing a bureaucracy as big as the Pentagon, and at the same time bearing primary responsibility for the lives and welfare of our men and women in uniform, is a monumental task. These are clearly not the best of times. There is no question that our nation faces serious challenges on a number of fronts. Among those challenges is the task of rebuilding our forces, who have met and continue to meet extraordinary demands in Iraq and Afghanistan. The situations in those countries, as well as other global demands on our military, including the new generation of global threats, compound, by several orders of magnitude, the difficulties that will face our next Secretary of Defense. In particular, the Secretary of Defense has a critical role to play in addressing the global threats from nuclear, biological and chemical weapons.

The next Secretary of Defense has been dealt a tough hand of cards. We must have a Secretary who is open to change, who values and gains a realistic and objective assessment of the facts, and who has the experience, judgment, and wisdom to lead the Pentagon during the perilous and challenging times ahead.

I have known Bob Gates for at least 20 years, and I believe that we are fortunate that he is willing to serve as our next Secretary of Defense. Bob Gates is, in my view, an excellent choice to lead the Department of Defense in these challenging times. He has a well-deserved reputation on both sides of the aisle for competency, integrity and objectivity. He is well qualified, having been directly engaged on national security issues for most of his long career.

His years in government have given him an appreciation of the complexity of the issues that he will face as Secretary. He also understands how government works best, and knows that,

to succeed as Secretary of Defense, he will need to work cooperatively with others who impact the national security agenda, including our military leaders, both Democrats and Republicans in Congress, and particularly this Armed Services Committee, the National Security Council, the State Department, the Director of National Intelligence and the intelligence community, and also the non-governmental community.

I believe that Bob Gates understands that our national security and military policy cannot remain frozen in time as the world changes around us. He understands that, as the facts change, our policies must be flexible enough to acknowledge those facts and to adapt to those changes. I believe that, if confirmed as Secretary of Defense, Bob Gates will be willing to make the kinds of changes and new approaches that many of us are convinced are needed in the days ahead.

Finally, and perhaps most important at this time in our history, Bob Gates understands that the secret to successful leadership lies in the willingness to accept counsel and advice from many people, both inside and outside of government. When facts and circumstances change or when mistakes are made, we must have a Secretary of Defense who listens, who understands, who corrects errors rapidly, and who adapts to reality. I am confident that Bob Gates will listen, will understand, will adapt, and will make sound recommendations and decisions for our nation's security.

For all these reasons, I am convinced that Bob Gates is an excellent choice to serve as our next Secretary of Defense. Thank you.

Senator BOREN. Mr. Chairman and members, I sincerely believe that, at this critical moment, Dr. Gates is the best possible choice for this position. In my entire adult lifetime, our country has never been faced with more dangerous challenges. With only 6 percent of the world's population, we face economic growth in other nations and regions which is likely to bring them into economic parity with the United States in a relative short time, and military parity, as well, if they decide to use their resources for that purpose. We are militarily spread thin in areas of the world where serious threats exist, and there are no easy options for extricating ourselves from our military involvement in Iraq.

At the end of World War II and the beginning of the Cold War, we also faced threats that could have overwhelmed us. How we responded then provides us with an excellent guide for the present.

First, we brought together people of exceptional talent, like Bob Gates, to serve us without regard to political party affiliation.

Second, leaders like President Truman, a Democrat, and Senator Vandenberg, a Republican, adopted a truly bipartisan blueprint that provided us with a consistent policy for over 40 years, without regard to which party controlled the White House or Congress.

Third, we did not bear all of the burdens of leadership by ourselves. We formed strong alliances and partnerships with other nations based upon mutual respect. We struck the right balance between diplomacy, dialogue, and military strength. We made sure that we were always strong enough to act alone, if we had to do so, but we were wise enough to avoid that situation.

We must do exactly the same thing now. Partisan polarization, if allowed to continue, will destroy our economic, military, social, and moral influence in the world, and it will ultimately destroy the fabric of our own country itself.

During his 26 years of service at the CIA and at the National Security Council, Bob Gates demonstrated his sincere commitment to

bipartisanship. He served as Deputy Director of the CIA under Republican Presidents with Democratic majorities in both Houses of Congress. During the 6 years that I chaired the Senate Select Committee on Intelligence, I watched him effectively work to build a consensus on sensitive issues. Democrats and Republicans had equal seats at the table. During those 6 years, in no small part because of his bipartisan spirit and his respect for the oversight and policymaking role of Congress, our committee, as you remember, Mr. Chairman, had only a tiny handful of rollcall votes, and not one of them was even close. We simply worked with each other and with the executive branch, often represented by Dr. Gates, until a consensus was reached.

I came to respect Bob Gates as a realist who faced up to the facts and adjusted to changing situations. He rejected inflexible ideological positions and worked hard to fashion practical solutions. We badly need those qualities right now.

Most recently, as a fellow university president, I have watched with admiration his leadership in bringing faculty members, students, and alumni together to increase the strength and diversity of Texas A&M, where he serves as president. Bob Gates knows how to lead large and complex organizations. He will hit the ground running as Secretary of Defense at a moment when we have no time to waste.

I am here today not only because I believe that Bob Gates has exceptional ability, but also because I have confidence in his personal integrity and in his sincere desire to serve our country. It was my responsibility to chair the hearings which resulted in his confirmation to serve as Director of the CIA, which has been referenced. His nomination came to our committee on June 24, 1991. Our scrutiny of this nominee was not completed until October 18 of that year. All questions which were raised, even those of doubtful credibility, were vigorously pursued. Part of the final committee report reads as followed: "By any standard, the consideration of this nomination was the most thorough and comprehensive of any nomination ever received by the committee. Thousands of documents were reviewed. Hundreds of witnesses were interviewed by the committee staff. The nominee testified for 4 long days, in open and closed sessions, responding to almost 900 questions, and written responses were submitted to an almost additional 100 questions. In short, these thorough proceedings confirmed the commitment of Bob Gates to faithful and honorable public service."

Today, we have an opportunity to embark upon a new bipartisan path to protect our national security. The Senate can do its part by quickly and overwhelmingly confirming this talented nominee as Secretary of Defense. But confirmation alone is not sufficient.

The President must also do his part by making sure that he gives great weight to the bipartisan spirit and realistic advice which I believe that he will receive from Dr. Robert Gates.

There are those who say it is an impractical and romantic idea that we can replace polarization with civility, cooperation, and partnership. To the doubters, I answer that we achieved it in the Senate Select Committee on Intelligence, with the help of Bob Gates, only 15 years ago. It is not only an option we can achieve with hard work and determination, it is imperative if the United

States is to remain the world leader. It is for that reason that it is an honor for me to recommend to this committee the confirmation of Dr. Robert Gates.

Chairman WARNER. Thank you very much, Senator Boren.

We, here on this committee, are faced with the reality that we have but a few days in this session. I think it's in the interest of our Nation that we complete our work as a committee, as a Senate, on the advice and consent role entrusted to this institution under the Constitution. It is my intention—and I have been in consultation with the distinguished ranking member—that we will hold this hearing throughout this day. As the afternoon approaches, I would hope that the members of this committee would advise the two leaders here of their own commitments and desires. But it is our expectation that, before day's end, we can complete this hearing. If not, we'll resume tomorrow. But I would urge that we try and complete it today. We will also have an executive session today, which is important, to examine the nominee in the confines of classified material.

So, with that in mind, we thank both of our distinguished colleagues for joining us this morning.

Dr. Gates, before we proceed to hear from you, I would ask the indulgence of the committee.

[Recess for a brief business meeting.]

Chairman WARNER. Now, Dr. Gates, we're pleased to have your opening comments.

STATEMENT OF ROBERT M. GATES, TO BE SECRETARY OF DEFENSE

Dr. GATES. Thank you, Mr. Chairman.

It is an honor to come before you today for this confirmation hearing. I'm also deeply honored by, and grateful to, the President for his confidence and trust in nominating me for Secretary of Defense.

I want to express my sincere thanks to both Chairman Warner and incoming Chairman Levin for their speedy consideration of this nomination. Both of you have been exceedingly gracious to me during my courtesy calls.

I've long been impressed by the experience and collective wisdom of this committee. I'm also all too aware that Secretaries come and go, but the Senate Armed Services Committee remains. If confirmed, I will seek your counsel, and take it seriously.

I want to thank my good friends and former Senators, Bob Dole and David Boren, for introducing me this morning, and for their kind remarks. I'm also grateful to the former long-term chairman of this committee, Senator Sam Nunn, for his introductory words of support.

I would also like to note that I first came before the Senate for confirmation more than 20 years ago, in April 1986. On that occasion, and twice more, the chairman of this committee, Senator Warner, introduced me, and I will always be grateful for his kindness and courtesy.

Chairman WARNER. I thank the nominee.

Dr. GATES. I would be remiss if I also did not thank my wife of 40 years, Becky, and our two children, Eleanor and Brad, for their

infinite patience as I contemplate a return to Washington. Becky asked to be excused today, to accompany the Texas A&M women's basketball team to an away game in Seattle.

The DOD, in peacetime and in wartime, always faces multiple challenges, many of which were identified in the questions the committee asked me to answer. If I am confirmed by the Senate, I will do my best to bring progress in addressing as many of these challenges as possible.

At the same time, I am under no illusion why I am sitting before you today: the war in Iraq. Addressing the challenges we face in Iraq must, and will, be my highest priority, if confirmed.

I welcome the many alternative strategies and tactics proposed by Members of Congress and others. More are coming, most notably from the ISG, of which I was a member until November 8, led by former Congressman Lee Hamilton and former Secretary of State James Baker. Other reviews are ongoing within DOD and elsewhere in government. I am open to a wide range of ideas and proposals. If confirmed, I plan, urgently, to consult with our military leaders and our combat commanders in the field, as well as with others in the executive branch and in Congress. I would then sit down with the President and members of the National Security Council to discuss the situation in Iraq and offer my thoughts and recommendations.

I will give most serious consideration to the views of those who lead our men and women in uniform. Of course, it is the President who will decide what, if any, changes are made in our approach.

While I am open to alternative ideas about our future strategy and tactics in Iraq, I feel quite strongly about one point. Developments in Iraq over the next year or two will, I believe, shape the entire Middle East and greatly influence global geopolitics for many years to come. Our course over the next year or two will determine whether the American and Iraqi people, and the next President of the United States, will face a slowly, but steadily, improving situation in Iraq and in the region or will face the very real risk, and possible reality, of a regional conflagration. We need to work together to develop a strategy that does not leave Iraq in chaos, and that protects our long-term interests in, and hopes for, the region.

I did not seek this position or a return to government. I am here because I love my country, and because the President of the United States believes I can help in a difficult time. I hope you will reach a similar conclusion.

Finally, Mr. Chairman, perhaps the most humbling part of the position for which this committee is considering me is knowing that my decisions will have life-and-death consequences. Our country is at war. If confirmed, I will be charged with leading the men and women who are fighting it. The patriots who have volunteered to serve in our armed services today have no equal in the world and are in the long tradition of their forebears who have fought our country's wars for the last 230 years. I offer this committee my solemn commitment to keep the welfare of our forces uppermost in my mind.

Thank you, Mr. Chairman. That concludes my opening remarks.

Chairman WARNER. Thank you, Dr. Gates.

I'll now proceed to question you with regard to the standard procedures this committee has with regard to all nominations.

The committee asked Dr. Gates to answer a series of advance policy questions. He's responded to those questions. Without objection, I'll make the questions a part of the record.

Now, to the standard questions, if you'll respond to each question, we'll proceed.

Have you adhered to all applicable laws and regulations governing conflict of interest?

Dr. GATES. Yes, sir.

Chairman WARNER. Have you assumed any duties, or undertaken any actions, which would appear to presume the outcome of the confirmation process?

Dr. GATES. No, sir.

Chairman WARNER. Will you ensure that your staff, if confirmed, will have deadlines established for requested communications, including questions for the record in hearings, and meet those requests?

Dr. GATES. Yes, sir.

Chairman WARNER. Will you cooperate in providing witnesses and briefers in response to the committees of Congress of the United States?

Dr. GATES. Yes, sir.

Chairman WARNER. Will those witnesses be protected from reprisal for their testimony or their briefings?

Dr. GATES. Yes, sir.

Chairman WARNER. Do you agree, if confirmed, to appear and testify upon request before this committee?

Dr. GATES. Yes, sir.

Chairman WARNER. Do you agree to provide documents, including copies of electronic forms of communication, in a timely manner, when requested by a duly constituted committee of Congress, or to consult with the committee regarding the basis for any good-faith delay or denial in providing such documents?

Dr. GATES. Yes, sir, to the limits of my authority.

Senator BYRD. Mr. Chairman, I didn't hear that answer.

Chairman WARNER. Fine. I'll repeat the question, and we'll have the answer.

Do you agree to provide documents, including copies of electronic forms of communication, in a timely manner, when requested by a duly constituted committee of Congress?

Dr. GATES. Yes, sir, to the extent of my authority.

Chairman WARNER. Fine. Or, if you desire, consult with the committee regarding any basis for any good-faith delay or denial in providing such documents?

Dr. GATES. Yes, sir.

Chairman WARNER. Thank you.

We'll now have our 6-minute round of questions. I would start off with the following:

The President, in the past 2 months, as the various studies are being undertaken about an analysis of our future course of action in Iraq, studies by, internally, the administration, the Baker-Hamilton Group, Chairman of the Joint Chiefs, and others, but, at a number of opportunities, he's made it very clear—and I will read

his quote, as follows. President Bush said, "I know there's a lot of speculation that these reports in Washington mean that there's going to be some kind of graceful exit out of Iraq. We're going to stay in Iraq to get the job done as long as the government"—that's the Government of Iraq—"wants us there." Added statements to the effect, we're going to stay until the mission is completed.

Now, we have to assume that you've had a number of consultations with the President to determine exactly what his desires are with regard to the mission being completed, your understanding of those desires, and your own approach, as best you can know it at this time, without the benefit of having all of the studies before you. But the question I have is, did you understand fully what's in the mind of the President when he said, "We're going to stay in Iraq until the mission is completed"?

Dr. GATES. Mr. Chairman, I have the sense that the President's view of accomplishing the mission, at this point, is an Iraq that can defend itself, can sustain itself, and can govern itself. I also believe that he understands that there needs to be a change in our approach in Iraq, that what we are doing now is not working satisfactorily. When he asked me to take this job, as he put it, he wanted someone with "fresh eyes" to look at the situation and make recommendations.

In my view, all options are on the table, in terms of how we address this problem in Iraq, in terms of how we can be more successful and how we can, at some point, begin to draw down our forces.

I guess the bottom line is that I believe that he wants me to take a fresh look, and that all options are on the table.

Chairman WARNER. At this juncture, in your working with the President, you're comfortable that the two of you can perform this arduous task, not just this phase of the war and such change of strategy as we might take, but evolutions that could occur in the months to come?

Dr. GATES. Yes, sir, I am.

Chairman WARNER. On the question of the command and control of the U.S. forces in Iraq, and command and control of the Iraqi forces: As you well know, Iraq is now a sovereign nation. That sovereignty was given to Iraq by the sacrifices of the men and women of the Armed Forces of our Nation and other nations that fought courageously to enable them to have their elections, establish their government, and begin to exercise the reins of sovereignty. But an incident in October involving orders from Prime Minister Maliki to abandon checkpoints around Baghdad concerned me and, I think, many others. The issue is command and control of the U.S. forces. Now, our forces have taken risks—indeed, perhaps, in some instances, loss of life and limb—in establishing the progress, thus far, that we've made in Baghdad.

Several months ago, the military officers came before this committee and said Baghdad is the battle that we must win. We're going to put considerable emphasis on that battle. To date, I think they would acknowledge the goals that they had originally established in their minds, the timetable that they originally thought of has not been met. But this was a very interesting chapter of command and control, when our forces took those checkpoints, presumably at the direction of our commanders, and that direction pre-

sumably was in consultation, in some measure, with the Iraqi Government. Then the Prime Minister appeared to unilaterally say, "Take those forces back down out of those checkpoints." It related directly to Sadr and his forces, and, indeed, that area referred to as "Sadr City."

What is your understanding of how this command and control is working today and how it will work in the future?

Dr. GATES. Mr. Chairman, I'm only aware of that incident by virtue of what I've read in the newspaper. I'm not familiar with the particulars. I think that would be a question that I would want to address with General Casey early on to see if he is content with the command and control arrangements, and what changes he thinks need to be made, if any, in the arrangements that we have with the Iraqis.

Clearly, as we ask the Iraqis to stand up, they are going to want to stand up by themselves, increasingly. We want Iraq to have a sovereign government. But, as long as American men and women are putting their lives at risk, clearly the command and control of those forces is very important, and I would take it as an early priority to get an understanding with General Casey about his concerns, if he has any, about those arrangements.

Chairman WARNER. That requires a very clear and precise understanding, because the men and women of the United States Armed Forces—and I think we can speak for the other coalition forces—they have to be responsible to the respective heads of their government.

Dr. GATES. Yes.

Chairman WARNER. In our instance, the President of the United States.

Let me turn to the question of the Director of National Intelligence (DNI) and your relations, assuming you're confirmed as Secretary of Defense. During the debate over the Intelligence Reform and Terrorism Prevention Act of 2004 you expressed concern about the proper balancing of authorities and responsibilities among the major elements of the Intelligence Community. Do you believe that the legislation enacted struck a correct balance? What areas will you consider to strengthen the working relationship between the DNI and the Director of CIA and the Secretary of Defense?

Dr. GATES. Mr. Chairman, I think that the final legislation addressed some of the concerns that I had with the establishment of the DNI position. I would have to tell you, I remain concerned that the law charges the DNI with the execution of the National Foreign Intelligence Program, and also with other things, such as ensuring that members of the Intelligence Community obey the law. But the DNI cannot personally hire or fire the heads of a single intelligence agency in the United States Government. As somebody who's led very large organizations, without having that authority, it makes it very difficult to exercise your will, and especially if you're trying to change cultures.

So, I would anticipate, if confirmed, working with the DNI to see if there are ways in which we can work together to ensure that he has the authority that he needs to fulfill his responsibilities.

Chairman WARNER. If there is a view that legislation is required, will you promptly, in consultation with the President, bring that legislation to Congress?

Dr. GATES. Yes, sir. I think that we can probably solve the problem without legislation, but, should legislation be needed, I certainly would work with this committee and the intelligence committees.

Chairman WARNER. Thank you.

Senator Levin.

Senator LEVIN. Thank you, Mr. Chairman.

Dr. Gates, do you believe that we are currently winning in Iraq?

Dr. GATES. No, sir.

Senator LEVIN. Prime Minister Maliki said on November 27 that "the crisis is political, and the ones who can stop the cycle of aggravation and bloodletting of innocents are the Iraqi politicians."

Do you believe that the end to violence in Iraq requires a political settlement, and that we need to communicate a sense of urgency to the Iraqis to pressure them to reach a settlement that only their politicians can reach?

Dr. GATES. Yes, sir, I do.

Senator LEVIN. The chairman has asked you about a comment of the President that, "We are going to stay in Iraq as long as the Iraqis ask us to be there." There was something else added to that which the chairman asked you about, but I'm going to ask you about that statement of the President, which he's made twice in recent weeks, "We are going to stay in Iraq as long as the Iraqis ask us to be there."

Doesn't such an open-ended commitment send a message to the Iraqis that somehow or other it is our responsibility as to whether or not they achieve a nation, rather than it is their responsibility to reach a political settlement?

Dr. GATES. Senator, I haven't spoken with the President about those remarks, so I'm going to have to interpret them myself. It seems to me that the United States is going to have to have some presence in Iraq for a long time. The Iraqi forces clearly have no logistical capability of their own, they have no airpower of their own. So, the United States clearly, even if whatever changed approach or strategy we come up with and the President implements, works, we are still going to have to have some level of American support there for the Iraqi military, and that could take quite some time. But it could be with a dramatically smaller number of U.S. forces than are there today. So, I would interpret the President's remarks in this vein, that we are willing to continue to help the Iraqis, as long as they want our help. I don't think that it implies that we will be there at the level of force we have, or doing the things that we are doing in a major combat way, for the indefinite future.

Senator LEVIN. Secretary Rumsfeld, in a memo that was recently published, outlined options that the President should consider relative to Iraq. Some of the options were above the line, as he put it, and some were below the line. The ones above the line, he basically felt, were worthy of consideration. The ones below the line, he did not think were worthy of consideration. Two of the options above the line were the following: "Begin modest withdrawals of

U.S. and coalition forces, so Iraqis know they have to pull up their socks, step up, and take responsibility for their country." Do you believe that option is worthy of consideration?

Dr. GATES. Yes, sir. As I indicated, I think that all options are on the table.

Senator LEVIN. Dr. Gates, former Secretary of State George Schultz wrote a book in which he was critical of you, when you were the Deputy Director of Central Intelligence. He said that he told you the following, that, "I don't have any confidence in the Intelligence Community. I feel you all have very strong policy views. I wouldn't trust anything you guys said about Iran, no matter what. I feel you try to manipulate me. You deal out intelligence as you deem appropriate. I feel an effort is made to manipulate me by the selection of material that you send my way."

Would you comment now on those written comments of Secretary Schultz, comments that he said he addressed to you when you were William Casey's deputy at the CIA?

Dr. GATES. Yes, sir. It's a significant question, and I think that it deserves a detailed response.

First, let me say that I believe George Schultz was one of the greatest Secretaries of State in American history. I would also tell you that he was probably one of the best, and most avid, users of American intelligence of any senior official I worked with in my entire career, and I have very high regard for him.

The reality is that I think Secretary Schultz's views of intelligence were influenced, in no small measure, by his personal relationship with Director Casey. It was an open secret in Washington that the two didn't get along. Director Casey was perceived as having his own independent foreign policy that he pursued, independent of the Secretary of State. He was perceived as not differentiating, in meetings, between his personal opinions and the views of the CIA's experts. He consistently tried to give advice to the Secretary of State on how to do his job, which I am sure was not appreciated. Finally, in the fall of 1986, Director Casey wrote the President of the United States and recommended that the Secretary of State be fired. So, I think it's fair to say that they did not have a warm, personal relationship. I think that bad blood, frankly, influenced Secretary Schultz's view of intelligence.

I would tell you that I had a dialogue with Secretary of State Schultz over a 6-year period on the quality of intelligence and the support that we gave him. Frankly, the relationship was much more positive, in realtime, than he portrays it in his book. He drew heavily on the CIA for intelligence relating to arms control verification, developments in the Soviet Union, the Pakistani nuclear program, a variety of negotiations he was involved in. As I said at the outset, he was a very avid user of intelligence information.

At the same time, in this dialogue—and we would meet almost weekly—he told me that he felt that the CIA was too pessimistic about too many issues—El Salvador, Lebanon, Angola, and various others—from one time to another. We disagreed on developments in the Soviet Union. Sometimes he was right, sometimes we were right. Sometimes we were wrong, also.

I think that there was a high correlation, frankly, between his criticism of the intelligence and when the intelligence was focused

on issues in which he was engaged in negotiations, and particularly when that intelligence analysis provided ammunition to his critics inside the administration or here on the Hill, or where he felt they complicated his negotiations.

From a personal standpoint, he was always friendly to me. As I said, we met frequently throughout that 6-year period. I would tell you that I do not recall him, at any time during that 6 years, ever questioning my personal integrity or saying that I personally was manipulating the intelligence. We would have big meetings, and we would have small meetings. In the small meetings—for example, on Angola—he was convinced that CIA was trying to manipulate the intelligence on Angola, and I kept trying to persuade him that what he was getting was the unvarnished views of the intelligence analysts in the CIA, and that Director Casey hadn't seen anything that he was receiving, in terms of the analysis on Angola. But I think he remained skeptical.

So, we had this dialogue for a long time. I think, as I suggest, his views in his memoir, frankly, were much starker and much more negative than the working relationship that we, and other intelligence analysts from the CIA, had with him at the time.

Senator LEVIN. Thank you, Dr. Gates. Your acknowledgment that we're not winning in Iraq, frankly, is a necessary, refreshing breath of reality that is so needed if we're going to look at ways of changing course in Iraq to maximize the chances of success. I thank you for that and the other candid responses that you've given here.

My time is up.

Chairman WARNER. Senator McCain.

Senator MCCAIN. Thank you, Mr. Chairman.

Dr. Gates, thank you for your willingness to serve this Nation again. We are very grateful. We know you left a very comfortable life in Texas to serve this Nation again, and we are grateful. I'd like to offer my congratulations and condolences for your appointment. [Laughter.]

I'd like to follow on just what Senator Levin said. We are not winning the war in Iraq. Is that correct?

Dr. GATES. That is my view, yes, sir.

Senator MCCAIN. Therefore, the status quo is not acceptable.

Dr. GATES. That is correct, sir.

Senator MCCAIN. I know you did a great deal of work with the ISG, and there is a general consensus of opinion now, in hindsight, that we didn't have sufficient number of troops, at the time of the invasion, to control Iraq, either Anbar Province, the looting, and most importantly the weapons and ammunition depots that were looted at the time. When anarchy prevails, it's very difficult to gain control of a country. Do you agree that, at the time of the invasion, we didn't have sufficient troops to control the country, in hindsight?

Dr. GATES. I've had to deal with hindsight in some of the decisions that I've made, Senator McCain, and sometimes it's not very comfortable. I suspect, in hindsight, some of the folks in the administration probably would not make the same decisions that they made, and I think one of those is that there clearly were insufficient troops in Iraq, after the initial invasion, to establish control over the country.

Senator MCCAIN. Yet, at this particular point in time, when the suggestion is made, as the situation deteriorates and the status quo is not acceptable, that we reduce troops, or, as General Abizaid said, that he had sufficient number of troops—in your study when did we reach the point where we went from not having enough troops to having sufficient number of troops—boots on the ground—as the situation deteriorated? That's a non sequitur that I am unable to intellectually embrace.

Dr. GATES. Senator, I was a part of the ISG during their education phase, I would say, and I resigned before they began their deliberations. I would tell you that, when we were in Iraq, that we inquired of the commanders whether they had enough troops, and whether a significant increase might be necessary. I would say that the answer we received was that they thought they had adequate troops. It seems to me that as one considers all of the different options, in terms of a change of approach in Iraq and a change of tactics, that inquiring about this, again, is clearly something—and it may be that a Secretary of Defense might get a more candid answer than an outside study group that was visiting them, but the response that we received in Baghdad was that they had enough troops.

Senator MCCAIN. Then the second and third question should have been asked, and that is, "why are the conditions and situation continuing to deteriorate and not improve if you have sufficient assets and people in order to get the job done?"—which we now agree is not satisfactory.

One of the reasons given is, it would be too great a strain on the military today, that we don't have sufficient Active-Duty and National Guard Forces. There were some of us, 3½ years ago, that said we needed to increase the size of the Army and the Marine Corps. The answer was, "well, that would take a couple of years." Years have passed, and we're still putting an enormous strain on the Active-Duty and Guard Forces. Do you believe that we need to increase the size of the Marine Corps and the Army?

Dr. GATES. Senator, if I'm confirmed, I'm very open to the possibility—and the necessity of—an increase in the end strength of the Army. However, first, because we have 150,000 troops in the field, and we have a regular Army of about a half a million, and a Guard and Reserve of about another half a million, I would like to, if I am confirmed, first of all, ensure, for myself, that the other 350,000 troops in the regular Army are doing what we want them to be doing, and that they are all needed in the roles that they are in. As a way of making sure that, before we increase the end strength, that we're using the strength that we have in the way we ought to be. But if the answer to that question is, "That's about the way it ought to be, that those troops are deployed in the way we want them deployed," then I'm very open to the possibility of an increase in the end strength.

Senator MCCAIN. We are living in a very dangerous world, whether you look at Iran, North Korea, the crisis in Lebanon as we speak—the list goes on and on—it would be very difficult for us to envision us being capable of handling another contingency, given the fact that our military leaders are saying it would be too great

a strain on the military and the Guard even to put additional troops into Iraq. I hope you'll look at it very seriously.

Mr. Secretary, finally, General Zinni, who is highly respected by this committee, who was former head of Central Command (CENTCOM), was speaking of Prime Minister Maliki and said: "You can't put pressure on a wounded guy. There's a premise that the Iraqis are not doing enough now, that there's a capability that they've not employed or used. I'm not so sure they are capable of stopping sectarian violence." Dr. Gates, I don't think they're capable, either. I think political solutions are bred by stability. If you have military instability, it's very hard to come up with a political solution. Just about everybody I know who looks at these plans for partition, for withdrawal to bases outside of Iraq or bases inside of Iraq, believes that a chaotic situation would ensue. I agree with most experts that this is our last chance to save this situation. Unless we stabilize conditions on the ground, I think it's going to be very difficult to get the kind of political solution that all of us seek.

Recently, I saw that there's a proposal to move the marines out of Anbar Province into Baghdad. What do we say to the families of those young people who died in the first and second battle of Fallujah, when we abandon it to terrorist organizations again?

I wish you every success. I know that all of us on this committee and in this country have nothing but the interests of our Nation's security, and the men and women who serve it, as our highest priority. I hope you will help us gain consensus so that, as a Nation, we can move forward and make sure that the American people are not subjected to more sacrifice as a result of the failures that we've experienced in the past in this conflict. Again, I thank you for your service, Dr. Gates.

Chairman WARNER. Senator Kennedy.

Senator KENNEDY. Thank you very much.

Dr. Gates, I join those in thanking you for your public service, your willingness to come back in and deal with this challenge that we're facing now in national security defense, and primarily the issue of Iraq. I'm grateful for the time that we had talking in our office. You're going to, obviously, get a good deal of different guidance and advice here this morning.

But just to really pick up on a sentiment that Senator McCain caught, we have lost 60 soldiers in my State of Massachusetts. I've talked with just about every one of their families. They're really interested in hearing from you about whether you're going to be an independent figure that's really going to fight for the best, in terms of our security, as we find our security today. We know, since you have been nominated, 59 Americans have been killed, just in the 27 days since you've been nominated. In the 27 days just prior to that, 92 Americans were killed, and in the 27 days prior to that, 81 Americans were killed. We don't know, in the 27 days prior to the first of the year—when we're going to have these, evidently, decisions and judgments and a new policy—how many more Americans are killed.

The people, the families in my State, want to know whether you're going to be that figure that Senator Warner talked about, that fearless champion of the service men and women, that is going to be consistent with our national security. These families know

they were undermanned when they went into Iraq, and they were underarmored when they went into Iraq, and they know that the military has served in Iraq longer than they have in World War II. Longer than World War II. They've done everything that they've been asked to do, and they've done it brilliantly, with extraordinary courage and valor. What the families want is to make sure that we are going to have a policy that is worthy of their valor and their bravery. They're looking at you. That's what they want for you to make that recommendation, and that you'll be fearless in your battle, you'll be a standup person and demonstrate the kind of courage which is going to be so necessary to do.

Could you just let them know that you're that person, ready to do it for our national security and for them?

Dr. GATES. Senator Kennedy, 12 graduates of Texas A&M have been killed in Iraq. I would run in the morning with some of those kids. I'd have lunch with them. They'd share with me their aspirations and their hopes. I'd hand them their degree, I'd attend their commissioning, and then I would get word of their death. So, this all comes down to being very personal for all of us. The statistics, 2,889 killed in Iraq as of yesterday morning, that's a big number, but every single one of them represents not only an individual tragedy for the soldier who's been killed, but for their entire family and their friends. I see this.

Somebody asked me about the pressures of this hearing, and I said, "The pressures of the hearing are nothing compared to the pressures I got from a woman who came over to me at the hotel while I was having dinner the other night, and I was seated by myself, and she asked if I was Mr. Gates. I said yes. She congratulated me on my nomination, and she said, 'I have two sons in Iraq. For God's sake, bring them home safe. We'll be praying for you.'" Now, that's real pressure.

Senator, I am not giving up the presidency of Texas A&M, the job that I've probably enjoyed more than any that I've ever had, making considerable personal financial sacrifice, and, frankly, going through this process, to come back to Washington to be a bump on a log, and not to say exactly what I think, and to speak candidly and, frankly, boldly to people at both ends of Pennsylvania Avenue about what I believe and what I think needs to be done. I intend to listen closely to people. I intend to draw my own conclusions, and I'll make my recommendations. But I can assure you that I don't owe anybody anything, and I've come back here to do the best I can for the men and women in uniform, and for the country, in terms of these difficult problems that we face.

Senator KENNEDY. Thank you for your answer. You'll hear, perhaps, from others, but I want to give you just one more chance to respond to these statements about, "What good will your new eyes do when we have had the Commander in Chief, who, as had been mentioned, has said this in the last month, 'We have a strategy for victory that will work. I truly believe the only way we won't win is if we leave before the job is done.'" As the Chairman and Senator Levin pointed out, the quotes, "There's one thing I'm not going to do. I'm not going to pull the troops off the battlefield before the mission is complete. We're going to stay in Iraq to get the job done, so long as the government want us there. This business about a

graceful exit just simply has no realism to it all." Now, in short, should we believe you or the President on the critical issue, whether the administration is really willing to make a change in its policy?

Dr. GATES. Senator, I'm willing to commit that, if I am confirmed, I'll be independent, that I will consider all of the options; but, as I indicated in my opening statement, there is still only one President of the United States, and he will make the final decision.

Senator KENNEDY. Thank you, Mr. Chairman. Thank you very much.

Chairman WARNER. Senator Inhofe.

Senator INHOFE. Thank you, Mr. Chairman.

There's been a lot of talk about the failures and the bad things that are going on, but I have had occasion, Dr. Gates, to be in the area of responsibility (AOR) over there 12 different times. Every time I go over, I see some of the successes and I see that while there were three terrorist training camps in Iraq, they're not there anymore. The mass graves—and I've looked down in those—that's not taking place anymore. The Iraq security forces and their embedded training has worked. I appreciate Senator Dole, in his introduction of you, talking about the fact that it's an overthrow of Saddam Hussein. I mean, here's somebody who had to be overthrown. He said things are better now than they were 4 years ago.

You were asked the question, "Are we winning in Iraq?" General Pace was asked that question yesterday. He said, "No, we're not winning, but we're not losing." Do you agree with General Pace?

Dr. GATES. Yes, sir, at this point.

Senator INHOFE. Dr. Gates, this morning in the Washington Post there was an article about the reset problem that we have. I've had occasion to go to all of these Army logistics centers, and I've seen the rows of the equipment that is not getting out, the money's not there. Last year, we had to put an additional, I think, $23.8 billion into that program. So, that is a serious problem.

Now, when we're faced with these things, and faced with choices that we have to make, one of the targets is often the Future Combat System of the United States Army. I don't know how familiar you are with that program, but, because that's something that is not bleeding today, that's where a lot of people want to take money out of. Yet, we are so far behind in different elements of our modernization program in the Army—for example, there's the non-line of sight cannon program, and the best thing we have is a Paladin, World War II technology. You have to swab the breech after every shot. I would like to know what your commitment is to the Future Combat System, and how you view that.

Dr. GATES. I think it's very important, Senator. I would say that I've not had the opportunity to get briefed in any detail on it, or to evaluate any of the tradeoffs that are being made in the budget. I would anticipate that, if confirmed, I would have to take a look at those things and see what the budgetary situation is, and also seek the views of members of the committee and others on the Hill.

Senator INHOFE. You would do that, seek our views on this, those of us who have been faced with what I consider to be a crisis?

Dr. GATES. Yes, sir.

Senator INHOFE. In 2000, we formed the U.S./China Security Economic Review Commission, usually referred to as the U.S./China Commission. They have come out with five reports. This is the fifth report that just came out. I've been disturbed that no one seems to care about these. They don't seem to read these and understand what's in them. I have a couple of questions about that I want to ask you. But I am concerned about China and I'd like to hear what your thoughts are.

In the last month, the Chinese hackers, as I'm sure you have read, have shut down the e-mail and the official computer work at the Naval War College. This is referred to by this Commission as the "Titan Rain." In September, the Department of Commerce experienced a massive shutdown of its computer system. This goes on and on. In July, the State Department acknowledged that Chinese attacks had broken into systems overseas and in Washington. Recently, China has used lasers to blind our satellites. On October 26, a *Song*-class Chinese submarine surfaced near the U.S.S. *Kitty Hawk*. They had been following them undetected for a long period of time.

I've had occasion to spend quite a bit of time in Africa, and I notice that China's presence in Africa, particularly in those states around the Sea of Guinea and where they have great oil reserves, is there, and they are way ahead of us. It happens that China and the United States are the two countries that depend on foreign sources of oil more than any of the other countries. As this continues, I'd like to ask you what your feeling is about this as a top priority, about how you view China, about whether or not you have read these reports; and, if not, if you would—or do you plan to do that? If you agree with some of that which you have heard coming out in these reports.

Dr. GATES. Yes, sir.

I have not read the reports.

Senator INHOFE. I would also say that as we were drawing down in the 1990s, they increased their military procurement by over 1,000 percent, so this is a great concern. Go ahead.

Dr. GATES. Yes, sir.

I have not read the reports. I would be more than willing to do so. I've been aware, just from reading in the newspapers—it's been a number of years since I received any classified intelligence on what the Chinese were up to—but it's been my impression that they've had a very aggressive intelligence-gathering effort against the United States. Some of these other things that you've mentioned, this is the first time I've heard about that. Clearly, if confirmed, this would be something that I would want to get well-informed on quickly.

Senator INHOFE. That's all I'd ask of you at this time, because, after each report's come out, I've actually given speeches on the Senate floor, only to find that people are not aware of how serious this is. So, if you'd make that commitment to become familiar with it, and particularly on the reports that this fine commission has done, I would appreciate that very much.

I've often said that in spite of the successes and failures that have taken place in that most difficult area over there, that the people that we have in charge—General Abizaid, General Casey,

General Chiarelli, General Pace—I can't think of a team, militarily speaking, that is any better, that we could have drawn upon than this team. Do you agree with that?

Dr. GATES. They seem to me to be very fine officers, sir.

Senator INHOFE. I appreciate that.

Finally—my time is up—but Senator McCain brought up the question on troop levels, and you mentioned the Army. I noticed that last week General Conway talked about the Marine Corps and the problems that they have right now that is in terms of troop strength—not troop availability for the combat situation, but troop strength. His statement is, "We could not operate at the current tempo of operations without troop increases." You addressed the Army shortages. What about the Marine Corps?

Dr. GATES. I would certainly be willing to look at that, Senator. Most of the materials that I've been given in preparation for these hearings have focused on the Army, but I'm certainly willing to look at the same issues with respect to the Marine Corps.

Senator INHOFE. Thank you, Dr. Gates. I do appreciate our early conversation on Wednesday.

Thank you.

Chairman WARNER. Thank you, Senator.

I wish to advise the committee that Senator Levin and I have just received a communication from the ISG. They welcome the opportunity to appear before this committee at 9:30, Thursday morning, to discuss in detail their report.

At this time, I recognize our distinguished colleague from West Virginia, Senator Byrd.

Senator BYRD. Mr. Chairman, I thank you.

Dr. Gates, our relationship goes back over a number of years. We hear all these rumors about the potential for an attack on Iran due to its nuclear weapons program, or on Syria due to its support of terrorism—do you support an attack on Iran?

Dr. GATES. Senator Byrd, I think that military action against Iran would be an absolute last resort, that any problems that we have with Iran, our first options should be diplomacy and working with our allies to try and deal with the problems that Iran is posing to us. I think that we have seen, in Iraq, that, once war is unleashed, it becomes unpredictable. I think that the consequences of a military conflict with Iran could be quite dramatic. Therefore, I would counsel against military action, except as a last resort and if we felt that our vital interests were threatened.

Senator BYRD. Do you support an attack on Syria?

Dr. GATES. No, sir, I do not.

Senator BYRD. Do you believe the President has the authority, under either the 9/11 War Resolution or the Iraq War Resolution, to attack Iran or to attack Syria?

Dr. GATES. To the best of my knowledge of both of those authorizations, I don't believe so.

Senator BYRD. Would you briefly describe your view of the likely consequences of a U.S. attack on Iran?

Dr. GATES. It's always awkward to talk about hypotheticals in this case, but I think that, while Iran cannot attack us directly militarily, I think that their capacity to, potentially, close off the Persian Gulf to all exports of oil, their potential to unleash a sig-

nificant wave of terror, both in the Middle East and in Europe, and even here in this country, is very real. They are certainly not being helpful in Iraq, and I think, doing damage to our interests there, but I think they could do a lot more to hurt our effort in Iraq. I think that they could provide certain kinds of weapons of mass destruction (WMD), particularly chemical and biological weapons, to terrorist groups. Their ability to get Hezbollah to further destabilize Lebanon, I think, is very real. So, I think that while their ability to retaliate against us in a conventional military way is quite limited, they have the capacity to do all of the things, and perhaps more, that I just described.

Senator BYRD. What about an attack on Syria? Could you briefly describe your view of the likely consequences of a U.S. attack on Syria?

Dr. GATES. I think the Syrian capacity to do harm to us is far more limited than that of Iran, but I believe that a military attack by the United States on Syria would have dramatic consequences for us throughout the Middle East, in terms of our relationships with a wide range of countries in that area. I think that it would give rise to significantly greater anti-Americanism than we have seen to date. I think it would immensely complicate our relationships with virtually every country in the region.

Senator BYRD. Would you say that an attack on either Iran or Syria would worsen the violence in Iraq and lead to greater American casualties?

Dr. GATES. Yes, sir, I think that's very likely.

Senator BYRD. Your answer is yes on both questions.

Dr. GATES. Yes, sir, very likely.

Senator BYRD. With respect to Osama bin Laden, within 8 months of taking Baghdad our troops captured Saddam Hussein. However, 5 years after September 11 and the invasion of Afghanistan, Osama bin Laden is still on the loose. Who was responsible, Dr. Gates, in your judgment, for the September 11 attacks, Saddam Hussein or Osama bin Laden?

Dr. GATES. Osama bin Laden, Senator.

Senator BYRD. Over the past 5 years, who has represented the greater threat to the United States, Saddam Hussein or Osama bin Laden?

Dr. GATES. Osama bin Laden.

Senator BYRD. How do you intend to catch Osama bin Laden?

Dr. GATES. Senator, I have no doubt that our forces have been trying their best to find Osama bin Laden. I'm not familiar with the effort that has been devoted to this over the past 2 or 3 years. I will say, I think Osama bin Laden has become more of a symbol for jihadist terrorists than an active planner and organizer of terrorist attacks. In fact, one of the consequences of our success in Afghanistan has been the denial of that country as a place to plan these sophisticated terrorist operations, such as the attacks that took place on 9/11.

So, I think that, while it's important to continue to search for Osama bin Laden, I think that his ability to directly organize and plan the kind of attacks against us that hurt us so badly in September 2001, is very limited now. I think that it's important to keep him on the run. I have always said that I thought it was

much more difficult to find a single individual like him, and particularly in as rugged a place as Afghanistan, as a lot of things. We had a great deal of difficulty finding Noriega in Panama in 1990, and we knew that country as well as, practically, we knew our own. So, finding these single individuals who are on the run—we had the same problem trying to find the hostages in Beirut in the early 1980s. The challenge is figuring out where they're going to be, not where they've been, and getting the information in a way that is timely enough to act on it. Frankly, I just think we haven't had that kind of intelligence on bin Laden.

The way we'll catch bin Laden eventually, in my view, is that just as in the case of Saddam Hussein, one of his own people will turn him in.

Senator BYRD. Dr. Gates, my time is up, but what is wrong with our current tactics, which have allowed Osama bin Laden to escape justice for 5 years and continuing?

Dr. GATES. Senator, I would make it a priority to find out what our tactics have been, and the efforts that we have had underway, if I am confirmed for this position.

Senator BYRD. Thank you, sir, for your responses.

Thank you, Mr. Chairman.

Chairman WARNER. Thank you, Senator Byrd.

Senator Roberts.

Senator ROBERTS. Thank you, Mr. Chairman. Thank you, sir, for your very fine leadership on the committee. I will not go into a detailed laudatory speech on your behalf, but I think everybody on the committee certainly has been inspired by your service.

Bob Dole and I are very proud of Dr. Gates, since he is a native Kansan, so I won't repeat that, but I want to say that everybody in Kansas is very enthusiastic about your nomination, sir, and very happy. You could let Texas A&M go a little easy on Kansas and Kansas State, but that's a whole other matter. [Laughter.]

I want to thank you for your hour of good discussion and your courtesy call when we met in the Intelligence Committee. As chairman of the Senate Select Committee on Intelligence, I'd like to inform my colleagues who are worried about telling truth to power, that we went over a considerable amount of ground, more especially the 2002 National Intelligence Estimate, which was wrong and symbolic of an egregious world intelligence failure. I told Dr. Gates that, on the Intelligence Committee, we don't take anything at face value now. We say, "What do you know? What don't you know? What do you think? What's the difference?" He agreed with that. So, I think with you and General Hayden and John Negroponte, more especially with your understanding of intelligence, that you're going to make an excellent team. While I share the concern of those who are always concerned about whether senior officials will tell truth to power, I have no doubt that you will do that, sir.

I want to talk about two realities, if I can. Whether it be the Levin plan or the Warner plan or the ISG plan or those who wish to leave yesterday, or anybody's plan, all combined with the criticism and the election and the politics, and serious and growing problems in Iraq, it seems to me the Iraqis—I share a little bit of a reverse view that my distinguished colleague Senator Levin

has—I think the Iraqis know we're leaving. I think we've seen that in the al Anbar Province, where you don't find the Imams and the people and the leaders that you used to find; they've left, and you have thugs, thieves, and al Qaeda. So if, in fact, the Iraqis know we're leaving, the key is, how and when? Hopefully, with stability. On one hand, the lessons of the British experience for 10 years, way back in the 1930s, now replicated in Iraq, with all the tribal warfare, some even believe that stability may not be possible. I know Senator McCain spoke to that.

So, we've heard much about all the current problems in Iraq and the new policy options and withdrawal. I think everybody in this room would like to see our people home as soon as possible. We talked about this. Then you mentioned something in your opening speech, and you mentioned something to me, and it said something about geopolitical national security threats if the withdrawal—i.e., just simply leave, extricate ourselves—if it was very precipitous, that we face very grave geopolitical national threats. Now, with all due respect, I want you to get down to the level of the people of Wichita, College Station, and everybody's hometown here, and go over that a little bit, in terms of their daily lives and pocketbooks. We can talk about geopolitical national threats—sounds pretty good—but what does that mean to them?

To me, it means, "If you leave Iraq in a precipitous fashion"—and we may want to do that, down the road, I don't know—"what happens in Afghanistan? What happens in Iran?" We've had a lot of questions about Iran. What happens to that Shiite crescent, with Iran and Syria and Lebanon? Then, what happens to Israel? What happens in North Korea, with Kim Jong Il, and he sets off a new round of tests in regards to his missiles? What happens in China, and our relationship with Taiwan? What happens in Russia, where we have a rather poisonous situation now, with Mr. Putin? What happens with Hugo Chavez, who's involved in five elections south of our border—he's won three—I say "won three," he has had influence in three—and what Senator McCain said some time ago, the attacks can follow us home. We had five attacks prior to our entry in Iraq: Beirut and Khobar Towers, the U.S.S. *Cole,* Embassy bombings, 1993 attack on the World Trade Center, and then, of course, September 11. Will these attacks follow us home, with the sleeper cells that are now in this country, not so asleep, and the second generation terrorists?

I think we have to tell the American people, yes, we want everybody home as soon as possible, but, if we do it the wrong way, we're going to face a lot of credibility problems and a lot of dangers that they have to understand affects their daily lives and pocketbooks.

Would you comment, sir?

Dr. GATES. Senator, I suppose I should just say, "I agree." [Laughter.]

Senator ROBERTS. Well stated. [Laughter.]

Dr. GATES. My greatest worry, if we mishandle the next year or two, and if we leave Iraq in chaos, is that a variety of regional powers will become involved in Iraq and we will have a regional conflict on our hands. Iran is already involved in Iraq, and, as I suggested earlier to Senator Byrd, could become much more so. The

Syrians have not been helpful in Iraq, but could become much more harmful to our effort.

But I think that it would be very surprising if the other Sunni countries in the Middle East would allow the Sunni population in Iraq to be the victims of an ethnic cleansing. I think that the Turks would not sit by idly if they saw Iraq beginning to fall apart. So, I think that you could have Saudi Arabia, you could have Turkey, Syria, Iran—all would be involved. We're already seeing Hezbollah involved in training fighters for Iraq. I think all of that could spread fairly dramatically. As you suggest, I think the manner of our managing the next phase in Iraq has very strong lessons for other countries in the world. There is no question—in fact, Osama bin Laden's been very straightforward about the impact on him of our withdrawal from Somalia after our soldiers were killed there. So, I think that there is a risk that others, looking around the world, would see that we don't have the patience and we don't have the will.

I think those are some of the concerns that we would face if we ended up leaving Iraq in chaos.

Senator ROBERTS. I have a blue card, which everybody up here seems to ignore. At any rate, I just want to add my 2 cents worth in to my good friend and colleague, Senator Inhofe, in regards to the National Guard equipment that we need in Kansas, and we need in Kansas for our local missions there, but the equipment is coming back, and we are in a world of hurt in regards to maintaining that equipment capability, not only in Kansas, but in every State represented here, and in Congress. So, I do hope that you'll visit with us about the Guard and the equipment that we have to have to have security and protection in regards to our States, but also is being used in the national security effort.

I thank you for your testimony, sir.

Dr. GATES. Yes, sir.

Chairman WARNER. Thank you very much, Senator.

Senator Lieberman.

Senator LIEBERMAN. Thank you, Mr. Chairman.

Dr. Gates, thank you for your agreement to serve your country again.

You said something in your opening comments that struck me personally, which is that you were here for two reasons. One, you love your country, and two, your President asked you to serve it. I know you well enough over the years to know that those are not words that somebody else wrote for you, but they come from within you. They're an inspiration and a model, I think, for all of us, and I thank you for them.

I want to build on some of the questions that Senator Roberts asked you. You said this morning, quite appropriately, that the war in Iraq will be your highest priority, and that you are open to the widest range of alternative strategies for Iraq. But, as you just repeated, "But"—you said, "But" you are "very concerned that developments in Iraq of the next year or two will have a very significant influence on the Middle East, generally, and on the shape of global politics for years to come." So, is it fair for us to conclude that in accepting the President's nomination to be Secretary of Defense, that in regard to Iraq, while all of us, of course, would like to bring

our troops home as soon as possible, that your primary goal is to advise the President how to succeed in Iraq, not how to withdraw our troops, at any and all costs?

Dr. GATES. Yes, sir. I think that my goal, and the reason that I accepted the position, was really twofold. The first is to try and find a path forward in Iraq that allows us to achieve the objectives of stabilizing the country so that it can govern itself, sustain itself, and defend itself, and be an ally in our war on terror.

Senator LIEBERMAN. Right.

Dr. GATES. That really is the purpose, and the whole idea is, in my view, that the faster that you can make the Iraqi forces more effective and able to protect themselves and begin to get a handle on their security problems, and diminish the sectarian violence, then the sooner we can begin to draw down our forces, as the President has said.

But it also goes back to the point, this isn't entirely a military problem.

Senator LIEBERMAN. Right.

Dr. GATES. The Iraqis are going to have to make some difficult decisions themselves, not only in terms of how they deal with sectarian violence, but how they approach national reconciliation. How are they going to distribute the oil revenues fairly so that everyone has a stake in the society? Related to the national reconciliation, how are they going to ensure that these different ethnic and religious groups can live together peacefully? I think those are some of the political decisions that the Iraqis have to make, in addition to standing up their military. So, what I am interested in is figuring out if there is a better way in which we can achieve those objectives than has been the case in the past.

I would say, also, Senator Lieberman, that there is a second reason why I agreed to become a nominee for this position. I believe very deeply that one of the fundamental factors in our success in the Cold War was our ability to have a broad bipartisan agreement on the fundamental strategy on how to deal with the Soviet Union through nine successive Presidencies and many Congresses, both Republicans and Democrats in support. Now, we argued and fought a lot about tactics and this and that, but there was, fundamentally, agreement on how to approach the Soviet Union.

I think that it is imperative, in this long war on terrorism that we face, that could go on for a generation, that there be a bipartisan agreement—probably wouldn't include everybody; that's too difficult. But if you could get broad agreement on a path forward, not only Iraq, but then in terms of how we fight this long war, then there would be consistency on the part of whoever is elected President in 2008 and beyond, so that we can carry on this struggle in a way that they don't think we're going to "cut and run."

Senator LIEBERMAN. Right.

Dr. GATES. That they don't think we're going to walk away from this war on terrorism, and so that they don't think it's going to be easy to start attacking us here at home because we're not willing to take them on abroad. I see it as one of my priorities during the time that I have this position, if I'm confirmed, to do what I can in working with Members of Congress and both parties, to see if we can forge that kind of a bipartisan approach going forward, so

that everybody around the world who wishes us ill knows that we're in this for the long haul.

Senator LIEBERMAN. I could not agree with you more. I thank you for your answer. Our Nation, this Capital, this Government desperately needs to reach out and grasp each other's hands so that we can go forward to meet the enemies that we have in common as Americans, not divided between Democrats and Republicans. Your history tells me that you can do that.

I want to come back to what we said before. One, of course, the Iraqis have to reach some kind of political agreement, and show political leadership, to get the country to where they, and we, want it to be, but it's not just politics that will bring Iraq to where we, and they, want them to be; it also requires security. Am I right about that?

Dr. GATES. Yes, sir.

Senator LIEBERMAN. Is it fair to say that, because of your concern about the potential for a regional conflagration, and that we not leave Iraq in chaos, that it is highly unlikely that you would recommend to the President the beginning of a withdrawal of American troops without regard to conditions on the ground in Iraq?

Dr. GATES. I think any decision, Senator, with respect to troop levels—first of all, I would seek the views of the commanders themselves, but I think that any decision on troop levels has to be tied to the situation on the ground in some respect.

Senator LIEBERMAN. That an increase or surge in the number of American troops there—for instance, to better embed America/coalition forces with the Iraqi security forces, which is an idea that has been embraced by many—and a potential for a surge or temporary increase in American troops is one of the options that you would consider as part of your review now.

Dr. GATES. That certainly is an option. Related to that might be, do we have sufficient number of trainers? If our focus is on training and bringing up the Iraqi army, do we have enough trainers to do that job in Iraq? Should we be embedding more of our troops with the Iraqis? I think these are all questions that need to be examined.

Senator LIEBERMAN. I thank you, Dr. Gates.

Mr. Chairman, if I may, I want to just read something—and I have no further questions. I appreciate what Dr. Gates has said about a bipartisan foreign and defense policy. Senator Arthur Vandenberg, who Senator Boren quoted in his eloquent opening introduction of you, defined bipartisan foreign policy in this way: "It does not involve the remotest surrender of free debate in determining our position. On the contrary, frank cooperation and free debate are indispensable to ultimate unity. In a word, bipartisan foreign policy simply seeks national security ahead of partisan advantage." That's the goal that I heard you express, and I think, if you can help us reach that in the next 2 years, you will have done your country extraordinary service.

Thank you.

Dr. GATES. Thank you, sir.

Chairman WARNER. Thank you, Senator.

Senator Sessions.

Senator SESSIONS. Thank you very much, Mr. Chairman, for this opportunity, and for your leadership of this committee. You've done so well. You served at the end of World War II, in Korea, as Secretary of the Navy, and have led this committee with fairness, patriotism, and wise counsel, and it's been an honor to serve with you and travel to some of these hotspots with you.

We have many challenges in the Defense Department, Dr. Gates: transformation to make sure our equipment and weaponry meet the needs that we'll be facing down the road, whatever the cost. Sometimes I think our costs are out of control for our systems. We need technology, the right technology. We need to reset equipment, as several have noted. I'm aware that we have great costs that are adding up there. We have to nurture, sustain, and honor the men and women who serve us in harm's way in our military. They have to be affirmed in every single way that we can do so, because they are the greatest treasure we have, those people who are prepared to go into harm's way, without complaint, to serve our country. I talk to their families. I talk to the families of those who lost their lives. They have that sense of duty and mission. We, in Congress, must do nothing to undermine their selfless patriotism. We have to affirm them.

But our biggest challenge right now, I think all of us would agree, is how to handle the situation in Iraq that's fallen to your lot. You've come back now, after 26 years in the intelligence service. You've briefed Presidents, you've been in tough situations before. Do you feel that experience can help you think through, with some new perspective, on these issues? How would that experience of being in the White House and in the top councils of the Government discussing matters of war and peace help you today?

Dr. GATES. Senator, I think that perhaps one of the areas that it helps the most—and perhaps some would think it ironic—is that it has given me an appreciation of how all the different parts of the Government need to work together to get anything done. There are always huge bureaucratic interests at stake, and disputes among agencies, sort of the "Who's in charge?" question. One of the things that I learned a long time ago is that's probably one of the reasons why the political science professors don't let me in their classrooms, because I tell them to throw away the organization charts—that it's personal relationships that matter.

When the Secretary of State and the Secretary of Defense aren't speaking to one another, it actually matters, in the councils of Government. So, one of the most important lessons that I have learned is to remember that we all work for the same boss, and that boss ultimately is the people of the United States, and that it's important for the agencies and the organizations to work together. Some of the things that the ISG heard early on were problems among our agencies in collaborating and cooperating with one another, coordinating their efforts. So, I think that one of the most significant lessons that I have learned is the importance of the entire Government pulling together as a team.

I would say that the other experience, frankly, has been at this end of Pennsylvania Avenue, because most of that time that I was in government, I was also dealing with Congress. The importance of the consultations, the importance of the lack of surprises, the im-

portance of treating people's views with respect, I think, are all important lessons learned.

I also think I learned a thing or two about bureaucratic infighting, myself. I don't think I come to this as a particularly naive person, in terms of how to get things done in this city.

I think the other lesson that I learned over time was respect for the professionals. It's something, frankly, that I've carried on since then, and at the university. I think it works. That is when you treat the professionals in an organization, who deliver the mission, who perform the mission of the organization, with respect, and you listen to them, and you pay attention to them, I think that everybody is better served. They were there before you got there, they'll be there after you leave, and if you don't make them a part of the solution, they will become a part of the problem.

I learned part of those lessons the hard way. In my first senior position, I was probably too harsh on people. When I started working as the deputy to Judge Bill Webster, when he came over, after 9 years leading the Federal Bureau of Investigation, to direct the CIA, Judge Webster taught me a lot about how to get things done in a big organization, and to use the professionals—even though you're setting the goals and you have the vision, how to use the professionals to get the job done.

So, those are some of the lessons that I think I've learned and that I would bring to this position, if I'm confirmed.

Senator SESSIONS. Thank you. I do believe that you do bring the kind of perspective—and, having been away for a while at the university, allow you to come back with a fresh approach, and I'm excited about that potential.

I also would say that your exchange with Senator Lieberman about the need for a bipartisan, maybe a tripartisan foreign policy is very important. Senator Boren's comments were extraordinarily important and wise and valuable to this committee, Mr. Chairman.

I would just say to Senator Levin, our chairman-to-be, I think your request—and Senator Boren's, really, challenge—that we develop a long-term foreign policy, defense policy, for this Nation that Republicans and Democrats can sign on to and be a foundation for all that we do in the years to come, really is critical to our success as a nation, and we just have to move more in that direction, I think. That has been our tradition in the past. Perhaps, for a lot of reasons, we've gotten away from it. But I hope that you can help lead us in that direction. From your comments today, I think you might.

Dr. GATES. Yes, sir.

Senator SESSIONS. Thank you.

Chairman WARNER. Thank you, Senator. I wish to associate myself with your remarks, that of Senator Lieberman and the witness, that that goal has to be achieved, because we're going to be in a generational war on this question of terrorism, and we owe that obligation to the men and women of the Armed Forces that we ask to go out and accept the risk of loss of life and limb to make that possible.

Senator Reed.

Senator REED.Thank you very much, Mr. Chairman.

First, let me recognize Dr. Gates' congressman, Chet Edwards, my friend and colleague from Texas. His presence speaks volumes for you, Dr. Gates.

You are about to embark, I think everyone assumes, on a mission in the most perilous moment we've had in decades. You have an immediate crisis in Iraq, you have enhanced strategic threats from Iran and North Korea, with nuclear aspirations and nuclear demonstrations, in the case of North Korea, problems in Lebanon, problems in Afghanistan, the worst readiness position for our land forces we've seen in decades with our Army and Marine Corps, the continuing need to fight a global war on terror, and, as you point out, in a bipartisan fashion, that'll be sustained over many years. You have a budget that's substantial, including almost $500 billion in supplemental funding, yet the Congressional Budget Office suggests your procurement accounts are $53 to $121 billion short. Welcome. [Laughter.]

But I want to focus on Iraq. Now, much has been said today.

One of the problems, I think, with the strategy we've seen evolving over the last several years is the discussion in Washington seldom, I think, reflects the reality on the ground in Iraq. You've had the opportunity, through the ISG, to look at it. My impression—and I want to see if it's your impression also—is that what started out as public disorder allowed a growing Sunni insurgency to begin to evolve. Certainly, there are al Qaeda elements trying to provoke this situation. But, certainly since the bombing of the mosque in Samarra, we've seen sectarian conflict that many people characterize as civil war. In fact, it's an existential conflict. Sunnis feel entitled to rule. Shiite recall years, centuries perhaps, of oppression, and they're fearful to their bones that they will be suppressed—actually destroyed—if they surrender power.

In that context, do you feel that this is a civil war, or a sectarian struggle? The obvious question then is, what is the role of American military power in that struggle?

Dr. GATES. Senator Reed, I guess my own view is that the situation today is more complex than a single title or a single source of causation accurately describes. You not only have sectarian violence and al Qaeda in Iraq, you now have, as you suggested, significant disorder and, as an earlier Senator indicated, a lot of thuggery and criminal activity. We have the Iranians involved. The Syrians are clearly involved, in the sense of they're allowing their border to be used, and their country to be used as sanctuary. I read news reports that Hezbollah is involved in training. So, regardless of how we got here, we are in a situation where it sounds like most of the "bad guys" in the Middle East are active in Iraq right now. I don't know how you describe that. My worry is, left unconstrained, it begins to approach the chaos that I worry about, and spoke about earlier.

But I think all of those different factors are involved. Clearly, I would have to say, the presence of U.S. forces is used as a provocation by some of those involved in this.

Senator REED. Dr. Gates, we've talked about troop strengths, troop levels surging or redeploying. Frankly, there are several factors that govern troop strength. One is the condition on the ground, but another most important one, I think, is the mission of those

troops. The mission to date, I think, has been to train and leave. That mission has been such that we've been able to sustain 150,000 troops there. What should the mission of American forces be, to accomplish the goals that the President has laid out? How many troops do we need to accomplish that mission?

Dr. GATES. Senator Reed, it seems to me that the goal of our troops, at this point, or the mission of our troops, is really twofold. One is to try and improve the security environment, and the other is to prepare the Iraqi army, in particular, to take on that burden itself, and increasingly perform that burden as U.S. troop presence draws down. I think it's a twofold mission, in that respect.

Senator REED. Troop levels were a function of how you weight that mission. They're almost two distinct missions.

Dr. GATES. Yes, sir.

Senator REED. A training mission and a "try to stabilize the country" mission. I think where we get hung up in it, frankly, is "try to stabilize the country" mission. Do you have any views as to whether we should be more robustly engaged in stabilization efforts there, or if we should shift to more emphasis on training?

Dr. GATES. The honest answer to your question, Senator, is that I don't know. It's one of the things that, as I talk to the commanders on the ground and the chiefs and others, I want to find out their views. In other words, would they recommend putting significantly more trainers into Iraq in order to accelerate the process with the Iraqi army? As I say, I just don't know the answer to the question. That's one of those places where I very much am interested in the views of those on the ground.

Senator REED. Just a final point, Dr. Gates. There's a distinct possibility that, whether we change our force structure, we redeploy, we will remain there as a presence for the foreseeable future. Training capacity, logistical capacity. But we could be in a situation where this chaos does disintegrate to something like ethnic cleansing—rampant violence—and we would find ourselves in the position, with American forces on the ground, in a very unstable situation, with very adverse consequences to the people of Iraq. Is that a possibility that you'd at least consider?

Dr. GATES. It certainly is a possibility, yes, sir.

Senator REED. You will try to think a way through that dilemma?

Dr. GATES. Yes, sir.

Senator REED. Thank you.

Chairman WARNER. Thank you very much, Senator Reed.

Senator Collins.

Senator COLLINS. Thank you.

Dr. Gates, I talked with an individual on Sunday night who knows you very well, and he described you to me as a person who always puts duty, honor, and country first. He said that is why you had answered the President's call. I think that's also true of our distinguished chairman, who also always puts duty, honor, and country first, and I want to thank you, Mr. Chairman, as well, for your distinguished leadership of this committee.

As I look at the issues facing us with Iraq, I think it comes down to a fundamental issue. Sectarian violence now jeopardizes the very existence of the nation of Iraq. It has cost us many lives, including

the lives of thousands of innocent Iraqis. The question is, would withdrawing American troops, either a phased withdrawal, starting in 4 to 6 months as the distinguished minority member of this committee has proposed, or the kind of modest withdrawals and reducing of the American footprint in Iraq, as Secretary Rumsfeld is apparently now proposing. The question is, what would be the impact on sectarian violence? Do you believe that the withdrawal of American troops would decrease the sectarian violence or would it leave Iraq in chaos and cause even more bloodshed?

Dr. GATES. Senator Collins, I would answer the question in two ways. First, I think it depends on the conditions on the ground under which the troops were withdrawn. But, second, a number of members of this committee have been to Iraq many more times than I have, and have talked to the commanders on the ground many more times than I have. My evaluation of the impact of troop levels and so on, on the situation on Iraq, I think, frankly, is too uniformed to be helpful. That's one of the reasons why I've indicated that one of the first things that I would do if I were confirmed would be to go to Iraq and sit down and talk to the ground commanders about what their views are about these different alternatives that we've been talking about. I've been talking about that, with everything at the table. But the first thing that I want to find out is, what do the commanders think about this? What do they think about these different options? What do the Chiefs think? I'm not smart enough, and I'm not well enough informed at this point, I think, to make a useful judgment.

Senator COLLINS. I want to switch to a different issue that we discussed briefly in my office. As chairman of the Homeland Security and Governmental Affairs Committee, I've worked very closely with the Special Inspector General for Iraq Reconstruction. He has done a superb job in uncovering and exposing numerous cases of outright fraud in contracting in Iraq, and putting a spotlight on wasteful practices. Regrettably, a provision was included in the defense authorization bill that would prematurely terminate the Office of the Special Inspector General next year. I have joined with a number of my colleagues on the committee, including the chairman, the ranking member, Senator Lieberman, Senator Feingold, and several other Senators, in pushing legislation to extend the term of the Special Inspector General. His work is vital, and I believe it must be continued as long as we're spending billions of taxpayer dollars in Iraq. Have you reached a judgment on whether the term of the Special Inspector General should be extended beyond next year?

Dr. GATES. Senator, is this Mr. Bowen?

Senator COLLINS. Yes, it is.

Dr. GATES. I won't speak for the others on the ISG, but I think that I certainly was very impressed when Mr. Bowen came and spoke to us and talked to us about a number of things that he'd been involved in. It certainly seemed to me that he was actually making a really constructive contribution to the war effort in Iraq, in some of the problems he'd identified and pointed out a pathway to correct. If I were confirmed, I would be supportive of continuing that effort.

Senator COLLINS. Thank you.

Thank you, Mr. Chairman.

Chairman WARNER. Thank you very much, Senator Collins. I thank you for your leadership on the question of that particular individual. I, too, have worked with him, and am very impressed with his forthright assessment of the area of experience to which he had responsibility in Iraq.

Senator Akaka.

Senator AKAKA. Thank you very much, Mr. Chairman.

Mr. Chairman, I want to associate myself with some of the comments that were made about your leadership as chairman of this committee. I want to tell you that, personally, you have been an outstanding chairman of this committee, and I wish you well in the future.

Chairman WARNER. Thank you, Senator, very much.

Senator AKAKA. I also want to join my colleagues here in welcoming the distinguished Dr. Gates to this hearing. It was great to hear a person who loves this country, as you do, to say the things as you have said about the dilemma that we now face in Iraq and the ways in which you intend to approach all of this. I like your feeling of the importance of stability as one of the goals that we need to achieve in Iraq as soon as we can. I like your thoughts of being an ally with Iraq also, and to work with them, and also to help them, as we intend to do, protect themselves. All of these are certainly bases of bringing about a great country in Iraq. I know that you are looking at this with fresh eyes and a fresh look, which is very appealing to me, I should tell you, and I am so glad that you talk about approach towards national reconciliation for Iraq as being very important. All of these, we need to consider as we look at how we can make positive differences in Iraq.

What's coming to me presently is that we cannot continue to depend on defense, or the DOD, as the department that can resolve many of these problems, that we need to look at the State Department as well, and to include the State Department in all of these deliberations. I like your position about working together and through our partners across the globe in order to counter the threat of violent extremism. These are huge goals. But I'm glad you're talking about that, and, for me, I'm here to support you on these.

If confirmed, Dr. Gates, what steps will you take to effectively build the support of the international community for our ongoing efforts to stabilize Iraq?

Dr. GATES. Senator Akaka, clearly the lead, in terms of dealing with other countries, belongs to the Secretary of State. But I think that our defense relationships, our military relationships, and our exchange programs with many countries, do provide the Secretary of Defense and our military leaders with the opportunity to win friends for the United States around the world. There are countries that I, frankly, believe are underappreciated, even among our own allies. I think that the United States is too often alone, almost, in our embrace of Turkey and working with the Turks. I think that they have been a very important member of the North Atlantic Treaty Organization (NATO) for a long time, and an underappreciated one. The Turks offer us a tremendous amount, in terms of both Central Asia, as well as the Middle East, as well as being a

NATO ally. So, there are countries like that, where I think our defense relationships and the personal relationships are very important.

I have been, frankly, surprised by the number of letters I've received from foreign government officials welcoming my nomination to this position. I was, I suppose, most surprised that the first communications I got were from both the Israeli government and from several Arab governments. So, my hope is that under the leadership and guidance of my friend, the Secretary of State, that if I'm confirmed for this job, I can make some kind of a contribution in that respect. I think our senior military leadership can do the same thing.

Senator AKAKA. Thank you for that. As I'm indicating, that we cannot continue to rely only on defense, but on the State Department, as well as other departments, such as Commerce and Agriculture and others, that can certainly help to bring these about.

I'd like to ask a question that has to do with DOD. DOD has been granted authority to establish a new personnel system, which is the National Security Personnel System (NSPS). That must preserve—and we know that NSPS needs to also preserve collective bargaining. However, the U.S. District Court for the District of Columbia has ruled that the regulations implementing NSPS fail to ensure collective bargaining. My question to you is, what is your opinion of the NSPS regulations affecting collective bargaining?

Dr. GATES. Senator, I'm aware of this legislation, but, quite honestly, have not had the opportunity to look at the regulations or become familiar with the details of the program. I'd be happy to do that, if I am confirmed.

Senator AKAKA. Thank you.

Thank you very much. My time has expired.

Chairman WARNER. Thank you, Senator Akaka.

Senator Graham.

Senator GRAHAM. Thank you, Mr. Chairman.

I would like to add my voice to many others who have praised you for your leadership. I have really enjoyed being on this committee, and you have made it a real pleasure to serve here.

Dr. Gates, thank you for your willingness to serve. It looks like we're going to be working together for at least a couple more years. Things are going pretty well for you right now.

Do you believe the Iranians are trying to acquire nuclear weapons capability?

Dr. GATES. Yes, sir, I do.

Senator GRAHAM. Do you believe the President of Iran is lying when he says he's not?

Dr. GATES. Yes, sir.

Senator GRAHAM. Do you believe the Iranians would consider using that nuclear weapons capability against the nation of Israel?

Dr. GATES. I don't know that they would do that, Senator. I think that the risks for them, obviously, are enormously high. I think that they see value——

Senator GRAHAM. If I may——

Dr. GATES. Yes, sir.

Senator GRAHAM. The President of Iran has publicly disavowed the existence of the Holocaust. He has publicly stated that he would like to wipe Israel off the map. Do you think he's kidding?

Dr. GATES. No, I don't think he's kidding. But I think that there are, in fact, higher powers in Iran than he, than the president. I think that, while they are certainly pressing, in my opinion, for nuclear capability, I think that they would see it, in the first instance, as a deterrent. They are surrounded by powers with nuclear weapons—Pakistan, to their east; the Russians, to the north; the Israelis, to the west; and us, in the Persian Gulf.

Senator GRAHAM. Can you assure the Israelis that they will not attack Israel with a nuclear weapon if they acquire one?

Dr. GATES. No, sir, I don't think that anybody can provide that assurance.

Senator GRAHAM. Is Iraq the central battlefront in the war on terror?

Dr. GATES. I think that it is one of the central fronts in the war on terror.

Senator GRAHAM. What would be the others?

Dr. GATES. I think that what we have seen since the destruction of the Taliban regime in Afghanistan is a metastasized terror threat from the jihadists, where indigenous radicals in countries like Britain, like Spain, and like the United States, are, in fact, planning terrorist operations and activities. So, I think that, while Iraq certainly is an important front in the war on terror, and particularly now that all these other bad actors are there that I described earlier, I think we face a more dispersed threat that's really a very amorphous kind of second front.

Senator GRAHAM. Would a loss in Iraq, in terms of a failed state, affect the war on terror?

Dr. GATES. I think it would create the conditions where you could have a replication of what happened in Afghanistan, and, yes, it could be.

Senator GRAHAM. Why is al Qaeda in Iraq? What do they fear? Why are they fighting in Iraq? What is their goal?

Dr. GATES. I'm no expert on it, Senator, but I believe that they are very eager to see us leave the region—not just Iraq, but leave the region altogether.

Senator GRAHAM. Are they threatened by democracy?

Dr. GATES. Absolutely.

Senator GRAHAM. Is it the terrorists' worst nightmare for a democratic state to be formed in Iraq, where a woman can have her say about her children and people of religious differences can live together under the rule of law?

Dr. GATES. I certainly hope it's one of their worst nightmares.

Senator GRAHAM. According to them, it is.

Now, do you believe the terrorists' goal—al Qaeda and other terrorist organizations—to expand on what you said—includes not only driving us out of Iraq, but the region?

Dr. GATES. Yes, sir.

Senator GRAHAM. Do you believe it includes the toppling of all moderate regimes in the region?

Dr. GATES. Yes, sir.

Senator GRAHAM. All regimes that are unfaithful to their view of religion?

Dr. GATES. Yes, sir.

Senator GRAHAM. Do you believe it is the ultimate destruction of the state of Israel?

Dr. GATES. Yes, sir.

Senator GRAHAM. Do you believe in the Powell Doctrine?

Dr. GATES. I am very familiar with it, and I would say——

Senator GRAHAM. Do you believe in it, or not?

Dr. GATES. Sir, there are eight elements to the Powell Doctrine.

Senator GRAHAM. Let me sum them up to one. You go to war with overwhelming force.

Dr. GATES. Yes, sir.

Senator GRAHAM. Do you believe we have the overwhelming force we need to do all the missions required of us to bring about a democracy in Iraq, at this point in time?

Dr. GATES. I need to talk to the commanders to find that out, Senator.

Senator GRAHAM. So, jobs assigned to the military leadership, commanders, would include, do you agree, eventually trying to disarm the militia, because you can't have a democracy with armed religious and political parties?

Dr. GATES. Yes, sir.

Senator GRAHAM. Do you also believe it includes training the Iraqi army?

Dr. GATES. Yes, sir.

Senator GRAHAM. Do you believe it includes rebuilding the police force? Because I think it's a miserable failure and we need to start over, virtually.

Dr. GATES. It's not entirely clear to me, Senator, that that should be the responsibility of the DOD, but we have, as best I can tell, the Department has that responsibility now.

Senator GRAHAM. Provide security for economic development. Forty percent of all money spent on economic development projects now are security-related. That would be one mission of a military commander in Iraq, to give security to the economic development, to get this country up and running.

Dr. GATES. Yes, sir.

Senator GRAHAM. Is there any doubt in your mind that the current level of troops are overwhelming when it comes to fulfilling all those missions, including defeating the insurgents? Could you honestly tell this committee and this country that the number of troops we have to do all the jobs that I've described, including defeating the insurgents, is overwhelming?

Dr. GATES. No, sir, I do not believe it is overwhelming.

Senator GRAHAM. If we redeploy to a friendly country under these circumstances, do you think it's likely that the terrorist organizations that we've just talked about would come after us in that country, trying to prove to the American people, "There is no safe place for you in this region"?

Dr. GATES. Probably so.

Senator GRAHAM. Do you believe, if we set timetables, or a policy, to withdraw at a date-certain, it would be seen by the extremists as a sign of weakness, the moderates would be disheartened, and

it would create a tremendous impediment to the moderate forces coming forward in Iraq?

Dr. GATES. I think a specific timetable would essentially tell them how long they have to wait until we're gone.

Senator GRAHAM. Thank you.

Chairman WARNER. Thank you very much, Senator.

Senator Ben Nelson.

Senator BEN NELSON. Thank you, Mr. Chairman.

Dr. Gates, I thank you for the opportunity yesterday to visit with you on many of these subjects that you've been testifying on today.

I have one question. If the Baker-Hamilton Report that comes out—and we have a chance to review it tomorrow and Thursday—says that we ought to have a drawdown of our troops and stop engaging, let's say, in the military activity of combat, but being in a support role, what does that do, if anything, to our leverage in seeing a political resolution in Iraq?

Dr. GATES. Senator Nelson, I think at least in my view, I certainly have the highest regard for my colleagues on the ISG. It was a great pleasure to serve with them. In some respects, just based on the internal dialogue we had, it is kind of a model for the bipartisanship that we've been talking about here this morning.

That said, I don't think that the Baker-Hamilton Report is the last word. I think there are a number of different sources of information and insight that need to be brought together and looked at, in terms of any presidential decision on new tactics or a new approach in Iraq.

It's my impression that, frankly, there are no new ideas on Iraq. The list of tactics, the list of strategies, the list of approaches is pretty much out there. The question is, is there a way to put pieces of those different proposals together in a way that provides a path forward? One of those proposals to be looked at is whatever the ISG comes up with, but they will be putting those pieces together in a certain way. The Chiefs will probably put those pieces together in a little different way in their review. The ground commanders might have a different view. So, I guess what I'm trying to say is that I think that the report of the ISG is very important, and we all need to pay a great deal of attention to it, and these are very serious people that are putting it together. By the same token, I don't think it's the last word.

Senator BEN NELSON. It does resemble a timetable for withdrawal, doesn't it, at least to some limited degree?

Dr. GATES. In all honesty, Senator, I resigned before they began their deliberations, and so I actually don't know what the report's going to say, other than the one report that I read in the newspapers.

Senator BEN NELSON. At the last Senate Armed Services hearing, Secretary Rumsfeld sat there, and I asked a question about what have now become known as "benchmarks," or, as we discussed yesterday, conditions for staying, measurable goals to achieve, more training, if we need to have more Iraqi troops trained so we can stand up their military. We have a limited number of trainers there. Then we need more trainers to do it more quickly, but we need to measure, to know how many Iraqi troops need to be trained, how fast that we can do it. What's the time-

frame? What does it take to get it done? Secretary Rumsfeld says, yes, he agreed that kind of an approach was necessary and that General Casey was working with Prime Minister Maliki in order to be able to do that. Is that your understanding, at this point in time?

Dr. GATES. I have not had discussion with anybody about benchmarks, but I think that's the right approach.

Senator BEN NELSON. If our goal is to ultimately find Osama bin Laden, some sort of a net approach is necessary to do it. I agree with you, finding out where he's going would be advisable, if we had the Intelligence to be able to do that, with a capital "I." The other approach that we seem to have started, but we haven't really completed, is we put a $25 million reward for his capture—a bounty, if you will. That, obviously, hasn't been enough money to get somebody to turn him in—as you say, one of his own forces to turn him in.

What would you think about increasing the amount of that reward, or that bounty, by a million a week—it's certainly a small number compared to the cost of our conflict—until it reaches a breaking point where somebody says, "That's enough, and I'll give him up for $35 million or $40 million," just keep adding it? Because the costs of the war are so significant, and yet the symbolism of this individual is still significant in that part of the world. What are your thoughts about that?

Dr. GATES. Sort of terrorist Power Ball. [Laughter.]

Senator BEN NELSON. Yes. Somebody always wins the lottery; it's just a question of when and how much it is at the time. [Laughter.]

Dr. GATES. I'm certainly open to that, Senator. I must say, one of the things, going back to Senator Byrd's question earlier that, clearly, I'd like to become informed on quickly is what effort we have underway and the nature of our strategy, in terms of trying to find him. I think, just as he is not organizing things any longer, but remains a powerful symbol, being able to capture or kill him would have powerful symbolic impact, also.

Senator BEN NELSON. I agree with you. I would hope that you would consider what it would take to increase the bounty or the reward, because I do think that money talks. At some point, somebody will say, "That's enough," and they'll take the risk of turning him in.

My time is up. Thank you, Mr. Chairman. Thank you, Dr. Gates.

Chairman WARNER. Thank you, Senator. In that context, always be mindful of the loss of life and limb of the members of the Armed Forces, and, indeed, other agencies of the Government, our Government, in that quest to find Osama.

Dr. GATES. Absolutely.

Chairman WARNER. It's been mighty, mighty tough.

Dr. GATES. In the worst possible conditions.

Chairman WARNER. The worst possible. You have a very complicated situation with Pakistan and its borders, its sovereignty. You know those things full well.

Senator Dole.

Senator DOLE. Thank you, Mr. Chairman.

I certainly want to associate myself with the comments of all of my colleagues in thanking you for your outstanding leadership of

the Armed Services Committee, and especially the care with which you have responded to the individual concerns of each member. Thank you very much.

Chairman WARNER. I thank you, Senator.

Senator DOLE. Dr. Gates, Philip Hughes, who you served with at the National Security Council in the late 1980s, was quoted recently as saying, "Bob has answered his country's call." Indeed, I want to start by also thanking you for accepting that call, and for your service to the public.

Dr. Gates, the transformation efforts undertaken by Secretary Rumsfeld are critical to meeting the challenges of the 21st century. While Secretary Rumsfeld made transformation of the military a priority, obviously much remains to be done. In your view, which transformation programs are the most important and effective in fighting this war on terror? Of all the transformation initiatives, which, if any, do you feel requires continued focus by the Secretary of Defense?

I'd also just add a third part to this, with regard to a specific element of transformation. Do you support the change in the organization of the Army from a division-based structure to 70 modular brigade teams?

Dr. GATES. Senator Dole, one of the things that has impressed me the most in the very short briefings that I've received preparatory to this hearing, is the extent of the transformation that actually has taken place in recent years, compared to when I was in government. I can't tell you how many crisis meetings I sat through in the Situation Room over a 20-year period, and we would look at military contingencies, and we would be looking at 60 to 90 days to generate a brigade, to get a military force on the move and in place. So, the expeditionary nature of the Army, the mobility, the change in mindset—sometimes, perhaps, those of you who have been really close to it may not fully appreciate just how dramatically the situation already has changed compared to when I was in government last.

I think that the transformation needs to continue. I would confess that I don't have a lot of familiarity with it. I have read the Quadrennial Defense Review. It seems to me that it's on the mark, in terms of the large programs and the directions.

The two things that I think make a lot of sense has been this shift of the Army from being basically a static force to a more mobile expeditionary force. I think that's very important.

I think that, based on very superficial information, at this point, the shift from divisions to the brigade structure does make a lot of sense. I think it provides a lot more flexibility.

I would say that one of the things that I think is very important in the transformation is continuing to strengthen our capacity to fight irregular wars. I think that is where the action is most likely going to be for the foreseeable future. So, I think it's very important that it go forward. But, again, I say that's based on a pretty superficial reading of it, at this point.

Senator DOLE. Dr. Gates, a World Bank report was released just last week on Afghanistan's drug industry and indicates that total opium cultivation just in 2006 has increased by 59 percent. Afghanistan now accounts for 90 percent of the global opium supply. Of

course, the drug trade in Afghanistan has profound implications for the safety of our service men and women, and for the supply of heroin around the world, more and more of which is coming into the United States.

Do we need to more aggressively confront this issue in Afghanistan? Does this require a more direct effort by our military, in terms of opium interdiction and targeting of opium production facilities?

Dr. GATES. Senator Dole, I think it's very important. As a matter of fact, just by coincidence, a couple of months ago I gave a speech at the World Food Prize ceremonies in Des Moines, and addressed this issue. I think that this is an area where the Defense Department can make a contribution, certainly in interdiction kinds of things. But this is one of those places where I think other parts of the American Government need to go to war as well, including the Department of Agriculture.

I'll give you an example. A poppy grower really doesn't have a diffuse market for his product. He has one person, or one network, buying. So, there's no market flexibility. He gets told what the price is. He can't sell it anywhere else. His animals can't eat it. So, the notion, sometimes, is that the farmer gets so much money from growing poppies and drugs that crop substitution won't work. The truth of the matter is, the farmer often doesn't make very much money on it, and if we could get to work, in terms of providing Afghan farmers with other alternative crops, and encouraging those, and even subsidizing them, to some extent, for a limited period while they made a transition, it seems to me that it would be a very productive kind of thing to do. America's Land Grant Universities, Texas A&M is already on the ground in Tikrit working on these kinds of issues. There's no reason why our universities can't contribute to this, as well, frankly.

Senator DOLE. Thank you.

Let me ask you about financial management systems at the DOD. Obviously, Secretary Rumsfeld, early in his tenure, made reform of these systems a priority, a top priority, and significant progress has been made, but challenges certainly still remain. The Office of Management and Budget (OMB), just last month, announced that the Defense Department's financial management systems have problems right now that are so severe that independent auditors still cannot certify the accuracy of the financial statements. I'm interested in what plans you may have to address what appears to be a severe problem.

Dr. GATES. I don't have great familiarity with this, Senator, but, if I'm confirmed, I certainly look forward to working with Deputy Secretary England to address these issues.

Senator DOLE. Thank you.

My time is up. Thank you very much.

Chairman WARNER. Thank you very much, Senator.

Senator Bill Nelson.

Senator BILL NELSON. Thank you, Mr. Chairman.

Dr. Gates, I grew up in the old school that said that partisanship stopped at the water's edge, particularly on matters of national security. You and I have already had a discussion about this privately. I'd like for you to share with the committee, how do you

think that you will facilitate these big decisions of war and peace to be done in a bipartisan way?

Dr. GATES. Senator, for openers, I think that there is a lot continuity and a lot of wisdom here in Congress, in this committee, and the Appropriations Committees, in particular, on a lot of issues relating to the Defense Department and to national security issues. I think the place to start is by a more frequent dialogue, a more frequent exchange of views and creating opportunities to learn and to listen with people, and to do that with individuals from both parties. I think that the one area where bipartisanship is already practiced, certainly by this committee—I'm not as familiar with others—is in the many visits that members of this committee have taken to Iraq, where members from both parties go. Based on everything I've heard, the impact out there is, they're seeing Republicans and Democrats who care about men and women in uniform and are trying to work together to do the best thing for the country. So, in a way, there may be better demonstrations of bipartisanship in Iraq than there are sometimes here in Washington. But I think we can replicate that in Washington. I think it goes back to what I said earlier about the executive branch working together, and that is, it depends a lot on personal relationships and personal trust, and the recognition that you're going to have disagreements about issues, but you can do it and maintain your trust and your respect for people.

Senator BILL NELSON. When I served in the military, every young person—at that time, it was every young man—had an obligation to serve. We had a draft. Do you think we're getting close to the point, in order to have the personnel needs for the United States military, that we need a draft?

Dr. GATES. No, sir, I do not.

Senator BILL NELSON. Now, you say, then, that we can meet our recruiting goals without a draft. Explain that to the committee.

Dr. GATES. Sir, I think that the first encouraging aspect, statistically, based on the limited exposure I've had, is the great success we've had in retention in the Services. So, we don't have a hole in the bottom of the bucket of much consequence. My impression is that the Army was authorized to add an additional 30,000 troops, and that they have recruited, I think, 23,000, or thereabouts, of that 30,000.

I would tell you, my candid opinion is that I think one of the military officers that I was talking to told me that one of the concerns that he had about recruitment was that first we'd lost the moms, and now we were starting to lose the dads, in terms of encouraging young people to join the Services. In all honesty, I think that when people perceive that joining the Services is not a direct ticket to Iraq, our opportunities for increasing numbers are going to be significant. We have this problem, frankly, with the Corps of Cadets at Texas A&M, where we have a tough time recruiting people, because they think, if you put on a cadet uniform at A&M, that mom and dad think you're going to go straight to Iraq. So, I think that we have what I would call a transitory problem. The military seems confident that they can overcome it.

Senator BILL NELSON. Thank you, Mr. Chairman.

Chairman WARNER. Senator Thune.

Senator THUNE. Thank you, Mr. Chairman.

Mr. Chairman, I would, as the newest member of this committee to the most senior member of this committee, add my great appreciation, and tell you that it's been an honor to serve under your chairmanship. As everyone else has already stated, I appreciate your long and very distinguished career in service to this country. So, thank you for that.

Chairman WARNER. I thank the Senator very much.

Senator THUNE. Dr. Gates, I want to congratulate you on a very successful tenure as president of Texas A&M, culminating with a win over Texas in the football game this year. I'm sure your performance in that job is probably measured more by the battle for football supremacy in Texas than just about anything else, and something that my colleague from Texas, no doubt, will want to stay out of, I'm quite guessing. But you're leaving a very rewarding job for what is arguably the toughest job on the planet. We appreciate your willingness to reenter the public arena.

Like many members of this committee, I have a large contingent of people in my State of South Dakota. We're a small State, populationwise, but, when it comes to military service per capita, contribute mightily to the war on terror and to our military service. We had 2,900 National Guard members and 750 Air Guard members who have been deployed to Iraq. We've had our casualties in our State continue to grow, as well. So, it's obviously on the mind of all Americans.

The question's been asked and it's been hotly debated, and I guess I would just come back to this basic premise. The mission in Iraq has been to stand up a government, stand up a military. Critical to our success in order to achieve a speedier exit from Iraq is to be able to have the Iraqi military defend the Iraqi people. The question is of troop strength. I guess what I'd like to come back to, in regard to that, is to ask the question as to whether or not you believe that additional U.S. troops dedicated to training Iraqis, in the short term, could lead to a speedier exit in the long term.

Dr. GATES. Instinctively, Senator, I think that that would be the case. I just want to be clear, I think, before I were to draw any conclusions on that score, I would want to talk to the commanders in the field and get their judgment on it. What I know about the number of trainers, I've just read somewhere in the newspaper. So, I consider myself to have very superficial knowledge about some of these things, and I'd like to sit down with General Casey and some of the others and find out what the facts are, and find out if there is a need, along the lines we've just been discussing.

Senator THUNE. Let me ask you a question about how the Pentagon has faced considerable amount of criticism over tying intelligence to a preferred policy outcome and overzealously guarding its control over the defense intelligence agencies at the expense of the larger community. As nominee for the Secretary of Defense, you are the Intelligence Community's biggest customer. What steps will you take to ensure that the intelligence will not be tainted by policy requirements, and that intelligence agencies, like the CIA and the Defense Intelligence Agency (DIA), will be encouraged to present their own objective and independent analyses, free from any type of bureaucratic pressure?

Dr. GATES. Senator, I feel very strongly about that given my background. I have actually had great respect for the DIA during my career. In fact, during the Reagan administration, on a regular basis, we ran contributions from DIA in the President's morning brief because of my regard for them.

The one thing that I don't like is offline intelligence organizations or analytical groups. I would far rather depend on the professional analysts at DIA and at CIA and at the other agencies, and work to ensure their independence, than to try and create some alternative someplace. So, I think that relying on those professionals, and making it clear from my position, if I'm confirmed, that I expect them to call the shots as they see them, and not try and shape their answers to meet a policy need.

Senator THUNE. I appreciate that answer. I think your background will be very helpful and useful in that regard. You served on the ISG—it's being reported that one of the recommendations will be to engage Iran and Syria with regard to Iraq. Do you believe that Iran and/or Syria would, in any possible way, act to benefit a democratic Iraq? Let me ask you that question, and then follow up by asking, at what price or cost would you be willing to pay, diplomatically or otherwise, for that kind of beneficial action on either of those countries' part?

Dr. GATES. I'm not prepared to pay for anything that I don't get in advance. [Laughter.]

I have said that I think that having a channel of communication with these governments is worthwhile. That isn't necessarily a vehicle for negotiation. Because, often, the channel of communication between ourselves and the Soviet Union and China was merely for the passing of messages and providing reassurance that certain actions weren't threatening, and so on. I'm not optimistic that a negotiation with Iran would provide a lot of benefit. I co-chaired this Council on Foreign Relations Study on U.S. Policy Toward Iran in 2004, with Dr. Brzezinski, President Carter's National Security Advisor, and we recommended a negotiation with Iran. But I would say that the conditions have changed fairly dramatically since we wrote that report. Among other things, Iran has a new leader, who is quite unambiguous about his views of the rest of the world. Iran has gone from doing some things in 2004 that were harmful to our effort in Iraq, but also some things that could be perceived as being helpful to us—as far as I can tell, to being entirely negative now. They are clearly helping Hezbollah train fighters. So, I think the circumstances that led to our recommendations in 2004 have changed in some important ways.

I think it's worth keeping an open mind, in the vein of having all the options on the table. I think it'll be interesting to see what the Baker-Hamilton recommendations are in this regard. I know that one of Secretary Baker's favorite lines is that it was on his 15th trip to Damascus that he actually made headway with the Syrians. So, they're clearly a tough nut to crack.

I do believe that long-term stability in Iraq will be influenced by Syria and Iran. I think that we need to look at ways, either incentives or disincentives, to bring them to try and be constructive, in terms of the state on their border. How we do that, I don't have any specific ideas at this point. Whether that involves negotiations

or sitting down with them now by ourselves or in an international conference or putting it off until some later date, I think, along the lines of keeping our options open at least merits thinking about.

Senator THUNE. Thank you.

Mr. Chairman, my time's expired. Thank you.

Chairman WARNER. Thank you, Senator.

Senator Levin and I observed a number of members remaining, and the clock, and we're going to try and accommodate each member who's been here this morning before we conclude. I think, therefore we will conclude our morning session around 1 o'clock. We'll return at 2:15 to this room to resume the hearing for those Senators who might have missed the first round, and a question or two from the other Senators who wish to join.

Following that, we would hope to go to S–407 of the Capitol for our executive session. Thank you.

Senator Dayton.

Senator DAYTON. Thank you, Mr. Chairman.

I'd like to join with others in saying what an honor it's been to serve under your leadership in this committee, also that of the ranking member. I thank you both.

Dr. Gates, I wanted to thank you for your willingness to serve your country again. I also say that I've been impressed this morning with your candor, your straightforwardness. You've asserted your own independence of judgment, which I think you've demonstrated so far today. I guess I want to know if you will grant that same independence to your military commanders who are asked to testify before this committee or other committees of Congress to express views that reflect their own honest judgments that may differ with your own.

Dr. GATES. Absolutely, Senator.

Senator DAYTON. Thank you.

You said, and I agree with you, that hindsight is 20/20, and we have all made judgments at the time with hindsight, that can be legitimately questioned. Given what we know today about the absence of WMD in Iraq, given the predicament that we're in today, with that benefit of hindsight, would you say that invading Iraq was the right decision or the wrong decision?

Dr. GATES. Frankly, Senator, I think that's a judgment that the historians are going to have to make. I certainly supported the decision to go into Iraq in 2003, and not just because Saddam had WMD. It was clear that the Food for Peace program—the Oil-for-Food Program, was failing. It was totally corrupted, and the money was being diverted. It's clear that the sanctions were weakening. I had no doubt in my mind that, once the sanctions were removed by the U.N., and it looked like the French and the Russians and others were moving in that direction, that Saddam, if he didn't have WMD, would move quickly to try and obtain them.

I think we have to look at the reality, in terms of why we all thought that. This is a little bit of a diversion, but I think one of the reasons why Iran is determined to have nuclear weapons is that they see how complicated it is for us to try and deal with a North Korea that has nuclear weapons. I think they believe that if Saddam had had a nuclear weapon, we might not have attacked him in either 1991 or 2001. There was no doubt and I believe Sad-

dam had the same calculus. So, once the sanctions were lifted, there was no doubt in my mind that he would strive to get a nuclear weapon.

He clearly hadn't changed his spots in the slightest; and so, that's the reason that I supported the decision to go in, as well as the fact that I thought he had WMD, as I like to put it, just like every intelligence service in the world thought, apparently, including the French.

So, was the decision to go in right? I think it's too soon to tell. I think much depends on the outcome in Iraq.

Senator DAYTON. What do you think were the key strategic or tactical mistakes that have led to our current quagmire in Iraq? How can they be corrected? Or is it too late to do so?

Dr. GATES. As I say, I think that hindsight, as you suggest, is 20/20. I suspect that some of the members of the administration would make some different decisions, in light of hindsight. I've made my own mistakes, and learned from them in hindsight. I would say that, just to give you two or three examples, I don't think that we had a full appreciation of just how broken Iraq was as a country before we ever went in, that after 35 years of Saddam, after 8 years of war with Iran, after the first Gulf war, after 12 years of sanctions, that the country was broken, economically, socially, politically, in every respect. Even if our soldiers had been greeted uniformly with flowers in their gun barrels, the cost of reconstructing Iraq would have been fairly staggering. I don't think there was that realization, or the expectation that we would have to reconstruct Iraq.

I think there are two other problems that I think were created. The first was the demobilization of the Iraqi army. I know the argument that they have largely dissipated, but I think if we had widely advertised the fact that soldiers who returned to their barracks would continue to be paid, they would have a way to take care of their families, that we wouldn't have had several hundred thousand people who knew how to use weapons, had weapons, and were unemployed out on the streets.

A third example, I think, was the extreme deBaathification policy. Frankly, looking at it from a distance, it seemed to me that perhaps we'd forgotten the lessons of our deNazification strategy in Germany in 1945 and 1946, and didn't really appreciate the fact that every schoolteacher and powerplant operator, for the most part, in Iraq, had to be a member of the Baath Party to get the job, and that in terms of being a threat to our interests or a threat to a democratic Iraq, they weren't necessarily that, that it was the people at the top of the pyramid that were the problem. So, a few more hundreds of thousands of people were thrown out of work, people who actually knew how to make some things work and who might have had a stake in keeping things together.

So, this whole thing will be the attention of historians for many years to come, but, based on very short-term perspective, those seem to me to be some of the concerns that I would have had.

Senator DAYTON. Thank you.

Thank you, Mr. Chairman, my time's expired.

Chairman WARNER. Thank you, Senator, very much.

One of our colleagues, the distinguished Senator from Georgia, Senator Chambliss, met with you extensively yesterday, is my understanding. Regrettably, he had to attend a funeral and give the eulogy for one of his lifetime friends today, and he wished us to acknowledge his absence. But thank you for the extensive meeting and opportunity you accorded him yesterday to ask a few questions.

Senator Talent.

Senator TALENT. Thank you, Mr. Chairman.

Dr. Gates, I'm looking forward to a chance to visit with you personally, also, and so I'm going to be as brief as I can.

I notice most Senators have made a brief comment about the general state of the military, and then have asked you mostly about Iraq, which is certainly appropriate. I think I'm going to do it in reverse, make a general comment about Iraq, and then ask you about the state of the military.

With regard to what you said about WMD, I do think we have not fully concentrated on the benefits that we are receiving now just because Saddam is gone. We have an Iraq that is not attempting to compete with Iran to dominate the region, not threatening its neighbors, not trying to develop a nuclear weapons programs. Those are benefits that we received from removing him.

I was in the House in the 1990s, and it was clear that as that decade wore on, the situation with his regime was unacceptable and that something was going to have to be done.

The other point I've thought about with regard to this is when you make decisions in government, you have to make them based on the information that you have in front of you and discounting against the possibility it may turn out to be wrong. You can't say, "Well, everybody believes, and all the data suggests, he's developing WMD, but I'm not going to take the obvious step because of the possibility it might all be wrong." Then you're just paralyzed.

So, that's a general comment on Iraq. What I want to ask you about, though, is the state of the military; in particular, our ability to procure the new generation of systems and platforms that we are now going to go into an intensive phase of buying. The decisions that you make, and that Congress makes, in the next couple of years are going to dictate precisely the options that a President has 10 years down the road in a similar circumstance. I think we all have to understand this timeframe.

Talk about more troops in Iraq. Our options are limited because of decisions made in the early 1990s about the size of the Army that Senator McCain asked you about. I hope you will expedite your study of that. I think you will find that the tooth-to-tail ratio is pretty much undefeatable, and you have to have an Army bigger than we now have if you want to be able to maintain troops in combat, even in the low-intensity combat situation. I think you will conclude that's necessary. I hope you will then have the courage to advocate that within the Department and with the OMB.

Now, I just jotted down—over the next few years, we're going to have to procure the DDG–1000 destroyers. We're going to ramp up production of *Virginia*-class submarines. The littoral combat vessel. The Navy's going to have to get its new cruiser. It's essential to missile defense. The F–20—and the Air Force is going to have to

buy F–22, Joint Strike Fighters. We need an interdiction bomber to replace the B–52. The Army, with the Future Combat System, is essentially going to replace its entire capital stock of vehicles, with the exception of some tanks. There are other absolutely vital programs that our men and women are going to use for the next generation.

I think you will find, when you look at this, that the procurement baseline that we have now in place through the Future Years Defense Program is fundamentally inadequate to achieve that. I want to know from you that this is going to be a priority of your investigations and your work, if you're confirmed, and that you will fight for the necessary procurement dollars with the OMB, if necessary. We have been kicking the can down the road, year after year after year, and I think it's landed right at your doorstep.

If you would comment on that. Do you have any sense of this situation? Do you realize what you're going to be confronting? Are you prepared for that kind of a struggle? Because if we don't begin doing it under your stewardship, then the President, a couple of terms from now, is just not going to have the kind of options that he or she will need in order to be able to protect America's security.

Dr. GATES. Senator, I'm very familiar with the long lead times on these programs. The weapons that we so proudly deployed in the early 1980s in the Reagan administration often were developed in the Carter administration or the Ford administration or the Nixon administration. So, there is a long continuity. The irony is, in all of that, this committee, and the Appropriations Committee, is probably the only place around that has the continuity of experience to have watched the whole cycle go through.

As I understand it, the fiscal year 2008 budget is basically put to bed. Clearly, if I am confirmed for this job, I'm going to have to take a close look at it. What I can tell you is that I am prepared to consult with Congress and with the President, others in the administration, if I think changes need to be made, changes in allocations and so on.

But I would also say, just looking at it, as I understand it, as a percentage of Gross Domestic Product, defense spending, even with the cost of the war in Iraq, is at a relatively low level compared to most of post-World War II experience. So, I think there may be some flexibility. In the very brief conversations that I've had about these matters with the President, he clearly is very interested, and understands the nature of these problems, as well. Certainly this business of planning for the future is every bit as important as taking care of today and tomorrow, and I will make it a priority.

Senator TALENT. If not more so. Let me just say that what we were able to achieve with the end of the Cold War, winning in Operation Desert Storm, I think came directly, or sprang directly, from the decisions made by the President and Congress at the beginning of the Reagan administration, on a bipartisan basis, to sustain, I believe it was, two double-digit increases in the top line. If we have that kind of a commitment, it is possible to plan—you can do a transformation intelligently, you can do it efficiently. If, every year, we're robbing Peter to pay Paul, every year, putting the absolutely urgent ahead of the important, it ends up costing the tax-

payers more and imperils American security. I just hope you will have that attitude. I think a pretty cursory inspection of the budget will lead you to the same conclusions that I've reached. We need a Defense Secretary that'll stand up and fight for that, and I hope that you'll do it.

Chairman WARNER. Thank you, Senator, very much.

Senator Clinton.

Senator CLINTON. Thank you, Mr. Chairman. Mr. Chairman, it has been a privilege to serve on this committee under your leadership. I'm very grateful to you.

Dr. Gates, thank you for your candor. That's something that has been sorely lacking from the current occupant in the position that you seek to hold. Your candor to this committee, to the American people, and especially to our men and women in uniform is crucial to our success. We need a strong Secretary of Defense, but that doesn't mean strongheaded. I appreciate your openness and willingness to engage with this committee today.

Part of that candor was evident when you responded to Senator Levin's question about whether we are winning the war in Iraq, contrary to what your predecessor told us from that very chair, and what the President has told the American people. Can you tell us when and how you came to the conclusion that you expressed in your testimony, that we were not winning, a conclusion different from the President's?

Dr. GATES. I think that, frankly, if the President thought that the current tactics and strategy that we were employing were successful, he wouldn't be looking for fresh eyes and looking for new approaches and new tactics in our situation in Iraq.

I suppose that I came to that conclusion during my service on the ISG, which was really the first time I had the opportunity to look at some of these circumstances in detail.

Senator CLINTON. Dr. Gates, since the President made a statement, as recently as October 25, that we were absolutely winning, many of us believe that the outcome of the election has triggered the willingness of the President to perhaps look at other options.

As you said in your testimony today, you don't believe there are any new ideas on Iraq, that we know what the options are, and it is incumbent upon us, our Government, hopefully in consultation with Congress, on a bipartisan basis, to find a path forward.

Now, with respect to the path forward, have you reviewed Secretary Rumsfeld's memo regarding possible policy options for changing course in Iraq?

Dr. GATES. I just read the version of it in the newspaper.

Senator CLINTON. Do you agree with the analysis that appeared in the article that contained a copy of the memo that you've referred to?

Dr. GATES. It seemed to me that some of the options that Secretary Rumsfeld put forward are exactly among those that need to be considered in considering the path forward.

Senator CLINTON. Dr. Gates, I've been honored to serve on this committee now for nearly 4 years. Many of the options that Secretary Rumsfeld put forward in that memo have been discussed in our committee deliberations. They have been offered to administration witnesses as possible options, and yet, there were no changes.

That strikes me as being very troubling, because now we're looking at the potential for a thorough review that will lead to changes that will be in America's interests, be in the interests of our men and women in uniform, and, we hope, in the interests of the people of Iraq and the region. Based on your experience, which goes back quite a ways in this town, do you believe the President, the Vice President, and the existing Secretary of Defense are intelligent men?

Dr. GATES. Yes, ma'am.

Senator CLINTON. Are they patriotic?

Dr. GATES. Absolutely.

Senator CLINTON. Do they care about our men and women in uniform?

Dr. GATES. Absolutely.

Senator CLINTON. Do they believe the decisions they have made for the last 5 years have been in America's best interest?

Dr. GATES. I have not had that discussion with any of them, Senator. I'm sure that they believe that they were in the country's best interest.

Senator CLINTON. So, therefore, we have this conundrum. We have a President and a Vice President who will ultimately decide—as the President is fond of saying, he is "the decider"—about the direction to pursue, going forward in Iraq. It is quite frustrating to many of us to see the mistakes that have been made, some of which you have enumerated, and to wonder whether there is any change that will be pursued by the President. Do you have an opinion as to how and when the process will occur that might lead to some changes in options and strategies?

Dr. GATES. My sense, Senator Clinton, is that this process is going to proceed with considerable urgency. I would tell you that if I am confirmed, as soon as I am sworn in, I intend to actually move very quickly, in terms of the consultations with the commanders in the field and with the Chiefs and with others, in terms of formulating my recommendations. So, I would say, certainly from my standpoint, and I think also from the administration's—with considerable urgency.

Senator CLINTON. Finally, let me ask you, Dr. Gates, that, in an oral history of the 1991 Gulf War produced by the PBS program Frontline, you made some very definite points about how the military often overstate, or even, in your words, exaggerate, the level of forces required to accomplish a specific objective. I'm concerned that's precisely the attitude that we've heard from Secretary Rumsfeld, former Deputy Secretary Wolfowitz, and others, with regard to General Shinseki's recommendation and many in the uniformed military, and civilian experts, who have consistently beat the drum that we don't have enough troops, we never had enough troops. Therefore, how will you take that set of recommendations from your uniformed military onboard and figure out how you're going to assess it, given your previously stated position that it's often exaggerated when we look at missions to accomplish?

Dr. GATES. Senator, that statement was made in the context of the bureaucratic wars in Washington and the decisionmaking process, or the process of considering contingency planning in the Situation Room. I would tell you that the CIA also, in those same meet-

ings, often would describe very pessimistically the prospects for covert actions that were being considered by an administration. Frankly, it's my experience that both the military and the CIA take that kind of approach, because sometimes they hear, as one of the earlier Senators was—I think it was perhaps Senator Warner, the chairman—some awfully strange ideas in the Situation Room, sometimes from members of the National Security Council staff. It was always my experience that, contrary to the conventional wisdom, it was the State Department that most often wanted to use force, and the DOD that most often wanted to use diplomacy, and the CIA never wanted to use covert action. Everybody wanted everybody else to take the actions.

I think that when the actual decisions came though, the recommendations of the military were taken very seriously. I remember when the first President Bush was asking about the offensive strategy once—we had 200,000 troops in Saudi Arabia, and we were at a meeting in the Situation Room in the fall of 1990, and the military came in and briefed on what they felt they needed to eject Saddam and the Republican Guard from Kuwait. They went through a long list of things, moving the 7th Corps to the Middle East, six-carrier battlegroups, activating the Guard and Reserve. I'll never forget, the President stood up and said, "You have it. Let me know if you need more." I think that that kind of deference—when you get past the debate about what the policy should be, that great deference should be extended to the professionals who are going to have to carry out the action. I think the first President Bush did that in the Gulf War, and that certainly would be my instinct, if I'm confirmed as Secretary of Defense.

Senator CLINTON. That would certainly be welcome.

Chairman WARNER. Thank you very much, Senator. Senator, that question elicited a very important answer for the record of this hearing. I thank the witness.

Senator Cornyn.

Senator CORNYN. Thank you, Mr. Chairman.

Let me also express my gratitude at serving under your leadership and chairmanship. It's been an honor. Thank you.

Dr. Gates, thank you for agreeing to return to public service. As I said yesterday, Texas A&M's loss is America's gain. Your willingness to accept what I think has to be, if not the most difficult, the second most difficult job in Washington. I appreciate your willingness to step forward and answer that call.

As we discussed yesterday, the decisions that this country makes about the conflict in Iraq and the global war on terror will have a lasting impact in the Middle East and on the entire world. I hope there remains a bipartisan consensus that we will not allow Iraq to become a failed state. If there are some who have questioned about whether it is possible to actually achieve victory, I hope we at least will do everything we can to not lose.

The consequences of a failed state in Iraq would have a devastating impact on our national security interests. This is not a matter of partisan differences. No less military expert than General Anthony Zinni, who, in today's New York Times, was quoted as saying—and he, of course, was a forthright critic of the decision to go into Iraq—the article says, "These days, General Zinni is delivering

another provocative message, that leaving Iraq quickly would strengthen Iranian influence throughout the Middle East, create a sanctuary for terrorist groups, and encourage even more sectarian strife in Iraq, and risk turmoil in this oil-rich region of the world." He actually has gone so far as saying we ought to leave the door open to a temporary increase in American troops so we can clear, hold, and build in Iraq, and particularly in Baghdad. As General Zinni noted, we all understand that chaos in Iraq could, if left to just spiral downward without any attempt to control it, allow al Qaeda a base for operations against us and our allies. As many noted before, we can't simply leave, because the enemy is determined to follow us here.

But I'd like to focus on another potential consequence. We touched on this a little yesterday, but I'd like to do this for the public record. That is the expansion of Iranian influence in Iraq. I'd like for you to give us your assessment on how Iran would react if the United States precipitously withdrew.

There are some who have said that they will use that opportunity to consolidate the Shiite population in southern Iraq, and perhaps annex Iraq as part of the Iranian state, which, of course, may lead countries like Saudi Arabia, largely a Sunni population, to intervene to protect the Sunnis against any ethnic cleansing efforts or conflicts, sectarian violence that might occur.

Then, of course, with the partition—de facto partition of Iraq into Kurdistan and—which causes, of course, a lot of concern in Turkey, I would like for you to, please, just give me your best estimate, here in this public forum, of what a precipitous withdrawal from Iraq, creation of a failed state, would have, particularly with an emphasis on Iranian influence.

Dr. GATES. One of the assumptions that I think has proved questionable, Senator Cornyn, is that the Iraqi Shi'a were, first and foremost, Iraqi nationalists, and, having fought against the Iranians, would resist Iranian interference and Iranian efforts to become involved in Iraq. Based on just what I've read in the newspapers, that does not seem to be the case, because the Iranians are extremely active, as best I can tell, particularly in southern Iraq, but perhaps elsewhere, as well. One of the things that I have heard, for example, is that the Iranians are very likely involved in the development and production of these increasingly sophisticated IEDs that are hurting and killing so many of our soldiers.

I think that the Iranians will seek to have as much influence in Iraq as they possibly can. These two states have been adversaries ever since Iraq was created, after World War I. As I just mentioned, they went to war for 8 years with each other, with terrible cost. They clearly never want to have an enemy like that on their western border again, and I think that their effort will be to try and exercise as much influence in Iraq as possible. If you end up with a Shiite government in Iraq, and no sense of nationhood with respect to the inclusion of the Sunnis and the Kurds, I think it will not be long before we will have a government in Baghdad that is as hostile as the one in Tehran.

Senator CORNYN. We know the Iranians are state sponsors of terrorist organizations, principally Hezbollah. Would you foresee any change if they were to expand their sphere of influence and control

to Baghdad, that they would somehow foreswear their support of terrorist organizations like Hezbollah or perhaps others that serve their purpose?

Dr. GATES. No, I don't see any near-term prospect of the Iranians foregoing their use of Hezbollah and other terrorists.

Senator CORNYN. One final point, as my time is expired. As I mentioned to you yesterday, I would appreciate your commitment to work with this committee on acquisition reform. We need to procure weapons systems more quickly, efficiently, and affordably so that we can guarantee that we can meet military requirements. On another occasion, perhaps we can talk about your recommendations and thoughts on the size of our special forces operation, something that has grown a lot, I think, to meet a very real need around the world.

Thank you very much for your willingness to serve, and being here.

Thank you, Mr. Chairman.

Chairman WARNER. Thank you, Senator. I think it was very helpful to have his perspective on what consequences of a failed state are.

Senator Bayh, you're the wrap-up.

Senator BAYH. Thank you, Mr. Chairman.

Let me begin my wrapping-up by echoing what every other member of the panel has said in thanking you for your leadership. You have proven yourself willing to rise above the interests of party to do what's right for the country, and I admire that in you, Mr. Chairman. So, thank you for that.

I know our chairman-to-be exhibits the same qualities, so I'm looking forward to serving with you, Carl.

Thank you for your public service, Dr. Gates. I am deeply grateful to you for that.

I did notice, with some interest, however, that you recently gave a speech in Des Moines, Iowa. You keep a schedule like that, you're going to start tongues to wagging. Just a word of friendly advice. [Laughter.]

I'd like to follow up on something that Senator Clinton was asking you about, and that is this. I appreciate your candor, I appreciate your openmindness, and I appreciate your realism, as opposed to having an ideological view of things. But you are not the ultimate decisionmaker. That will be the President of the United States.

We have recently seen some examples, where the National Security Advisor issued a memo about the Prime Minister of Iraq, raising questions about his capabilities; and the President, in a matter of days later, said that he was the right man for Iraq. Your predecessor, Secretary Rumsfeld, had a memo in the newspaper laying out a series of options that the President seemed to very shortly thereafter dismiss, at least some of them, as being unrealistic, although the Secretary thought they were worth considering. Colin Powell, former Secretary of State, offered advice that was not listened to.

Now, of course, the President's not going to take everyone's point of view. That's not possible. My question to you, very simply, is—

you seem to be a very reasonable man. What leads you to believe that the President of the United States will accept your counsel?

Dr. GATES. Senator, because he asked me to take the job.

Senator BAYH. He asked the others to take the jobs, as well.

Dr. GATES. I think that when they assumed their positions, the circumstances that the country and the President faced were different. I think the President was very direct in saying, both privately to me and then publicly, that he saw the need for fresh eyes on the problem, and I think he, at the same time, has indicated a willingness to consider different options, in terms of seeing how we can do better in Iraq.

Senator BAYH. I hope you're right. I would simply urge you to give him your opinion, if you agree, that changing course need not be seen as a sign of weakness. As a matter of fact, it may be the intelligent thing to do to strengthen our country, to protect our national security interests. I sometimes think, in the higher reaches of the administration, those things have been confused. So, I wish you well. I hope he does heed your counsel.

Dr. GATES. Thank you, sir.

Senator BAYH. Two other things. One of the refreshing things that you said, and many others would agree, is that ultimately the Iraqis have to do this for themselves. We can't do this for them, that there are tough political decisions to make. Senator McCain raised an interesting issue about what comes first, stability or political progress. You outlined some of the unfortunate mistakes that were made early on that undermined the stability. You can't put Humpty Dumpty back together again. Those events tend to take on a momentum all of their own. My own judgment is, now, that political decisions have to be made, even in the absence of perfect stability; otherwise, this is not going to end well.

So, the nub of this seems to be that there are those who believe that setting a timeline, or at least starting to bring closure in Iraq, will cause the Iraqi leaders to be insecure and to retreat to their religious and their ethnic identity. Others believe that they need a wake-up call, and that the setting of at least a flexible timeline is essential to keeping pressure on them to make the decisions that only they can make. We've tried the "stay the course" approach and reassuring them for 3½ years. They seem to still behave more like Shiites and Sunnis and Kurds, as opposed to Iraqis. Why do you think that the setting of a flexible timeline will not succeed in getting them to make the political decisions that need to be made?

Dr. GATES. I go back to my original statement, at the outset of the hearing—I think that all options have to stay on the table. I want to sit down and talk with the commanders in the field. I want to talk to the Chiefs. I want to see what Secretary Baker and Congressman Hamilton and the ISG have to say.

I have said before, I'm willing to consider all alternatives, all options, as we think about how to move forward in the most productive way, and to consult with people about those, consult with people here on the Hill about those, and then I'll decide what recommendation that I want to make to the President, in terms of what I think we ought to do. But, I believe that, at least going into this process, that all these options have to be on the table.

Senator BAYH. One final question, Dr. Gates, with regard to Iran and their nuclear aspirations. I agree with your assessment of why they seek to have a nuclear capability. They impress me as the kind of individuals, the leaders of their country, that will only respond to the prospect of forceful steps. Rhetoric alone probably will not be enough.

I've been told that they see our continued presence in Iraq as a constraining factor on us, that it limits us from having as credible a deterrent with regard to Iran as we need to have to get them to give up their nuclear aspirations, or to at least give us the best chance of accomplishing that. Do you agree with the statement that bringing closure eventually to our presence in Iraq is necessary to maximizing our chances to have the deterrent to deter the Iranians from their nuclear aspirations?

Dr. GATES. Senator, I'm not sure about that. I think that some of the public statements by the President of Iran, some of the actions the Iranians have taken, are beginning, in a significant way, to frighten other neighbors and to create concerns among countries, both in the region and in Europe and elsewhere, who are potentially in a position to be helpful to us in bringing pressure to bear, both economic and political pressure to bear, on Iran. So, I'm not denying what you're suggesting, but I'm not sure it's right either. I think that there are some other factors at work that the Iranians are going to have to take into account.

Senator BAYH. Just one final observation. My time is expired. Again, I thank you for your presence. I've been told by some that they view us as being bogged down in Iraq, from a manpower standpoint, from a resources standpoint, and that, frankly, they like that. They don't want to see us extricate ourselves from that place, because they know it constrains our ability to deal more forcefully with other threats, including the one that they present.

Dr. GATES. When we did our study for the Council on Foreign Relations on U.S. policy toward Iran in 2004, what we were hearing then—and things were going considerably better for the United States in Iraq at that time—was that one of the reasons the Iranians were ambiguous in their approach to what was going on in Iraq was some gestures of assistance to us, as well as doing some things that were not helpful, but that they were quite frightened by having U.S. troops on both their western and eastern borders. What I've heard—and I haven't talked to any intelligence analysts about this—is that because they think things aren't going as well for us, they're not as frightened right now. By the same token, it seems to me that if things do start to go right in Iraq, and we do begin to get the situation stabilized, that may, in turn, bring considerable pressure on them, because they'll see that they have a different kind of state on their western border than they had anticipated, that may not be as militarily threatening as Saddam Hussein was, but is potentially politically threatening, and also that the United States will have shown that we were able to be successful. It seems to me it could go either way.

Senator BAYH. Thank you, again, for your candor.

Chairman WARNER. Thank you very much, Senator.

We've had, I would say—I've been here 28 years—this has been as good a hearing as we've had, right, Senator?

Senator LEVIN. I agree with you.

Chairman WARNER. All right.

Senator LEVIN. It's better than most.

Chairman WARNER. With that the morning session stands in recess until the hour of 2:15.

[Whereupon, at 1:10 p.m., the morning session of the hearing was recessed.]

CONTINUATION OF THE NOMINATION OF ROBERT M. GATES TO BE SECRETARY OF DEFENSE

TUESDAY, DECEMBER 5, 2006

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC.

The committee met, pursuant to notice, at 2:20 p.m. in room SH–216, Hart Senate Office Building, Senator John Warner (chairman) presiding.

Committee members present: Senators Warner, McCain, Inhofe, Roberts, Sessions, Collins, Talent, Graham, Dole, Cornyn, Thune, Levin, Kennedy, Byrd, Lieberman, Reed, Akaka, Bill Nelson, E. Benjamin Nelson, Dayton, Bayh, and Clinton.

Committee staff members present: Charles S. Abell, staff director; and Leah C. Brewer, nominations and hearings clerk.

Majority staff members present: William M. Caniano, professional staff member; Regina A. Dubey, professional staff member; Ambrose R. Hock, professional staff member; Gregory T. Kiley, professional staff member; Sandra E. Luff, professional staff member; Derek J. Maurer, professional staff member; Elaine A. McCusker, professional staff member; David M. Morriss, counsel; Lucian L. Niemeyer, professional staff member; Lynn F. Rusten, professional staff member; Sean G. Stackley, professional staff member; Diana G. Tabler, professional staff member; and Richard F. Walsh, counsel.

Minority staff members present: Richard D. DeBobes, Democratic staff director; Jonathan D. Clark, minority counsel; Daniel J. Cox, Jr., professional staff member; Madelyn R. Creedon, minority counsel; Gabriella Elsen, professional staff member; Evelyn N. Farkas, professional staff member; Richard W. Fieldhouse, professional staff member; Creighton Greene, professional staff member; Michael J. Kuiken, professional staff member; Gerald J. Leeling, minority counsel; Peter K. Levine, minority counsel; Michael J. McCord, professional staff member; William G.P. Monahan, minority counsel; Michael J. Noblet, research assistant; and Arun A. Seraphin, professional staff member.

Staff assistants present: David G. Collins, Micah H. Harris, and Jill L. Simodejka.

Committee members' assistants present: Christopher J. Paul, Richard H. Fontaine, Jr., and Paul C. Hutton IV, assistants to Senator McCain; John A. Bonsell and Jeremy Shull, assistants to Senator Inhofe; Libby Burgess, assistant to Senator Roberts; Arch Gal-

loway II, assistant to Senator Sessions; Mark Winter, assistant to Senator Collins; D'Arcy Grisier, assistant to Senator Ensign; Clyde A. Taylor IV, assistant to Senator Chambliss; Matthew R. Rimkunas, assistant to Senator Graham; Greg Gross and Arjun Mody, assistants to Senator Dole; Russell J. Thomasson, assistant to Senator Cornyn; Bob Taylor and Stuart C. Mallory, assistants to Senator Thune; Sharon L. Waxman and Mieke Y. Eoyang, assistants to Senator Kennedy; Christina Evans and Erik Raven, assistants to Senator Byrd; Frederick M. Downey, assistant to Senator Lieberman; Elizabeth King, assistant to Senator Reed; Richard Kessler and Darcie Tokioka, assistants to Senator Akaka; William K. Sutey, assistant to Senator Bill Nelson; Eric Pierce, assistant to Senator Ben Nelson; Luke Ballman, assistant to Senator Dayton; Todd Rosenblum and Robert J. Ehrich, assistants to Senator Bayh; and Andrew Shapiro, assistant to Senator Clinton.

OPENING STATEMENT OF SENATOR JOHN WARNER, CHAIRMAN

Chairman WARNER. We'll now resume our hearing from this morning.

Senator Levin and I are in consultation with our colleagues with regard to further procedures concerning this nomination. I just want to thank Senator Levin and all colleagues for the support that they have given me in chairing this hearing and preparing for the sequential steps that will take place until we have our final vote, on the floor of the Senate.

At this time, we'll resume questioning, and we'll each take our usual 5 or 6 minutes. I'd say, Dr. Gates, that we are all very impressed with the candor and forthrightness that you've expressed this morning.

I'd like to initiate this afternoon's session with a discussion about your perspectives regarding both Iran and Syria. You were quite clear this morning on the questions that were put to you, but I'd like to ask—and I don't think we can get a definitive answer—you've written on this subject—and that is, do we try at some point as we begin to assemble the perspectives of the nations surrounding Iraq, to have some consultation directly with Iran and Syria, perhaps as a preliminary step to bringing the nations together, if that's a desire, hopefully, of the President, to try and have a conference of the region? There's a lot of suggestions on that. Tomorrow's report from the Baker-Hamilton Commission, which again, I expressed—and again to the press outside—a lot of confidence in the work that they've done, and I'm hopeful that we here in Congress will pay very close attention to those recommendations. I hope the executive branch will, likewise. But it could well be, as part of that report, the initiation of some type of overture, some type of formal—perhaps informal and formal overtures to both Iran and Syria.

Dr. GATES. Yes, Mr. Chairman.

Mr. Chairman, before I answer that question, with your indulgence, could I amplify on one of my answers this morning?

Chairman WARNER. Yes.

Dr. GATES. Only because I'm concerned that the troops in the field might have misunderstood something I said. While I was hav-

ing lunch and eating my sandwich, I was watching the news, and I certainly stand by my statement this morning that I agreed with General Pace that we are not winning, but we are not losing, but I want to make clear that that pertains to the situation in Iraq, as a whole. Our military forces win the battles that they fight. Our soldiers have done an incredible job in Iraq, and I'm not aware of a single battle that they have lost. I didn't want my comments to be interpreted as suggesting that they weren't being successful in their endeavors. I think we all applaud and appreciate what they're doing. The situation in Iraq is clearly much more complex than just the military actions, and the areas where we're having our challenges, frankly, are principally in the areas of stabilization and political developments and so on, and I just wanted to make that clarification, sir.

Chairman WARNER. I appreciate that because in my opening statement I recited what I heard General Pace say yesterday. He also, in the context of saying that, had nothing but the highest praise for the men and women of the Armed Forces and the fact that they have given their all. As you say, there's not a major engagement that we've had with this very diverse enemy in which they have not basically succeeded, given their courage and commitment. I think that's an extremely important adjunct to those crisp statements, that it doesn't reflect, in any way, on the professionalism and the commitment and the record of success of the men and women in uniform.

Dr. GATES. Exactly, Mr. Chairman.

Chairman WARNER. I thank you for bringing that up.

Dr. GATES. Thank you.

Chairman WARNER. So, we return to the issue of how best we deal with Iran and Syria.

Dr. GATES. Yes, sir.

Obviously, the decision on what to do in this respect is the President's, and he probably will look principally to the Secretary of State for advice on this question of Syria and Iran. But I guess I would have to say that I think, in the long run, we are going to have to acknowledge the influence of Iraq's neighbors, and the potential to make the situation either better or worse in Iraq. The forum in which we try to engage, and how we do it, and when we do it, clearly are issues to be determined. But I think we just have to acknowledge the reality that they have the opportunity to make things either much worse or much better for us, should they choose to do so. Figuring out the right way to try and take advantage of that really is, I think, principally, probably Dr. Rice's responsibility. But, philosophically, that's where I'm coming from on the issue.

Chairman WARNER. But as a part of your advice to the President, you will share own views, because it's based on many years of experience.

Dr. GATES. Yes, sir.

Chairman WARNER. This morning, in response to several questions—and I think Senator Cornyn had one of the final questions that prompted your assessment on the problems that face not only the United States, but the whole world, should our goals—and when I say "our," it's really not just the United States, but the coalition forces, particularly Great Britain and others, who have stood

by our side throughout this conflict—to sustain this government and enable it to have the security environment, the economic support, and otherwise to exercise the full range of sovereignty. I call to your attention something that has not been noted by many, and that is, on November 28, the Security Council, in a very carefully drawn resolution, extended the authority of the coalition forces to continue until December 31, 2007, with the juncture point somewhere—I believe it's in June—and I'm going to produce that document here shortly—that if the Iraqis so desire, the government, they can review whether or not the resolution should continue. But a key phrase in that is the resolution states that the problems in Iraq face the whole international community. Whether it's the potential loss of the energy so critical to support the economies of the world, or whether a failure would incite greater terrorism throughout the world. I thought the United Nations Security Council was very perceptive in saying it's just not contained in Iraq or the region, but how that situation is concluded, hopefully successfully; it affects the entire world, because the problems in Lebanon, problems in Palestine, all are linked in some respects to the situation in Iraq, and, indeed, to some extent, Afghanistan.

Have you had a chance to look over that resolution?

Dr. GATES. No, sir, I have not.

Chairman WARNER. I would urge that you do so, and how they are very perceptive in saying it affects, indeed, the whole world. I think in pieces this morning your testimony did, in fact, reflect your own judgment that the importance of this situation does affect the whole world. Do you share that view?

Dr. GATES. Yes, sir, I do.

Chairman WARNER. We talked this morning, and I was very reassured that you feel a broad bipartisan agreement on the future course of action will greatly strengthen the resolve and the commitment in this country; indeed, it would be a recognition of the mandate, in many respects, this past election, where the people of this country spoke, and also to the men and women of the Armed Forces. Clearly, a unified, bipartisan approach, once the President finally decides on such changes in strategy as he approaches the goals that he has established, is in our interest. I want to commend you and your testimony for giving support to that concept.

Finally—and this is something that I find particularly troublesome, and I'm not sure there's a clear answer, at this time—but I was very active in drawing up the resolution that authorized the use of force for this conflict, both in Gulf I and Gulf II. Senator McCain is associated with me—Senator Bayh, Senator Lieberman; the four of us drew it up. I've gone back and looked at it many times in the legislative history. What troubles me today is that our forces are faced with situations in which there's this sectarian violence which is simply rooted so deeply in centuries of difference of approach to the very important doctrines of the Muslim world, the reverence they have for the Quran, the reverence that they have for the longstanding tenets. We tend to think that the Muslim world is in revolt. It is not. It is a very small fraction of the extreme radicals that are fomenting the problems that we see today. It is my hope that the moderate elements of the Muslim world will

finally come together and help us reconcile such differences that we have.

But let's talk about that patrol or platoon or company of U.S. forces that are suddenly caught in a situation where clearly the fight in front of them is purely sectarian. I feel very strongly that they should simply step back, that that's a matter that the Iraqi security forces (ISF) would have to deal with, not the men and women of the U.S. forces. How do you feel about those conflicts, whether there's just a small firefight or these mass killings, which are clearly identified as sectarian? What should be the involvement, or lack of involvement, of our forces? We want to support the Iraqi military, but we support them in dealing with the sectarian, rather than putting our folks right in that crossfire.

Dr. GATES. Yes, sir. That tends to be my instinct, but I think one of the early conversations that I would want to have, if I were confirmed for this position, with the commanders on the ground is to address that very question. Clearly they must have done some contingency planning and consideration of what would happen in the event that this kind of thing begins to happen. I'd like to get their professional opinion about how they think they are going to respond if and when that kind of thing happens.

Chairman WARNER. If I may say, it is happening, it has happened, is happening, and it seems to be ever-increasing, the sectarian element.

Dr. GATES. Yes, sir.

Chairman WARNER. Right in that seat, General Abizaid has said on two occasions that the initial insurgency, the initial infiltration from other countries of people who have come in to thwart the efforts of the coalition forces, the preponderance of the conflict today has its roots in sectarian violence and differences. So, it is taking place, and I'm pleased to have in this record your assurance that you'll take that up with the commanders.

Dr. GATES. Yes, sir.

Chairman WARNER. Speaking for myself and, I think, some other colleagues around here, our young men and women should not be caught in that crossfire. That's the responsibility of the 300,000-plus Iraqi forces we've trained and equipped.

Senator Levin.

Senator LEVIN. Mr. Chairman, I think you speak for many members of this committee when you say that, and you surely do for me. If they are going to have a civil war in Iraq, it is going to be one that we should not be caught in the middle of. Hopefully, they are going to opt for a nation rather than a civil war, at least an all-out civil war, because they have a low-grade civil war going on now. But they have to make a choice, and it is a political choice. They have said that themselves. I think your answers this morning are very helpful in pointing out that it is mainly a political decision that has to be made in Iraq, rather than anything else.

The security situation in Iraq is directly connected to the lack of a political consensus in Iraq. That is what their prime minister has said. He puts the responsibility for achieving that consensus right where it belongs, on the political leaders in Iraq, and we ought to hold them to it.

It is in all of our interest that we maximize the chances of success in Iraq. I do not think there is any disagreement among anybody in that regard. Where there has been the sharp difference as to whether or not the current course, whether an open-ended commitment of our forces will lead us to maximize the chances of success, or whether it basically is sending a message to the Iraqis that somehow or other the responsibility here is other than their own.

But, in terms of the goal of trying to leave Iraq in stable and in better shape than we found it, I think everybody shares that goal, and I know you do.

Dr. Gates, General Abizaid testified before this committee in response to Senator McCain's question about adding additional troops, as to why he, General Abizaid, thought it would be a mistake. Here is what he said: "I met with every divisional commander, General Casey, the Corps commander, General Dempsey. We all talked together. I said to them, 'In your professional opinion, if we were to bring in more American troops now, does it add considerably to our ability to achieve success in Iraq?' They all said no. The reason is"—and this is General Abizaid now—"because we want the Iraqis to do more. It's easy for the Iraqis to rely upon us to do this work. I believe," General Abizaid said, "that more American forces prevent the Iraqis from doing more, from taking more responsibility for their own future."

Do you agree with General Abizaid's comment?

Dr. GATES. As I indicated in my answers this morning, I would give great weight to the views of our commanders out there. I would want to sit down and talk with General Casey, General Dempsey, and myself. But if that is their view, I would give great weight to that.

Senator LEVIN. Does his reasoning resonate with you?

Dr. GATES. It makes sense to me.

Senator LEVIN. It does to me, too, I might say. On prewar intelligence, Dr. Gates, when we met in my office, you told me that you did not see evidence of a link between Iraq under Saddam Hussein and al Qaeda. Is that your view?

Dr. GATES. As I indicated in answering a question earlier today, I have really received very little in the way of intelligence, so on the basis of what I've read in the newspapers, that certainly would be my conclusion.

Senator LEVIN. You did indicate, in one speech in February 2002, that, "We know that at least one of the leaders of the September 11 hijackers met twice in Prague with Iraqi intelligence officers in the months before the attack." What did you base that conclusion on, since the intelligence community had not reached that conclusion?

Dr. GATES. Strictly a newspaper story, sir.

Senator LEVIN. In response, Dr. Gates, to prehearing questions from this committee, you said that you would cooperate with committee requests for information or documents relating to Defense Department detention and interrogations policies and allegations of detainee mistreatment. When we met in my office the week before last, I told you that I would be renewing a request for Department of Defense (DOD) documents that were denied in the past, particularly with regard to the prewar intelligence activities of the Office

of the Under Secretary of Defense for Policy, under the leadership of Douglas Feith. Will you make relevant documents available for congressional oversight of issues such as those which I talked to you about, the prewar intelligence activities of the Office of Under Secretary of Defense for Policy?

Dr. GATES. To the extent I have the authority, yes, sir.

Senator LEVIN. When we met in my office, we also discussed the role of the Feith operation in providing an alternative intelligence channel to the White House, separate from the intelligence community. I wrote a lengthy report on that subject in which I indicated I thought that was a highly inappropriate role for the Office of the Under Secretary. You, this morning, said something which resonates with me, which is that the one thing you don't like is offline intelligence organizations or analytical groups, that you would far rather depend on the professional analysts at the Defense Intelligence Agency (DIA) and at the Central Intelligence Agency (CIA) and at other agencies, and work to ensure their independence, than to try and create some alternative someplace.

From what you know, what is your view of the appropriateness of the intelligence activities of the Office of Under Secretary of Defense for Policy when it was under Mr. Feith's leadership?

Dr. GATES. I really haven't read very much about it, even in the newspapers, Senator. I just have the impression that they were, as I say, as I understand from the newspapers, analyzing intelligence reports and providing an independent evaluation of that reporting, and an analysis based on that reporting, to defense officials.

That's pretty much the extent of my knowledge of it.

Senator LEVIN. If that is what happened, what is your view of that?

Dr. GATES. I have a problem with it.

Senator LEVIN. Thank you.

My time is up.

Chairman WARNER. Thank you.

Senator THUNE.

Senator THUNE. Thank you, Mr. Chairman.

Dr. Gates, I want to come back, if I might, to a line of questioning that was asked by my colleague from Missouri earlier today, Senator Talent. I have, as he indicated, also supported raising the top line of DOD's budget. In a time of conflict, I don't believe that we are putting enough resources toward effectively fighting the war on terror. In fact, I think that, in some cases, Congress has been guilty of increasing the burden on the Department by slowing down modernization. I will give you an example of that: legacy aircraft requirements such as the B–52 are routinely delayed. Aging airframes, like the C–130, are exposed to dangerously high levels of stress and flying hours, or are required to be put into a bed-down status, even though they have been grounded for exceeding safe flying hours. The question I would have is, with respect to that issue, and the fact that we need to reset, and we're running a lot of our equipment into the ground, and we need to start thinking about the next generation of a lot of these platforms. If you are confirmed, what recommendations would you make to Congress regarding the adverse effect that sustaining the life span of aging platforms is having on the Department?

Dr. GATES. Senator, if I'm confirmed, it's clear that the kinds of issues that you and Senator Talent have referred to are going to be high priorities. The resource demands, in terms of ensuring readiness, in terms of paying for the costs of the war, and in terms of future investments, are really the three major buckets. Weighing the balance between those, and seeing if additions to the top line are required to be able to do the necessary tasks in all three, I think, is a very real possibility. As I say, I haven't had the chance to get into the 2008 budget really at all, or to gather the facts on a lot of these specific systems, but it's clear that that will have to be a top priority, if I am confirmed.

Senator THUNE. I appreciate that. I would just let you know that there are those of us up here who would like to work with you on that, who, I think, share the view that we just don't have enough to go around for everything that we're doing, when we're fighting a war, and we have lots of obligations around the world, talking about being spread too thin, and then the equipment needs that we have, and to focus on the future in that window for what the next generation's needs are going to be, in terms of our warfighting capability. I know it's difficult fighting the forces at the Office of Management and Budget and other places, but I hope that we can count on you to do the right thing in terms of what our national security needs are down the road, as opposed to looking, just on short term, in this year's budget—as Senator Talent mentioned, the urgent versus the important—because I have a real concern about that, as well. I know that the various branches of the military are often in here and competing for dollars and everything else, but we have a lot of responsibility and a lot of needs out there that are not being met, and I'm fearful that it's going to make us less prepared, going forward. So, I appreciate your response to that.

One other question I would ask is that there are some recent resignations that have left open positions at the Pentagon, and one of those is the Under Secretary of Defense for Intelligence. That position, I believe, was created in 2003, and did not exist when you were at the Director of Central Intelligence (DCI). Have you developed any opinions yet on the utility of that position, now that you've been nominated, and whether to maintain, downgrade, or eliminate the position? Is there a potential conflict, or danger, inherent in this position of influencing the analytical process?

Dr. GATES. Senator, I really haven't given it a lot of thought, to tell you the truth. I haven't thought about people, partly because I figured I wouldn't spend the time on it until I knew whether or not I was going to have the job. But I would say, I need to look into all of the responsibilities of that position. There has been a position like that in DOD at different levels for a long time, to coordinate the various aspects of the various defense intelligence organizations. So, at first blush, my instinct is that there probably is value in the position. But I think it's more in the form of coordinating the different elements of the defense intelligence organizations, working with the Director of DIA and others to make sure that the needs of the warfighter are being met by the defense intelligence organizations, and cooperating, also, and collaborating, with the Director of National Intelligence and the Director of CIA. So, my in-

clination is to think that there probably is value in the position, but I have not thought about anybody for that position.

Senator THUNE. I appreciate that. I would just say in closing, Dr. Gates, that your experience is very relevant to the challenges that we face, and I think the role that intelligence plays increasingly in this war on terror is so critical. I appreciate the answers that you've given, the responsiveness that you've demonstrated to the questions that have been posed of you today. I suspect that we'll get a good, strong, hopefully bipartisan, vote for your confirmation and I am looking forward to working with you. But I think you've been very forthcoming, and I just appreciate the response that you've demonstrated today.

Dr. GATES. Thank you.

Senator THUNE. Mr. Chairman, I yield back. Thank you.

Chairman WARNER. Thank you very much, Senator.

Senator Kennedy.

Senator KENNEDY. Thank you, Mr. Chairman.

Thank you, Dr. Gates. Just to underscore what both the chairman and the ranking member have mentioned about the battles that are taking place, primarily in Baghdad, that had led a number of people, such as Kofi Annan, to believe that there is a civil war that is taking place. It's less than 2 percent—as I understand it, from General Abizaid and General Maples—of the people that are actually killed in Iraq are foreign fighters. That even includes the suicide bombers. So, this level of intensity between the Shiite and the Sunni has escalated and, I think, is enormously troublesome about how we're going to be able to influence it and what the role of the military is going to be. You've responded both to Chairman Warner and Senator Levin on this. Obviously, the issue is the safety and security of our troops if they become identified on a particular side in what I think, personally, is a civil war. What you're going to have to find out is what the rules of engagement are. You're going to talk to the local commanders, but what are their rules of engagement in making their judgment to ensure that what we are interested in is the safety and the security of the American troops. This is a matter, obviously, of great importance.

Just a second issue—I just want to move through some.

Dr. GATES. Yes, sir.

Senator KENNEDY. In Darfur, 400,000 killed, 2.5 million displaced. It continues to be a human tragedy of such extraordinary proportions. The reluctance of the Sudanese government to take steps to try and bring about peaceful resolutions and negotiations. How long are we going to be able to tolerate that? What might the role of the North Atlantic Treaty Organization (NATO) countries be? What might the possibilities be, in terms of no-fly zone? What options are going to be available to the President, should this situation continue to deteriorate? You're going to be the one on the watch for those issues. I don't know whether you want to—it's a very specialized area—make a brief comment. I wanted to just raise the issue. I don't expect a detailed kind of response, but I would certainly hope that you'd give focus and attention—when the confirmation process concludes—to that issue, because it's of enormous importance, an incredible humanitarian issue.

An issue that was raised earlier today in the newspapers. You haven't had a chance to see it, but the census counts 100,000 contractors in Iraq—100,000 contractors in Iraq. Inside the article, it quotes, "With few industry standards, the military contracts have sometimes lacked coordination resulting in friendly-fire incidents, according to Government Accounting Office last year. 'It takes a great deal of vigilance on the part of the military commander to ensure contractor compliance,' says William Nash, retired Army general and fellow at the Council on Foreign Relations, 'trying to win the hearts and minds. The contractors driving 90 miles an hour through the streets and running over kids, that's not helping the image of the American Army. Iraqis aren't going to distinguish between a contractor and a soldier.'"

You are going to have an opportunity to review this whole issue, in terms of the contractors. We've had, of course—and I won't have the chance to get into it today, but there is the whole question of accountability of these to the law, the whole question in terms of the torture issues, with Abu Ghraib, about the roles of contractors, and others. It is a very major issue and question, and it's one that I know you'll want to have a good opportunity to review so there's some real accountability and consistency, in terms of policy.

Dr. GATES. Yes, sir. In fact, my impression, or recollection, from the briefings that we received in Baghdad on the Iraq Study Group (ISG), was that some of the more useful work that had been done by Mr. Bowen in the Special Inspector General's office included some of these areas, dealing with contractors.

Senator KENNEDY. Just a final issue. The members of this committee have spent a great deal of time on the issues of military tribunals. We've spent a good deal of time on the issues of torture, interrogation, on rendition, and issues of that nature. Congress has taken action now, at the end of this last session on these issues of tribunals. It's enormously important, as you will understand, to get it right. Because, really, what a bitter irony it would be if we get it wrong, if Congress has it wrong and these high suspects that are being tried are found, that the procedures which they are considered to be unconstitutional and suddenly they're in a different situation. They're in a different situation, having gone through the law, they don't necessarily have to be released, but if they're found to have the procedures which are there violating the Supreme Court, it certainly would be an incredible irony that some of them are outside, then, from the judicial system.

The trial procedures used by the commissions, we're hopeful that those trial procedures will be consistent with the basic fairness. The law does not require public comment to the rules that help ensure that they will meet the judicial scrutiny. The law does not require that. But there have been many that thought that, with the possibility where the DOD gives a chance to just get public comments, that it may be enormously useful and valuable. I've raised that issue with you. I'll drop you a note on it, because it's a technical, but very important, one, and follow up with you to see if you review it, and make a judgment.

Dr. GATES. All right, sir.

Senator KENNEDY. My time is up. I thank you very much.

Dr. GATES. Yes, sir.

Chairman WARNER. Thank you, Senator Kennedy.

Senator Sessions.

Senator SESSIONS. On the question of interrogation of unlawful combatants, which these terrorists are, I would just say we've had 30 hearings or more on that. The net effect has been to suggest to the world that we think our military is out of control with regard to these issues. That's just not so. Those who violated the rules of war, those who violated our own standards and laws and the Uniform Code of Military Justice have been punished. But I'll tell you what is really critical, Dr. Gates. It's something I've seen and become more convinced about in recent months, and that is, we have totally inadequate prisons in Iraq for those who are trying to destroy that country. In addition to freeing innocents, justice requires that those who are guilty be able to be punished, and punished severely if they commit severe crimes, such as attempting to blow up innocent men, women, and children.

My meeting on our last trip with Senator Warner, Senator Levin, indicated, from the Marines, they felt that our dangerous prisoners were being released. Atlantic Monthly magazine had an article in which the mayors of Mosul complained, in their first round of discussions, most vehemently about prisoners being released from Abu Ghraib prison. They come back, and they cause disturbances in their communities. One Marine Times article indicated that one guy, known as "The Beheader," had been released. Another serious bomber had been released, and, already, his signature bombing technique had reappeared in the community.

I have run the numbers, and the best we can calculate, on a per capita basis, Iraq has one-ninth as many prison beds as the State of Alabama. To me, that indicates that we really are not there yet. If we're going to provide security for the people in Iraq, we have to be able to assure them that bad people who are apprehended will be able to be detained and held for long periods of time, else they will turn to militias and other unauthorized groups to protect their own safety.

I'm sure you haven't had time to look at this, but I'd like a personal commitment from you that you will look at it, and look at it hard and quickly, because I think something must be done to assure the Iraqi citizens that those who are out to destroy them can be arrested, punished, and sent to jail.

Dr. GATES. Absolutely, Senator Sessions. If I'm confirmed, maybe you will send me some of those articles that you have referred to. That will help jog my memory so I can do that.

Senator SESSIONS. I will definitely do that, and I think it's important.

I just got back from the Riga NATO conference, the summit that President Bush attended, and we met with representatives from NATO countries and the German Marshall Fund Foundation and many conferences. There's a growing unease about Russia's—I will just say "bad behavior." We know they're selling sophisticated antiaircraft weaponry to the Iranians. They're using oil as a weapon against the new democracies. They're taking steps to complicate the ability of new democracies, like Ukraine and Georgia, to attain their independence, as if they seem to feel that they still are part of the Soviet Empire.

You're a student of history, you're a student of Russian history—do you see a dangerous trend, a downward spiral in Russia's behavior? Do you have any thoughts about what we can do to change that?

Dr. GATES. I think, Senator, there are a number of areas of concern, in terms of Russian behavior, particularly over the last 2 or 3 years.

I was particularly intrigued when I read that they attempted to punish the Ukranians by turning off the gas pipelines, the gas supply, they sort of forgot that the gas pipelines to Western Europe go through Ukraine, and the Europeans began to have some shortages.

Just as a historical footnote, the members of the committee will probably remember that during the Reagan administration, we tried very hard to persuade the Europeans that it was not in their interest to become dependent on Russian gas—the Soviet gas, in those days—and that the potential for the political manipulation of the supply was very real. That was 20 years ago, and we're now seeing it, as the Russians try to use it on some of their neighbors abroad. It clearly has begun to raise some concerns on the part of the Europeans.

So, I think that what Putin is trying to do, frankly, is reestablish Russia as a great power. I think we, in the west, probably don't fully appreciate the magnitude of the humiliation, not only of the loss of the Cold War and the loss of Eastern Europe, but, in effect, the destruction of the Russian Empire itself, 3 or 4 centuries in the making. I think Putin is trying to restore the pride of Russia. I think he has a lot of popular support at home for the things he's trying to do. He has the money to do it now, thanks to the price of oil. I think he's basically trying to make Russia a force, in the countries that used to belong to the Soviet Union. I don't think he wants to take them over. He doesn't want their problems. But he wants to make them dependent on Russia, and susceptible to Russian influence and to Russian bidding.

I think there are a number of things that are going on there. I think he is trying to take back control of a state-owned enterprise—state-owned resources and particular strategic resources, whether it's oil and gas or other minerals or major industries. How far he'll go, I think, is an open question. There are still freedoms in Russia that did not exist under the Soviet Union, especially if you don't want to challenge Mr. Putin for power. But I think that the developments in recent years are really of concern in Russia.

Senator SESSIONS. My time is about up, but I would just ask you this with regard to your view of a bipartisan long-term defense policy for America. If we could reach an agreement on a series of weapons systems and other initiatives for the Defense Department of America, both sides of the aisle—these are things we know we need to do in the next 10 or 20 years—if we did that, could we achieve that at less cost and more effectively than if we proceed on a year-to-year basis?

Dr. GATES. I think anytime you have a long-term commitment, and people can plan for it, you're likely to save money.

Senator SESSIONS. Thank you, Mr. Chairman.

Chairman WARNER. One of the remarkable chapters of current military history, and in sharp contrast to previous engagements of our Armed Forces overseas in battle, has been the concept of embedding journalists. I personally, from my perspective, have witnessed it on our trips that Senator Levin and I have taken. I think it's been a very effective tool. I think it has brought America into the war in a very visible way, a real-time way. World War II, we depended on going to the local movie house to see a 10-minute clip on Movietone News if we wanted to see any of the actual live fighting. But today it's instantaneous.

Now, this has brought on its problems, because those journalists, in most, if not all, instances, are taking personal risks and making personal commitments about their own security that are equivalent, in many respects, to the men and women who are fighting. There have been several instances, which I'm going to bring to your attention in a letter, which I will send you. But there's a committee to protect journalists which is very active in trying to resolve what I regard as very few disputes, but, nevertheless, serious disputes, between the profession of journalism and the manner in which the embedding is taking place. I will be bringing to your attention, I think, the need for you to focus on that. I hope that you can continue it. I hope that we can reconcile differences and that the journalists who are willing to take on these tough assignments can be given every protection that's possible. I'll spell that out in a letter.

In sharp contrast is the difficulty of getting persons from other departments and agencies of our Federal Government to go over to Iraq, and, frankly, exist in the Green Zone, much less what the journalists are doing right out on the front with the troops. This committee, with the strong support of my colleague over here, Senator Levin, actually put in our bill certain technical things to provide the Secretaries of the various departments and administrators of our agencies of government, to give incentives to their employees to go over there and participate. That's a subject that I hope that you will address also, because you stop to think, we're in a war, and it's a dangerous war, and it's a war that's to preserve our freedom, yet we don't have the commitment, like we did in World War II, to where the whole Nation, be they at home or abroad, was unified in the common purpose of succeeding there.

I have to say—and I've witnessed firsthand the Korean situation myself, and then Vietnam, and now this very tragic, but important, conflict in Iraq, and the Nation is kind of distanced from it. It's the families of the uniformed people and those people that are bearing the brunt of this conflict, and the rest of us are going about our regular lives. Of course, it's a very expensive operation. But I urge that you take a look at that, and urge you to take a look at what we can do to further incentivize a lot of the civil service structure and professionals in our other departments and agencies to pitch in over there and help these fledgling bureaucracies grow, and do the best we can to help this sovereign nation lift itself up and function.

Dr. GATES. Mr. Chairman, I think it's a very important issue. When our ISG was in Baghdad, we heard a good bit from the commanders in the field of the numbers of jobs being done by soldiers that actually were filling positions that belong to other agencies. If

I'm confirmed, you can rest assured that I will be aggressive in looking at that one.

Chairman WARNER. Your first Cabinet meeting pound that table. [Laughter.]

We are looking for, as the Marines say, "a few good men and women."

Earlier, I talked about the Security Council resolution. I'll ask unanimous consent that this very important document be put in today's record, because it recites the basis on which the coalition forces—mainly the United States—are conducting their military activities in Iraq in the cause of freedom.

[The information referred to follows:]

United Nations S/RES/1723 (2006)

Security Council

Distr.: General
28 November 2006

Resolution 1723 (2006)

Adopted by the Security Council at its 5574th meeting on 28 November 2006

The Security Council,

Welcoming the formation of a national unity government in Iraq with a detailed political, economic and security programme and a strong national reconciliation agenda and *looking forward* to the day Iraqi forces assume full responsibility for the maintenance of security and stability in their country, thus allowing the completion of the multinational force mandate and the end of its presence in Iraq,

Welcoming the progress made to date in the training and equipping of Iraqi security forces as well as in the transfer of security responsibilities to those forces in Muthanna and Dhi Qar provinces and *looking forward* to the continuation of that process during 2007,

Recalling all of its previous relevant resolutions on Iraq,

Reaffirming the independence, sovereignty, unity, and territorial integrity of Iraq,

Reaffirming also the right of the Iraqi people freely to determine their own political future and control their own national resources,

Welcoming the continuing work of the Government of Iraq towards a federal, democratic, pluralistic, and unified Iraq, in which there is full respect for human rights,

Welcoming the vital role played by the Government of Iraq in continuing to promote national dialogue and reconciliation in pursuit of an atmosphere in which sectarianism is totally rejected, including the National Reconciliation Plan announced by Iraqi Prime Minister al-Maliki, *stressing* the importance of the rapid implementation of the plan, and *reaffirming* the willingness of the international community to work closely with the Government of Iraq to assist these reconciliation efforts,

Recognizing the International Compact with Iraq, an initiative of the Government of Iraq to create a new partnership with the international community and to build a strong framework for Iraq's continued political, security and economic transformation and integration into the regional and global economy, and *welcoming* the important role that the United Nations is playing by jointly chairing the Compact with the Government of Iraq,

06-63235 (E)

Calling upon the international community, particularly countries in the region and Iraq's neighbours, to support the Iraqi people in their pursuit of peace, stability, security, democracy, and prosperity, and *noting* that the successful implementation of this resolution will contribute to regional stability,

Demanding those who use violence in an attempt to subvert the political process should lay down their arms and participate in the political process, and *encouraging* the Government of Iraq to continue to engage with all those who renounce violence,

Reaffirming that acts of terrorism must not be allowed to disrupt Iraq's political and economic transition, and *further reaffirming* the obligations of Member States under resolution 1618 (2005) of 4 August 2005 and other relevant resolutions and international conventions with respect, inter alia, to terrorist activities in and from Iraq or against its citizens,

Recognizing the request conveyed in the letter of 11 November 2006 from the Prime Minister of Iraq to the President of the Council, which is annexed to this resolution, to retain the presence of the multinational force in Iraq, and *affirming* the common goals therein: Iraqi assumption of recruiting, training, equipping, and arming of the Iraqi Security Forces; Iraqi assumption of command and control over Iraqi forces; and the transfer of responsibility for security to the Government of Iraq,

Recognizing the importance of consent of the sovereign government of Iraq for the presence of the multinational force and of close coordination and partnership between the multinational force and that government,

Welcoming the willingness of the multinational force to continue efforts to contribute to the maintenance of security and stability in Iraq, including participating in the provision of humanitarian and reconstruction assistance, as described in the letter of 17 November 2006 from the United States Secretary of State to the President of the Council, which is annexed to this resolution,

Recognizing the tasks and arrangements set out in letters annexed to resolution 1546 (2004) of 8 June 2004 and the cooperative implementation by the Government of Iraq and the multinational force of those arrangements,

Affirming the importance for all forces promoting the maintenance of security and stability in Iraq to act in accordance with international law, including obligations under international humanitarian law, and to cooperate with the relevant international organizations, and *welcoming* their commitments in this regard,

Recalling the establishment of the United Nations Assistance Mission for Iraq (UNAMI) on 14 August 2003, and *affirming* that the United Nations should continue to play a leading role in assisting the Iraqi people and government with further political and economic development, including advising and supporting the Government of Iraq, providing strong support in developing the International Compact with Iraq, contributing to coordination and delivery of reconstruction, development and humanitarian assistance, and promoting the protection of human rights, national reconciliation, as well as judicial and legal reform in order to strengthen the rule of law in Iraq,

Recognizing that international support for security and stability is essential to the well-being of the people of Iraq as well as the ability of all concerned, including

the United Nations, to carry out their work on behalf of the people of Iraq, and *expressing* appreciation for Member State contributions in this regard under resolution 1483 (2003), resolution 1511 (2003), resolution 1546 (2004) and resolution 1637 (2005),

Recognizing that the Government of Iraq will continue to have the primary role in coordinating international assistance to Iraq and *reaffirming* the importance of international assistance and development of the Iraqi economy and the importance of coordinated donor assistance,

Recognizing the significant role of the Development Fund for Iraq and the International Advisory and Monitoring Board in helping the Government of Iraq to ensure that Iraq's resources are being used transparently and equitably for the benefit of the people of Iraq,

Stressing the responsibility of the Iraqi authorities to undertake all appropriate steps to prevent attacks on the diplomatic personnel accredited in Iraq in accordance with the Vienna Convention on Diplomatic Relations of 1961,

Determining that the situation in Iraq continues to constitute a threat to international peace and security,

Acting under Chapter VII of the Charter of the United Nations,

1. *Notes* that the presence of the multinational force in Iraq is at the request of the Government of Iraq and *reaffirms* the authorization for the multinational force as set forth in resolution 1546 (2004) and *decides* to extend the mandate of the multinational force as set forth in that resolution until 31 December 2007, taking into consideration the Iraqi Prime Minister's letter dated 11 November 2006 and the United States Secretary of State's letter dated 17 November 2006;

2. *Decides further* that the mandate for the multinational force shall be reviewed at the request of the Government of Iraq or no later than 15 June 2007, and *declares* that it will terminate this mandate earlier if requested by the Government of Iraq;

3. *Decides* to extend until 31 December 2007 the arrangements established in paragraph 20 of resolution 1483 (2003) for the depositing into the Development Fund for Iraq of proceeds from export sales of petroleum, petroleum products, and natural gas and the arrangements referred to in paragraph 12 of resolution 1483 (2003) and paragraph 24 of resolution 1546 (2004) for the monitoring of the Development Fund for Iraq by the International Advisory and Monitoring Board;

4. *Decides further* that the provisions in the above paragraph for the deposit of proceeds into the Development Fund for Iraq and for the role of the International Advisory and Monitoring Board shall be reviewed at the request of the Government of Iraq or no later than 15 June 2007;

5. *Requests* that the Secretary-General continue to report to the Council on UNAMI operations in Iraq on a quarterly basis;

6. *Requests* that the United States, on behalf of the multinational force, continue to report to the Council on the efforts and progress of this force on a quarterly basis;

7. *Decides* to remain actively seized of the matter.

Annex I

Letter dated 11 November 2006 from the Prime Minister of Iraq addressed to the President of the Security Council

[Original: Arabic and English]

Iraq has taken in the specified time the steps required for the completion of the political process, in particular the drafting of a permanent constitution and the laying of foundations for building its political and legal institutions. In May 2006, the constitutionally elected Council of Representatives formed a Government of national unity. The steps for building a democratic, federal and united Iraq were consolidated by the commitment of the Government to adopt a dialogue and national reconciliation scheme, secure broad political participation, monitor human rights, establish the rule of law and economic development and provide services to citizens.

Establishing security and securing permanent stability are among the highest priorities of the Iraqi Government's programme to realize the desired peace and prosperity for the Iraqi people. However, terrorists and forces hostile to democracy continue to target innocent citizens and the various State institutions.

Security and stability in Iraq are the responsibility of the Iraqi Government. The Security Council affirmed in its resolution 1546 (2004) that Iraqi security forces would play a progressively greater role in enabling the Iraqi Government to assume that responsibility, diminishing and thereby ending the role of the multinational force, when the responsibility for security of the Iraqi security forces increases and expands. From the experience of the past two and a half years, it was established that the Iraqi security forces, which operated under the command of the Iraqi Government, had acquired new experiences and responsibilities and had grown in size, experience and capacity, demonstrated by their increased ability to assume full responsibility in the fields of security and defence.

We started to reap the fruits of success when our forces assumed responsibility for security in the governorates of Al Muthanna and Dhi Qar. In September 2006, the Ministry of Defence assumed the operational command and control of the ground, naval and air force commands. It also assumed operational command and control over two military divisions, indicating an increase in the ability of the Iraqi Army to assume the leadership in providing security to the Iraqi people. The Iraqi Government is also relentlessly working on building the necessary administrative and logistics system to make our Iraqi forces self-sufficient.

It is the intention of the Iraqi Government to continue increasing the number of governorates that fall fully under the control of the Iraqi authorities during 2006, until all 18 are under their control. When the responsibilities for security are transferred to the Iraqi authorities in a certain governorate, the multinational force will be present in its bases and can provide support to Iraqi security forces at the request of the Iraqi authorities, in accordance with an agreement that allocates the authorities and responsibilities between the two sides.

We have agreed on three common goals: first, assumption by Iraq of recruiting, training, equipping and arming of Iraqi security forces; second, assumption by Iraq of command and control over Iraqi forces; and third, transferring responsibility for security to the Government of Iraq. We have formed a high-level working group that will provide recommendations on how best to achieve these

goals. It has also been agreed to work towards the Iraqi authorities' assuming the apprehension, detention and imprisonment tasks on the basis of an agreement to be reached between the Government of Iraq and the multinational force.

Hence, the Iraqi Government requests the extension of the mandate of the multinational force in accordance with Security Council resolutions 1546 (2004) and 1637 (2005) and the letters attached thereto for another 12 months starting on 31 December 2006, provided that the extension is subject to a commitment by the Council to end the mandate at an earlier date if the Iraqi Government so requests and that the mandate is subject to periodic review before 15 June 2007. The Iraqi Government requests the termination of the UNMOVIC mission due to the completion of its tasks. The Iraqi Government believes that the time has come to terminate the war compensations that were imposed on Iraq.

The Iraqi Government realizes that the provisions of resolution 1546 (2004) relating to the depositing of revenues in the Development Fund for Iraq and the role of the International Advisory and Monitoring Board help to ensure the use of the natural resources of Iraq for the benefit of the people of Iraq. We recognize that the fund plays an important role in convincing donors and creditors that Iraq is managing its resources and debts in a responsible way for the Iraqi people. This role is vital, especially since Iraq is seeking to form a new partnership with the international community to build a vital network for economic transformation and integration in the economies of the region and the world through the International Compact with Iraq. We ask the Security Council to extend the mandate of the Development Fund for Iraq and the International Advisory and Monitoring Board for another 12 months and to review this mandate based on the request of the Iraqi Government before 15 June 2007.

The people of Iraq are determined to establish a stable and peaceful democracy for themselves and a proper basis for building a vital economy. This vision for the future of Iraq cannot become a reality without the help of the international community.

We realize that the Security Council intends to append the present letter to the special resolution concerning Iraq that is being prepared. Meanwhile, I ask that the present letter be distributed to the members of the Security Council as soon as possible.

(*Signed*) Nuri Kamel **al-Maliki**
Prime Minister of the Republic of Iraq

Annex II

Letter dated 17 November 2006 from the Secretary of State of the United States of America to the President of the Security Council

Having reviewed the request of the Government of Iraq to extend the mandate of the Multinational Force (MNF) in Iraq and following consultations with the Government of Iraq, I am writing to confirm, consistent with this request, that MNF under unified command stands ready to continue to fulfil its mandate as set out in Security Council resolution 1546 (2004) and extended by Security Council resolution 1637 (2005).

The Government of Iraq and MNF in Iraq continue to improve their cooperation through a security partnership to combat the challenges that threaten Iraq's security and stability. This partnership has evolved over time to incorporate the increasing leadership by Iraqi security forces in fighting and deterring terrorism and other violent acts throughout Iraq's 18 provinces. In the context of this partnership, MNF is prepared to continue to undertake a broad range of tasks to contribute to the maintenance of security and stability and to ensure force protection, acting under the authorities set forth in resolution 1546 (2004), including the tasks and arrangements set out in the letters annexed thereto, and in close cooperation with the Government of Iraq. The forces that make up MNF will remain committed to acting consistently with their obligations and rights under international law, including the law of armed conflict.

Iraqi security forces have already made substantial progress this year in developing their capabilities and, as a result, they are shouldering a greater portion of the responsibility for Iraq's security. This progress is most notable in their assumption of security responsibility in Dhi Qar and Muthana and the assumption of operational command and control over the Ground, Naval, and Air Force Commands and two Iraqi military divisions by the Ministry of Defense.

The Government of Iraq and MNF have agreed on three common goals: Iraqi assumption of recruiting, training, equipping and arming of the Iraqi security forces; Iraqi assumption of command and control over Iraqi forces; and transferring responsibility for security to the Government of Iraq. We look forward to recommendations from the newly formed high-level working group on how these goals can best be achieved. The strong partnership between the Government of Iraq and MNF is a vital factor in fulfilling these goals. Together we will build towards the day when the Iraqi forces assume full responsibility for the maintenance of security and stability in Iraq.

The co-sponsors intend to annex this letter to the resolution on Iraq that is under consideration. In the meantime, I request that you provide copies of the present letter to members of the Council as quickly as possible.

(*Signed*) Condoleezza Rice

Chairman WARNER. I paraphrased a sentence, and I'd ask the reporter to go back and replace my paraphrased sentence with the following, and that is the extensive preamble clause, and the last part of that preamble clause is, "The Security Council determined that the situation in Iraq continues to constitute a threat to international peace and security." That has to be brought home to the world.

Now, my two remaining questions relate to—you touched on Afghanistan this morning, and we should not, in any way, be shortsighted about the importance of that conflict. The current fighting, led by, we call it, the remnants of the former Taliban regime—I

presume it's a polyglot of all kinds of people that are disaffected with the government, but, nevertheless, it was principally the Taliban. Their fighters have conducted several increasingly large-scale attacks on coalition and Afghan security forces in several southern provinces, and namely—when I say "coalition forces," I mean NATO, which has taken over there. By the way, I hope you have an opportunity to talk with General Jones someday. He's a magnificent gentleman. Actually, today, I think it is, that he's stepping down as our NATO commander, because we had planned to be over there, until this session was scheduled.

What actions do you believe that we should take to try and give additional support to NATO to reduce the effectiveness that the enemy is now showing in Afghanistan? Do we need additional forces there? You mentioned the drug problem—and I'm delighted to have gotten into this record the concept that you put forth—as a way to take those farmers and give them some very minuscule amounts of money, compared to what they receive and what the distributors, way beyond—principally in Europe—receive for that terrible product, drugs. But let's talk about the troops. What do you think about the level of forces over there? We have about, I think, 18,000 to 20,000 of our folks over there.

Dr. GATES. Yes, sir. Mr. Chairman, I think, first of all, that the first priority is seeing what further progress we can make in getting some of our allies who have troops there to reduce some of the restrictions that they have on the use of their troops. It throws the burden onto a handful of other countries.

Chairman WARNER. That's a national caveat problem.

Dr. GATES. Yes, sir.

Chairman WARNER. Which is really—I think we should expand it a little bit here in the record. It simply says, where a NATO member country says we're going to send and allow a certain segment of our uniformed troops to be a part of the overall NATO force, but once you reach Afghanistan, our troops can only perform such missions, and very often those missions do not include the higher-risk combat operations. Am I correct? Is it your understanding of the national caveat?

Dr. GATES. As I understand it, that's exactly right, Mr. Chairman.

Chairman WARNER. General Jones has tried hard to eliminate that. He felt he was making some progress. But it's not fair, for example, to an American or a Canadian or a Brit—and I think there's certain other forces that are right there, sharing the full burdens and risks—to have other elements in a rear echelon or supporting capacity such that they're not subjected to the same level of risk.

Dr. GATES. I may be mistaken, but I think that one of the subjects at the Riga Summit was to deal with some of these national caveat issues. I think that some are embedded in law and some are embedded culturally and so on, and may be very difficult to change. But I think those that can be changed, we ought to try and do that.

It's very important, it seems to me—we've had a tremendous success, an astonishing success, militarily, in overthrowing the Taliban regime in Afghanistan. I think it would be a tragedy for us to let that victory slip through our grasp by later neglect. So, frankly, I'm very sympathetic to the notion that if more troops are

needed in Afghanistan, that we ought to look very hard at that. Whether they should come from our NATO allies or from us, I think, is a matter to get recommendations from people who are much more knowledgeable about capabilities and so on, and what the needs are, than I am. If I am confirmed, that would certainly be an important issue to discuss with our commanders in Kabul. It would be my hope to get there relatively soon, if I am confirmed.

Chairman WARNER. I really believe that if the current mix of NATO forces from a number of nations—if those nations would bring up to the full complements of the commitment that they made back at headquarters in Mons, that will go a long way to bring up that force to its——

Dr. GATES. If I remember some of the materials that I saw correctly, the numbers that are being requested are not that significant. I think it's about 2,500 troops.

Chairman WARNER. You're correct.

Senator Levin, do you have further questions?

Senator LEVIN. Thank you, Mr. Chairman.

Chairman WARNER. I'll be right back.

Senator LEVIN. I want to talk to you for a few minutes about the Iran-Contra events. We had asked you a question for the record about your testimony at the confirmation hearing, that you did not recall a series of meetings, memoranda, conversations that were very significant conversations that would have linked you to the events of the Iran-Contra affair. We went through just a list of those memos and meetings that you indicated, at your 1991 hearing, that you did not recall. I was troubled enough about that at the time that I did not vote to confirm you for the CIA position. We asked you if you remembered anything new about that. You, understandably—and I'm not challenging this part of your answer—said that you did not. However, you gave a number of further explanations about these events and your lack of memory. You said that the matter had been investigated exhaustively by the Intelligence Committee, that key figures in the affair were interviewed or testified and affirmed that they had not shared important information with you. You indicated that, after you became Acting Director of Central Intelligence, in 1986, following more than a decade of controversy and conflict between the CIA and Congress, that there would not be a significant further conflict or major controversy between CIA and Congress for the remainder of your career, nor would there be another scandal tainting CIA during that time. I think that not only is true, but it's significant. Those were the events, and we were grateful for those events occurring, or the problems being alleviated.

However, there was one thing that you said in support of your answer which troubled me, and I want to give you an opportunity to comment on it. That's when you said that, "The Iran-Contra independent counsel, after 7 years of investigation, could not find a single witness to testify that my role in the matter was other than I described it." You seemed to invoke the independent counsel at that point in support of what you were telling us. That is what troubled me. Because to invoke on that issue of memory what Mr. Walsh had said to—as a validator, when he was intensely critical at that time of your lack of memory, troubled me.

I'm sure you're familiar with this—and I've shared this with you briefly—that what the independent counsel said in his book was that, prior to the Intelligence Committee's hearings, that he sat down with the chairman, David Boren, and the ranking minority member, Senator Murkowski—this is prior to the hearings—and he told them that there were two questions that had not been answered satisfactorily to the independent counsel. One, "Had Dr. Gates falsely denied knowledge of Oliver North's Contra support activity?" and, "Had Dr. Gates falsely post-dated his first knowledge of Oliver North's diversion of the arms sales?"

Now, Judge Walsh went on in his book to say that he told those two Senators that, "We did not think that we had enough corroborating evidence to indict Dr. Gates, but that his answers to the questions had been unconvincing. We did not believe he could have forgotten a warning of Oliver North's diversion of the arms sales proceeds to the Contras. The mingling of two covert activities that were of intense personal interest to the President was not something the second highest officer in the CIA would forget."

He also wrote in his book that there were "33 times that Dr. Gates denied recollection of the facts," and that he then watched the hearings in front of the Intelligence Committee, and he felt certain that you would not have brushed off the alarming reports if you had already known about the diversion—if you had not already known about the diversion, "He had simply not wanted to be told by a new witness." Then he says that he also disbelieved your testimony about President Reagan's December retroactive finding purporting to authorize the CIA's facilitation of the November 1985 Hawk shipment to recover the hostages.

The bottom line is that—and I think it's fair to say, and I'm wondering if you don't agree—that at least at the time that Judge Walsh wrote his book, that he had great trouble accepting that you did not remember the events that you said that you did not remember. I had great trouble, too. My question is this, basically. By the way, I understand now that Judge Walsh, according to the newspapers, has endorsed your nomination. I think that's significant, too, by the way. But I'm troubled. I want to just ask you, not so much about the lack-of-memory issue, but by your invoking Judge Walsh as kind of a validator of your position relative to whether there were witnesses who disagreed with your memory, when that was not the issue. The issue was the fact that you didn't remember events that seemed to be so fundamental and so central to the administration. I wanted to just tell you I was troubled by that answer, and I want to give you an opportunity, if you'd like, to comment on your answer, for the record, in citing Judge Walsh to validate your answer.

Dr. GATES. Sure.

I think the short answer, Senator, is, in the very short time that I had to prepare the answers to the questions that came from the committee, that it seemed—and without having access to any of the documents or the records that I had seen before, that the best way to answer this current committee's question was simply to refer to the note, to the response that I was invited to place in the record of Iran-Contra report. The sentence that you quoted, in terms of not finding any other witnesses, was the central part of a three-

or four-, I think, sentence response that I wrote to the report of the Iran-Contra independent counsel. That's fundamentally the reason why that sentence was in there.

Senator LEVIN. Fine, thank you. So, that basically is taking from a past document——

Dr. GATES. Yes, sir.

Senator LEVIN.—a statement which is accurate, presumably——

Dr. GATES.—from 1994.

Senator LEVIN. It was from 1994 and not necessarily responsive to the point that was being made.

Dr. GATES. Yes, sir.

Senator LEVIN. My time is up.

Senator SESSIONS [presiding]. Thank you.

Senator LEVIN. I think Senator Nelson on our side is next.

Senator SESSIONS. I guess. They gave me a note, said I was next, but I think you may be correct.

I would just say that if he didn't find a witness, it wasn't for lack of trying. Mr. Walsh was a tenacious special prosecutor that many believe went beyond what was required in dealing with some fine American citizens who found themselves in a very difficult position.

I thought of the phrase, recently, somebody said, "I don't know much, but I suspect a lot." [Laughter.]

I think your statement about not being contradicted is an important one, and he said that, and he supports your nomination. I think that's good.

Senator Nelson? I've enjoyed serving with Senator Nelson on the Strategic Forces Subommittee, and, as my ranking member now, I'll be bowing to you. I look forward to serving you, Mr. Chairman.

Senator BILL NELSON. I'll enjoy that bowing. [Laughter.]

As we discussed yesterday in a private conversation, I shared with you what I think has been an excessively partisan operation out of the Defense Department, and the lack of shared and accurate information having to do with the global war on terror. I shared with you specific examples of information that I had received that was not correct.

I think you're going to be a good Secretary. You come to the table for all the right reasons, because you don't have to do this. I think you're doing it out of a sense of loyalty to our country and a sense of patriotism. I think you want to get it right. That's how I size you up, Dr. Gates. I just want to re-emphasize to you that I don't think that it can be solved unless it's done in a bipartisan way and that there is the mutual sharing of responsibilities, as envisioned by the Constitution, between the executive and the legislative branches. So, the example that you set in this position, I think, is going to be very important, and I think it's going to send some extremely important signals.

What strategies have you thought about that you might implement in the Department to break down the distrust between the executive branch and the legislative branch? What have you thought about, in ensuring timely and accurate information is promptly shared with Congress, and, when necessary, with the American people?

Dr. GATES. Senator Nelson, I haven't really had much breathing room to give thought to specific measures along these lines. I think

coming off of the corporate boards that I've served on, if I've learned one thing, it's the importance of tone at the top. I think that, first, by the example that I set, if I am confirmed, and then by my making clear to the people who work for me that I expect the same level of candor and forthrightness with Congress, is an important message.

Further, I would tell you—and this was an arrangement that I had with Senator Boren and Senator Cohen when they were chair and co-chair of the Intelligence Committee, that if a member of this committee believes that someone representing the Defense Department has not given forthright testimony, or you have questions about the accuracy of the testimony, I would hope that you would promptly bring it to my attention. My experience in running large organizations is that when the boss is unhappy, lots of people get unhappy.

I think the first step is the tone at the top. It's one of the reasons why I wanted to take advantage of today's hearing, frankly, to put my views before the committee and the public, in terms of the importance of a bipartisan approach, in the hope that that message will get through, if I'm confirmed, even before I show up.

Senator BILL NELSON. I can tell you, coming out of this election—and I've just been through one, and my State is pretty well reflective of the country at large—that not only was there the message about Iraq, but there was also the message people are tired of this excessive partisanship and this partisan bickering. Particularly, as I said this morning, I was raised to believe that partisanship stopped at the water's edge. So, your comments are refreshing.

I want to ask you about the Guard and the Reserves. If the Army has a new plan to mobilize the Guard and the Reserve every 5 years, what do you think this kind of mobilization is going to have on people reupping in the Guard and the Reserves?

Dr. GATES. Senator, I know that the Guard and Reserve are very important to Members of Congress, and I simply haven't had the opportunity to familiarize myself with the Army's new policies, in terms of mobilizing the Guard and Reserve. It's clearly important. I do have concerns that—and it ties back to the discussion we had this morning about the size of the regular Army, whether we are asking the Guard and Reserve to do things that many of those who joined didn't expect to be part of the program. So, clearly one of the number of things we've talked about here today that I need to get up to speed on very quickly is what the Army's plans are for the Reserve and the Guard, and then to have a conversation with some of you up here on the Hill and talk about the direction that we're headed.

Senator BILL NELSON. I would just remind you, as you're considering all that, you take an organization like the Florida Guard, they were first in Iraq. Their expertise is well known. Then, turned around that very next year, we had four major hurricanes hit the State of Florida within 6 weeks. Of course, the Guard was needed there, too. So, this is something you're going to have to consider.

Mr. Chairman, I have one more question, even though I've exceeded my 5-minute time. May I ask this additional question?

Chairman WARNER [presiding]. You may.

Senator BILL NELSON. Officers in Al Anbar Province have stated that they don't have enough troops to defeat the insurgency and that the Shiite-dominated central government is not providing the ISF with the resources it needs in the Sunni-dominated Al Anbar Province. Last month, we learned from General Abizaid and General Hayden that that province is not under control, but that now Baghdad is the focus of an effort, and, for Al Anbar, that there are no changes planned, except General Abizaid told us that he was going to add one Marine expeditionary unit of about 2,200 marines.

Then yesterday John Negroponte said that Iraq cities are less secure, and the enemy harder to identify, and he compared it to Vietnam. In fact, he said Baghdad is highly insecure, and, he said, "perhaps one of the most insecure places in the country."

Two-thirds of our recent casualties have occurred in Al Anbar Province. Do you want to opine on any changes in the strategy and the troop levels, or is that something you want to wait until you get in?

Dr. GATES. Senator, I think I'd better wait and see, first of all, if I'm confirmed. But then, as I've indicated, my hope is, if confirmed, to go to the area quite soon. Clearly, what's happening in Al Anbar and elsewhere has to be very high on the list, in terms of conversations both with General Abizaid and General Casey.

Chairman WARNER. I thank you, Senator.

Senator BILL NELSON. Mr. Chairman, I have one more question. I'll just wait.

Chairman WARNER. We really have to move on. You've had a good deal of time here to—forgive me for trying to get my colleague here to finish up, and then we should conclude this part.

Senator LEVIN. He has one more question.

Chairman WARNER. Well, no, I think he wanted to wait until you took your turn.

Senator LEVIN. Okay.

I just have a few questions, thank you, Mr. Chairman. One is on Army readiness levels. The ranking member of the House Armed Services Committee, Ike Skelton, asked the Chief of Staff of the Army the following question, June 27 "Are you comfortable with the readiness level of the nondeployed units that are in the continental United States?" General Schoomaker replied, "No."

Based on the information that you have at this time, are you satisfied with the current readiness of our ground forces, including those forces that are not currently deployed overseas?

Dr. GATES. Senator, I'm not familiar with the readiness state. Clearly, if General Schoomaker thinks that, that's probably what I'll think, if I'm confirmed.

Senator LEVIN. Okay. There are reports that are required to be submitted quarterly to Congress, relative to readiness. The last quarterly readiness report was provided to this committee 7 months ago today. It covered the last half of 2005. None of the reports covering calendar year 2005 were actually delivered during the years they were supposed to be. The Department now is 9 months behind in providing these readiness reports that are supposed to be provided quarterly to Congress. We don't have any of the three quarters of calendar year 2006 yet. If you're confirmed,

will you ensure that the Department provides the committee with these readiness reports, as required by law?

Dr. GATES. Yes, sir.

Senator LEVIN. I know the Department is represented here today, and I'd just like the Department to know that these readiness reports, at least one of them, but hopefully two of them, will be provided to this committee—and it's up to the chairman, but I would hope they would be provided by tomorrow night.

Dr. Gates, relative to North Korea—I don't think you've been asked about that, and I want to ask you about North Korea. You wrote an article, back in—a long time ago, 1994—about dangers posed by North Korea's nuclear weapons. You argued, at that time, that steps like phased sanctions and voluntary arms trade embargoes would have little or no impact. You write that, "The only option now available is to stop its arsenal from growing larger," and the way to do this was to destroy the reprocessing facility. Should we attack North Korea's nuclear facilities? Might there be value in high-level bilateral talks directly with the North Koreans if our allies, the South Koreans and other countries, want us to engage in those high-level bilateral talks?

Dr. GATES. First of all, Senator, I've changed my view on how to deal with North Korea. I believe that, clearly, at this point, the best course is the diplomatic one, and I am impressed that, in recent weeks, we seem to have seen the Chinese—and certainly the Japanese, but even the Chinese—begin to take a stronger stand with the North Koreans, and people working a little closer with us. So, perhaps the one positive piece of news as a result of North Korea's nuclear test is that it antagonized the Chinese and got them off the dime on the issue.

I would defer to the Secretary of State on whether bilateral direct negotiations with the North Koreans would be productive. I think we've talked about that, if I remember correctly from the newspapers, in terms of if certain conditions were met. But I think, without studying it further and without fully understanding or knowing about the various aspects of the administration's policy, I'd prefer to take that question, sir, and come back to you later.

[The information referred to follows:]

The United States is pursuing denuclearization of the Korean Peninsula through diplomacy. We are working closely with our allies, South Korea, and Japan, with our Six-Party Talks partners, and with the broader international community to urge North Korea to live up to its agreements as codified in the September 19, 2005, Joint Statement of the Six-Party Talks. Our diplomacy has also included numerous bilateral meetings with the North Koreans, within the context of the Six-Party Talks, as well as vigorous efforts in the United Nations Security Council. At this point, I continue to believe that these diplomatic efforts constitute the best way to denuclearize the Korean Peninsula.

We believe that there has been ample opportunity for discussion in the Six-Party Talks. To date, there have been several extended bilateral meetings between the United States and North Korea. We expect that this pattern and opportunities will continue.

The United States and other countries involved in these discussions have made clear to the Democratic People's Republic of Korea (DPRK) the substantial benefits that await the people of North Korea through denuclearization. However, it is not clear that the DPRK leadership has made the strategic decision to denuclearize. The DPRK may judge that possession of nuclear weapons is a guarantee of regime survival and may be engaging in nuclear negotiations simply to exact concessions. The burden of proof whether the DPRK is willing to pursue the opportunities that denuclearization will bring about lies with the DPRK.

Chairman WARNER. Thank you very much, Senator.

Senator Sessions, you have but one question?

Senator SESSIONS. Yes, I'd like to follow up on one question that I think is important, and that's national missile defense. The North Koreans launched their missile on July 4. The Iranians have also publicly demonstrated their capabilities to launch missiles. I think the American people have come to realize how vulnerable we can be if we do not have a national missile defense system.

Dr. Gates, having been involved in this discussion for some time, I think it's fair to say, at this point, we've reached an acquiescence or consensus in the idea that we would field the national ground-based missile defense system that would protect us from the North Korean launches, for example. We are continuing research on other capabilities that could even be more effective in the future. We believe that this hit-to-kill technology has been proven, and will work, and we continue to refine that.

But I noticed in one of your answers to the written questions, you indicated that you'd like to pursue a full spectrum of capabilities. I think the reality is, financially, that we're probably going to have to make some choices. While we can do research, we're only going to be able to deploy one system, well, several—the Ground-based Midcourse Defense (GMD), the Aegis Ballistic Missile Defense, the Theater High Altitude Area Defense, and Patriot systems. Those are all proven. They all need to be deployed. I'm afraid we may have attempts to reduce funding for GMD or perhaps some of these others.

With regard to our basic national missile defense system, the assembly-line production has been reduced to the point that any more reduction would really break the assembly line and lose all the efficiencies of scale as we seek to complete 50 launch vehicles. So, I guess what I would say to you is, I'd ask you to be alert to that. I think you're going to need to defend that budget, because it may sound like it's not too significant to take so many million dollars out of that budget item, but I'm afraid if we do, it's going to cost us much more in the long run by reducing our capability to maintain a production line.

Will you look at that? How do you feel, in general, about national missile defense?

Dr. GATES. Sir, first of all, I would comply with the National Missile Defense Act of 1999. That's the law.

Senator SESSIONS. Which said that we would deploy a system as soon as technically feasible.

Dr. GATES. Correct. I have felt for a long time that I know we've spent a lot of money on developing missile defense, but I have believed, since the Reagan administration, that if we can develop that kind of a capability it would be a mistake for us not to, and especially when we now have several dozen countries that either have, or are developing, ballistic missiles. You have at least two or three that are developing longer-range missiles. I think we also have an obligation to our allies in this respect. So, in principle, I'm very strongly in favor.

Senator SESSIONS. Thank you.

Chairman WARNER. Thank you, Senator.

Thank you to all Senators. Just a minute, I'm getting a signal.

Senator LEVIN. Let me just add one quick comment.

Chairman WARNER. All right.

Senator LEVIN. That is, Senator Nelson reminds me that the Missile Defense Act of 1999 talks about an effective missile defense system. I assume that you would support a system, if it can be an effective system, number one. Is that accurate?

Dr. GATES. Yes, sir. Although I would say that I think that we have deployed systems that were less than perfect in the past—the Predators, the Joint Surveillance and Target Attack Radar System (JSTARS), and some others—and improved them after the initial deployment had begun. I guess my instinct—and I'd certainly be willing to hear a different point of view—but my instinct would be that, if we have something that has some capability, it's better than having no capability.

Senator LEVIN. Finally, on that point—and we will give you the other point of view on that, to make sure that it is effective and there are differences between JSTARS and Predator. There are significant differences. But do you support realistic operational test and evaluation of those systems as we go along, before we deploy systems which might not be effective?

Dr. GATES. Yes, sir.

Senator LEVIN. Thank you.

Chairman WARNER. This committee will now resume its hearing in executive session, in S–407 of the Capitol. I presume it'll take us about 15 minutes to get over there, so the meeting will start, hopefully, at 4 o'clock.

Thank you. We are adjourned.

[Whereupon, at 3:44 p.m., the committee adjourned.]

[Prepared questions submitted to Robert M. Gates by Chairman Warner prior to the hearing with answers supplied follow:]

QUESTIONS AND RESPONSES

DEFENSE REFORMS

Question. The Goldwater-Nichols Department of Defense (DOD) Reorganization Act of 1986 and the Special Operations reforms have strengthened the warfighting readiness of our Armed Forces. They have enhanced civilian control and clearly delineated the operational chain of command and the responsibilities and authorities of the combatant commanders, and the role of the Chairman of the Joint Chiefs of Staff. They have also clarified the responsibility of the military departments to recruit, organize, train, equip, and maintain forces for assignment to the combatant commanders.

Do you see the need for modifications of any Goldwater-Nichols Act provisions?

If so, what areas do you believe might be appropriate to address in these modifications?

Answer. It has been 20 years since this landmark legislation prepared the Department for the post-Cold War era. At this time, I do not know of a particular area that requires change but, if confirmed, I will bring an open mind to this issue and will work with the committee on this very important topic.

DUTIES OF THE SECRETARY OF DEFENSE

Question. Section 113 of title 10, U.S.C., provides that the Secretary of Defense is the principal assistant to the President in all matters relating to the DOD. Subject to the direction of the President, and the law, the Secretary of Defense, under section 113, has authority, direction, and control over the DOD.

Do you believe there are actions you need to take to enhance your ability to perform the duties of the Secretary of Defense?

What changes to section 113, if any, would you recommend?

Answer. Current statutory authorities for the Office of the Secretary of Defense appear to be sufficiently clear and appropriate for the proper execution of duties. However, I will not be able to make a complete determination on this position until, if I am confirmed, I have served as Secretary of Defense.

CHAIN OF COMMAND

Question. Section 162(b) of title 10, U.S.C., provides that the chain of command runs from the President to the Secretary of Defense and from the Secretary of Defense to the combatant commands. Section 163(a) of title 10 further provides that the President may direct communications to combatant commanders be transmitted through the Chairman of the Joint Chiefs of Staff and may assign duties to the Chairman to assist the President and the Secretary of Defense in performing their command function.

Do you believe that these provisions facilitate a clear and effective chain of command?

Answer. Based on my understanding of the existing authority, I believe there is sufficient clarity in authority in current law to facilitate a clear and effective chain of command.

Question. In your view, do these provisions enhance or degrade civilian control of the military? I believe they should enhance it but will have to withhold final judgment until, if confirmed, I have the chance to operate within this chain of command.

ADVICE OF THE SERVICE CHIEFS AND THE COMBATANT COMMANDERS

Question. Section 151 of title 10, U.S.C., provides, in part, that the Chairman of the Joint Chiefs of Staff is the principal military adviser to the President, the National Security Council, and the Secretary of Defense and that if any member of the Joint Chiefs submits to the Chairman advice or an opinion, in disagreement with, or advice or an opinion in addition to, the advice presented by the Chairman, the Chairman shall present that advice or opinion at the same time he provides his own advice to the President, the National Security Council, and the Secretary of Defense.

Section 163 of title 10, U.S.C., provides that the Chairman of the Joint Chiefs of Staff serves as the spokesman for the combatant commanders, especially on the operational requirements of their commands.

What changes in law, if any, do you think may be necessary to ensure that the views of the individual Service Chiefs and of the combatant commanders are presented and considered?

Answer. At this time, I do not recommend any changes to the law.

If confirmed, and after I have been in office for a sufficient time to determine if changes are advisable, I will recommend changes as appropriate or necessary.

GOLDWATER-NICHOLS FOR THE INTERAGENCY

Question. For more than 2 years, General Pace has been calling for a Goldwater-Nichols Act for the entire Federal Government. He argues that the U.S. and allied militaries can prevail on the battlefield but that the global war on terror requires a concerted effort by a host of U.S. agencies. According to General Pace's proposal, a lead agency would be selected and several other agencies would be subordinated to and subject to the direction of the head of the lead agency.

What are your views on the merits of General Pace's proposal?

Answer. The 1986 Goldwater-Nichols Act led to greater jointness and interdependence among the military Services. The impact has been significant and lasting on DOD. Fighting the global war on terror requires that all instruments of national power are brought to bear on the task at hand. Drawing on my experience of 9 years of service on the National Security Council—and under four Presidents—I believe that any steps that can be taken to improve and strengthen interagency cooperation and collaboration would be worthwhile. If confirmed, I look forward to working with the President, Cabinet colleagues, and Congress on this issue.

COUNTERINTELLIGENCE FIELD ACTIVITY

Question. DOD has established an organization called the Counterintelligence Field Activity (CIFA). CIFA is reportedly charged with protecting military facilities and personnel and carrying out intelligence collection, analysis, and operations within the United States.

Do you believe that it is appropriate that DOD has such an organization?

Answer. I believe it is appropriate in the current environment that DOD be organized and focused in such a way that it gives critical attention to counterintelligence and force protection. If confirmed, I will take a look at this matter in greater detail.

Question. What is the appropriate division of functions and responsibilities between such a DOD organization and the counterintelligence executive within the Intelligence Community?

Answer. I understand that the National Counterintelligence Executive provides strategic guidance, mission management, and integration to the National Counterintelligence Community. If confirmed, I will work to make sure the Department's activities are properly coordinated and synchronized with the rest of the government.

Question. CIFA is responsible for the TALON data base that was found to have inappropriately included information on U.S. persons, including reports on peaceful civilian protests and demonstrations inside the United States, in contradiction to Executive orders and the rules published by DOD.

What are your views on the steps that should be taken to preclude the possibility that CIFA or any other DOD organization deals inappropriately with information on U.S. persons?

Answer. I have not closely studied the allegations concerning CIFA and the TALON program. I understand that the Department has conducted an internal review of this matter and found procedural weaknesses in the program. I further understand that steps are underway to correct these deficiencies. If confirmed, I will ensure that all DOD activities, including intelligence activities, abide by the law and applicable regulations.

INTELLIGENCE REFORM AND TERRORISM PROTECTION ACT OF 2004

Question. The Intelligence Reform and Terrorism Prevention Act (IRTA) of 2004, among other actions, realigned the responsibilities for budgeting for and management of intelligence organizations between the Secretary of Defense and the head of the Intelligence Community, the Director of National Intelligence (DNI). You have written in the past that you opposed the establishment of a DNI.

What do you believe is the role of DOD in intelligence under the new statute?

Answer. It is my understanding that the role of the Department was not fundamentally changed by this legislation. The Department's focus remains on providing critical intelligence support to the warfighter as well as supporting the National Intelligence Community in its important mission.

Question. Do you believe that the IRTA strikes the correct balance between the duties and responsibilities of the Secretary and the DNI?

Answer. As you may be aware, I have written on this topic and I have opined that early versions of this legislation did not properly provide for the proper balancing of authorities and responsibilities among the major elements of the Intelligence Community.

Question. What changes in the IRTA, if any, would you recommend that Congress consider?

Answer. At this point I think it is premature for me to make any recommendations or modifications until I see how the program is working in actual practice.

Question. You have also written that "for the last decade, intelligence authority has been quietly leaching from the CIA and to the Pentagon, not the other way around." You have stated that you and other CIA veterans "are unhappy about the dominance of the Defense Department in the intelligence arena."

If confirmed, what steps, if any, do you foresee taking to address these issues?

Answer. Clearly, if confirmed, this will be an area that I would look into. I do believe that an important factor to take into account is the establishment of strong working relationships among leaders of the various organizations in question. In this regard, I believe in pursuing all opportunities to continue strengthening coordination and cooperation.

USE OF MILITARY FORCE

Question. The question as to whether and when U.S. forces should participate in potentially dangerous situations is one of the most important and difficult decisions that the national command authorities have to make. Prior Secretaries of Defense and Chairmen of the Joint Chiefs of Staff have proposed criteria to guide decision-making for such situations.

What factors would you consider in making recommendations to the President on the use of force?

Answer. The factors that previous Chairmen and Secretaries of Defense have put forward remain relevant; for example: the threat to our vital interests; the role of non-military means to respond to the threat; our capability to defeat that threat and improve our strategic situation through the use of military force; and the prospects for sustained public support for military action.

Question. The March 2006 National Security Strategy states, in part, that "If necessary, however, under longstanding principles of self defense, we do not rule out the use of force before attacks occur, even if uncertainty remains as to the time and place of the enemy's attack. When the consequences of an attack with WMD are potentially so devastating, we cannot afford to stand idly by as grave dangers materialize. This is the principle and logic of preemption. The place of preemption in our national security strategy remains the same. We will always proceed deliberately, weighing the consequences of our actions. The reasons for our actions will be clear, the force measured, and the cause just."

Given that we now know from the work of the Iraq Survey Group (ISG) and the Senate Select Committee on Intelligence (SSCI) that Iraq did not possess stockpiles of weapons of mass destruction (WMD) nor any active programs to develop them, what degree of certainty do you believe is necessary before the United States would use preemptive force?

Answer. I believe the use of preemptive force should be based on very strong evidence. It is a decision that must not be taken lightly.

At the same time, my intelligence background has given me an appreciation for the fact that intelligence can be a moving target and is often ambiguous.

I believe that over the years the dedicated men and women in the Intelligence Community do their best to get the most reliable intelligence possible. Still, we need to be aware of the caveats that come with intelligence products. We need to continue to ask the hard questions.

COORDINATION WITH THE DEPARTMENT OF HOMELAND SECURITY

Question. Since the current Secretary of Defense was confirmed, a new Department of Homeland Security (DHS) has been created, and DOD has created a new U.S. Northern Command and Assistant Secretary of Defense for Homeland Defense. Even so, the Federal, State, and local response to Hurricane Katrina demonstrated serious shortcomings at all levels.

What are your goals, and what is your assessment of the current situation, regarding cooperation and coordination between DOD and DHS on homeland security matters?

Answer. I am told that the DOD has established a strong relationship with the DHS, although the response to Hurricane Katrina does show that there is room for improvement.

- I believe DOD and DHS have a common goal: the protection of the United States.
- If confirmed, I will work closely with DHS and other Federal departments and agencies to prepare for and respond to threats to the U.S. homeland.

PRIORITIES

Question. If confirmed, you will confront a range of critical issues relating to threats to national security and ensuring that the Armed Forces are prepared to deal with these threats.

What broad priorities would you establish, if confirmed, with respect to issues which must be addressed by DOD?

Answer. The Department's current priorities appear to cover three areas:

(1) Iraq and winning the long war against violent extremism;
(2) Supporting the Department's military and civilian personnel; and
(3) Continuing the transformation of the U.S. military for 21st century challenges.

If confirmed, I look forward to supporting the President in his ongoing review of Iraq policy, working with the members of the ISG (i.e., the Baker-Hamilton Commission) and working closely with Members of Congress to ensure that we have the most comprehensive approach to our strategy in Iraq.

Clearly, to win the long war, the Department needs to strengthen key capabilities such as those for irregular warfare. We must work with and through partners across the globe to counter the threat of violent extremism.

Recruiting and retaining the best people, and providing quality care for the wounded and their families, also remain at the core of the Department's priorities.

Transforming the Department to better deal with 21st century challenges, a major charge from the President, must continue. These challenges range from the threat posed by terrorist networks, to WMD in the hands of hostile regimes and terrorist networks, to states armed with advanced weaponry.

If I am confirmed, these will be critical priorities for me.

FISCAL YEAR 2008 PRESIDENT'S BUDGET REQUEST

Question. Striking the right balance between the requirements for the future force and the requirements for current readiness is difficult in times of peace, and even more so in times of war.

How do you propose to establish that balance, to ensure that we achieve the needed level of investment in the future force in the face of pressing requirements for completing the mission in Iraq and Afghanistan, for resetting of the force, and for meeting ongoing operational commitments across the globe?

Answer. From my years of service in the public sector, I recognize the importance of balancing immediate and future needs. In national security matters, such a balance is essential to keeping America safe both today and tomorrow.

If confirmed, I will work with both the Department's civilian and military leaders to strike the right balance.

Question. If confirmed, one of your first tasks will be to weigh the Department's final decisions regarding the President's budget request for fiscal year 2008 and make your mark on the Department's objectives contained within the fiscal year 2008 budget request.

What is your plan to formally review the Department's 2008 budget request and, as necessary, make those changes required to ensure that the budget request fully funds the Department's requirements while meeting your objectives for fiscal year 2008 and the future years defense plan?

Answer. I understand that the budget process is near completion. If confirmed, I will familiarize myself with the key elements of the fiscal year 2008 budget on an urgent basis.

If, through consultation with the civilian and military leadership of the Department and the White House, we conclude that there should be revisions to the budget, we will work with Congress toward that end.

BUDGETING FOR ONGOING OPERATIONS

Question. What level of resources do you believe the DOD will need to meet our national security requirements in fiscal year 2008?

Answer. In general terms, I believe the Department needs sufficient resources to maintain prudent near-term force readiness, fully fund wartime needs, and invest adequately in long-term defense capabilities. Until and if I am confirmed and fully briefed on the fiscal year 2008 budget, I am not prepared to comment on the specifics of the budget.

Question. In the John Warner National Defense Authorization Act for Fiscal Year 2007, section 1008, Congress required that the President's annual budget submitted to Congress after fiscal year 2007 include a request for the funds for ongoing operations in Iraq and Afghanistan and an estimate of all funds expected to be required in that fiscal year for such operations.

If confirmed, will you comply with the requirements of this provision?

Answer. Yes.

Question. What problems, if any, do you anticipate the Department will encounter in complying with this budgeting requirement?

Answer. My understanding is that it is difficult to forecast the scope and nature of wartime operations many months ahead of time.

ARMY BUDGETING ISSUES

Question. In the past several months, press reports have claimed that the Pentagon's internal budgetary process has broken down. These reports have stated that the Army refused to present their budget proposal to the Office of the Secretary of Defense because they felt their top-line guidance was too low for their ongoing missions, including costs of the war and recapitalization of equipment. These reports went on to claim the Secretary of Defense gave the Services permission to appeal directly to the President's Office of Management and Budget.

What is your understanding of the current status of the Department's budget process, and, if confirmed, how would you plan to resolve current challenges?

Answer. While I am aware of some press reporting on this issue, I am not familiar with the particulars.

If confirmed, I will examine thoroughly questions regarding the Department's budget process.

Question. Do you believe the DOD and the military departments can and should resolve these issues using the normal budget process, or do we need changes in the budget process?

Answer. As a general matter, I believe the Department should utilize the established budget process. Again, if confirmed, I will examine thoroughly questions regarding the Department's budget process.

TRANSFORMATION

Question. In 2001, President Bush called for transformation of the Armed Forces directing the Department to "discard Cold War relics" and plan to meet current and future threats.

How would you assess the progress that has been made since 2001 in achieving the President's goal of transforming DOD?

If confirmed, what would you plan to do to ensure that the transformation goals are achieved?

Answer. If confirmed, I will build upon the President's commitment to transform our forces to better fit the 21st century. Transformation holds the promise to ensure that our military forces are more agile and lethal when confronting the enemies of this new century.

While I need to learn more about the details, I am also committed to the continuing changes in the business process that the Department has implemented to support that force.

If confirmed, I will become more familiar with ongoing transformation activities and, in consultation with the civilian and military leadership and Congress, direct any necessary changes when and where I think it's prudent to do so.

REORGANIZATION OF THE OFFICE OF THE UNDER SECRETARY OF DEFENSE FOR POLICY

Question. A reorganization of the Office of the Under Secretary of Defense for Policy (OUSD(P)) is currently underway. In the John Warner National Defense Authorization Act for Fiscal Year 2007, an additional Assistant Secretary of Defense position was authorized to support the reorganization, however, the conferees expressed various concerns about the proposed reorganization that must be responded to in a report from the Department by February 1, 2007.

What is your understanding of the purpose, parameters, and status of the OUSD(P) reorganization?

Answer. I am told that the reorganization of the Department's Policy Office is grounded in lessons learned during the QDR, which calls on the Department to transform its civilian capabilities just as military capabilities are undergoing transformation.

Question. What is your assessment of the concerns expressed by the conferees regarding the reorganization?

Answer. I understand that the Department will formally respond to these concerns in a February 1 report to Congress.

Question. If confirmed, would you continue the planned reorganization or defer any reorganization pending your own inputs?

Answer. If confirmed, I am inclined to continue the Policy Office reorganization effort, but plan to review this proposal and will be prepared to engage the committee in a more detailed discussion at that time.

OPERATION DESERT STORM

Question. Do you believe it was a mistake not to seize Baghdad in 1991 during Operation Desert Storm?

Answer. I do not believe we were mistaken when we decided not to expand and extend military operations to seize Baghdad in 1991.

At the time, the United States and the coalition had achieved our strategic objectives of ejecting Iraqi forces from Kuwait and eroding Saddam's threat to the region.

- Seizing Baghdad was not part of that campaign plan.
- The coalition would have shattered if it had been tasked with an invasion or occupation of Iraq.
- The coalition had not planned for, or resourced for, military operations to occupy Iraq.
- By extending the ground war into Baghdad, we would have violated longstanding principles not to change military objectives mid-stream and engage in "mission creep."

STRATEGY IN IRAQ

Question. Do you agree that there is no purely military solution to the Iraq situation?

Answer. Yes, there is no purely military solution in Iraq. The U.S. strategy in Iraq depends on political and economic efforts, as much as military, though the military component remains critical to success there.

According to the President, the military aspect of the U.S. strategy continues to be to help develop self-reliance among Iraqi security forces, neutralizing the insurgency, and defeating the terrorists. While significant work remains to be done in a difficult environment, the Iraqi security forces have made great strides.

Security progress in many ways is contingent on political and economic progress, which will continue to require the full commitment of the other departments of the U.S. Government, Iraq's regional neighbors, and the international community.

Question. Do you believe that all options should be on the table for changing the current course in Iraq?

Answer. In principle, all options should be on the table. If confirmed, I will seek the advice of the military leadership, consult with the President, and consult with Congress in order to implement the best strategy with regard to Iraq.

IRAQ LESSONS LEARNED

Question. What do you believe to be the major lessons learned from the Iraq invasion and the ongoing effort to stabilize the country?

Answer. I agreed with President Bush's decision to go into Iraq. Our men and women in uniform and our coalition partners have served admirably there, and, if confirmed, I look forward to working with them on a daily basis to help make the future better for the Iraqi people.

There is no question that Saddam Hussein's regime was a dangerous and disruptive force in the region. By the late 1990s, it was clear that his dictatorial regime needed to be removed from power. The Oil-for-Food program was a failure. Saddam's continual defiance of the international community was unacceptable.

In 2002, I supported U.N. Resolution 1441, which called for immediate and complete disarmament of Iraq's illegal weapons in order to give inspections another chance. Again, Saddam thumbed his nose at the international community. I believed that he possessed WMD or the capacity for building WMD, and that with the collapse of sanctions he would aggressively pursue an effort to increase his WMD capability.

I believe that leaving Iraq in chaos would have dangerous consequences both in the region and globally for many years to come.

Question. In that regard, what would you have done differently had you been Secretary of Defense over the last 6 years?

Answer. War planning should be done with the understanding that the post-major combat phase of operations can be crucial. If confirmed, I intend to improve the Department's capabilities in this regard. I understand this area has been a major focus of the Department through the QDR and if confirmed, I would continue to make this a priority.

With the advantages of hindsight, I might have done some things differently. With the same hindsight, I imagine others in the administration would also have done things differently.

I understand the Department has collected information on lessons learned, and if confirmed, I will review that information in detail.

PRE-WAR INTELLIGENCE

Question. In 1989, you wrote: "Policymakers usually learn the hard way that, although intelligence can tell them a great deal, it only rarely . . . provides the kind of unambiguous and timely information that can make day-to-day decisions simpler and less risky. Intelligence officers occasionally encourage such exaggerated expectations by pretending a confidence in their judgments they cannot reasonably justify and by failing to be candid about the quality and reliability of their information and the possibility of other outcomes."

What is your personal assessment of the pre-war intelligence on WMD in Iraq and the use of that intelligence by policymakers?

What lessons do you believe we should draw from this history when we contemplate future conflicts?

Answer. For intelligence, the lessons learned are about the need for an all-source intelligence approach that will give the Intelligence Community the greatest opportunity for successful collection and analysis and also minimize our adversaries' capability to deny and deceive us.

It also, once again, emphasizes the need for good analytic tradecraft that carefully vets sources, questions assumptions, clearly represents facts, and looks at alternative explanations in order fight a tendency to fall into group think.

Policymakers also recognize that intelligence cannot operate with the same standards of evidence used in U.S. courts, especially against hard targets such as Iraq. The intelligence collected against such targets is often episodic and contradictory.

Through the combination of all-source collection and strong tradecraft, the Intelligence Community can develop intelligence assessments which can best inform policymakers in the often difficult choices confronting them. Still, the community ought not exaggerate its capabilities or minimize the uncertainty that plagues assessments on such hard targets.

There are lessons learned in several respects:

- The need for high-quality collection capabilities, both human and technical.
- The need for experienced and skilled analytical capabilities.
- The importance of intelligence analysts being forthright about the quality of their information and the reliability of their judgments.
- The enduring need for decisionmakers to ask tough questions on intelligence.
- The importance of not offering single outcome forecasts, which have contributed to past intelligence failures.

CHINA

Question. China is viewed by some in the United States as a potential threat and by others as a potential constructive international partner that should be welcomed and integrated into the international economic and political community.

To what extent do you believe the policies and actions of the United States and other major regional and international actors will affect the direction in which China develops, and the extent to which it becomes a cooperative partner or a competitor of the United States?

Answer. As I see it, the United States, in concert with our allies and partners, can create a regional infrastructure to expand those areas where our interests converge with China's, while discouraging China's activities of concern. China's improved behavior on proliferation, increased transparency, and cooperative approach to the North Korean nuclear question is welcome.

Question. What do you believe are China's political-military objectives regarding Taiwan, the Asia-Pacific region, and globally?

Answer. I believe China seeks to integrate Taiwan peacefully, if possible. That is their policy but their capabilities suggest they are prepared to consider the use of force if peaceful efforts fail.

Beyond Taiwan, China aspires to be the preeminent power in Asia. Beijing is expanding its political and economic influence in the region and generating options for military coercion.

Question. What do you believe are the objectives of China's military modernization program (including its nuclear weapons program)?

Answer. It appears to me that China is building capabilities to fight short duration, high-intensity conflict on its periphery. Its near-term focus is on generating sufficient combat power to rapidly erode Taiwan's will to resist and to deter or deny effective intervention in a cross-Strait conflict.

China is also strengthening its deterrent posture through modernization of its strategic forces. Its "no first use" policy appears intact, but the shift to survivable, mobile nuclear forces gives China's leaders new options for coercion or first use in crises.

Question. How do you believe the United States should respond to China's military modernization program?

Answer. Our strategy must be designed to preserve peace and stability in the region. It must be flexible and supported by continued transformation of the U.S. military in Asia, maintenance of our global presence and access, and strengthened alliances and partnerships.

We should monitor closely the growth of China's military capabilities, while continuing to press Beijing for greater transparency. In accordance with the Taiwan Relations Act, we should maintain our capabilities to resist China's use of force or coercion against Taiwan and assist Taipei in maintaining its self-defense.

Question. U.S-China military-to-military relations have been modest over the past 6 years, however the Commander, U.S. Pacific Command, has recently taken steps to reinvigorate this relationship.

Do you believe that we should make any changes in the quality or quantity of our military relations with China? If so, what changes and why?

Answer. I believe that expanded military exchanges with China can be valuable but should be based on China's willingness to reciprocate.

NORTH KOREA

Question. North Korea represents one of the greatest near term threats to U.S. national security interests in Asia.

What is your assessment of the current security situation on the Korean peninsula and the diplomatic efforts to date to persuade North Korea to verifiably dismantle its nuclear weapons program?

Answer. North Korea's large, albeit aging, conventional capability and its pursuit of asymmetric capabilities in the form of WMD and missile delivery systems present a significant challenge to the United States, our allies, the region, and the international community.

I understand the U.S. strategy remains centered on maintaining peace through deterrence and diplomacy. Our Republic of Korea (ROK) and Japan alliances remain strong, and the combined capabilities of the ROK and U.S. remain ready. Our growing missile defense relationship with Japan is an important contribution to our deterrent posture.

I am told the United States is working closely with our allies, our Six-Party Talks partners, and the international community to persuade North Korea to live up to its agreements as codified in the September 19, 2005 joint statement.

Question. What is your assessment of the threat posed to the United States and its allies by North Korea's ballistic missile and WMD capabilities and the export of those capabilities?

Answer. North Korea's continuing pursuit of asymmetric capabilities in the form of WMD and missile delivery systems presents a significant security challenge to the United States, our allies, the region, and the international community. The potential for North Korean proliferation of nuclear weapons, technology, and fissile material is a major concern and a threat that must be addressed.

President Bush stated clearly in Singapore on 16 November, the United States will hold Pyongyang accountable for any transfer of nuclear weapons, related technology, or fissile material to state or non-state actors.

Question. In your view, what should be done to strengthen deterrence on the Korean peninsula?

Answer. The true lynchpin to our deterrence is the strength and viability of our alliances. We must continue to evolve our relationships with both the ROK and Japan to ensure their long-term political sustainability and to ensure that the DPRK never doubts our resolve to meet our treaty commitments.

The extended deterrence offered by U.S. nuclear forces to our allies must remain a viable component of our strategy both to deter aggression in Northeast Asia and to prevent the further spread of nuclear weapons globally.

REPUBLIC OF SOUTH KOREA

Question. Since the end of World War II, the alliance between the United States and the ROK has been a key pillar of security in the Asia Pacific region. This relationship has gone through periods of inevitable change.

What is your understanding of the current U.S. security relationship with the ROK?

Answer. In my view, the U.S.-ROK alliance remains strong and viable. Both the United States and ROK are looking to evolve a more equal military partnership.

Question. If confirmed, what measures, if any, would you take to improve the U.S.-ROK security relationship?

Answer. As I understand it, the DOD has been working closely with the ROK to realign U.S. forces on the Peninsula.

The Department is, for example, repositioning U.S. forces to bases south of Seoul. This will make the U.S. presence less intrusive on the Korean people, remove U.S. forces from the center of Seoul, and result in a U.S. force posture that enhances U.S. forces' readiness and quality of life.

Question. What is your view regarding the timing of turning over wartime operational command to the ROK?

Answer. I understand that the United States and ROK have agreed on a timeframe for the transfer of wartime operational control. If confirmed, I will continue to work with my ROK counterpart to complete this process.

AFGHANISTAN

Question. What is your assessment of the situation in Afghanistan?

Answer. Developments in Afghanistan are a concern. There are positive trends, such as the International Security and Assistance Force (ISAF) completing its ex-

pansion and the transition to North Atlantic Treaty Organization (NATO) command of the counterinsurgency mission.

But there clearly is a resurgence of the Taliban in certain areas of the country. This changing security situation must remain a high priority of the United States. In my opinion, we must avoid repeating the mistakes of the late 1980s when in retrospect we neglected Afghanistan after the Soviet withdrawal.

Question. What more do you think the United States should be doing in support of the Karzai government and ongoing efforts to improve security and development in order to stabilize Afghanistan?"

Answer. I believe that this is an important moment in Afghanistan—additional investment in extending governance can build on the current momentum.

The United States should continue to develop the Afghan National Security Forces to ensure we have capable and an independent Afghan National Army and Police that increasingly will take responsibility for the security and stability of Afghanistan.

The United States should also help the government of Afghanistan to: extend the rule of law to remote areas; provide economic development that will provide people alternatives to opium production and the Taliban; and address corruption to ensure a stable state that enjoys popular support.

If confirmed, I will make our continued success in Afghanistan a significant priority.

NATIONAL LIMITS ON USE OF NATO FORCES IN AFGHANISTAN

Question. NATO Secretary General de Hoop Scheffer has repeatedly called on NATO members to remove caveats that individual nations have placed on the movement and use of forces deployed as part of the NATO-led ISAF in Afghanistan. For example, in mid-November, German Chancellor Merkel ruled out deploying Germany's 2,800 troops to southern Afghanistan, saying she would not change the German Parliament's requirement that its troops be based in northern Afghanistan.

Have national caveats imposed by certain NATO members on the use of their troops reduced ISAF's ability to carry out its mission in Afghanistan, in particular to counter the Taliban insurgency in the south?

Answer. I have obviously not been involved with this issue first hand. However, it appears to me that caveats imposed by member countries restrict the flexibility of NATO commanders to carry out missions, and complicate staff planning. Caveats require allies without caveats to take up a greater share of the common burden. To the best of my knowledge they have not to date, however, led to the failure of any mission.

Question. Are you concerned that as a result of these caveats, other NATO members—the Canadian, British, and Dutch troops—are having to bear the brunt of the fighting in southern Afghanistan?

Answer. Yes. I believe it is a concern and one that requires we continue to work on with NATO Supreme Command and other NATO allies.

I am told that the Romanians, Danes, Australians, Estonians, and our own U.S. forces have been fighting side by side with the British, Dutch, and Canadians since assumption of NATO command in the south this past summer.

Question. What do you believe should be done to induce NATO members to remove those national caveats, and to provide additional troops and equipment should they be needed?

Answer. As I understand it, caveats have always existed in NATO operations, such as in Bosnia and Kosovo. We need to bear in mind that some caveats reflect legal or political requirements and will require a prolonged, long-term effort to modify. We must, however, work closely with NATO and our allies to do just that.

STRATEGY IN AFGHANISTAN

Question. The Secretary General of NATO, Jaap de Hoop Scheffer, stated in early January that "There is no military solution" in Afghanistan, and called instead for an expanded development and nation-building effort in the country.

Do you agree with Secretary General de Hoop Scheffer that it is not possible to win in Afghanistan "by military means alone?"

Answer. I agree with Secretary General de Hoop Scheffer that Afghanistan cannot be won by military means alone.

The fight in Afghanistan requires defeating the Taliban, but also requires assisting the country in developing into a moderate, stable, representative democracy and a partner in the global war on terror.

Afghanistan has suffered through war for the last 30 years. In addition to the millions of lives and billions of dollars lost in the conflict, this turbulent period severely damaged the basic fabric of a functioning society.

Success will require demonstrating to the Afghan people that the elected government can deliver not only security, but improved quality of life.

AFGHANISTAN—FORCE SIZE AND COMMAND STRUCTURE

Question. In September, General Jones called for an additional 2,000–2,500 troops and additional transport helicopters to bolster the NATO effort in southern Afghanistan.

If you determine those requirement are valid, what do you believe can and should be done to induce NATO members to provide the additional troops and helicopters that General Jones has called for?

Answer. In my view, we need to continue to push allies at every opportunity and at all levels, as General Jones has done, to contribute the forces required for the mission in Afghanistan.

I am concerned about the limitations that some NATO countries have placed upon the operations of their forces in Afghanistan. We need to keep working with NATO and our allies to limit the national caveats that some have placed on the use of their troops.

Success in Afghanistan is vital to security in the region—not only to NATO as an alliance, but to the strategic interests of each NATO member state.

Question. Do you believe other changes will be needed to support the U.S. and NATO mission in Afghanistan? For example, do you advocate transferring responsibility for operations and intelligence relating to Afghanistan to the European Command? Would you advocate greater intelligence-sharing with NATO in Afghanistan?

Answer. It is my understanding that the Commanders of U.S. Central and U.S. European Command, together with General Pace, have prepared a transition plan to ensure that we have the right command and control relationships in place in Afghanistan to support both the ISAF and our Operation Enduring Freedom missions. Intelligence is obviously a topic of significant interest to me. The operational needs in Afghanistan require a strong intelligence-sharing relationship with NATO. If confirmed, I will work to ensure an effective intelligence-sharing relationship with Afghans as well.

AFGHANISTAN—RECONSTRUCTION

Question. What is your assessment of the relationship between reconstruction and development in Afghanistan and achieving the U.S. objective of a stable, self-governing democratic Afghanistan?

Answer. In my view, Afghan reconstruction and development are critical to achieving our objectives.

The United States needs to do better in ensuring that economic development follows military activity. The fight in Afghanistan requires defeating the Taliban resurgence, but also requires assisting the country in developing into a moderate, stable, representative democracy and a partner in the global war on terror.

The United States also needs to help the government of Afghanistan to: extend the rule of law to remote areas; provide economic development that will provide people alternatives to opium production and the Taliban; and address corruption to ensure a stable state that enjoys popular support.

Question. What is your assessment of international and U.S. counterdrug efforts in Afghanistan? Do you believe that NATO and the United States military are doing enough to help the Afghan government to tackle this problem? If not, what do you believe we should do?

Answer. The narcotics trade is a major challenge for Afghanistan—it fuels corruption, drives a wedge between the government and Afghan poppy growers, and provides funds for the Taliban and certain criminal elements that are a threat to stability.

The United States needs to continue to work with the Government of Afghanistan, our allies, and the international community to address this long-term challenge.

The United States also needs to continue to build the counternarcotics capacity of the Government of Afghanistan.

IRAN

Question. You co-chaired a task force of the Council on Foreign Relations that concluded that "it is in the interests of the United States to engage selectively with Iran to promote regional stability, dissuade Iran from pursuing nuclear weapons,

preserve reliable energy supplies, reduce the threat of terror, and address the 'democracy deficit' that pervades the Middle East as a whole."

Do you believe it would be in the United States' interest to engage Iran in a direct dialogue regarding stability and security in Iraq?

Answer. While the study I co-directed with Dr. Brzezinski in 2004 was a serious effort to assess policy options for Iran, there have been several important developments since that time.

- President Ahmadinejad was elected,
- The United States has offered to engage in direct talks on the nuclear issue if Iran suspends its enrichment program,
- Iran has played an increasingly disruptive role in Iraq and more broadly in the region, including its support for Hizballah in last summer's warfare in Lebanon.

In addition, I am mindful that it is one thing to direct a study as a private citizen and another to serve as a senior policymaker in the administration. In general, I believe no option that could potentially benefit U.S. policy should be off the table. Even in the worst days of the Cold War, the United States maintained a dialogue with the Soviet Union and China and I believe those channels of communication helped us manage many potentially difficult situations. Engagement with Iran might well come as part of an international conference.

Question. What more do you believe the United States and the international community could be doing to dissuade Iran from pursuing a nuclear weapons program?

Answer. The United States has been fully committed to working with the international community to find a diplomatic solution to Tehran's nuclear weapons ambitions. The State Department properly has the lead in these diplomatic and non-military means of dissuading Iran's nuclear ambitions, and if confirmed, I plan to review the situation and make recommendations to my colleagues, other national security agencies in the government, and the President.

SYRIA

Question. Do you believe it would be in the United States' interest to engage Syria in a direct dialogue regarding stability and security in Iraq?

Answer. Our approach to Syria needs to be tied to our overall approach to Iraq. As we review our approach to Iraq, all options should be on the table. On several occasions in recent years, the United States has urged Syria to change its unhelpful behavior.

Our engagement with Syria need not be unilateral. It could, for instance, take the form of Syrian participation in a regional conference.

KOSOVO

Question. Nearly 16,000 NATO troops currently participate in the Kosovo Force (KFOR) providing security and stabilization assistance.

What do you anticipate will be the role and requirements for KFOR, and for U.S. forces in particular, after the conclusion of Serbian general elections in January 2007 and after the decision by the Contact Group of six major powers regarding the final status for Kosovo has been announced?

Answer. As President Bush said in July 2001, the United States went into the Balkans as a member of the alliance and we will leave with the alliance; however, we want to hasten the day when we can conclude our extraordinary deployments there.

I am aware there is a U.N. Secretary General-sponsored process looking at the U.N. Kosovo progress and until that has run its course it would be inappropriate for me to speculate on the possible new roles or functions for the U.S. forces in Kosovo.

TURKEY

Question. In June 2006, the Council on Foreign Relations issued a report on Turkey recommending that the United States and Turkey engage in a dialogue on the future of Iraq; that the United States initiate a diplomatic approach encouraging Europe to agree to Turkish accession to the European Union (EU); and that a high-level U.S.-Turkish commission be established to provide a structured mechanism for regular interaction across agencies of government, nongovernmental organizations, and the private sector.

Do you agree with the recommendations of the Council's report?

Answer. My general view is that Turkey's role as a NATO ally and as an important player in the Middle East and Central Asia has long been underappreciated

by too many apart from the United States and the United Kingdom. I understand actions to implement many of the recommendations have been underway for some time.

Question. If confirmed, what initiatives would you anticipate taking to promote stronger U.S.-Turkish military relations?

Answer. Historically, our military relationship has provided a strong foundation for the broader relationship. The relationship remains solid, but the United States and Turkey have much work to do in dealing with the challenges of the new security environment.

I also believe that support for General Joe Ralston's efforts as the Special Envoy for Countering the PKK will continue to be critically important.

Question. What do you believe the Government of Turkey should do, if anything, to improve its relationship with the United States following their refusal to permit military forces to transit Turkey in preparation for the war in 2003?

Answer. Turkey remains an important ally of the United States and continues to be an important partner in the global war on terror through its significant support in Afghanistan, strong contributions to NATO, and support for operations at Incirlik Air Base.

Turkey also remains an important regional power. Turkey can play a constructive role with its neighbors; specifically supporting the permanent five members of the U.N. Security Council on Iran, supporting the Government in Iraq, and holding Syria accountable.

AFRICA

Question. In 2004, the DOD conducted a review of the Unified Command Plan. While the Department reviewed the command structure in Africa, it did not approve establishing a separate command or realigning the existing command structure. Under the existing command structure, EUCOM, CENTCOM, and PACOM have responsibilities for Africa.

What is your view on the present command structure in Africa?

Answer. I believe that changes in the security environment suggest that now is a good time to examine how we deal with Africa.

My understanding is that the Defense Department is considering changes to the Unified Command Plan addressing how we approach evolving security challenges in Africa.

Question. What are the significant factors that should be considered in determining whether the DOD is properly organized to meet its objectives in the region?

Answer. The threats we face from global terrorist networks operating in Africa and security threats from instability, conflict, poverty, and disease in Africa are all important factors to consider.

The DOD needs to be a part of a more comprehensive, political-military-economic approach to the continent.

DARFUR

Question. With agreement in principle on a joint United Nations-African Union peacekeeping force for Darfur, should U.S. military forces be a component of an international peacekeeping force for Darfur, and if so, what role should they play?

Answer. The President has worked with the U.N. Secretary General, the NATO Secretary General, and others to highlight the suffering in Darfur. The international community needs to meet the challenge presented by the situation in Darfur.

I understand that the United States has provided an appropriate contribution to strategic airlift and provided U.S. military advisors to the African Union Mission in Sudan as part of previously offered NATO assistance.

Question. What kinds of support do you believe would be appropriate for the United States to provide to the joint peacekeeping force for Darfur?

Answer. The United States is already making contributions, and if confirmed, I would want to make a more detailed assessment of the status of the joint peacekeeping force before making recommendations to the President on what appropriate additional U.S. contributions, if any, might be made.

FUTURE OF NATO

Question. Outgoing President of the NATO Parliamentary Assembly, Pierre Lellouche, in an address to the assembly members recently spoke of his concern for the future of the NATO alliance. Mr. Lellouche said, "I must admit that I am concerned about the fate of the Atlantic Alliance. . . I have my concerns, first of all because our American friends and allies do not give me the impression of having truly chosen a direction for the future of the alliance." Mr. Lellouche said that after

the September 11 attacks on the World Trade Center, the United States had bypassed the alliance during the "first phase of the war in Afghanistan and then Iraq. But I am also concerned about the non-existence of the famous European pillar of the alliance. Although Europe is delighted with its famous European Security and Defense Policy (ESDP), in actuality, with the exception of Great Britain and France, Europe is in a process of unilateral budgetary disarmament," he said.

Do you agree with Mr. Lellouche's observation? What do you believe needs to be done to address his concerns?

Answer. I am quite optimistic about NATO's future, but Mr. Lellouche raises a valid concern about the level of effort by allies. While the GDP of most allies has grown in recent years, most defense budgets are flat or declining, and have been for a long time.

Question. What are the greatest opportunities and challenges that you foresee for NATO over the next 5 years?

Answer. NATO has the opportunity to complete its transformation from a static military alliance, focused solely on territorial defense, to an alliance that can deliver security wherever allies' common security interests are threatened around the globe.

NATO's operation in Afghanistan is a step in the right direction. However, the need to generate the necessary forces and capabilities has been difficult because of budget constraints and a shortage of modern, highly capable, interoperable, expeditionary forces.

Thus a primary challenge will continue to be to get allies to devote the resources needed to continue transforming their military forces to succeed in expeditionary operations.

Question. Do you envision further enlargement of NATO within the next 5 years?

Answer. My understanding is NATO's door is open to new members, but aspirants must meet NATO's performance-based standards and prepare themselves for the responsibilities and obligations of membership.

Question. What more can the United States do to encourage NATO member nations to spend more on defense, transform their militaries, acquire advanced capabilities, and enhance their interoperability with the United States and other NATO member nations?

Answer. Transforming allies' forces and funding are among NATO's primary challenges.

The United States can help by working through NATO to address today's complex security challenges, and making it clear to allies that we expect them to bear an equitable share of the burden.

Question. In your view, is there a continuing requirement for U.S. nuclear weapons to be deployed in NATO countries?

Answer. I believe that the U.S. nuclear forces committed to NATO and based in Europe provide an enduring political and military link between the United States and its European allies. They are an expression of the common commitment of the Alliance.

EUROPEAN SECURITY AND DEFENSE POLICY

Question. The EU's ESDP reflects the EU's intention to create a capability to conduct military operations in response to international crises in cases where "NATO as a whole is not engaged." Many in Congress have expressed concern that the ESDP could emerge as a competitor, rather than a complement, to the NATO alliance.

Do you share these concerns about the ESDP?

Answer. I would support the ESDP, based on the understanding that it would:

- help build new European capabilities (that are also available to NATO);
- conduct operations "where NATO is not engaged";
- do so in a manner that is cooperative, not competitive or duplicative, with NATO.

Question. What steps do you believe that the United States and NATO members should take to ensure that ESDP is implemented in a way that complements and strengthens NATO?

Answer. The EU capability should remain consistent with NATO's ability in order to be interoperable. In addition, the situations in the Balkans and Afghanistan offer important opportunities for NATO and the EU to cooperate in the Balkans and in Afghanistan.

ENGAGEMENT POLICY

Question. One of the central pillars of our recent national security strategy has been military engagement as a means of building relationships around the world.

Military-to-military contacts, Joint Combined Exchange Training exercises, combatant commander exercises, and humanitarian demining operations have been used to achieve this goal.

Do you believe that these activities contribute positively to U.S. national security?

Answer. I agree that military-to-military activities with our allies and partners can contribute positively to U.S. national security. Such activities can strengthen trust and interoperability, and help other nations contribute to coalition operations.

Such activities should form a key component of our strategy for combating violent extremism. We need to work with our partners across the globe to counter terrorist groups.

Question. If confirmed, would you support continued engagement activities of the U.S. military?

Answer. Yes, if confirmed, I would want to continue such activities. I would want to ensure that they were focused on our top priorities; first and foremost the need to counter violent extremist groups across the globe.

Question. What improvements, if any, would you suggest to the interagency process for implementing these authorities?

Answer. If confirmed, I look forward to working with the Secretary of State and others to make such recommendations to the President. I would not presume to offer specific suggestions for improving the interagency process at this point.

STABILITY AND SUPPORT OPERATIONS

Question. The U.S. experience in Iraq has underscored the importance of planning and training to prepare for the conduct and support of stability and support operations in post-conflict situations.

In your view, what are the appropriate roles and responsibilities between the DOD and other departments and agencies of the Federal Government in the planning and conduct of stability operations?

Answer. Stability operations clearly are an area of critical importance to the challenges the United States will face in the international environment.

Frequently these efforts must be civilian led with the military in support. I understand that DOD is currently working with Secretary Rice and her colleagues at the Department of State in this regard.

Question. In developing the capabilities necessary for stability operations, what adjustments, if any, should be made to prepare U.S. Armed Forces to conduct stability operations without detracting from its ability to perform combat missions?

Answer. I understand there are efforts underway in the Department to increase the capability of military Services to conduct stability operations. If confirmed, I intend to familiarize myself with these efforts and will work with the Service Secretaries and Chiefs to ensure appropriate adjustments are made.

Question. Do you believe that the authorities provided under Section 1206 (Building the Capacity of Foreign Military Forces) and Section 1207 (Security and Stabilization Assistance) of the National Defense Authorization Act for Fiscal Year 2006 contribute to a policy of military engagement?

Answer. I understand the Departments of State and Defense have started implementing a new, joint train and equip authority and the ability to use DOD funds to help civilians quickly deploy to crises.

I am told these authorities allow the U.S. Government to move more rapidly in response to changing security needs and feature appropriate interagency development, review, and implementation.

Question. Do you believe that the U.S. Government needs to establish new organizations or offices to manage stability operations? If so, why?

Answer. As I stated in a previous answer, this is an important interagency issue. The ability to manage stability operations is a critical challenge facing the Nation. As for a precise prescriptive solution, it is premature for me to comment at this time.

INTERAGENCY OPERATIONS

Question. In 2005, President Bush issued a new National Security Presidential Directive (NSPD–44) aimed at improving the management of interagency efforts concerning reconstruction and stabilization assistance. In particular, the directive requires that "the Secretaries of State and Defense integrate stabilization and reconstruction contingency plans with military contingency plans when relevant and appropriate."

What challenges do you foresee in implementing this directive and in coordinating stabilization and reconstruction contingency plans with military contingency plans?

My service over nearly 9 years under four Presidents on the National Security Council staff taught me well about the importance of interagency collaboration and cooperation. The United States clearly needs a government-wide approach to the challenges we face today and will face in the future. If confirmed, this type of interagency collaboration and cooperation will be one of my priorities.

SPECIAL OPERATION FORCES

Question. Do you believe that the force size, structure, and budget of the Special Operations Command is sufficient, given the current roles and missions of Special Operation Forces (SOF)? If not, why, and what changes would you make, if confirmed?

Answer. I understand significant enhancements in special operations capabilities have been accomplished over the past 5 years and are continuing. If confirmed, I will review these capabilities and plans as well as others and make recommendations for any necessary adjustments.

RUSSIA AND NUCLEAR WEAPONS

Question. Although Russia is no longer considered to pose a near-term threat to U.S. national security, the fact remains that Russia retains a huge nuclear arsenal and inventory of strategic and nonstrategic nuclear weapons and nuclear-related materials. The Cooperative Threat Reduction (CTR) program has accomplished a great deal over the past 15 years to help reduce and safeguard such weapons and materials in the former Soviet Union, but Russia has many tactical nuclear weapons that pose a security and a proliferation threat. The 1991 Strategic Arms Reduction Treaty (START), with its strict limitations, counting rules, verification, and transparency measures, will expire in 2009 unless the parties agree to extend its duration. The Moscow Treaty remains in force until 2012, but the ability of the United States to verify it, and to monitor the status and development of Russian nuclear forces more generally will decrease dramatically should START be permitted to expire.

What is your view of the utility of legally binding, verifiable, nuclear arms control agreements with Russia at this stage in the post-Cold War era?

Answer. The START was negotiated toward the end of the Cold War, and today's circumstances are significantly different. The most productive path may be continuing dialogue with Russia on how best to continue reducing nuclear weapons and increasing transparency and confidence.

Question. Is it in the U.S. interest to extend the duration of the START, or, alternatively, to negotiate a new treaty that will offer similar benefits to both parties and further reduce their nuclear forces?

Answer. I believe it remains in our interest to continue improving our relationship with the Russian Federation. However, formal negotiations for Cold War-style, legally binding arms control agreements may not further that relationship.

The United States may want to look at a variety of confidence-building and transparency measures regarding our respective strategic force postures.

If confirmed, I will certainly review these matters.

DOD'S COOPERATIVE THREAT REDUCTION PROGRAM

Question. The CTR program, which is focused primarily on eliminating Cold War era WMD in the states of the former Soviet Union, has several key objectives that include: (1) eliminating strategic nuclear weapons; (2) improving the security and accounting of nuclear weapons and weapons-usable fissile material; (3) eliminating and preventing the proliferation of biological and chemical weapons and capabilities; and (4) encouraging military reductions and reforms to reduce proliferation threats.

In your view, what needs to be done to reduce the proliferation threat from the residual Cold War stockpiles of WMD and materials in the former Soviet Union?

Answer. Residual Cold War stockpiles of WMD and related materials in the former Soviet Union pose a continuing proliferation threat. Where host governments are unable to mitigate this threat, CTR and other U.S. programs are able to help, provided the recipients work with us cooperatively.

Question. Are Russia and the former Soviet Union countries making a significant contribution to efforts to reduce the proliferation threats they inherited?

Answer. My understanding is that the Russian Federation and other former Soviet Union states are making varying contributions to reduce the proliferation threats they inherited.

Question. What needs to be done to enable agreement between Russia and the United States on access and liability issues that continue to hamper progress on some CTR programs?

Answer. I am told that the United States and Russia have reached an agreement that has resolved a number of these issues for a period of time.

Question. Do you think the CTR program is well-coordinated among the U.S. Government agencies that engage in threat reduction efforts in Russia, e.g., the DOD, the Department of Energy, and the State Department?

Answer. If confirmed, I will become more familiar where we stand on these issues, but at this point I have no knowledge if these activities are well-coordinated or not.

Question. Do you believe there are either geographic or programmatic areas where the CTR program should be expanded?

Answer. I understand the original CTR program has expanded mitigation activities outside the former Soviet Union and to other activities and generally speaking, I believe these developments move the program in the right direction.

DEFENSE ACQUISITION REFORM

Question. The Government Accountability Office (GAO) recently noted that the total cost of all major defense acquisition programs for 2006 is over $1.4 trillion, up from $700 billion in 2001. At the same time continuously evolving requirements, unregulated program cost growth after initial estimates, and failure to utilize economic purchasing options result in fewer, yet more costly, weapon systems available to support the warfighter. Despite this trend, the DOD continually seeks to place more capability on fewer platforms, further increasing the cost of these systems while diminishing their ability to project force around the globe.

What are your views regarding the defense acquisition process and the need for reform?

Answer. Efforts to reform the defense acquisition system must be continued on behalf of the military and the American taxpayer. There have been many studies and recommendations to improve DOD's acquisition processes. I understand that initiatives in this area are underway under the auspices of Deputy Secretary of Defense Gordon England. If confirmed, I plan to familiarize myself with these efforts and review the Department's acquisition processes and outcomes using the 2006 QDR section on Reshaping the Defense Enterprise as a starting point.

Question. If confirmed, how would you improve all three aspects of the acquisition process—requirements, acquisition, and budgeting?

Answer. If confirmed, I plan to review how all three aspects of the acquisition process work with each other to identify suitable, supportable, timely, and affordable solutions.

Question. If confirmed, how would you improve acquisition accountability?

Answer. See above response.

Question. Do you believe that the current investment budget for major systems is affordable given increasing historic cost growth in major systems, costs of current operations, Army modularization, and asset recapitalization?

Answer. I do not have a detailed understanding at this time of the various drivers in the budget. If confirmed, I will address the overall Department fiscal year 2008 budget as one of my immediate priorities.

Question. What would be the impact of a decision by the Department to reduce purchases of major systems because of affordability issues?

Answer. I understand that there are ramifications with every acquisition decision. If confirmed, I will work to understand those issues including effects of reduced purchases.

Question. If confirmed, how do you plan to address this issue and guard against the potential impact of weapon systems cost growth?

Answer. Again, I understand the issue in general terms, and certainly recognize its importance. Weapons system cost growth has been a historic challenge to the defense program due to the complexity of U.S. systems and the difficulty in making accurate or realistic estimates from the outset. I will need to better understand the particulars of the current defense acquisition program before being able to offer a more informed perspective on this issue.

SERVICES CONTRACTING

Question. Over the past decade, there has been a dramatic increase in the volume of services purchased by the DOD. According to GAO, the Department spent more than $140 billion on services in fiscal year 2005—almost double the amount spent 10 years earlier and more than the Department spends on all products, including weapon systems. Indeed, the Department has become dependent on contractors to perform most of its functions, including acquisition functions. Yet, the Department has yet to establish a management structure for services contracts comparable to the structure in place for the acquisition of products.

What is your view of the Department's reliance on service contractors?

If confirmed, how do you plan to address the issue of cost growth in services contracting and ensure that the Department gets the most for its money in this area?

Answer. It is my understanding that service contractors provide a valuable function to the DOD. If confirmed, I intend to review the Department's policies and procedures and make any necessary adjustments.

TACTICAL FIGHTER PROGRAMS

Question. Perhaps the largest modernization effort that we will face over the next several years is the set of programs to modernize our tactical aviation forces with fifth generation tactical aircraft equipped with stealth technology, to include the F–22 and the Joint Strike Fighter (JSF).

Based on current and projected threats, what are your views on the requirements for and timing of these programs?

Answer. If confirmed, I will take a close look at the current and projected threats, associated program requirements, and the timing of our tactical aviation forces to include the F–22 and JSF.

UNMANNED SYSTEMS

Question. Congress has established a goal that by 2015, one-third of the aircraft in the operational deep strike force aircraft fleet and one-third of operational ground combat vehicles will be unmanned.

Do you support this goal?

Answer. I understand the Department is committed to integrating unmanned systems into the military force structure to provide a range of capabilities including strike/combat capability.

Question. What is your assessment of DOD's ability to achieve this goal?

Answer. If confirmed, I will continue to pursue the goal of unmanned systems capabilities to support the Department needs.

Question. What steps do you believe the Department should take to achieve this goal?

Answer. If confirmed, I plan to review the Department's priorities for unmanned systems to assure they are balanced and focused on the Department's highest priority needs.

NAVY SHIPBUILDING

Question. Today's Navy is at its smallest size in decades—281 ships—and threatens to continue to decline. In response to concerns raised by this committee, the Chief of Naval Operations conducted a force structure review and concluded that the Navy requires a 313-ship fleet to perform its mission. The Navy estimates that investment in shipbuilding must increase by greater than 50 percent—a full $5 billion to $10 billion per year—to meet this force structure requirement.

What are your views regarding the CNO's force structure review conclusions and the adequacy of the Navy's current and projected future inventory of ships?

Answer. I am not familiar with Chief of Naval Operations' force structure conclusions at this time. Nevertheless, I recognize the importance to sustain the ability of the United States to project power globally, a key element of our National Security Strategy. If confirmed, I expect to have detailed discussions on this issue with the CNO.

JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT OFFICE

Question. The Deputy Secretary of Defense issued a directive granting full authority and responsibility to the Joint Improvised Explosive Device Defeat Office (JIEDDO) to lead the Department's efforts in fighting the IED threat.

What are your views regarding the Department's process for addressing the combatant commanders' requirements for the fielding of IED countermeasures?

What else can and should be done to get this critical capability to the warfighters?

Section 256 of the National Defense Authorization Act Fiscal Year 2006 (Public Law 109–163) required the Director of the JIEDDO Task Force to work in coordination with the executive agent for blast injury prevention, mitigation, and treatment to ensure adequacy of blast injury research and collection of data on explosive detect and defeat devices and personnel and vehicle armor. The committee believes that the lethal and devastating consequences of blast injury to our servicemen and women who are affected by IED blasts should be addressed along with the important rapid research and acquisition programs to detect and defeat IEDs and other threats.

What is your assessment of the adequacy of the tools and funding provided to the DOD for counter IED detect, defeat and mitigation research, development and acquisition, including the adequacy of blast mitigation efforts and other related military-specific combat casualty care programs throughout the DOD?

Answer. It is vitally important that we not take a business-as-usual approach to responding to the IED threat. I understand IEDs are the most frequent cause of casualties to our Armed Forces in Iraq. I also understand that, as a result, the Department has established a cross-functional organization designed to streamline the acquisition process with the goal of rapidly delivering equipment, intelligence, and tactics to the warfighters. This approach appears to be sound, and if confirmed, I will continually evaluate its effectiveness and remain open to alternative solutions.

MANAGEMENT ISSUES

Question. The Government Performance and Results Act (GPRA) is intended to provide managers with a disciplined approach—developing a strategic plan, establishing annual goals, measuring performance, and reporting on the results—for improving the performance and internal management of an organization.

What do you consider to be the most important priorities and challenges facing DOD as it strives to achieve these management goals?

Answer. I have reviewed the 2006 QDR and was impressed by the discussion concerning the Department's performance and internal management.

I believe the Department's business mission must support the warfighter and be accountable to the taxpayers. Collaboration within the Department is essential to support more effective and efficient use of resources. To this end, the decision-making process needs to be as open, transparent, and agile as possible. If confirmed, I look forward to working with Deputy Secretary Gordon England on this important matter.

Question. What are your views on the importance and role of financial information in managing operations and holding managers accountable?

Answer. I believe that making managers accountable in a fair and credible manner will improve performance.

Visible and credible financial information is essential to this process because it enhances decision making and links performance and resources in a way that allows the Department to use its resources effectively and efficiently.

Question. The GPRA envisions that agencies will link their human capital planning with their strategic and annual plans. The DOD workforce has undergone significant downsizing in the past, and with the current tight labor market, it is increasingly difficult to attract and retain talent.

How would you work to attract and retain individuals with the experience, education, and skills needed throughout the DOD?

Answer. Any good employer needs focused recruiting and retention initiatives, competitive compensation and rewards structures, attractive career development opportunities, and education and training programs.

The Department must have a vision that conveys to the public a commitment to attract and develop the best mix of people, both military and civilian. This vision must be supported by an effective human capital strategy that is actively measured against well-defined goals.

FINANCIAL MANAGEMENT

Question. The DOD spends billions of dollars every year to acquire, operate, and upgrade business systems needed to support the warfighter, including systems related to the management of contracts, finances, the supply chain, and support infrastructure. Despite these expenditures, the Department's business systems are stovepiped, duplicative, and nonintegrated. As a result, the Department remains unable to produce timely, accurate, and complete information to support management decisions. The Comptroller General has concluded that these problems can only be addressed through committed leadership at the most senior levels of the DOD. The Comptroller General has recommended that the Department establish a new Deputy Secretary of Defense for Management to help address this problem. Section 907 of the National Defense Authorization Act for Fiscal Year 2006 required an independent study to review this problem. This report is due on December 1, 2006.

If confirmed, will you ensure that the financial management problems of the DOD receive priority attention at the senior management level?

Answer. Yes. I believe the Department has an obligation to account for and wisely manage taxpayer dollars.

Question. Will you review the report required by section 907 and provide us your views on the feasibility and advisability of establishing a new Deputy Secretary of Defense for Management?

Answer. Yes.

READINESS IMPACT OF CONTINGENCY OPERATIONS

Question. Over the past several years, military units have been increasingly deployed to contingency operations around the world. Participation in these operations disrupts operating budgets, causes lost training opportunities, and accelerates wear and tear on equipment. Additionally, increased OPTEMPO impacts quality of life and could jeopardize retention of high-quality people.

What ideas do you have with regard to how to reduce the impact of these operations on both near- and long-term readiness and modernization programs?

Answer. It is clear to me that the current pace of operations has significantly challenged our military forces. I understand that DOD has been addressing this challenge through multiple initiatives to reduce stress on individual military personnel and support the operational needs of the combatant commanders. This is a complex challenge involving recruiting, retention, readiness, quality of life, resources, and many other critical variables. If confirmed, I will work closely with the Department's military leadership and extend this issue priority attention.

MODERNIZATION

Question. In October, the Congressional Budget Office estimated that if the Department were to execute the current procurement plans, including cost risk, an additional $30 billion a year could be required in the procurement accounts alone.

Do you agree that the current procurement accounts are not executable unless there is an infusion of additional funds?

Do you believe that significant changes are needed in the Department's current procurement plans?

If confirmed, how do you intend to address this shortfall, if it in fact exists?

Even if all of the current aircraft modernization programs execute as planned, the average age of the tactical, strategic, and tanker fleet will increase. Aging aircraft require ever-increasing maintenance, but even with these increasing maintenance costs, readiness levels continue to decline.

Can both the maintenance of the legacy force and the modernization efforts be affordable at anywhere near the current budget levels?

Some critics believe that there is still too much service parochial duplication in procuring new systems. Do you agree with these critics? If so, what would you recommend to ensure more jointness in procurement?

Answer. The affordability of the defense acquisition program has historically been a challenge. I don't have intimate details of the DOD procurement program, but I am aware that over the course of the Bush administration, procurement investment levels have gone up by a significant amount. If confirmed, I will evaluate this process in the context of the broader budget discussions facing the Department.

FOREIGN INVESTMENT IN THE UNITED STATES

Question. Do you believe the Committee on Foreign Investment in the United States (CFIUS) structure and process facilitate sufficient communication with the various components of the national security and homeland defense community, including intelligence?

Answer. I understand this matter has received much debate recently and that improvements have been made in the manner that the CFIUS process operates. If confirmed, I will become more familiar and better able to address the issue in more detail.

BUY AMERICAN PROVISIONS

Question. Section 842 of the John Warner National Defense Authorization Act for Fiscal Year 2007 recodifies the so-called "Berry Amendment" requiring that certain strategic materials be purchased from American sources. This provision repeals the former Berry Amendment giving the Department new flexibility in addressing noncompliant materials delivered under contracts entered prior to the date of enactment. It also contains waiver provisions giving the Department flexibility with regard to contracts entered after the date of enactment.

Would you agree that it is important for the Department to make use of the flexibility provided by Congress in this provision to ensure that it is in a position to accept delivery of weapon systems needed for the national defense?

If confirmed, will you ensure that the provision is interpreted in a manner consistent with the congressional intent to provide such flexibility?

Answer. I'm not familiar with the intricacies of the Berry Amendment. I believe it is important that the Department be afforded necessary flexibility to procure and acquire capabilities needed for national defense in today's global marketplace.

INFORMATION ASSURANCE

Question. Protection of military networks, information, and communications is critical to DOD operations. The Department's Inspector General has noted that the Department does not yet have a comprehensive enterprise-wide inventory of information systems which makes reliable evaluation of the security of information systems impossible. The committee has included a requirement in this year's defense authorization report for a progress report on addressing previously identified information and cyber security vulnerabilities.

What is your assessment of the security of the Department's information systems?

What Department-wide policies or guidance do you believe are necessary to address information and cyber security challenges for current and future systems?

Answer. I recognize the importance of cyber security and that it is a critical challenge to the Department and the Nation as a whole. If confirmed, I will get a better understanding of the Department's capabilities in this area.

TEST AND EVALUATION

Question. A natural tension exists between major program objectives to reduce cost and schedule and the test and evaluation (T&E) objective to demonstrate performance to specifications and requirements.

What is your assessment of the appropriate balance between the desire to reduce acquisition cycle times and the need to perform adequate testing?

Answer. If confirmed, I will seek to balance the acquisition and operational testing processes between reducing costs and accelerating schedules.

Question. Under what circumstances, if any, do you believe we should procure weapon systems and equipment that have not been demonstrated through test and evaluation to be operationally effective, suitable, and survivable?

Answer. I'm aware that in the current environment the Department has chosen to field certain systems still under development without having completed full testing. These examples are clearly exceptions to the normal process but they were needed to meet urgent military requirements. If confirmed, I would look at this on a case-by-case basis.

Question. Congress established the position of Director of Operational Test and Evaluation to serve as an independent voice on matters relating to operational testing of weapons systems. As established, the Director has a unique and direct relationship with Congress which allows him to preserve his independence.

Do you support the Director of Operational Test and Evaluation's ability to speak freely and independently with Congress?

Answer. Yes.

FUNDING FOR SCIENCE AND TECHNOLOGY INVESTMENTS

Question. In the past, the Quadrennial Defense Review (QDR) and Secretary Rumsfeld have both endorsed the statutory goal of investing 3 percent of the Department's budget into science and technology programs.

Do you support that investment goal?

Answer. As President of Texas A&M, I recognize the importance of basic science and technology research to ensuring the Department remains on the cutting edge of emerging technology for the warfighter. If confirmed, I plan to place a high priority on a robust science and technology program for the Department.

Question. How will you assess whether the science and technology investment portfolio is adequate to meet the current and future needs of the Department?

Answer. Assessing the adequacy of science and technology investment is a complex challenge. The program should be addressed as a whole, across all Services and technology areas and matched against current and emerging threats.

TECHNOLOGY STRATEGY

Question. The Nation is confronted with a dispersed enemy which is expert at using relatively simple, inexpensive technology to achieve destructive and disruptive results. Creative prediction and adaptation to continuously changing threats is a focus for this committee. You were a member of the National Academy's panel that

produced the report "Rising Above the Gathering Storm" recommending doubling investments in defense basic research over 7 years.

What is your assessment of the Department's ability to develop a responsive research strategy capable of quick reaction but which is also designed to include sustained investments in the development of a set of capabilities based on threat predictions and identification of related technology gaps?

Answer. I don't have enough knowledge on this subject to provide an assessment at this time. This is an important issue to me and I will afford it priority attention.

Question. How should the Department proceed to implement the National Academy's recommendations regarding basic research investments?

Answer. I believe the Department should give this body of work serious consideration.

MISSILE DEFENSE

Question. The John Warner National Defense Authorization Act for Fiscal Year 2007 includes a provision (Sec. 223) stating that it is the policy of the United States that the DOD accord a priority within the missile defense program to the development, testing, fielding, and improvement of effective near-term missile defense capabilities, including the ground-based midcourse defense system, the Aegis ballistic missile defense system, the Patriot PAC–3 system, the Terminal High Altitude Area Defense System, and the sensors necessary to support such systems.

Do you agree that we should not deploy missile defenses that are not operationally effective?

Answer. I understand the administration's policy is to develop and deploy a missile defense capability at the earliest possible date.

I am told that efforts are underway through continuous testing, to ensure that these defenses are capable of intercepting missiles that threaten our homeland, deployed forces, and friends and allies.

Question. Do you agree that we should conduct adequate operational test and evaluation of our ballistic missile defense systems to determine if they are operationally effective?

Answer. See above.

Question. Do you agree that our ballistic missile defense program and systems should be prioritized to address the missile threats we face?

Answer. We face an international environment where missile threats of various kinds are rapidly increasing and proliferating. In response, we need to develop a full spectrum of capabilities to defend against that threat.

SPACE

Question. What is your view on weapons in space and the merits of establishing an international agreement establishing rules of the road for space operations?

Answer. Space is vital to U.S. national security and that of our friends and allies. I support our longstanding national policies of the right of all nations to use outer space for peaceful purposes, the right of free passage through space, and the right to protect our forces and our Nation from those that would use space for hostile purposes.

Question. Do you believe that fielding a ground-based missile defense site in Europe is consistent with these near-term priorities?

Answer. I understand that the administration's policy is to develop and deploy ballistic missile defenses drawing on the best technologies available to ensure that these defenses are capable of intercepting missiles that threaten our homeland, deployed forces, and friends and allies. I further understand that this effort could involve the placement of elements of the missile defense system in other nations to enhance the ability to defeat threats from a broader range of locations. If confirmed, I expect to delve into this matter with greater detail and with some urgency considering the timing of some of these decisions.

Question. What lessons do you draw for missile defense policy from the recent ballistic missile tests conducted by North Korea and Iran?

Answer. North Korea and Iran continue to develop longer range missiles and are determined to pursue WMD. We must stay ahead of this threat. In this regard, defenses with a limited operational capability, at least initially, are better than no defenses.

PROMPT GLOBAL STRIKE

Question. The 2006 QDR concluded that "the U.S. needs to make greater progress in fielding prompt, accurate, non-nuclear Global Strike capabilities." Accordingly, DOD requested $127 million in fiscal year 2007 for the Conventional Trident Modi-

fication (CTM) program to provide a prompt global strike capability within 2 years. The CTM program proved to be controversial within Congress, resulting in a funding level of only $20 million for developmental efforts common to all global strike alternatives, and two reporting requirements.

In your view, what is the role for a conventional prompt global strike capability in addressing the key threats to U.S. national security in the near future?

Answer. The international security environment is uncertain. The United States faces threats from terrorists and certain states, such as North Korea and Iran, who either have or seek WMD and the means to deliver them rapidly.

I understand the prompt global strike effort is meant to provide the Nation with a conventional capability to strike time-sensitive targets, so that distant, hard-to-reach places will no longer provide sanctuary to adversaries.

Currently, the only means we have to strike globally in a prompt manner is with nuclear-armed ballistic missiles.

Question. What approach to implementation of this capability would you expect to pursue, if confirmed?

Answer. I understand Congress has requested additional studies on the prompt global strike requirements and alternatives.

If confirmed, I look forward to reviewing DOD's analysis, and the studies Congress has requested.

Question. In your view what, if any, improvements in intelligence capabilities would be needed to support a prompt global strike capability?

Answer. Intelligence will continue to be a necessary critical capability for deployment of this and other military capabilities tailored to address today's global threat environment.

NUCLEAR WEAPONS AND STOCKPILE STEWARDSHIP

Question. Congress established the Stockpile Stewardship Program with the aim of creating the computational capabilities and experimental tools needed to allow for the continued certification of the nuclear weapons stockpile as safe, secure, and reliable without the need for nuclear weapons testing. The Secretaries of Defense and Energy are statutorily required to certify annually to Congress the continued safety, security, and reliability of the nuclear weapons stockpile.

As the stockpile continues to age, what do you view as the greatest challenges with respect to assuring the safety, reliability, and security of the stockpile?

Answer. The legacy nuclear forces in the U.S. arsenal were developed to meet the challenges of the Cold War, which ended over a decade ago. Our challenge today is dealing with uncertainty—both political and technical.

If confirmed, I will work with the Secretary of Energy, Congress, and others, to ensure that the Stockpile Stewardship Program has the tools and resources it needs to maintain the credibility of the U.S. nuclear deterrent, and ensure its safety and reliability.

Question. If the technical conclusions and data from the Stockpile Stewardship Program could no longer confidently support the annual certification of the stockpile as safe, secure, and reliable, would you recommend the resumption of underground nuclear testing? What considerations would guide your recommendation in this regard?

Answer. A decision regarding the resumption of nuclear testing cannot be made in the abstract. If confirmed, I would rely on input from operational commanders, policy, and technical experts to make a recommendation to the President that best supports our national security interests. Any such recommendation would be grounded on the best available assessment of the safety, security, and reliability of the nuclear stockpile.

Question. What is your view of the Reliable Replacement Warhead program?

Answer. I have not had an opportunity to assess the Reliable Replacement Warhead program. If confirmed, I will do so.

Question. Would you support substantial reductions in the U.S. nuclear stockpile?

Answer. I support the substantial reductions in nuclear weapons the United States plans to make through implementation of the Moscow Treaty.

CHEMICAL WEAPONS DEMILITARIZATION

Question. DOD has encountered significant problems and cost growth in the management and implementation of the chemical weapons demilitarization program, and the Department has acknowledged that it will be unable to eliminate its chemical weapons in accordance with the Chemical Weapons Convention time lines.

What is your understanding of the Department's estimates of its ability to comply with treaty commitments under the Chemical Weapons Convention?

Answer. I understand the Department is in the process of requesting an extension, but I am not aware of the details. If confirmed, I will look into it.

Question. Would you take steps, if confirmed, to raise the priority of the Department's efforts to eliminate the U.S. chemical weapons stockpile?

Answer. I am not very familiar with the programmatic details of the chemical demilitarization program. I understand that the U.S. program has already expended considerable resources and made significant progress toward meeting our goals and obligations. If confirmed, I will look further into this issue.

ACTIVE-DUTY END STRENGTH

Question. What is your view of the adequacy of the active-duty Army and Marine Corps end strength to support current missions including combat operations in Iraq and Afghanistan?

Answer. This is an important issue. I am told the Department continually reassesses end strength needs with the Combatant Commanders and the Joint Chiefs of Staff. If confirmed, I will work with the Joint Chiefs, the Service Chiefs, and the civilian leadership to ensure the Nation is properly prepared to meet its military requirements.

Question. As a result of recommendations in the QDR, the Air Force plans to reduce its Active-Duty end strength, as well as its Reserve components and civilian workforce by as much as 40,000 full-time equivalent positions. The impact in the Air Force Reserve and Air National Guard is magnified because multiple positions that are considered "part-time" must be eliminated to achieve one full-time equivalent. The Navy has sought and plans to implement comparable reductions in its Active and Reserve Forces.

Are you confident that these plans are still adequate and appropriate?

Answer. I am not familiar with the particulars of the Air Force plan, but I understand they are trying to rebalance their program to better position the Service to support their organize, train, and equip obligations into the future. If confirmed, I will become more familiar with this issue and assess as appropriate.

Question. What is your understanding of the steps that will be taken in 2007 and beyond with respect to the military and civilian employee manning of the Air Force and Navy?

What impact on readiness do you foresee as a result of these personnel reductions?

Answer. I cannot give a definitive answer at this point. If confirmed, I will review this matter.

RESERVE AND NATIONAL GUARD DEPLOYMENTS

Question. Current DOD policy provides that members of Reserve components shall not be required to involuntarily deploy more than 24 months cumulatively in response to the existing national emergency. This policy has exempted thousands of members of the Selected Reserve, including members of the National Guard, from additional involuntary call-ups in support of overseas operations in Iraq and Afghanistan.

Given the current and projected demand for forces in Iraq, what are your views on continuing this 24-cumulative-month policy?

Answer. The transition from strategic reserve to operational reserve as I understand it is a necessary step in the proper direction, but has presented the Reserve components with new and unique challenges. If confirmed, I will delve into these issues with greater depth in order to ensure the Department provides the Reserve components with the best possible approach to their utilization consistent with the concept of an operational reserve.

Question. What is your assessment of the Army's ability to support scheduled troop rotation planning beyond 2006, particularly in combat support and combat service support missions, given the 24-month policy?

Answer. I do not have enough information on the particulars of this issue to give an informed response. If confirmed, I will review this issue.

COMBAT INJURIES

Question. Medical care for servicemembers wounded in combat has been exceptional. Many servicemembers who would have died in earlier wars live today because of the exceptional medical care. However, many of these servicemembers suffer from traumatic brain injury and post traumatic stress disorder and require continuing care.

If confirmed, what programs will you put in place to ensure that these servicemembers receive the quality health care that they need for as long as they need it?

News accounts indicate that soldiers and marines suffering from post traumatic stress disorder are being separated from the Service with Other Than Honorable Conditions discharges for misconduct such as alcohol and drug abuse, which are classic symptoms of post-traumatic stress disorder. The characterization of their discharges can lead to a denial of VA benefits needed to treat their post-traumatic stress disorder condition.

What is the Department doing to ensure that servicemembers returning from combat are not separated for exhibiting symptoms of post traumatic stress disorder and then denied the very VA benefits they need to treat this disorder?

Answer. There is no issue more important that caring for our wounded service men and women upon their return. If confirmed, I will ensure that we review the issues raised in cooperation with the Department of Veterans Affairs.

MEDICAL HOLDOVERS

Question. Reserve component personnel returning from deployment are frequently held on Active-Duty while receiving medical treatment for injuries incurred while deployed. Many of these personnel are retained for a year or more while receiving medical care.

What steps can be taken to expedite delivery of effective health care to medical holdover personnel so they can be released and returned to their civilian communities?

If confirmed, what steps will you take to ensure that medical holdover personnel receive the medical care they need in a timely manner, and that their living conditions while retained on active duty are at least equal to the living conditions of other active duty personnel?

Answer. I understand the Army has developed programs for Reserve component personnel who require medical services near their hometown and to be able to get that care at home while remaining on active duty. If confirmed, I will work to ensure these service men and women get the care, medical treatment, and housing they require in a timely manner.

SUSTAINING THE MILITARY HEALTH CARE BENEFIT

Question. Quality health care for military members and their families, as well as for retirees and their families, is a fundamental aspect of this country's commitment to those who serve their country in uniform.

In your opinion, how important is it for DOD to reshape health care benefits now and in the future?

Answer. I believe it is critically important to place the military health care system on a sound fiscal basis to sustain its long-term viability.

Question. What elements of the military health care system require reform and what steps would you take, if confirmed, to accomplish reform?

Answer. If confirmed, I will review these issues in greater detail in order to better determine what additional steps can be taken to ensure this benefit is sustained well into the future.

QUALITY OF LIFE

Question. Throughout the global war on terrorism, military members and their families in both the Active and Reserve components have made tremendous sacrifices in support of operational deployments. Senior military leaders, however, have warned of growing concerns among military families as a result of the stress of frequent deployments and the long separations that go with them.

In your judgment, what are the most critical needs of military personnel and their families today?

If confirmed, what would your priorities be for improving and sustaining quality of life for military members and their families?

Answer. Military personnel and their families want to know that their service is valued. This starts with fair treatment and a competitive compensation package.

If confirmed, I will ensure that the Department continues to focus on these issues.

HUMAN CAPITAL PLANNING

Question. The GAO has designated human capital planning a high-risk area across the Federal Government because of agencies' lack of a consistent strategic approach to marshaling, managing, and maintaining the human capital needed to

maximize government performance. GAO has found the problem to be particularly acute at DOD. The DOD faces a critical shortfall in key areas of its civilian workforce, including the management of acquisition programs, information technology systems, and financial management, and senior DOD officials have expressed alarm at the extent of the Department's reliance on contractors in these areas.

Would you agree that the Department's human capital, including its civilian workforce, is critical to the accomplishment of its national security mission?

Answer. Yes.

Question. Do you share the concern expressed by others about the extent of the Department's reliance on contractors in critical areas such as the management of acquisition programs, information technology, and financial management?

Answer. I believe there is a valid concern about the appropriate roles of contractors in providing governmental functions. If confirmed, I will review the Department's policies and practices, and determine the proper balance necessary for the Nation's security.

Question. If confirmed, will you ensure that the Department undertakes necessary human capital planning to ensure that its civilian workforce is prepared to meet the challenges of the coming decades?

Answer. Yes.

NATIONAL SECURITY PERSONNEL SYSTEM

Question. The National Security Personnel System (NSPS) was enacted by Congress to provide DOD with needed tools to improve the quality, flexibility, and expertise of its civilian work force. Though full implementation of the NSPS has been delayed as a result of litigation, partial implementation of pay for performance reforms has proceeded for nonbargaining unit employees.

If confirmed, would you continue to implement NSPS in its present form or seek some alternative approach to the Department's civilian personnel management system?

Answer. Reforming civil service rules to make our civilian workforce more adaptable, flexible, and agile is critical to the future of the Department. I believe NSPS is integral to the Department's Human Capital Strategy of developing the right mix of people and skills across the Total Force. If confirmed, I will review the NSPS program to see if any further changes are required.

WOMEN IN COMBAT

Question. In the National Defense Authorization Act for Fiscal Year 2006, Congress required the Department to report in the current and future implementation of the policy regarding assignment of women in the Armed Forces, with particular focus on the Army's plan to reorganize its force structure by creating more modular brigade combat teams. Currently, the report is overdue, but results are expected early in this legislative cycle.

In your opinion, what have we learned about the assignment of women in the Armed Forces through our recent combat operations in Iraq and Afghanistan?

Answer. I understand that Congress has asked the Department to review the matter and if confirmed, I will acquaint myself with this assessment to better understand what our experiences have taught us.

Question. If confirmed, will you ensure the required report is immediately delivered to Congress?

Answer. Yes. I am told the report will be ready by January 2007.

SEXUAL ASSAULT

Question. In response to congressional direction, the Department has developed and implemented a comprehensive set of policies and procedures aimed at improving prevention of and response to incidents of sexual assaults, including appropriate resources and care for victims of sexual assault.

If confirmed, what actions would you take to ensure senior management level direction and oversight of departmental efforts on sexual assault prevention and response?

Answer. I believe that sexual assault has no place in the Armed Forces and I understand that the Department currently has a zero tolerance policy.

If confirmed, my goal will be to ensure the Department's sexual assault prevention and response program is the standard for other organizations to follow. I will work closely with the secretaries of the military departments to continue the progress achieved over the past 2 years.

ALL-VOLUNTEER FORCE

Question. The All-Volunteer Force came into existence over 33 years ago and, since its inception, volunteer soldiers, sailors, airmen, and marines have helped to win the Cold War, defeat aggression during the Persian Gulf War, keep peace in the former Yugoslavia, liberate Iraq and Afghanistan, and defend freedom around the world.

Are you committed to an All-Volunteer Force?

Answer. Absolutely. The All-Volunteer Force has served well for over 30 years, providing a military that is experienced, high-quality, disciplined, and representative of America.

Question. What factors do you consider most significant to the success of the All-Volunteer Force?

Answer. I believe the most important factor is the patriotism and dedication of the American men and women who respond to their nation's call to serve. Further, sustaining the success of the All-Volunteer Force will require that we:

- Treat our people properly, including paying them compensation that's fair and competitive.
- Focus on the military personnel and their families. Assuring a quality education for the children and a meaningful career for the spouse is high on the agenda of today's military generation.

Question. What changes, if any, in pay, compensation, and benefits are needed in your view to sustain recruiting and retention?

Answer. If confirmed, I will review the pay, compensation, and benefits plans currently employed by the Department, and consult with senior civilian and military leadership to ensure we provide the right compensation for our men and women who serve. Following such a review, I would be pleased to discuss with Congress any suggested changes or recommendations.

RECRUITING STANDARDS

Question. Recruiting highly qualified individuals for military service and retaining highly trained and motivated personnel for careers present unique challenges, particularly while the Nation is at war. Criticism has been aimed at the Department for allowing relaxed enlistment standards in the Army with respect to factors such as age, intelligence, weight and physical fitness standards, citizenship status, tattoos, and past criminal misconduct.

What is your assessment of the adequacy of current standards regarding qualifications for enlistment in the Armed Forces?

Answer. I am not sufficiently familiar with the standards regarding qualifications for enlistment at this time to answer this question. If confirmed, I will review the standards.

Question. In your view, does the Army have adequate procedures in place to ensure recruitment of only fully qualified individuals?

Answer. To the best of my knowledge, yes.

FOREIGN LANGUAGE POLICY

Question. In February 2005, Deputy Secretary of Defense Paul Wolfowitz approved the Defense Language Transformation Roadmap to improve the Department's foreign language capability and regional area expertise. Since then, the Department has been working toward implementing that roadmap.

In your view, what should be the priorities of the Federal Government to expanding the foreign language skills of civilian and military personnel and improving coordination of foreign language programs and activities among the Federal agencies?

Answer. Understanding the languages and cultures of other countries is a critical component of keeping the peace and defending the Nation. Initiatives to advance predeployment language and culture training and the provision of interpreter and translation services are critical. I was struck by the priority this issue received in the 2006 QDR. If confirmed, I will continue the Department's progress.

DETAINEE TREATMENT POLICY

Question. Do you support the memorandum issued by Deputy Secretary of Defense England on July 7, 2006, stating that all relevant DOD directives, regulations, policies, practices, and procedures must fully comply with the standards of Common Article 3 of the Geneva Conventions?

Answer. Yes.

Question. Do you support the standards for detainee treatment specified in the revised Army Field Manual on Interrogations FM 2–22.3, issued in September 2006,

and in DOD Directive 2310.01E, the Department of Defense Detainee Program, dated September 5, 2006?

Answer. Yes.

Question. Do you share the view of the Judge Advocates General that standards for detainee treatment must be based on the principle of reciprocity, that is, that we must always keep in mind the risk that the manner in which we treat our own detainees may have a direct impact on the manner in which U.S. soldiers, sailors, airmen, or marines are treated, should they be captured in future conflicts?

Answer. I believe that the Department's leadership should always be mindful of multiple considerations when developing standards for detainee treatment, including the risk that the manner in which we treat our own detainees may have a direct impact on the manner in which U.S. soldiers, sailors, airmen, or marines are treated, should they be captured in future conflicts.

Question. If confirmed, will you cooperate with committee requests for information or documents relating to Defense Department detention and interrogation policies or operations or allegations of detainee mistreatment?

Answer. Yes.

Question. Section 1402 of the National Defense Authorization Act for Fiscal Year 2006 provides that no person in the custody of the DOD shall be subject to any treatment or technique of interrogation not listed in the Army Field Manual.

Has the DOD complied with this requirement by ensuring that no treatment or technique not listed in the Army Field Manual is or may be authorized?

Answer. I am told within hours of the President's signing of the National Defense Authorization Act for Fiscal Year 2006, the Deputy Secretary of Defense issued an order implementing the requirements of section 1402 of that Act.

MILITARY COMMISSION TRIALS FOR DETAINEES

Question. In October, the President signed the Military Commissions Act of 2006 which established congressional authorization and a statutory framework for trial of alien enemy unlawful combatants for violations of the law of war.

How soon do you believe the Department will be ready to begin military commission trials under this new law?

Answer. My understanding is that the Department would like to proceed with military commissions as soon as possible.

Question. What is your understanding of the steps that the Department must take before it can begin such trials?

Answer. The Department is in the process of establishing the procedures for commissions as outlined in the Military Commissions Act. I understand that DOD expects to have the revised procedures completed by the end of the year.

I understand that there are also logistical challenges that will require congressional support for infrastructure improvements at Guantanamo Bay.

Question. If the long-term plan is to end detention operations at Guantanamo Bay at some point in the future, why should Congress authorize substantial new investment in facilities there?

Answer. The President has stated, "America does not want to be the world's jailer," and that he would like to "move towards the day that we can eventually close Guantanamo." At the moment, however, I am aware of no good alternative to the Guantanamo Bay facility exists.

INTEGRATED GLOBAL PRESENCE AND BASING STRATEGY

Question. DOD is in the process of implementing an integrated strategy for the basing of U.S. military force structure around the world. The strategy currently calls for reductions in U.S. force levels in Europe, Japan, and the ROK and return of those troops to the United States. The cost to implement these force structure relocations has been estimated to exceed $12 billion, including an estimated $9 billion for the restationing of 7,000 marines from Okinawa to Guam.

In your opinion, what priority should DOD assign to the continued investment in infrastructure and new facilities around the world in support of this strategy?

Answer. My impression is that the ongoing effort to change U.S. Cold War basing structures to a more relevant forward posture is important for helping to strengthen the Department's ability to meet this new era's challenges.

I would not presume to opine at this point on specific infrastructure priorities for these facilities. I understand, however, that these changes have been endorsed by our allies and partners and are in various stages of implementation.

Question. In your view, are any changes needed in the approach to this overseas basing strategy?

Answer. If confirmed, I would examine this strategy to ensure that it is contributing effectively to the Department's adaptation to the new strategy landscape.

BASE REALIGNMENT AND CLOSURE

Question. DOD is presently implementing the 2005 Defense Base Closure and Realignment (BRAC) decisions. The law authorizing the BRAC process requires the Secretary of Defense to complete all closures and realignments not later than September 15, 2011.

Do you believe the Department currently has an adequate plan with accurate cost estimates and resources in place to meet the deadline?

In your opinion, will DOD's current BRAC business plans be detrimental to the military services by requiring them to defer other critical new and current mission military construction requirements in order to compensate for an increase in estimates and costs to carry out BRAC decisions?

What changes, if any, would you propose in order to meet the intent of Congress?

Answer. I do not have enough information on the details of the BRAC implementation process to answer these questions.

IRAN-CONTRA

Question. In your testimony before the Iran-Contra Committee and at your confirmation hearing in 1991, you testified that you did not recall a series of meetings, memoranda, and conversations that appeared to link you to the events of the Iran-Contra affair. These included: a September 1985 meeting regarding the Iran project that Clair George testified you attended; a conversation reported by Admiral Poindexter in which he says you discussed efforts to have the CIA buy the assets of a private logistics operation; an August-September 1986 conversation in which Richard Kerr says he told you of Charles Allen's concern about a possible diversion; a September 1986 memo about Lt. Colonel North and Mr. Ghorbanifar, which Charles Allen says he sent you; a conversation in which, according to Mr. Allen, you said that you admired Oliver North's abilities, but this time he was going too far; an October 3, 1986 CIA memorandum that you initialed, indicating that you met with Admiral Poindexter the previous day to discuss "a special Iranian project"; and a discussion David Doherty says he had with you on October 15, 1986 regarding a possible diversion to Central America and "contributions from other countries".

Do you remember anything now about these meetings, memoranda, and conversations?

Answer. I have no further details to report on these conversations beyond my earlier testimonies.

These conversations and my peripheral involvement in the 20-year old Iran-Contra affair were investigated exhaustively by the Senate Select Committee on Intelligence during my 1991 confirmation hearings for Director of Central Intelligence. Key figures in the affair were interviewed or testified, and affirmed that they had not shared important information with me. The Iran-Contra Independent Counsel, after 7 years of investigation, could not find a single witness to testify that my role in the matter was other than I had described it.

I acknowledged 15 years ago that I should have handled my part in Iran-Contra better. I learned important lessons as a result of this experience and, in subsequent years as DDCI and Director of Central Intelligence (DCI), established a model of CIA and Intelligence Community cooperation with congressional overseers of intelligence. After I became Acting Director of Central Intelligence in December 1986, following more than a decade of controversy and conflict between CIA and Congress, there would not be a significant further conflict or major controversy between CIA and Congress for the remainder of my career, nor would there be another scandal tainting CIA during that time.

Finally, it is worth noting that most of the leaders of the Congressional Iran-Contra Committee—and the Committee's chief counsel—supported my nomination to become DCI in 1991.

ENCROACHMENT

Question. Some of the most significant issues that impact the readiness of the Armed Forces are categorized as outside encroachment upon military reservations and resources. This encroachment has included, but it not limited to, environmental constraints on military training ranges, local community efforts to obtain military property, housing construction, and other land use changes near military installations, airspace restrictions to accommodate civilian airlines, and transfer of radio frequency spectrum from DOD to the wireless communications industry. Unless

these issues are effectively addressed, military forces will find it increasingly difficult to train and operate at home and abroad.

In your opinion, how serious are encroachment problems?

If confirmed, what efforts would you take to ensure that military access to the resources listed above, and other required resources, will be preserved?

Answer. I am generally aware that encroachment is a serious issue for the Department and needs to be addressed. I don't have enough details to assess the issue at this point, but I recognize it is an important component to ensuring the Department can sustain operational readiness in the current environment.

CONGRESSIONAL OVERSIGHT

Question. In order to exercise its legislative and oversight responsibilities, it is important that this committee and other appropriate committees of Congress are able to receive testimony, briefings, and other communications of information.

Do you agree, if confirmed for this high position, to appear before this committee and other appropriate committees of Congress?

Answer. Yes.

Question. Do you agree, if confirmed, to appear before this committee, or designated members of this committee, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as the Secretary of Defense?

Answer. Yes.

Question. Do you agree, if confirmed, to ensure that testimony, briefings, and other communications of information are provided to this committee and its staff and other appropriate committees?

Answer. Yes.

[Questions for the record with answers supplied follow:]

QUESTIONS SUBMITTED BY SENATOR JOHN WARNER

MILITARY BASES IN EUROPE

1. Senator WARNER. Dr. Gates, Secretary Rumsfeld proposed a significant drawdown of our military forces in Europe and redeployment of those forces to the continental United States (CONUS). This would result in the closing or downsizing of several long-established bases, especially in Germany. Given the new challenges the United States now faces in the Middle East, will you revisit the decision to withdraw from established European bases?

Dr. GATES. My understanding is that our ongoing realignment of Cold War basing structures reflects the diminished strategic need for large heavy maneuver forces in Europe. It also aims to strengthen our flexibility to meet operational needs globally, including the Middle East. I understand that legacy forces and basing structures are being replaced by our most advanced forces and more efficient basing. These changes have been supported by our key host-nation allies. While I do not plan to revisit the decision to modernize our posture in Europe, I understand that this is an ongoing process that affords me opportunities to propose any adjustments.

2. Senator WARNER. Dr. Gates, given the reality that our bases in Germany are significantly closer to current and potential trouble spots than are bases in the United States, do you agree that it makes strategic sense to keep significant forces in Europe for rapid deployment of equipment and personnel to hot spots?

Dr. GATES. My view is that we should have forces forward in Europe that are relevant to operational needs and to our alliance partnerships; the capabilities of these forces will matter more than their numbers. It is my understanding that we are redeploying those heavy maneuver forces that are less airlift-capable (and which can be as responsive by sea from CONUS as from Europe), while putting forward more expeditionary forces in locations that facilitate prompt response and sustainable operations.

3. Senator WARNER. Dr. Gates, do you agree that it is in our national security interest to maintain a visible and powerful military presence in Europe in terms of technology, armament, and manpower to deter our enemies?

Dr. GATES. I believe it is in our interest to maintain a military presence in many regions of the world, including Europe. As part of the broader changes in U.S. global defense posture, the United States is making substantial changes to our force posture in Europe. These changes reflect the need to shift from a Cold War oriented

posture to one that more properly addresses the security threats of the 21st century. In consultation with our European allies, we are maintaining a lighter, leaner, and more mobile military presence in Europe so that the United States can meet new challenges.

QUESTIONS SUBMITTED BY SENATOR JOHN MCCAIN

TROOPS IN IRAQ

4. Senator MCCAIN. Dr. Gates, General Anthony Zinni, former head of U.S. Central Command, recently argued that any substantial reduction of American forces in Iraq over the next several months would be more likely to accelerate the slide to civil war than stop it. Speaking of Prime Minister Maliki, General Zinni said, "You can't put pressure on a wounded guy. There is a premise that the Iraqis are not doing enough now, that there is a capability that they have not employed or used. I am not so sure they are capable of stopping sectarian violence." Instead of taking troops out, General Zinni said, it would make more sense to consider deploying additional American forces over the next 6 months to "regain momentum" as part of a broader effort to stabilize Iraq that would create more jobs, foster political reconciliation, and develop more effective Iraqi security forces. Do you agree that a substantial reduction of American forces over the next several months would be ineffective in pressuring the Iraqi government to "do more" and may even be counterproductive? Please explain.

Dr. GATES. Yes. On January 10, 2007, the President described a way forward to achieve U.S. objectives in Iraq. An important new element is that the Iraqis themselves have devised their own strategy and committed themselves to significant political, economic, and military steps. In the security dimension, Iraqi forces will lead a campaign, with our forces in support, to restore stability in Baghdad. This requires temporarily increasing U.S. force levels in Iraq.

The President and his national security team considered alternatives that would have begun the process of disengagement from the important struggle going on in Iraq; they concluded that doing so at this lime would risk a major blow to Iraq's democracy and make the situation much worse. This could result in our forces being required to stay in Iraq longer and confronting an even more lethal enemy.

5. Senator MCCAIN. Dr. Gates, do you agree that we should deploy additional forces as one component of a broader effort to stabilize Iraq? Please explain.

Dr. GATES. On January 10, 2007, the President described a way forward to achieve U.S. objectives in Iraq. An important new element is that the Iraqis themselves have devised their own strategy and committed themselves to significant political, economic, and military steps. In the security dimension, Iraqi forces will lead a campaign, with our forces in support, to restore stability in Baghdad. This requires temporarily increasing U.S. force levels in Iraq.

Our change in strategy will be enabled by a "surge" of roughly 21,500 additional combat forces. These combat forces will support the Iraqi security forces as they protect the population, creating a more secure environment where political and economic progress can occur.

6. Senator MCCAIN. Dr. Gates, the United States and its allies face a number of tasks in Iraq: to clear insurgent sanctuaries and hold the territory with a combination of coalition and Iraqi forces; to provide sufficient security in Iraq so that economic reconstruction and political activity can take place; to arrest the momentum of sectarian death squads; to disarm militias; to train the Iraqi army and keep an American presence in Iraqi units; and to place U.S. personnel in Iraqi police units. Do you agree that we need to do these things? Do you believe that we have, today, sufficient force levels in order to accomplish all these tasks? Please explain.

Dr. GATES. On January 10, 2007, the President described a new way forward to achieve U.S. objectives in Iraq. An important new element is that the Iraqis themselves have devised their own strategy and committed themselves to significant political, economic, and military steps. In the security dimension, Iraqi forces will lead a campaign, with our forces in support, to restore stability in Baghdad. This requires temporarily increasing U.S. force levels in Iraq.

Our change in strategy will be enabled by a "surge" of roughly 21,500 additional combat forces. These combat forces will support the Iraqi security forces as they protect the population, creating a more secure environment where political and economic progress can occur. Once the violence is reduced, it will be up to the Iraqi

government, with U.S. support, to improve the delivery of essential services, to begin reconstruction and improvement of projects, and to invigorate economic life.

In the long-term, the Iraqi government will be responsible for creating and implementing policies that will enable Iraq's ethnic and sectarian groups to reconcile and move towards common goals. The Iraqi government reconciliation initiatives include: enacting the equitable distribution of oil revenues; a new de-Baathification law; and selling the time and conditions for provincial elections.

7. Senator MCCAIN. Dr. Gates, some members of the Senate have proposed what they refer to not as a withdrawal of American forces from Iraq, but rather what they call a "redeployment" or an "over the horizon force" that would, in their minds, continue to exert military influence on Iraq after withdrawal from much of the country. The idea seems to be that U.S. forces would remain on bases in Iraqi Kurdistan, Kuwait, or elsewhere in the region and support the Iraqis with "rapid reaction forces." How could we supply a huge forward operating base in the Kurdish region if we abandon all of Iraq to the south?

Dr. GATES. The President's strategy is to take decisive action to help the Iraqis stabilize their country, make the Iraqi people more secure, and help the Iraqis reconcile with each other. We believe the best way to provide this support is for our forces to continue to operate within Iraq.

8. Senator MCCAIN. Dr. Gates, would the Turks be likely to allow us to supply it from their territory or would we be forced to fly in all required supplies?

Dr. GATES. Turkey's support for efforts in Afghanistan and Iraq remains significant. A considerable volume of supplies supporting coalition forces flow through Turkey today. I would hope for this important cooperation to continue in the future.

9. Senator MCCAIN. Dr. Gates, if a quick reaction force is based in Kuwait, how would the forces get to Iraq when needed?

Dr. GATES. Our Armed Forces have sufficient lift capability to achieve our strategic and operational objectives regardless of basing location.

10. Senator MCCAIN. Dr. Gates, would progress not be impeded, if not thwarted, by improvised explosive devices (IEDs) and a lack of any ground-level intelligence from U.S. forces?

Dr. GATES. IEDs remain a threat throughout the region and the Department is committing significant resources to defeat this enemy tactic.

11. Senator MCCAIN. Dr. Gates, if a force based in Kuwait or Kurdistan instead flies to engage in combat in Iraq, would it not need to secure an airstrip, establish an interim base, transport fuel and supplies, and so on? If that is the case, how quickly would such a force in fact be able to deploy? Would it ever be relevant for tactical emergencies? Even for higher level emergencies, would it be at all feasible to move in large quantities of heavy equipment by air?

Dr. GATES. The hypothetical premise in the question is not presently a part of U.S. policy discussions.

WITHHOLDING DOCUMENTS

12. Senator MCCAIN. Dr. Gates, during your nomination hearing, Chairman Warner asked you whether you would provide documents requested by Congress or articulate a reasonable basis for withholding these documents. This is a standard question asked of all nominees appearing before this committee. You responded, "Yes, to the limits of my authority." Please explain your qualification fully. Specifically, absent an assertion of executive privilege by the President of the United States, on what basis would you withhold producing documents requested by Congress?

Dr. GATES. As Secretary of Defense, I intend to cooperate fully with Congress to ensure that the Department of Defense (DOD) adequately and timely responds to all congressional requests for Department documents in accordance with statutory and constitutional law.

IMPROVED DETECTION TECHNOLOGY

13. Senator MCCAIN. Dr. Gates, it is readily apparent by the damage inflicted upon U.S. and multinational forces in Iraq and Afghanistan, the continued use of terror bombs borne by humans and vehicles against civilians in those countries, the

nearly complete neutralization of Israeli armor in Lebanon, and the extent to which air travelers are being searched for bombs, that no accurate and efficient technology exists to detect explosives in real time in a wide variety of backgrounds. The Joint Improvised Explosive Device Defeat Organization (JIEDDO) was created in the Department for this task, yet having spent billions and having created a bureaucracy of thousands with unusually high salaries, it has not produced any kind of solution after 3 years. Numerous technologies that have never succeeded continue to receive money based on previous contracts, political pork, and favors, and contractors only seem interested in building careers and not solving the problem. This problem—and associated threats such as detecting weapons in cargo containers—demands immediate and decisive executive action. This could include supporting technologies that the establishment deems 'too risky'. As this and associated threats will not disappear any time soon, what course of action will you take upon confirmation to this office?

Dr. GATES. The IED threat in Iraq and Afghanistan continues to be a threat our soldiers, sailors, airmen, and marines face in the combat theater. I understand that the JIEDDO was created to counter this threat and focuses on seeking out the most promising technologies, evaluating their suitability, and developing the best-of-class candidates into field-usable equipment—all on a dramatically compressed acquisition timeline. I am encouraged by their efforts and progress to date, and will continue to make this mission a high priority.

QUESTIONS SUBMITTED BY SENATOR JEFF SESSIONS

COMMISSIONS

14. Senator SESSIONS. Dr. Gates, the congressionally-mandated Electromagnetic Pulse (EMP) Commission and the Commission on the Implementation of the New Strategic Posture of the United States are both vital to protecting the United States from weapons of mass destruction (WMD). Accordingly, Congress designed these commissions so they could begin work promptly, and promptly, within 18 months, by June 2007, deliver their recommendations to Congress. Why has DOD allowed an entire year to pass without establishing either commission, without providing any resources to support even a single meeting of the commission?

Dr. GATES. I understand that the EMP Commission has been meeting periodically since May 2006, and will be meeting regularly to complete its work as required in 2007. I will review the legislative and funding status of the Strategic Posture Commission and determine whether the Commission needs additional funds from Congress or an extension in order to complete its work.

15. Senator SESSIONS. Dr. Gates, what specific actions will the Secretary of Defense promptly undertake to ensure that the EMP Commission and the Strategic Posture Commission receive enough funding and time to accomplish their vitally important work?

Dr. GATES. It is my understanding that the EMP Commission is on track. I will look into the issues surrounding the Strategic Posture Commission, including funding levels.

QUESTIONS SUBMITTED BY SENATOR SUSAN COLLINS

INTERAGENCY COORDINATION

16. Senator COLLINS. Dr. Gates, earlier this year, President Bush signed a National Security Presidential Directive-46 and Homeland Security Presidential Directive-15 in order to better orchestrate activities across a wide range of bureaucratic jurisdictions to counter extremist groups and terrorist networks. As chair of the Senate Homeland Security Committee, I fully understand the need for increased coordination both within and among government agencies. Some defense experts have suggested that new regional command structures—like the Joint Interagency Task Force that includes representatives from the military, intelligence, and law enforcement agencies to counter the drug trade—should be created to deal with terrorism, as well as arms and human trafficking. Under the current counterinsurgency doctrine, all aspects appear to be controlled through DOD. What efforts will you undertake to have the State Department either embed personnel or work directly with U.S. military forces on the ground in order to coordinate nation building efforts?

Dr. GATES. There are a series of efforts underway to improve our nation-building activities: President Bush signed NSPD–44 to establish a framework for U.S. Gov-

ernment stabilization and reconstruction efforts; the State Department established a Coordinator for Reconstruction and Stabilization; and reform of foreign assistance is underway. At DOD, Directive 3000.05 is being implemented to help our military be prepared to conduct and support these missions. All of these efforts address critical issues for civil-military operations.

SHIPBUILDING

17. Senator COLLINS. Dr. Gates, the incident just a few weeks ago in which a Chinese submarine stalked a U.S. aircraft carrier battle group in the Pacific and surfaced within firing range of its torpedoes and missiles before being detected underscored the urgency of maintaining American seapower superiority and a viable shipbuilding industry. China's development of a new "blue water" navy makes it critical that a new direction at the Pentagon includes a renewed commitment to our Navy, to the next generation of warships, such as the DDG–1000, and to our shipyards. I am troubled by the decreasing size of the United States Navy, and believe that the funding allocated to shipbuilding in recent years has not been adequate to sustain the number of ships necessary to meet future national security requirements. The Chief of Naval Operations, Admiral Michael Mullen, has identified a requirement for a 313-ship Navy, but the Navy's fiscal year 2007 shipbuilding plan calls for the construction of only 7 new ships, far short of what is required to preserve today's fleet in the long-term. Budget constraints led to the drastic reduction in the acquisition and funding for DDG–1000 destroyers in December 2004, with this program being reduced from an original 20-plus ships to now only 7. Over the last 5 years, the budget requests submitted to Congress for the shipbuilding and conversion account have averaged just over $9.5 billion a year, with only $8.7 billion in the fiscal year 2006 budget request. In order for the Navy to achieve the 313 ships envisioned by Admiral Mullen's plan, however, defense analysts state that an average of $13.5 billion must be spent per year. The Congressional Budget Office has reported that the Navy needs to spend $16 billion per year between 2007 and 2024 to increase the fleet to about 313 ships, or $19 billion a year through 2024 if historical trends in cost growth continue. Given current and emerging threats, how do you envision implementing Admiral Mullen's plan for a 313-ship Navy?

Dr. GATES. I understand the Navy's commitment to building a 313-ship force structure is based on its assessment of future operational requirements, and I will bear in mind this assessment in considering future defense budget submissions.

SHIPBUILDING

18. Senator COLLINS. Dr. Gates, DOD has been leasing foreign-built ships to satisfy long-term U.S. military sealift missions. Many of these foreign-built ships have been leased for 10 years each. U.S. shipbuilders have demonstrated that the unit cost of ships they build is reduced when the volume of ships they are building is increased. These savings come from volume in the shipyard and throughout the manufacturing supplier base that serves most, if not all, combatant ship platforms. If confirmed, would you support limiting the lease terms of foreign-built ships and support building these defense auxiliary ships in U.S. shipyards?

Dr. GATES. The Department must ensure that it has and will continue to have access to sufficient industrial and technological capabilities to meet projected DOD shipbuilding requirements. The option to lease a vessel provides a timely and cost effective option to meeting a DOD requirement.

STRAIN ON THE NATIONAL GUARD AND RESERVES

19. Senator COLLINS. Dr. Gates, it has now been over 5 years since the initial call-up and mobilization of National Guard and Reserve forces in support of the global war on terrorism. Under the current rules, no member of the Guard or Reserve may involuntarily be mobilized for more than 24 months to support any one particular contingency. Maine, like many other States, has a number of units who have already served the full amount. In fact, Maine's Adjutant General, Major General Libby, has stated that just about every unit in the Maine National Guard, with the exception of the Army Band unit, has deployed to either Iraq or Afghanistan and are no longer available to support operations in either Iraq or Afghanistan. If a new contingency operation is declared, these Guard and Reserve troops could yet again be mobilized. While many of these troops signed up for Guard and Reserve duty fully understanding that they could be called up, they most likely did not believe

that they could spend 2 years out of every 5 on Active-Duty. If confirmed, how do you plan to ease the strain on our Guard and Reserve members and their families?

Dr. GATES. Our Reserve Forces will not be tasked with more than can reasonably be expected. To that end, I have adjusted several tenets of our Reserve mobilization policy to provide maximum predictability and flexibility. Specifically:

- Involuntary mobilizations shall be limited to a maximum of 12 months at any time (with exceptions allowed for some individual training and post-mobilization leave time)
- The planning objective for involuntary mobilization of Guard/Reserve units will remain a 1 year mobilized to 5 years demobilized (temporary exceptions may be needed as we move to a broad application of 1:5 as soon as possible)
- Mobilization of ground forces will be managed on a unit basis for cohesion and predictability
- The use of "Stop Loss" shall be minimized
- Members who are needed to do more than required by the established mobilization and deployment rotation policies will be compensated for such duty
- Exceptional circumstances facing members and their families shall be recognized and accommodated by our hardship waiver programs

These adjustments allow for the removal of the 24 cumulative month limit on Reserve component members and, taken in total, these policy adjustments provide more prudent and judicious use of our Reserve Forces and significantly more predictability for members, their families, and employers.

I will continue those programs that have been developed to monitor stress on our Reserve Forces and their families. As we implement this new policy, a transition period will require some exceptions.

QUESTIONS SUBMITTED BY SENATOR ELIZABETH DOLE

AFRICA COMBATANT COMMAND

20. Senator DOLE. Dr. Gates, Africa is a continent with a number of strategic issues for the United States. From the al Qaeda bombings of our embassies in Tanzania and Kenya to the current genocide in Darfur, I believe it makes sense from a security standpoint for DOD to more clearly focus on the issues in the continent of Africa. This continent is currently under the European Command, and I am aware that a proposal to establish a separate Africa Combatant Command is in its final stages of development at the Pentagon. Do you support the establishment of an Africa Combatant Command?

Dr. GATES. Yes. I recognize that the security challenges in Africa require greater attention and involvement by the U.S. Government as a whole. Establishing a new combatant command to help Africa address its security needs makes sense to me as a part of a broader U.S. Government approach.

21. Senator DOLE. Dr. Gates, how would you envision an Africa Combatant Command being structured?

Dr. GATES. I am in the process of discussing options for its command structure with General Pace and senior defense leaders.

SERVICE RECOGNITION

22. Senator DOLE. Dr. Gates, extraordinary acts of courage and heroism are occurring every day in Iraq and Afghanistan. I don't feel that servicemembers who receive awards for such acts are getting enough attention in the national media. Don't you agree that we need to do more to give the courageous men and women who receive awards the broader public recognition they clearly deserve, and will you review DOD policy concerning the Medal of Honor and the service crosses so we can be assured all who deserve these valor awards are properly recognized? Only two servicemembers, over the last 5 years, have received the highest military recognition possible, the Medal of Honor, and only 26 who have served in Iraq have received service crosses. Compared to previous conflicts, these are extraordinarily low numbers. This generation shouldn't have to look to any other generation for heroes; there are plenty among them right now.

Dr. GATES. I agree that America must recognize and celebrate her heroes. I am told that the Department is forwarding information about servicemembers who are decorated for acts of valor to Congress. The Pentagon also has a Web site that high-

lights those military men and women who have gone above and beyond in the global war on terror. While we must recognize heroism, we must be careful to achieve a balance with operational security and force protection in any release of information.

In regard to criteria for valor awards, we must sustain a credible awards program that is consistent with military tradition and is supportive of a strong military ethos. I will work to ensure that our men and women achieve the recognition that is their due.

SPECIAL OPERATIONS FORCES

23. Senator DOLE. Dr. Gates, when I was recently in Iraq, I visited with Special Operations Forces (SOF) and was so impressed by what they were doing to fight the enemy. North Carolina is home to the Joint Special Operations Command, the Army Special Operations Command, and the new Marine Corps Special Operations Command. I, as much as anyone, want our SOF to grow, but we need to grow the force in a manner that doesn't sacrifice the quality and lower the standards for the people going into this force. Would you give me your thoughts on the size and responsibilities of these extremely talented forces?

Dr. GATES. Growth in our SOF must not come at the expense of the quality of this very valuable part of our armed forces. I will work to ensure that SOF growth continues in a measured, sensible manner.

PREDATORY LENDING

24. Senator DOLE. Dr. Gates, more than 7,000 servicemembers have lost their security clearances due to financial problems since 2002. In my view, this is not just a financial problem, but a readiness issue as well, and predatory lending practices directed at servicemembers are a major explanation for their financial problems. Last year, I authored a provision in the defense authorization bill requiring the DOD to prepare a study for Congress on how to best address the problem of predatory lending. This year's defense authorization bill included most of the recommendations of this report. I would appreciate your assurance that the steps required by this legislation will be fully implemented.

Dr. GATES. I know the men and women of the Armed Forces appreciate the support provided by Congress to limit the impact of predatory loans on servicemembers and their families. I will ensure the Department complies with the law and implements regulations in partnership with the seven Federal regulatory agencies listed in the statute.

FOREIGN TROOP RESTRICTIONS

25. Senator DOLE. Dr. Gates, the President raised concerns during last week's North Atlantic Treaty Organization (NATO) summit that the troop restrictions on how specific countries' forces can be used in Afghanistan are hindering our efforts to defeat the Taliban. Some of these caveats had been removed, but how much will actually change remains uncertain. Clearly, success in Afghanistan is just as much in the interest of Germany, France, Spain, and Italy, countries that still continue to insist on maintaining their restrictions. How harmful are these restrictions in Afghanistan to achieving our military objectives in that country?

Dr. GATES. I generally oppose national caveats that undermine the ability of commanders to deploy and use the troops available in the most effective manner.

26. Senator DOLE. Dr. Gates, did last week's agreement go far enough in addressing this problem, and wouldn't lifting all troop restrictions reduce the need to add more troops in Afghanistan?

Dr. GATES. I understand that some progress was made in Riga with regard to caveats. I welcome the Riga Declaration pledge to ensure that ISAF has the forces, resources, and the flexibility needed to ensure the mission's continued success. I will work with our allies to ensure ISAF effectiveness.

27. Senator DOLE. Dr. Gates, don't these kinds of restrictions undermine NATO's long-term overall effectiveness and credibility?

Dr. GATES. Restrictions can lead to an unequal burden among alliance partners.

ENERGY USE

28. Senator DOLE. Dr. Gates, approximately three-fourths of the entire use of energy resources by the Federal Government is used by DOD. Energy security is a critical issue for our Nation, especially as it relates to our national defense. In a time when we need to be less dependent on foreign sources of energy, do you have any thoughts on how DOD can be more energy efficient and independent?

Dr. GATES. I agree that energy efficiency and energy security are important issues facing our Nation and DOD.

IRAQ MINISTRIES

29. Senator DOLE. Dr. Gates, Secretary Rumsfeld's November 6th memo raises important problems concerning the inadequate contribution of a number of Federal agencies towards our efforts to strengthen the Iraqi security forces. In his memo, Secretary Rumsfeld suggested that we strengthen the Iraqi Ministries of Finance, Planning, Health, Criminal Justice, Prisons, etc., by reaching out to military retirees and Reserve volunteers—and give up on trying to get other U.S. Government departments to do it. Will you work with your Cabinet colleagues to bring the expertise that exists across our Federal Government to contribute to the critical effort of strengthening the Iraq Ministry of Defense, Ministry of Interior, and other ministries?

Dr. GATES. Yes.

SMALL BUSINESS COMPETITION

30. Senator DOLE. Dr. Gates, there are many small high-tech companies that are in a position to make important contributions to our military. Many of these innovative businesses, however, find it difficult, at best, to successfully compete for contracts with DOD. While the Department does have some programs to address this problem, don't you agree that more needs to be done so small business can compete more fairly to meet current and future DOD needs?

Dr. GATES. I believe small businesses are an important source of innovation for the Defense Industrial Base. I will work with the Department's senior acquisition executives to ensure that small businesses are given opportunity to participate in the acquisition process.

QUESTIONS SUBMITTED BY SENATOR EDWARD M. KENNEDY

DEPARTMENT OF DEFENSE MANAGEMENT

31. Senator KENNEDY. Dr. Gates, Secretary Rumsfeld was known for having a contentious relationship with the military, and in particular, the Army. What will you do to mend relations with the uniformed military?

Dr. GATES. I believe that strong working relationships among the leaders of the Department and the military services are an important factor in effective leadership, and to that end, I intend to ensure the decisionmaking process is as open, transparent, and agile as possible.

32. Senator KENNEDY. Dr. Gates, how will you seek to elicit candid advice from the uniformed leadership?

Dr. GATES. I will seek to elicit candid advice from the uniformed leadership by ensuring the decisionmaking process is as open, transparent, and agile as possible.

33. Senator KENNEDY. Dr. Gates, the current secretary spent much of his time focused on "transforming" the military at the same time as he was dealing with Iraq. Some have criticized transformation as moving the military towards high-technology warfare that may be inappropriate to fighting a counter-insurgency. What is the appropriate balance between transformation and other challenges, such as Iraq?

Dr. GATES. I do not consider transformation to be solely based in technology solutions, but on the overall goal of revamping our forces to be able to rapidly adapt to current and future global threats. I have not been in office for sufficient time to fully evaluate the impacts of transformation, but I am impressed with much of the progress that I have witnessed thus far. I see transformation as a process of effecting fundamental change with the goal of redirecting the Department's emphasis and shifting our weight from practices and assumptions of the past to those necessary for the 21st century.

34. Senator KENNEDY. Dr. Gates, is transformation advancing our goals in Iraq or providing our forces the tools they need to fight an insurgency?

Dr. GATES. Transformation should prepare us to fight the wars of the 21st century. In the short term it is also helping advance our goals in Iraq and Afghanistan by developing military capabilities that are vital to our operations in both countries.

RELATIONS WITH CONGRESS

35. Senator KENNEDY. Dr. Gates, at its core, Iran-Contra was about the Reagan administration's efforts to circumvent the Boland Amendment, which prohibited direct aid to the Contras in Nicaragua. Do you believe that the President—acting as Commander in Chief—has the authority to act contrary to laws enacted by Congress?

Dr. GATES. Respect for the law is critical to our democratic form of government. As Secretary of Defense, I will strive to meet the Department's responsibilities under the law. In particular, I will seek the legal advice of the Attorney General on matters where the interpretation and implementation of statutes are in dispute.

36. Senator KENNEDY. Dr. Gates, President Bush has expanded the use of signing statements. Many of these statements suggest that the President will choose to comply with legislation at their discretion, including on providing reports to Congress. As the Secretary of Defense, what weight do you give these statements?

Dr. GATES. My understanding is that a signing statement expresses the President's understanding and interpretation of a particular law, not the application of the law in any specific instance. I further understand that signing statements are not executive orders. I intend to comply with both statutory and constitutional law.

37. Senator KENNEDY. Dr. Gates, do you intend to comply with the law, or do you believe the signing statements give you authority to ignore statutory requirements?

Dr. GATES. I intend to comply with the law.

INTELLIGENCE

38. Senator KENNEDY. Dr. Gates, in December 1991 you spoke of the difficulty analysts face in seeing the "world as it is, not as we or others would wish it to be." You have written extensively on the influence policymakers have in seeking intelligence. As Secretary, what steps will you take as a policymaker to elicit objective, non-biased assessments?

Dr. GATES. As Secretary, I will hold the Defense Intelligence Components accountable to look for alternative explanations. I will work closely with the Director of National Intelligence to ensure the integrity of the analytic process throughout the Intelligence Community is maintained and that analysts have the necessary intelligence information to perform their duties.

39. Senator KENNEDY. Dr. Gates, when, if ever, is it appropriate for DOD to create a special office, such as the Office of Special Plans, to interpret intelligence and make plans outside of the regular interagency coordination rules?

Dr. GATES. The Secretary of Defense does have the authority to organize and manage the Department using the authorities inherent in 10 U.S.C., section 113. As stated in my testimony, I will notify and confer with the appropriate committees of jurisdiction to the extent of my authority. I believe that the Department of Defense, as well as all other executive branch agencies and departments, has an obligation to abide by all applicable rules and regulations. This is particularly the case in an area of such complexity and subjectivity as intelligence analysis.

I do not have particular knowledge on the activities of the Office of Special Plans, but I plan on adhering to this principle during my tenure.

40. Senator KENNEDY. Dr. Gates, will you fully cooperate with the Senate Select Committee on Intelligence (SSCI) investigation into pre-war intelligence by providing documents and interviews?

Dr. GATES. It is my understanding that the Department provided extensive and significant support to the SSCI pre-war intelligence investigation both in the form of documents and personal appearances. I will work cooperatively with the appropriate oversight committees on this and other matters.

41. Senator KENNEDY. Dr. Gates, the Department's domestic intelligence activities have received some public attention but not enough oversight by Congress over the

past few years. As I'm sure you are aware, serious questions have been raised about a database called Talon, run by the Counterintelligence Field Activity containing reports on peaceful protest activities by Americans exercising their constitutionally guaranteed right to freedom of religion and freedom of speech, such as the American Society of Friends or the Quakers and the growing number of Americans who oppose the war in Iraq. There have been reports about datamining activities by the Department, which are said to replicate parts of the Total Information Awareness program that Congress sought to halt publicly a few years ago; and of course since September 11 the Northern Command (NORTHCOM) has been stood up and it has a large intelligence component. If confirmed, will you commit to providing this committee and others with jurisdiction, with a full and complete picture of all domestic intelligence activities currently being undertaken by the Department (e.g. a full accounting of the datamining and all other domestic intelligence activities by DOD in the United States)?

Dr. GATES. I will, to the extent of my authority, cooperate with appropriate committees of jurisdiction on this and other matters.

42. Senator KENNEDY. Dr. Gates, do you agree that it is inappropriate for the defense agencies to be maintaining databases about Quakers and others who oppose the administration's policies regarding Iraq?

Dr. GATES. I am not familiar with the specifics you cite, but I believe the Department must do all that is lawful to protect our country and its citizens. We are guided by EO 12333 and we will ensure effective oversight and review of our programs.

43. Senator KENNEDY. Dr. Gates, don't you agree that anti-terrorism efforts are diminished and important resources are wasted with monitoring Americans who are exercising their fundamental rights?

Dr. GATES. The Department should not inappropriately monitor the legally protected activities of any U.S. citizen.

44. Senator KENNEDY. Dr. Gates, do you agree that domestic intelligence gathering is more appropriately the task of agencies other than DOD and that the military protects our civil liberties by being strong overseas and respecting the privacy of Americans at home?

Dr. GATES. The Department's intelligence collection activities are appropriately governed by U.S. law, executive order, and DOD directive. I agree that the Department must carefully balance its force protection missions with domestic privacy concerns.

UNSECURED MUNITIONS IN IRAQ

45. Senator KENNEDY. Dr. Gates, concerns remain about the threat posed to our troops, Iraq's stability, and the region from unsecured munitions in Iraq. Would you be willing to conduct a theater-wide survey and risk assessment regarding unsecured munitions in Iraq?

Dr. GATES. Unsecured munitions in Iraq continue to pose a threat to our troops, Iraqis, and the region in general. I intend to consult with my commanders, the Iraqis, and experts on the subject to determine if any additional steps need to be taken in this area.

STABILITY OPERATIONS VS. COMBAT OPERATIONS

46. Senator KENNEDY. Dr. Gates, what steps will you take to ensure priority implementation of DOD Directive 3000.05, which states that stability operations should be of equal importance to major combat operations?

Dr. GATES. I believe that this directive is a critical tool for improving our capabilities to conduct stability operations, counterinsurgency and other types of irregular warfare. DOD is changing its doctrine, planning, training, education, and exercises, and is exploring how to improve intelligence, information sharing, and contracting for private sector support. I will review the efforts to ensure they meet our objectives.

IRAN

47. Senator KENNEDY. Dr. Gates, clearly America has an interest in preventing Iran from acquiring a nuclear capability. But we also have an interest in ensuring that Iran does not promote further instability in Iraq and endanger our troops. How

do we balance these interests, and do we achieve one goal at the expense of the other?

Dr. GATES. In general, I believe that no option that could potentially benefit U.S. policy should be off the table. However, the price for peace in Iraq should not be to allow Iran to obtain a nuclear weapons.

AFGHANISTAN

48. Senator KENNEDY. Dr. Gates, how do you define success in Afghanistan, and what are our prospects for achieving it?

Dr. GATES. We will have succeeded in Afghanistan when that country is: 1) a reliable, stable ally in the war on terror; 2) democratic, with a healthy private-sector economy; 3) capable of effectively governing its territory and borders; and 4) respectful of the rights of all its citizens. It will take significant effort by the Afghan people, the United States, and the international community to fully achieve these goals, and I am confident that we will achieve them.

49. Senator KENNEDY. Dr. Gates, in early October, the NATO commander in Afghanistan, British General David Richards, said Afghanistan is at a tipping point and Afghans are likely to switch their allegiance to resurgent Taliban militants if there is no visible improvement in people's lives in the next 6 months. What actions would you take as Secretary of Defense to capitalize on this window of opportunity?

Dr. GATES. The Government of Afghanistan, the United States, and the international community must raise our level of effort across the board in Afghanistan. The Department of Defense's most significant contribution will be our mission to train and equip the Afghan National Security Forces (ANSF), and I understand that the ANSF—the army in particular—have exceeded our expectations. By ensuring that the ANSF is properly sized and resourced to build on this success, we will set the conditions for defeating the insurgency. We have trained and equipped over 90,000 members of the ANSF. Other actions include extending the tour of the 3/10th Mountain to assist a planned offensive in the spring, pressing for more resources from our allies, and accelerating our progress on improving Afghan forces, governance, and economic development.

50. Senator KENNEDY. Dr. Gates, General James Jones, the Supreme Allied Commander for Europe, testified before the Senate Foreign Relations Committee on September 21, and was asked by Senator Chuck Hagel: "Is it true, as some allege, that the headquarters of the Taliban is in or around the Pakistani city of Quetta?" General Jones responded, "That is generally accepted. Yes, sir." Should we give President Musharref a deadline for closing down the Taliban headquarters and their recruiting and intelligence operations?

Dr. GATES. President Musharref has been and continues to be a valuable ally in the war on terror. The United States continues to actively work with his government to pursue Taliban and al Qaeda elements.

51. Senator KENNEDY. Dr. Gates, in 2006, Taliban-led insurgents have become more aggressive, in some cases mimicking suicide and roadside bombing tactics used in the Iraq insurgency particularly in Uruzgan, Helmand, Qandahar, and Zabol Provinces. They have clearly learned techniques from Iraq. What steps would you propose taking to ensure that lessons from Iraq are being applied to operations in Afghanistan?

Dr. GATES. Our enemy is smart, cunning, and very adaptive to the conditions on the ground. The enemy learns from its operations just as we do. I am currently reviewing and assessing our operations with the senior military leadership to determine a way ahead.

DRUG-TRAFFICKING

52. Senator KENNEDY. Dr. Gates, opium poppy cultivation reached its highest level in history this year, reaching 165,000 hectares of cultivation—60 percent more than last year—and that resulted in 6,100 metric tons of opium—92 percent of the world supply. Doesn't that indicate that the current policy is not working and something different needs to be done?

Dr. GATES. The poppy cultivation figures in Afghanistan are a significant concern. I understand that DOD is supporting interdiction and helping to build an Afghan capacity to combat the narcotics through numerous efforts, primarily training and equipping the Counternarcotics Police-Afghanistan (CNPA). DOD is working with

the DEA and State Department to provide a credible counternarcotics police force that will be able to conduct investigations, prosecute the drug traffickers, and dismantle drug trafficking organizations. DOD is also assisting in building border management and security capacity for the Afghan border forces. As a part of my review of our efforts in Afghanistan, I will look closely at DOD's support to the counternarcotics mission.

DRUG-TRAFFICKING

53. Senator KENNEDY. Dr. Gates, how should our government address the involvement of high-level officials, including some governors and police chiefs, in drug trafficking?

Dr. GATES. DOD is assisting the Departments of State and Justice to establish a credible judicial system in Afghanistan. Our goal is for the police in Afghanistan to be able to prosecute all drug traffickers, including high-level officials that are involved. This will, however, take the political will of the Afghan leadership.

SUDAN

54. Senator KENNEDY. Dr. Gates, many of us are troubled by the lack of effective action by the international community in dealing with the massive genocide taking place in Darfur, Sudan. Over 400,000 people have died, and further 2.5 million have been displaced. The unrelenting violence goes on, and it's also spilling over into other African nations. Now diplomatic efforts are underway to convince the Sudanese government to accept a United Nations (U.N.) peacekeeping force to supplement the African Union force that's been attempting to reduce the violence. But the Sudanese government keeps rejecting every reasonable proposal. Should our military be planning for contingencies in Sudan if the conditions continue to deteriorate?

Dr. GATES. The Department continues to work with the Department of State and the National Security Council staff to look at ways to address the humanitarian crisis in the region and to support potential U.N. deployment to help stabilize the situation.

55. Senator KENNEDY. Dr. Gates, if the Sudanese government continues the violence, what action by the United States would you recommend to the President that he take?

Dr. GATES. If the President tasks the Department to recommend courses of action in Sudan, we will conduct appropriate planning and make recommendations that meet U.S. goals.

56. Senator KENNEDY. Dr. Gates, in March 2005, the U.N. Security Council declared in U.N. Security Council Resolution 1591 (UNSCR 1591) a ban on offensive military flights over Darfur. Since that time, however, the Sudanese government has continued to bomb villages and civilian targets without repercussions. Do you believe that the no-fly zone should be enforced?

Dr. GATES. I believe that the no-fly zone as called for in UNSCR 1591 should be respected. If the Government of Sudan were to accept its responsibilities as outlined in UNSCR 1591, no-fly zone enforcement would not be necessary.

57. Senator KENNEDY. Dr. Gates, if the U.N. calls for enforcement of the no fly zone, how could DOD be most helpful?

Dr. GATES. If the President directs, DOD could support such an effort, but it would be important to assess what the implications would be for other U.S. missions using the same assets. We also could enable others with mission support and would want to work closely with partners to meet enforcement requirements.

AFRICA

58. Senator KENNEDY. Dr. Gates, do you support the creation of a regional combatant command for Africa? If yes, what do you see as being its highest priority missions?

Dr. GATES. Yes, Africa Command (AFRICOM) is necessary because Africa is growing in military, strategic, and economic importance in global affairs. AFRICOM's highest priority missions will focus on maintaining and promoting regional security and stability. The primary emphasis will be on Theater Security Cooperation efforts, humanitarian assistance, disaster response, security assistance, and supporting

global war on terrorism operations. These priority missions will be conducted in partnership with the interagency and other organizations working in Africa.

59. Senator KENNEDY. Dr. Gates, how important is Africa to the U.S. national interests and to the U.S. military in terms of its goals?

Dr. GATES. The globalization of threats means that we cannot ignore any region and Africa is of growing importance to the United States and the rest of the world. We will continue to work with our African partners to help build their capabilities and support the Department of State in its lead role in addressing these emerging concerns.

BASIC RESEARCH FUNDING

60. Senator KENNEDY. Dr. Gates, overall research and development (R&D) investment in the United States is stagnating and the Federal share is shrinking. The United States will face increasing international competition in R&D from emerging countries and top economic performers alike. Between 1980 and 2006, DOD's focus on basic research dropped from 20 percent of total science and technology (S&T) funds to approximately 12 percent. As the President of Texas A&M, you served on the National Academy of Sciences' committee on competitiveness, "Rising Above the Gathering Storm: Energizing and Employing America for a Brighter Economic Future." That report found, "the commitment to basic research, particularly in the physical sciences, mathematics, and engineering, is inadequate." It paid particular attention to reductions in DOD basic research funding, especially in light of the benefits of defense research. Among the report's recommendations that are applicable to DOD:

A. The Government should increase funding for basic research by 10 percent each year for 7 years.

B. The Federal Government should establish 200 new research grants a year at $500,000 each to fund new research opportunities at universities and government labs for early-career researchers.

C. At least 8 percent of the budgets of Federal research agencies should be set aside for high-risk, high-payoff research.

What steps will you take to meet these goals?

Dr. GATES. Increasing DOD funding for basic research to these levels will require a continuous effort.

My personal experience in government, my tenure in academia, and membership on the "Gathering Storm" committee and numerous other National Research Council Boards provide a basis for reviewing DOD basic research levels. However, I remain mindful of the many factors and urgent considerations that are all competing for the same Federal dollars. Realizing the importance of basic research to the future of the United States, and to our military, I will work hard to maintain an appropriate balance between basic research funding and the many other competing priorities contained within the defense budget.

LABORATORY TALENT

61. Senator KENNEDY. Dr. Gates, the technological superiority, exhibited by U.S. troops on the battlefield, in large measure is a result of scientific and technical innovations and discoveries developed over the past 10 or 20 years at the defense laboratories, including the U.S. Army Soldier Systems Center in Natick, MA. If we are to maintain this battlefield technological superiority, it is essential that the defense laboratories remain preeminent scientific institutions. This can only occur if these laboratories are able to hire, motivate, and retain the best and the brightest scientists and engineers. To this end, Congress has provided the defense laboratories authorities that have enabled them to compete successfully with the private sector for critical technical talent. I believe it is imperative that the Department continues to use these authorities aggressively to ensure a robust in-house technical capability. Do you support the full utilization and expansion of personnel management authorities granted to you by Congress under section 342 of the National Defense Authorization Act (NDAA) for Fiscal Year 1995 and section 1114 of NDAA for Fiscal Year 2001?

Dr. GATES. I welcome the management authorities provided by Congress and will pursue management procedures that enable the laboratories to hire, motivate, and retain the Nation's top scientists and engineers.

ISLAMIC FUNDAMENTALISM

62. Senator KENNEDY. Dr. Gates, in March 1992 you said "I am not ready to concede that Islamic Fundamentalism is, by its nature, anti-Western and anti-democratic." Has your view changed?

Dr. GATES. In February 1992, I testified before the House Foreign Affairs Committee that, "I think our view of it is often shaped by what we have seen with the Shias in Iran, and we certainly have seen fundamentalists elsewhere, Islamic Fundamentalists hostile to what we would consider democratic values and also the United States, I am not ready yet to concede that Islamic Fundamentalism is by its nature, anti-Western and anti-democratic. There are some fundamentalist elements in the region—they are not in power—that are not necessarily that way, and I think that it is also in evolution. There certainly are some that are anti-Western and anti-democratic and anti-U.S. I think it is premature. This is a phenomenon that we have seen really over a period of a dozen years or so, arising out of the Iranian revolution—of some small part of it before that, too—but I would hesitate to make that judgment yet." As I did then and now, I recognize that there are radical elements within Islam that seek to destroy our democratic way of life, however, I still contend that Islamic Fundamentalism, by its nature, is not necessarily anti-Western and anti-democratic.

63. Senator KENNEDY. Dr. Gates, what steps would you propose we take to address Islamic Fundamentalism?

Dr. GATES. The United States must engage effectively in the ideological struggle with violent Islamist extremists. We must support moderate Islamic voices and oppose those who seek to use Islam to spread violence and promote extremist ends.

64. Senator KENNEDY. Dr. Gates, on September 30, 2001, you said: "I think that we have to—at the same time that we are conducting our unconventional war to bring these people to justice, the people that were responsible for the disaster on September 11, I think our policies also need to have a positive component that illustrates that we do understand that there is a great deal of anti-Americanism out there on the Arab street among Arab populations and those in the Middle East and Gulf area." How would you evaluate DOD's performance in this area in the last 5 years?

Dr. GATES. The U.S. Government and the Department need to be more effective in demonstrating America's values to Muslim populations around the world and particularly in the Middle East.

65. Senator KENNEDY. Dr. Gates, what specific changes would you propose, if confirmed?

Dr. GATES. After I examine the Defense Department's current approach to strategic communication, support to public diplomacy, and countering ideological support for terrorism, I will be in a better position to suggest any changes.

DETAINEE ISSUES

66. Senator KENNEDY. Dr. Gates, the President has said we will use military commissions to try the worst of the worst. The legitimacy of the commissions is enhanced if you bring serious cases first. Will you review the people currently slated for trial by commission to ensure that we are meeting that goal by trying the leaders of al Qaeda, and not watering down the seriousness of the commissions by trying those who may have attenuated relations to terrorist acts?

Dr. GATES. As Secretary, I do not determine who is selected for prosecution or the order of trials. I believe, however, that prosecutors should work expeditiously to bring to trial cases that are ready for prosecution.

67. Senator KENNEDY. Dr. Gates, many members of the medical community, as well as leading organizations like the American Psychiatric Association and the American Medical Association, have expressed serious concern about guidelines issued by DOD that create a central role for physicians and other health professionals in interrogation, that govern treatment of hunger strikers, and which implicate other matters involving professional integrity, because these guidelines and the roles they authorize are inconsistent with the traditions of health professional ethics. Do you have a view on whether the current guidelines are consistent with these traditions? Is further review required? If confirmed, what steps would you take to address these matters?

Dr. GATES. I am not familiar with the specifics cited in your question. However, I understand that DOD policy concerning care of detainees requires medical personnel to treat detainees in a manner similar to what is provided for our own personnel.

I am informed that DOD has engaged in dialog with a number of leading medical professionals and societies concerning medical ethics issues, and understand that senior leaders of the general medical community have visited Guantanamo. I support continued collaboration between military and civilian medical leaders, incorporation into DOD policy of mainstream principles of medical ethics, and maintenance of the historic mutual support between military and civilian medicine.

68. Senator KENNEDY. Dr. Gates, Congress has been very concerned about the interrogation guidelines used by military personnel to interrogate detainees. In December 2002, your predecessor authorized interrogation techniques including stripping detainees naked, use of dogs, hooding, and sensory deprivation. The new Army Field Manual, Human Intelligence Collector Operations (FM 2–22.3) reiterates that such techniques are prohibited. In addition, the Detainee Treatment Act reinforces the prohibition on cruel, inhuman, or degrading treatment and makes clear that no U.S. personnel may engage in such conduct anywhere in the world. Can you assure the committee that you will not authorize techniques that violate the Constitution, the Detainee Treatment Act, the Geneva Conventions, or the Convention Against Torture?

Dr. GATES. I will not authorize interrogation techniques that violate the U.S. Constitution or any applicable U.S. law.

69. Senator KENNEDY. Dr. Gates, in your opinion, are there any instances where "military necessity," as the President's February 7, 2002, directive termed it, might require deviation from the requirements of Common Article 3?

Dr. GATES. I would note that "military necessity" is a fundamental concept within the law of war and is reflected in the Geneva Conventions of 1949. I believe that it is important that the U.S. Armed Forces continue to conduct their operations in accordance with the law of war, including Common Article 3, as applicable.

70. Senator KENNEDY. Dr. Gates, both the Detainee Treatment Act and the Military Commissions Act provide that "No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment." Please advise the committee whether you understand the following to be prohibited by these provisions or any other Department directives:

A. Waterboarding
B. Inducing hypothermia or heat injury
C. Forcing the detainee to be naked
D. Stress positions
E. Sleep deprivation
F. Slapping

Dr. GATES. None of the techniques described in A through F are specifically authorized by the U.S. Army Field Manual on Human Intelligence Collector Operations. Because the Detainee Treatment Act of 2005 provides that no person in the custody or under the effective control of DOD or when detained in a DOD facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the field manual, such techniques would not be permissible.

71. Senator KENNEDY. Dr. Gates, do you believe that the Central Intelligence Agency (CIA) and the military should operate under one standard when interrogating enemy prisoners?

Dr. GATES. Department of Defense Directive 3115.09 applies one interrogation standard (U.S. Army Field Manual 2–22.3) to all DOD and non-DOD personnel interrogating detainees in the custody or under the effective control of DOD, or under detention in a DOD facility. DOD defers to the CIA concerning detainees not in the custody of or under the effective control of DOD.

72. Senator KENNEDY. Dr. Gates, in conducting joint detention and interrogation operations with other government agencies, how will DOD ensure that its interrogation standards govern and are complied with?

Dr. GATES. DOD Directive 3115.09 requires that "other U.S. Government agencies, foreign government representatives, or other parties who request to conduct intelligence interrogations, debriefings, or other questioning of persons detained by

DOD must agree to abide by DOD policies and procedures before being allowed access to any detainee under DOD control. Such agreement shall be formalized in a written document signed by the agency, government representative, or party requesting access to a detainee. A trained and certified DOD interrogator shall monitor all interrogations, debriefings, and other questioning conducted by non-DOD or non-U.S. Government agencies or personnel. If an interrogator is not available, a DOD representative with appropriate training and experience shall monitor the interrogation, debriefing, or other questioning. DOD monitor shall terminate the interrogation, debriefing, or other questioning, and report to higher authorities if the other party does not adhere to DOD policies and procedures."

73. Senator KENNEDY. Dr. Gates, do you believe that the preservation of Common Article 3 of the Geneva Conventions is vital to the safety of U.S. personnel?

Dr. GATES. U.S. Armed Forces have conducted, and will continue to conduct, their operations in accordance with the law of war, including Common Article 3, as applicable.

74. Senator KENNEDY. Dr. Gates, do you believe this standard protects all U.S. special operations personnel?

Dr. GATES. Yes, law of war protections apply to protect all U.S. military personnel, including special operations personnel. In the case of U.S. military personnel who may be detained during "armed conflict not of an international character occurring in the territory" of a State Party to the Geneva Conventions the protections of Common Article 3 would be applicable at a minimum.

75. Senator KENNEDY. Dr. Gates, how should DOD work with other executive agencies to preserve Common Article 3 protections, including the protections on fair trials?

Dr. GATES. The Department has worked closely with and will continue to work with other executive agencies, including, among others, the Department of Justice, to ensure compliance with Common Article 3 protections, including the protections applicable to fair trials.

76. Senator KENNEDY. Dr. Gates, will you provide to Congress the details of the Department's treatment of Jose Padilla and Ali Al Marri?

Dr. GATES. DOD has and continues to operate a secure, safe, and humane environment for detainees at the Naval Consolidated Brig Charleston. As you are aware, these cases are the subject of pending litigation such that I cannot comment beyond what is in the public record. Subject to this limitation, however, and should you desire, I would be more than happy to provide you with further information regarding the conditions of detention for these individuals while they were under DOD control.

77. Senator KENNEDY. Dr. Gates, will you provide to Congress the intelligence obtained from these two individuals [Jose Padilla and Al Marri] while in U.S. custody?

Dr. GATES. Upon request, the DOD will, consistent with national security considerations and the need to protect the integrity of ongoing criminal prosecutions, provide to the appropriate committees of Congress available information obtained from the interrogations of Jose Padilla and Al Marri that were conducted by DOD.

CONSULTATION WITH MILITARY LAWYERS

78. Senator KENNEDY. Dr. Gates, prior to passage of the Detainee Treatment Act of 2005, the heads of the military Judge Advocate General Corps were kept out of the process for developing the military commissions guidelines and interrogation guidelines. These general and flag officers have great expertise in U.S. military jurisprudence and in the law of war. What steps will you take to consistently involve, heed, and include the military lawyers' opinions on these and other matters?

Dr. GATES. I am aware generally of the concerns you cite, but am not familiar with the particulars. That said, I have great respect for the military Judge Advocates General and will seek their views, where appropriate.

GAYS IN THE MILITARY

79. Senator KENNEDY. Dr. Gates, we have all read reports of Arabic linguists and other servicemembers who have been thrown out of the military because of their sexual orientation. At the same time, we have seen all too often reports of shortages of Arabic linguists, involuntary activations for reservists, and moral waivers given

to recruits with criminal records. If you were given authority to waive the ban on gays in the military for certain specialties that face critical manning shortfalls and are important for the Nation's security, would you exercise it?

Dr. GATES. The Department will, of course, continue to follow congressional direction on homosexual conduct. I am informed that no military member is discharged due to his or her sexual orientation. Title 10, U.S.C., section 654 refers to conduct—not orientation. I am also told that the number of individuals discharged due to the Department enforcing this law represents a very small proportion of military discharges overall—0.3 percent for 2004 and 2005.

CHINESE SUBMARINE THREAT

80. Senator KENNEDY. Dr. Gates, recently we were made aware of an incident involving the U.S.S. *Kitty Hawk*, operating in the waters off of Japan, and a Chinese *Song*-class submarine. It has been reported and confirmed by the Navy that the Chinese submarine was able to move to within 5 nautical miles of the *Kitty Hawk* while tracking the vessel. All this comes as the United States has been engaged in an unprecedented level of cooperation with the Chinese military. I find these reports troubling. Can you comment on what appears to be a serious increase in the Chinese blue water navy's capabilities?

Dr. GATES. Since the late 1990s, China's maritime strategy has evolved along two paths, both of which require naval operations farther from the Chinese shore than the Chinese Navy traditionally operated. First, China is focused on a regional anti-access capability, which is principally applicable in preventing third-party intervention in a Taiwan crisis. Second, China is expanding their maritime strategy to include a mission to protect China's growing dependence on maritime commerce for economic development.

Much of China's naval modernization program, which has been ongoing in earnest since the late 1990s is thus oriented toward building a force with the capability to operate in an open ocean environment in support of both an anti-access strategy and a mission to protect China's maritime commerce and economic interests.

81. Senator KENNEDY. Dr. Gates, how does this alter regional security and our forward posture in the eastern Pacific?

Dr. GATES. DOD's February 2006 Quadrennial Defense Review (QDR) highlighted the potential disruptive effects of these capabilities on regional security, and commits the United States to work with partner states to build capacity and reduce vulnerabilities. Critical components of this effort involve diversifying our basing structure; promoting constructive bilateral relationships in the region; and, developing appropriate counters to anti-access threats.

SHIPBUILDING PROGRAMS

82. Senator KENNEDY. Dr. Gates, today's naval fleet numbers 278 ships. I understand that the Chief of Naval Operation's 5-year shipbuilding plan calls for $14.1 billion for new ship construction beginning in fiscal year 2008, with increases each year to $19.1 billion in fiscal year 2012 in order to begin rebuilding the fleet to 313 ships. Will you support the Chief of Naval Operation's proposed budget of $14.1 billion in fiscal year 2008 to begin rebuilding the fleet to 313 ships?

Dr. GATES. I understand the Navy's commitment to building a 313 ship force structure based on its assessment of future operational requirements, and I will consider that as we make our future defense budget submissions.

83. Senator KENNEDY. Dr. Gates, DOD has been leasing foreign-built ships to satisfy long-term U.S. military sealift missions. Many of these foreign-built ships have been leased for 10 years each. U.S. shipbuilders have demonstrated that the unit cost of ships they build is reduced when the volume of ships they are building is increased. These savings come from volume in the shipyard and throughout the manufacturing supplier base that serves most, if not all, combatant ship platforms. The Navy believes that they need to have the option of leasing some foreign-built ships to support the fleet without additional restrictions or limitations beyond those already in law. What is you view of limiting the lease terms of foreign-built ships, and will you support building new defense auxiliary ships in U.S. shipyards?

Dr. GATES. The Department must ensure that it has and will continue to have access to sufficient industrial and technological capabilities to meet projected DOD shipbuilding requirements. The option to lease a vessel provides a timely and cost effective option to meeting a DOD requirement.

DDG–1000 *ZUMWALT* CLASS DESTROYER PROGRAM

84. Senator KENNEDY. Dr. Gates, the ongoing DDG–1000 *Zumwalt*-Class Destroyer program is integral to the Navy's Family of Ships (FOS) current approach to technology development and reuse. As a technologically advanced fleet is crucial in maintaining force projection capabilities, how, in your estimation, will the DDG–1000 program factor into our future maritime posture?

Dr. GATES. I understand that the DDG–1000 program is intended to bring many needed innovations into our surface Navy, and enhance the Navy's abilities to deliver sustained, long range, precision fires in support of joint forces ashore.

U–2 SPY PLANE

85. Senator KENNEDY. Dr. Gates, the National Defense Authorization Act for Fiscal Year 2007 reversed Air Force plans to retire the U–2 reconnaissance plane. The Act established that a U–2 plane could only be retired if the Secretary of Defense certifies that no capability will be lost through the plane's retirement. The Act also directed the Air Force to study the integration of the U–2's imagery collection capability onto its possible successor, the Global Hawk Unmanned Aerial Vehicle (UAV). To my knowledge, the Air Force has yet to act on the study; however, the Under Secretary of Defense for Intelligence did restore funding for the U–2 in the Program Objective Memorandum (POM). If confirmed, what would you do to sustain and enhance the imagery collection capability currently hosted on the U–2 reconnaissance aircraft?

Dr. GATES. Maintaining existing imagery collection capabilities necessary to meet the critical intelligence requirements of the warfighter remains an important Department mission.

86. Senator KENNEDY. Dr. Gates, what would you do to ensure the Air Force will determine how it will migrate this capability to other platforms?

Dr. GATES. The National Defense Authorization Act for Fiscal Year 2007 directed the Air Force to study the integration of the U–2's imagery collection capability onto its possible successor, the Global Hawk UAV. I will ensure that the Department complies with this requirement.

EARLY BIRD

87. Senator KENNEDY. Dr. Gates, the Current News Early Bird has traditionally presented a variety of views on defense issues, but under your predecessor's tenure, they have become increasingly less diverse. You have noted the importance of a diversity of views and information in the policymaking process. Will you review the editorial content of the Early Bird to ensure that it presents a variety of views on defense issues?

Dr. GATES. I have always welcomed and encouraged diverse points of view. As I understand the Early Bird, it is simply an electronic clipping service of defense related print news stories. It is not part of the "policymaking process" and is but one product designed to highlight significant news items to the leadership of the Department. As I have the opportunity to read more of the Early Bird and assess it along with other available information sources, I will consider changes as appropriate.

88. Senator KENNEDY. Dr. Gates, will you bring back the Early Bird Supplement to enhance the diversity of content?

Dr. GATES. I am not familiar with the Supplement. It is my understanding that it ceased to exist some time ago when the Early Bird expanded from 5 to 7 days per week, thereby extending the coverage. As I have the opportunity to assess news and information products coming to me, I will consider changes if necessary.

PUBLIC AFFAIRS

89. Senator KENNEDY. Dr. Gates, as reported by CNN, in the last few months of his tenure, your predecessor began a rapid response operation in the Public Affairs Office to respond to negative coverage of himself and the Department. How much has the Department spent on this effort, and how many people were added to its payroll for this effort?

Dr. GATES. All budget and personnel costs associated with the Department's Public Affairs office were funded through existing budget allocations. I have directed that this element of the Public Affairs office be disestablished.

90. Senator KENNEDY. Dr. Gates, will you review this effort and then describe for Congress its activities?

Dr. GATES. See previous answer.

91. Senator KENNEDY. Dr. Gates, do you expect this effort to continue?

Dr. GATES. See previous answer.

DIVERSITY

92. Senator KENNEDY. Dr. Gates, Texas A&M University has received significant criticism during your tenure as president of the university for harboring a climate that is inhospitable to racial, ethnic, and cultural diversity. If confirmed, what specific measures will you take to ensure that principles of racial, ethnic, and cultural diversity are properly embraced and, if necessary, properly enforced throughout DOD?

Dr. GATES. Texas A&M University's commitment to diversity throughout all aspects of the school is one of long standing. However, that commitment was strengthened significantly during my presidency. During my tenure as President of Texas A&M University, I identified four key areas that would come to represent the fundamental agenda for the university. One of those four areas included a substantive commitment to enhancing the diversity of the institution in all its various aspects.

Consistent with that commitment, I established the Office of the Vice President and Associate Provost for Diversify, and called for the development of a diversity plan. The diversity plan laid out with specificity the courses of action that the university would pursue to enhance diversity and the dates by which identified goals would be completed. Among the actions called for in the diversity plan, which I approved during my tenure, was the conduct of climate studies involving students, faculty, and staff. Data gathering is currently underway. Planning for the preparation of status reports on progress made in a number of other areas that will be available to the entire campus community is also underway.

An indication of the kind of impact that I had on the campus climate and the diversity of Texas A&M University can be seen in the increase in the number of applications for admission by ethnic minority students, in the growth of the minority student population, and in the growth in the composition of the university's faculty that is comprised by members of ethnic minority communities. For example, from 2003 to 2006, the number of completed applications for admission by African American students increased by 45.4 percent. Among Hispanic students, the increase in the number of completed applications for admission between 2003 and 2006 was 38.6 percent. In terms of actual enrollment, over the last 3 years, with the implementation of a new admissions strategy that I implemented, African American freshman enrollment increased by some 77 percent, Hispanic freshman enrollment increased by about 59 percent, and Asian American freshman enrollment increased by more than 71 percent.

During my administration, the university also established the first statewide network of regional prospective student centers, staffed with both admissions and financial aid advisers, to recruit students for Texas A&M. The university now has one each in Dallas, Corpus Christi, San Antonio, the Brazos Valley, and McAllen, as well as two in Houston. An eighth will be added in Laredo this fall. These permanent recruitment infrastructures allowed us to establish long-range relationships with local counselors, teachers, and principals, as well as work with individual families from every ethnic group and socio-economic background to show them how their son or daughter can apply to A&M and, if admitted, alternative ways to finance their education. This progressive strategy enhanced the diversity of our applicants as well as our admitted students.

Access and inclusion was such a high priority of mine that I invested considerable time visiting predominately minority high schools to encourage the students to consider Texas A&M University.

For the current school year, the total invested by Texas A&M University in new scholarship funds is over $20 million since fiscal year 2004. For the coming year, that amount will increase by another $4 million.

One of my greatest achievements as President of Texas A&M University was the enhancement of the university's faculty diversity. Over the course of the past 3 years, 352 new faculty positions have been filled as part of the Faculty Reinvestment Program, and 55.4 percent of those new hires were either minority or female (not overlapping). During that time period, the increase in the number of African American faculty members was 47.4 percent. For Hispanics, the increase in the number of new faculty members was 37.2 percent. Those increases in the number

of faculty members who were either African American or Hispanic helped to establish Texas A&M University as a leader among the Nation's prominent research-intensive universities (including Penn State University, Ohio State University, the University of California, Berkeley, the University of Wisconsin-Madison, etc.). For example, Texas A&M University ranks second in the proportion of Hispanic faculty members among 17 of the leading research-intensive universities in the country. It ranks 11th among those same 17 institutions in terms of the number of African American faculty members.

My focus was not only on increasing the representation of underrepresented populations; it reached beyond that to consider the campus environment and culture. In recognition of the need to improve the campus climate I called for enhanced education of our community members with an initial focus on students and faculty.

To address students, this charge was met by strengthening the diversity education session offered during our required New Student Conferences for undergraduates. The content of the educational session was enriched and the time allotted for the session was lengthened from 45 minutes to 2 hours. To provide continuing education for returning students, I inaugurated the Global Leadership Institute which is a year-long, high-quality learning experience characterized by commitment to diversity and to the discovery, development, communication, and application of culturally broadened knowledge.

Throughout my time at Texas A&M University, I affirmed diversity as a necessary component of academic excellence and I publicly espoused this often. To engage the faculty in making this vision more clear and the opportunity for a richly diverse campus a reality, I invited all academic department heads to join me in participating in a day-long retreat led by a leading race scholar. During this session we engaged in frank dialogue about how to enhance the quality of life for underrepresented members of our community and we shared strategies on ways to influence the recruitment and retention of outstanding faculty, staff, and students of color. This was a first step in what I envisioned would be many more dialogues as we worked together to address this complex issue.

Additionally, to ensure support of the college Deans, I identified accountability measures in their performance reviews by requiring evidence of measurable progress over the long-term as well as clear plans and initiatives that would illustrate sustained engagement in achieving our diversity-related goals.

With regard to staff, Texas A&M University recently became the first institution of higher education to be honored with the U.S. Secretary of Labor's prestigious Opportunity Award. The university received the award November 15, 2006, during the U.S. Department of Labor's annual Exemplary Voluntary Efforts ceremony in Washington, DC. Texas A&M received the award in recognition of its outstanding efforts in recruiting and retaining a diverse workforce. The accomplishments noted in the nomination occurred during my tenure through the collaborative work of many.

Likewise, the U.S. military has led the Nation for years in providing equal opportunity and equitable treatment for racial and ethnic minorities and women. Our Armed Forces are composed of a talented, highly qualified, and diverse mix of people. I am committed to ensuring that the Department of Defense continues on this track and advances the principle of diversity based on equal opportunities and equitable treatment.

QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

PREEMPTIVE WAR

93. Senator BYRD. Dr. Gates, in your answers to the Senate Armed Services Committee's advance policy questions, you say that you believed, based upon intelligence information at that time, that we should have taken this preemptive action and invaded Iraq. Then you state that "with the advantage of hindsight" and if you had been the Secretary of Defense for the last 6 years, you would have handled the occupation differently. Would you please expand upon your views on the use of preemptive invasion?

Dr. GATES. I support the National Security Strategy (NSS) of the United States signed by President Bush in September 2002, which clearly describes the U.S. Government's position on preemptive actions.

94. Senator BYRD. Dr. Gates, in hindsight, has the Iraq experience been in the American national interest?

Dr. GATES. Saddam Hussein's regime was a dangerous and disruptive force to the region and it was and is in America's interest to try to bring stability to that part of the world.

CIVIL WAR

95. Senator BYRD. Dr. Gates, the media has carried speculation that the administration may pick sides in the Iraqi civil war: fight on the Shia and Kurdish side against the Sunnis. Based upon your experience and service on the Iraq Study Group, how would siding with the Shia resonate in Saudi Arabia, Egypt, Syria, and Jordan?

Dr. GATES. The United States should support the legitimate, elected government of Iraq. The Iraqis will determine for themselves what the makeup of that government will become—and the makeup will change over time. I do not believe it would be in our or the Iraqis' interests for the United States to side with a particular sect.

96. Senator BYRD. Dr. Gates, is picking sides in Iraq in the American national interest?

Dr. GATES. The United States should support the legitimate, elected government of Iraq.

GUANTANAMO

97. Senator BYRD. Dr. Gates, the detention facility at Guantanamo has become an international embarrassment to the United States. Even Great Britain, our closest ally, has urged the administration to close the camp. In your advance policy questions, you state that you are "aware of no good alternative" to the prison at Guantanamo. Why can't we try suspected terrorists at Fort Leavenworth?

Dr. GATES. I have asked for a comprehensive review of this and related matters involving the Guantanamo Bay detainee operation.

98. Senator BYRD. Dr. Gates, DOD has asked Congress for permission to spend $102 million for new buildings at Guantanamo. Why should we invest more money in a prison camp that simply reminds the world of embarrassments like torture, extraordinary renditions, and Abu Ghraib?

Dr. GATES. Upon further review, I decided to rescind this request and revamp the support structure necessary to conduct military commission trials at Guantanamo.

ANTI-INSURGENT WARFARE

99. Senator BYRD. Dr. Gates, the administration is apparently designating the invasion as Phase 1, the occupation as Phase 2, and the planned long-term, reduced-profile, continued occupation as Phase 3. Are our troops qualified to train the Iraqis? Our warfighters are brave, competent fighters in the traditional sense, but are they experienced insurgency fighters?

Dr. GATES. During my visit to Iraq earlier this month, I had an opportunity to have face-to-face discussions on a wide range of issues with our military leadership and the service men and women who are serving in harm's way. My initial impressions, after this visit, enable me to answer yes to both questions.

100. Senator BYRD. Dr. Gates, do they, among other skills, have the required language skills?

Dr. GATES. I am told that not all assigned personnel have the requisite language skills, but the DOD has instituted compensatory measures. Qualified interpreters for example, are embedded with most transition teams to ensure full communication between Iraqi and U.S. forces. I am also told that the Services have also significantly increased pre-deployment and in-deployment-cycle training to improve language familiarization and cultural skills of deploying forces. This is an area we must continue to emphasize.

POLITICAL SOLUTION

101. Senator BYRD. Dr. Gates, we have heard reports that the Baker-Hamilton recommendations will include the goal shared by many Senators on this committee, namely, that the United States do more to provide training and support to Iraqi police and security forces while drawing down our own military presence in the Na-

tion. I ask you whether a similar strategy should be adopted for finding political solutions to the civil war in Iraq. When the Sunni minority joined the government in 2005, they joined with the understanding that parts of the Iraqi constitution would be rewritten and that agreements would be reached on how power would be shared among the Shiites, Sunnis, and Kurds. But no talks have been held. No framework exists. Without such a framework, I fear that the chaos will continue to reign. As a result, gunmen on the street and their shadowy bosses—and not diplomats and elected leaders—will decide the fate of Iraq. Our troops will be caught in the ever-increasing, ever deadlier crossfire. At the same time that we are considering shifting our role militarily, should we also shift into a new role diplomatically? In essence, should we not help to establish the framework for discussions among the Sunnis, Shiites, and Kurds to settle on a distribution of political power?

Dr. GATES. The framework for discussions among the Sunnis, Shiites, and Kurds is already in place. The Iraqi Four Point Plan to end sectarian violence was announced on October 2, 2006. Sunni and Shiite leaders agreed to a plan to end sectarian violence. Commitments were obtained from Sadrist and Badr organization leaders as well as from those representing Sunni constituencies. Also, on October 16, 2006, the Iraqi Presidency Council announced a political timeline that included plans for the distribution of power. The United States supports these Iraqi efforts.

102. Senator BYRD. Dr. Gates, do you think that we will see any modicum of peace and stability while only focusing on what role our troops will play in Iraq's future?

Dr. GATES. There is no purely military solution in Iraq. Long-term security is contingent on political and economic progress, which will continue to require the full commitment of the other departments of the U.S. Government, the Iraqi government, Iraq's regional neighbors, and the international community.

BUDGETING FOR THE WAR

103. Senator BYRD. Dr. Gates, in our meeting last week, I raised the issue of budgeting for the war. You responded that many decisions relating to the President's fiscal year 2008 budget request had already been made, and that you intend to begin consultations with Congress on budgeting for the war. In your responses to the advance policy questions, you stated that you will comply with the McCain-Byrd amendment which requires the administration to budget for the war and to provide full year's cost estimates to Congress. I wish to clarify your statements to me and your answers to the advance policy questions. Do you intend to advise the President to include in his budget a detailed request for funds for Iraq and Afghanistan?

Dr. GATES. Yes.

104. Senator BYRD. Dr. Gates, will you provide Congress with your best estimate of the full year's cost of the wars in Iraq and Afghanistan when asked to do so by the Senate Appropriations Committee, the Senate Armed Services Committee, or the Senate Budget Committee?

Dr. GATES. Yes.

INTERROGATION

105. Senator BYRD. Dr. Gates, on September 6, 2006, upon release of the new Army Field Manual FM 2–22.3, Lieutenant General John Kimmons stated: "No good intelligence is going to come from abusive practices. I think history tells us that. I think the empirical evidence of the last 5 years, hard years, tell us that. Moreover, any piece of intelligence which is obtained under duress, under—through the use of abusive techniques would be of questionable credibility. Additionally, it would do more harm than good when it inevitably became known that abusive practices were used. We can't afford to go there." Do you agree with General Kimmons' statements?

Dr. GATES. Yes.

106. Senator REED. Dr. Gates, one of the disturbing aspects of the promulgation of abusive interrogation techniques from within the Office of Secretary of Defense was the decision to ignore the opinions of the military top lawyers (the Judge Advocates General)—who objected to many of the proposals as illegal and endangering U.S. personnel—and to hide from them and particular secretaries of the Armed Forces the official detention and interrogation policy. What steps will you take to involve, heed, and include the military lawyers' opinions on these and other matters?

Dr. GATES. I understand that the recent enactment of legislation has provided DOD with clear statutory guidance on the question of interrogation techniques. While I am aware generally of the concerns you cite, I am not familiar with the particulars. That said, I have great respect for the military Judge Advocates General and will seek their views, where appropriate.

BASIC RESEARCH INVESTMENTS

107. Senator REED. Dr. Gates, the National Academies study and report, "Rising Above the Gathering Storm," calls for doubling investments in defense basic research over 7 years. As a member of the panel that wrote that report, would you, if confirmed as the Secretary of Defense, seek to increase basic research funding as a means to strengthen our Nation's national security?

Dr. GATES. Increasing DOD funding for basic research to these levels will require a continuous effort. My personal experience in government, my tenure in academia, and membership on the "Gathering Storm" committee and numerous other National Research Council Boards, provide a basis for reviewing DOD basic research levels. However, I remain mindful of the many factors and urgent considerations that are all competing for the same Federal dollars. Realizing the importance of basic research to the future of the United States, and to our military, I will work hard to maintain an appropriate balance between basic research funding and the many other competing priorities contained within the defense budget.

108. Senator REED. Dr. Gates, given that we are due for a change in administration in 2 years, will you make it a priority to begin that doubling process in the current fiscal year?

Dr. GATES. As I stated in my December 5 confirmation hearing, I will take a close look at a number of issues in the fiscal year 2008 President's budget.

MANUFACTURING

109. Senator REED. Dr. Gates, what is your assessment of the role that DOD should play in the development of new manufacturing technologies that can both support our defense industrial base and enhance our civilian manufacturing industries?

Dr. GATES. DOD needs a responsive industrial base with advanced manufacturing technologies and processes that not only advance technology, but reduce cost and lead times. The Department will continue to encourage industry to meet these goals.

ENERGY

110. Senator REED. Dr. Gates, what role do you think DOD should play in promoting the development and use of alternative energy technologies and energy efficiency technologies to save resources and provide enhanced combat capabilities?

Dr. GATES. Developing and using alternative energy technologies and energy efficiency technologies to save resources continue to be an important issue for the Department. I will review our current policies and look for ways to improve.

111. Senator REED. Dr. Gates, DOD has begun to make energy a higher priority because of the growing recognition that all military missions, both conventional and emerging missions for homeland defense, are highly energy dependent. There is apparently growing Pentagon recognition that energy systems burdened with large, highly visible processing and delivery infrastructures, and labor intensive manpower delivery requirements at home and in theater, leave the military unnecessarily vulnerable. There is also growing recognition that our country's addiction to oil limits U.S. foreign policy options, which in turn affect military strategies and options. I understand that Secretary Rumsfeld sent down two memos asking what the Generals and the Defense Science Board could do about reigning in wasteful energy use and improving operational efficiency. Additionally, Marine Corps Major General Richard Zilmer called for an immediate delivery of wind and solar equipment to Iraq as a "Priority 1" need because too many personnel hours are being spent on refueling and trucking in fuel in convoys that are vulnerable to insurgents, and power is unstable day to day. Do you intend to continue, or even strengthen, the Department's focus on energy efficiency and renewable energy in order to improve conventional and emerging military missions? If not, why not?

Dr. GATES. I believe energy conservation will continue to be a priority, as it impacts both security and overhead costs. I will review the Department's energy policy with this in mind.

NAVAL FLEET SIZE

112. Senator REED. Dr. Gates, today's naval fleet numbers 278 ships. The Chief of Naval Operation's 5-year shipbuilding plan calls for $14.1 billion for new ship construction beginning in fiscal year 2008, with increases each year to $19.1 billion in fiscal year 2012 in order to begin rebuilding the fleet to 313 ships. Will you support the Chief of Naval Operation's proposed budget of $14.1 billion in fiscal year 2008 to begin rebuilding the fleet to 313 ships?

Dr. GATES. I understand the Navy's commitment to building a 313-ship force structure based on its assessment of future operational requirements, and this will be a key consideration in making future budget decisions.

QUESTIONS SUBMITTED BY SENATOR DANIEL K. AKAKA

VETERANS' AFFAIRS

113. Senator AKAKA. Dr. Gates, as a member of the Senate Armed Services Committee and the Senate Veterans' Affairs Committee, which I will have the privilege to chair, I am deeply concerned about the status of the relationship between DOD and the Department of Veterans Affairs (VA), especially with regards to meeting the needs of our youngest veterans. If confirmed, what steps will you take to promote improved cooperation and coordination between the two departments?

Dr. GATES. I understand that this issue is on the President's management agenda. I am told that the departments have undertaken significant efforts to collaborate on improving policy oversight, sharing healthcare resources, finding ways to improve marketing, record keeping, and claims processing, and delivering transition assistance. I look forward to continuing to build on this process.

IRREGULAR WARFARE CAPABILITIES

114. Senator AKAKA. Dr. Gates, in your responses to this committee's advance policy questions, you stated that DOD needs to strengthen its irregular warfare capabilities. If confirmed, what steps will you take toward implementing this change?

Dr. GATES. The QDR recognized a need to improve the Department's ability to conduct irregular warfare. This will require building capability and capacity among both our General Purpose Forces and SOF for irregular warfare. I will review the Department's policies on irregular warfare.

RECRUITING AND RETENTION

115. Senator AKAKA. Dr. Gates, you have stated that recruiting and retaining the best people is a core DOD priority. Yet, meeting recruitment goals has remained a difficult challenge. If confirmed, what changes in approach to recruitment and retention, if any, need to be made in order to ensure that our Armed Forces have the personnel necessary to meet its mission goals?

Dr. GATES. I understand that all Active components made their fiscal year 2006 numerical recruiting and retention goals. The Reserve components collectively reached 97 percent of their enlisted accession goals in fiscal year 2006. I will continue to monitor achievement of our recruiting and retention goals and work with the Secretaries of the Military Departments in order to ensure that we have adequate, trained, high-quality manpower to defend the Nation.

DEFENSE INTELLIGENCE

116. Senator AKAKA. Dr. Gates, in the past, you have been an outspoken proponent for having a strong civilian agency counterbalance to the efforts undertaken by the Department's various and numerous intelligence agencies. If confirmed, in what ways, if any, do you intend to strengthen the relationship and cooperation between civilian intelligence agencies and the Department's intelligence branches in order to provide alternative intelligence perspectives?

Dr. GATES. As Secretary of Defense and a former Director of Central Intelligence, I have a great appreciation for the benefits accrued from having a strong, unified

Intelligence Community. Competitive analysis that results from the diverse group of intelligence organizations that exist both within and outside DOD improves the quality of analysis. I intend to work closely with the Director of National Intelligence to ensure and enhance the integrity of the analytic process through strong analytic discipline that promotes information sharing, vets sources carefully, questions assumptions, clearly represents the facts, and weighs alternative perspectives.

NORTH KOREA

117. Senator AKAKA. Dr. Gates, you have publicly stated that North Korea presents a security threat particularly in light of its ongoing development of a nuclear weapons program. Do you believe that we have the operational capacity necessary to effectively respond to a crisis in the U.S. Pacific Command (PACOM) region? If not, what steps will you take to ensure that the necessary operational capacity is met?

Dr. GATES. I intend to review the response capability of all the regional combatant commanders. However, I believe that the U.S. PACOM has the necessary operational capacity to effectively respond to a wide spectrum of possible contingencies, to include possible security threats from North Korea.

IRAN

118. Senator AKAKA. Dr. Gates, you have previously stated that it is an ineffective strategy to try and make a "grand bargain" with Iran. Instead, our efforts should focus on incrementally building relations by selectively engaging Iran in areas where the national interests of our two countries converge. To what extent do you still believe that this is a viable approach to our strategic relations with Iraq?

Dr. GATES. There are certain issues about which we should not bargain, whether it is a "grand bargain" or selective engagement. For example, Iran should not sponsor terrorism or be a haven for terrorist cells, such as al Qaeda, or fund terrorist groups in Lebanon that seek to destabilize the region. The U.S. also does not want nuclear weapons in the hands of the Iranian regime. This is something about which the international community has been very explicit. I look forward to discussing with Secretary Rice a range of options on the most effective approach toward Iran.

NATIONAL SECURITY PERSONNEL SYSTEM

119. Senator AKAKA. Dr. Gates, as you may know many Federal employees and their unions have criticized the National Security Personnel System (NSPS), claiming that the system threatens employees' due process rights, effectively eliminates collective bargaining, and proposes a pay and performance system that lacks clear training, adequate funding, and objectivity. What is your opinion of each of the principle objections raised by the employees and unions, and what will you do as Secretary to address those concerns?

Dr. GATES. By enacting NSPS, Congress charged the Secretary of Defense with adapting civil service rules to the needs of the 21st century. Succeeding in that task must remain a priority. I know that several issues related to collective bargaining and employee due process rights are now before the courts. I will review the Department's progress with NSPS and ensure the program is on course for success.

120. Senator AKAKA. Dr. Gates, at the Senate Homeland Security Committee Oversight of Government Management Subcommittee hearing on the NSPS on April 12, 2006, we received testimony that NSPS training was basically an unfunded mandate. This is of great concern because some entities, like the Pearl Harbor Naval Shipyard, are mission funded. As such, it appears that some programs may be scaled back or eliminated by the Department to pay for NSPS training. What steps will you take to ensure that NSPS training is fully funded, and that any costs associated with implementing the new personnel system do not displace other training programs or DOD missions?

Dr. GATES. A robust training program is essential to the success of NSPS. I will review this issue to ensure NSPS and other training programs are properly funded.

121. Senator AKAKA. Dr. Gates, during congressional consideration of the NSPS in 2003, the Department testified that NSPS would aid in the conversion of military positions to civilian positions. It was estimated at that time that there were approximately 320,000 positions that could be converted. Secretary Chu testified in March 2006 before the committee that over 20,000 positions have been converted to date.

What criteria will you use to determine whether a military position should be converted to a civilian position?

Dr. GATES. When DOD components review the military billets for conversion, they verify which of the billets must remain military due to laws, treaties, executive orders, and international agreements, and which are required for readiness or workforce management reasons. This includes military positions needed for wartime assignments, career progression, rotation, and other similar requirements. In addition, certain inherently governmental responsibilities that require military-unique knowledge and skills cannot be converted to either DOD civilian or private sector performance.

QUESTIONS SUBMITTED BY SENATOR BILL NELSON

SCIENCE AND TECHNOLOGY

122. Senator BILL NELSON. Dr. Gates, you recently coauthored a report for the National Academy of Sciences titled "Rising above the Gathering Storm", which, in part, treats the decline in American investment in S&T, noting the dwindling number of qualified S&T graduates and the need to expand the mission for Federal laboratories. I share your concern on that issue and hope we can work together on it. Are we to expect, therefore, as Secretary of Defense, that you will reemphasize the importance of S&T in our defense laboratories and the role that university and small businesses play in developing new capabilities for the Department?

Dr. GATES. Based upon my experience in government and universities, I recognize the importance of S&T in our defense laboratories, coupled with universities and both small and large industry. As the "Gathering Storm" report makes very clear, for too long the entire country has placed S&T education, its promotion, and support into a category marked "For future generations." The future is now upon us. As President of Texas A&M University, I served on numerous National Research Council boards which dealt with the breadth of this complex issue in rigorous depth. From my experiences, it is clear that the Nation must act in this area of vital importance to our economic and military security. Given the current unfavorable trends in the Nation's production of physical sciences and engineering graduates and postgraduates, we should strengthen and encourage the study of physical sciences and engineering at all levels. It is in our long-term interest to promote and support science and engineering education in the Nation.

123. Senator BILL NELSON. Dr. Gates, I know that defense labs, like the Air Force lab at Eglin Air Force Base, struggle to maintain their technically excellent personnel and world class research facilities. Will you make it a priority to strengthen the ability of these laboratories to hire and retain the quality of scientists and engineers and build world class facilities and instrumentation needed to maintain these defense laboratories as preeminent scientific institutions?

Dr. GATES. Having served as the President of a major research university, I understand laboratories need world class facilities and instrumentation to conduct their research, as well as to recruit and retain a top-quality research staff of scientists and engineers.

TEST AND EVALUATION

124. Senator BILL NELSON. Dr. Gates, the DOD test and evaluation community serves an indispensable role in ensuring that our deployed soldiers, sailors, airmen, and marines are using the highest quality and most effective equipment possible. However, it seems that whenever there is a budget crisis—as we are facing now—these testing activities are the first to be cut. We are dealing with an issue like this right now—regarding the Air Force and some decisions to reduce testing infrastructure. If confirmed, will you make it a priority to ensure that the Department as a whole and each of the Services specifically maintain its testing infrastructure and budgets to address both our current and future acquisition needs?

Dr. GATES. Effective testing is important both for developing capabilities and assuring they will work as promised in operations.

NUCLEAR AIRCRAFT CARRIER FLEET

125. Senator BILL NELSON. Dr. Gates, for the last several years the Navy has argued that the Nation needed 15 carriers to meet combatant commander requirements around the world, and that a 12-carrier fleet was an acceptable risk driven

by budget limitations. Since then, the carrier fleet has been reduced even further to only 11. In your judgment, can the Nation adequately fulfill its strategic obligations with fewer than 12 carriers even though the requirement for years has been 15?

Dr. GATES. The Navy has developed risk mitigation strategies such as the Fleet Response Plan (FRP) which allow for greater adaptability, flexibility, and sustainability of forces. I will work to ensure that the Navy's available carrier fleet is able and ready to meet all operational requirements.

126. Senator BILL NELSON. Dr. Gates, in the Senate Budget Committee's hearing on March 2, 2006, Deputy Secretary of Defense, Gordon England, reaffirmed his judgment as former Secretary of the Navy that it is in the security interests of the United States to establish a second nuclear aircraft carrier homeport on the Atlantic coast in Florida. Vice Chairman of the Joint Chiefs, Admiral Ed Giambastiani, echoed the importance of reducing risk to our carrier fleet by dispersing out carriers and their necessary support facilities across two ports. What will you do as Secretary of Defense to accelerate the process of establishing a second Atlantic coast nuclear aircraft carrier base and minimize the strategic risk to our fleet?

Dr. GATES. I understand that the Navy is taking the preliminary steps to determine the feasibility of establishing a second nuclear aircraft carrier home port on the Atlantic Coast. The environmental impact statement (EIS) for this purpose will be completed in January 2009. I understand the urgency of this decision and can assure you that as this important analysis continues, we will consider all of the relevant strategic, budgetary, and environmental factors before proposing a way ahead.

CAPTAIN SCOTT SPEICHER, USN

127. Senator BILL NELSON. Dr. Gates, Captain Speicher was lost twice, first when his plane went down in combat, and then when his case became tangled in bureaucratic red tape. After 15 years, we still don't know what happened after he was shot down over Iraq in 1991. For years, I have urged DOD and the Intelligence Community to make this case a priority. With the large number of DOD forces in Iraq and the dramatic increase in intelligence activities in the region, more information should be available on his fate. Will you continue to make a final determination of Captain Speicher's and now Sergeant Maupin's fate a DOD priority?

Dr. GATES. I understand that determining the fate of Captain Speicher and Sergeant Maupin has been a priority for DOD since their loss. They will continue to be a priority under my tenure.

128. Senator BILL NELSON. Dr. Gates, will you ensure that adequate resources are dedicated to this purpose?

Dr. GATES. I will ensure that the Department employs appropriate resources to recover any missing U.S. servicemembers alive, if possible, and if not, to recover their remains and return them to their families for an honorable burial. The Department will expend every reasonable effort to determine the fate of any missing U.S. servicemember.

QUESTIONS SUBMITTED BY SENATOR E. BENJAMIN NELSON

TRAINING IRAQI SECURITY FORCES

129. Senator BEN NELSON. Dr. Gates, when General Abizaid appeared before the committee in November, he testified that we do need more troops in Iraq, but not American troops. I agree with that assessment wholeheartedly. The only way I could possibly see more American troops going to Iraq is if they were used to speed up the training of Iraqi troops. You will bring "fresh eyes" to this challenge. From your work outside the administration, as a member of the Iraq Study Group, what has been the greatest difficulty in the standing up of an Iraqi army?

Dr. GATES. The greatest difficulty has been in building an effective and efficient leadership at the brigade and division level. As leadership at this level improves, overall performance of the Iraqi army should improve as well.

130. Senator BEN NELSON. Dr. Gates, what level of confidence do you have at present that Iraqi forces can face down former Baathists, al Qaeda in Iraq, and Shia militias?

Dr. GATES. While it is true that the performance of Iraqi forces has varied, Iraqi forces have stood their ground when attacked by former Baathists, al Qaeda in Iraq,

and Shia militias. Iraqi forces have also launched raids against elements of those groups. I look forward to meeting members of the new Iraqi forces and understand that their record in combat is quite strong for such a young army.

MILITARY READINESS STRETCHED THIN

131. Senator BEN NELSON. Dr. Gates, it is undeniable that our operations in Iraq and Afghanistan have taken a toll on readiness. Specifically, the readiness of the Army and Marine Corps: equipment losses combined with equipment left behind by units returning; units called to Iraq two, three, and more times; and reports of discussions to call National Guard units back into action well before they have been given the time and resources to reset are indicators that our ground forces are being stretched too thin. Supplemental appropriations have dealt with many of the identifiable direct costs associated with fighting terrorism, but Service budgets are designed to provide resources for training, transforming, and modernizing our armed forces which also contribute to the war effort. The Nation needs to take steps now to restore our ground forces to preeminence. Are you prepared to take the steps necessary to:

A. Achieve equipment levels for our Army Active-Duty, National Guard, and Reserves to train and fight with;

B. Provide the resources necessary for the Active-Duty Army to reach 42 Brigade Combat Teams and the National Guard 28; and

C. Fund Army modernization programs that will better prepare our soldiers for confronting and defeating the growing terrorism menace?

Dr. GATES. As Secretary of Defense, I will ensure that all our soldiers, sailors, airmen, and marines, in both the Active and Reserve component, have the necessary equipment and training to perform their missions.

NATIONAL GUARD DEPLOYMENTS AND RETENTION

132. Senator BEN NELSON. Dr. Gates, news reports have circulated about the possibility of National Guard brigades being recalled to action much sooner than originally anticipated. The Army's force generation model calls for National Guard units to be prepared for deployment once every 6 years. This model was put in place to manage the equipment, training, and resources in order to have forces ready for service. It also provides families and employers of National Guard and Reserve soldiers a level of predictability. Current DOD policy calls on Army National Guard and Reserve members to serve no more than 2 years out of 5. Most servicemembers have served 18 months or more when training and demobilization are added to the 1 year "boots on ground" time in Iraq and Afghanistan. An early recall would again disrupt their civilian lives and could have a devastating impact on retention. Regardless of our new direction in Iraq, do we have your commitment that it will not erode our National Guard and Army Reserve, weakening our critical operational reserve capability?

Dr. GATES. I believe that the long-term health of our National Guard and Reserve is critical to our national defense. Accordingly, I will take those actions that support meeting our mission requirements while reducing stress on the total force to the greatest extent possible.

COMMISSION ON THE NATIONAL GUARD AND RESERVES

134. Senator BEN NELSON. Dr. Gates, in light of the increased role of the National Guard and Reserves in the global war on terror, Congress, in the 2006 National Defense Authorization Act, created the independent Commission on the National Guard and Reserves to study and report what is necessary to ensure that the National Guard and Reserves are tasked, organized, trained, equipped, compensated, and supported to best serve the national security interests of the United States. Because of the importance of this study, will you commit to ensuring DOD's complete cooperation with the Commission so that it can continue to obtain all the information it needs in making informed recommendations on the issues before it?

Dr. GATES. Yes, to the extent of my authority.

GOVERNORS' AUTHORITY OVER THE NATIONAL GUARD

134. Senator BEN NELSON. Dr. Gates, in August, all 50 Governors wrote to us expressing their concern over an erosion of the Governors' authority over the National

Guard. Under our Federal system of government, the National Guard serves a dual role. They are able and capable of performing tasks in the interest of national defense, and they also have a very important role under the command and control of the Governors to provide assistance during domestic emergencies and disasters. How do you view the role of the Guard with respect to Governors as Commanders in Chief of the States' National Guard and the overall mission of the Guard in national defense?

Dr. GATES. There is a rich history of the National Guard responding to many different domestic emergencies and disasters, both natural and man-made, and supporting our national defense as they are doing today in Iraq, Afghanistan, and other places. I do not see this dual role changing. In fact, it will likely be more important in the future.

135. Senator BEN NELSON. Dr. Gates, what role do you see the regular military and the Guard playing in domestic emergencies and disasters, and under whose command?

Dr. GATES. The regular military may provide support to a lead Federal agency when directed by the President or the Secretary of Defense. The National Guard of a State, under the command and control of that State's Governor, assists State and local responders in the event of a disaster. However, the President may call the National Guard to Federal Service in cases of national emergency, insurrection, invasion, rebellion, a terrorist attack, or a WMD attack. While I am aware of an ongoing debate to revisit these longstanding arrangements, I believe they have served the Nation well over the years.

136. Senator BEN NELSON. Dr. Gates, would you be willing to engage the Nation's governors in a formal collaborative process that would allow them to have more input into decisions affecting the National Guard?

Dr. GATES. I am very open to improving the level of communication with our Governors on these issues of mutual interest.

BIOFUELS

137. Senator BEN NELSON. Dr. Gates, DOD is the largest single user of energy in the United States, using a little more than 1 percent of the Nation's total. Moreover, transportation/mobility fuels account for almost 75 percent of the Department's total energy demand. As we continue our efforts to improve America's energy security, could you explain your thoughts on DOD's role in those efforts both as a user of biofuels and to perform studies on biofuels, including studying alternative feedstocks such as biomass for producing cellulosic ethanol?

Dr. GATES. I believe energy conservation will continue to be a priority, as it impacts both security and overhead costs. However, at this time, I am not fully informed on the scope and depth of the Department's biofuels focus to assess whether or not it is sufficient.

QUESTIONS SUBMITTED BY SENATOR HILLARY RODHAM CLINTON

DARPA FUNDAMENTAL RESEARCH

138. Senator CLINTON. Dr. Gates, given the Defense Advanced Research Projects Agency's (DARPA) critical role in developing new defense technologies, if confirmed, will you look into concerns from academic, industrial, and even government circles that DARPA is no longer playing the role of funding innovative, high-risk, high payoff fundamental and applied research that it has traditionally and may need adjustments to its program management, development, and personnel policies to return to its traditional role of prominence in the American innovation system?

Dr. GATES. I would expect DARPA to continue investing in innovative, high-risk, high payoff fundamental and applied research.

139. Senator CLINTON. Dr. Gates, have you heard these concerns expressed during your time in academia?

Dr. GATES. Not directly. In fact, in responding to a request from Congress to study and recommend actions that Federal policymakers can take to enhance the S&T enterprise in the United States, the National Academies suggested that the Department of Energy create a research organization based on "the historically successful DARPA model" and expected that if created, its "work (like that of DARPA and NIH) [would] have important spinoff benefits."

DARPA COORDINATION WITHIN THE DEPARTMENT

140. Senator CLINTON. Dr. Gates, are you comfortable with the level of strategic planning and coordination at DARPA and between DARPA and other technology development organizations in DOD? If not, what improvements would you recommend?

Dr. GATES. At this time, I do not have sufficient insight into this issue to give you a definitive answer, but will review our current levels of planning and coordination.

DARPA PRIORITIES

141. Senator CLINTON. Dr. Gates, do you believe that DARPA is focusing enough of its budget on the areas of highest critical long-term, high risk, high payoff opportunity?

Dr. GATES. At this time, I do not have sufficient insight into this issue to give you a definitive answer, but will review our current levels of planning and coordination.

AFRICA

142. Senator CLINTON. Dr. Gates, U.S. relations with Africa are marked by increasing strategic importance and complexity. Events and systems in Africa, particularly in fragile states, can directly affect the security and interests of Americans. In Sudan, where violence against millions of civilians continues to frustrate many Americans, we are providing assistance through NATO to the African Union, but the situation remains grim. In the Horn of Africa, a gateway from the Middle East, the U.N. reported recently that weapons are flowing into Somalia from at least eight countries, that links to Hezbollah may exist, and that the existing arms embargo should be strengthened. In Ethiopia, U.S. military personnel are providing valued assistance to communities in need, yet humanitarian organizations are expressing concern that this may blur the distinction between military and humanitarian operations. In many African states, including the largest, the Democratic Republic of the Congo, the capacity of African military personnel and African peacekeepers is becoming increasingly important. Throughout the continent, China is increasing its engagement across the political, military, and economic spectrum. Against this complex and evolving backdrop, what is your vision for the future of our relationship with African states and African regional organizations, with specific attention to each of these issues: Sudan, Somalia, humanitarian operations, military capacity and peacekeeping, and China?

Dr. GATES. I intend to continue to develop strong security relationships in Africa and seek to improve African capacities to promote stability throughout the continent. More broadly, the Department will work with the Department of State and with the U.N., the EU, and African regional organizations to address instability and increased involvement by other nations in the region.

143. Senator CLINTON. Dr. Gates, what are your thoughts about an Africa Command (AFRICOM), and would an AFRICOM be helpful to broaden U.S. engagement?

Dr. GATES. An AFRICOM is necessary because Africa is growing in military, strategic, and economic importance in global affairs. AFRICOM's highest priority missions would focus on maintaining and promoting regional security and stability. The primary emphasis would be on theater security cooperation efforts, humanitarian assistance, disaster response, security assistance, and supporting global war on terrorism operations. These priority missions would be conducted in partnership with the interagency and other organizations working in Africa.

DARFUR REPORT

144. Senator CLINTON. Dr. Gates, the National Defense Authorization Act for Fiscal Year 2007 (H.R. 5122) includes a reporting requirement on Darfur. Will you provide your leadership and full cooperation to ensure the timely publication of comprehensive reports that include current details in each subsection, as set forth in H.R. 5122?

Dr. GATES. The required report on Darfur should be delivered to the Senate Armed Services Committee and to your office on March 28, 2007.

NUCLEAR TERRORISM

145. Senator CLINTON. Dr. Gates, the possibility that terrorists may acquire and use a nuclear weapon against the United States is an urgent threat to the security of our Nation and the international community. We must do everything in our power, working in concert with other nations, to make sure that these dangerous materials are as secure as possible in order to prevent such an attack. If confirmed as the Secretary of Defense, what actions would you take in that capacity in developing a strategy to prevent nuclear terrorism?

Dr. GATES. One of DOD's principal responsibilities to reduce the threat of nuclear terrorism is to assist with security of nuclear warheads in the Russian Federation. I understand that the Department is on schedule to complete security upgrades to 24 Russian sites by December 2008, as agreed by President Bush and President Putin at the February 2005 Bratislava Summit. The Department also assists Russia with secure shipment of decommissioned warheads to dismantlement sites. The Department's efforts on nuclear security in Russia are part of the administration's larger strategy to limit the threat of WMD terrorism.

[The nomination reference of Robert M. Gates follows:]

NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
December 4, 2006.

Ordered, That the following nomination be referred to the Committee on Armed Services:

Robert M. Gates, of Texas, to be Secretary of Defense, vice Donald Henry Rumsfeld, resigned.

[The biographical sketch of Robert M. Gates, which was transmitted to the committee at the time the nomination was referred, follows:]

BIOGRAPHICAL SKETCH OF DR. ROBERT M. GATES

Dr. Robert M. Gates is the 22nd President of Texas A&M University, the Nation's seventh largest university and an institution recognized internationally for its teaching, research, and public service. He assumed the presidency of the land-grant, sea-grant, and space-grant university on August 1, 2002.

Dr. Gates served as Interim Dean of the George Bush School of Government and Public Service at Texas A&M from 1999–2001.

He served as Director of Central Intelligence from 1991 until 1993. In this position, he headed all foreign intelligence agencies of the United States and directed the Central Intelligence Agency (CIA). Dr. Gates is the only career officer in CIA's history to rise from entry-level employee to Director. He served as Deputy Director of Central Intelligence from 1986 until 1989 and as assistant to the President and Deputy National Security Adviser at The White House from January 20, 1989 until November 6, 1991 for President George H.W. Bush.

Dr. Gates joined the CIA in 1966 and spent nearly 27 years as an intelligence professional, serving six presidents. During that period, he spent nearly 9 years at the National Security Council, The White House, serving four presidents of both political parties.

Dr. Gates has been awarded the National Security Medal, the Presidential Citizens Medal, has twice received the National Intelligence Distinguished Service Medal, and has three times received CIA's highest award, the Distinguished Intelligence Medal.

He is the author of the memoir, From the Shadows: The Ultimate Insider's Story of Five Presidents and How They Won the Cold War, published in 1996.

Dr. Gates serves on the Board of Directors and Executive Committee of the American Council on Education, the Board of Directors of the National Association of State Universities and Land-Grant Colleges, and the National Executive Board of the Boy Scouts of America. He is President of the National Eagle Scout Association.

Dr. Gates serves as Chairman of the Independent Trustees of The Fidelity Funds, the Nation's largest mutual fund company, and on the board of directors of NACCO Industries, Inc., Brinker International, Inc., and Parker Drilling Company, Inc.

A native of Kansas, Dr. Gates received his bachelor's degree from the College of William and Mary, his master's degree in history from Indiana University, and his doctorate in Russian and Soviet history from Georgetown University. Dr. Gates is 63, and he and his wife Becky have two adult children.

[The Committee on Armed Services requires all individuals nominated from civilian life by the President to positions requiring the advice and consent of the Senate to complete a form that details the biographical, financial, and other information of the nominee. The form executed by Robert M. Gates in connection with his nomination follows:]

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

(202) 224–3871

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior to the hearings and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)
Robert Michael Gates.

2. **Position to which nominated:**
Secretary of Defense.

3. **Date of nomination:**
December 4, 2006.

4. **Address:** (List current place of residence and office addresses.)
[Nominee responded and the information is contained in the committee's executive files.]

5. **Date and place of birth:**
September 25, 1943; Wichita, Kansas.

6. **Marital Status:** (Include maiden name of wife or husband's name.)
Married to Rebecca Ann Wilkie.

7. **Names and ages of children:**
Eleanor Marie Gates, 31; Bradley Robert Gates, 26.

8. **Education:** List secondary and higher education institutions, dates attended, degree received, and date degree granted.

Institution	Dates Attended	Degree Received	Date Degree Granted
Wichita High School East	08/58–05/61	Diploma	05/61
College of William and Mary	08/61–05/65	B.A.	05/65
Indiana University	08/65–08/66	M.A.	08/66
Georgetown University	08/69–06/74	Ph.D.	06/74

9. **Employment record:** List all jobs held since college or in the last 10 years, whichever is less, including the title or description of job, name of employer, location of work, and dates of employment.

Title	Location	Date
President, Texas A&M University	College Station, Texas	08/02–Present
Interim Dean, George Bush School of Government and Public Service	College Station, Texas	08/99–07/01
Self-employed (Boards, Consulting, Lecturing)	Mount Vernon, Washington	01/93–08/02

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

Service/Position	Date
Federal Advisory Committee on Deemed Exports, Member	10/06–Present
Iraq Study Group, Member	05/06–11/06
FBI National Security Higher Education, Member	07/05–Present
Director of Central Intelligence	11/91–01/93
Assistant to the President and Deputy National Security Advisor	01/89–11/91
Deputy Director of Central Intelligence	04/86–01/89
Deputy Director for Intelligence, CIA	01/82–04/86
U.S. Air Force	10/66–01/69
CIA employee	08/66–01/89
Council on Foreign Relations, Member	03/83–Present
Committee on Scientific Communication and National Security, Co-Chair (and previously Member 08/03–02/05)	08/05–Present

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

Chair, Independent Trustees, The Fidelity Funds
Director, NACCO Industries, Inc.
Director, Brinker International, Inc.
Director, Parker Drilling Company
Consultant, The Mitchell Group
Director, American Council on Education
Director, National Association of State Universities and Land-Grant Colleges
Director, Boy Scouts of America
President, National Eagle Scout Association
Co-chair, National Academies Committee on Scientific Communication and National Security
Member, Independent Directors Council
President, Texas A&M University
Speaker, Washington Speakers Bureau
Member, BLO Family Properties, LLC
Member, Aspen Strategy Group
Director, United Way of Brazos County
Member, Center for Strategic and International Studies Transnational Threat Project.

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

Boy Scouts of America (Board of Directors; President, National Eagle Scout Association)
Member, Council on Foreign Relations
Member, Aspen Strategy Group
Board of Directors, United Way of Brazos County
Member, Center for Strategic and International Studies Transnational Threat Project
Member, Association of Former Students, Texas A&M University
Member, Twelfth Man Foundation, Texas A&M University
Institutional membership, Briarcrest Country Club
Institutional membership, Pebble Creek Country Club
Institutional membership, Headliner's Club
Member, The Rainier Club

Board of Directors, American Council of Education
Board of Directors, National Association of State Universities and Land-Grant Colleges
Member, Independent Directors Council
Committee on Scientific Communication and National Security
President, Texas A&M University.

13. **Political affiliations and activities:**

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

None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 5 years.

None.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $100 or more for the past 5 years.

State Senator Steve Ogden: $1,000
State Representative Fred Brown: $1,000
President George W. Bush: $2,000
Governor Rick Perry: $1,000
Lt. Governor David Dewhurst: $1,000
U.S. Senator Kay Bailey Hutchison: $1,000.

14. **Honors and awards:** List all scholarships, fellowships, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

Presidential Citizen's Medal
National Security Medal
National Intelligence Distinguished Service Medal (twice)
Distinguished Intelligence Medal (CIA) (three times).

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

Book

From the Shadows: The Ultimate Insider's Story of Five Presidents and How They Won the Cold War. Simon and Shuster, 1996

Articles

"An Opportunity Unfulfilled: The Use and Perceptions of Intelligence at the White House," The Washington Quarterly. Winter 1989
"The CIA and American Foreign Policy," Foreign Affairs, Volume 66, Number 2 (Winter 1987/88)
"The Prediction of Soviet Intentions," Studies in Intelligence. Spring 1973 (now declassified)

Op Eds

May 23,2006, "An Intelligent CIA Pick," The Washington Post
June 9, 2004, "Rescuing America's Intelligence Network; Don't Ruin the CIA," The New York Times
April 3, 2004, "Re-open America's School Doors for Foreigners; Barriers that Backfire," The New York Times
March 31, 2004, "International Relations 101," Long Beach Press-Telegram
September 3, 2003, "How Not to Reform Intelligence," Wall Street Journal Abstracts
May 27, 2002, "A Former CIA Chief on "Connecting the Dots," Time Magazine
February 25, 2001, "Spying on Spies: On Guard Against Moles," Santa Fe New Mexican
January 23, 2001, "Revitalize the CIA," Wall Street Journal
May 27, 2000, "In a New Age of Risk, Old Tests of Loyalty," The New York Times
May 12, 1999, "In War, Mistakes Happen," The New York Times
March 14, 1999, "The ABC's of Spying," The New York Times
October 29,1998, "The C.I.A.'s Little Known Resume," The New York Times
August 16, 1998, "What War Looks Like Now," The New York Times
March 20, 1997, "Does Lake's Withdrawal Stain Confirmation Drill?" Seattle Post-Intelligencer
March 19, 1997, "Taking the Heat," The New York Times
January 29, 1997, "The Case for Confirming Anthony Lake," Wall Street Journal
January 31, 1995, "Russia, Chechnya . . . and U.S. Policy." The Washington Times

June 17, 1994, "It's Too Late To Stop Korea From Making Nuclear Bomb," Seattle Post-Intelligencer

April 20, 1992, "We See a World of More, Not Fewer Mysteries;" CIA Director Robert Gates talks about Saddam Hussein's still hidden Scuds, the KGB's new goals and declassifying the J.F.K. assassination files," Time Magazine

April 30, 1989, "The Uneven Cycles of Kremlin Reform," The Washington Post

16. **Speeches:** Provide the committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

I have given scores of speeches on international affairs for the Washington Speakers Bureau during this period. I attach a representative sampling.

[Nominee responded and the information is contained in the committee's executive files.]

17. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to respond to requests to appear and testify before any duly constituted committee of the Senate?

Yes.

[The nominee responded to the questions in Parts B–F of the committee questionnaire. The text of the questionnaire is set forth in the Appendix to this volume. The nominee's answers to Parts B–F are contained in the committee's executive files.]

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

ROBERT M. GATES.

This 27th day of November, 2006.

[The nomination of Robert M. Gates was reported to the Senate by Chairman Warner on December 5, 2006, with the recommendation that the nomination be confirmed. The nomination was confirmed by the Senate on December 6, 2006.]

TO CONSIDER CERTAIN PENDING CIVILIAN AND MILITARY NOMINATIONS

TUESDAY, DECEMBER 5, 2006

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC.

The committee met, pursuant to notice, at 10:08 a.m. in room SH–216, Hart Senate Office Building, Senator John Warner (chairman) presiding.

Committee members present: Senators Warner, McCain, Inhofe, Roberts, Sessions, Collins, Graham, Dole, Thune, Levin, Kennedy, Byrd, Lieberman, Reed, Akaka, Bill Nelson, E. Benjamin Nelson, Dayton, Bayh, and Clinton.

Committee staff members present: Charles S. Abell, staff director; and Leah C. Brewer, nominations and hearings clerk.

Majority staff members present: William M. Caniano, professional staff member; Regina A. Dubey, professional staff member; Ambrose R. Hock, professional staff member; Gregory T. Kiley, professional staff member; Sandra E. Luff, professional staff member; Derek J. Maurer, professional staff member; Elaine A. McCusker, professional staff member; David M. Morriss, counsel; Lucian L. Niemeyer, professional staff member; Lynn F. Rusten, professional staff member; Sean G. Stackley, professional staff member; Scott W. Stucky, general counsel; Diana G. Tabler, professional staff member; and Richard F. Walsh, counsel.

Minority staff members present: Richard D. DeBobes, Democratic staff director; Jonathan D. Clark, minority counsel; Christine E. Cowart, administrative assistant to the minority; Madelyn R. Creedon, minority counsel; Gabriella Eisen, professional staff member; Evelyn N. Farkas, professional staff member; Richard W. Fieldhouse, professional staff member; Creighton Greene, professional staff member; Michael J. Kuiken, professional staff member; Gerald J. Leeling, minority counsel; Peter K. Levine, minority counsel; Michael J. McCord, professional staff member; William G.P. Monahan, minority counsel; Michael J. Noblet, research assistant; and Arun A. Seraphin, professional staff member.

Staff assistants present: David G. Collins, Micah H. Harris, Benjamin L. Rubin, and Jill L. Simodejka.

Committee members' assistants present: Christopher J. Paul and Richard H. Fontaine, Jr., assistants to Senator McCain; John A. Bonsell and Jeremy Shull, assistants to Senator Inhofe; Libby Burgess, assistant to Senator Roberts; Arch Galloway II, assistant to Senator Sessions; Mark J. Winter, assistant to Senator Collins; D'Arcy Grisier, assistant to Senator Ensign; Clyde A. Taylor IV, as-

sistant to Senator Chambliss; Matthew R. Rimkunas, assistant to Senator Graham; Greg Gross, assistant to Senator Dole; Russell J. Thomasson, assistant to Senator Cornyn; Bob Taylor and Stuart C. Mallory, assistants to Senator Thune; Sharon L. Waxman and Mieke Y. Eoyang, assistants to Senator Kennedy; Christina Evans and Erik Raven, assistants to Senator Byrd; Frederick M. Downey, assistant to Senator Lieberman; Elizabeth King, assistant to Senator Reed; Richard Kessler and Darcie Tokioka, assistants to Senator Akaka; William K. Sutey, assistant to Senator Bill Nelson; Eric Pierce, assistant to Senator Ben Nelson; Todd Rosenblum and Robert J. Ehrich, assistants to Senator Bayh; and Andrew Shapiro, assistant to Senator Clinton.

OPENING STATEMENT OF SENATOR JOHN WARNER, CHAIRMAN

Chairman WARNER. A quorum now being present, we discharge our other constitutional function; i.e., confirming the 1,023 pending military nominations. All of these nominations have been before the committee the required length of time. No objections have been raised to these nominations.

Do I hear a motion to favorably report the nominations?

Senator LEVIN. So moved.

Chairman WARNER. Is there a second?

Senator MCCAIN. Second.

Chairman WARNER. All in favor, say aye. [A chorus of ayes.]

Chairman WARNER. Opposed? [No response.]

Ayes have it.

Second, nominees—I ask the committee to consider the nominations of Scott W. Stucky and Margaret A. Ryan to be judges on the United States Court of Appeals for the Armed Forces. Yesterday, Senator Levin and I conducted a hearing on the nominations, and no objections have been raised to these nominations.

Do I hear a motion that these two nominations be voted on, en bloc?

Senator LEVIN. So moved.

Chairman WARNER. Second?

Senator MCCAIN. Second.

Chairman WARNER. All in favor, say aye. [A chorus of ayes.]

Opposed? [No response.]

Ayes have it. Thank you very much.

[The list of nominations considered and approved by the committee follows:]

MILITARY NOMINATIONS PENDING WITH THE SENATE ARMED SERVICES COMMITTEE WHICH ARE PROPOSED FOR THE COMMITTEE'S CONSIDERATION ON DECEMBER 5, 2006.

1. COL Thomas J. Sellars, ARNG, to be brigadier general (Reference No. 2106).
2. COL Donald C. Leins, USAR, to be brigadier general (Reference No. 2107).
3. ADM Robert F. Willard, USN, to be admiral and Commander, U.S. Fleet Forces Command (Reference No. 2108).
4. In the Army Reserve, there are 31 appointments to the grade of major general and below (list begins with Robert T. Bray) (Reference No. 2132).
5. In the Air Force Reserve, there is one appointment to the grade of colonel (Jeffrey C. Carstens) (Reference No. 2133).
6. In the Air Force, there is one appointment to the grade of lieutenant colonel (Stephen R. Geringer) (Reference No. 2134).
7. In the Air Force, there is one appointment to the grade of major (Paul M. Roberts) (Reference No. 2135).

8. In the Army Reserve there is one appointment to the grade of colonel (Willie G. Barnes) (Reference No. 2136).

9. In the Army Reserve, there is one appointment to the grade of colonel (Daniel P. McLemore) (Reference No. 2138).

10. In the Army Reserve, there are two appointments to the grade of colonel (list begins with Josef R. Smith) (Reference No. 2139).

11. In the Army, there are two appointments to the grade of major (list begins with Robert M. Blackmon) (Reference No. 2140).

12. In the Army, there are two appointments to the grade of lieutenant colonel and below (list begins with Nicholas C. Bakris) (Reference No. 2131).

13. In the Army, there are three appointments to the grade of colonel and below (list begins with David E. Green) (Reference No. 2142).

14. In the Army, there are three appointments to the grade of lieutenant colonel and below (list begins with Moon H. Lee) (Reference No. 2143).

15. In the Army, there are seven appointments to the grade of colonel (list begins with Terrell W. Blanchard) (Reference No. 2144).

16. In the Army, there is one appointment to the grade of major (Victoria L. Smith) (Reference No. 2145).

17. In the Army, there is one appointment to the grade of major (Ira S. Derrick) (Reference No. 2146).

18. In the Army, there is one appointment to the grade of major (Joseph W. Brown) (Reference No. 2147).

19. In the Army, there is one appointment to the grade of major (Rebecca L. Blankenship) (Reference No. 2148).

20. In the Army, there is one appointment to the grade of colonel (Mark M. Kuba) (Reference No. 2149).

21. In the Army, there is one appointment to the grade of major (Craig H. Rhyne, Jr.) (Reference No. 2150).

22. In the Army, there are five appointments to the grade of colonel (list begins with Lorraine T. Breen) (Reference No. 2151).

23. In the Navy, there are six appointments to the grade of commander and below (list begins with Kimberly S. Evans) (Reference No. 2152).

24. In the Navy, there is one appointment to the grade of lieutenant commander (David J. Allen) (Reference No. 2153).

25. In the Air Force, there are 21 appointments to the grade of lieutenant colonel and below (list begins with Nevanna I. Koicheff) (Reference No. 2155).

26. In the Army, there are 125 appointments to the grade of colonel and below (list begins with Debra L. Cohen) (Reference No. 2156).

27. In the Army, there are 17 appointments to the grade of colonel (list begins with Norma F. Allen) (Reference No. 2157).

28. In the Army Reserve, there are 632 appointments to the grade of colonel (list begins with Michael R. Aberle) (Reference No. 2158).

29. In the Army Reserve, there are 31 appointments to the grade of colonel (list begins with Robin B. Allen) (Reference No. 2159).

30. In the Army, there are 37 appointments to the grade of colonel (list begins with John G. Alvarez) (Reference No. 2160).

31. In the Army, there are 18 appointments to the grade of colonel (list begins with Jeffrey S. Ashley) (Reference No. 2161).

32. In the Navy, there are six appointments to the grade of captain and below (list begins with Harry T. Welan) (Reference No. 2162).

33. In the Air Force, there are four appointments to the grade of lieutenant colonel and below (list begins with Jerzy J. Chachaj) (Reference No. 2186).

34. In the Air Force, there are two appointments to the grade of lieutenant colonel and below (list begins with Norman B. Dimond) (Reference No. 2187)

35. In the Army, there is one appointment to the grade of major (Shelly M. Taylor) (Reference No. 2188).

36. In the Army, there are two appointments to the grade of lieutenant colonel (list begins with Omar L. Hamada) (Reference No. 2189).

37. In the Navy, there are 51 appointments to the grade of lieutenant commander (list begins with Keith T. Adkins) (Reference No. 2190).

Total: 1023.

[Whereupon, at 10:10 a.m., the committee adjourned.]

APPENDIX

COMMITTEE ON ARMED SERVICES QUESTIONNAIRE ON BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF CIVILIAN NOMINEES

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

(202) 224–3871

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior to the hearing and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)

2. **Position to which nominated:**

3. **Date of nomination:**

4. **Address:** (List current place of residence and office addresses.)

5. **Date and place of birth:**

6. **Marital Status:** (Include maiden name of wife or husband's name.)

7. **Names and ages of children:**

8. **Education:** List secondary and higher education institutions, dates attended, degree received and date degree granted.

9. **Employment record:** List all jobs held since college or in the last 10 years, whichever is less, including the title or description of job, name of employer, location of work, and dates of employment.

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

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

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

13. **Political affiliations and activities:**
(a) List all offices with a political party which you have held or any public office for which you have been a candidate.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 5 years.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $100 or more for the past 5 years.

14. **Honors and Awards:** List all scholarships, fellowships, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievements.

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

16. **Speeches:** Provide the committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

17. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to appear and testify upon request before any duly constituted committee of the Senate?

COMMITTEE ON ARMED SERVICES FORM

FINANCIAL AND OTHER INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Information furnished in Parts B through F will be retained in the committee's executive files and will not be made available to the public unless specifically directed by the committee.

Name:

PART B—FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all business connections with your present employers, business firms, business associations, or business organizations if you are confirmed by the Senate?

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association, or organization?

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

5. Is your spouse employed and, if so, where?

6. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

PART C—POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

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

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

6. Do you agree to provide to the committee any written opinions provided by the General Counsel of the agency to which you are nominated and by the Attorney General's office concerning potential conflicts of interest or any legal impediments to your serving in this position?

PART D—LEGAL MATTERS

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

2. Have you ever been investigated, arrested, charged or held 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? If so, provide details.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

4. Have you ever been convicted (including a plea of guilty or nolo contendere) of any criminal violation other than a minor traffic offense?

5. Please advise the committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

PART E—FOREIGN AFFILIATIONS

1. Have you or your spouse ever represented in any capacity (e.g., employee, attorney, business, or political adviser or consultant), with or without compensation, a foreign government or an entity controlled by a foreign government? If so, please fully describe such relationship.

2. If you or your spouse has ever been formally associated with a law, accounting, public relations firm or other service organization, 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.

3. During the past 10 years have you or your spouse received any compensation from, or been involved in any financial or business transactions with, a foreign government or an entity controlled by a foreign government? If so, please furnish details.

4. Have you or your spouse ever registered under the Foreign Agents Registration Act? If so, please furnish details.

PART F—FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents.

1. Describe the terms of any beneficial trust or blind trust of which you, your spouse, or your dependents may be a beneficiary. In the case of a blind trust, provide the name of the trustee(s) and a copy of the trust agreement.

2. Provide a description of any fiduciary responsibility or power of attorney which you hold for or on behalf of any other person.

3. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, executory contracts and other future benefits which you expect to derive from current or previous business relationships, professional services and firm memberships, employers, clients, and customers.

4. Have you filed a Federal income tax return for each of the past 10 years? If not, please explain.

5. Have your taxes always been paid on time?

6. Were all your taxes, Federal, State, and local, current (filed and paid) as of the date of your nomination?

7. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

8. Have any tax liens, either Federal, State, or local, been filed against you or against any real property or personal property which you own either individually, jointly, or in partnership?

(The committee may require that copies of your Federal income tax returns be provided to the committee. These documents will be made available only to Senators and the staff designated by the chairman. They will not be available for public inspection.)

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

_____.

This _____ day of _____, _____.

COMMITTEE ON ARMED SERVICES QUESTIONNAIRE ON BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF CERTAIN SENIOR MILITARY NOMINEES

UNITED STATES SENATE

COMMITTEE ON ARMED SERVICES

Room SR–228

Washington, DC 20510–6050

COMMITTEE ON ARMED SERVICES FORM

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES FOR CERTAIN SENIOR MILITARY POSITIONS

INSTRUCTIONS TO THE NOMINEE:

Complete all requested information. If more space is needed use an additional sheet and cite the part of the form and the question number (i.e. A–9, B–4) to which the continuation of your answer applies.

If you have completed this form in connection with a prior military nomination, you may use the following procedure in lieu of submitting a new form. In your letter to the Chairman, add the following paragraph to the end:

> "I hereby incorporate by reference the information and commitments contained in the Senate Armed Services Committee form 'Biographical and Financial Information Requested of Nominees for Certain Senior Military Positions,' submitted to the committee on [insert date or your prior form]. I agree that all such commitments apply to the position to which I have been nominated and that all such information is current except as follows: . . . ." [If any information on your prior form needs to be updated, please cite the part of the form and the question number and set forth the updated information in your letter to the chairman.]

PART A—BIOGRAPHICAL INFORMATION

INSTRUCTIONS TO THE NOMINEE: Biographical information furnished in this part of the form will be made available in committee offices for public inspection prior to the hearings and will also be published in any hearing record as well as made available to the public.

1. **Name:** (Include any former names used.)

2. **Position to which nominated:**

3. **Date of nomination:**

4. **Address:** (List current place of residence and office addresses. Also include your office telephone number.)

5. **Date and place of birth:**

6. **Marital Status:** (Include name of husband or wife, including wife's maiden name.)

7. **Names and ages of children:**

8. **Government experience:** List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed in the service record extract provided to the committee by the executive Branch.

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

10. **Memberships:** List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.

11. **Honors and Awards:** List all scholarships, fellowships, honorary society memberships, and any other special recognitions for outstanding service or achievements other than those listed on the service record extract provided to the committee by the executive branch.

12. **Commitment to testify before Senate committees:** Do you agree, if confirmed, to appear and testify upon request before any duly constituted committee of the Senate?

13. **Personal views:** Do you agree, when asked before any duly constituted committee of Congress, to give your personal views, even if those views differ from the administration in power?

COMMITTEE ON ARMED SERVICES FORM

FINANCIAL AND OTHER INFORMATION REQUESTED OF NOMINEES

INSTRUCTIONS TO THE NOMINEE: Information furnished in Parts B through E will be retained in the committee's executive files and will not be made available to the public unless specifically directed by the committee.

Name:

PART B—FUTURE EMPLOYMENT RELATIONSHIPS

1. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your military service. If so, explain.

2. Has anybody made a commitment to employ your services in any capacity after you leave military service?

PART C—POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

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

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

5. Do you agree to provide to the committee any written opinions provided by the General Counsel of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

6. Is your spouse employed and, if so, where?

PART D—LEGAL MATTERS

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

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of Federal, State, county, or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or litigation? If so, provide details.

4. Have you ever been convicted (including a plea of guilty or nolo contendere) of any criminal violation other than a minor traffic offense?

5. Please advise the committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

PART E—FOREIGN AFFILIATIONS

1. Have you or your spouse ever represented in any capacity (e.g., employee, attorney, business, or political adviser or consultant), with or without compensation, a foreign government or an entity controlled by a foreign government? If so, please fully describe such relationship.

2. If you or your spouse has ever been formally associated with a law, accounting, public relations firm or other service organization, 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.

3. During the past 10 years have you or your spouse received any compensation from, or been involved in any financial or business transactions with, a foreign government or an entity controlled by a foreign government? If so, please furnish details.

4. Have you or your spouse ever registered under the Foreign Agents Registration Act? If so, please furnish details.

SIGNATURE AND DATE

I hereby state that I have read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

_____.

This _____ day of _____, _____.

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