AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

S. Hrg. 112–565

NOMINATIONS OF WALTER M. SHAUB JR., KIMBERLEY S. KNOWLES, AND RAINEY R. BRANDT

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

NOMINATIONS OF WALTER M. SHAUB JR. TO BE DIRECTOR, OFFICE OF GOVERNMENT ETHICS; KIMBERLEY S. KNOWLES AND RAINEY R. BRANDT TO BE ASSOCIATE JUDGES, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

JULY 20, 2012

Available via the World Wide Web: http://www.fdsys.gov/

Printed for the use of the
Committee on Homeland Security and Governmental Affairs

U.S. GOVERNMENT PRINTING OFFICE

76–064 PDF WASHINGTON : 2012

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

JOSEPH I. LIEBERMAN, Connecticut, *Chairman*

CARL LEVIN, Michigan
DANIEL K. AKAKA, Hawaii
THOMAS R. CARPER, Delaware
MARK L. PRYOR, Arkansas
MARY L. LANDRIEU, Louisiana
CLAIRE McCASKILL, Missouri
JON TESTER, Montana
MARK BEGICH, Alaska

SUSAN M. COLLINS, Maine
TOM COBURN, Oklahoma
SCOTT P. BROWN, Massachusetts
JOHN McCAIN, Arizona
RON JOHNSON, Wisconsin
ROB PORTMAN, Ohio
RAND PAUL, Kentucky
JERRY MORAN, Kansas

MICHAEL L. ALEXANDER, *Staff Director*
KRISTINE V. LAM, *Professional Staff Member*
NICHOLAS O. TRAGER, *Staff Assistant*
CHRISTINE K. WEST, *Counsel, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia*
BRYAN G. POLISUK, *Counsel, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia*
NICHOLAS A. ROSSI, *Minority Staff Director*
JENNIFER L. TARR, *Minority Counsel*
TRINA DRIESSNACK TYRER, *Chief Clerk*
PATRICIA R. HOGAN, *Publications Clerk*
LAURA W. KILBRIDE, *Hearing Clerk*

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00002 Fmt 5904 Sfmt 5904 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

CONTENTS

	Page
Opening statement:	
Senator Akaka	1
Prepared statement:	
Senator Akaka	19

WITNESSES

FRIDAY, JULY 20, 2012

Hon. Eleanor Holmes Norton, a Delegate in Congress from the District of Columbia	1
Hon. James P. Moran, a Representative in Congress from the State of Virginia	3
Walter M. Shaub Jr. to be Director, Office of Government Ethics:	
Testimony	5
Prepared statement	20
Biographical and financial information	23
Letter from the Office of Government Ethics	32
Responses to pre-hearing questions	33
Kimberley S. Knowles to be an Associate Judge, Superior Court of the District of Columbia:	
Testimony	12
Prepared statement	53
Biographical and financial information	54
Rainey R. Brandt to be an Associate Judge, Superior Court of the District of Columbia:	
Testimony	13
Prepared statement	70
Biographical and financial information	71
Letters of Support	85

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00003 Fmt 5904 Sfmt 5904 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

NOMINATIONS OF WALTER M. SHAUB JR., KIMBERLEY S. KNOWLES, AND RAINEY R. BRANDT

FRIDAY, JULY 20, 2012

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

The Committee met, pursuant to notice, at 10:30 a.m., in room SD–342, Dirksen Senate Office Building, Hon. Daniel K. Akaka, presiding.

Present: Senator Akaka.

OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. This hearing will come to order. Aloha and good morning to everyone. Thank you for your interest in this hearing. I believe this hearing will really make a difference for the District of Columbia.

Today, the Committee on Homeland Security and Governmental Affairs meets to consider the nomination of Walter M. Shaub to be the Director of the U.S. Office of Government Ethics (OGE).

On the second panel of today's hearing, we will consider the nominations of Rainey R. Brandt and Kimberley S. Knowles to be Associate Judges on the D.C. Superior Court.

I would like to extend a warm welcome to our nominees and their families and their friends, and I look forward to their testimony today.

Here to introduce the witnesses are two well known Congresspeople. We know they always have a busy schedule, so we certainly appreciate their presence here and their remarks about our nominees.

I am glad to see and be able to introduce Congresswoman Norton, who always makes time to join us to introduce the D.C. judicial nominees. I appreciate her being here today. I am glad to see Representative Moran is here also.

At this time, I would like to call Congresswoman Norton to please proceed with her remarks.

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

Ms. NORTON. Thank you very much, Senator Akaka.

I want to introduce two well-qualified candidates for our Superior Court of the District of Columbia.

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00005 Fmt 6633 Sfmt 6633 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

Before I do so, may I thank you, Senator, for the work you have done this year that has been of great assistance to the District of Columbia on our Superior Court bill, our Special Elections bill, and most recently the Budget Autonomy bill.

You have always been indispensable to the city and you have certainly shown that this year. We very much appreciate it.

The first of the two candidates is Kimberly Knowles, who is now a Magistrate Judge in the D.C. Superior Court. She came to that post after being Deputy Chief of the Sex Offense and Domestic Violence Section in the Office of the U.S. Attorney for the District of Columbia where she served in virtually all of its sections—appellate, general felony, community prosecution, major crimes, fraud and public corruption, and sex offense and domestic violence, where, of course, she became Deputy Chief.

She began her career in Washington by clerking for Judge Eric Washington, who was then an Associate Judge of the D.C. Superior Court, the post for which she has been recommended, and is now the Chief Judge of the D.C. Court of Appeals.

She prepared at Cornell University where she got her Bachelor's Degree and at Howard University School of Law where she got her law degree.

Senator, the second nominee is Rainey Brandt. Ms. Brandt has a Ph.D. in sociology with a focus on criminal justice, in addition to her law degree from Catholic University.

Dr. Rainey is now Special Counsel to the Chief Judge of the court for which she has been recommended, Judge Lee Satterfield of the D.C. Superior Court; and I believe he is here today.

She has served in this role for each of the last three Chief Judges of our Superior Court and she clerked for two judges on our Superior Court.

She has served also as an ombudsman to the justice community for prisoner and correctional issues. Dr. Brandt, in her roles in the Superior Court, has taken leadership for a decade on improving access to justice and to the administration of justice in our city.

Among her many achievements were two successful fugitive safe surrender initiatives, which significantly reduced outstanding warrants. For her work in the administration of justice, she received an award given annually, the Council for Court Excellence Justice Potter Stewart Award.

Dr. Brandt continues as an Adjunct Professor in the Department of Justice, Law, and Society at American University, where she was a full-time professor before coming to the Superior Court.

She has engaged in many activities that have been of great assistance to our residents here in the District of Columbia.

It gives me great pleasure to strongly recommend both of these nominees to you, Mr. Chairman.

Senator AKAKA. Thank you very much, Congresswoman, for your remarks. We really do appreciate it. I want to wish you well in your work here. Thank you.

Now, I am delighted to welcome Congressman Moran to this hearing. I know he is a busy person as well so we do appreciate his remarks.

Will you please proceed, Congressman.

STATEMENT OF HON. JAMES P. MORAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. MORAN. Thank you very much, Mr. Chairman. It is an honor to testify before you, Senator Akaka, and it is a delight to be on the panel with my good friend Mrs. Norton, and to have the opportunity to introduce Walter Shaub.

I know that Mrs. Norton and you and I have had an opportunity to travel around the world and observe the consequences of failed states and rampant corruption and how infectious, cancerous that can be on the entire body of the population.

I know that all of us have reflected at times that Americans take for granted what they should be much more appreciative about, which is their own government, and that we have the most professional and the least corruptible large civil service in the world, and it is a civil service that should be highly respected and appreciated.

Even though we read about all of them, it is, nevertheless, rare when we find corruption, fraud, and abuse in our Federal Government. But we cannot take it for granted. It may not be a unique feature of the American character.

I wish it were so, but I think a lot of this is because of the vigilance and investment of people and resources to direct and oversee and demand accountability.

The U.S. Office of Government Ethics' mission is "to foster high ethical standards for Executive Branch employees and to strengthen the public's confidence." The government's business is conducted with impartiality and integrity, and I cannot think of anyone more qualified to oversee that mission than Walter Shaub.

He has the experience, the integrity, and the confidence to fulfill the high expectations invested in the office. I will just briefly give you a quick summary of what he has been doing for just about the last 5 years.

He has been Deputy General Counsel for the Senior Executive Service. He advanced the President's transition effort in 2008 and 2009 by accomplishing the review of nearly 800 financial disclosure packages of candidates to appointments requiring Senate confirmation and senior White House staff.

As a senior executive of the Office of Government Ethics, he drove the legal interpretation and policy for government ethics in the Federal Executive Branch.

He coordinated with the Department of Justice's Office of Legal Counsel on presidential legal questions. He supported the Office of the Counsel to the President and the staffs of the Senate and House committees by providing guidance and technical assistance on a wide range of legal issues.

He has negotiated a number of agreements with our staffs to prevent conflicts of interest. He has conducted training, advising agency ethics officials, supporting Inspector General investigations, and reviewing legal memoranda and letters for publication.

He has been recognized for providing outstanding executive level leadership to the decentralized Executive Branch ethics programs.

So, I am not going to use any more of my time other than to offer my heartfelt congratulations and to wish Mr. Shaub a true and steady course in his new responsibilities.

I thank you for the honor of being able to testify before you, Senator Akaka.

Senator AKAKA. Thank you very much, Congressman Moran, for your service to our country and particularly the State of Virginia. I know you care deeply about these issues and our Federal workforce. I am happy that you were able to join us here today.

Mr. MORAN. Well, thank you for all you have done for the Federal workforce, incidentally. Invariably, the things that matter to the quality of life and the compensation of our Federal employees originate with you more often than not, Senator Akaka, and you have been kind. I want to thank you.

Senator AKAKA. Thank you. I want to wish you well in your continued service to the State of Virginia and this great country. So, thank you very much. And Congresswoman Norton, thank you.

Mr. Shaub, we will be hearing from you soon. You spent most of your professional career in the Federal workforce, and I want to thank you for your service to our country.

You have been employed for nearly 9 years at the Office of Government Ethics where you are currently the Deputy General Counsel. Prior to joining OGE, you worked as an attorney in the Offices of General Counsel at the Departments of Veterans' Affairs and Health and Human Services, and you practiced law in the private sector.

So that is a quick summary of your background.

Mr. Shaub, I understand that your wife and parents are here today, as well as your supporters and friends. I would like to give you an opportunity to acknowledge them at this time.

Mr. SHAUB. Thank you, Senator. My wife, Sheila, is sitting on my right.

Senator AKAKA. Welcome.

Mr. SHAUB. And my mother, JoAnn Shaub, and my father, Walter Shaub Sr., are next to her.

Senator AKAKA. You should be proud.

Mr. SHAUB. I am very glad they are here.

Senator AKAKA. Thank you. Aloha again and welcome. I am happy to see you here today in support of Mr. Shaub.

In 1978, Congress passed the Ethics in Government Act, which established the Office of Government Ethics to foster high ethical standards and strengthen the public's confidence in government.

OGE oversees Federal employee financial disclosures, trains thousands of Federal ethics officials governmentwide, sets enforceable ethics standards for employees, and reviews presidential nominees' financial disclosure reports.

Mr. Shaub, this important position allows you to show the American people that ethical leadership begins at the top. It is crucial that you ensure that ethics regulations are followed and appropriate standards upheld.

At its core, ethics in government requires that government decisions are determined by the public interest rather than any personal interest.

Again, I look forward to your testimony here today. Mr. Shaub has filed responses to biographical and financial questionnaires and answered prehearing questions submitted by the Committee.

Without objection, this information will be made part of the hearing record, with the exception of the financial information, which is on file and available for public inspection in the Committee office.

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

Do you swear that the testimony that you are about to give to the Committee will be the truth, the whole truth, and nothing but the truth, so help you, God.

Mr. SHAUB. I do.

Senator AKAKA. Thank you very much.

Let it be noted in the record that the witness answered in the affirmative.

Mr. Shaub, will you please proceed with your testimony.

TESTIMONY OF WALTER M. SHAUB JR.[1] TO BE DIRECTOR, OFFICE OF GOVERNMENT ETHICS

Mr. SHAUB. Chairman Akaka, I thank you for the opportunity to appear before you today.

I am deeply honored that President Obama has nominated me to be the Director of the Office of Government Ethics. I have been part of OGE's leadership team for the past 6 years. OGE is a small agency with the big mission of making sure the public can have confidence in the government's impartiality.

I have been asked why I want to take on the responsibility of leading this agency. My answer is that I am committed to the solid ethics program that sets America apart in preserving the integrity of government operations.

I am an ardent believer in OGE's mission, and I want to expand my contribution to public service. I am a career civil servant who has come up through the ranks and knows the ethics program. I have worked collaboratively with agency ethics officials. I believe I know how to build consensus among them to make the ethics program even stronger and more efficient than it is now.

In my current and past roles at OGE, I have worked to help the ethics program meet the challenges of increased transparency, accountability, and access that Americans expect from their government.

I have worked with OGE's staff and agency ethics officials to make government ethics not merely an aspiration but concrete in terms of its effect on the government.

Every day, some part of the ethics program that OGE oversees is at work in every agency in the Executive Branch. It is ensuring that ethics is a top priority for appointees as they begin government service. It is ensuring that public servants at all levels remain free from conflicts of interest, and even the appearance of conflicts of interest, as they do their jobs.

It is ensuring that employees who are seeking to leave the government remain impartial in their government work, and after they leave, it is ensuring that they do not have undue access to

[1] The prepared statement of Mr. Shaub appears in the Appendix on page 20.

their former agencies on behalf of others. Above all, it is working to protect the public's trust in government.

I seek to lead OGE because I believe so strongly in all of these things. When I come to work each day at OGE, I know I am supporting a mission that cuts across the government and is part of the very bedrock foundation of public service. If confirmed as Director, I would welcome the opportunity to lead OGE in meeting the challenges that lie ahead.

Mr. Chairman, I thank you again for your consideration of my nomination.

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

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

Mr. SHAUB. No, there is not.

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

Mr. SHAUB. No.

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

Mr. SHAUB. I do.

Senator AKAKA. Thank you very much for your responses.

Mr. Shaub, please discuss how your experience in Federal service and in particular your time at OGE have prepared you to serve as director, if confirmed?

Mr. SHAUB. To begin with, I would reflect on the Federal employees I have worked with over the 15 years I have been in Federal Government, and I believe I really know these individuals.

I think I have worked with them in so many different capacities both while I was in the private sector and in the public sector, and I know these are people who want to do the right thing and who are hard-working.

I also know that we need a strong ethics program to help them make the right choices and know what the rules are. Having worked at OGE for nearly a decade total, I have had an opportunity to work with OGE in its formulation of policy, its interpretation of laws, and its establishment of regulations.

I have helped provide direct assistance to agency ethics officials in individual cases that they found challenging and sought OGE's assistance with.

I have helped develop training tools and conduct training to assist them in doing their jobs and even reached out directly to the workforce of Federal employees with training products and guidance documents that were directed at them rather than just ethics officials.

So, I believe this is a subject matter I know but also a community that I understand.

Senator AKAKA. Thank you. Mr. Shaub, I believe that the most important role of the Office of Government Ethics is to maintain

the public's trust, as you have mentioned, in the Federal Government and the government employees.

What can be done to improve the public's perception of the manner in which the Federal Government serves the American people?

Mr. SHAUB. Reaching out to the public is something that I would like to do. I think we need to publicize our successes as well as the things that make the news because the system broke down in individual cases. I think that there are a great many times when Federal employees are doing the right thing and working hard, and it goes unnoticed.

I think also we can highlight that there are consequences when people do break the rules, and I think if we establish a habit of communicating both these successes and these enforcement actions, we can help the public understand what it is OGE does as an agency but also what it is that the broader Federal workforce does every single day they come to work.

Senator AKAKA. Thank you very much for mentioning communication because it is so important to realize that very often people do things because they do not understand the rules. Federal agencies need to communicate in such a way that people understand what is expected.

Mr. Shaub, please discuss what you consider to be the greatest challenges facing OGE, and in particular, I would like to hear about how you will address challenges associated with the recent passage of the Stop Trading on Congressional Knowledge (STOCK) Act.

Mr. SHAUB. The STOCK Act right now is the immediate challenge that has been presented to us. It was passed just recently on April 4 and then signed by the President.

We have been working very hard since the enactment of that statute. We have issued some guidance documents that are very thorough and address all of the issues that we could possibly think of coming up in the near future. We have worked with agency ethics officials to help identify areas where they may have questions or concerns; and we have tried to make our legal guidance comprehensive so that they will be able to then understand the statute well enough to translate it to all of the employees who are covered by it, particularly the 28,000 people who file public financial disclosure reports who are going to be covered by some new reporting requirements.

One of the biggest challenges the Federal Government's ethics program faces is translating some very complex legal requirements for employees on the front line of work of the Federal Government, and I think we do a very good job of that.

We need to focus even more on this theme of communication and trying to find ways to speak to the front-line employees in ways that they can understand because I, again, believe that they want to do the right thing, but they need guidance they can understand to do it.

We are continuing to work on developing the additional guidance and the technological capacity to do the additional requirements of the STOCK Act involving the development of a financial disclosure system that will be electronic and available to the public online so

that they can see what the disclosures of the government officials are.

In terms of other challenges, we face on a cyclical basis the challenge of processing presidential nominee reports, which involve the most senior level officials in the Federal Government, and it is just a simple matter of risk management.

It is very important that we commit our resources to make sure that these individuals who have the most authority and power and responsibility in the government are acting ethically and we have resolved their conflicts of interest going into the job before they even begin.

That job, in terms of the volume of work, increases every time there is an election, regardless of who wins. And so, we are gearing up to be able to handle an increased volume in the near future.

We also face the same challenge that the Federal Government as a whole faces, which is succession planning as more and more of the workforce in the Federal Government is reaching retirement age.

That affects the ethics program in the sense that ethics officials are going to be retiring and we have to have a workforce of trained ethics officials who can replace them and truly understand the laws and to capture as much institutional knowledge from the senior knowledgeable ethics officials who are going to be leaving.

But it also affects us in terms of working with the Federal workforce that will soon see significant turnover, and we have to again communicate the ethics rules in terms that these new employees will be able to understand, as well.

Senator AKAKA. Well, thank you very much for that response. As you know, we have many different types of Federal workers, including those who are overseas; and sometimes those who are overseas wonder where they are within the system. But that is another kind of challenge.

Mr. Shaub, as you know, the STOCK Act requires OGE to allow the general public to search Federal employees' financial disclosure reports online via an electronic filing system by October 2013.

Recently, we have heard concerns that criminals and foreign intelligence services could take advantage of this information for other purposes. This may be a particular worry for Federal officials working in dangerous countries.

What are your views on these concerns and do you believe Congress should consider modifying this requirement?

Mr. SHAUB. In the immediate term while we are working with the STOCK Act as drafted, we have been looking for ways to comply literally with the law and with the spirit of the law as well and to implement it fully, and at the same time we have been hearing these concerns, and we are listening to them. They are coming from a very broad range of Federal employee groups and outside groups who are concerned about this issue that the privacy of these individuals has been limited and information revealed on the Internet so that anybody can see it on a much larger scale than ever before.

These have always been public reports, but it is an issue of magnitude. They are now going to be on the Internet broadly, and typically lower-level officials' reports do not actually get requested.

Now they will be so freely available that there is thought that some people will be viewing them. The concern that we have been hearing is anything from identity theft to embarrassment to people fearing for the safety of their children to the extent that it reveals where they are at any point if they have certain assets that disclose things that would lead you to conclude where they are. But also overseas, we have been hearing serious concerns about safety.

I know from international meetings that we have had that there are countries out there who are very concerned about even having public financial disclosure at all because of the conditions where they are, and we have employees who are over there in those countries.

So, we do take that very seriously, and we are studying all of our authorities to see how we can comply with the law and also provide some basic protections for the employees whose forms are being accessed.

If the STOCK Act were changed to provide additional protections for these employees, I would definitely be in favor of that revision because I think we can strike a balance between privacy and safety and make things publicly available enough to help the public understand the financial motivations and interests of its leaders.

Senator AKAKA. Well, thank you very much. I was happy to see in your answers to the Committee's pre-hearing questions that one of your priorities, if confirmed, will be to increase OGE's direct engagement with the agencies, particularly those overseas.

I would like to hear more about how you intend to accomplish this and why you believe that a greater level of engagement would improve agency ethics programs governmentwide.

Mr. SHAUB. I think that it is very important that the Federal Government has a decentralized ethics program, and this was a very well thought-out decision by Congress way back in 1978, as you mentioned, at the beginning of the current ethics program.

This enables agency ethics officials to really understand the operations of their agency, know their missions, and actually know what is really going on out at those agencies.

A check on each agency operating completely independently, though, is the Office of Government Ethics, which exists partly to provide uniformity to the ethics program and a consistent level of quality.

I do not think we can achieve that if we are not spending time with these agency ethics officials and really understanding the challenges that they face, the issues that they face and maybe identifying areas where they are confused or their procedures could be improved if we have not made the issues clear enough to them with our legal analysis.

I think that by targeting agency ethics officials for increased numbers of meetings and forming working groups on issues, we can roll up our sleeves and actually work together on things, some of which we have begun doing more recently, and I would like to continue in that direction.

Along the same lines, I feel that if we make an appearance by interacting with the leadership of the agencies and helping agency ethics officials forge connections where they can have access to the leadership and make sure that their concerns are being listened to

and maybe they are involved even before decisions are made to prevent conflicts of interest in advance, we can achieve an effect far broader than if we simply targeted only individual employees.

That being said, I think we also have to have some interaction with the individual employees by creating training products that they can use. An example of that is, we created a 6-minute video in July for the 28,000 public filers to help them understand the new requirements of the 30-day transaction reports under the STOCK Act.

Senator AKAKA. Well, thank you very much.

We have discussed a number of issues here today, and it is clear from your answers that this is a subject that you care about very deeply.

I would like to know what you hope your legacy will be after your service as the OGE director? Stated a little differently, what is it that you would like people to remember about your tenure as the Director?

Mr. SHAUB. The end result that I would like to achieve is an increased awareness and appreciation of an ethnical culture in all of the agencies, which is always difficult to measure but I think we can look at the concrete aspects of agency programs and the qualitative analysis of their commitment to ethics and the types of things they have done in support of ethics.

On a personal level, if I am confirmed, I would like to be remembered as somebody who is deeply and personally engaged with the agencies in their work and not standing separate as an independent force just identifying legal issues and analyzing them in a vacuum without working closely with the ethics community.

I think the ethics community right now is comprised of some absolutely fantastic individuals who do incredible work on a daily basis and really have made a strong impact on their agencies, and by working very closely with them, I am hoping I can even increase their impact on their agencies in building an ethical culture.

Senator AKAKA. Thank you for reflecting on that.

Let me add that things have changed. When you look back at the laws and administrative policies, some of them are outdated. We need to update them as we go along.

This Committee would appreciate any recommendations about what can be done to help you make sure that the rules are more understandable and clear. Large-scale reforms would require a huge effort, but we need to think about it.

I want to thank you for your testimony and your responses, Mr. Shaub.

At this time, I have no further questions. The hearing record will remain open until the close of business on Monday, July 23, for Members of this Committee to submit additional statements or questions. Any additional questions will be submitted to you in writing.

So again, I thank you very much for being here today and for helping us know you better. I hope we can work rapidly on your confirmation.

Mr. SHAUB. Thank you, Chairman Akaka.

Senator AKAKA. Thank you very much and thank you for having your family here with us.

I want to welcome the second panel of today's hearing. We will consider the nominations of Rainey Brandt and Kimberley Knowles to be Associate Judges of the District of Columbia Superior Court.

The Committee consistently receives excellent judicial candidates, nominated by the President from those recommended by the nonpartisan Judicial Nomination Commission.

Judge Knowles is a Magistrate Judge at D.C. Superior Court. Before that, she spent a number of years as an Assistant U.S. Attorney.

Ms. Brandt is Special Counsel to the Chief Judge of D.C. Superior Court, a position she has held since 1998. She also is an adjunct professor at American University.

I want to note that the Committee received letters of support for Ms. Brandt's nomination from the following D.C. Superior Court judges:

Chief Judge Lee Satterfield, Retired Chief Judge Rufus King, Senior Judge Stephanie Duncan-Peters, Associate Judge Anthony Epstein, and Associate Judge Lynn Leibovitz.

Letters of support were also submitted by the D.C. Court of Appeals Associate Judge Anna Blackburne-Rigsby, John Clark, Kenneth Wainstein, Bradley Weinsheimer, and the Bar Association of the District of Columbia.

Each of these letters will be included in the hearing record.[1]

I believe the nominees have much to offer to the D.C. Superior Court and, if confirmed, will join others who have appeared before us in making valuable contributions to the District's judicial system.

Judge Knowles, I understand that this hearing conflicts with your family's vacation so they could not be here with us today. Although they are not here, I would like to give you an opportunity to acknowledge them and your friends if you would like to do so.

Ms. KNOWLES. Thank you, Mr. Chairman.

My family is watching from Disney World, but I am happy to be here and to interrupt my vacation for this purpose.

I have a number of colleagues from D.C. Superior Court and former colleagues from the U.S. Attorney's Office, as well as friends who are here acting as my family today. Thank you.

Senator AKAKA. Thank you. Well, give my Aloha to the family. Ms. Brandt you have family and friends here as well. I would like to give you an opportunity to introduce them. So, please feel free to do so at this time.

Ms. BRANDT. Thank you, Senator.

I am proud to have my mother, Eloise Ransom, here. My husband, Deputy Chief U.S. Marshal Robert Brandt; and my sister, Nona Ann Ransom, who we all affectionately call Cricket.

There are also a number of Superior Court judges here to support my nomination, too many to name, but I would like to take this opportunity to acknowledge Chief Judge Lee Satterfield; former Chief Judge Rufus King; Judge Russell Canan, who is the present Presiding Judge of the Criminal Division; Judge Melvin Wright, who is the current presiding judge of the Civil Division;

[1] The letters of support for Ms. Brandt appear in the Appendix on page 85.

and Judge Stephanie Duncan-Peters, who is the former Presiding Judge of the Civil Division.

Also there are a number of friends, former students, and colleagues from the Department of Justice and American University here, among them U.S. Marshal for the District of Columbia Superior Court Michael Hughes and Assistant D.C. Chief of Police Michael Anzallo.

I am grateful for all the support, guidance, and love that they have given me. Thank you.

Senator AKAKA. Thank you very much and I want to welcome your family as well, especially your mother. We are always glad to see the loved ones as well as the supporters who are here.

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

Our Committee rules require that all witnesses at nomination hearings give their testimony under oath.

So, will you please at this time stand and raise your right hand.

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

Ms. KNOWLES. I do.

Ms. BRANDT. I do.

Senator AKAKA. Thank you. Please note in the record that the witnesses answered in the affirmative.

Judge Knowles, will you please proceed with your statement.

TESTIMONY OF KIMBERLEY S. KNOWLES[1] TO BE AN ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Ms. KNOWLES. Mr. Chairman and Members of the Committee, I am grateful for and honored by the opportunity to appear before you today as a nominee to be an Associate Judge of the Superior Court of the District of Columbia.

I would like to thank the District of Columbia Judicial Nomination Commission, chaired by the Hon. Emmet G. Sullivan, for recommending me to the White House, and I am also thankful to President Barack Obama for his nomination for this position.

I would also like to thank Congresswoman Norton for taking the time to introduce me at this hearing today. I also am appreciative of this Committee for considering my nomination so expeditiously.

Unfortunately, as I noted earlier, my family is unable to attend today's hearing, as they are away on a vacation, and I will rejoin them immediately after this hearing. They are my greatest supporters, and I would like to acknowledge them: My son, Cameron Knowles; my brothers, Alex and Nigel Knowles; my sister-in-law, Arlene Knowles; and my nephews, Devin and Sean Knowles.

I would also like to recognize my late parents, Philmore and Ita Knowles, whose hard work and many sacrifices put me in a position to be able to sit before you today.

[1] The prepared statement of Ms. Knowles appears in the Appendix on page 53.

I also wish to acknowledge Chief Judge Eric T. Washington of the District of Columbia Court of Appeals and Chief Judge Lee F. Satterfield of the District of Columbia Superior Court for their leadership, guidance, and support.

Finally, I would like to thank my many friends and current and former colleagues who have supported me over the years, some of whom are present today.

I was born and raised in Bronx, New York. I moved to Washington, DC, to attend Howard University School of Law and never left because I fell in love with the city and the community.

My entire legal career has been dedicated to serving the District of Columbia community—first as a judicial law clerk in the D.C. Superior Court; then for 12½ years in the U.S. Attorney's Office for the District of Columbia; and now as a Magistrate Judge in the D.C. Superior Court.

I hope to continue my service to the District of Columbia as an Associate Judge of the D.C. Superior Court. I am honored to be considered for this esteemed position, especially in the court where I have practiced my entire career.

I thank you for your consideration of my nomination, and I look forward to answering your questions. Thank you.

Senator AKAKA. Thank you very much, Ms. Knowles, for your statement.

Ms. Brandt, will you please proceed with your statement.

TESTIMONY OF RAINEY R. BRANDT[1] TO BE AN ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Ms. BRANDT. Thank you. Mr. Chairman and Members of the Committee, thank you for the opportunity to appear here today at this confirmation hearing for my nomination to be an Associate Judge of the Superior Court of the District of Columbia. It is indeed an honor and a privilege.

I would like to thank the Judicial Nomination Commission, particularly its chair, Judge Emmet Sullivan, for recommending me to the White House and President Barack Obama for nominating me.

I also wish to express my appreciation to the Committee Members and staff who have been most courteous and professional throughout this process.

Finally, special thanks to Congresswoman Eleanor Holmes Norton for taking the time out of her busy schedule to introduce me.

My entire career has been devoted to public service, the law, and improving the administration of justice. It began 21 years ago as a professor teaching justice and law to the students of American University where I have taught ever since. It is one of my great satisfactions in life that my students still reach out to let me know how my classes inspired them to enter public service and make a difference.

As a judge, I hope to continue to be a role model for others while ensuring that the rights of all who come before me are respected and protected.

For 14 years at the D.C. Superior Court as Special Counsel to the Chief Judge, I have provided counsel, advice, and training to

[1] The prepared statement of Ms. Brandt appears in the Appendix on page 70.

nearly all of our judges and countless attorneys on a broad range of legal issues from bond reviews to trial logistics to sentencing options.

My job puts me in day-to-day contact with judges seeking my advice on how to work through practical realities facing them in the courtroom from issues of substantive law, to procedural issues, to managing challenging and unexpected courtroom situations.

I have also worked diligently within the Court to make sure that its processes and rules are fair and understandable for those persons who appear before the court: Lawyers and their parties, self-represented persons, the accused, victims, and their families.

I believe that my hard work, creativity, and commitment to the Court, along with that of so many of my dedicated colleagues, have helped to improve access to justice for all who come to the court daily seeking to be heard and to solve the difficulties that brought them to us.

I have been fortunate to experience the justice system from a variety of perspectives, and if confirmed, I will bring those skills and experience to the bench in order to continue furthering the court's mission of being open to all, and trusted by all, while providing justice for all. Thank you.

I will be pleased to respond to any questions you or other Committee Members might have.

Senator AKAKA. Thank you very much, Ms. Brandt.

I will begin with the standard questions that this Committee asks of all nominees. I would like both of you to answer each question.

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

Ms. KNOWLES. No, Mr. Chairman.

Ms. BRANDT. No, Mr. Chairman.

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

Ms. KNOWLES. No, Mr. Chairman.

Ms. BRANDT. No, Mr. Chairman.

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

Ms. KNOWLES. Yes, Mr. Chairman.

Ms. BRANDT. Yes, Mr. Chairman.

Senator AKAKA. Thank you very much for those answers.

I commend both of you for making a decision to continue public service to District residents. Please elaborate on why you are seeking appointment to become an Associate Judge at this point in your career?

Judge Knowles, I would like for you to begin, followed by Ms. Brandt.

Ms. KNOWLES. Thank you, Mr. Chairman.

Well, I decided very early in my legal career that public interest and public service was what was best for me.

I realized that waking up in the morning to go to work I needed to feel like I was going to be affecting and helping somebody whether they knew that I was helping them or not.

The other strong interest that I have always had has been in the courtroom and trial work. I decided that a very long time ago before I even went to law school, before I went to college.

So, combining those two things, that is the reason why I went to the U.S. Attorney's Office to be able to be in the courtroom, to see trial work, and to serve the public. That is why I spent 12½ years at the U.S. Attorney's Office. That is also why I sought a position as a Magistrate Judge.

I believe that seeking a position now as an Associate Judge will allow me to continue my public service, continue my love of being in the courtroom and the trial work, but give me more variety.

As a Magistrate Judge, there is a limited jurisdiction. Associate Judges have an opportunity to handle many more cases, more issues; and so, that would expand my horizons while still meeting the needs that I have by waking up every morning and serving the public.

Senator AKAKA. Thank you. Ms. Brandt.

Ms. BRANDT. Thank you for the question, Senator.

For me, the answer is quite simple. My whole life has been dedicated to public service, and joining the bench as a judge would simply allow me to continue providing service to the public. A judge gets to play a different role in public service, protecting the public, vulnerable children, and victims.

So, it would be a great way for me to remain at D.C. Superior Court and continue the public service that I have given to that court and its citizens over the past 14 years.

Senator AKAKA. Thank you very much.

Ms. Brandt, although you have spent your entire legal career at the D.C. Superior Court and no doubt understand its rules and procedures very well, some may have concerns that you do not have litigation experience.

Please discuss how your knowledge and experience qualify you to be an Associate Judge.

Ms. BRANDT. Thank you for the question, Senator Akaka.

For the past 14 years, I have advised, counseled, and trained judges in my current position as Special Counsel to the Chief Judge. Daily, judges come to me seeking advice and counsel on how to handle a variety of issues at a fast pace.

My years of experience at the court and exposure have allowed me to do a number of things that have put me in a good position to understand up close and personal what the job of a judge actually entails.

It should be noted that I have, in my capacity at the courthouse, trained over 100 judges and magistrate judges during that time on both practical situations and substantive law.

Additionally, the 21 years that I have spent teaching law at American University have given me the foundation from which I have been able to educate others.

On a personal note, because my job at D.C. Superior Court is a unique one, I can understand that the title, Special Counsel to the Chief Judge, does not necessarily say what all I do every day. But,

on a personal level, the support that I have from the number of judges who are here and the ones who are back at the court dealing with the everyday press of business means the world to me because those judges know what I do on a daily basis and can speak as well as I can to the types of issues that make me qualified to be an Associate Judge at D.C. Superior Court.

I could go on and on, but I will stop rambling now.

Senator AKAKA. Thank you.

Judge Knowles, you have extensive criminal law experience as an attorney and Magistrate Judge. If confirmed, you may preside over cases arising under many different areas of the law.

How has your career prepared you to handle the wide range of legal issues you will confront?

Ms. KNOWLES. Thank you, Mr. Chairman.

It is accurate that I have spent most of my career working on criminal law issues. However, I have done many different things within criminal law.

I primarily worked in sex offense and domestic violence, but I prosecuted narcotics offenses. I did fraud and public corruption. I did a number of different kinds of cases.

Currently, in my position now, I am handling traffic matters, which I have never done before. Although it is criminal, it is different.

And so, the way that I envision being prepared for any other assignment, for example in civil or in family law, if I am confirmed and then assigned to those divisions, is to immerse myself in the law, which is what I learn how to do as a prosecutor.

As I told many attorneys who I supervised, when in doubt, refer to the law. So, I will read the law. I will study. I will research the case law and get a fundamental knowledge.

Also, I am lucky to be at the D.C. Superior Court where they have an excellent training committee, so I will consult with the training committee, and I am sure I would get base knowledge from the training committee. And then, there is a wealth of knowledge through all of the judges who are already on the court.

So, as a prosecutor, I learned you have to find the answer, and I am not afraid of the fact that I do not know all of the answers as long as I am willing to find the answer, which is what I learned how to do as a prosecutor. Thank you.

Senator AKAKA. Thank you, very much.

Ms. Brandt, as a judge, you may have litigants appear before you who do not have attorneys and may not fully understand the law and procedure.

What do you believe the proper role is for a judge in helping litigants access information they may need to present their cases?

Ms. BRANDT. Thank you for the question, Senator Akaka.

I would like to start by saying in January of this year, our Canons of Judicial Ethics were revised to address just this issue in specificity whereby now the judges have a responsibility of making sure that people who come before them who are self-represented have reasonable access and understanding of the process.

And, to that end, while the Canon dictates and gives a number of examples from which a judge can use to make sure that a person clearly understands the procedures, I believe it is also incumbent

on a judge to make sure that he or she speaks effectively, looks the individual in the eye, and explains the entire process, no matter how small a detail is, to that individual so that he or she has full understanding of what is happening and how it will affect him or her.

Senator AKAKA. Thank you.

Judge Knowles, as you know from your time at the D.C. Superior Court, judges must often handle heavy caseloads. Please describe how you would balance the need to move efficiently through cases while ensuring that all cases receive thoughtful consideration.

Ms. KNOWLES. Well, I am lucky in that I am in the unique position where I handle that now. I have a large case load each day, and some days I handle issues that take a little bit more time.

If confirmed as an Associate Judge, I would endeavor to handle each case one at a time. When I realize there is an issue that has come up in a case that may need a little bit more time, that I need the time to research, I will take the time to tell the parties I need them to come back later in the afternoon, but not rush the case because that will not be good for anybody's case.

So, I think it is a great challenge that all judges have whether they are seasoned judges or new judges. It is a great challenge to have to balance looking at the cases and taking the time to spend on all the issues.

First, is moving a crowded docket, but I think it just has to be done. I cannot articulate how that is done. It is a matter of going case by case, and when there is an issue that has to be looked at, if there is an issue that I do not know the answer to, it is taking the moment to say, I have to pass this case, and looking at the issue.

So, not rushing through the case because that is not fair to the litigants. It is not fair to the other litigants and parties who are sitting in the courtroom.

So, taking the time that I need is what I would do.

Senator AKAKA. Thank you.

What do you think is the biggest challenge you will have in becoming an Associate Judge and how do you plan to address that challenge?

Ms. Brandt, I would like you to answer first, followed by Judge Knowles.

Ms. BRANDT. Thank you very much, Senator Akaka, for that question.

For me, that is a two-fold answer. The first is that I will have to learn how to let go of the current responsibilities associated with my current role so that I can focus on the responsibilities that come with being a judge.

Unlike other nominees who are coming to the bench from outside agencies, I will remain in close proximity with people to whom I have provided advice and assistance for many years.

The second thing that comes to mind is the fact that there are certain areas of the law that I am less familiar with than others. While I have a significant foundation in criminal law, matters dealing with civil and family court are less familiar to me.

So, like any new judge who moves into a new division, along with reading and learning the law, I will take part in the judicial train-

ing program, which is rigorous and focused on getting judges very familiar with the areas of the law that they might be less familiar with.

So, a combination of those two things. That hopefully addresses your question. Thank you.

Senator AKAKA. Thank you. Judge Knowles.

Ms. KNOWLES. Thank you, Mr. Chairman.

I think I started to answer that question in my last response. One of the great challenges I think is, in fact, balancing the need to move a heavy docket and caseload and giving each case or issue the time that it deserves.

I think also another important issue and challenge will be being an efficient Associate Judge, if, in fact, I am confirmed.

I want to be respectful. I would want to be respectful of everyone's time—the litigants, attorneys, parties, and court personnel—understanding that there are, on a daily basis, pleadings, requests, and administrative procedures that are presented to a judge each day in chambers, and that means that there are attorneys, parties, and court personnel who are all waiting for that decision so that they can progress with whatever it is they need to do.

And so, I want to learn to balance all of those things so that I can keep the process moving. There is a lot that has to happen for the court house to work efficiently. So, making sure that I am efficient so that everybody else can continue on and being respectful of everybody's time and efforts is something that I think will also be a challenge but one that I believe that I can meet. Thank you.

Senator AKAKA. Thank you. I want to thank you both for your testimonies. There are no further questions from me at this time. I want to thank all of our witnesses for appearing before the Committee today.

The hearing record will remain open until the close of business Monday, July 23, for Members of this Committee to submit additional statements or questions. Any additional questions will be submitted to the appropriate nominee in writing.

I also want to thank Congressman Moran and Congresswoman Norton for taking their time to be with us this morning and adding to the record of our witnesses.

It is my hope that the Senate can act quickly to confirm all three of the nominees we have heard today.

This hearing is adjourned.

[Whereupon, at 11:40 a.m., the Committee was adjourned.]

APPENDIX

Statement of Senator Daniel K. Akaka
Nomination Hearing for Walter M. Shaub Jr. to be
Director of the U.S. Office of Government Ethics; and Rainey R. Brandt and Kimberley S. Knowles to be Associate Judges on the D.C. Superior Court

July 20, 2012

Aloha, good morning, and welcome everyone. Today the Committee on Homeland Security and Government Affairs meets to consider the nominations of Walter M. Shaub Jr. to be the Director of the U.S. Office of Government Ethics (OGE), and Rainey R. Brandt and Kimberley S. Knowles to be associate judges on the D.C. Superior Court.

Mr. Shaub has spent most of his professional career in the federal workforce, and I want to thank him for his service. He has been employed for nearly nine years at the Office of Government Ethics, where he is currently the Deputy General Counsel. Prior to joining OGE, Mr. Shaub worked as an attorney in the offices of general counsel at both the Departments of Veterans Affairs and Health and Human Services. Mr. Shaub also has practiced law in the private sector.

In 1978, Congress passed the Ethics in Government Act, which established the Office of Government Ethics to foster high ethical standards and strengthen the public's confidence in government. OGE oversees the federal employee financial disclosures, trains thousands of federal ethics officials government-wide, sets enforceable ethics standards for employees, and reviews Presidential nominees' financial disclosure reports.

Mr. Shaub, this important position allows you to show the American people that ethical leadership begins at the top. It is crucial that you ensure that ethics regulations are followed and appropriate standards are upheld. At its core, ethics in government requires that government decisions are determined by the public interest – rather than any personal interest.

Turning to the judicial nominees, the Committee consistently receives excellent judicial candidates, nominated by the President from those recommended by the non-partisan Judicial Nomination Commission. Our nominees today are no exception. Judge Knowles is a magistrate judge at D.C. Superior Court. Before that, she spent a number of years as an Assistant United States Attorney. Ms. Brandt is Special Counsel to the Chief Judge of D.C. Superior Court, a position she has held since 1998. She also is an adjunct professor at American University.

I believe all three of our nominees have much to offer and, if confirmed, will make valuable contributions to the federal government and District's judicial system.

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00023 Fmt 6601 Sfmt 6601 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

76064.001

Opening Statement of Walter M. Shaub Jr.
to be Director, Office of Government Ethics
July 20, 2012

Chairman Akaka and members of the Committee, I thank you for the opportunity to appear before you today.

I am deeply honored that President Obama has nominated me to be the Director of the Office of Government Ethics. I have been part of OGE's leadership team for the past six years. OGE is a small agency with the big mission of making sure the public can have confidence in the government's impartiality.

I have been asked why I would want to take on the responsibility of leading this agency. My answer is that I am committed to the solid ethics program that sets America apart in preserving the integrity of government operations. I am an ardent believer in OGE's mission, and I want to expand my contribution to public service.

I am a career civil servant who has come up through the ranks and knows the ethics program. I have worked collaboratively with

agency ethics officials. I believe I know how to build consensus among them to make the ethics program even stronger and more efficient than it is now.

In my current and past roles at OGE, I have worked to help the ethics program meet the challenges of increased transparency, accountability and access that Americans expect from their government. I have worked with OGE's staff and agency ethics officials to make government ethics not merely an aspiration but concrete in terms of its effect on the government.

Every day, some part of the ethics program that OGE oversees is at work in every agency in the executive branch. This program is ensuring that ethics is a top priority for appointees as they begin government service. It is ensuring that public servants at all levels remain free from conflicts of interest --and even the appearance of conflicts of interest-- as they do their jobs. It is ensuring that employees who are seeking to leave the

76064.003

government avoid conflicts of interest and, after they leave, ensuring that they do not have undue access to their former agencies on behalf of others. Above all, it is working to protect the public's trust in government.

I seek to lead OGE because I believe so strongly in all of these things. When I come to work each day at OGE, I know I am supporting a mission that cuts across government and is part of the very bedrock foundation of public service. If confirmed as Director, I would welcome the opportunity to lead OGE in meeting the challenges that lie ahead.

Mr. Chairman and members of the committee, I thank you again for your consideration of my nomination.

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

1. **Name:** (Include any former names used.)

   Walter M. Shaub, Jr.

2. **Position to which nominated:**

   Director, U.S. Office of Government Ethics

3. **Date of nomination:**

   May 24, 2012

4. **Address:** (List current place of residence and office addresses.)

   Residence:

   Walter M. Shaub, Jr.
   REDACTED

   Office:

   Walter M. Shaub, Jr.
   Deputy General Counsel
   U.S. Office of Government Ethics
   1201 New York Avenue, Suite 500
   Washington, DC 20005

5. **Date and place of birth:**

   February 20, 1971
   Ithaca, New York

6. **Marital status:** (Include maiden name of wife or husband's name.)

   Married to Sheila A. Kearney

7. **Names and ages of children:**

   Not applicable

8. **Education:** List secondary and higher education institutions, dates attended, degree received and date degree granted.

Washington College of Law
American University
August 1994 to May 1996
Juris Doctor, *cum laude*, May 1996

University of Puget Sound School of Law
August 1993 to May 1994
I transferred to American University after my first year of law school.

James Madison University
August 1989 to May 1993
BA, History, May 1993

9. **Employment record:** List all jobs held since college, and any relevant or significant jobs held prior to that time, including the title or description of job, name of employer, location of work, and dates of employment. (Please use separate attachment, if necessary.)

Deputy General Counsel, Senior Executive Service
U.S. Office of Government Ethics
1201 New York Avenue, NW, Washington, DC 20005
April 2008 - present

Supervisory Attorney, GS-15
Office of General Counsel and Legal Policy
U.S. Office of Government Ethics
1201 New York Avenue, NW, Washington, DC 20005
May 2006 - April 2008

Attorney
Shaw, Bransford, Veilleux and Roth, P.C.
1100 Connecticut Avenue, NW, Suite 900, Washington, DC 20036
March 2004 - May 2006

Staff Attorney, GS-14
Office of General Counsel and Legal Policy
U.S. Office of Government Ethics
1201 New York Avenue, NW, Washington, DC 20005
October 2001 - March 2004

Staff Attorney, GS-13
Office of General Counsel
VA Central Office, U.S. Department of Veterans Affairs

76064.006

810 Vermont Avenue, NW, Washington, DC 20420
January 2000 - October 2001

Staff Attorney, GS-12 to GS-13
Office of General Counsel
U.S. Department of Health and Human Services
5600 Fisher's Lane Rockville, Maryland 20852
November 1998 - January 2000

Staff Attorney, GS-11 to GS-12
Office of Regional Counsel for Region 3
U.S. Department of Veterans Affairs
1120 Vermont Avenue, NW, 10th Floor, Washington DC 20421
(Current Address: 1722 I Street, NW, 3rd floor, Washington, DC 20421)
February 1997 - November 1998

Substitute Teacher
Fairfax County Public Schools
6815 Edsall Road, Springfield, VA 22151
(Current Address: 8115 Gatehouse Road, Falls Church, VA 22042)
December 1996 - February 1997

Waiter
Chili's Bar & Grill
11840 Sunrise Valley Drive, Reston, VA 20190
August 1996 - September 1996

Dean's Fellow (Student Work Study Program)
Washington College of Law, American University
4801 Massachusetts Avenue, NW, Suite 505, Washington, DC 20016
May 1995 to May 1996

Research Assistant
Federal Research Corporation
400 7th Street, NW, Suite 101, Washington, DC 20004
May 1994 to October 1994
May 1993 to August 1993

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.

Not applicable

11. **Business relationships:** List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any

corporation, company, firm, partnership, or other business enterprise, educational or other institution.

Not applicable

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

Member, District of Columbia Bar (July 9, 2004 to present)

Member, Virginia State Bar (October 28, 1996 to present)

Former Member, Phi Alpha Delta, University of Puget Sound Chapter (co-ed legal service fraternity) (approximately September 1993 to May 1994)

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.

Not applicable

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

Not applicable

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

$170.12 – Democratic Party Campaign Contribution, 2/25/2012 (contribution made by my wife)

$250 – Obama for America, 1/24/2012

$250 – Obama for America, 5/3/2011 (FEC records show 5/13/11, but I wrote and mailed the check on 5/3/11)

$100 – Obama for America, 10/9/08

$100 – Obama for America, 10/21/08

$100 – Hillary Clinton campaign committee, 12/19/07

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

Not applicable

15. **Published writings:** Provide the Committee with a list and two copies of any books, articles, reports, or other published materials which you have written. These items can be provided electronically via e-mail or other digital format.

- "Guarding the Civil Service," Legal Times (Washington, D.C., edition) by William L. Bransford and Walter M. Shaub Jr.; February 21, 2005.
- Untitled letter to the editor of the Washington Post, printed January 3, 2002.

16. **Speeches:**

(a) Provide the Committee with a list and two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated. Provide a list and copies of any testimony to Congress, or to any other legislative or administrative body. These items can be provided electronically via e-mail or other digital format.

Not applicable

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

Not applicable

17. **Selection:**

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

I believe I was selected based on my experience in government ethics and matters affecting Federal personnel, my demonstrated success in managing a highly effective ethics program and my extensive familiarity with the operations of the U.S. Office of Government Ethics.

76064.009

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

For fifteen years, I have dedicated my career to systems regulating the federal workforce, with particular concentration on: (1) government ethics; (2) the disciplinary and adverse action processes that, in addition to criminal and civil processes, are tools for enforcing government ethics requirements; and (3) the legal authorities for protecting the integrity of the federal workplace against unlawful discrimination and prohibited personnel practices. I have a decade of experience working directly with the framework for ethics in the federal executive branch. I also have demonstrated my effectiveness in leading programs of the U.S. Office of Government Ethics (OGE).

Most importantly, I am an ardent believer in OGE's mission. I am a career civil servant who has come up through the ranks and who knows the ethics program both from the inside, having worked at OGE, and from the outside, having worked in a law firm. I understand the executive branch's ethics officials and I believe I know how to build consensus among them to make the ethics program even stronger, more rational and more efficient than it is now. I hope to have the opportunity to carry OGE's message to these officials, to federal employees and to the public, and I thank you for considering my nomination.

B. EMPLOYMENT RELATIONSHIPS

18. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

I currently work for the U.S. Office of Government Ethics and I do not have other business associations. If confirmed to be the Director of the U.S. Office of Government Ethics, I will resign from my position as Deputy General Counsel.

19. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

No

20. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization, or to start employment with any other entity?

No

21. Has anybody made a commitment to employ your services in any capacity after you leave government service?

No

22. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Yes

23. Have you ever been asked by an employer to leave a job or otherwise left a job on a non-voluntary basis? If so, please explain.

No

C. POTENTIAL CONFLICTS OF INTEREST

24. 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.

None

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

None

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

Yes

D. LEGAL MATTERS

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

I have not been disciplined or cited for a breach of ethics or unprofessional conduct. On one occasion, an individual filed a complaint with my state bar alleging that I contacted the individual directly despite having knowledge that she was represented by counsel. It was my understanding that the individual, an experienced litigation attorney, was not represented by counsel and I contacted her to request that she notify me if she was represented by counsel. The Virginia State Bar investigated the matter and cleared me of wrongdoing. In addition, I was contacted by an EEO Counselor in June of 2011

about an OGE employee who initiated the EEO counseling process. The matter was closed without action.

28. Have you ever been investigated, arrested, charged or convicted (including pleas of guilty or nolo contendere) by any federal, State, or other law enforcement authority for violation of any federal, State, county or municipal law, other than a minor traffic offense? If so, provide details.

In 1989, while in college, I was arrested when I was 18 years old for underage possession of alcohol and use of a false operator's license to purchase alcohol. I pled guilty and paid fines of $150 and $100, as well as court costs. In 1992, after my junior year of college, I was arrested at the age of 21 on a charge of "drunk in public" while visiting some college friends at another university. I pled guilty and paid a fine of $15, as well as court costs. I regret this conduct in which I engaged during my college years.

29. Have you or any business of which you are or were an officer, director or owner ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No

30. For responses to question 30, please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

Not applicable

31. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

Thank you again for your thoughtful consideration of my nomination for the position of Director of the U.S. Office of Government Ethics (OGE). I am committed to sustaining and building the solid government ethics program that sets America apart in preserving the integrity of its government's operations. I am honored to be considered to lead this program. During the time I have been fortunate to spend in this field, I have enjoyed working with executive branch officials, from cabinet-level officials to employees at all grade levels, on the front lines of the government's work. I have enjoyed working with other stakeholders in this program, including individual citizens, the staffs of the Senate and the House of Representatives, White House officials, the media, legal professionals, investigators, professors, representatives of non-profit organizations and others. Taking stock of these experiences, I have come to view the government ethics program as being not just words and aspirations, but a community of participants, all with vital roles to play. As a career official and a federal manager, I bring knowledge of both the program and its participants, along with a sincere respect for the pool of talent and experience these participants represent. If confirmed as Director, I

would work with them to apply reasoned judgment to retain the best aspects of the program and to improve the program where it can be more effective.

E. FINANCIAL DATA - REDACTED

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

AFFIDAVIT

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

Subscribed and sworn before me this 18th day of June, 2012

Notary Public

DAVID W MILLER
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES JUNE 30, 2015
COMMISSION # 7519015

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

MAY 30 2012

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

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Walter M. Shaub, Jr., who has been nominated by President Obama for the position of Director, U.S. Office of Government Ethics.

We have reviewed the report and have obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

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

Sincerely,

Don W. Fox
Principal Deputy Director

Enclosures - REDACTED

U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire
For the Nomination of Walter M. Shaub Jr. to be
Director, U.S. Office of Government Ethics

I. Nomination Process and Conflicts of Interest

1. Why do you believe the President nominated you to serve as Director of the Office of Government Ethics (OGE)?

   I believe I was selected based on my experience in government ethics and matters affecting Federal personnel, my success in managing a highly effective ethics program and my familiarity with the operations of the U.S. Office of Government Ethics (OGE).

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

   No.

3. What would be your priorities as Director of the Office of Government Ethics?

   I would have several priorities. An immediate priority would be implementation of the STOCK Act as it applies to the executive branch. I would also prioritize the continuous improvement of OGE's Presidential nominee program, in order to ensure that OGE's reviews of the ethics packages of nominees are thorough and prompt. Another priority would be to increase OGE's direct engagement with the agencies it oversees. More generally, I would work toward increasing awareness and commitment to the executive branch ethics program among executive branch agencies, if confirmed.

4. What specific background and experience affirmatively qualifies you to be OGE Director?

   For fifteen years, I have dedicated my career to systems regulating the federal workforce, with particular concentration on: (1) government ethics; (2) the disciplinary and adverse action processes that are tools for enforcing government ethics requirements; and (3) the legal authorities for protecting the integrity of the federal workplace against unlawful discrimination and prohibited personnel practices. I have a decade of experience working directly with the framework for ethics in the federal executive branch.

5. Have you made any commitments with respect to the policies and principles you will attempt to implement as Director? If so, what are they, and to whom were the commitments made?

   No.

76064.014

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

No.

II. Role and Responsibilities of the Director, U.S. Office of Government Ethics

7. Why do you wish to serve as the Director of the Office of Government Ethics?

I am an ardent believer in OGE's mission and am committed to sustaining and building the solid government ethics program that sets America apart in preserving the integrity of its government's operations. I am a career civil servant who has come up through the ranks and knows the ethics program both from the inside, having worked at OGE, and from the outside, having worked in a law firm. I have worked closely and collaboratively with the executive branch's ethics officials and I believe I know how to build consensus among them to make the ethics program even stronger and more efficient than it is now. I have enjoyed working with executive branch officials, the staffs of the Senate and the House of Representatives, the public, and others. Taking stock of these experiences, I have come to view the government ethics program as being not just words and aspirations, but a community of participants, all with vital roles to play. If confirmed as Director, I would work with them to retain the best aspects of the program and to improve the program where it can be more effective.

8. What do you consider to be your most significant accomplishments and achievements during your time as Deputy General Counsel of the Office of Government Ethics?

My most significant accomplishments in my various roles at OGE have focused primarily on preparing OGE to lead the ethics review process during Presidential transition periods and in carrying out OGE's successful Presidential transition effort. The reports of Presidential nominees for positions requiring Senate confirmation are the most complex financial disclosure reports that officials in the federal executive branch review. In 2009, we accomplished the reviews of nearly 800 financial disclosure packages of candidates for appointments requiring Senate confirmation and senior White House staff for the new Presidential administration.

I have also accomplished qualitative improvements in OGE's substantive ethics programs by increasing the knowledge and skills of OGE's legal and ethics professionals through an emphasis on internal and external training. My staff and I have standardized elements of the ethics program in order to make our processes more efficient and more consistent. Finally, we have completed a major overhaul of OGE's website to make more information immediately available to stakeholders.

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00038 Fmt 6601 Sfmt 6601 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

76064.015

9. How do you view the role of the Director of OGE? What are the major components of the Director's role and how would you direct your focus in fulfilling this role?

In my view, one of the most important roles of the Director is to promote and educate the executive branch and the public about government ethics. If confirmed, I would encourage the senior leadership of federal agencies to foster a culture of ethics within their federal agencies from the top down. I would strengthen existing systems for ethics by supporting the Designated Agency Ethics Officials and their staffs with legal guidance, direct assistance in complex cases, training and the development of tools to make their efforts more effective and efficient in preventing and resolving conflicts of interest. If confirmed, I would reach the broad population of government employees by leveraging the resources of agency ethics programs in delivering the message of ethics to them and by promoting the sharing of best practices. Finally, I would satisfy the public's need for confidence in the executive branch's ethics programs through audits of agency ethics programs.

10. If confirmed, what do you hope to achieve during your term as OGE Director? In what ways would your previous experience as OGE Deputy General Counsel help to inform and guide your decisions?

In the immediate future, I would work to implement the STOCK Act, including the new electronic financial disclosure system. Development of this system may be the most significant financial undertaking in OGE's history, one that will depend not only on a commitment by OGE, but also on the availability of adequate resources.

Beyond this immediate effort, if confirmed, I would draw on my experiences over a decade of service at OGE. I am proud of OGE's record, and I believe that many of OGE's functions are nothing less than exceptional. If confirmed, I would strengthen the executive branch ethics program by focusing on aspects of OGE's operations that would benefit from renewed attention. I also would like to promote a meaningful exchange in which OGE and agency ethics officials present information to one another, sharing best practices and conceiving new ways forward to address the evolving challenges confronting the executive branch program.

11. What do you see as the principal mission of OGE? What do you see as its principal responsibilities?

OGE's principal mission is to reduce the potential for conflicts of interest in the executive branch. In my view, OGE's core responsibilities in support of this mission are: to provide interpretive guidance that facilitates compliance by federal agencies with ethics laws and promotes uniformity in the executive branch; to issue regulations establishing the framework for government ethics in the executive branch; to review

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00039 Fmt 6601 Sfmt 6601 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

76064.016

Presidential nominee packages and resolve conflicts of interests for the most senior level of leadership in government; and to support agency ethics programs through a variety of means, including through legal guidance, advice in individual cases, program audits, review of annual financial disclosure reports, and training.

12. What do you see as the major internal and external challenges facing OGE? If confirmed, what steps would you take to address these challenges? Describe the skills and experience that you have that will prove helpful in effectively managing the agency and meeting these challenges.

A major challenge is the implementation of the STOCK Act as it applies to the executive branch. With adequate funding, I am confident that OGE will meet this challenge and use it as an opportunity to further strengthen the executive branch ethics program. Another major challenge for OGE arises on a cyclical basis. Every four years, OGE plays a crucial role in the period after the general election, when the executive branch usually faces a significant turnover of personnel at high levels, which presents ethics issues related to nominations, post-employment restrictions and new entrant training. Having led the nominee team for years, and having transformed OGE's nominee program, I have the skill needed to face this challenge. A third major challenge involves succession planning for OGE and the executive branch's ethics function as a whole because a significant portion of the federal workforce is eligible for retirement.

13. How can your leadership as Director make a difference in ensuring that ethics is an integral part of agencies' cultures and day-to-day operations?

Ethics must be an integral part of the cultures and day-to-day operations of federal agencies in order to be fully effective. As mentioned above, if confirmed, I would work to support the Designated Agency Ethics Officials in the executive branch's decentralized ethics community. They need OGE's legal guidance, direct advice in individual cases, training products, and oversight through program reviews. I also would have OGE meet with Designated Agency Ethics Officials, individually or in groups, and develop even closer ties than in the past to the agencies that OGE oversees. In addition, I would encourage the leadership of executive branch agencies to integrate ethics into their programs by various means, such as: including Designate Agency Ethics Officials in senior management meetings at the highest levels; adding government ethics to the performance measures of members of the Senior Executive Service; communicating regularly to their managers and staffs their values and expectations with regard to government ethics; and evaluating the size of their ethics staffs to ensure adequate resources for overseeing the agency's compliance with ethics requirements.

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00040 Fmt 6601 Sfmt 6601 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

76064.017

III. Policy Questions

14. If confirmed, do you foresee making any significant revisions to OGE's current organizational structure?

OGE is a small agency with limited resources to carry out its government-wide responsibilities, and the reallocation of staff is necessary from time to time. If confirmed, I would evaluate OGE's needs with regard to its core program responsibilities, and would make any necessary adjustments to the distribution of OGE's staff among its various functions. I would ensure that OGE's staff works in a way that best supports all of these core responsibilities. Depending on resources available to OGE, implementation of the STOCK Act will likely require commitment of a significant portion of OGE's resources.

15. The federal government is increasingly relying on a multi-sector workforce to meet agency missions. Federal, state, and local civil servants (whether full- or part-time, temporary or permanent); uniformed personnel; and contractor personnel often work on different elements of program implementation, sometimes in the same workplace, but under substantially different governing laws; different systems for compensation, appointment, discipline, and termination; and different ethical standards.

a. What challenges does this pose for OGE in preventing conflicts of interest and improving the public's confidence that government actions are taken in accordance with the highest ethical standards?

The challenge is always to ensure that the government's work is done in ways that support the best interests of the citizens and is not compromised by financial conflicts of interest. State and local employees serving in the federal government on Intergovernmental Personnel Act details and appointments are covered by the same government ethics authorities as similarly situated federal government employees. Where individuals in the federal workplace are not covered by the Standards of Conduct and other government ethics authorities applicable to federal employees, as in the case of government contractors for instance, the challenge is to ensure that the decisions of those individuals are made in the best interests of the government, rather than in the interests of the individuals or their outside employers.

b. In your view, what is OGE's role in preventing conflicts of interest among the various workforce sectors?

OGE's role is to ensure that federal employees are aware of, and adhere to, the Standards of Conduct and other government ethics requirements. In addition, OGE has coordinated with other government offices, agencies and working groups to examine issues of contractor ethics with regard to personal conflicts of interest on the

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00041 Fmt 6601 Sfmt 6601 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

76064.018

part of contractor employees, with a focus on the use of standardized ethics clauses in contracts that impose ethics requirements on certain contractors and their employees.

Federal Government Ethics Programs

16. Based on your experience, what is your view about how effectively federal government ethics programs are being implemented? Do you have suggestions about how these programs could be improved? Please explain.

I believe the ethics programs of executive branch agencies are doing a good job at carrying out their responsibilities under the Ethics in Government Act and other government ethics authorities. In my view, potential vulnerabilities arise when any of the following conditions exist: an agency has committed too few resources to an ethics program in terms of staffing, training budget and information technology support; an agency does not provide ethics officials with regular direct access to the highest levels of management; the Designated Agency Ethics Official is not a member of the Senior Executive Service; the Designated Agency Ethics Official is not situated in either the Office of the General Counsel or the office of the agency head; or the agency's ethics office is isolated from the agency's various components. While I do not presently have specific concerns about any agency's program, I do believe that agency ethics offices will need the resources to carry out their new financial disclosure responsibilities under the STOCK Act in order to avoid diminishing the effectiveness of their other substantive conflicts of interest efforts.

17. How would you measure the performance of agency ethics programs in fostering ethical conduct at agencies? What qualitative and performance measures should be used by ethics offices throughout the federal government for assessing and reporting on their performance? Are any changes needed in this regard? Should these measures be publicly reported, such as in agencies' annual performance and accountability reports?

Measuring ethics in government is necessarily done through indirect means. Direct measurement of outcomes does not necessarily reflect ethical conduct. For instance, an increase in conflicts of interest prosecutions could mean either that the government is doing a better job of catching bad actors or that the number of bad actors has increased. Rather than focusing directly on outcomes, many have focused on surveys of perceptions. This approach, too, has limitations. Perceptions of conditions do not always reflect conditions as they are. Also, respondents may attribute different meanings to questions about ethics. For example, one employee's response that her supervisor is unethical may be based on the supervisor's decision to pass her over for a promotion, but this action may have been ethically neutral. Another employee's response that his supervisor is ethical may be based on his awareness that the supervisor and he share the same views on key policy issues, but these policy issues may be ethically neutral or may have nothing to do with the agency's ethics as an organization. In these examples, the

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00042 Fmt 6601 Sfmt 6601 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

76064.019

employees' concerns, while potentially valid, do not necessarily relate to the objective of building an ethical culture in which the actions of individual government employees are consistent with the government's interests, rather than with their personal interests.

A practical alternative is to measure indicators of conditions that reduce the risk of self-motivated behavior, including the following: the openly expressed commitment of an agency's top leadership to government ethics; the extent to which that leadership reinforces the message of government ethics through visible actions, such as communicating expectations to staff, including ethics officials in senior level meetings, consulting with ethics officials early in the decision-making process, and publicizing ethical decisions or consequences of ethical failures; the level of resources committed to an agency's ethics program, relative to the size of the agency or degree to which the agency's work is likely to implicate financial interests; the degree of training of agency ethics officials with regard to the complex framework of authorities governing ethics in the executive branch; the degree of training of an agency's workforce as to applicable ethics requirements; the extent to which employees know where to go for information about government ethics or to report violations; the extent to which employees feel safe reporting violations; the apparent accuracy of ethics advice; the comprehensiveness of agency procedures for reviewing financial disclosure reports for conflicts of interest; the timeliness of financial disclosure and the adequacy of financial disclosure reviews; evidence that actions are taken against individuals who violate ethics requirements; the consistency of an agency's monitoring of compliance with ethics requirements; the use of systems to track both ethics training and financial disclosures; the documentation of ethics advice to employees; and similar objective measures.

18. For Designated Agency Ethics Officials (DAEOs) to best fulfill their functions, how valuable and important do you believe it is for them to be fully independent from agency heads? How valuable and important do you believe it is for DAEOs to be known within the agency as having a close and trusting relationships with the agency head and to have the agency head's full support? Considering such factors, what is your view as to the adequacy of independence of DAEOs? Is it desirable and appropriate that the responsibility for selecting DAEOs resides with agency heads, or should OGE have responsibility for selecting DAEOs and managing and directing their activities? Do you believe any other such approaches or actions would be desirable to enhance the DAEO's effectiveness?

Within an agency, there are benefits to a DAEO having a close working relationship with an agency's senior management. In the context of such a relationship, agency leaders may be more likely to consult a DAEO before taking an action or participating in a particular matter. In this way, a DAEO can prevent violations before they arise, which preserves the integrity of government service better than enforcing the rules against a violator after the fact. However, I also believe agency DAEOs have to be free to exercise their own judgment about ethics requirements without pressure from

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00043 Fmt 6601 Sfmt 6601 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

76064.020

agency management. In this regard, OGE has often been able to assist DAEOs by providing an independent, outside perspective.

19. Compliance with ethical rules is a minimum standard of conduct. It is important for ethics programs to emphasize ethical behavior and leadership in addition to addressing compliance issues. What are your views on the role of OGE in helping department and agency leaders instill an understanding of the importance of ethics programs and requirements and spearheading efforts to adopt ethical principles throughout the organization?

Developing an ethical culture is an important management challenge for every federal agency. A critical component of developing an ethical culture is first to achieve an effective compliance program that adheres to the expansive legal framework for ethics in the executive branch. With only 75 employees, OGE has been effective in building a strong branch-wide commitment to this framework. As laid out in the Ethics in Government Act, OGE's functions are: to provide interpretive guidance that facilitates compliance by federal agencies with ethics laws and to promote uniformity in the executive branch; to issue regulations establishing the framework for government ethics in the executive branch; to review Presidential nominee packages and resolve conflicts of interests for the most senior level of leadership in government; to coordinate with Inspectors Generals and prosecutors; and to support agency ethics programs through a variety of means, including through legal guidance, advice in individual cases, program audits, review of annual financial disclosure reports, and, to the extent that resources permit, the development of training and instructional products. In addition to these statutorily enumerated responsibilities, OGE engages with the senior leadership of agencies to ensure that they breathe life into the program by carrying out their responsibilities in ways that communicate to their employees the agency's seriousness of purpose in holding them accountable for the requirements of the federal ethics program.

20. OGE periodically reviews the effectiveness of agencies' ethics programs and seeks improvements. What is your opinion of OGE's record in conducting such periodic reviews, including the scope, thoroughness, frequency, effectiveness of these reviews? What, if any, improvements with respect to agency reviews are necessary?

My knowledge of OGE's program review function is somewhat limited, as I have not directly supervised that program. I would have to study the work of OGE's Program Review Division in detail before forming a firm opinion.

21. Based on your experience with, and observations of, the federal government's ethics program, are there aspects of that program that you believe are particularly problematic? For example, are there important requirements that are not being adequately enforced or complied with, or do current requirements leave significant loopholes that should be closed? Are there important requirements that are difficult or impossible to understand or

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00044 Fmt 6601 Sfmt 6601 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

76064.021

apply in practice, or that are unreasonable or unenforceable?

The existing federal ethics program is a strong measure against government officials acting in their personal interest rather than in the public's interest. As with any such program, there naturally are some areas where the requirements are burdensome or difficult to apply in practice. For example, the financial disclosure program collects extensive personal information that executive branch ethics officials do not need for their conflicts of interest analyses. As another example, 18 U.S.C. § 205 precludes a GS-12 staff attorney in the Federal Communications Commission (FCC) from volunteering in his or her free time to represent *pro bono* a homeless, disabled veteran in a Social Security Administration hearing, despite the fact that the FCC attorney's position will not influence the decision of the Social Security Administration.

Financial Disclosure

22. The Office of Government Ethics is tasked with reviewing financial disclosures filed by federal employees in the executive branch. In your view, are changes needed to financial disclosure forms? What are the advantages or disadvantages in modifying the financial disclosures requirements?

OGE has worked hard over the years to develop expertise in connection with financial disclosure in the executive branch, and we do a good job of translating complex requirements for a broad population of employees. At the same time, professional government ethics officials frequently observe that the existing financial disclosure system collects much information they do not need for their conflicts of interest analyses. The costs of collecting this additional financial information include: a drain on ethics program resources that would otherwise be focused on preventing conflicts of interest; the burden to filers; the loss of personal privacy of career officials; a loss of work time; the deterrent effect on recruitment of senior leaders; and financial costs to taxpayers who pay for the collection and review of this information.

23. Generally, what do you believe are the goals of financial disclosure under the Ethics in Government Act (EGA)? Do you believe there are any unintended adverse consequences of such financial disclosure? How well do you believe the EGA as currently implemented fulfills the goals without imposing undue adverse consequences? Do you have any suggestions for improvements in either the legislation or its implementation?

As described in response to Question 22, above, I think there is both a value in requiring financial disclosure and a cost to the level of disclosures currently required in the executive branch.

24. In cases in which an official has entered into a recusal agreement involving the official's former clients and current clients of the official's former business partners, there have

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00045 Fmt 6601 Sfmt 6601 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

76064.022

been instances where up-to-date information has not been available to the agency.

a. How important do you believe it is that the agency's ethics personnel have accurate and up-to-date information regarding those clients? Please explain.

With regard to all PAS appointees, since 2008, OGE has required agencies to use standardized language in ethics agreements that requires recusal from all clients, named and unnamed alike. This recusal commitment is an ongoing obligation to recuse, even beyond the clients listed in the appointee's financial disclosure report or ethics agreement. Appointees will then work with agency ethics personnel is to recuse when required from particular matters involving former clients and employers as parties.

b. If you agree it is important, how should this need for accurate up-to-date information be satisfied and what do you view as OGE's role in providing or reviewing this information?

The appointee's responsibility is to recuse when required from particular matters involving former clients and employers as parties. Agency ethics officials establish screening arrangements that they can update during the appointee's time in government service.

25. When OGE reviews the financial disclosures and draft ethics agreements of nominees, do you believe that OGE should satisfy itself that the information necessary to ensure the nominee's compliance with, and the policing of, the ethics agreements – including up-to-date information regarding the current clients of a former partner from whom the nominee would be recused – will be available? How would you as Director accomplish this? What is OGE's role in enforcing signed ethics agreements of nominees and other executive agency personnel?

Prior to confirmation, OGE works closely with agency ethics officials to ensure that the financial disclosure reports of nominees for PAS appointments comply with all applicable financial disclosure requirements. At that stage, OGE and agency ethics officials are careful to ensure that ethics agreements resolve potential conflicts of interest and state relevant commitments. For a PAS appointee who is a former partner of a firm that represents clients, ethics requirements typically include the obligation to recuse from certain particular matters involving specific parties in which the individual's former firm is a party or represents a party. Normally, there will be no doubt about a former firm's representation of a current client in such a matter because the firm will be participating in the matter as a representative. OGE tracks ethics agreements to confirm compliance.

26. Some believe that the Director of OGE must be insulated from political pressure, to ensure the Director is not forced to compromise on necessary action or encouraged to deviate from the normal application of ethical requirements with respect to a particular

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00046 Fmt 6601 Sfmt 6601 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

76064.023

individual. Do you agree that the Director of OGE must act independently and free from political pressure? If so, how would you, if confirmed, maintain this independence and freedom from pressure?

The Director's determinations should always be based on independent judgment and never on political pressure. I have developed a track record of impartial and independent judgment, and have worked well with both Democratic and Republican administrations. If confirmed as Director, I would continue to work to provide impartial and independent judgment.

Human Capital Management

27. Please describe your experience in building and maintaining a high-performing workforce needed to achieve desired results (getting the right employees for the job and providing the training, structure, incentives, and accountability to work effectively).

An example of this experience is my transformation of OGE's nominee Program. In the past, the review of PAS nominee reports and ethics agreements had been a series of collateral duty assignments, usually overseen by a single non-supervisory attorney, who would personally rework the submissions conducted by employees assigned to review reports. Employees assigned to the review of nominee packages worked in various divisions, which were not coordinating with one another.

When I interviewed for a position supervising this program, I asked for and received supervisory authority over all employees in the program. We established a "matrix" structure, under which staff members reported to different supervisors for different purposes, and I had authority for all or part of each employee's performance appraisal. The matrix structure necessitated more coordination between supervisors. This structure also enabled me to hold individual staff members accountable for the speed, accuracy and overall quality of their work.

Toward the goal of building an identifiable program, my next effort was to increase the level of support to the staff. I instituted regular meetings, which I kept highly substantive and used as a vehicle for providing training and creating standardized procedures. I also bolstered the basic knowledge of less experienced staff members by having senior staff members assist them with their reports. Initially, I met with every staff member individually to go over each report. I used these collegial one-on-one exchanges to provide training and, whenever possible, as opportunities to increase staff members' knowledge by guiding them to find answers themselves. I enlisted OGE's senior management in recognizing their work and highlighting accomplishments in meetings with their peers. In addition, I increasingly gave the staff greater ownership over this function by delegating to them increasing levels responsibility in connection with their reviews. Externally, I worked with the staff to present advanced training on

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00047 Fmt 6601 Sfmt 6601 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

76064.024

nominee financial disclosure issues to agency ethics officials throughout the executive branch. These training efforts noticeably increased the quality of ethics packages that we received from the agencies.

From these experiences what materialized was a recognition that the government's substantive conflicts analysis outweighed even the technical reporting aspects of the nominee financial disclosure process. Now that the staff had mastered the technical disclosure process, we shifted our primary focus to the substantive conflicts of interest analysis. This focus directed our resources to the aspect of our work that posed the greatest potential for negative outcomes to the government ethics process. I have worked with ethics officials throughout the executive branch to develop uniform model language for ethics agreements. These efforts produced a standardized ethics agreement guide containing 75 pages of model language and explanations that the entire executive branch would use in drafting all ethics agreements for nominees, subject to any needed individualized tailoring. The use of this standardized language has now reduced processing times and produced better outcomes in resolving potential conflicts of interest.

During the most recent Presidential transition when the volume of nominee work peaked at triple its volume during the previous year, OGE cleared more reports than in any comparable period of time by the August Senate recess. This accomplishment was all the more significant because OGE's reviews had become more comprehensive and exacting than at any time in the past. In my view, the nominee program is now OGE's flagship program.

28. What do you believe to be the major personnel management challenges facing OGE in the coming years, and what would be your plan, if confirmed as Director, to address those challenges?

The greatest personnel management challenge facing OGE in the near future is the impending loss of talent and knowledge through retirements. To begin preparing for this challenge, if confirmed, I would create opportunities for senior employees to share their knowledge with OGE's staff, assist in creating standardized procedures, and conduct internal training. Another personnel management challenge is the recruitment and retention challenge posed by competing for staff with other agencies, particularly financial agencies, that have special pay authorities. To meet this challenge I would promote career opportunity and quality of work life to draw new employees to OGE and to retain our current employees. Finally, internal training could equip OGE to handle turnover and ensure that employees who leave for other agencies take with them to those agencies increased knowledge and skills.

29. What are your views and experience with respect to fostering productive communication between management and employees to draw on the strengths of employees at all levels? What preliminary ideas do you have to promote such communication?

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00048 Fmt 6601 Sfmt 6601 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

76064.025

I value an open exchange between managers and employees. With regard to substantive decision-making, I have demonstrated my belief that many minds are better than one. OGE has a bright, dedicated staff that makes valuable contributions every day, and I believe that listening to employees is the best way to learn what they need in order to be productive. The first key to promoting communication with this staff is to maintain healthy working relationships where employees feel safe in sharing their ideas. I would hold managers accountable for fostering an environment in which employees feel free to share constructively.

30. Based on your experience, what have you found to be the best approach for motivating employees to achieve excellence? What would be your approach for creating and maintaining a high-performing organization at OGE?

My experience at OGE is that its employees want to contribute to the meaningful work of the agency. I can take no credit for the good quality of their character and their natural dedication to public service. We have worked well during periods of high volume largely because they believe in OGE's mission. I have sought to motivate this talented group by giving them the highest levels of responsibility I believed they could handle, often pushing them to reach new levels and providing them with the support they needed. I have observed that they perform best when they have some ownership in shaping and improving the agency's work products and services. In addition, I believe management's role is not merely to make demands but to support employees in their work, providing employees with training, tools, effective procedures, open lines of communication, resources, clear instructions, and timely decision-making.

Ethics Requirements

31. How would you, as Director, respond to congressional requests for access to documents and information regarding individual ethics cases or regarding OGE's advice, opinions, or conclusions about such cases? Under what kinds of circumstances, if any, might you accede to or refuse to accede to such requests?

I will respond fully and promptly to such Congressional requests as appropriate given the facts, circumstances and applicable legal standards.

32. Under section 102(a)(6)(B) of the Ethics in Government Act, a nominee does not have to disclose information on Form 278 about the source of compensation in excess of $5,000 if such information "is considered confidential as a result of a privileged relationship, established by law, between such individual and any person."

a. Under what kinds of circumstance do you believe an omission from disclosure under this provision should be acceptable? For example, when, if ever, should a lawyer be

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00049 Fmt 6601 Sfmt 6601 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

76064.026

allowed to omit disclosing information about a former client because the lawyer and client entered into a confidentiality agreement? How should OGE act to determine whether that standard has been correctly applied?

OGE published a legal advisory laying out the standard for claims of confidentiality, OGE No. DO-06-011 (2006). Under this standard, if a filer was involved directly in providing services to a client, then the filer must disclose the client's identity unless it is protected by a court order, is under seal, or is considered confidential because: (1) the client is the subject of a pending grand jury proceeding or other non-public investigation in which there are no public filings, statements, appearances, or reports that identify him or her; (2) disclosure is prohibited by a rule of professional conduct that can be enforced by a professional licensing body; or (3) a privileged relationship was established by a written confidentiality agreement, entered into at the time that the filer's services were retained, that expressly prohibits disclosure of the client's identity. In my own work, which has involved the financial disclosure reports of nominees for Presidential appointments requiring Senate confirmation (PAS appointments), I have consistently adhered to this standard. If confirmed as Director, I would continue to adhere to this standard.

b. If a filer uses this authority to omit information from disclosure, do you believe the filer should be required to state on the form that information is being omitted? Should the filer be required to inform OGE or the employing agency that information is being omitted? Do you believe that applicable laws or regulations should be changed to impose or clarify any such requirement?

OGE currently requires filers to state in Schedule D, Part II, not only that the names of confidential clients are being withheld but also the number of confidential clients' names that are being withheld. I do not believe the regulations need to be changed.

c. What would you do as Director to ensure that any omissions under this authority are proper?

In my experience, use of this exception is relatively uncommon, and I have followed the practice described above in response to Question 32a. If confirmed as Director, I would continue to follow this practice.

d. If confirmed, what would you do as Director to ensure that, when information is properly omitted, recusal agreements are entered into and subsequently policed to avoid conflicts of interest?

In situations where a claim of confidentiality has been made and substantiated, OGE currently uses standardized ethics agreement language that requires the PAS

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00050 Fmt 6601 Sfmt 6601 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

76064.027

appointee to recuse from all clients, named and unnamed alike. If confirmed as Director, I would continue to follow this practice.

33. In 1996, in response to a congressional letter requesting that OGE investigate allegations of a potential violation of ethics requirements, the then-Director expressed the opinion that:

> "[OGE] is not an investigatory agency. Rather it serves in an advisory and policymaking role for the executive branch. Investigations of possible misconduct by employees of the executive branch are carried out by the Inspector General of the agency which the employee serves and/or the Department of Justice." (OGE Advisory Opinion 96 x 19, October 18, 1996.)
> Please explain whether you agree with this statement and why.

I agree that this statement accurately describes OGE's role over its more than 30-year history. OGE has, nevertheless, been a highly effective part of the enforcement mechanism by working with Inspectors General, prosecutors, auditors, and agency human resources offices. OGE has referred matters to these offices for investigation, prosecution or administrative action. OGE also has provided valuable technical assistance and training to Inspectors General, and makes publically available many legal guidance documents and training tools. I believe that OGE's practice of leveraging existing investigative resources is an effective approach. If confirmed as Director, I would continue to follow this practice.

34. Section 402 of the Ethics in Government Act authorizes the Director of OGE to order corrective action on the part of agencies and employees that the Director deems necessary.

a. Please describe the circumstances under which, and the manner in which, you would exercise such authority, and the circumstances in which you would not exercise such authority.

I am not aware of an instance in OGE's 30-year history in which OGE has issued such an order or would have needed to issue such an order. With regard to addressing executive agencies, section 402 of the Ethics in Government Act authorizes OGE to propose recommended corrective action. However, OGE does not need to exercise this authority under section 402 in order to make recommendations. Moreover, with regard to addressing individual officials, section 402 similarly authorizes OGE to make recommendations about pursuing administrative action. However, agencies, unions and administrative adjudicatory bodies have jurisdiction over proceedings involving such disciplinary actions involving ethics violations.

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00051 Fmt 6601 Sfmt 6601 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

76064.028

b. What actions would you take when a violation of the ethics requirements occurs and the head of the agency involved fails to take disciplinary action? What actions do you believe OGE has the authority to take under such circumstances?

As a small agency of approximately 75 employees supporting the entire executive branch, OGE is rarely in a position to have factual knowledge of a violation that exceeds the factual knowledge of officials in agency ethics offices, General Counsel Offices, Inspector General Offices, Offices of Internal Affairs, Offices of Professional Responsibility, and Human Resources offices. If, despite these limitations, I believed OGE had sufficient factual knowledge to conclude that a violation had occurred and had not been appropriately addressed, my actions would depend on the facts and circumstances. I would consider contacting the agency's Designated Agency Ethics Official, the agency's Inspector General, the Office of Public Integrity, the local U.S. Attorney's office, the agency's General Counsel, the agency's Chief of Staff, and the head of the agency. OGE also has the ability to escalate a matter further to appropriate Administration officials.

c. What action would you take when OGE determines that a violation of the ethics requirements may have occurred, but the head of the agency involved fails to conduct the additional investigation that OGE believes is required? If the agency declines to take an action that OGE deems warranted, what steps would you then take as Director to ensure compliance?

I would take the steps described in my response to Question 34b, above.

35. Under 18 U.S.C. § 208(b)(1), a federal official who is negotiating for, or has an arrangement for, post-government employment may seek a waiver of conflict-of-interest requirements by showing that the conflict is not "so substantial" that it would "affect the integrity" of his or her work for the government.

a. When a Senate confirmed Presidential appointee seeks a waiver, what role, if any, do you believe the Office of the Counsel to the President or others in the White House should play in reaching a decision on whether such a waiver should be granted?

If a Senate-confirmed Presidential appointee (PAS appointee) seeks a waiver under 18 U.S.C. § 208, the waiver is considered by an official at the agency where the PAS appointee is employed, unless the PAS appointee is the head of the agency. If the PAS appointee is the head of the agency, recent administrations have designated the Counsel to the President as the official with authority to issue a waiver under 18 U.S.C. § 208(b)(1).

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00052 Fmt 6601 Sfmt 6601 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

76064.029

b. What role, if any, do you believe OGE should play in working with the agencies, and any others in the Administration, in meeting the requirements of 18 U.S.C. § 208(b)(1)?

In 1989, President Bush established in section 301(d) of Executive Order 12674 that agencies should consult with OGE regarding such waivers where practicable. OGE consults regularly with agencies on questions about the appropriateness of waivers under 18 U.S.C. § 208(b)(1) and has provided written guidance on 18 U.S.C. § 208(b) waivers. If confirmed as Director, I would continue to follow this practice.

c. What criteria do you believe should be applied in deciding whether to waive conflict-of-interest requirements to enable a federal officer or employee to negotiate for outside employment? What procedural safeguards and documentation should be required?

With regard to waivers under 18 U.S.C. § 208(b)(1) generally, I believe that the current standard and procedural safeguards are appropriate. The statute, at 18 U.S.C. § 208(b)(1), provides that the legal standard requires full disclosure by the employee and a written finding by the agency that the employee's financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee. Traditionally, future employment has been viewed as a significant financial interest in most cases, but these determinations depend on the individual facts and circumstances.

d. Under what circumstances, if any, do you believe that the granting of a waiver enabling an officer to negotiate for post-government employment should be made public?

Waivers under 18 U.S.C. § 208(b)(1) currently are available to the public.

36. On January 21, 2009, President Obama issued Executive Order 13490, entitled "Ethics Commitments by Executive Branch Personal" requiring full-time non-career appointees of executive agencies to sign a pledge committing the appointee to follow the ethical obligations contained in the Executive Order. Among other things, the Executive Order directs agencies to work in consultation with OGE to ensure compliance with certain requirements of the Executive Order. It also directs the OGE to work in consultation with the Attorney General and the Counsel to the President to adopt rules and procedures necessary to carry out certain of the responsibilities contained in the order, including to apply to executive branch employee the lobbyist gift-ban of the pledge contained in the Executive Order, and to "authorize limited exceptions to the lobbyist gift ban for circumstances that do not implicate the purposes of the ban.

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00053 Fmt 6601 Sfmt 6601 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

76064.030

a. What has been OGE's experience with respect to the implementation of Executive Order 13490?

Over the past three calendar years, OGE has prepared reports based on data from agencies regarding implementation of the Executive Order and has posted those reports on its website. OGE and other agencies have worked consistently to implement the Executive Order in the following ways: issuing guidance related to the Executive Order's requirements, preparing annual reports regarding the Ethics Pledge, interpreting the lobbyist gift ban, and directing the retention of signed pledges in appointees' Official Personnel Folders. To effectively implement Executive Order 13490, OGE provided extensive, interpretive guidance on the Ethics Pledge. In addition, OGE has provided oral advice and counseling to agency ethics officials on the Ethics Pledge. OGE also dedicated an entire track to Pledge-related issues at its nationwide training event on government ethics in 2010, which was attended by over 600 federal ethics officials and representatives from state, local, and foreign governments. OGE has issued a notice of proposed rulemaking under the Administrative Procedures Act that would extend the lobbyist gift ban to career civil service employees, and OGE received 220 timely comments. Finally, OGE has worked with the U.S. Office of Personnel Management to modify the Privacy Act issuance covering access to Official Personnel Folders.

b. In what ways do you believe this Executive Order significantly improved OGE's ability to raise ethical standards, compared to prior practice?

The Executive Order made the ethical standards for covered officials more stringent by requiring them to make a number of additional ethics commitments. I think a significant improvement of the Ethics Pledge is the revolving door provision that extends the recusal period from one year to two years for former employers and clients. The Ethics Pledge also imposes two significant new post-federal employment restrictions on appointees, one of which tracks the provisions of 18 U.S.C. § 207(c), and one of which limits lobbying contacts following termination of appointment.

c. In what ways do you believe this Executive Order can be improved?

I like the approach of addressing revolving door issues by extending the duration of the recusal period for interactions with former employers and former clients. As a practitioner, I have had the opportunity to observe the technical operation of these recusals as drafted. This two-year recusal eliminates a "reasonable person" standard that has existed in OGE's regulations as a safety valve for situations in which there is no conflict of interest and no reasonable concern about the potential for an appearance of a conflict of interest. In those circumstances, OGE's regulations would permit participation in certain matters involving former employers and former clients. With the benefit of hindsight, I would like to have a similar safety valve available under the Ethics Pledge when the government would benefit from the services of an official and there is

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00054 Fmt 6601 Sfmt 6601 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

76064.031

no concern about a conflict of interest or an appearance of a conflict of interest.

IV. Independence of OGE

37. Generally, with respect to which, if any, of OGE's functions and responsibilities do you believe OGE and its Director should strive to serve the programs and interests of the Administration?

I believe OGE should strive to serve the interests of the American people as a whole by carrying out its responsibilities under the Ethics in Government Act objectively. If confirmed as Director, I would continue to work towards this goal.

38. With respect to which, if any, of OGE's functions and responsibilities, and under what kinds of circumstances, do you believe it is desirable or appropriate for the Director of OGE to seek the guidance or approval of any officer or employee of the White House, the Executive Office of the President, or any other governmental agency? Please explain.

In carrying out its duties, I believe OGE at times needs to coordinate with executive branch agencies and various components of the Executive Office of the President, including the White House Office. I believe OGE benefits from the input and guidance of ethics officials in every one of these agencies and offices, though OGE does not need approval to interpret the ethics rules. As long as OGE retains its independence, I believe this collaborative process is appropriate.

39. Under what kinds of circumstances, if any, do you believe it is desirable or appropriate for OGE to consult with the White House as part of OGE's determination of whether a federal officer or employee has complied with his or her obligations or of what action OGE would take if it determines the officer or employee has not complied?

As discussed above in response to Question 34b, OGE does not make determinations regarding individual federal officers or employees. In fact, section 402(f)(5) of the Ethics in Government Act bars OGE from making any determination regarding a violation of criminal conflicts of interest laws. OGE is a legal and policy office that oversees the executive branch ethics program.

40. Under what kinds of circumstances, if any, do you believe it is desirable or appropriate for OGE to consult with the White House as part of its determination of what opinion or advice to give to an agency, officer, or employee with respect to interpreting ethics laws or other requirements? Please explain.

In carrying out its duties, I believe OGE needs at times to coordinate with executive branch agencies and various components of the Executive Office of the

VerDate Nov 24 2008 11:50 Nov 14, 2012 Jkt 076064 PO 00000 Frm 00055 Fmt 6601 Sfmt 6601 P:\DOCS\76064.TXT SAFFAIRS PsN: PAT

76064.032

President, including the White House Office. As long as OGE retains its independence, I believe this collaborative process is appropriate

V. Relations with Congress

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

Yes.

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

Yes.

VI. Assistance

43. Are these answers your own? Have you consulted with the Office of Government Ethics or any interested parties in drafting these answers in drafting these answers? If so, please indicate which entities.

These are my own answers. I have consulted with the U.S. Office of Government Ethics and the White House.

AFFIDAVIT

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

Subscribed and sworn before me this 17 day of July, 2012.

Notary Public

WELLS FARGO BANK, N.A.
13TH &I
1300 I ST NW STE 105W
WASHINGTON, DC 20005

My Commission Expires
July 31, 2016

PAUL JACOLBY FOWLER NOTARY PUBLIC Expiration Jul 31, 2016 DISTRICT OF COLUMBIA

Opening Statement of Judge Kimberley S. Knowles
Nominee to be an Associate Judge of the District of Columbia Superior Court
July 20, 2012

Mr. Chairman and members of the committee, I am grateful for and honored by the opportunity to appear before you today as a nominee to be an Associate Judge of the Superior Court of the District of Columbia. I would like to thank the District of Columbia Judicial Nomination Commission, chaired by the Honorable Emmet G. Sullivan, for recommending me to the White House and I am thankful to President Barack Obama for his nomination for this position. I would also like to thank Congresswoman Norton for taking the time to introduce me at this hearing today. I also am appreciative of this Committee considering my nomination so expeditiously.

Unfortunately, my family is unable to attend today's hearing, as they are on a vacation that I will rejoin right after this hearing. They are my greatest supporters, and I would like to acknowledge them: my son, Cameron Knowles; my brothers Alex and Nigel Knowles; my sister-in-law Arlene Knowles; and my nephews, Devin and Sean Knowles. I would also like to recognize my late parents, Philmore and Ita Knowles, whose hard work and many sacrifices put me in a position to be able to sit before you today. I also wish to acknowledge Chief Judge Eric T. Washington of the District of Columbia Court of Appeals and Chief Judge Lee F. Satterfield of the District of Columbia Superior Court for their leadership, guidance and support. Finally, I would like to thank my many friends and current and former colleagues, who have supported me over the years, some of whom are present today.

I was born and raised in Bronx New York. I moved to Washington D.C. to attend Howard University School of Law, and never left because I fell in love with the city and community. My entire legal career has been dedicated to serving the District of Columbia community—first as a judicial law clerk in D.C. Superior Court; then as a prosecutor in the United States Attorney's Office for the District of Columbia and now as a Magistrate Judge in D.C. Superior Court. I hope to continue my service to the District of Columbia as an Associate Judge of the D.C. Superior Court.

I am honored to be considered for this esteemed position, especially in the court where I have practiced my entire career. I thank you for your consideration of my nomination and I look forward to answering your questions.

76064.035

QUESTIONNAIRE FOR NOMINEES TO THE DISTRICT OF COLUMBIA COURTS COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS, UNITED STATES SENATE

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

1. **Full name (include any former names used).**

   Kimberley Sherri Knowles

2. **Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).**

   I am a citizen of the United States.

3. **Current office address and telephone number.**

   Superior Court of the District of Columbia
   500 Indiana Avenue, N.W.
   Suite 4450
   Washington, D.C. 20001
   (202) 879-4795

4. **Date and place of birth.**

   October 7, 1970; Bronx, New York.

5. **Marital status (if married, include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).**

   Single, never married.

6. **Names and ages of children. List occupation and employer's name if appropriate.**

   REDACTED

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

   Howard University School of Law (Washington, D.C.); Attended 1993 – 1996; Received Juris Doctor, 1996.

   Cornell University (Ithaca, New York); Attended 1988 – 1992; Received Bachelor of Arts, 1992.

76064.036

The Birch Wathen School (New York, New York); Attended 1982 – 1988; Received High School Diploma, 1988.

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

1995 – 1996
Howard University School of Law
Professor Gwendolyn Majette
2900 Van Ness Street, N.W.
Washington, D.C. 20008
Teaching Assistant – Legal Research, Reasoning & Writing

Summer 1995
Holland & Knight LLP
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20032
Summer Associate

1994
Law Office of Clarence Stanback
2014 Clarendon Boulevard
Arlington, Virginia 22201
Law Clerk

1994
Houston's Restaurant
7715 Woodmont Avenue
Bethesda, Maryland 20814
Hostess

1992 – 1993
Harlem Legal Services, Inc.
144 West 125th Street
New York, New York 10027
Legal Services Assistant

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

I received a merit scholarship at Howard University School of Law and a Committee on Special Educational Projects ("COSEP") Merit Scholarship at Cornell University.

I received numerous Special Achievement Awards during my tenure at the United States Attorney's Office. More specifically, I received two awards in 1999 for my work in both the Domestic Violence Section and the Felony Trial Section. Between 2002 and 2004, I received three Special Achievement Awards for my work in the Sex Offense / Domestic Violence Section. Between 2007 and 2009, I received three Special Achievement Awards for my work as a supervisor in the Sex Offense / Domestic Violence Section.

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

I am a one-third owner of Philita, LLC, a real-estate company created by me and my siblings. To date, Philita, LLC, has not conducted any business.

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

District of Columbia Bar
Judicial Committee, D.C. Superior Court
Maryland Bar

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

I am a member of the Delta Sigma Theta Sorority, which is for women only. It does not discriminate, and has not discriminated in the past, on the basis of race or religion.

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

State of Maryland, 1996
United States District Court for the District of Columbia, 2003
District of Columbia, 2008

After becoming a member of the bar in the District of Columbia, I applied to become an inactive member of the state of Maryland Bar. In 2010, I chose not to renew my membership in the United States District Court for the District of Columbia, as I had not practiced in that court for many years. There have been no other lapses in membership.

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

None.

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

None.

16. Legal career.

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

(1) Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;

I served as a law clerk to the Honorable Eric T. Washington in the Superior Court of the District of Columbia from September 1996 to August 1997.

(2) Whether you practiced alone, and if so, the addresses and dates;

I have not practiced law alone.

(3) The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.

1997
William ("Billy") R. Martin & Associates (now defunct)
1715 New Hampshire Avenue, N.W.
Washington, D.C. 20009
Associate

1997 – 2010
United States Attorney's Office for the District of Columbia
555 Fourth Street, N.W.
Washington, D.C. 20530
Assistant United States Attorney

76064.039

Fall 2000
University of the District of Columbia
4200 Connecticut Avenue, N.W.
Washington, D.C. 20008
Adjunct Professor

2010 – present
Superior Court of the District of Columbia
500 Indiana Avenue, N.W.
Washington, D.C. 20001
Magistrate Judge

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

For one year, I served as a judicial law clerk to the Honorable Eric T. Washington of the D.C. Superior Court. As a law clerk, I researched legal issues, drafted bench memoranda, and assisted in the management of the judge's daily and motions calendar.

For two months in 1997, I worked at the law office of William ("Billy") R. Martin & Associates while my application to the United States Attorney's Office was pending. As an associate, I researched legal issues and drafted bench memoranda.

From 1997 to 2010, I was an Assistant United States Attorney at the United States Attorney's Office in the District of Columbia. From 1997 to 2004, I rotated through several sections of the office and prosecuted misdemeanor and felony criminal cases in the District of Columbia Superior Court and the United States District Court for the District of Columbia, presented cases to Superior Court grand juries, and argued cases before the District of Columbia Court of Appeals and the United States Court of Appeals for the District of Columbia Circuit. From 2001 to 2003, I was assigned to the Sex Offense / Domestic Violence Section of the Office, where I investigated and prosecuted sexual offenses of both minors and adults. From 2003 to 2004, I investigated and handled white collar crimes and public corruption cases prosecuted in the United States District Court for the District of Columbia. In October 2004, I was appointed Deputy Chief of the Sex Offense / Domestic Violence Section. As Deputy Chief, I supervised junior attorneys as they handled domestic violence and sexual offenses of both adults and minors.

Since May 2010, I have been a Magistrate Judge in the Superior Court of the District of Columbia. From May 2010 through December 2011, I was assigned to the Criminal Division and presided over preliminary hearings. In January 2012, I was assigned to the Domestic Violence Branch where I handled a variety of civil and family matters, including *ex parte* requests for temporary protection orders, initial and financial review hearings to establish permanent child support orders,

76064.040

criminal arraignments, detention hearings, guilty plea colloquies pursuant to D.C. Super. Ct. Crim. R. 11, and sentencings pursuant to those guilty pleas. Since February 2012, I have been assigned to the Criminal Division and preside over misdemeanor traffic matters.

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

As an Assistant United States Attorney, I represented the United States in criminal matters before both the District of Columbia Superior Court and the United States District Court for the District of Columbia. From 2003 to 2004, I investigated and handled white collar crimes and public corruption cases. From 2004 through 2010, I specialized in the prosecution of domestic violence and sexual offenses.

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

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

In 1997, while working at the law offices of William ("Billy") R. Martin and Associates, I did not appear in court at all.

While working as an Assistant United States Attorney from 1997 to 2010, my appearances in court varied depending on my assignment within the office. From 1997 to 1998, I handled appellate matters and appeared on occasion before both the District of Columbia Court of Appeals and the United States Court of Appeals for the District of Columbia Circuit. From 1998 to 2003, I appeared before the District of Columbia Superior Court almost daily, representing the United States in misdemeanor and felony offenses. From 2003 to 2004, I investigated and handled white collar crimes and public corruption cases prosecuted in the United States District Court for the District of Columbia. As a supervisor from 2004 to 2010, I appeared in court occasionally, usually as an observer of the attorneys whom I supervised. Although I was not typically the courtroom advocate during that time period, I was familiar with every case that I supervised and had a pivotal role in planning trial strategy. While a supervisor, I investigated and tried two felony sexual abuse cases.

(2) What percentage of these appearances was in:

(a) Federal courts (including Federal courts in D.C.);
(b) State courts of record (excluding D.C. courts);
(c) D.C. courts (Superior Court and D.C. Court of Appeals only);

76064.041

(d) other courts and administrative bodies.

I estimate that approximately 95% of my court appearances have been in either the Superior Court of the District of Columbia or the District of Columbia Court of Appeals. The remainder of my court appearances has been in either the United States District Court for the District of Columbia or the United States Court of Appeals for the District of Columbia Circuit.

(3) What percentage of your litigation has been:

(a) civil;
(b) criminal.

My practice, prior to becoming a Magistrate Judge, was entirely criminal.

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

I have tried approximately thirty bench trials and twenty-three jury trials to verdict or judgment during my career. I was the sole prosecutor on all the cases that I prosecuted, with the exception of six cases in which I was co-counsel.

(5) What percentage of these trials was to

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

Approximately 40% of my trials were to a jury and 60% were to the court.

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

1. United States v. Jackson, 819 A.2d 963 (D.C. 2003) (before Judge Linda K. Davis).

This was a domestic violence case in which the defendant was charged with destruction of property for damaging the door of his estranged wife's home. At trial, the defendant claimed that he was a joint owner of the home and could not be found guilty of destruction of his own property under the applicable statute. This legal issue was one of first impression in the District of Columbia at the time. After a bench trial in December 1998, the Court required additional briefing on the issue, and I drafted the brief and argued the issue at a post-trial hearing. The Court ruled in the government's favor, and entered a guilty judgment against the defendant. The Court of Appeals subsequently affirmed the conviction.

Co-counsel
William Gould (former AUSA)
Holland and Knight
1600 Tysons Boulevard, Suite 700
McLean, Virginia 22102
(202) 419-2577

Defendant's Counsel
Lauckland Nicholas
7826 Eastern Avenue, N.W., Suite 410
Washington, D.C. 20012
(202) 723-1510

2. United States v. Harris, No. 2001 FEL 376 (D.C. Sup. Ct.) (before Judge Noël A. Kramer).

In this case, the defendant was charged with the armed robbery and stabbing of a Congressional intern. At trial, the victim testified that he arrived in Washington D.C. just a few days before the incident to begin an internship in the United States Senate. On January 18, 2001, the victim was struck by two men and knocked to the ground. As he lay on the ground, the two men stabbed him in the back and stole his money and coat. After the men left, the victim was able to get up and observed one of his attackers enter a nearby car. With the help of a nearby citizen who was walking his dogs, the victim was able to gain the assistance of the United States Capitol police, who stopped the car and found the defendant, a front seat passenger, the victim's coat, and a pocket knife. The victim suffered a collapsed lung.

This case was particularly challenging for several reasons. First, the victim could not make an identification of the defendant because his eyeglasses were knocked from his face at the beginning of the assault. Second, although the defendant and front seat passenger were both arrested and charged, the cases were severed because the defendant was appointed a new attorney on the first trial date. Third, at the co-defendant's trial, the co-defendant testified that there was a third person present, whom the police did not apprehend on the night of the offense. The jury seemingly credited that testimony and acquitted the co-defendant at trial. Despite these challenges, the defendant was found

76064.043

guilty at trial in July 2001 of armed robbery and aggravated assault while armed and was sentenced to a term of incarceration of fifteen years. The conviction was affirmed on appeal.

Defendant's Counsel
Cynthia Katkish
601 Pennsylvania Avenue, N.W.
Suite 900, South Building
Washington, D.C. 20004
(202) 639-8132

3. United States v. Jennings, No. 2000 FEL 4515 (D.C. Super. Ct.) (before Judge Frederick H. Weisberg).

The defendant in this case was charged with four counts of assault with intent to kill while armed with a knife, four counts of aggravated assault while armed, and other related charges, for stabbing his 37-year-old domestic partner and his partner's 67-year-old stepmother, 77-year-old father, and 97-year-old grandmother. At trial, the defendant presented an insanity defense, arguing that he was not criminally responsible for his behavior because the uremia from which he suffered due to his kidney failure, combined with his HIV-positive condition, caused him to become delusional and unable to conform his behavior to the law. The defendant waived his right to a jury trial and the case was tried before a judge.

After this case was indicted by another Assistant United States Attorney, the defendant filed a notice of intent to raise an insanity defense. We investigated the defendant's physical and mental health history, learned about the medical conditions of uremia and HIV and how those conditions could affect one's mental health, and researched the symptoms and signs of delusions. At trial in 2002, I was responsible for presenting the testimony of two of the victims, including the victim who was 100 years old at the time of trial. I also cross-examined several defense witnesses, including the lead defense psychiatrist. The defendant was found guilty of three counts of assault with intent to kill while armed, three counts of aggravated assault while armed, and other related offenses. In March 2007, the District of Columbia Court of Appeals affirmed the convictions.

Co-counsel
Gregory Marshall (former AUSA)
Bradley, Arant, Boult & Cummings, LLP
1615 L Street, N.W., Suite 1350
Washington, D.C. 20036
(202) 494-5483

Defendant's Counsel
Bernard Grimm
Cozen O'Connor
The Army and Navy Building

1627 Eye Street, N.W., Suite 1100
Washington, D.C. 20006
(202) 912-4835

4. United States v. Alston, No. 2001 FEL 121 (D.C. Super. Ct.) (before Judge Robert I. Richter).

In this case, the 19-year-old defendant was charged with two counts of first-degree child sexual abuse for having sex with his 11-year-old godsister while she was visiting his home and sodomizing his 5-year-old second cousin, R.C. Before the trial, the defense filed a motion to sever the two counts in the indictment. I drafted a comprehensive opposition to the motion, arguing the cases were mutually admissible and that the evidence at trial could be kept separate. After argument, the court denied the motion.

I faced many challenges in the preparation and trial of the case. For example, R.C.'s mother did not allow me to meet with R.C. to prepare for trial and a family member revealed to me that R.C.'s mother was dating the defendant. I therefore prepared for trial, not knowing what my 5-year-old victim would say or how she would react. At trial, when R.C. was called to the witness stand to testify, she began crying as soon as she entered the courtroom and refused to take the stand. Although I was eventually able to get her to take the witness stand, she was visibly shaking and refused to answer any questions about what the defendant did to her. Anticipating that I may have difficulty with R.C.'s testimony, I had drawings of children's bodies and allowed R.C. to answer my questions about what happened to her by circling different body parts on the drawings. Although not my preferable means of admitting the evidence, I was able to survive a motion for judgment of acquittal and the jury considered both charges in its deliberations. The jury acquitted the defendant of both counts.

Defendant's Counsel
Marlon Griffith (formerly of the D.C. Public Defender Service)
Griffith & Wheat, PLLC
1050 17th Street, N.W., Suite 600
Washington, D.C. 20036
(202) 496-4963

5. United States v. Cinclear, 933 A.2d 354 (D.C. 2007) (before Judge Geoffrey M. Alprin).

The defendant in this case was charged with first-degree child sexual abuse and enticing a minor for a sexual purpose in this "statutory rape" case. The victim was a 13-year-old girl who was befriended by the defendant, a 30-year-old man. The defendant talked to the victim over the course of several days and convinced her that he was interested in her romantically. He encouraged her to skip school to spend time with him at his apartment, where they had sexual intercourse on several occasions. After some time, the defendant stopped returning the victim's phone calls and the relationship was discovered by the victim's older brother, who reported it to the police.

76064.045

There were many challenges in the prosecution of this case. First, the victim did not want to participate in the prosecution of the case because she was embarrassed by her naiveté and did not want testify about her personal life and mistakes before a jury. Second, there was no physical or corroborating evidence in the case—the entire case rested on the credibility of the victim. Finally, the jury was informed of several acts committed by the victim after the termination of the relationship with the defendant which reflected poorly on the victim's character and truthfulness. The defendant was convicted of enticing a minor for a sexual purpose and was sentenced to six months of incarceration, followed by three years of probation and registration as a sexual offender.

Defendant's Counsel
Gladys Weatherspoon (formerly of the D.C. Public Defender Service)
7843 Belle Point Drive
Greenbelt, Maryland 20770
(301) 474-4422

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

United States v. Patterson, 2000 FEL1337
The victim in this case alleged that when she broke up with her boyfriend, he became enraged with her. The boyfriend left the victim's home and returned in a U-Haul truck with approximately six men. Some of the men produced firearms, chased the victim through the courtyard of her apartment complex and fired several shots at her. Although the victim did not know any of the men by name, she recognized one of the armed suspects as her boyfriend's cousin. According to the police, the boyfriend's cousin was a known member of a neighborhood gang. In March 2000, he was arrested and charged with assault with a dangerous weapon.

I was assigned to conduct the grand jury investigation and prosecution of this case. Not only did I seek to identify and preserve all evidence implicating the defendant, but I also sought to identify the other five men involved in the assault. I conducted extensive interviews with the victim, following up on every evidentiary lead and witness who may have had evidence of the incident. During the course of the investigation, I discovered that the victim's reports were contradicted by other evidence. Because of the inaccuracies in the victim's testimony, I was not confident in her identification of the defendant and dismissed the case against him. My thorough investigation of the case, and my willingness to impartially view the evidence, ensured that an innocent man was not falsely convicted.

United States v. Preston, 2003 FEL 3169
In this case, the victim, a 7-month-old child, was awakened by her sisters from a nap and

76064.046

discovered in the midst of a seizure. After being rushed to the hospital, the victim was found to have subdural hemorrhaging and swelling of the brain and eventually died from her injuries. An autopsy of the victim revealed that she died from blunt head trauma, similar to shaken baby syndrome. I was assigned the investigation and prosecution of the case. A key component of the investigation was developing a timeline of the last few hours of the victim's life and determining who had contact and access with her during that timeframe. I discovered that approximately five people had contact with the victim in the last few hours of her life— the victim's mother, father, adult sister and 10-year-old and 13-year-old sisters. The investigation was complicated by the contradictions in the timelines provided by the various witnesses. Although I believed that many of the witnesses were being truthful, the inconsistencies made it difficult to prove a circumstantial case. Based on my detailed interviews with each of the family members, and my assessment of their credibility, I believed that the victim's father was the likely suspect. I was later proven correct when the father confessed that he shook his child, out of frustration, when she would not stop crying. When she fell limp and stopped responding, the father placed her in the bed as if she was sleeping and left when the sisters arrived home. The father eventually pled guilty to voluntary manslaughter and was sentenced to 12 years of incarceration.

Cross-Examination Training

In January 2005, the Director of Training of the United States Attorney's Office informed me that the office was restructuring their Basic Training program for newly hired prosecutors. Because of my skill as a trial advocate, the director requested that I team with two senior AUSAs in the office and conduct a practical training on the conduct of an effective cross-examination. I did so and received excellent feedback from the class on our presentation. I continued to teach that class four to five times a year between January 2005 and my departure from the Office in May 2010. The presentation evolved over the years but always included relevant and updated caselaw combined with practical exercises. I was told that the presentation consistently received stellar ratings from the participants and I was advised by many AUSAs that my lecture helped them develop their cross-examination skills as trial lawyers. I estimate that I have trained well over 300 attorneys on effective cross-examination skills.

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

In May 2010, I was appointed to be a Magistrate Judge on the Superior Court of the District of Columbia by Chief Judge Lee F. Satterfield. The jurisdiction of magistrate judges in Superior Court is set forth in D.C. Code Section 11-1732 and 11-1732A. During my tenure, I have been assigned to the Criminal Division and the Domestic Violence Branch and have not been called on to draft any opinions.

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

None.

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

I successfully applied for a position as a Magistrate Judge in the Superior Court of the District of Columbia in May 2009 and began work in that capacity in May 2010.

I have otherwise never been a candidate for elective, judicial, or other public office.

21. Political activities and affiliations.

- **List all public offices, either elected or appointed, which you have held or sought as a candidate or applicant.**

  None.

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

  None.

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

  None.

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

No.

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

No.

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

No.

II. POTENTIAL CONFLICTS OF INTEREST

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

   Not applicable, as I am currently employed by the D.C. Superior Court.

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

   None.

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

   None.

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

   None.

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

   None.

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

   None.

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

   If any conflict of interest arises, I will resolve it pursuant to the District of Columbia Code of Judicial Conduct.

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

   Yes.

III. FINANCIAL DATA – REDACTED

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

76064.049

IV. DISTRICT OF COLUMBIA REQUIREMENTS

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

1. **Are you a citizen of the United States?**

   Yes.

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

   Yes.

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

   No. I was admitted to the bar of the District of Columbia in July 2008.

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

   A. **Are you a professor of law in a law school in the District of Columbia?**

      No.

   B. **Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?**

      I was an Assistant United States Attorney working exclusively in the District of Columbia from December 1997 through May 2010.

   C. **Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?**

      Yes.

   D. **Upon what grounds is that eligibility based?**

      I took the Maryland Bar in July 1996 and my Multistate Bar Exam score qualified me to waive into the District of Columbia bar.

5. **Are you a bona fide resident of the District of Columbia?**

   Yes.

76064.050

6. **Have you maintained an actual place of abode in the greater Washington, D.C. area for at least five (5) years? Please list the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five (5) years.**

   Yes. Since August 2011, I have resided at REDACTED
   From June 2001 through July 2011, I resided at REDACTED

7. **Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?**

   No.

8. **Have you been a member of either of these Commissions within the last 12 months?**

   No.

9. **Please provide the committee with four (4) copies of your District of Columbia Judicial Nomination commission questionnaire.**

   Four copies are attached.

AFFIDAVIT

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

Kimberley S Knowles

SUBSCRIBED and SWORN TO before me this 15 day of June 2012.

Linda Y. Gray
Notary Public

Linda Y. Gray
District of Columbia, Notary Public
My Commission Expires
January 31, 2015

Opening Statement of Rainey Ransom Brandt
Nominee to be an Associate Judge of the District of Columbia Superior Court
July 20, 2012

Mr. Chairman and Members of the committee: Thank you for the opportunity to appear today at this confirmation hearing for my nomination to be an Associate Judge of the Superior Court of the District of Columbia. It is indeed an honor and a privilege. I would like to thank the Judicial Nomination Commission – particularly its chair, Judge Emmet Sullivan – for recommending me to the White House, and President Barack Obama for nominating me. I also wish to express my appreciation to the committee members and staff who have been most courteous and professional throughout this process. Finally, special thanks to Congresswoman Eleanor Holmes Norton for taking the time out of her busy schedule to introduce me.

I would like to begin by introducing my family: my Mom, Eloise Ransom; my husband, Deputy Chief U.S. Marshal Robert Brandt; and my sister, Nona Ann (Cricket) Ransom. There are a number of Superior Court Judges here in support of my nomination, too many to name, but I would like to acknowledge Chief Judge Lee Satterfield, former Chief Judge Rufus King, Judge Russell Canan, Presiding Judge of the Criminal Division, and Judge Stephanie Duncan-Peters, former Presiding Judge of the Civil Division. Also here are a number of friends, former students, and colleagues from the Department of Justice and American University, among them the U.S. Marshal for the D.C. Superior Court, Michael Hughes, and the Assistant D.C. Chief of Police Michael Anzallo. I am grateful for all the support, guidance and love they have given me.

My entire career has been devoted to public service, the law, and improving the administration of justice. It began 21 years ago as a professor teaching justice and law to the students of American University – where I have taught ever since. It is one of my great satisfactions in life that my students still reach out to let me know how my classes inspired them to enter public service and make a difference. As a judge, I hope to continue to be a role model for others while ensuring that the rights of all who come before me are respected and protected.

For 14 years at the D.C. Superior Court as Special Counsel to the Chief Judge, I have provided counsel, advice and training to nearly all of our judges and countless attorneys on a broad range of legal issues from bond reviews to trial logistics to sentencing options. My job puts me in day-to-day contact with judges seeking my guidance on how to work through the practical realities facing them in the courtroom – from issues of substantive law, to procedural issues, to managing challenging and unexpected courtroom situations. I also have worked diligently within the Court to make sure that its processes and rules are fair and understandable for those persons who appear before the court: lawyers and parties, self-represented persons, the accused, victims and their families. I believe that my hard work, creativity, and commitment to the Court, along with that of so many of my dedicated colleagues, have helped improve access to justice for all who come to the Court daily seeking to be heard and to solve the difficulties that brought them to us. I have been fortunate to experience the justice system from a variety of perspectives, and, if confirmed, I would bring those skills and experience to the bench, in order to continue furthering the court's mission of being open to all, and trusted by all, while providing justice for all. Thank you. I will be pleased to respond to any questions you or other Members of the Committee might have.

QUESTIONNAIRE FOR NOMINEES TO THE DISTRICT OF COLUMBIA COURTS COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS, UNITED STATES SENATE

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

1. **Full name (include any former names used).**

   Rainey Ransom Brandt (formerly Rainey Eloise Ransom)

2. **Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).**

   I am a citizen of the United States.

3. **Current office address and telephone number.**

   Superior Court of the District of Columbia
   Chambers of the Chief Judge
   500 Indiana Avenue, NW
   Washington, DC 20001
   (202) 879-1609

4. **Date and place of birth.**

   March 12, 1966; LaGrange, Georgia

5. **Marital status (if married, include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).**

   I am married to Robert W. Brandt. He is Deputy Chief of the Office of Protective Intelligence with the United States Marshals Service, USMS Headquarters, 2604 Jefferson Davis Highway, Alexandria, VA 22301.

6. **Names and ages of children. List occupation and employer's name if appropriate.**

   I have no children.

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

   1992 – 1995, The Catholic University of America Columbus School of Law; J.D., 1995
   1990 – 1993, American University; Ph.D., 1993

76064.053

1989 – 1990, American University; M.S., 1990
1987 – 1989, American University; B.G.S., 1989
1984 – 1987, Brown University; no degree received
1980 – 1984, LaGrange High School; high school diploma, 1984

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

1993 – Present
American University
School of Public Affairs
Department of Justice, Law and Society
4400 Massachusetts Avenue, NW
Washington, DC 20016
Adjunct Professor

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

Council for Court Excellence Justice Potter Stewart Award (2010)
American University Faculty Award for Outstanding Teaching in an Adjunct Appointment (2009)
District of Columbia Courts Service Pin (2007)
American University's Washington Semester Program Teaching Recognition (2007)
American University Faculty Award for Outstanding Teaching in an Adjunct Appointment (2006)
DC Law Students in Court Board Pillar Award (2004)
Superior Court of the District of Columbia Medal of Excellence (2000)

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

2006 – Present
Visitors' Services Center
1422 Massachusetts Avenue, SE
Washington, DC 20003
Board of Directors (2006 – Present)
President (2009 – Present)

76064.054

2000 – Present
DC Law Students in Court
616 H Street, NW, Suite 500
Washington, DC 20001
Board of Directors (2000 – Present)
Secretary (2008 – 2010)
Vice President (2006 – 2008)
President (2002 – 2006)

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

American Bar Association
American Correctional Association
American Society of Criminology
Bar Association of the District of Columbia Foundation
Board of Trustees, Vice President (Grantmaking) (2007 – Present)
District of Columbia Bar
Member, Courts, Lawyers and the Administration of Justice Section Steering Committee (2011 – Present)
Maryland State Bar Association
Thurgood Marshall American Inn of Court
Women's Bar Association of the District of Columbia

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

I was a member of Kappa Alpha Theta Sorority, an all female fraternity, while in college. I have not been a member of any other organization that formerly or currently discriminates on the basis of race, sex, or religion

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

District of Columbia, 2008
United States Supreme Court, 2001
State of Maryland, 1996

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

Jurors in Capital Cases: What Can One Maryland Jury Teach Us? (with Beatrix Siman Zakhari), 14 CRIM. JUST. 18 (1999).

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

May 12, 2010: Acceptance Remarks for the Justice Potter Stewart Award, Council for Court Excellence Annual Awards Dinner, U.S. Chamber of Commerce, 1615 H Street, NW, Washington, DC 20062. A copy of my remarks is supplied

16. Legal career.

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

(1) Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;

From 1996 to 1997, I served as a law clerk to the Honorable Michael L. Rankin, Associate Judge of the Superior Court of the District of Columbia.

During the summer of 1998, I served as a law clerk to the Honorable Stephanie Duncan-Peters, Associate Judge of the Superior Court of the District of Columbia.

(2) Whether you practiced alone, and if so, the addresses and dates;

I have never practiced law alone.

(3) The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.

1998 – Present
Superior Court of the District of Columbia
500 Indiana Avenue, NW
Washington, DC 20001
Special Counsel to the Chief Judge

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

76064.056

From 1996 to 1997, I served as a judicial law clerk for the Honorable Michael L. Rankin, Associate Judge of the Superior Court for the District of Columbia. The majority of my clerkship involved researching, analyzing, and preparing orders for civil cases. In January 1997, the calendar assignment changed to an AFTC (Accelerated Felony Trial Calendar), and the remainder of my clerkship involved criminal law research and the preparation of orders.

In 1998, I briefly served as a judicial law clerk for the Honorable Stephanie Duncan-Peters, then-Associate Judge of the Superior Court for the District of Columbia. During that time, the focus of my work involved criminal case research and the preparation of orders.

In 1998, then-Chief Judge Eugene Hamilton hired me to be his legal advisor and designated the position Special Counsel to the Chief Judge. Initially, my primary duties were to provide legal support to the judge on sentencing and other issues related to corrections and parole. Examples of those duties included providing expertise to judges to ensure that sentences were legal, troubleshooting prisoner issues, and providing education on changes in the law.

Over the succeeding years, my role as Special Counsel has expanded to include duties of a Chief of Staff, senior court manager, and court ombudsman to other agencies, such as the Criminal Justice Coordinating Council, D.C. Department of Corrections, U.S. Attorney's Office, and D.C. Public Defender Service. Among the duties performed daily are briefing the Chief Judge on various matters, dealing with court operations issues, conducting meetings, making presentations, and a host of other responsibilities. During this time, I have written numerous administrative orders and memoranda of understanding where the court was a party, developed forms and protocols for court functions related to criminal practice, and prepared reports for the Chief Judge and the presiding judges of the divisions.

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

As Special Counsel to the Chief Judge, my chief client has been the D.C. Superior Court. I have served the Court by providing guidance to judges, attorneys, staff, and the public in response to questions about sentencing, court procedures, inmate issues, and a variety of other topics.

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

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

76064.057

While my current position does not allow me to litigate matters, I did represent clients in the DC Law Students in Court Program, a non-profit legal clinic that allows third year law students to take cases under the supervision of staff attorneys. As part of this program and with the supervision of practicing attorneys, I represented adults charged with misdemeanor offenses. My duties included interviewing witnesses, writing discovery and pre-trial motions, preparing witnesses for testimony, and drafting questions for direct and cross examination. My clients were charged with an array of crimes such as theft, simple assault, shoplifting, drug possession, and sexual solicitation. I appeared in court approximately twice a month while a participant in the DC Law Students in Court Program.

In my present position, I have occasionally appeared in court as a court official.

(2) What percentage of these appearances was in:

(a) Federal courts (including Federal courts in D.C.);
(b) State courts of record (excluding D.C. courts);
(c) D.C. courts (Superior Court and D.C. Court of Appeals only);
(d) other courts and administrative bodies.

All appearances have been in the D.C. Superior Court.

(3) What percentage of your litigation has been:

(a) civil;
(b) criminal.

100% of the cases I handled while a student participant in the DC Law Students in Court Program were criminal.

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

My position with the D.C. Superior Court has not involved litigation. However, while I was a student participant in the DC Law Students in Court Program, I achieved an acquittal in one case and successfully won a motion for a civil protection order in another. In both matters, I was acting under the direct supervision of a practicing attorney.

76064.058

(5) What percentage of these trials was to

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

100% of the cases were decided by the court.

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

As a third year law student, I participated in the DC Law Students in Court Program, a non-profit legal clinic that allows third year law students to take cases under the supervision of staff attorneys. Given that my participation was 18 years ago, I do not recall the names and other specific facts about the clients, judges, or opposing counsel, nor do I still have any records. I contacted the DC Law Students in Court Program and learned that they purged all records that predate five years ago. A case search of the DC Courts database could not be conducted without the names of the clients. I do, however, recall the basic facts of three significant matters I handled while a participant in this program.

Case 1 involved a client charged with simple assault. The alleged incident happened outside the Bureau of Engraving and Printing at night. My client had no criminal history and denied involvement in the alleged incident. After some night-time investigations of the crime scene and of witnesses who knew the complainant, I was able to construct a credible defense for my client. During the bench trial, the judge credited the testimony of my client along with other proffered evidence, and rendered an acquittal for my client. The supervising attorney on this case was Lois Coon. She no longer works at the DC Law Students in Court Program, and I have been unable to locate her contact information.

Case 2 involved a client accused of shoplifting eight cans of tuna from a local Safeway in southwest DC. The facts of this case were indisputable because the cans of tuna fell out of the defendant's pants when he was arrested. The prosecutor did not make a plea offer because all of the evidence was in the government's favor. During pretrial negotiations, I informed the prosecution of the defendant's terminal medical diagnosis, which led to the government filing a dismissal. Edward Shacklee was the supervising attorney on that case and he now works for the DC Public Defender Service, 633 Indiana Avenue, NW,

76064.059

Washington, DC 20001, (202) 628-1200.

Case 3 involved a motions hearing seeking a civil protection order. My client's ex-husband was harassing her with unwanted phone calls and visits to her house. At that time, there were no antistalking laws in Washington, DC, so obtaining a civil protection order was the best available option. The grounds for the civil protection order were straightforward and well-established, but the challenge lay in engaging with my client, who was fearful of others. I was able to develop a relationship with my client and prepare her for testimony. The hearing was emotionally charged, but in the end, the court granted the protection order. The supervising attorney on this case was Nancy Allen, who is currently an attorney in Washington, DC, 717 5th Street, NW, Washington, DC 20001, (434) 444-5395.

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

Due to my role at the D.C. Superior Court, I am not permitted to litigate cases. However, I have contributed to the legal profession in other significant ways.

Administrative Rulemaking (Courthouse Releases): Administrative orders are an important part of court operations. These orders, issued by the Chief Judge, give guidance and direction covering a wide variety of issues, such as how the court will function during emergencies, the process for appointing counsel to cases, and setting up protocol for the implementation of new laws passed by the D.C. Council that impact the court. As Special Counsel, I have had the opportunity to write several administrative orders for Chief Judges Hamilton, King, and Satterfield. An example of one such order established and defined the parameters for courthouse release of prisoners.

In 2007, Chief Judge King created a task force to investigate over-detentions and erroneous releases at the jail. I chaired that task force, which included the Director of the D.C. Department of Corrections, the U.S. Marshal for Superior Court, and the Director of the D.C. Superior Court's Criminal Division. We determined that releasing low-level offenders from the courthouse instead of the jail would decrease over-detentions and erroneous releases. We devised a process through which defendants could be released after a series of records checks and completed paperwork confirmations. To improve efficiency and prevent erroneous releases, DOC Legal Instrument Examiners were assigned to the courthouse cellblock. As part of this process, suitable clothing, Metro tokens, identification cards, as well as medical and community wraparound services information are provided for the defendants. Since 2008, the courthouse release program has resulted in reduced bureaucracy and over 2,500 low-level D.C. defendants being released to their families at an earlier time.

76064.080

Administrative Rulemaking (Arraignments): From January 2010 to March 2011, I wrote and helped implement an order that streamlined the Superior Court's initial presentment (arraignment) process, which is held in courtroom C-10. For many years, the initial presentment process had consistently drawn criticism because of its inefficiency and untimeliness despite many piecemeal attempts to improve the process. Courtroom C-10 is no longer a place where attorneys and family members must devote many unproductive hours waiting without any idea when their cases might be called. Now information is readily available to attorneys and the public about the order and status of cases. This eliminated a tremendous amount of frustration, and of wasted time and money, and it resulted in eighty percent of all papering activity being completed before the courtroom opens. The practical changes span the gamut from restructuring the flow of paperwork to adding computer access for the attorneys. Most of the process is electronic now with connectivity for all agency partners to view the cases. More attention is paid to the processing of cases where the arrestee is hospitalized, and where the arrestee may be on the verge of being detained beyond 48 hours, which would be in violation of *Riverside v. McLaughlin*, 500 U.S. 44, 56 (1991).

Administration of Courts (Prisoner Designation): In 1997, I was appointed by Chief Judge Hamilton to represent the Court on an interagency working group geared towards resolving problems with the closure of Lorton Correctional Complex and the federal designation process. As the chair of the D.C. Superior Court Prisoner Designation Subcommittee, I oversaw the creation of a new business process through which DC sentenced felons would be transferred to the federal Bureau of Prisons (BOP). One of the challenges of this process was to integrate input from the court, Court Services and Offender Supervision Agency, the D.C. Department of Corrections, and the United States Marshals Service, each of which possessed pieces of the puzzle necessary for the BOP to arrive at a designation decision. We created an efficient workflow that allowed each agency time to compile its share of the paperwork without resulting in delay that would impact the jail population cap. Over the years I have continued to work to update and upgrade our business process, by, for example, helping adapt our process to the electronic processing system used nationwide by the BOP.

Teaching: As a lawyer-professor in American University's Department of Justice, Law and Society, I have provided foundational legal instruction to undergraduate and graduate students for the past 20 years, through teaching courses like *Justice, Law and the Constitution*; *Critical Issues in Justice*; *Criminal Procedure*; and *Concepts of Punishment*.

Judicial Education and Continuing Legal Education for Attorneys: For the past 11 years, I have served as the subject matter expert providing instruction to newly-appointed judges on sentencing, pretrial custody options and limitations, recent developments in the criminal code, and general issues concerning the D.C. jail. I have provided training to 36 of the 61 associate judges currently on the D.C. Superior Court bench. I have also provided training to 21 of the 24 active magistrate judges. On a daily basis, I provide ongoing advice and guidance about these issues to judges of the D.C. Superior Court.

76064.061

I also routinely conduct continuing legal education (CLE) classes for the criminal defense bar, and I provide training sessions on specific subjects as requested by the United States Attorney's Office, Department of Corrections, United States Marshals Service, and the Pretrial Services Agency.

Parole for Sentenced Misdemeanants: On August 5, 2000, parole for sentenced misdemeanants was abolished. The D.C. Superior Court became the paroling authority for misdemeanants serving sentences that predated the law change. The Presiding Judge of the Criminal Division became the granting official for this administrative process. As Special Counsel, I served as the recommending official for all misdemeanor parole packages submitted by the D.C. Department of Corrections. In order to arrive at a recommendation, I reviewed parole requests, which consisted of the offenders' case files, letters requesting parole consideration, and any additional reports or commendations. Since parole is discretionary, I developed a checklist of items to consider in order to ensure consistency in the process. That checklist included a synopsis of the crime committed, institutional adjustment documentation, reports of disciplinary infractions, and how much of the sentence imposed had been served thus far. I submitted written recommendations to the Presiding Judge of the Criminal Division.

Role of Court Ombudsman to Criminal Justice Partners: As Special Counsel, I have regularly worked with other criminal justice agencies that interface with the Chief Judge and the Court, including the Public Defender Service, D.C. Department of Corrections, United States Attorney's Office, and the Criminal Justice Coordinating Council. For example, since 2007, I have worked with these agencies in designing and coordinating the Fugitive Safe Surrender Program, in which fugitives can safely turn themselves into a location outside the courthouse. This initiative has led to the resolution of more than 1,200 outstanding warrants.

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

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

I have never held judicial office.

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

I have never been a candidate for elective, judicial, or other public office.

21. Political activities and affiliations.

- **List all public offices, either elected or appointed, which you have held or sought as a candidate or applicant.**

  None.

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

  None.

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

  None.

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

No.

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

No.

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

No.

76064.083

II. POTENTIAL CONFLICTS OF INTEREST

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

   Yes, I will resign from the boards on which I currently sit. My employer, the D.C. Superior Court, would remain the same. I would continue to teach as an adjunct faculty member at American University.

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

   None.

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

   None.

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

   None.

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

   None.

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

   I intend to continue teaching as an adjunct faculty member at American University. I teach one class per semester at night, once a week.

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

   I would resolve any potential conflicts of interest pursuant to the District of Columbia Code of Judicial Conduct. For example, I plan on resigning my board membership from the non-profits I am associated with, and recuse myself from any case in which those non-profits are a party before me.

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

   Yes.

III. FINANCIAL DATA – REDACTED

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

IV. DISTRICT OF COLUMBIA REQUIREMENTS

Supplemental questions concerning specific statutory qualifications for service as a judge in the courts of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, D.C. Code Section 11-1501(b), as amended.

1. **Are you a citizen of the United States?**

   Yes.

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

   Yes.

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

   No, I was admitted to the District of Columbia bar on November 7, 2008.

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

   A. **Are you a professor of law in a law school in the District of Columbia?**

      No.

   B. **Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?**

      Yes.

   C. **Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?**

      Yes.

   D. **Upon what grounds is that eligibility based?**

      I have been a member in good standing of the Maryland State Bar since 1996.

5. **Are you a bona fide resident of the District of Columbia?**

   Yes.

6. **Have you maintained an actual place of abode in the greater Washington, D.C. area**

76064.085

for at least five (5) years? Please list the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five (5) years.

Yes, I have resided at the following addresses:

2010 – Present
REDACTED

2009 – 2010
REDACTED

2007 – 2009
REDACTED

7. **Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?**

No.

8. **Have you been a member of either of these Commissions within the last 12 months?**

No.

9. **Please provide the committee with four (4) copies of your District of Columbia Judicial Nomination commission questionnaire.**

Copies are supplied.

AFFIDAVIT

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

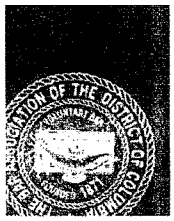
Rainey Brandt

SUBSCRIBED and SWORN TO before me this 28th day of March 2012.

Herbert C Robinson
Notary Public

Herbert Robinson
Notary Public, District of Columbia
My Commission Expires 11/30/2014

PRESIDENTS COUNCIL: Jacob A. Stein, Dean; Lawrence E. Carr, Jr., David N. Webster, John P. Arness, John Jude O'Donnell, Hon. Thomas Penfield Jackson, James B. Lynn, James F. Jordan, Thomas P. Brown, III, Allen Jones, Jr., David F. Grimaldi, Steven A. Winkelman, Suzanne V. Richards, Herbert N. Harmon, Timothy J. May, Joel P. Bennett, Mark B. Bierbower, Robert L. Weinberg, Donald T. Bucklin, Dwight D. Murray, Constance L. Belfiore, Christopher G. Hoge, Jack H. Olender, James F. McKeown, J. Gordon Forester, Jr., William E. Lawler, III, Nicholas S. McConnell, William E. Davis, William P. Atkins, Keith W. Watters, Paulette E. Chapman, Ralph P. Albrecht, James G. Flood



THE BAR ASSOCIATION *of the* District of Columbia

October 27, 2010

Ms. Kim M. Whatley
Executive Director
District of Columbia Judicial Nominations Commission
515 - 5th Street, NW, Suite 235
Washington, DC 20001

Re: Candidate for Nomination for Appointment to the Superior Court of the District of Columbia: **Rainey Ransom Brandt**

Dear Ms. Whatley:

The Bar Association of the District of Columbia ("BADC") endorses the candidacy of Rainey Ransom Brandt for appointment to the Superior Court of the District of Columbia.

In response to Ms. Brandt's request for an endorsement of her candidacy for nomination for appointment to the Superior Court of the District of Columbia, the Judicial and Public Appointments Committee of the BADC ("Committee") interviewed her and reviewed information regarding Ms. Brandt. As a result of that investigation, the Committee recommended Ms. Brandt as well qualified to serve on the bench.

Acting upon the findings and recommendation of its Judicial and Public Appointments Committee, the Board of Directors of the Bar Association of the District of Columbia endorses Ms. Brandt as ***well qualified*** for appointment as Associate Judge of the Superior Court of the District of Columbia.

Sincerely yours,

Annamaria Steward
President

cc: BADC Judicial and Public Appointments Committee
BADC Board of Directors

President
ANNAMARIA STEWARD
UDC David A. Clarke School of Law

President-Elect
GREGORY S. SMITH
Attorney At Law

Treasurer
SUSAN M. DADIO
Buchanan Ingersoll & Rooney PC

Treasurer-Elect
DAVID E. HAWKINS
Vinson & Elkins LLP

Secretary
CHRISTOPHER A. ZAMPOGNA
Zampogna PC

Immediate Past President
JAMES G. FLOOD
Brownstein Hyatt Farber & Schreck LLP

Past President
RALPH P. ALBRECHT
Albrecht Tousi & Farnum PLLC

At Large Directors
RAWLE ANDREWS, Jr.
AARP Maryland
ROBERT C. BERTIN
Bingham McCutchen LLP
ANDREW L. HURST
Reed Smith LLP
ELLEN M. JAKOVIC
Kirkland & Ellis LLP
MARK KAPPELHOFF
Attorney and Counsellor
DAVID W. LONG
Howrey LLP
DARRELL G. MOTTLEY
Banner Witcoff Ltd
PAMELA B. STUART
Attorney & Counsellor at Law
DOMINIC G. VORV
The Vorv Firm PLLC
Hon. SUSAN R. WINFIELD
Superior Court of DC

Young Lawyers Section
AMY Y. YEUNG, Chair
ZeniMax Media Inc
JO LINDA JOHNSON
US EEOC
YOUSRI H. OMAR
Vinson & Elkins LLP

Patent, Trademark & Copyright Section
VANDANA KOELSCH, Chair
ERIN M. DUNSTON
Buchanan, Ingersoll & Rooney, PC
STEVEN J. SCHWARZ
Venable LLP

Executive Vice-President
MARYEVA CANDON, Esq.
mec@badc.org

The BAR ASSOCIATION
of the District of Columbia
1016 - 16th St NW Suite 101
Washington, DC 20036
202.223.6600 .293.3388 fax
www.badc.org

District of Columbia Court of Appeals
Washington, D.C. 20001

Chambers of
Judge Anna Blackburne-Rigsby

202-879-2730

December 8, 2010

Robert Bauer, Esquire
White House Counsel
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear Mr. Bauer:

I write in support of Dr. Rainey R. Brandt's application for one of the current vacancies on the Superior Court of the District of Columbia. Rainey possesses the temperament, keen intellect and intimate knowledge of the administration of justice in the District of Columbia to be an excellent addition to the Superior Court bench.

I first met Rainey 1994 when she interned at the Office of the Corporation Counsel (now the D.C. Attorney General's Office). At that time I was the Deputy in charge of one of the divisions in the office. She distinguished herself as a law student intern who did thorough and thoughtful research with a keen attention to detail. I worked with Rainey more closely during my tenure at Superior Court where I served both as a Magistrate Judge and a Superior Court Judge from 1995 through 2006.

As a former trial judge, I believe strongly, that Rainey possesses a unique skill set that would be a benefit to the Superior Court Bench. She first and foremost has the legal intellect and acumen necessary to be an excellent judge. She has taught various Criminal Law and Criminal Procedure classes to law students and practicing attorneys through the D.C. Bar for over ten years. Second, Rainey has the temperament to manage a courtroom in a fair, firm and balanced manner, which will instill confidence to those litigants who would appear before her. As Special Counsel to three chief judges, I witnessed first-hand Rainey's ability to make important legal and judgment calls, while trouble shooting on an issue involving a problematic sentencing or prisoner issue. Her ability to trouble shoot in the midst of problematic trials or motions proceedings provided vital assistance to the court, individual judges, prosecutors and defense attorneys. Rainey's temperament, knowledge of the law and judgment earned her the trust and support of members of the bench and the bar.

Finally, Rainey has the unique advantage of having worked collaboratively with all of the stakeholders in the District of Columbia's Criminal Justice system. While it is important to have judges who were former prosecutors, defense attorneys or private practitioners, it is also important to have judges who have a broader perspective and understanding of the Criminal Justice system in the District of Columbia. Rainey knows and understands the Superior Court and its central role in the administration of justice in the District. She is a dedicated public servant and would make an excellent judge, a wonderful colleague and would work diligently to manage her individual cases, but she would also work cooperatively as a member of the court on the overall administration of justice. I am happy to offer further comment and can be reached at the above phone number.

Sincerely,

Anna Blackburne-Rigsby

Anna Blackburne-Rigsby

VISITORS' SERVICES CENTER
1422 Massachusetts Avenue, S.E. | Washington, D.C. 20003 | (202) 544-2131

December 8, 2010

Mr. Robert Bauer
White House Counsel
1600 Pennsylvania Avenue, NW
Washington, DC 20500

RE: Letter of Support for Rainey Brandt

Dear Mr. Bauer,

I write to express my enthusiastic support for the nomination of Rainey Brandt to the position of associate judge of the District of Columbia Superior Court. As a result of having worked closely with Dr. Brandt in several capacities for over 12 years, I have complete confidence she has all the qualifications and personal qualities to become an outstanding judge.

My initial contact with Dr. Brandt was when I served as the Corrections Trustee for the District of Columbia during the period from 1997 to 2002, tasked to coordinate the closure of the Lorton prison complex and the movement of 8,000 District prisoners into the federal system. I immediately found Dr. Brandt to be highly organized, with a masterful ability to marshal cooperation among multiple federal and District agencies. The best example was her work in designing and coordinating the very complex interagency procedures necessary to move newly sentenced Superior Court prisoners into federal custody around the country – an interagency process she still manages quite effectively.

In working with Dr. Brandt on the Lorton closure process and subsequently on a number of other criminal justice initiatives in the District in my role as a senior advisor at the Department of Justice, I was continually impressed with what a quick and open-minded intellect she displayed, picking up and sorting out the intricate policies and disparate priorities of the parties. In spite of her time-consuming internal responsibilities at the Court, or perhaps partly because of those pressures on her time, she earned the respect of so many of us in these settings for repeatedly helping to craft innovative and effective solutions that meet the needs of often competing parties.

In her role as Special Counsel to the Chief Judge, Dr. Brandt has become widely respected as a problem-solver and for the support she provides not only to the judges at the Court, but to the wide variety of parties having business there. She has earned a

Named by the Catalogue for Philanthropy as one of the Washington Region's "best small charities."

76064.089

reputation for fairness and equality in the way she assists the broad spectrum of the legal community in cutting through often intricate, sometimes emotionally trying issues. For example, she routinely resolves thorny problems so that attorneys and their clients have improved access to the Court and to the DC Department of Corrections.

Dr. Brandt is also known for her unimpeachable integrity, as well as for her extensive dedicated involvement in a variety of pro bono and volunteer work. She served since 2001 as a board member of DC Law Students in Court, including four years as Chair of the board. During this period, she led the agency through a difficult period of transition and helped restore financial stability to the clinic, being chiefly responsible for obtaining a $2.4M Cy Pres award. She also assisted in revamping its computer technology and established a website for the clinic. Further, she served as Board Trustee of the Bar Association of Washington DC (BADC) Foundation for five years.

My most recent experience has been serving jointly for the past three years with Dr. Brandt on the board of the Visitors' Services Center, where Dr. Brandt is now serving in her second year as board president. VSC is a highly respected community-based organization serving the immediate, practical needs of prisoners at the DC Jail and their families. Dr Brandt generously agreed to assume leadership of VSC at a time when the board faced thorny organizational and financial issues. In this difficult environment, she has repeatedly shown a knack for making hard-nosed decisions at the same time as reaching successful compromises, always tempering discussions with a sense of compassion.

Rainey Brandt not only exemplifies the best qualities of a dedicated public servant, working with great effectiveness within the District's criminal justice system as well as being extensively involved in pro bono outreach to the community. She also has shown the keen intellect, mature temperament, and nuanced communication skills necessary to be an outstanding judge at the Superior Court. If you have any questions, I can be reached directly at 301-963-9680.

Sincerely,

John L. Clark

John L. Clark, Vice President
Visitors' Services Center Board of Directors

Superior Court of the District of Columbia
Washington, D.C. 20001

Chambers of
Stephanie Duncan-Peters
Judge

December 9, 2010

Susan Davies, Esq.
White House Associate Counsel
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Ms. Davies:

I am pleased to submit this letter in support of Rainey Brandt's application for one of the judicial vacancies on the Superior Court. Without a doubt, Dr. Brandt would make an excellent addition to our Court because she possesses the core values that are so necessary to be a good judge.

I first formally met Dr. Brandt when she applied to serve as my law clerk during the summer of 1998, but I was already familiar with her because of a presentation she made to the judges when she clerked for The Honorable Michael L. Rankin. It was unprecedented to have a law clerk address the judges at a training session, but Dr. Brandt showed confidence as she knowledgeably taught us about sex offender treatment options. It was apparent then that, given her blend of scholarship and poise, she is somebody special.

While Dr. Brandt clerked for me, and as she met each increasingly more difficult challenge in her current role as Special Counsel for the Chief Judge, her work was consistently superb. Her work ethic is unmatched and she is known throughout the courthouse for her responsiveness and dedication. Day, night, weekday, weekend, or holiday, Dr. Brandt always answers her phone and never lets any issue rest until it has been resolved. Her passion, dedication, and vision have brought about many productive changes at the court and she has resolved many problems before they could escalate. The ability to identify potential problems and work out a plan to avoid them is a necessary judicial skill and one that Dr. Brandt has already honed. She is patient and respectful of everyone she meets. She is very organized, an analytical thinker, and manages her time well. I have also observed her use sound judgment when assertively yet tactfully communicating difficult news.

The President is tasked with identifying individuals who are exceptionally well qualified to ascend to the bench. Without a doubt, I believe Dr. Brandt is just such a candidate. In the many years that have passed since Dr. Brandt worked directly for me, I have continued to be impressed with the quality of her work and with her humanity. On many occasions, I have sought her assistance in resolving post-conviction concerns of litigants in criminal cases. I was a guest at her wedding, I have met her sister and her mother, to whom she is devoted, I periodically get together with her for lunch, and I

have traveled with her on four Bar Association trips, including one which took place after she was married and on which her spouse accompanied her. On all of these occasions, I have observed her to be gracious, funny, compassionate and articulate. She is exceptionally well liked by members of the Bar Association of the District of Columbia and so highly respected by members of the D.C. Bar that she was recently honored with an award by the Council for Court Excellence.

Dr. Brandt has not worked as a litigator but she brings skills and experience to the bench that will enhance it and give the court a more diverse composition. A broad range of viewpoints in a court system helps ensure that the court is representative of the community and responsive to its needs. Dr. Brandt knows how the court system works from within. She also knows how to create consensus within the court and the broader community to promote and effectuate court initiatives. She brings a vast knowledge about our community and an exceptionally pleasant and professional demeanor that I believe will assist her in resolving cases, whether through trial or settlement. Having worked for years to resolve questions and concerns raised by litigants who are representing themselves in post-conviction matters, she is well equipped to handle the many matters that we see involving self-represented litigants. Most importantly, since I know her so well, I can say unequivocally that Dr. Brandt has such a good heart and such a strong work ethic that she will strive to do justice in every case and for every litigant.

If I can answer any questions or provide any further information, please do not hesitate to call me at (202) 879-1882.

Sincerely,

Stephanie Duncan-Peters

Stephanie Duncan-Peters

Judge Sullivan,

As we discussed yesterday, I strongly, enthusiastically, and unreservedly recommend Rainey Ransom Brandt to be a judge on the Superior Court.

I have had substantial dealings with Rainey since I became a judge two years ago. I have been in the Criminal Division the whole time, and issues requiring Rainey's judgment and expertise regularly arise. I have also worked with Rainey as a member of the Court's Judicial Education Committee because she participates regularly and extensively in training judges to serve in the Criminal Division.

At the top of my list of qualities that make Rainey an outstanding candidate are two related factors – her judgment and her judicial temperament. Judgment is, unfortunately, a quality that cannot be taught or learned. In her career at the Court, Rainey is consistently called upon to solve difficult problems – institutional issues and issues in particular cases. Rainey's judgment makes her stand out. She understands what it is important and what is not. She understands the dynamics of complicated situations. She figures out how problems can be solved, and how to persuade people that the solution works. One important part of a judge's responsibility is problem-solving, and Rainey's unique set of skills in solving the wide range of problems on her current docket would be as effective in solving the problems that arise in any docket of judges on this Court.

Rainey would have a superb judicial temperament – the ability to treat everyone with respect, the willingness to listen with patience and courtesy, and collegiality. Rainey demonstrates these qualities in her service to the Court in her current capacity. Because she works with all of us (and not in connection with her application), I have spoken with many of the judges in the Criminal Division about Rainey, and without exception, we esteem her for these qualities. I hope that her appointment as a judge will soon require the Chief Judge to find a replacement for Rainey, but it is hard for me to imagine anyone else who can do Rainey's job with anything approaching her proficiency, expertise, and aplomb. On balance, the Court will be stronger with Rainey as a judge, but in her current position, she really makes a day-to-day difference in the fair and efficient functioning of the Court.

Her collegiality and modesty, and the fact that she is not a judge, have not prevented her from playing a leadership role on important issues. To use the Commission's own terminology for evaluating leadership skills, Rainey communicates clearly and succinctly, she inspires respect and confidence, and she is decisive when she should be. Rainey has earned universal respect among the judges and the bar, with whom she works constructively.

Rainey gets things done, and she gets them done efficiently and promptly. She is not a procrastinator – to the contrary. Several times I have sent Rainey emails seeking her help in resolving an issue concerning a defendant and the D.C. Department of Corrections or the Bureau of Prisons, and even though she is out of the office juggling dozens of heavy and slippery balls, she invariably gets back to me virtually instantly by phone or by her ever-present Blackberry. As best I can tell, she is never off duty. No one would ever have to worry that Rainey's docket was not up-to-date or that she put off deciding issues because they were complicated or difficult.

I have no question about Rainey's ethics, about her commitment to diversity (as an accomplished African-American woman), or her community service (as demonstrated by the award she recently received from the Council for Court Excellence).

The Commission uses two additional categories to evaluate candidates. I have no basis to comment on Rainey's writing skills. With respect to her professional skills and abilities, I have complete confidence in her intellectual ability, her knowledge of the law, and her ability and willingness to learn and develop as a judge. I understand that Rainey has limited litigation experience. That is not a concern to me, for several reasons. Rainey is an exceptionally intelligent lawyer and a very quick study, and from working closely with judges at the Court on a range of matters, she has gained a deep understanding of sound judicial practices and procedures in the courtroom. Equally important, the Court offers excellent training – both for new judges and on a continuing basis. I know because I have benefitted from that training – as a person who had never appeared in this Court before I became a judge and who had tried only a few cases over 20 years ago. This is also a very collegial court. I cannot count the number of times my colleagues have shared their wisdom and experience when I needed it. I am confident that Rainey would know when she needed a consultation, and that her ego would not stop her from asking. For these reasons, I do not think trial and other litigation experience is essential for a person with Rainey's skills and other experience. I am aware of at least one judge on our Court who had tried no cases before she became a judge, and she has turned out to be an excellent trial judge.

Would trial experience be useful for Rainey? Yes. Is trial experience more important for Superior Court candidates than for Court of Appeals candidates? Yes. Should the Commission routinely recommend lawyers with no trial experience for the Superior Court? No. But the strengths that Rainey brings from her unique background complement the strengths of other judges, and making Rainey a judge would strengthen and enrich the Court as a whole.

For all these reasons, Rainey is an exceptionally well qualified candidate for a judgeship on this Court. I was delighted to see Rainey's name on the list of people who have applied for one of the upcoming vacancies. Day in and day out, Rainey demonstrates her commitment to this Court, to our community, and to public service. The Commission could not find a better candidate.

I appreciate your willingness to consider this recommendation and to forward it to your fellow members of the Judicial Nomination Commission.

Respectfully submitted,

Anthony C. Epstein
Judge
Superior Court of the District of Columbia
JM-670
Moultrie Courthouse
500 Indiana Avenue, N.W.
Washington, D.C. 20001

(202) 879-7812
anthony.epstein@dcsc.gov

Superior Court of the District of Columbia
Washington, D.C. 20001

Rufus G. King, III
Chief Judge (Ret.)

(202) 879-9474
arking3@dcsc.gov

February 13, 2012

Kathleen Hartnett, Associate Counsel
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Ms. Hartnett,

I write in support of Rainey Brandt for nomination for appointment to the Superior Court of the District of Columbia. She is in every way qualified for service on that nationally prominent court.

Ms. Brandt currently serves as special counsel to the chief judge, an office she held with both of his predecessors, including the undersigned. In that office, she is primarily responsible for management of the relations between the court and all agencies involved in the transportation and housing of prisoners in Superior Court cases. This includes working with judges to place prisoners with particular needs, locating prisoners who are not where they apparently should be, making any changes in placement, usually initiated by the chief judge through her office, and management oversight of all interactions with institutions involved in the transportation and holding of prisoners. Over the years, her responsibilities have expanded to include a wide variety of projects and efforts at the court and troubleshooting management issues that arise in the operation of the office of the chief judge. In addition to these demanding responsibilities, for many years she has taught a class in criminal justice at American University.

In all of her work, she not only has a profound knowledge of the law, but also appreciates the importance of relations among lawyers, judges and officials within and outside the court and how they can affect implementation of judicial decisions. She knows all of the judges well and is well acquainted with City officials and staff on the Hill who are important to the court, so that her approach to problems often involves knowing who must be involved as well as what the possible solutions might be. Her practical and often wise approach to legal decisions would be a real asset on the bench.

As an example of her practical reliability and sensitivity in handling substantial responsibility, I would cite her initiative in addressing a problem in the handling of prisoners. In the District of Columbia, the placement of prisoners for service of their sentence is complicated by the fact that there are no city facilities for service of more than short sentences. Instead they are remanded to the federal Bureau of Prisons. The process for doing that requires the prisoner to be held at the DC Jail while paperwork is reviewed by a classification office within the Bureau of Prisons, which then designates a federal correctional facility – often in Ohio but potentially anywhere in the federal corrections system. All of this must be completed before the prisoner can

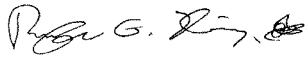
be removed from the jail and transported to the designated federal facility to serve the sentence and must be done within legal, and sometimes medical requirements for the care of prisoners. Classification was taking three or four months, and a large number of convicted felons awaiting classification was aggravating a chronic overcrowding problem at the jail.

Ms. Brandt suggested that the court and directors of the DC Department of Corrections, the U.S. Marshals Service, the Federal Bureau of Prisons and others involved in the handling of sentenced prisoners meet as often as necessary to find and eliminate unnecessary delays. This was done, and after no more than a half dozen meetings, for which she did all of the preparation and organization and guided much of the substantive discussion, the delay was reduced to less than 30 days for most cases, virtually eliminating its impact on prison overcrowding. To accomplish this each federal and city agency head found a part of the delay that could be reduced. The success of this effort stemmed from Ms. Brandt's ability to understand the complexities of the issue and then plan and facilitate a collaboration among heads of different and potentially competing agencies toward a common goal.

In addition to her ability to understand a complex problem and organize its resolution, Ms. Brandt is uniquely qualified for service in the courtroom by temperament. I have seen her in numerous situations where a lawyer or member of the public was less than temperate in raising an issue with the court or with another lawyer. No matter how contentious the issue, she never loses her focus on essential fairness and justice for all involved, and in the many years I have worked with her she has never dealt with others - prisoners, staff, government officials or members of the public – with anything other than courteous and respectful attention. Though she has not spent as much time as some trying cases in the courtroom, I have no hesitation in predicting she will handle them well and will address legal issues authoritatively and accurately in contentious and complex disputes there, just as she does in her current work.

It is hard for me to imagine anyone better qualified to serve as a Superior Court judge. I am confident Ms. Brandt would bring to the court knowledge, organization and temperament that would position her for leadership among its judges, and I urge favorable consideration of her candidacy.

Sincerely,



Rufus G. King, III

76064.076

December 13, 2010

Susan Davies
White House Associate Counsel
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Re: Application of Dr. Rainey Brandt for position of Associate Judge

Dear Ms. Davies:

I am writing in support of Rainey Brandt's candidacy for the position of Associate Judge of the District of Columbia Superior Court. Dr. Brandt is a wonderful, highly qualified candidate and I recommend her for selection without reservation.

Dr. Brandt will be an enormous asset to our Court. Although I am aware that she has not tried cases, I believe that she is fully prepared to serve as a judge in every position in our Court. Dr. Brandt is smart, gutsy, and experienced in the ins and outs of the issues faced by the Court, particularly the Criminal Division and Family Court. She is a knowledgeable problem solver and advisor, whether she is assisting a judge, law clerk, prisoner or lawyer. She also is aware of the matters addressed daily by the Chief Judge of the Superior Court, and has been integrally involved in Court management throughout the tenures of three different Chief Judges.

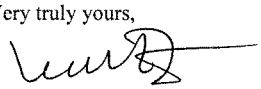
My familiarity with Dr. Brandt's work results primarily from my criminal cases, although I consider her to be a friend and colleague as well. Dr. Brandt's specific responsibilities include acting as liaison between the Court and the various agencies responsible for housing and transporting prisoners, both awaiting trial and post-conviction. She facilitates untold numbers of requests by prisoners and their counsel every week and handles each with sensitivity and fairness, often advocating on behalf of defendants for everything from more library time to a pre-trial haircut and shave, to negotiating the facility a prisoner will be housed at to protect his or her safety and security. Dr. Brandt has fielded many requests for production of documents by the D.C. Jail and production of prisoner-witnesses by the Bureau of Prisons and the United States Marshal Service from locations all around the country, often on very short notice and often to facilitate the presentation of evidence and testimony in ongoing criminal trials. Her single-handed diplomatic intervention has made the difference in countless numbers of trials of persons with very serious charges, between their being able to present witnesses in their own behalf and

their not being able to do so. This is because the witnesses would not be brought to the District of Columbia and the documents would not be produced without Dr. Brandt's careful coordination with the agencies responsible for their transport, often at great expense to the agencies.

This is just an example of Dr. Brandt's daily whirlwind of responsibility and productivity. She receives calls and e-mails from the judges and their clerks constantly with questions about every aspect of the work of the Court. She is one of those rare people who get things done. Because of the breadth of her experience as clerk to judges and Counsel to Chief Judges over the years, Dr. Brandt already knows the job of a judge on our court better than anyone who has not yet held the job, and possibly better than some who already do. In addition, because of the depth of Dr. Brandt's ability to figure out what must be done in any circumstance, to learn the law, to solve problems and to make things happen, all the while acting intelligently, fairly and with consummate good judgment, she quickly will become one of our most capable and respected colleagues.

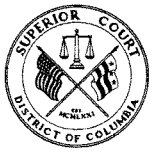
I heartily recommend Rainey Brandt for nomination to the District of Columbia Superior Court. If I can answer any questions about Dr. Brandt's qualifications for the position of Associate Judge please do not hesitate to contact me at (202) 879-0441.

Very truly yours,



Lynn Leibovitz

Superior Court of the District of Columbia
Washington, D.C. 20001



June 26, 2012

Lee F. Satterfield
Chief Judge

(202) 879-1600

The Honorable Joseph Lieberman
Chair, Senate Homeland Security and Government Affairs Committee
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Lieberman:

I am Lee F. Satterfield, Chief Judge of the Superior Court of the District of Columbia. Over the past four years, I have directly supervised Dr. Rainey Brandt. As a Superior Court Judge for almost twenty years, I have observed Dr. Brandt's work, character, temperament, and her ability to control difficult situations. Recognizing that Dr. Brandt has never served as a trial lawyer, I respectfully write to highlight the unique skills that make Dr. Brandt highly qualified to be a D.C. Superior Court judge.

Dr. Brandt, who is known around the Superior Court simply as "Rainey," has a universal reputation for professionalism, fairness, and excellence in her work. She understands the law and appreciates the importance of relations among lawyers, judges, and officials within and outside the Court, and how they can affect the implementation of judicial decisions. Virtually everyone who has worked with Dr. Brandt agrees, including many DC Superior Court judges.

Former Chief Judge Rufus King directly supervised Dr. Brandt for eight years, and he stated that "[in] addition to her ability to understand complex problems and organize resolutions, Dr. Brandt is uniquely qualified for service in the courtroom by temperament." Furthermore, he stated that he has seen her "in numerous situations where a lawyer or member of the public was less than temperate in raising an issue with the court or with another lawyer. No matter how contentious the issue, she never loses her focus on essential fairness and justice for all involved."

A current colleague of mine, Judge Lynn Leibovitz, is chair of the judicial training committee, and therefore would be responsible for Dr. Brandt's new judge training if she is fortunate enough to be confirmed by the Senate. Judge Leibovitz states that Rainey receives calls and emails from the judges and their clerks constantly with questions about every aspect of the work of the Court and that ".....because of the breadth of her

76064.079

experience...Rainey already knows the job of a judge on our court better than anyone who has not yet held the job, and possibly better than some who already do. In addition, because of the depth of Dr. Brandt's ability to figure out what must be done in any circumstance, to learn the law, to solve problems and to make things happen, all while acting intelligently, fairly and with consummate good judgment, she will quickly become one of our most capable and respected colleagues."

Judge Anna Blackburne-Rigsby, a District of Columbia Court of Appeals judge, former Superior Court Associate and Magistrate Judge states: "As a former trial judge, I believe strongly that Rainey possesses a unique skill set that would be a benefit to the Superior Court...I have witnessed first-hand Rainey's ability to make important legal and judgment calls, while trouble shooting on an issue involving a problematic sentencing or prisoner issue...Rainey's temperament, knowledge of the law and judgment earned her the trust and support of members of the bench and the bar."

Dr. Brandt also has support from numerous members of the bar who practice in the Superior Court. Attorney Patricia Cresta-Savage wrote the following on behalf of the District of Columbia Association of Criminal Defense Lawyers. She stated that "[Rainey] always demonstrated integrity and swiftness in her treatment of issues and problems facing the Superior Court and both the Bench and the Bar... She has both proven leadership abilities and knowledgeable skill...." Brad Weinsheimer, former chief of the Superior Court Division of the Office of United States Attorney for the District of Columbia and current Deputy Chief in the United States Department of Justice's Office of Professional Responsibility, stated that Rainey's "personality, background, and experience provide you with a superbly qualified candidate that will be difficult to match." Having worked on a variety of issues and projects with Rainey for more than ten years, Mr. Weinsheimer further stated that he is "quite mindful that Dr. Brandt has not had a legal career most typical of associate judges now serving on the Superior Court bench... [However], someone [who] is an impressive litigator simply does not directly equate to being an outstanding judge. Some litigators are patiently thoughtful, respectfully forceful, and even-handedly decisive; others are not. But without these demonstrated skills, a litigator is not likely to be a successful associate judge. Dr. Brandt, on the other hand, already has proven her abilities to solve problems in an effective, caring, and intelligent manner; all while increasing the respect with which others treat her. Accordingly, she has a proven track record for the abilities and skills that are most necessary for a judge on the Superior Court. "

In conclusion, I would urge you to consider that it is important that the Superior Court bench be diverse, not just in terms of racial/ethnic background, but in terms of career background. Dr. Brandt's unique experience makes her an ideal candidate.

I appreciate your consideration of this letter and of my views, as well as those of my predecessor as chief judge, other colleagues on the bench, and attorneys who practice in DC Superior Court. I hope I have provided you with some of the many reasons that Rainey is an impressive nominee and why so many are sure that she will make an outstanding Superior Court judge. Please feel free to contact me at 202-879-1600 if you have any questions.

Sincerely,

Lee F. Satterfield

Lee F. Satterfield
Chief Judge

O'MELVENY & MYERS LLP

BEIJING
BRUSSELS
CENTURY CITY
HONG KONG
LONDON
LOS ANGELES
NEWPORT BEACH

1625 Eye Street, NW
Washington, D.C. 20006-4001

TELEPHONE (202) 383-5300
FACSIMILE (202) 383-5414
www.omm.com

NEW YORK
SAN FRANCISCO
SHANGHAI
SILICON VALLEY
SINGAPORE
TOKYO

WRITER'S DIRECT DIAL
(202) 383-5118

WRITER'S E-MAIL ADDRESS
kwainstein@omm.com

October 25, 2010

VIA FEDEX

Kim Whatley
Executive Director
District of Columbia Judicial Nomination Commission
515 5th Street, NW
Suite 235
Washington, DC 20001

Dear Ms. Whatley:

I submit this letter in strong support of Rainey Brandt's application for a judgeship on the Superior Court of the District of Columbia.

I have known Rainey for well over a decade, ever since she was a law clerk for Judge Michael Rankin. I feel particularly qualified to comment on her qualifications, as I have worked closely with Rainey in my capacities as a line prosecutor, as a supervisor in the U.S. Attorney's Office, and as a white-collar attorney in the private bar.

As a line prosecutor, I got to know Rainey in the course of several complicated prosecutions I handled in Superior Court. These cases were complex and high-profile, and they presented logistical and programmatic challenges involving inmate housing arrangements, press demands and court scheduling that drew on Rainey's capacity to analyze each issue and muster the bureaucratic and legal assets necessary to resolve it. Rainey always proved up to the task, and the cases went smoothly in large part because she handled these issues so deftly.

I similarly relied on Rainey -- both for her problem-solving ability and her long-range vision -- when addressing more macro, system-wide issues as a supervisor in the U.S. Attorney's Office. I was particularly grateful for her leadership in addressing the concerns surrounding the use of police overtime for court appearances and jail capacity issues. Whenever the law enforcement and court communities undertook to tackle such a challenge, all parties would look to Rainey for wise counsel and strong leadership -- and she never let us down.

I saw the same skills on display earlier this year when Rainey skillfully handled a number of the more sensitive issues surrounding the prosecution of Wizards basketball player Gilbert Arenas, whom I represented. Rainey immediately recognized the complicated aspects of his halfway house placement and carefully worked through the process to craft an arrangement that worked very well for all parties. Rainey recognized the punishment and treatment objectives behind the sentence Mr. Arenas received, assessed how best to accomplish those objectives within the administrative realities of the criminal justice system, and developed a plan that resulted in a fair, just and effective result -- the very process that judges undertake every day in the D.C. Superior Court.

Based on these experiences and Rainey's universal reputation for professionalism, fairness and absolute excellence in her work, I am honored to give her application my strongest support. She would do us all proud as a jurist -- just as she has done over her many years of exceptional service to the Superior Court and the residents of the District of Columbia.

I appreciate your consideration of my views about Rainey. Please let me know if I can provide any further information.

Sincerely,

Kenneth L. Wainstein
O'MELVENY & MYERS LLP

KLW:jmp

January 31, 2012

Christopher Kang, Esq.
Associate White House Counsel
The White House
Washington, DC 20500
Via e-mail to: khartnett@who.eop.gov

Dear Mr. Kang:

I write to provide unqualified support for the application of Dr. Rainey R. Brandt as a candidate for Associate Judge of the D.C. Superior Court. Having worked at the U.S. Attorney's Office for the District of Columbia for more than twenty years, before recently taking another position at the Department of Justice, I had the great fortune of working quite closely with Dr. Brandt in a variety of capacities and numerous collaborative projects. I can state with the utmost confidence that Dr. Brandt possesses the ability, acumen, interpersonal skills, integrity, and unfailing dedication to justice that is required of an outstanding Superior Court Associate Judge.

The selection of an associate judge is one of the most important decisions affecting the public safety and well being of our community and citizens. Judges are empowered to determine the law and apply it fairly. The D.C. Superior Court is an urban courthouse in which literally hundreds of citizens come each day to seek justice in civil, criminal, family, and a wide range of other matters. Not only must associate judges have the knowledge and ability to grasp far-reaching legal concepts, but at the core, an associate judge must be an efficient problem solver capable of analyzing competing concerns and arriving at a fair result, all while applying the law to the given situation. It is a delicate yet critically important balance requiring superb judgment, exceptional leadership ability, and a compelling dedication to the cause of justice. Because I have seen Dr. Brandt's work first-hand for more than a decade and am confident that she possesses superior qualifications, I recommend her most highly for the position of Associate Judge.

Dr. Brandt is nothing if not an efficient problem solver. Indeed, she has earned a superb reputation throughout the courthouse, from prosecutors and defense attorneys alike, as well as with the larger criminal justice community, as a person who should be relied upon when faced with a thorny legal problem. The counsel of Dr. Brandt has become especially important when dealing with sentencing issues and matters relating to the detention of prisoners (both before and after trial). Myriad issues arise in litigation on these topics, most without clear answers, and almost all with vastly competing concerns, pitting public safety against civil liberties. The litigants embattled on these issues tend to be entrenched and unyielding. Yet time and time again, Dr. Brandt was able to wade through this morass, achieving a fair and just outcome that was satisfying to everyone. Each litigant may not have liked the outcome, but no one would question that it was legally sound and fair, balancing all interests in light of available precedent. This is no easy feat.

In resolving problems, Dr. Brandt is calm, yet dedicated; patient, yet determined; and considerate, yet firm. She takes the time needed to assemble all the relevant information, but also values timely decisions that provide the information and results to accomplish the task at hand. For an associate judge, these qualities are essential. I served as the U.S. Attorney's Office's Chief of the Superior Court Division for nearly seven years. In my time, when faced with a crisis or dilemma impacting the court, invariably, my first phone call was to Dr. Brandt. Whether it were a legal issue concerning the timely processing of defendants at intake, the security and transfer of a prisoner witness, or the proper application of a unique rule of criminal procedure, Dr. Brandt was not only likely to have the answer but could accomplish the coordination of many moving parts in the criminal justice system, all seemingly with a few phone calls. This talent was essential to not only just outcomes in individual cases but to an efficient, well-respected criminal justice system. It also was evident that Dr. Brandt enjoyed the respect of not only all the judges of the court but of our criminal justice partners as well. Having earned this respect, Dr. Brandt was able to accomplish a great deal that would not otherwise have been possible.

One such example is the successful Fugitive Safe Surrender program two years ago that Dr. Brandt was instrumental in bringing about. While putatively a U.S. Marshal's program, Fugitive Safe Surrender could not have happened without Dr. Brandt. The program, an effort to convince those with outstanding arrest warrants to voluntarily turn themselves in, was fraught with legal, political, and logistical peril of unparalleled dimensions. Yet through her hard work, talent, savvy, and dedication, Dr. Brandt was able to bring together the court, defense bar, prosecutors, pretrial services, Marshals, corrections officials, probation and parole authorities, and numerous other government agencies in a highly successful program.

In making my recommendation, I am quite mindful that Dr, Brandt has not had a legal career most typical of the associate judges now serving on the Superior Court bench. The typical associate judge had been a practicing litigator in criminal, civil, or family law prior to being appointed to the court. Some of our community's most outstanding legal advocates are selected for a position on the bench. That someone is an impressive litigator simply does not directly equate to being an outstanding judge. Some litigators are patiently thoughtful, respectfully forceful, and even-handedly decisive; others are not. But without these demonstrated skills, a litigator is not likely to be a successful associate judge. Dr. Brandt, on the other hand, already has proven her abilities to solve problems in an effective, caring, and intelligent manner, all while increasing the respect with which others treat her. Accordingly, she has a proven track record for the abilities and skills that are most necessary for a judge on the D.C. Superior Court.

On top of all that, Dr. Brandt has a distinguished record of giving back to the legal community through public service work and teaching. In 2010, Dr. Brandt was the recipient of the Council for Court Excellence's Justice Potter Stewart Award, which recognized her dedicated service to a variety of interagency groups and her inspiring commitment to pro bono outreach. Aside from providing training courses on myriad topics for which she is recognized as an expert, Dr. Brandt has been an assistant professor and now adjunct professor at American University, where she in 2006 and 2009 won the Adjunct Professor of the Year Award. These

76064.084

accomplishments establish not only Dr. Brandt's outstanding legal ability and communication skills but a keen desire to give back to the community and to improve the lives of others.

In summary, Dr. Rainey Brandt is an outstanding public servant with a proven and distinguished record of strong leadership, impeccable judgment, and an unwavering commitment to bettering the lives of others. Her personality, background, and experience provide you with a superbly qualified candidate that will be difficult to match. Should you need any further information, I would be more than happy to speak with you about Dr. Brandt.

Sincerely,

G. Bradley Weinsheimer
Deputy Chief
Office of Professional Responsibility
Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
202.514.4860
Bradley.weinsheimer@usdoj.gov