

**NOMINATIONS OF HON. SARAH SALDAÑA,
RUSSELL C. DEYO, AND HON. MICKEY D. BARNETT**

HEARING

BEFORE THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

NOMINATIONS OF HON. SARAH SALDAÑA, TO BE ASSISTANT
SECRETARY FOR IMMIGRATION AND CUSTOMS ENFORCEMENT,
U.S. DEPARTMENT OF HOMELAND SECURITY, RUSSELL C. DEYO,
TO BE UNDER SECRETARY FOR MANAGEMENT, U.S. DEPARTMENT OF
HOMELAND SECURITY, AND HON. MICKEY D. BARNETT, TO BE A
GOVERNOR, U.S. POSTAL SERVICE

SEPTEMBER 17, 2014

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 PUBLISHING OFFICE

92-905 PDF

WASHINGTON : 2015

For sale by the Superintendent of Documents, U.S. Government Publishing 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

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BARNETT**

WEDNESDAY, SEPTEMBER 17, 2014

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

The Committee met, pursuant to notice, at 10:05 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Thomas R. Carper, presiding.

Present: Senators Carper, Coburn, and Ayotte.

OPENING STATEMENT OF CHAIRMAN CARPER

Chairman CARPER. Well, good morning, one and all. Bienvenido. We are glad you are here and look forward to getting to know our nominees, better.

We are honored that we have been joined by one of my favorite people in the Senate, Senator John Cornyn from Texas. We are delighted that you are here and able to introduce your constituent.

We are happy to see our former Secretary here. Judge, great to see you, Michael, my neighbor across the Delaware River.

And, Mickey, very nice to see you, Mr. Chairman. Thank you for your service.

I am just going to lead off and ask Senator Cornyn if he would make whatever remarks he feels appropriate. Again, we are delighted that you could come. Thank you.

**OPENING STATEMENT OF THE HONORABLE JOHN CORNYN, A
UNITED STATES SENATOR FROM THE STATE OF TEXAS**

Senator CORNYN. Thank you, Mr. Chairman. I am proud to be here this morning to introduce one of my constituents, Sarah Saldaña—

Chairman CARPER. How many do you have, any idea?

Senator CORNYN. Twenty-six million, but she is definitely up at the top of that list of the most important—

Chairman CARPER. I have 881,412. [Laughter.]

Senator CORNYN. As you know, Ms. Saldaña has been nominated to serve as the Department of Homeland Security's (DHS) Assistant Secretary for Immigration and Customs Enforcement (ICE), a position of profound importance to our country, and particularly to my State, our State of Texas.

ICE is one of the Nation's largest law enforcement agencies, with more than 19,000 employees and responsibilities including the inte-

rior enforcement of our immigration laws, national security, drug interdiction, and fighting child exploitation.

As our Nation experiences a surge of illegal immigration and accompanying criminal activity by those who make a living off of exploiting others, it is more important than ever that the next person who leads this agency will do so with strength and with integrity.

Ms. Saldaña is a native of Corpus Christi, Texas. She learned from a young age the importance of hard work and education. She was one of seven children born to working class parents. She watched her mother study to become a nurse and work nights to provide for the family. In turn, she studied hard in school and told herself, what you think you can do, you can do. And, certainly, Ms. Saldaña has accomplished great things.

In 2011, Ms. Saldaña became the first Latina United States Attorney in Texas history, and only the second woman to hold that position in the 135-year history of Texas's Northern District, a region that includes the Dallas-Fort Worth metroplex and spans 100 counties and stretches across 95,000 square miles.

Chairman CARPER. How many counties do you have?

Senator CORNYN. Two-hundred-and-fifty-four.

Chairman CARPER. We have three. [Laughter.]

Senator COBURN. He visits all three of them every year. [Laughter.]

Senator CORNYN. We have more cows than people in some of them. [Laughter.]

Chairman CARPER. We have 300 chickens for every person. [Laughter.]

Senator CORNYN. In her role as U.S. Attorney and prosecutor over the past decade, Ms. Saldaña has served our State with honor, fighting corrupt public officials, organized crime, sex traffickers, and other dangerous criminals.

Throughout her career, Ms. Saldaña has developed a reputation for her decisive and fair temperament and her commitment to excellence. If respect for the rule of law is our standard, and I think it should be, we would be hard pressed to find a person more qualified to enforce the law than Ms. Saldaña.

For this reason, I was proud to lead the fight for her nomination as United States Attorney, along with Senator Hutchison, and I am proud to introduce her to Members of the Committee here today. I am glad to see my colleague and friend Senator Coburn here as the Ranking Member.

Everyone here today recognizes that there are enormous challenges facing ICE in the coming years, and I have talked to Ms. Saldaña about those quite candidly and I think she understands the nature of the challenge that confronts her and confronts the Department of Homeland Security in these challenging times.

And, I even asked her, why in the world would somebody who has such a great reputation and has accomplished so much as United States Attorney and all the public service she has performed in the past, why would you want this job, where you are actually not going to be able to call all the shots from a policy standpoint. That is going to come from above, including the President of the United States. And, her comment to me, which I genuinely appreciate, is she said, "Well, I have to try." To me, that is

a pretty good answer, because given all the challenges and the divisions that we have in the country, particularly when it comes to the immigration issue, I admire someone who said, this is a messy business, but I have to try, and so I admire that.

So, I think this hearing gives you and the Senate an opportunity for an open and honest conversation with Ms. Saldaña about exactly what she would do, if confirmed, to address these challenges. I do not need to urge this Committee to take its time and ask her the hard questions. I am sure you will.

But, I do have a request, Mr. Chairman. I do not serve on this Committee, but I do serve on the Senate Judiciary Committee, and as you know, the Senate Judiciary Committee has a lot of interaction with ICE and the Department of Homeland Security, as well. I mentioned this to Ms. Saldaña, but, of course, this will be decided by you and by Chairman Leahy and the Majority Leader, but I think it would be enormously productive if, following this Committee's hearing and decisions with regard to this nomination, that there be a sequential referral to the Senate Judiciary Committee.

I have signed a letter, along with Ranking Member Senator Grassley, requesting that, and I think that would do a lot, I think, to help Senators gain the sort of familiarity and confidence that I have in Ms. Saldaña as a person, but also help her when she is confirmed develop the kinds of relationships that are going to be very important and very productive to her chance to succeed in this very difficult job. So, I hope you will join me in that request.

The most difficult question facing the next leader of ICE is how they will respond to President Obama's upcoming actions on immigration enforcement. As we all know, the President has announced that after the November elections, he will unilaterally issue a series of Executive Orders that will attempt to change our Nation's immigration laws without the consent of Congress. I believe such actions would violate our Constitution and the laws of the land, and I have mentioned that quite candidly to Ms. Saldaña, and also to Secretary Jeh Johnson, and told them that for those of us who, in good faith, want to try to move forward and fix what is broken in our Nation's immigration laws, this would undermine the good will and the opportunity, the confidence of the American people, that we need in order to get the job done. So, this is going to be tough, and I hope the President reconsiders.

We should be deeply concerned about the damage that such unilateral executive actions would have to our already broken immigration system, as I said, and they would, of course, I think, contribute to the perception that is already being marketed by the cartels who traffic in children and other immigrants—this is their business model, as we know, and they make a lot of money doing it, and it is far from compassionate. This gives the impression that we will not enforce our laws, which, indeed, contributes to the magnet of illegal immigration.

We need to fix our broken immigration system, but we need to eliminate illegal immigration and accommodate our current immigration laws in a way that reflects our values and reflects our interests as a Nation.

I really do believe, and I realize how harsh this sounds, but I do believe that the President's announced plans are an invitation for lawlessness and will ensure that the surge of the illegal immigration on our Southern border will continue for years to come. So, I hope, with all sincerity, he does reconsider.

So, I am concerned about the implication of the President's stated intentions. I am also concerned about what that means in terms of Ms. Saldaña's opportunity to be successful in the job to which she has been nominated and which I expect she will be confirmed. Although she is tough, she is smart, and fiercely independent as a prosecutor—she has demonstrated that—I am concerned that if she is confirmed, her voice will be silenced or undermined by these unilateral actions that the President has said he intends to take.

So, I am glad that Ms. Saldaña will have the opportunity to discuss these very serious issues before the Committee today, and I am confident you will be impressed with her, as I am, and that if she is given this opportunity and a fair chance to be successful by enforcing the laws of our land and then advocating policy changes that need to be made to improve our broken immigration system, I think she will be a success as the Director of ICE.

So, I look forward to hearing Ms. Saldaña's responses to the Committee's questions and helping members of the Senate make an informed decision about this important nomination.

And, I would just close, again, with this plea, Mr. Chairman. I hope you will work with us on this sequential referral, because, as I told Ms. Saldaña, I think this is really important to the Senate getting a sense of confidence about who she is and also helping her develop the kinds of relationships she is absolutely going to need if she is going to be a success in this important position.

Thank you very much.

Chairman CARPER. Well, let me just say to our friend, Senator Cornyn, I was impressed by her before. Having you sit here and say these things that you have about her today makes me all the more impressed. Your insight is very helpful, I think, to our Committee.

Let me take under advisement with Dr. Coburn your suggestion on sequential, and I think we will want to have a conversation with you and with Chuck Grassley on his birthday—it is today—and maybe with Senator Leahy, the Chairman of the Judiciary Committee, just have a good conversation about it as quickly as possible and see if we cannot find some appropriate resolution.

But, thank you so much. I know you have a lot going on and you are good to come by.

Tom, anything you want to add before Senator Cornyn leaves?

Senator COBURN. No, just to say to Senator Cornyn, thank you.

Chairman CARPER. John, thank you so much.

Do people call you Judge? Do they call you Mr. Secretary? Do they have other names for you?

Mr. CHERTOFF. They have other names. On a good day, it is Judge or Mr. Secretary. On a bad day, I cannot say it in this company— [Laughter.]

Chairman CARPER. It is great to see you. Thanks for all of your service for our country, and especially for being here today to say

something nice about Russ Deyo, when no one else would. [Laughter.]

Thank you for joining us.

OPENING STATEMENT OF THE HONORABLE MICHAEL CHERTOFF, EXECUTIVE CHAIRMAN AND CO-FOUNDER, CHERTOFF GROUP, AND FORMER SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. CHERTOFF. Mr. Chairman and Ranking Member Coburn, it is good to be back, particularly not in the hot seat, but more as a collateral participant.

Chairman CARPER. It is a lot more fun this way, is it not?

Mr. CHERTOFF. A lot more fun. And, I am delighted to be here to introduce Russ Deyo, who, as you know, is the nominee for Under Secretary for Management at the Department of Homeland Security.

I wrote a letter to each of you on his behalf, which I ask be made part of the record.¹

I know I do not have to tell you how important this job is. It is not one that usually gets a lot of visibility in the national press, but it is really critical to the functioning of the Department of Homeland Security. And, I know both of you have taken a particular interest in the management issues at the Department.

I have to say that maybe this is a more challenging time than any in recent years for a couple of reasons. First, we are operating in a constrained budget environment. But, second, the challenges have increased.

Senator Cornyn made mention of the issues at the border and the surge we had over the summer of unaccompanied minors. I would add to that the fact that, in light of what is going on in Iraq and Syria and the foreign fighter problem, I think there are going to be enhanced challenges in terms of border security and aviation and infrastructure security as we deal with what I think is inevitably going to be some fallout from the operations we are undertaking in the Middle East right now.

And, I even have to say that the Ebola issue is going to present a challenge. A lot of people do not realize the Department of Homeland Security has a critical role to play in dealing with the possibility of a global pandemic. We went through this back in the days of the severe acute respiratory syndrome (SARS) epidemic and then when there was concern about avian flu, and I think that is going to be yet another obligation and responsibility.

So, the tasks are going to multiply and these cannot be discharged without an efficient management structure.

I know that while the Department has matured quite a bit with the leadership of this Committee and the people at the Department, there is more work to be done. The acquisition system is not fully mature. The financial management system is not fully mature. The budgeting system is not fully mature. There are challenges with respect to human resources. All of these are critical for the Department to perform its security function and its other functions.

¹The letter from Mr. Chertoff appears in the Appendix on page 186.

And, that is why I am so delighted that the President has nominated Russ Deyo. Russ is a fellow alumnus of the U.S. Attorney's Office in New Jersey. We did not overlap, but his reputation was very well established when I arrived there to start my tenure. He did an outstanding job as an Assistant U.S. Attorney and he is an outstanding lawyer.

But, more to the point for the particular position he has been nominated for, he has broad experience in the private sector, not only as General Counsel of Johnson and Johnson, which is one of the leading companies in the United States, but as someone who had responsibility across a broad range of management issues—human resources, procurement, health care compliance, real estate—and, of course, that is pertinent to St. Elizabeths', which I know you all have an interest in.

Chairman CARPER. Let me just say, with respect to St. Elizabeths', thank you very much for your ongoing support for that project and for your continued input. We are grateful for that.

Mr. CHERTOFF. And, I am happy to continue to assist with that.

So, Russ brings to the position he has been nominated for a broad range of experience with one of the best enterprises in the world in dealing with all of the issues that are going to have to be dealt with as an Under Secretary if he is confirmed.

I had the opportunity to meet with him. In fact, I tried to twist his arm a little bit to take this job, and I am glad that the twisting worked. And, as you get to know him and work with him, if he is confirmed, you will find him to be a smart, experienced, and devoted public servant who will actually bring a unique set of skills to this job which are very critical.

So, I thank the Committee for hearing from me. I could not give a stronger endorsement to Mr. Deyo for this position. I think, if he is confirmed, he will serve effectively and honorably, and I think you will enjoy working with him, which, of course, I know is also important to you.

I am afraid I am going to have to excuse myself, but again, I want to thank the Committee for the opportunity to appear, and I want to thank Russ for inviting me to introduce him.

Chairman CARPER. Well, you are good to come and join us today. I know he appreciates very much your introduction and your presence here. So do we, and your words mean a great deal.

Dr. COBURN, anything you would like to say before Judge Chertoff leaves?

Senator COBURN. It is great to see you again.

Chairman CARPER. Yes, great to see you again. Thanks so much. Take care.

And, Mickey Barnett, I will introduce you in just a moment, but we are delighted to have had John Cornyn and Judge Chertoff be here.

Let me just go ahead. I have a fairly brief statement I would like to give, and then yield to Dr. Coburn for whatever comments that he would like to make. And, then, we will swear in our witnesses and get started.

As you know, we are meeting today to consider three nominations, Sarah Saldaña, Russell Deyo, and Mickey Barnett, who now serves, in the second year as the Chairman of the Board of Gov-

ernors for the U.S. Postal Service. Sarah has been nominated to head up ICE, and Russ Deyo to be the Under Secretary of Management at the Department of Homeland Security.

I would just say that Secretary Johnson, whom we have enormous respect for, told us that he was sending us a couple of good names, and we think that he and the President have.

Mickey, we are grateful for your service and your willingness to serve further as a Governor on the Board of Governors.

I know my colleagues and I on the Committee are pleased to see the President has put forth nominees. The head of the ICE agency has been vacant for, or without a Presidentially appointed leader, I want to say, for 14 months, and we need this position filled. It needs to be filled with a Presidentially appointed and Senate approved leader. We are grateful for those who have served in the interim in this capacity, but this is far too long, particularly when we think about all the issues we face along our borders and the more than, I think, 400 laws that ICE enforces. Thankfully, Ms. Saldaña has agreed to step forward and take up this challenge and we appreciate it.

As Senator Cornyn has said, you have a distinguished record as the U.S. Attorney for the Northern District of Texas, where you represent the U.S. Government in some 100 counties. In this role, you have the front row seat to the threats that our country faces every day from transnational criminal networks, something that will serve you well if you are confirmed for this position.

Ms. Saldaña is a true American success story. We have heard a little bit about it from Senator Cornyn, rising from humble beginnings in South Texas as the youngest of seven children, to become an accomplished partner at the major law firm and one of the Nation's top law enforcement officers. I think when you were a kid growing up in Corpus Christi, I was a Naval flight officer, got my wings at Corpus Christi Naval Air Station, not far from where you grew up.

You come to us highly recommended by Senator Cornyn and others. But, as our friend from Texas, Senator Cornyn, has said, this Committee knows all too well Ms. Saldaña has been nominated to one of the most difficult positions in our government. This is a hard job, and that is why it is important to have a proven leader and a respected member of the law enforcement community at the helm.

Ms. Saldaña, you will have a tough job ahead of you, if confirmed. You know that, but I believe that you are up to the task and look forward to supporting your nomination.

The Committee is also considering today the nomination of Russ Deyo to be Under Secretary for Management at the Department of Homeland Security. This is an extremely important position, as Judge Chertoff has said, given the challenges associated with melding 22 different agencies together into one cohesive Department, and we have come a long way. I like to think that this Committee, led by Senator Lieberman and Senator Collins before, now by Dr. Coburn and I, that we had something to do with it, but we have had good leadership in the Department and real progress has been made in addressing some of the many challenges they faced. But, in order for that to continue, we need strong leadership, and I

think Mr. Deyo will be able to provide precisely that kind of leadership.

Until his retirement in 2012, Mr. Deyo had an impressive 27-year career with Johnson and Johnson, where he served in several top positions, including General Counsel and Vice President for Administration. And, like the Department of Homeland Security, Johnson and Johnson is a large organization with multiple divisions that have distinct, yet related, missions. Mr. Deyo's perspective from the private sector will be a valuable asset to another Johnson, that being Jeh Johnson, particularly as you work toward the unity of effort that will make the Department greater than the sum of its parts.

Mr. Deyo, I think the Department and the American people are fortunate that you are willing to take on this assignment, and we thank your family for sharing you with us.

We are also fortunate to have with us Mickey Barnett—nice to see you—who has been renominated by the President to serve on the Postal Service's Board of Governors. Mr. Barnett currently serves, as I mentioned, as the Chairman of the Board, a position he has held for 2 years. If confirmed, he would embark on a third term with the Board, where he has been a Governor since 2006, one of the longest-serving Governors in America, I would say. A different kind of Governor.

Mr. Barnett's nomination comes at a very challenging time, as we know, for the Postal Service. The Postal Service operates at the center of a massive printing, delivery, and logistics industry that employs millions of people. In recent years, the organization has been faced with a decrease in First Class Mail volumes, as we know, and by extension, revenues. The Postal Service today carries barely enough cash to make payroll. We all want a Postal Service that our constituents and businesses can rely on, one that has a chance of continuing the remarkable progress we have seen made in package delivery, really remarkable, and a Postal Service that takes full advantage of other opportunities that lie ahead, about which I am actually very encouraged.

Our Committee has sent a bill to the full Senate—Dr. Coburn and I and our staffs have worked on it for, it seems like forever, but I think we have done good work. The Committee reported it out by a big bipartisan margin. It is before the Senate now for their consideration. But, our bill would enable the Postal Service to save billions of dollars in pension and health care costs. We believe our bill is a solid, comprehensive, and realistic response to a real crisis and we look forward to debating it, discussing amendments to it on the floor, and acting on it during the upcoming lame duck session.

Congress holds the keys to the Postal Service's future, but the Board of Governors serves a vital role in setting the direction and policies of this large organization. I think the Senate must move quickly to confirm all the nominees to the Board—there are now five that are before us, including the four who have already been considered and approved by this Committee, a month or so ago, and they are, I think, a good, strong quartet.

I look forward to talking with you today, Mr. Barnett, about what you think needs to be done further to address the challenges facing the Postal Service and the skills that you bring to the table.

And, to conclude, I want to thank all of our nominees again for being here, for your willingness to serve our Nation in these important roles, and also, again, to thank your families for sharing you with us.

And, with that, let me yield to my friend, Dr. Coburn.

OPENING STATEMENT OF SENATOR COBURN

Senator COBURN. Well, first of all, I thank all three of you for being willing to serve. Appreciate you being here and your family's sacrifice that comes along with your commitment.

I have a formal statement¹ that I would ask unanimous consent to be placed in the record.

I had a great visit with Russ Deyo yesterday. I have been aware of the work of Governor Barnett for a number of years. And, I look forward to our meeting this afternoon, Ms. Saldaña.

I just would say, Homeland Security's primary mission—one of their five core missions—the first mission is preventing terrorism and enhancing security, and that all fails if we do not have interior enforcement, and we do not right now. So, the big job—and I am so appreciative of Jeh Johnson. Ms. Saldaña comes with law enforcement background. She gets it. But, Jeh has managed to put in line effective people at almost every spot as he has taken over Homeland Security.

And, my hope is, is as we go through this process, that we can do speedily the work of getting you into positions. And, on that basis, I am not excited about a sequential referral on your nomination, simply because I think we need your feet on the ground, and if we have a sequential referral, that means you will not be approved until sometime in December. So, I think that is unfortunate. It is unnecessary. And, so, I would love to be in on that discussion.

Anyhow, I am significantly concerned about ICE. It is 20,000-plus employees. That is 15 times what you are doing now. And, what we have heard in terms of whistleblowers and legitimate things that we have checked out, the rule of law is not occurring in ICE today. It is more troubled than anybody knows, and you will soon find out. So, I am extremely grateful for you being willing to take this on, because it is a difficult challenge for our country.

I know your husband is from the big city, Oklahoma City—when I talk to people about immigration, they are not upset that people want to come here. They are upset that the rule of law is being applied inequitably cross different groups. And, their question is, well, if the rule of law does not apply in this issue area, why does it apply somewhere else? And, if it does not apply to them, why does it apply to me? And, so, the very glue that holds us together, which you have spent your career, Ms. Saldaña, enforcing, is the idea of the rule of law. It is not perfect, but the attempt at equal justice for all under the law has to be the thing that guides us as we look at the immigration issue, and—ICE specifically—and, they are a very real responsibility for protecting this country.

So, again, I would just say, thank you, all three, for being here. I thank your families and look forward to your testimony.

¹The prepared statement of Senator Coburn appears in the Appendix on page 37.

Chairman CARPER. Dr. Coburn, thank you.

We have been joined by Senator Ayotte. Good morning, Kelly. Nice to see you. Thanks for joining us.

Just a very brief further couple of words about each of our nominees, and then I will administer an oath and we will give you the opportunity to present your testimony and then we will have some good conversation.

As we have noted earlier, Ms. Saldaña is a proud native of Corpus Christi, Texas, and currently serves as the U.S. Attorney for the Northern District of Texas. Prior to her confirmation as U.S. Attorney, she was the Deputy Criminal Chief of the Fraud and Public Corruption Section of the Office of U.S. Attorney for the Northern District of Texas. However, she began her professional career in a different kind of public service, convincing teenagers to do their homework as an eighth grade English teacher in Dallas, Texas. God bless you. I mentor an eighth grader, so I know. Thank you, again, so much for being here and for your service.

Our next nominee, Russ Deyo, again, 27 years of experience with Johnson and Johnson (J&J), most recently a member of the Executive Committee responsible for managing global operations. Prior to J&J, Mr. Deyo was an Assistant U.S. Attorney, as we have heard, for the District of New Jersey. He served as the Chief of the Special Prosecution Unit during the last 3 years in the U.S. Attorney's Office. We understand you have come out of retirement to consider this position. I just wonder if your wife knows you are doing this, and maybe you can share that with us—oh, I see she is here. That is a good sign. [Laughter.]

Our thanks to you, ma'am, for your willingness to share this fellow with us for a while.

Our last nominee, of course, is Mickey Barnett, who has been renominated to the U.S. Postal Service's Board of Governors. He was first nominated to the Board in 2006 and now serves as its Chairman. Earlier in his career, he served on the Hill as an aide to one of my favorite colleagues, Pete Domenici from New Mexico, later was elected, I think, to the State Senate. Is that right? So, you are a Senator, too. In addition to his current duties on the Board, Mr. Barnett is managing partner of the Barnett Law Firm and has practiced law in New Mexico for over three decades.

Before we invite our witnesses to give their statements, our Committee rules require that all witnesses at nomination hearings give their testimony under oath, and if you would all stand, please, and raise your right hand, I would appreciate it.

Do you swear that the testimony you will give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. SALDAÑA. I do.

Mr. DEYO. I do.

Mr. BARNETT. I do.

Chairman CARPER. Please be seated.

Ms. Saldaña, you may proceed with your statement. Feel free to introduce your family members. I had a chance to meet some of them, but please feel free to introduce them. And, I would say to Mr. Deyo and Mr. Barnett, if you have family members or friends

who you would like to introduce, before you speak, just introduce them to us.

Ms. SALDAÑA.

TESTIMONY OF THE HONORABLE SARAH R. SALDAÑA,¹ NOMINATED TO BE ASSISTANT SECRETARY FOR IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. DEPARTMENT OF HOMELAND SECURITY

Ms. SALDAÑA. Thank you. Mr. Chairman, Dr. Coburn, and Senators of this Committee, I really do appreciate the time you have given me to appear today to be considered for the position of Assistant Secretary for Immigration and Customs Enforcement, and I truly do appreciate the time that Senator Cornyn took to join me, give me a Texas hug before I gave this testimony. He has been very supportive over the years, both with respect to me personally and with respect to my office.

And, I do want to introduce my family, if I may. My husband of 26 years, Don Templin, my brother, Lupe Saldaña, my sister Marisela Saldaña back here, who is a State District Court Judge back home. My niece, Lupe's daughter, Cindy Saldaña. She looks like an actress back there. [Laughter.]

And, a couple of very good friends that wanted to be here with me today.

I am honored by the trust and confidence that the President of the United States has shown in me by nominating me to this office. I am so grateful for the support of Secretary Johnson and the others at ICE, both on the enforcement and removal side and on the investigation side, with whom I have worked for years now back home in Dallas. They have been highly supportive over the years, and certainly with respect to my preparation for my testimony today.

Senators, I sit before you today as a third generation American, the youngest of seven children, and that should tell you something about me. Raised by my mother, essentially on her own in South Texas. I am a lifelong Texan and very proud of it.

I would like you to know my mother's name, Inez Garcia Saldaña, and if she were living today, I can only imagine the pride that she would have in seeing me testify before this very esteemed Committee, talking about a nomination to an office that is so critically important to the country, and with respect to my nomination by the President of the United States of America. I wish she were here.

Chairman CARPER. I have a hunch she is watching.

Ms. SALDAÑA. I think so, too, Senator.

I will tell you, I mentioned her because she is singularly responsible for my being the person I am today. She taught me, not even so much through her words as through her deeds, the values that she herself practiced: Self-reliance, hard work, and giving of yourself to the public and to others.

In this brood of seven siblings, I have four brothers who divide my loyalties among the different branches of the military. Two of my brothers are Marines, as is my husband, Don. One served in

¹The prepared statement of Ms. Saldaña appears in the Appendix on page 41.

the United States Navy, and the fourth, David, who I am sure is listening today, is a Purple Heart recipient who served with the United States Army in Vietnam.

I have no military experience myself, but I have served my country in various ways. You have mentioned as an Assistant United States Attorney and currently the Chief Law Enforcement Officer in Dallas and the Northern District of Texas. And, I will tell you, Senators, even though I have 40 years of work experience, these years in the United States Attorney's Office, enforcing the rule of law in the great State of Texas, have been the best years of my professional life, unequivocally.

And, in these years at the U.S. Attorney's Office, I have worked closely with the people at Homeland Security, as I mentioned, the Enforcement and Removal Operations (ERO) people and the people on the investigation side, in helping them to take on the task that is the mission of the Department of Homeland Security. And, I know that they are listening and watching, and I will tell you that I join them in wanting to secure the homeland and to ensure public safety.

I have the greatest respect and admiration for them, as I do for all the agencies I work with, the Federal Bureau of Investigations (FBI) and the Secret Service and Education and all the others. Often, they work at their own personal peril, and often, without any public acclaim. And, I would be truly honored, if confirmed, to continue to serve them back in Dallas and in the Northern District of Texas, and on a national level with all of their colleagues.

Senators, I believe it is important for me to commit to you this morning, at this critical time, as you consider my nomination, that I will be cooperative and transparent with this Committee, any of the other Committees of the Congress, and that I truly appreciate the role I come to you before today, even in my role as United States Attorney. You are the lawmakers. I enforce the law.

And, as U.S. Attorney, I am also ever mindful, and I want to assure you that I worry about the management of the agency. I worry about the expenditure of the taxpayers' funds. And, I do my best every day in my role as U.S. Attorney to ensure they are spent wisely and effectively and toward that ultimate goal of homeland security.

So, I understand the enormity of the task before me that you and Senator Cornyn have referenced, and should I be confirmed, but neither am I intimidated by it. I know I have shared a story with my colleagues at the Department of Justice (DOJ) that they probably get tired of hearing, but I will repeat it here.

I have never been so proud in my life as the first time I stood before a jury in a Federal courtroom and looked at them and said, "My name is Sarah Saldaña and I represent the United States of America." And, I am equally proud to tell you that again today.

I hope to be confirmed as Assistant Secretary. I want to join you in your efforts to promote public safety and to ensure the safety of the homeland, and I thank you.

Chairman CARPER. Well, thank you for an inspiring statement. Thank you.

Mr. Deyo, I am glad I do not have to follow that— [Laughter.]

But, I am glad you are here to follow. So, you are recognized. Feel free to introduce anyone you would like from your family or from the guests that are here.

TESTIMONY OF RUSSELL C. DEYO,¹ NOMINATED TO BE UNDER SECRETARY FOR MANAGEMENT, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. DEYO. Thank you, Chairman Carper and Dr. Coburn. It is an honor for me to appear before you today as you consider my nomination to be Under Secretary for Management at the Department of Homeland Security.

And, Chairman Carper, as you point out, I am very pleased to have members of my family here. Stephanie is my wife of 43 years. We have been in love since high school. My two remarkable children are here, Jacqueline—she is gone because of the grandchildren that I will get to in a minute. She is a working mom. My son, Bentz, who is a published author and dad.

Chairman CARPER. Would you raise your hand? Thank you.

Mr. DEYO. Jacqueline's husband is also here, Xavier Seys. He is a Frenchman by birth, but recently became a U.S. citizen and is a proud proponent of the special benefits that come with being a citizen of our country.

Chairman CARPER. Good. Would you raise your hand?

Mr. DEYO. He is probably not here. He is chasing the two grandchildren, Mathis and Oscar out in the hall. Mathis is 3½. Oscar is 18 months. I try to have every moment with them, so I invited them, but they are rambunctious and they are wandering the halls. They are delightful, as is Bentz's daughter, Hailey Jane, who is home with her mom, Jen, in New Jersey, and made it possible for Bentz to be here today.

Chairman CARPER. We are glad that all of you could be here. Welcome.

Mr. DEYO. Thank you. As to my background, as you have pointed out, I retired in 2012 from Johnson and Johnson after 27 really wonderful years, the last 15 years on the Executive Committee, the principal management group responsible for the company's global operations.

I must confess, I love retirement, time with the grandkids, traveling with Stephanie, serving on nonprofit boards, and occasionally lecturing at business and law schools. But a few months ago I received a call out of the blue from Secretary Johnson asking if I would consider being a nominee for the role of Under Secretary for Management. And, after meeting with a number of knowledgeable people, including former Secretary Chertoff, and long discussions with my family, I decided to proceed, and here is why.

Dr. Coburn, you made reference to the mission of Homeland Security, and I find it both critical and inspirational. I take it personally. It requires constant vigilance, a willingness to change, and the ability to react to new circumstances. If confirmed, I would be honored to join the hard working men and women of the Department and will endeavor to bring my experience to support this critical mission.

¹The prepared statement of Mr. Deyo appears in the Appendix on page 130.

Like both of you, I have enormous respect for Secretary Johnson. It is based on our past working relationship and his demonstrated leadership. It means a lot to me that both he and former Secretary Chertoff, whom I also greatly respect, believe I would bring value to this role.

I do think my experience in private industry should bring a fresh perspective to this role. As you well know, DHS consists of several operational components. The Under Secretary for Management leads a group of six administrative functions that provide support to these components. But, importantly, this management group is also an engine that can drive better outcomes and greater efficiency through collaboration by and between the components and by standardization of strong policies, practices, and reporting.

As you have pointed out, Johnson and Johnson is similarly decentralized, over 250 individual operating companies around the globe in the pharmaceutical, medical device, and consumer space. In my roles on the Executive Committee, I was responsible for an array of functions that served these operating companies: Human resources, compliance, quality, real estate, security, procurement, and corporate procurement. In a tough competitive environment, companies like Johnson and Johnson need to be proactive, anticipating problems and opportunities and planning for contingencies. If confirmed, I would try to reinforce this proactive approach going forward.

In sum, I believe that my experience at Johnson and Johnson should serve me well in meeting the challenges that the Department faces to collaborate, align priorities, manage money effectively, and deliver on its critical mission.

I have been blessed by my family, by my work, by the enormous benefits of being a citizen of the United States. This provides me an opportunity to provide some payback for the opportunities I have had, and I would be very proud to conclude my career representing the United States and working with the men and women of the Department.

Strong work has been done by those who served in the role of Under Secretary for Management in the past. I would work hard to build on that foundation to make the Department even stronger, if confirmed.

I very much appreciate your consideration.

Chairman CARPER. There is an old saying that paybacks are hell, but not all of them are, and in this case, this could be a gift from God and we are grateful for it. Thank you for your willingness to serve and for your testimony.

Mr. DEYO. Thank you.

Chairman CARPER. With that, let me turn to Chairman Barnett. Mickey, please proceed. Thank you. Welcome.

**TESTIMONY OF THE HONORABLE MICKEY D. BARNETT,¹
NOMINATED TO BE A GOVERNOR, U.S. POSTAL SERVICE**

Mr. BARNETT. Thank you, Chairman Carper, Ranking Member Coburn, and Members of the Committee. Thank you for the opportunity to appear today.

I also want to thank Senator McConnell for his recommendation and President Obama for my nomination.

These past 8 years have been a real learning experience in regard to the Postal Service. Fortunately, I have served together with talented and experienced Governors, and together, we have been able to reach consensus on every significant issue, including the selection of the current Postmaster General and Deputy Postmaster General.

I have now become a passionate advocate of the Postal Service and its incredible history of service to the people of our country. I feel an obligation to do everything I can to make sure it continues to be a viable entity capable of prompt and reliable delivery of the mail and packages.

As everyone here knows, the Postal Service is in a crisis mode. Our liabilities are approximately \$68 billion, and we have a fleet of over 200,000 delivery vehicles with an average age of more than 22 years. Even with a reduction of more than 200,000 career employees over the past 8 years, a reduction in mail processing facilities, and a reduction in operating hours at some post offices, we are unable to service our debt, pay down our liabilities, or pay for needed capital investments. Our most profitable product, First Class Mail, continues to decline at 8 percent a year, while our costs, like everyone elses, continue to rise. Allow me to elaborate.

The erosion of First Class Mail volumes are being driven by rapid changes in the way Americans communicate. Smartphones, texting, e-mails, and the Internet were unheard of only a few short years ago. Today, they are the primary way most individuals interconnect.

Fortunately, as First Class Mail has declined, the U.S. Postal Service's package revenues are growing by more than 10 percent compared to last year, and advertising mail revenues are relatively steady. However, to fully leverage the package revenue opportunities and remain competitive, the Postal Service will need to invest billions of dollars in new delivery vehicles, infrastructure, and new package sorting equipment.

The Postal Service, working in conjunction with the Board, have developed a reasonable approach to pay down its debt, achieve financial stability, and if given flexibility through comprehensive Postal reform legislation, it can put negative headlines in the rear-view mirror.

Focusing on the business decisions that are within its authority to independently implement, the Postal Service, as I said, decreased its career workforce by 205,000 and reduced the annual cost base by \$15 billion since 2006 through workforce reductions, all through attrition and voluntary retirement incentives. The Postal Service has also implemented cost reductions for retail, mail processing, transportation, delivery, and administration, literally,

¹The prepared statement of Mr. Barnett appears in the Appendix on page 190.

every area of the organization. In fact, most of these cost reductions have taken place behind the scenes, in areas that do not directly impact Postal customers.

Moving forward under current law, the Postal Service has some limited flexibility to make further cost saving changes. However, these measures are insufficient to close the remaining financial gap. Given its current governance and business model constraints, the Postal Service cannot achieve financial stability without the passage of comprehensive Postal reform legislation. If given the flexibility by Congress to quickly adapt to today's evolving marketplace and customer demand, the Postal Service can chart a path forward to remain viable and relevant for many years to come.

As Chairman of the Board of Governors these past 2 years, I have had the opportunity to meet with members of the Senate and House to discuss Postal reform, and I will not repeat those requests here. But, and this is an important point to emphasize—even if all of the reforms are made, the Postal Service will remain in trouble if it does not work to aggressively generate additional revenue.

The Board of Governors has made a concerted effort to meet with many large mailing customers to discuss and learn what we can do to improve. The Board has gone to San Diego, Las Vegas, Phoenix, Kansas City, and New York to receive this input from the business community on how we can best go forward to put us on a path to profitability. These meetings, along with the marketing efforts of Postal management, have resulted in significant increases in package delivery. We believe this growth will continue and will offset some of the declines in the mail volume.

I will close with this—two years ago, we met with the futurists. I did not know what a futurist was at the time, but we met with this lady. She predicted that in 30 years, there will be no paper. Now, I am not here to tell you this is a reasonable prediction, because I have no idea, but if that is even possible, the Postal Service must be forward thinking. If true, there will be no mail in 30 years. That is why we are so focused on increasing our package delivery.

I am hopeful to continue my service on the Board of Governors and can add to my 8 years of experience. I am happy to respond to any questions, and thank you for the opportunity to appear here today.

Chairman CARPER. Chairman Barnett, thank you so much for your testimony, for your service and willingness to serve further.

I am going to start my questioning today with the standard three questions we ask of all nominees. You do not have to rise. You do not have to raise your right hands. But, here are the three questions.

Is there anything that any of 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. Saldaña.

Ms. SALDAÑA. No, sir.

Chairman CARPER. Mr. Deyo.

Mr. DEYO. No.

Chairman CARPER. Chairman Barnett.

Mr. BARNETT. No.

Chairman CARPER. OK. Second question. 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. Saldaña.

Ms. SALDAÑA. No, sir.

Chairman CARPER. Mr. Deyo.

Mr. DEYO. No.

Chairman CARPER. Chairman Barnett.

Mr. BARNETT. No.

Chairman CARPER. OK. And, 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? Ms. Saldaña.

Ms. SALDAÑA. Of course.

Mr. DEYO. Absolutely.

Mr. BARNETT. Yes.

Chairman CARPER. OK. Thank you very much. So far, so good.

I am just going to start with you, Ms. Saldaña, if I can. We know that the leadership position to which you have been nominated is a really demanding, tough job. I once joked with Lisa Jackson. She had been nominated by the President, President Bush, George W. Bush, to serve as the Environmental Protection Agency (EPA) Administrator for our country, a hugely challenging job, as well. And, at the end of the hearing, I suggested to her that she turn around and say goodbye to her children because she would not see them until Christmas. They started crying and—— [Laughter.]

It was not that bad. I was not that heartless. But, I did convey the idea that this is a busy job and they might not see her as much as they would like. So, I would just say to your husband, how long have you all been married, twenty——

Ms. SALDAÑA. Twenty-six.

Chairman CARPER. Twenty-six years. Well, you will see her before Christmas, but maybe not as much as you would like, if she is confirmed.

I want to talk about two things. We mentioned leadership and the word management cropped up a time or two. Most of what I have learned about leadership—I learned a lot from my parents about values, but I learned in the Navy, and 23 years active in Reserve duty, a good deal about leadership. And, I think leaders are folks who have the courage to keep out of step when everyone else is marching to the wrong tune. We lead by our example. It is not do as I say, but do as I do. I think leaders should have the heart of a servant. I think leaders should be humble, not haughty. And, I think leaders need to be purveyors of hope and appeal to people's better angels and inspire people to work. If you think you can, we think we can't—I think that is Henry Ford—you are right. So, that is the kind of leaders that I look for as we have folks come before our Committee.

I would like for you to talk a little more about leadership. I want you to talk, whether it is about management and how your life and your life's experiences, including your work experiences, have embedded in you the kind of management skills that could be helpful, maybe upsized and upscaled in this assignment. But, just talk with us about that, please.

Ms. SALDAÑA. And, I had thought a lot about that——

Chairman CARPER. Make sure your microphone is on, please, because we want to hear every word.

Ms. SALDAÑA. There is a green light.

Chairman CARPER. OK.

Ms. SALDAÑA. Is that the first sign of a good leader—there. Thank you.

Mr. DEYO. You are welcome.

Ms. SALDAÑA. All right.

Mr. DEYO. That is what management does to help. [Laughter.]

Ms. SALDAÑA. That is a very thoughtful question, Mr. Chairman, and I have given that a great deal of thought, and I believe every experience I have had, and when I talk to young people, both high schoolers and college kids and students in law school, I tell them to take advantage of everything they have done in their life. Whether you are serving sodas in a drug store or doing whatever you do, enjoy it, learn from it, and all of these experiences build on each other to make you the person you are.

So, I have been working for a long time. I have been living for a long time, and working about 40 years, and, starting with the school teacher that you mentioned and the challenges there—

Chairman CARPER. Did you ever work as a kid, growing up in Corpus Christi?

Ms. SALDAÑA. In a drug store, actually. That is why I mentioned that—

Chairman CARPER. So did I.

Ms. SALDAÑA. Yes. So, I have come to learn that leadership requires you to be the point of the spear, the face of the organization, the face of the group you are leading, and I have done that with the U.S. Attorney's Office, I believe.

I believe that a leader really needs to be the face of the office, to conduct himself or herself with the greatest ethics and integrity and professionalism. As you mentioned, you lead by example. If you are not conducting yourself at the highest standards of excellence and integrity, it is difficult for people to follow.

I have had to exercise good judgment, not only in my positions at the U.S. Attorney's Office, but in representing some of the largest corporations in the country when I was working with Baker Botts and Haynes and Boone, firms I am very proud to have been associated with. Once again, excellence was an expectation there.

And, so, during that time when I did that, I picked up the skills of communication and the importance of relationships, and I do not say that in a manner that is intended to be disrespectful. What I am saying is relationships are important. You have them all your life, and it is a matter of fostering them and making sure that you do not slam the door behind you when you leave from one place to the other.

And, then—

Chairman CARPER. I would just interject there. I think one of the reasons we have a productive Committee here is because of the trusting relationship that Dr. Coburn and I worked to create, and really with the Committee and with our colleagues. One of the things that is most missing here in the Senate these days—and in the House—is the trust especially across party lines. So, I concur. that is enormously important.

Ms. SALDAÑA. And, there is nothing like good judgment, as well, and I have honed that judgment over the years, and a little bit of common sense does not hurt, either.

Surrounding yourself with the very best people. In a position like this, the demands are great. You cannot get into the weeds, necessarily, but you can make sure that the people that are around you running the day-to-day operations are the finest, the best trained, and that you work as a leader of that office to provide them the tools they need.

Decisionmaking—once again, deliberate, but timely. You cannot just sit on decisions, and you have to think them through. And, I can see where that skill will serve me well in this particular position. Be thoughtful. Get all the information you can, and then do what is in the best interests of the American people.

And then, finally, and I think I have repeated this, but it bears repeating, communication, communication, communication. In this position, with 20,000 employees across the world, with all the agencies we have somewhat overlapping jurisdiction with, all of that, it is important to be communicating with them, and I have done that as a United States Attorney. I have had to deal with the local law enforcement in 100 counties. There is a sheriff in each one of them. There is a police chief. There are constables. And, I think all of that is going to serve me well if this Committee does and the Senate confirm me.

Chairman CARPER. Thank you so much for those responses.

I will yield to Dr. Coburn. When we come back, Mr. Deyo, I will have a couple of questions for you and Chairman Barnett. Thank you. Tom.

Senator COBURN. Mr. Chairman, I will make it easy. I do not have any questions for Russ Deyo or Mickey. I pretty well am satisfied. I have not had a chance to have a private visit with U.S. Attorney Saldaña, and so all of my questions are really going to be directed to you, and I have a ton, so you will have to forgive me. A lot of them will probably end up being in the record.

I am really worried about ICE. I mean, when ICE releases 600 criminals based on sequestration, nobody seems to know why. Nobody has taken responsibility for it. And, I am not talking about minor criminals. I think the organization has some real conflicts within it, and I think it comes back of whether or not the leader is going to be establishing that we are going to follow the law. The rule of law is important. We are going to make that our mantra, and we are going to do that in a kind and compassionate way, but we are going to do it. So, bear with me as I go through some questions for you, if I may.

Last month, the DHS Inspector General (IG) released a report that Senator McCain and I had requested which found ICE released thousands of illegal immigrants last year prior to the sequester, and that more than 600 of these had significant criminal records. Now, I am talking criminal records here in the United States. Are you aware of that report, one? What are your views about the decision that somebody made, that nobody will own up to, that we released criminals onto the street? And, can you assure this Committee that that will not happen under your watch?

Ms. SALDAÑA. The answer to the first question is, I am aware of that, Senator, and I will tell you that I understand the concern you have. I think it is a concern to all the American people, so I am glad you brought that up. I want to speak to that directly with respect to the general concept of keeping track of people who are in the country and making deliberate, thoughtful decisions. If, in fact, the pressures of limited resources versus ensuring the safety of the American public, I do that every day as a United States Attorney.

I have not studied and gotten behind the facts regarding that report, sir, I will be candid with you, but I feel a very strong commitment that that is one of the top issues that I would like to study and certainly learn more about. But, in the end, all I have done the last few years is enforce the law. That is what I know to do. I like the fact that you mentioned some compassion, that there is certainly room for that. But, we have to protect the American public first.

And, so, all I can assure you, Senator, is that I will act in the manner that you are requiring the Director of this agency to act, and that is with the principle of the rule of law certainly in mind. But, I understand those pressures and I will just have to take a look at that, Senator, and talk more about that with you, I hope.

Senator COBURN. OK. ICE Homeland Security investigations has a complex mission with enforcement that spans a number of different laws. However, many of these laws overlap with a lot of other Federal agencies and law enforcement agencies. If you gain this nomination and are confirmed, how are you going to assure us that you do not expand into areas of mission creep, because I see that as part of our problem right now, is you have limited resources, but we are expanding the mission when, in fact, some other Federal agency has it covered already. How are you going to make sure that we do not go beyond what is truly part of the essential and primary mission of Homeland Security?

Ms. SALDAÑA. Well, I have just gotten to appreciate even more how broad that mission is. But, I do recognize, since I work now daily with the Federal Bureau of Investigation, the Secret Service, and the Homeland Security Investigations (HSI) at ICE, certainly, that there are areas of overlap and we cannot afford today to run into each other with respect to the responsibilities we are carrying out.

And, just using cybercrime as an example, everyone has got to step up, all the agencies that have some responsibility there, but it is also important to stretch the taxpayer dollar by coordinating and collaborating. I do that as United States Attorney. I sit down with the heads of every agency I work with, with the District Attorney, with the heads of local law enforcement, our public safety, Department of Public Safety, once a quarter. We break bread together. We talk about what we are doing.

Senator COBURN. I have it. I am not ever going to get through these if I let you go on—

Ms. SALDAÑA. Yes.

Senator COBURN. I understand it, and I appreciate that.

One of the things you discussed was prosecutorial discretion in the area of immigration enforcement, including the need to focus prosecutorial resources on the biggest threats to public safety. But,

as ICE Director, you would have investigative discretion to determine what to investigate. So, my question is, would you apply the same logic, focusing investigative resources on the biggest threats?

And, let me just give you some contrast. How do you compare the threat of illegal immigrants, especially those with criminal records, or those who overstay their visa terms in terms of intending to be a threat to us, as we saw in 9/11, compared with the threat to public safety for fraudulent copyright, fraudulent counterfeit merchandise? How do you weigh those two and how do you apply that investigative resource to what is most important for us in terms of protecting the homeland?

Ms. SALDAÑA. Well, as I do now as United States Attorney, Senator, you have to look at what is the biggest threat to the American public and to the constituents within your district. I believe that you have to assess every case, and here is where process and systems that are in place are the most important thing, because you have to be able to assure the public that you are looking at every case on the merits, on the facts, and on the law.

So, this is what I would do as one of my first things, if this Senate were to confirm me, is to look at the processes in place to determine, to make that very assessment. But, it has to be on a case-by-case basis. It cannot be by categories, necessarily.

So, I agree with you, Senator. I think that is an important issue facing the agency, and I certainly have kept up and read some of the reports. I want to get in there and work on this issue.

Senator COBURN. Senator Carper, do you want me to go on, or do you want to?

Let us talk EB-5 for a minute. Over the past year, I and others have engaged in significant oversight of the EB-5 immigrant investor visa program at the United States Citizenship and Immigration Services (USCIS). It is fraught with problems, including very real threats to our national security, and it has rampant fraud. That is indisputable.

In the course of that investigation, I have reviewed a ton of documents, including an ICE HSI tasking that stated, the only way to protect national security was to sunset the Regional Center portion of the EB-5 program. That is ICE's own report on its own program. ICE HSI must carry out investigation of any referrals made by USCIS involving this or any other immigration benefit program.

So, my questions are the following. ICE HSI made this recommendation to sunset this program, yet USCIS continues to expand this program despite its very real inherent national security vulnerabilities. As Assistant Secretary, how will you work to ensure that ICE recommendations for preventing national security threats are given credence and implemented by agencies, in this case, USCIS?

Ms. SALDAÑA. Senator, you have identified the top priority within Homeland, and that is the national security threat. You have identified the top priority within the Department of Justice in which I serve now. I am not familiar with all the facts and circumstances related to the situation you are talking about. That is one thing that the Director of ICE has to focus on, is any process that touches upon how we assess these threats and what we do about them.

If I am confirmed, I need to get involved, get all the information I can, hopefully, discuss this matter further. It sounds like you have studied this a great deal. But, the bottom line is, that is the top priority of the Director of ICE, is assessing the systems that determine the severity, the seriousness, of any national security threat, and I commit to you I will do that, and, hopefully, get your assistance in kind of assessing the problem.

Senator COBURN. With me, it is unexplainable, why EB-5 Regional Center programs have not been shut down already. I cannot get an answer to it. I cannot get anybody that wants to take responsibility for it. China steals our intellectual property. They, as a nation-state, invade our computers all the time. And, they are going to have over 98 percent of the EB-5 regional programs this year, where they are taking money they have stolen from us, invest it back into an EB-5 program, and then put counterintelligence people on the ground in this country with our blessing. It makes no sense whatsoever, and nothing is being done about it. This should be one of your highest priorities, because it is a real risk to this country and we are sitting there saying, come on, do it some more, because we have not shut down the Regional Center program.

Ms. SALDAÑA. And, I will do that, Senator. I will.

Senator COBURN. The Associated Press (AP) last week reported that the United States is sharply curtailing deportations. The AP noted, the Department of Homeland Security figures show it deported 258,000 illegal immigrants through July 28 of 2014. The same period last year, 321,000. According to the L.A. Times, deportations from the interior are down more than 40 percent since 2009. And, the Associated Press also reported that ICE is on pace this year to remove the fewest immigrants since 2007.

We have had the discussion on what the law says, in terms of the rule of law. This flies in the face of what the rule of law is. However, the administration has claimed it has deported record numbers, and the reason they can claim that is because they talked about people who come across and are immediately deported, which, we did not use to count the numbers that way. So, we are playing games. We have a spin game going on with the administration in terms of what the factors are about real interior deportations.

I give that to you so that when you work with this Committee—the one thing you find is we will work with anybody as long as they shoot straight with us. So, numbers are important, and how you get the numbers are important. So, if you change the baseline or change the denominator, you ought to be honest enough to tell us that, and I just put that forward.

Mr. Chairman, I will stop right now and I will submit the rest of my questions for the record, or I will get them covered this afternoon.

Ms. SALDAÑA. Thank you, sir.

Chairman CARPER. Thank you, Dr. Coburn.

Ms. Saldaña, I am going to let you take a breath, have a drink of water— [Laughter.]

Chairman CARPER [continuing]. And I will turn to your colleagues here, Mr. Deyo and Chairman Barnett, if I can.

One of the folks who has testified before the Committee any number of times in the past was Jane Holl Lute, who was Deputy Secretary of the Department of Homeland Security. I thought she served with great effect. She was a very good leader. And, she used to go over and meet—sometimes, Secretary Napolitano would go, as well—but, they would go over and meet with the Government Accountability Office (GAO), Gene Dodaro who heads up GAO, and basically sit down with him and say, “What do we have to do to get off your High-Risk List?”

The High-Risk List is something the GAO puts out every year, about every other year, and it covers, really, our broad Federal Government, and the idea behind the High-Risk List is, how do we get better results for less money in almost everything we do? It is an invaluable service they provide. And, the question is what our agencies do with it. What do they do with it?

DHS, as you may know, was on the High-Risk List for a number of years because they were unable to achieve unqualified financial statements, and now they have finally done that, after all these years. Others, they made real progress. The person who held this post before you, actually, was a very strong leader and manager.

As you know, the management of this Department remains on GAO’s High-Risk List, and we feel—I hope you do, too—that this is an operation that continues to need a lot of attention. The Department has an Inspector General. This Department’s IG has also produced a considerable body of work related to management of the Department. Real progress has been made, and it has been made in the last 6 months, but also in the last 6 years, and a lot of people have been responsible for that.

But, more needs to be done. If it is not perfect, make it better. That is my motto. And, so, I would just say, what would your approach be to working with both the GAO and with the Inspector General to address the Department’s major management challenges? What are some of those that still you think would require your immediate attention? How much would you work with GAO and the IG to achieve those?

Mr. DEYO. Thank you, Chairman Carper. First, let me say, I had the benefit of a conversation with Jane Holl Lute telephonically, and I plan to meet with her again. I share your perception of her. I have also met with Rafael Borrás and some of the other former Under Secretaries for Management, and I have a lot to learn from them. They have all been very helpful—

Chairman CARPER. You talked to Jane Holl Lute and Rafael Borrás. Those are two of the smartest calls you could make. That is good.

Mr. DEYO. I look forward to learning more from them.

In terms of Inspector General and GAO, I know the benefit of independent oversight and receiving that kind of input and I welcome it, and I would intend to work closely with both GAO and the Inspector General in terms of understanding their concerns and being held accountable for addressing them. I think it should be in open, transparent discussions.

To get a little bit deeper into it, but not too deep, when I think about my own personal priorities based on the preliminary views I have looked at, it pretty well aligns with the high-risk areas that

GAO has identified, and I think that alignment underscores the value of the GAO input, as well as my concern about improving the management and the efficiency and effectiveness.

I also had a conversation with George Scott at GAO and that was also very positive.

Chairman CARPER. OK. One of the reasons that the Department's management is on the High-Risk List is that its processes for planning and for overseeing major acquisitions are still relatively immature, at least by Federal standards. In general, GAO has found the Department has good policies on paper, but that many major acquisitions have moved forward without the kind of documentation and review that these policies actually require. And, the Department needs to find better ways to align planning and outcomes across the whole Department. This would both eliminate duplication, we hope, and to ensure that the resources are matched to the highest priorities.

This is a large part of what Secretary Johnson calls his unity of effort. That is what it is largely all about. Based on your experiences, what is the proper balance, if you will, between an organization's headquarters and its components in terms of management and accountability?

Mr. DEYO. First of all, I agree with you about the power of the unity of effort, and I also agree that the structure of the lifecycle management of acquisitions looks pretty good. What is needed is discipline about each stage review to make sure that the requirements are clearly defined, each step is being met before it moves on, and that takes discipline and it takes collaboration between the center and the components.

I think it is a question of shared accountability, where both feel accountable for the outcomes that the—particularly on the highest priority acquisitions that are most critical to the mission, and we need to gain alignment with the components and the center on what those are. They need to be the highest priority, appropriately addressed, and put at the top of the list and managed well because the outcomes are so critical.

So, it is shared accountability, it is management willing to demonstrate the benefits it is bringing to help the components fulfill their function, but also, if necessary, demonstrating the benefit of a common practice and process. Does that answer your question?

Chairman CARPER. Yes, I think so. I think you come close.

Mr. DEYO. I have to see it firsthand to see how it really operates before I can delve too deeply.

Chairman CARPER. All right. As you may know, for the first time, this Department, the Department of Homeland Security, achieved a clean opinion on its financial statements in fiscal year 2013. A lot of people worked very hard, and that is regarded certainly by us as a major achievement, and it is one that we hold out regularly to our friends in the Department of Defense, who have been around a lot longer than DHS, and say, well, look what they have done at DHS. What kind of progress are you making at the Pentagon? And, they are starting to make some progress. But, actually, the example provided by DHS, and sort of the road map it has provided, is very helpful, of leadership by example, and we are using it, I hope, effectively.

But, while that is a major achievement, of getting a clean financial opinion, I think the Department's success here was due in large part to the clear message that was sent from the top leadership of the Department for what was and remains an important goal. What would be your messaging to the rest of the Department about the importance of maintaining a clean audit? And, based on your reviews thus far of the Department's financial systems, to the extent you have been able to do that, what do you think should be the goals of the modernization of the financial systems? Any thoughts you have on that? What benefit might that bring to the efficiency, the efficient operation of the Department? Those three questions.

Mr. DEYO. I share your view and applaud the success in getting a clean audit. That is a tremendous accomplishment. It is not meaningful, however, unless it is sustained, because you have to have confidence in those balance sheets, in those numbers on an annual basis. And, I know that the Department and the finance group are absolutely dedicated to making that happen.

The next big piece, as far as I can see so far, is we need to have a fully integrated financial management system across all the components. You have to have reliable information so you can make smart budget decisions and have good analytics to make good strategic decisions. And, having ledger sheets that do not match up and you cannot compare apples to apples across the groups makes it very difficult to make informed strategic decisions.

I think it is critical that the agency have a long-term focus, and you cannot do that if you do not have reliable data. So, that is an existent high priority within the finance group, and, indeed, with the leadership of the Department, and I strongly embrace that. At Johnson and Johnson, it would be unimaginable that, despite all the complexity and the decentralized nature, that there was not a common financial system so that you could accurately make strategic decisions and accurately report what the actual financial numbers were.

Chairman CARPER. All right. Good. Thank you. Thank you for that.

Do you mind if we turn to Mickey Barnett for a while—

Mr. DEYO. I would be pleased with that decision. I support that decision. [Laughter.]

Chairman CARPER. As I sometimes say when I ask questions like that, I say, "I am Tom Carper, and I approve that message," so, all right.

To our Chairman, we had some interesting conversations just this week with the Postmaster General, Pat Donahoe, and also with our Deputy Postmaster General, Ron Stroman, and some good conversations. Among the questions we have been exploring are, how is the Postal Service doing? For the most part, when we talk about the Postal Service, there is so much red ink, cut in half, reduce by half the workforce, reduce by half the mail processing centers, reduce the time that thousands of our Post Offices are open in rural communities across the country. The tone is actually pretty negative.

But, as it turns out, in spite of all that, there is, I think, a remarkable transformation going on within the Postal Service. I have

said any number of times in this room, the real key to success long-term for the Postal Service, I have learned, is how do we take this 200-plus-year-old distribution network and make it relevant, not just relevant, but successful and vibrant in a digital economy in the 21st Century, and it is possible to do that. And, little known to most of the people that I serve with and to the rest of this country, you are actually beginning to do that.

And, one of the things we talked about, is how the First Class Mail continues to drop. That is a problem, because the Postal Service, for years, that has been your bread and butter. You make money doing other things, but that is the most profitable part of the business, and a lot of that business has gone away, especially in the last 7 years, as you know better than any of us.

But, just as the Internet has taken away a lot of business for the Postal Service, it is in the process of giving it back, big time. I am going to ask you to talk a little bit about some of the new opportunities that are being pursued. Like, this morning, between 3 a.m. and 7 a.m. in San Francisco, the Postal Service is out there delivering groceries and doing this in partnership with, Amazon. I think it is with Amazon. I understand you are going to reach out to 100 grocery chains across the country. I think there are 32 ZIP codes in San Francisco.

This took place this morning. You used your trucks, your vehicles that otherwise would not be doing anything to deliver the groceries. I think you folks have access to high-rise apartments because you Postal folks have keys, anyway, to get in to deliver the mail, and you have the opportunity to deliver the groceries, as well. So, you have these vehicles that otherwise would not be used. Let us put them to use. And, part of your skill sets is the ability to provide access to these buildings and better service, which is important.

We understand that the deliveries you are making on Sundays for Amazon has grown from a couple hundred ZIP codes now to over 5,000, and growing. There is growth, continued growth in flat rate boxes. There is some, I think, good growth already in Priority Mail, and you are about to see a lot more of that, we think, as we come into the holiday season. So, those are all positives.

I would just ask you to talk about this glass half-full story for the Postal Service, not just the glass empty or half-empty, but talk to us about a glass half-full, what we need to do in this body to make sure that it is a glass half-full and that the Postal Service will not be a burden to the people of this country, the taxpayers, but it will be something we can all be enormously proud of. Please.

Mr. BARNETT. Thank you, Mr. Chairman, and also thank you to you and your staff, who I know have worked diligently now for years trying to get postal reform legislation, which we hope will eventually occur.

It is half-full in all of the things you describe. The Board has been diligent at going everywhere we can go to meet with potential customers to expand our income opportunities. Some have been very fruitful, as the Chairman pointed out. Others are continuing to grow. The growth of small businesses and eBay and those kind of things are going to be large growths in small package delivery, of which we are well positioned to be the choice of the consumers or the businesses for delivery.

It cannot be all half-good because we have competitors in the arena, which is great, and we would like to operate as they do, as a business. These are what we call the competitive sides of the business. They are not like first class, governed by monopolistic-type theories of utility regulation. However, we are not as nimble as we need to be because most of our—we can do trials, we can do tests, but everything else has to go to the Postal Regulatory Commission (PRC) for approval. That is a tedious, expensive, and very slow moving operation over there. And, so, we sometimes have great opportunities, great ideas, and it takes us months to get it to fruition.

The test marketing for the grocery delivery has been a success. We saw film of them at 3 in the morning and film of them going to doorsteps and things like that. That ties in with a large amount of effort that the Board and management has done to try to come up with possibly a 21st Century mailbox, because as package delivery overtakes mail delivery, it has new problems. The two existing problems are where do you leave the packages if the party is not home, and second, our delivery vehicles are not now equipped to do the volume we need to stay solvent, particularly when they are 22 years old and they are designed for mail delivery, not package delivery. Now, we have some package delivery, but not near the volume that we hope to grow to.

We, clearly, can be the last mile for every carrier in the country. We probably can do it more efficiently than they can in every area except probably a densely urban site. It is profitable for anybody to deliver in that environment. It is not as you go more rural, to your State or particularly my State out in the Southwest. Lots of things are very far apart, and we are well equipped to do it, and we need to, with 150-million-plus delivery sites every day.

I will not go through the litany of needing more flexibility on delivery time. We need help on Workers' Comp. We have a guy, 100 years old, that once worked 3 weeks for the Postal Service when he took office in 1957, worked 3 weeks, and he has been on Workers' Comp since then. That is a system that is broken and we need a way of, one, resolving the Workers' Comp benefits, and, two, having some date certain at which they convert to retirement.

But, those are all postal reform ideas. The phenomenal success of Postmaster General Donahoe and the entire team at the Postal Service is unprecedented. The fact you could reduce your workforce by several hundred thousand people with no work stoppages, no labor unrest, no anything, is somewhat unprecedented in this country's history. It has all been done. Now, I am not saying there is not some concern over it, but it has been done very well.

Second, the last time I appeared, we had some discussion about the difficulties faced in closing of rural Post Offices, those that have—and we reached a very good compromise at reducing them to 2 hours a day, 4 hours a day, or 6 hours a day. That has worked very well. So, there has been—I will call that a political solution, but a compromise solution to that sort of thing. And, by and large, the uproar seems to have died about that and most people, 2 hours a day is plenty for the hundred people that may live in the vicinity of a rural Post Office.

Chairman CARPER. As I understand it, what the Postal Service did, and I thought this was smart, they asked the question, how would I want to be treated if I lived in one of these several thousands of communities where there is not a whole lot of volume by the Post Office, but there is a desire to continue to have that Postal Service in some form, and what I think you did in thousands of communities, you just basically said to them, well, here is a menu of options. Which would be most desirable or preferable to you? You can have your Post Office open, maybe, 2, 4, 6 hours a day, not by a full-time Postmaster, but by someone who is going to come in, maybe make \$15 an hour to make sure that service is provided on a daily basis most days.

You said, you could have the option of, like, the rural letter carrier, who will say that your table there encompasses an area that is serviced by a rural letter carrier and each of your name tags represents a different spot around the route that the carrier goes to, and where Ms. Saldaña's name tag, at 8 in the morning, the rural letter carrier will be there to be a mobile Post Office, almost like a bookmobile. And, then, where Mr. Deyo's name tag is, that will be a 9 stop, where he can provide, like, a mobile Post Office. And, where your name is, it would be 10. I thought that was a pretty good option that was provided to folks in rural areas.

Another option was, maybe, to co-locate the Post Office with a general store, a convenience store that offers, actually, longer hours of operation than might otherwise be available.

I think that was very smart, and the communities could actually say, we like this, we do not like that, and have a real say in it. I thought that was smart.

In terms of what we can do—Congress, working with the President—what we can do to further facilitate and nurture, promote innovation, what can we do to enable you, the Postal Service, to find new ways to make money, maybe things that you are thinking of doing, maybe even that you are beginning to do that we can actually then have great potential. People talk a lot about other countries, the Postal Service delivers wine, beer, spirits. We do not do that here, although FedEx and UPS do. Is that an area that you need authorization? But, there are other ideas. Where do we come into this and where can we be helpful?

Mr. BARNETT. The primary way, I think, the Congress would come in, and the President, would be to free us up to do it. We are treated as a utility, which was certainly a reasonable model for a couple hundred years, because we were more like a utility. This side of the business we are talking about on package delivery is extremely competitive and there is no longer any need to regulate it as a utility, and we would encourage you to take most of the rules and regulations off, let us operate.

The Board is very cognizant—the way this is set up, we are all appointed to represent the public, but we recognize the public is lots of things. The business community is part of the public, as well. Obviously, the consumers, the residences, the businesses that mail is delivered to, or packages. We take all that into account. We are not going to go crazy and use monopolistic-type powers to go drive somebody out of business.

Chairman CARPER. The Postal Service is not interested in becoming a bank, is it?

Mr. BARNETT. No, it is not.

Chairman CARPER. Are you interested in becoming an insurance company?

Mr. BARNETT. No. There has been nobody on the Board, whatsoever. And, in fact, a great deal of time has been spent over this recent boomlet of being small loan offices or banks or that sort of thing, and that is not our core function. We do not think we could make any money doing it. And, we think we should focus on the future, which is small package delivery. We are looking at other things, some I would probably rather not say in an open Committee meeting—

Chairman CARPER. Fine.

Mr. BARNETT [continuing]. But, there are certainly things in the digital area that we think we can do. But, we have not completed the task of getting to monetize something we think could be a very valuable service. The Post Office is the most trusted governmental agency, based on every study for the past 10 years.

Chairman CARPER. Does that include the Senate offices of Dr. Coburn and myself?

Mr. BARNETT. I do not know if the survey did, Mr. Chairman. I am certain you were higher than we were. I do not know.

Chairman CARPER. I do not know about that. [Laughter.]

Mr. BARNETT. But, that is what we would like to get into, if we possibly can.

Chairman CARPER. OK. Let me just mention a couple of other opportunities I think are good ones. A lot of people are going to be voting over the next couple of months, especially in Oregon and in—

Mr. BARNETT. Colorado.

Chairman CARPER [continuing]. I want to say Washington—

Mr. BARNETT. And Colorado, as well.

Chairman CARPER. Yes. But, now they vote by mail, and they have a very good turnout compared to the rest of the country. I think it is cost effective. And, as you say, Colorado is now going to try it, too. I think that is potentially not just a good piece of business for the Postal Service, but, actually, something that could be very good for our country as we seek to encourage folks to exercise their Constitutional right, maybe even to save some money in doing that.

I heard, for the first time, I was talking with the Postmaster General and the Deputy the other day about if we actually do pass comprehensive immigration reform, which I hope we will, I think it would actually make the job of defending our borders easier, not harder. But, if we end up with a situation where 10 million people living in this country need to get some kind of documentation about their legal status, they are going to have to get it somewhere, and a lot of folks get their passports from the Postal Service and there might be an opportunity to find a way for the Postal Service to meet this need, if we do pass some kind of comprehensive immigration reform.

And, I am told that there are actually some centers, one of them just outside of L.A., where the Postal Service has, like, a pretty big

facility for the issuance of passports, and people come in—it almost sounds like a Department of Motor Vehicles facility where people come in and they get their drivers' licenses and stuff like that, but whole families come in to apply for passports and get good service using technology. That is a piece of business, I think, that could be pretty good.

And, you mentioned a couple ideas in the digital world. I am encouraged by all that.

There are some things that we need to do, and one of those is to give you the opportunity, when you have a good idea, when it does not tread all over or walk all over other providers of those services from, say, the private sector, that we give the chance to do that.

The other thing, though, the 800-pound gorilla in the room on the Postal Service, is with respect to health care. My wife just retired from DuPont. She actually retired about 5 years ago, and she teaches now full-time at the University of Delaware. But, she has just turned 65. She looks about 45, and if you see her, tell her I said that, but it is true. [Laughter.]

But, when she turned 65, the DuPont Company reached out to her and said, we love you, Martha, but you are 65 now. You are eligible for Medicare. We want you to sign up for Medicare Part A, Part B, Part D, and, by the way, we will provide wrap-around coverage, health coverage, for you that fills the gaps, and they do that for all the retirees who reach 65. Frankly, so do hundreds, maybe thousands, of other companies in America who do that. That is what they do, including those that compete with the Postal Service. The Postal Service cannot do that. They would like to. As a matter of equity, they pay more money into Medicare than any other employer in the country, but they do not get fair value for their money.

So, a big part of helping the Postal Service to right its ship financially is to address this problem, this challenge, and there is a way to do that that is, I think, fair and equitable for retirees, for the taxpayers, as well, and I think that is a big one for us to take up.

The other thing I would say is for us—and you have not said this directly, but we need—there is an adjutant rate case that has been decided by the Postal Regulatory Commission for the short term, usually about a 4.3 percent rate hike, and it is temporary. It does not last forever. And, what our bill that reported out of Committee, Dr. Coburn and I led on, is that that temporary rate increase actually would become the new baseline, the new revenue baseline, which we think is appropriate, given all the cuts that the Postal Service has made rightsizing your operation. We think that is part of what the Congress can and should do.

If we do all of that and you do your part—I think we are in a position to recapitalize the Postal Service. And, as I mentioned today, there are 32 ZIP codes, San Francisco groceries being delivered for Amazon, apparently going pretty well. Not all those trucks that are being used in those 32 ZIP codes, certainly not all the trucks going across the country, whether it is on Sundays in those 5,500 ZIP codes, whether it is today or any other day of the week, they are not rightsized for delivering packages and parcels. And, when you are delivering groceries in Phoenix, Arizona, some day,

and it is 98 degree outside and you are delivering ice cream and you have a truck that is 98 degrees warm, I do not know how that works as a delivery vehicle. So, some work needs to be done on the fleet.

But, you have 190,000 vehicles, 22 years old, on average. They are energy inefficient. They do not have the kind of technology on-board that can enable them to communicate with, literally, with their counterparts, much less with their customers, and we can address all of this.

And, the last thing I would say is, in North Dakota with member Heidi Heitkamp, a Member of this Committee, valued Member of this Committee, and we visited a mail processing center, and it was a fairly small one, but we went into the back of the operation just to see how they did it and I remember this one guy carrying around these big old boxes and moving them from place to place, trying to get the bar code reader on them and then get them ready to be shipped out. Part of what we would do if we could recapitalize the Postal Service is not just replace the fleet over 3 or 4 years to modernize it, we can also modernize the mail handling operation, especially with respect to packages and parcels and all of that. And, there is some really cool technology we can put on the vehicles and some really cool technology we can put in Post Offices, which basically look pretty much like they have looked like for years, and provide better service to folks.

This is definitely glass half-full, and the question is, are we going to continue to fill it and enable you to do your share? I sure hope that we will.

The last question I would ask is this. How many people under the law can serve at any one time on the Postal Board of Governors? How many people?

Mr. BARNETT. Nine.

Chairman CARPER. And, how many people serve on it today?

Mr. BARNETT. Four.

Chairman CARPER. And, so, you Chair a Board of Governors that has three other Governors, and your term expires, is it sometime later this year?

Mr. BARNETT. December 8.

Chairman CARPER. OK. So, on December 9, if we do not do something, how many people are serving on the Board on Governors?

Mr. BARNETT. We will be down to three, and two of those three, next year is their last year.

Chairman CARPER. All right. Not a good situation.

Mr. BARNETT. It is not, and we really hope you will send us several more.

Chairman CARPER. Dr. Coburn and I had a hearing here, maybe 2 months ago—

Mr. BARNETT. Right.

Chairman CARPER [continuing]. With, I think, four nominees from the President, several Democrats, I think at least one Republican, and your name, if we can basically act this year, and I fervently hope that we will—I would like to act this week on the nominations, but we need to act this year—some of the Democratic nominees are probably not greatly favored by some of our Republican colleagues, and the converse of that is true, as well. We need

to get over that. This is a good, balanced group of nominees, and the most important element I have ever seen in any organization I have ever been a part of, whether it was in the military, or whether it was academia, whether it was in business, whether it was here in this operation, athletic teams, leadership is the key. Leadership is the key, and we need strong leadership, and that includes the Board of Trustees.

Mr. BARNETT. Mr. Chairman, in the more than 8 years I have been on the Board of Governors, every decision has been by consensus. There has not been any friction on a partisan basis in the slightest. We have reached consensus on every issue.

Chairman CARPER. That is an important point.

Let me just turn to our staff that are here and see if there are any other questions that they would have me ask before we excuse you.

[Pause.]

The staff members have said they think these are the best three witnesses we have ever had. [Laughter.]

And, they have gone to say, they wish we could clone you all and have you serve in other responsibilities across our Federal Government. We are working on cloning at the University of Delaware and Delaware State University, it is a partnership, and we will see how that turns out.

Seriously, this has been enjoyable, informative, and, at times, inspiring. We are grateful for what you have already done for our country and what you are willing to do going forward.

The nominees have filed responses to biographical and financial questionnaires, answered pre-hearing questions submitted by the Committee, and had their financial statements reviewed by the Office of Government Ethics. Without objection, this information will be made part of the hearing record, with the exception of the financial data, which are on file and are available for public inspection in the Committee offices.

With that, the hearing record will remain open until noon tomorrow, that is September 18, until 12 p.m., for the submission of statements and questions for the record.

Do any of you have any last words you would like to leave us with? We always give you a chance to give an opening statement. I also give our witnesses a chance to make a very brief closing statement, so this would be your opportunity to get in the last word. Ms. Saldaña.

Ms. SALDAÑA. Senator, I just am marveling at this process, and I have learned a civics lesson today and I truly appreciate your consideration of my nomination. Thank you.

Chairman CARPER. You are nice to say that. Thank you. Mr. Deyo.

Mr. DEYO. I join in those same comments. Thank you very much, Mr. Chairman. And, I would like to congratulate the staff members. They have been very easy to work with, but direct, which is exactly how it should be.

Chairman CARPER. Good. I always say, I like to surround myself with people smarter than me. My wife says, it is not hard to find them. [Laughter.]

Mr. DEYO. I have heard that myself.

Chairman CARPER. I will say this. I noticed when you were speaking, Mr. Deyo, I was watching your wife's lips move when you spoke. [Laughter.]

I think after—how many years have you been married? What is it?

Mr. DEYO. Forty-three.

Chairman CARPER. You two have this down pretty well, so that is good.

Mr. DEYO. Thanks for letting me know.

Chairman CARPER. Sure. [Laughter.]

Chairman BARNETT, any last word?

Mr. BARNETT. No, sir.

Chairman CARPER. OK. All right. With that, this hearing is adjourned and we thank you all so much.

[Whereupon, at 11:47 a.m., the Committee was adjourned.]

A P P E N D I X

Opening Statement of Chairman Thomas R. Carper:
“Department of Homeland Security and
U.S. Postal Service Board of Governors Nominations Hearing”
September 17, 2014

As prepared for delivery:

Today, we meet to consider three nominations: Sarah Saldaña, to be Assistant Secretary for Immigration and Customs Enforcement at the Department of Homeland Security; Russell Deyo to be Under Secretary for Management at the Department of Homeland Security; and Mickey Barnett to be a Governor at the United States Postal Service.

I know my colleagues and I on the Committee are very pleased to see the President put forth nominees to fill these critical leadership vacancies. Immigration and Customs Enforcement or “ICE” is a vital law enforcement agency within the Department of Homeland Security and has been without a presidentially appointed leader for 14 months. That is far too long – particularly when we think about all the issues we face along our borders and the more than 400 laws ICE enforces. Thankfully, Mrs. Saldaña has agreed to step up to the challenge. Mrs. Saldaña has a distinguished record as the United States Attorney for the Northern District of Texas, where she represents the U.S. government in 100 counties. In this role, she has a front row seat to the threats this country faces every day from transnational criminal networks—something that will serve her well at ICE.

Mrs. Saldaña is a true American success story, rising from humble beginnings in South Texas as the youngest of seven children to become an accomplished partner at a major law firm and one of the nation’s top law enforcement officers. She comes to this Committee highly recommended, including by our good friend Senator Cornyn. But as the Senator from Texas and this Committee know all too well, Mrs. Saldaña has been nominated to one of the most difficult positions in government. That is why it’s important to have a proven leader and respected member of the law enforcement community at the helm. Mrs. Saldaña, you will have a tough job ahead of you if confirmed, but I believe that you are up to the task and look forward to supporting your nomination.

Our Committee also considers today the nomination of Russell Deyo to be Under Secretary for Management at the Department of Homeland Security. This is an extremely important position, given the challenges associated with melding twenty-two different agencies together into one cohesive department. The Department has made significant progress in addressing these challenges. In order for that progress to continue, we need strong leadership. I believe Mr. Deyo will provide precisely that kind of leadership. Until his retirement in 2012, Mr. Deyo had an impressive 27-year career with Johnson & Johnson, where he served in several top positions, including General Counsel and Vice President for Administration. Like the Department of Homeland Security, Johnson & Johnson is a large organization with multiple divisions that have distinct, yet related, missions. Mr. Deyo’s perspective from the private sector will be an invaluable asset to Secretary Johnson. Particularly, as he works toward the “Unity of Effort” that will make the Department greater than the sum of its parts. Mr. Deyo, I think the Department and the American people are very fortunate that you are willing to take on this assignment.

We are also fortunate to have with us Mickey Barnett, who has been re-nominated by the President to serve on the Postal Service’s Board of Governors. Mr. Barnett currently serves as Chairman of the Board, a position he has held for the past two years. If confirmed, he would embark on a third term with the Board, where he has been a Governor since 2006. Mr. Barnett’s nomination comes at very challenging time for the Postal Service. The Postal Service operates at the center of a massive printing, delivery, and logistics industry that employs millions of people. In recent

years, however, the organization has been faced with a decrease in first class mail volumes, and by extension, revenues. The Postal Service today carries barely enough cash to make payroll. We all want a Postal Service that our constituents and businesses can rely on, one that has a chance of continuing the remarkable progress we've seen it make in package delivery and takes full advantage of other opportunities that lie ahead.

Our committee has sent a bill to the full Senate that would save the Postal Service billions of dollars in pension and health care costs. I believe our bill is a solid, comprehensive, and realistic response to a real crisis. I look forward to debating it, discussing amendments to it and acting on it during the upcoming lame duck. Congress holds the keys to the Postal Service's future, but the Board of Governors serve a vital role in setting the direction and policies of this large organization. The Senate must move quickly to confirm all of the nominees to the Board, including the four who have already been considered and approved by this Committee. I look forward to talking to Mr. Barnett today about what he thinks needs to be done to address the challenges facing the Postal Service, and the skills he thinks he brings to the table.

To conclude, I would like to thank all of our nominees for being here today and their willingness to serve our nation. I would also like to thank their families for sharing them with us and our country.

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**Senator Tom Coburn, M.D.
Opening Statement
Nominations Hearing
September 17, 2014**

We are here today to consider three nominations – two for senior positions at the Department of Homeland Security and one for the Board of Governors for the Postal Service.

I want to begin by thanking each of you for being willing to serve.

Reviewing your background information, each of you has an impressive biography and would bring valuable experiences to the positions for which you have been nominated.

I look forward to hearing more about your reasons for stepping forward and your plans for each office, if you are confirmed. My hope is that each of you will earn our committee's trust and confidence and be confirmed.

For the Department of Homeland Security, Secretary Jeh Johnson is bringing together a strong team to lead DHS. I am pleased that our Committee has been able to confirm and fill many of the vacancies that existed in the Department a year ago.

I have confidence in Sec. Johnson and the reforms that are underway at DHS.

The nominations we will consider today are very important, as management and immigration enforcement are two areas where DHS has faced its biggest challenges.

For Mr. Deyo, bringing strong and effective leadership to the Under Secretary for Management position will be key to the success of Secretary Johnson's management and "Unity of Effort" initiative.

Having reviewed your biography, I am impressed by the professional, private sector experience that you would bring to the Undersecretary position.

As you know, Management, which has been on GAO's High Risk list since the Department's inception, has been a significant challenge for the Department. After more than a decade, the Department continues to struggle to lead and manage its components, which are focused on a diverse range of missions.

We have seen DHS struggle to hold its leaders and managers accountable for effectively managing its programs and people.

For example, I was pleased to see Secretary Jeh Johnson take decisive action to stop the abuse and waste that was occurring with their use of Administratively Uncontrollable Overtime (AUO) and in the Home-to-Work transportation program, which provided subsidized vehicles for DHS employees.

But the waste and lack of accountability in those programs—as well as the overall poor morale in the Department—shows that strong leadership and effective management have been long overdue.

I look forward to hearing about your plans for improving management and accountability across DHS. In particular, I am interested to hear about your plans for improving DHS's acquisitions programs, which I believe is where you can make the biggest impact.

For Ms. Saldana, Immigration and Customs Enforcement (ICE) is one of the components in DHS that is struggling to achieve its mission.

There are five core missions at DHS, and the third is directly relevant to ICE—enforce and administer our immigration laws. In fact, the first mission of DHS—preventing terrorism and enhancing security—is unattainable if we fail in our interior enforcement.

Preventing people from violating our immigration laws and protecting our communities should be ICE's priority.

The United States is a national built by immigrants, and for centuries people have come here to fulfill their dreams, work hard and enjoy the freedoms of this country. However, we must prioritize legal immigration and discourage those who would come here illegally, violating our laws.

It is important to remember that liberty is dependent upon the rule of law. When our rule of law is undermined, the defining values of our nation are jeopardized.

Today, we are not enforcing the rule of law effectively because we are granting legal status and citizenship to those who broke our laws ahead of others who pursue legal channels. This is fundamentally unfair and undermines the legal immigration process.

Visa Overstays: For example, approximately 40 percent of the illegal immigrant population is here because they overstayed their visas.

They came here legally, but failed to abide by our laws dictating the terms of their visas.

In 2013, the Government Accountability Office (GAO) reported DHS struggles to even provide an estimate of the overstay population, and 266 “illegal overstays of concern” were missing as of March 2013. In fact, those who have sought to harm the United States have done so after overstaying their visas. Five of the nineteen 9/11 hijackers were visa overstays.

Student Visas: We have also seen significant problems with ICE's management of the Student Exchange and Visitor Program (SEVP).

We recently learned SEVP is vulnerable to significant fraud and abuse. It provides visas to almost 1.2 million students and dependents, but DHS has failed to conduct proper oversight of the program, according to GAO.

Many of the students may never actually be enrolled at a school or ever attend classes. According to ICE, approximately 37 convicted terrorists have entered the U.S. on student visas.

Given its vulnerabilities, failed oversight of the student visa program could pose a serious risk to national security.

ICE's Release of Criminal Aliens: I am also concerned about lax immigration enforcement involving criminal aliens.

In 2013, under the guise of budgetary reasons, ICE released 600 aliens with criminal records. Senator McCain and I requested the DHS Inspector General investigate this decision, and he found that ICE failed to take adequate steps to inform DHS leadership. And since those releases, the DHS IG noted ICE still has not developed an effective strategy to manage its detention budget.

Unfortunately, ICE has a pattern of releasing criminal aliens. Throughout 2013, ICE released at least 36,000 criminal aliens. Those included 193 homicide convictions, 426 sexual assault convictions and 303 kidnapping convictions, among others. These actions undermine ICE's credibility, the rule of law, and the safety of Americans and local law enforcement.

I have other big concerns about ICE – including the problem of mission creep, with ICE Homeland Security Investigations pursuing a broad investigative mission – that we will discuss during the question and answer portion of the hearing.

Reforming ICE is a significant challenge. The person who fills the role of ICE Director faces an enormous task.

ICE is one of the largest federal law enforcement agencies with 20,000 employees and field offices in all 50 states and in 47 foreign countries. It has an annual budget of more than \$5.7 billion.

ICE also faces serious challenges in meeting its stated mission—“to promote homeland security and public safety through the criminal and civil enforcement of federal laws governing border control, customs, trade and immigration.”

ICE has suffered from mission creep, failed management, lack of strategy and misplaced priorities.

Even with an effective border security strategy, overall immigration enforcement will fail without proper interior enforcement. A significant portion of the illegal population in this country arrives legally, and ICE never pursues them when they violate the terms of their visa. As former ICE Director, John Sandweg, stated “if you are a run-of-the-mill immigrant here illegally, your odds of getting deported are close to zero...”

Today, I want to hear about your plans for this very important agency, including:

How will you re-align ICE so it achieves its mission of enforcing our immigration laws?

Will you fix problems in our student visa program and address the problem of visa overstays?

How will you address morale problems within the agency?

How will you ensure ICE prioritizes the interests of American citizens and their safety?

Ultimately, as a nation, we have an obligation to our citizens—and to legal immigrants—to uphold the rule of law and ensure the process is fair to all.

For Mr. Barnett, I look forward to hearing your views about the financial crisis facing the Postal Service.

As a Committee, few issues have occupied as much time and effort as that of responding to the Postal Service's financial crisis. I believe the answer to this problem requires two things: legislative reform and hard-nosed leadership.

In February, this committee attempted to address the first one. We voted 9 to 1 to pass S. 1486 out of this Committee for consideration by the Senate. The bill gives more authority to the leaders of the Postal Service to run their business.

Unfortunately, some of my fellow Senators want to move in the opposite direction. They want to use the appropriations process to limit what Governors can do regarding postal operations.

I trust that you take your fiduciary responsibility seriously. And I admire the fact that you are apparently willing to continue in this role, despite the limitations on the Postal Service.

More than ever, it is going to take strong leadership, and the willingness to make tough business decisions to fix things at the Postal Service.

I'm looking for a nominee that accepts that challenge. I want to hear that you are up to the task.

Welcome to all of you.

**Opening Statement of Sarah R. Saldaña
Nominee for Assistant Secretary for Immigration and Customs Enforcement,
U.S. Department of Homeland Security
before the
U.S. Senate Committee on Homeland Security and Governmental Affairs
September 17, 2014**

Mr. Chairman, Dr. Coburn, and Senators of this Committee, thank you for considering my nomination for Assistant Secretary for Immigration and Customs Enforcement.

Senator Cornyn, I truly appreciate the time you have taken from your schedule to introduce me to this distinguished Committee. Thank you for your kind words and your support throughout the years.

I would like to introduce my family: my husband of 26 years, Don Templin; my sister, Marisela Saldaña – who serves as a Texas district court judge; my brother, Lupe Saldaña, and his daughter – my niece -- Cindy Saldaña. I'm also joined by some dear friends who were willing to leave the great state of Texas to be here with me today.

I am honored by the trust and confidence the President has shown me by nominating me for this position. I am grateful for the support of Secretary Johnson and the others at ICE back in my District with whom I have worked for years now, as well as those I have met here in the Washington D.C. area over the last few days.

Senators, I sit here before you as a third-generation American, the youngest of 7 children, raised by my Mother, essentially on her own, in South Texas. I'd like you to know her name, Inez Garcia Saldaña, and I can only imagine the enormous pride she would feel -- if she were living -- to see me here appearing before this esteemed Committee of the United States Senate, discussing the responsibilities of this office so critically important to our country and my nomination by the President of the United States. My mother is singularly responsible for my being the person I am today and she taught me, not even so much through her words as through her deeds, the values of self-reliance, hard work and giving of yourself to others. In this brood of 7 siblings, I have four brothers, who have divided my loyalties to the various branches of the military through their service: 2 of my brothers are Marines, as is my husband, Don; one served in the United States Navy; and another, David, is a Purple Heart recipient who served with the United States Army in Vietnam.

While I have no military experience myself, I have served my country in various capacities, as an Assistant United States Attorney and currently, as the United States Attorney, the chief federal law enforcement officer in the Northern District of Texas, based in Dallas. I can say unequivocally that these have been the best years of my professional life. If I am confirmed, I will continue to serve this Government and its people tirelessly and to the very best of my ability.

In my years at the U.S. Attorney's Office, I have worked closely with the employees of ICE in my district to assist them in tackling the enormous issues before the country which come within

the mission of the agency. That critical mission is to ensure homeland security and public safety through the enforcement of federal laws governing international trade, immigration and customs. I personally have prosecuted a number of human trafficking, smuggling, and immigration cases. I have also confronted these issues on a national level in my service on the United States Attorney General's Advisory Committee and its subcommittees on Border and Immigration, Cyber Crimes and Intellectual Property, Law Enforcement and Community Coordination, and White Collar and Healthcare Fraud.

I promise that, if confirmed, I will continue the cooperation between ICE and the Department of Justice and its various components, including the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco, Firearms and Explosives, and the Drug Enforcement Administration as well as other departments and agencies who share the public safety goals of ICE. I have the greatest respect and admiration for these public servants who work tirelessly on behalf of the American people, often at their own personal peril and often without public acclaim.

I promise to continue to improve the administration of the Agency, so that the public is well-served. In my current role as United States Attorney, I have worked to instill pride and professionalism in the employees of my office and I promise that, if I am confirmed, I will seek to do the same for the dedicated employees of ICE. Quite frankly, I'm often the one who is inspired by their extraordinary work and I do my best to share that inspiration with the people I serve around the State of Texas and the country.

I pledge that I will be cooperative and transparent with this Committee and others in the Congress. I recognize that you are the lawmakers and that we, the agencies, implement the law. As United States Attorney, I am ever mindful that one of my most important responsibilities is to serve as the steward of the taxpayer's monies. I work every day, and will continue to do so, to ensure that those monies are efficiently managed and spent towards the goal of ensuring the public safety and security of the American people.

I understand the enormity of the task before me, should I be confirmed, but neither am I intimidated by it. I have often told my colleagues at the Department of Justice and others that I have never been so proud in my life as when I first stood before a jury in a federal courtroom and said: "My Name is Sarah Saldaña and I represent the United States of America." I am equally proud saying the same before you now. I hope to be confirmed as Assistant Secretary of Immigration and Customs Enforcement to join you in your efforts to promote public safety and to ensure homeland security. Thank you.

REDACTED

HSGAC BIOGRAPHICAL QUESTIONS FOR EXECUTIVE NOMINEES

I. Basic Biographical Information

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
<u>Name of Position</u>	<u>Date of Nomination</u>
Assistant Secretary -- U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security	Expected September 8, 2014

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Sarah	Ruth	Saldana	

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			Street: 1100 Commerce St., Third Floor		
<u>City:</u> Dallas	<u>State:</u> TX	<u>Zip:</u> 75230	<u>City:</u> Dallas	<u>State:</u> TX	<u>Zip:</u> 75242

<i>Other Names Used</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<u>Check if Missed Name</u>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
Sarah	Ruth	DesRochers			July 1976 Est <input type="checkbox"/>	January 1988 Est <input type="checkbox"/>
Sarah	Ruth	Perez			August 1970 Est <input type="checkbox"/>	July 1976 Est <input type="checkbox"/>

<i>Birth Year and Place</i>	
Year of Birth (Do not include month and day.)	Place of Birth
1951	Corpus Christi, Nueces County, Texas

<i>Marital Status</i>					
Check All That Describe Your Current Situation:					
Never Married	Married	Separated	Annulled	Divorced	Widowed
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<i>Spouse's Name (current spouse only)</i>			
Spouse's First Name	Spouse's Middle Name	Spouse's Last Name	Spouse's Suffix
Donald	Curtis	Templin	

<i>Spouse's Other Names Used (current spouse only)</i>						
First Name	Middle Name	Last Name	Suffix	Check if Maiden Name	Name Used From (Month/Year) (Check box if estimate)	Name Used To (Month/Year) (Check box if estimate)
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Children's Names (if over 18)</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Michael	Saldana	Templin	
Letitia	Irene	Templin	
Andrew	Curtis	Templin	

2. Education

List all post-secondary schools attended.

<u>Name of School</u>	<u>Type of School</u> (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	<u>Date Began School</u> (month/year) (check box if estimate)	<u>Date Ended School</u> (month/year) (check box if estimate) (check "present" box if still in school)	<u>Degree</u>	<u>Date Awarded</u>
Southern Methodist University (SMU) Dedman School of Law (formerly SMU School of Law)	Law School	August 1981 <input type="checkbox"/> Est	Present June 1984 <input type="checkbox"/> <input type="checkbox"/> Est	Juris Doctor	June 1984
Texas A&M University (formerly Texas A&I University-Kingsville)	University	June 1971 <input type="checkbox"/> Est	Present August 1973 <input type="checkbox"/> <input type="checkbox"/> Est	Bachelor of Science	August 1973
Del Mar Junior College	College	June 1970 <input type="checkbox"/> Est	Present May 1971 <input type="checkbox"/> <input type="checkbox"/> Est	Associates Degree	May 1971

3. Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

<u>Type of Employment</u> (Active Military Duty Station, National Guard/Reserve, USPS Commissioned Corps, Other Federal employment, State Government (Non-Federal Employment), Self-employment, Unemployment, Federal Contractor, Non-Government Employment (excluding self-employment), Other	<u>Name of Your Employer/Assigned Duty Station</u>	<u>Most Recent Position Title/Rank</u>	<u>Location</u> (City and State only)	<u>Date Employment Began</u> (month/year) (check box if estimate)	<u>Date Employment Ended</u> (month/year) (check box if estimate) (check "present" box if still employed)
Other federal	U.S. Attorney's Office, U.S. Department of Justice	U. S. Attorney; Deputy Criminal Chief for Fraud/Public Corruption Group	Dallas, TX	January 2009 <input type="checkbox"/> Est <input type="checkbox"/>	present <input type="checkbox"/> Est <input type="checkbox"/> Present <input type="checkbox"/>
Other federal	U.S. Attorney's Office, U.S. Department of Justice	Assistant U.S. Attorney	Dallas, TX	June 2004 <input type="checkbox"/> Est <input type="checkbox"/>	December 2008 <input type="checkbox"/> Est <input type="checkbox"/> Present <input type="checkbox"/>
Self-employment	Self-employed, Dallas, TX	Part-time employment (attorney)/home maker	Dallas, TX	January 1999 <input type="checkbox"/> Est <input type="checkbox"/>	May 2004 <input type="checkbox"/> Est <input type="checkbox"/> Present <input type="checkbox"/>
Non-government	Baker Botts LLP	Partner	Dallas, TX	January 1, 1993 <input type="checkbox"/> Est <input type="checkbox"/>	December 1998 <input type="checkbox"/> Est <input type="checkbox"/> Present <input type="checkbox"/>
Non-government	Baker Botts LLP	Associate	Dallas, TX	July 1987 <input type="checkbox"/> Est <input type="checkbox"/>	December 1992 <input type="checkbox"/> Est <input type="checkbox"/> Present <input type="checkbox"/>
Non-government	Haynes and Boone, LLP	Associate	Dallas, TX	September 1985 <input type="checkbox"/> Est <input type="checkbox"/>	July 1987 <input type="checkbox"/> Est <input type="checkbox"/> Present <input type="checkbox"/>
Other federal	U. S. Courts (Hon. Harold Barefoot Sanders)	Judicial Clerk	Dallas, TX	September 1984 <input type="checkbox"/> Est <input type="checkbox"/>	September 1985 <input type="checkbox"/> Est <input type="checkbox"/> Present <input type="checkbox"/>
Non-Government Employment	Southern Methodist School of Law	Instructor	Dallas, TX	August 1985 <input type="checkbox"/> Est <input type="checkbox"/>	May 1987 <input type="checkbox"/> Est <input type="checkbox"/> Present <input type="checkbox"/>
Non-government	Hughes & Luce LLP, Dallas, TX (now K&L Gates LLP)	Summer Law Clerk	Dallas, TX	July 1984 <input type="checkbox"/> Est <input type="checkbox"/>	August 1984 <input type="checkbox"/> Est <input type="checkbox"/> Present <input type="checkbox"/>

Non-government	Haynes and Boone, LLP	Summer Law Clerk	Dallas, TX	May 1984	Est <input type="checkbox"/>	Est <input type="checkbox"/>	Present <input type="checkbox"/>
Non-government	Vial, Hamilton, Koch & Knox, LLP	Law Clerk	Dallas, TX	July 1983	Est <input type="checkbox"/>	Est <input type="checkbox"/>	Present <input type="checkbox"/>
Non-government	Passman Jones Andrews Holly & Co.	Law Clerk	Dallas, TX	June 1982	Est <input type="checkbox"/>	Est <input type="checkbox"/>	Present <input type="checkbox"/>
Law Student	Unemployed			September 1981	Est <input type="checkbox"/>	Est <input type="checkbox"/>	Present <input type="checkbox"/>
Other federal	U.S. Department of Labor - Employment and Training Administration	Comprehensive and Employment Training Act (CETA) Specialist	Dallas, TX	December 1976	Est <input type="checkbox"/>	Est <input type="checkbox"/>	Present <input type="checkbox"/>
Other Federal	U.S. Equal Employment Opportunity Commission	Investigator	Dallas, TX	December 1975	Est <input type="checkbox"/>	Est <input type="checkbox"/>	Present <input type="checkbox"/>
Other federal	U. S. Department of Housing and Urban Development	Management Intern	Dallas, TX	March 1975	Est <input type="checkbox"/>	Est <input type="checkbox"/>	Present <input type="checkbox"/>
Other Federal	U.S. Equal Employment Opportunity Commission	Equal Employment Opportunity Technician	Dallas, TX	June 1974	Est <input type="checkbox"/>	Est <input type="checkbox"/>	Present <input type="checkbox"/>
State government	Dallas Independent School District	School teacher	Dallas, TX	August 1973	Est <input type="checkbox"/>	Est <input type="checkbox"/>	Present <input type="checkbox"/>

(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)
U. S. Courts	Member, Federal Judiciary Complaint Committee	September 1994 Est <input checked="" type="checkbox"/>	December 1995 Est <input checked="" type="checkbox"/> Present <input type="checkbox"/>
U. S. Courts	Member, Advisory Committee, Civil Justice Reform Act of 1990	September 1992 Est <input checked="" type="checkbox"/>	September 1994 Est <input checked="" type="checkbox"/> Present <input type="checkbox"/>
U. S. Courts	Member, Investiture Committee, Hon. U. S. District Judge Sam Lindsay	September 1999 Est <input checked="" type="checkbox"/>	September 1999 Est <input checked="" type="checkbox"/> Present <input type="checkbox"/>
City of Dallas	Member (alternate), City of Dallas Zoning Board of Adjustment	September 1989 Est <input type="checkbox"/>	September 1991 Est <input type="checkbox"/> Present <input type="checkbox"/>

4. Potential Conflict of Interest

(A) 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.

In connection with the nomination process, I consulted with the Office of Government Ethics and the Department of Homeland Security's (DHS) designated agency ethics official to identify potential conflicts of interest. I will resolve any potential conflicts of interest in accordance with the terms of an ethics agreement that I entered into with OMB's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts.

(B) 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.

5. Honors and Awards

List all scholarships, fellowships, honorary degrees, civilian service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement.

- Protect Her Award, in recognition for work protecting the rights of women and girls, New Friends New Life, 2014
- 2012 Most Influential Hispanics in the Nation, Poder Hispanic Magazine
- Distinguished Alumni Award for Government Service, SMU Dedman School of Law, 2012
- La Luz Achievement Award (Extraordinary Achievement as a Latina in the Law), Dallas Hispanic Bar Association, 7th Annual Lighting the Path to the Legal Profession, 2012
- Mujeres en Acción (Women in Action), University of Texas School of Law Chicano/Hispanic Law Students Association, 2012
- Named as one of the 2011 People of the Year by *Al Dia* (the Spanish-language newspaper affiliated with the *Dallas Morning News*)
- Nominated for the *Dallas Morning News* 2011 Texan of the Year
- Recipient, 2011 Hispanic National Bar Association's Latina Attorney of the Year Award

- Rated AV (Very High to Preeminent Peer Review Rating) by Martindale-Hubbell (October 1995-present)
- Member, Journal of Air Law and Commerce, Southern Methodist University School of Law (August 1983-May 1984)
- Scholarship (partial), SMU Law School (August 1981 for each of the three years of law school)
- Finalist, Jackson Walker Moot Court Competition (SMU), 1984
- *Summa Cum Laude* graduate, Texas A&I University, 1973

6. Memberships

List all memberships that you have held in professional, social, business, fraternal, scholarly, civic, or charitable organizations in the last 10 years.

Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of \$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam's Club), or affinity memberships/consumer clubs (such as frequent flyer memberships).

<u>Name of Organization</u>	<u>Dates of Your Membership</u> (You may approximate.)	<u>Position(s) Held</u>
State Bar of Texas	November 1984 to present	Member
Dallas Bar Association	November 1984 to present	Member
Dallas Bar Foundation	March 1993 to present	Member
William Mac Taylor Inn of Court	August 1993 to present	Member
Texas Bar Foundation	February 1996 to present	Member
Dallas Hispanic Bar Association	January 2009 to present	Member
National Hispanic Bar Association	January 2009 to present	Member
City Club	Approximately 1994-2010, 2011 to present	Member

Dallas Hispanic Law Foundation	May 2013 to present	Member
Preston Hollow North Homeowners Association	Approximately 2003 to present	Member
Royal Oaks Country Club	Approximately 2003 to present	Member
First Unitarian Church	January 2011 to September 2011	Board of Directors
Dallas Center for Contemporary Art	Approximately 2002-2005	Board of Directors

7. Political Activity

(A) Have you ever been a candidate for or been elected or appointed to a political office?

<u>Name of Office</u>	<u>Elected/Appointed/ Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service (if applicable)</u>
United States Attorney	Appointed	2011	4 years
Texas 44 th Judicial District Court	Candidate only	2002	

(B) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere.

None

<u>Name of Party/Election Committee</u>	<u>Office/Services Rendered</u>	<u>Responsibilities</u>	<u>Dates of Service</u>

(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.

<u>Name of Recipient</u>	<u>Amount</u>	<u>Year of Contribution</u>
Annie's List	\$ 500	2010
Campaign to Re-elect Judge Marisela Saldaña (TX)	2,000	2010
Congresswoman Loretta Sanchez (CA)	200	2010
Hector H. Balderas Jr. for Senate (NM)	200	2011
Obama for America	500	2011
Obama Victory Fund 2012	500	2011
Obama Victory Fund 2012	1,800	2012
Democratic Senatorial Campaign Committee	300	2013
Dallas County Democratic PAC	200	2011

8. Publications and Speeches

I have done my best to identify titles, publishers and dates of books, articles, columns, publications or relevant speeches, including a thorough review of personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find or remember. I have located the following below.

(A) List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet. Please provide the Committee with copies of all listed publications. In lieu of hard copies, electronic copies can be provided via e-mail or other digital format.

<u>Title</u>	<u>Publisher</u>	<u>Date(s) of Publication</u>
<i>Judicial Selection Reform</i> (Co-Author)*	Dallas Bar Association Headnotes	May 15, 1991 (Volume 15, No. 5)

<i>Misrepresentation Exception in FTCA Actions Involving Government Inspection and Certification*</i>	Journal of Air Law & Commerce, SMU School of Law	1984 (49 J. Air L. & Com. 647)
<i>Why Intellectual Property Theft is Everyone's Problem</i> (Co-Author)*	<i>Dallas Morning News</i>	April 25, 2013

*Copies attached.

(B) List any formal speeches you have delivered during the last five years and provide the Committee with copies of those speeches relevant to the position for which you have been nominated. Include any testimony to Congress or any other legislative or administrative body. These items can be provided electronically via e-mail or other digital format.

<u>Title/Topic</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
Current Initiatives in Fraud Enforcement *	Dallas Bar Association, Friday Club, Dallas, TX	January 15, 2010
Ethics in the Courtroom*	Dallas Bar Association, Minority Attorney Program, Belo Mansion, Dallas, TX	April 11, 2011
Securities Law Development (Panel)	Hispanic National Bar Association Annual Conference, Dallas, TX	September 1, 2011
Naturalization Ceremony*	U.S. Courthouse, Dallas, TX	September 22, 2011
USA-NDTX Introduction*	Islamic Association of North Texas, Richardson, TX	November 16, 2011
USA Investiture*	Adolphus Hotel, Dallas, TX	November 19, 2011
Overview of the U.S. Attorney's Office * (also see N.1 below)	Federal Bar Association, Belo Mansion, Dallas, TX	December 5, 2011
Overview of the U.S. Attorney's Office*	North Texas Crime Commission, Prestonwood	December 7, 2011

	Country Club, Dallas, TX	
Update on the U.S. Attorney's Office*	Northern District of Texas Judges Meeting - State of the District Overview, Earle Cabell Federal Bldg., Dallas, TX	December 9, 2011
Path to Presidential Appointments (Panel)	Hispanic National Bar Association, Miami, FL	February 3, 2012
Pearls of Wisdom (Panel)		February 4, 2012
Introductory Remarks*	Susan B. Anthony Luncheon Honoring Jan Sanders, League of Women Voters, Dallas, TX	February 10, 2012
Introduction to Federal Agencies (Panel)	North Texas Crime Commission/Legislative Committee, Dallas, TX	February 23, 2012
USA-NDTX Introduction, Path to Presidential Appointment	Hispanic Chamber of Commerce, Sheraton Hotel, Arlington, TX	February 23, 2012
Acceptance Remarks – SMU Dedman Law School Alumni Award	SMU Dedman Law School, Westin Galleria Hotel, Dallas, TX	February 25, 2012
Press Conference regarding Indictment of Largest Health Care Fraud case in the U.S. (at the time)*	<i>U.S. v. Jacques Roy, et al.</i> Press Conference, Earle Cabell Federal Building, Dallas, TX	February 28, 2012
Opening Remarks	Northside Weed and Seed, Fort Worth, TX	March 1, 2012
Keynote: Career Path	Mexican American Bar Association Texas's Law Student Conference, UT	March 3, 2012

	School of Law, Austin, TX	
Women's Education – Women's Empowerment (Panel)	Women's History Month, U.S. Attorney's Office, Dallas, TX	March 15, 2012
Safe Communities (Panel)	LGBT White House Conference on Safe Schools and Communities, UT- Arlington, Arlington, TX	March 20, 2012
Women's Education - Women's Empowerment*	Women in Federal Service, FBI, Dallas, TX	March 22, 2012
Overview of the U.S. Attorney's Office*	Rotary Club of Fort Worth The Fort Worth Club, Fort Worth, TX	March 23, 2012
Keynote Speaker: Success and Lessons Learned Along the Way*	SMU Sumners Scholars Dinner Petroleum Club, Dallas, TX	March 23, 2012
Motivational – Discussion on Carecr Path*	UT-Austin Texas Chicano/Hispanic Law Students' Association, UT- Austin, Austin, TX	March 31, 2012
Overview of the U.S. Attorney's Office*	Government Law Section of the Dallas Bar Association, Belo Mansion, Dallas, TX	April 3, 2012
Financial Education and Scams, Brief Overview of the U.S. Attorney's Office	Town Hall/Roundtable with Enlisted Military, Naval Air Station-Joint Reserve Base, Fort Worth, TX	April 18, 2012
Legal Issues and Privacy in the Digital Age	2012 Marshall Forum on Transatlantic Affairs Conference, Belo Mansion, Dallas, TX	April 27, 2012

Motivational Remarks*	State Fair of Texas Annual Scholarship Awards Luncheon Music Hall at Fair Park, Dallas, TX	April 30, 2012
History of Cinco de Mayo and Function of U.S. Attorney	Cinco De Mayo Celebration Lunch and Learn BOP, Federal Correctional Institute, Fort Worth, TX	May 2, 2012
Overview of the U.S. Attorney's Office*	Dallas 40 Friday Group Maggiano's, North Park Center, Dallas, TX	May 7, 2012
USA-NDTX Introduction*	DFW Chapter of the General Counsel Forum Royal Oaks Country Club, Dallas, TX	May 10, 2012
Combating Financial Fraud*	Southwest Financial Crimes Forum, North Texas Financial Institutions, Dallas, TX	June 14, 2012
Welcome Remarks and Press Conference-Combating Global Intellectual Property Crimes*	Intellectual Property Crimes Training, Belo Mansion, Dallas, TX	June 21, 2012
Overview of U.S. Attorney's Office and Road to Becoming USA	Board of Directors' Meeting, Dallas Bar Association, Dallas, TX	June 21, 2012
Cyber Security in Law Firms	Haynes & Boone Law Firm, Dallas, TX	June 28, 2012
Public Safety and Leadership	39th Annual National Latino Peace Officers Association Conference, Omni Hotel, Dallas, TX	June 29, 2012
USA – NDTX Introduction*	Dallas Friday Group Meeting, Belo Mansion, Dallas, TX	July 13, 2012

General Remarks at Candlelight Vigil for Shooting at Sikh Temple in Wisconsin	Dallas –Fort Worth Sikh Community, Sikh Temple of North Texas, Garland, TX	August 12, 2012
Law School Orientation (Panel)*	Law Students, SMU Dedman School of Law, Dallas, TX	August 14, 2012
How to Succeed as a Law Student and Beyond Law School*	Dallas Bar Association, Multicultural Student Orientation, Dallas Bar Association, Belo Mansion, Dallas, TX	August 15, 2012
Career Workshop (Panel) - Tips, Best Practices, and Advice for Law Students/Graduates Landing Dream Job	Law Students-Graduates, Hispanic National Bar Association Conference, Seattle, WA	August 23, 2012
Overview of U.S. Attorney's Office - How FBI and U.S. Attorney's Office Work Together	FBI Citizens Academy, FBI Dallas Field Office, Dallas, TX	September 6, 2012
Building Trust within Communities/Inclusion of Different Segments in the Community	Garland Association for Hispanic Affairs Scholarship Banquet, Patty Granville Center, Garland, TX	September 8, 2012
Sikh Temple Q&A Forum*	Sikh Temple, Garland, TX	September 8, 2012
Overview of the U.S. Attorney's Office*	Carrollton-Farmers Branch Rotary Club, Brookhaven Country Club, Farmers Branch, TX	September 13, 2012
Fostering Communication Between Latino and LGBT Community/Prosecution of Hate Crimes	LGBT Social Justice Summit LULAC Group, UT Dallas Campus, Dallas, TX	September 15, 2012

Overview of the U.S. Attorney's Office*	City Club Annual Membership Banquet, Dallas, TX	September 19, 2012
Acceptance Speech for Receiving the La Luz Award*	Dallas Hispanic Bar Association, Belo Mansion, Dallas, TX	October 10, 2012
Ethics in High Profile Cases (Panel)	Dallas Association of Young Lawyers, Tower Club, Dallas, TX	October 23, 2012
Bankruptcy Fraud and Other Areas of Concern in the U.S. Attorney's Office	Training Session for Chapter 7 Bankruptcy Trustees (NDTX & EDTX), Earle Cabell Federal Building, Dallas, TX	October 25, 2012
Privacy and ID Theft (Panel)	Temple Emanu-El, Dallas, TX	October 28, 2012
Update on the U.S. Attorney's Office*	Northern District of Texas Judges Meeting-State of the District Overview, Earle Cabell Federal Bldg., Dallas, TX	December 7, 2012
White Collar & Public Corruption/Typical Issues; Procedure for Working up a Case	Leadership Dallas Criminal Justice Day, Dallas Police Department, Dallas, TX	January 11, 2013
USA Introduction and Q&A	Islamic Community Forum, Islamic Association of Tarrant County, Fort Worth, TX	January 12, 2013
Health Care Fraud Prosecutions	Jones Day Health Law Conference, Dallas, TX	January 15, 2013
Motivational -Options and Rewards of Serving as a Government Lawyer	SMU First Year Law Students, SMU Dedman School of Law, Dallas, TX	January 30, 2013

Discussion on Corporate Investigations & Compliance (Panel)*	American Bar Association Mid-Year Program, Hilton/Anatole, Dallas, TX	February 8, 2013
Remarks at Installation of 2013 Board of Directors of The Greater Dallas Hispanic Chamber of Commerce*	Morton H. Meyerson Symphony Center, Dallas, TX	February 27, 2013
2013 DOJ Priorities / Overview of U.S. Attorney's Office*	DFW Women in White Collar Defense, Thompson & Knight, Dallas, TX	February 28, 2013
DOJ Litigation Priorities*	Tarrant County Bar Association All Star CLE Program, Fort Worth, TX	March 1, 2013
Dealing in Death: Heroin's Resurgence in North Texas and the Federal Response (with DEA ASAC Calvin Bond)*	North Texas Crime Commission Meeting, Prestonwood Country Club, Dallas, TX	March 14, 2013
Turning Over Seized Property (former drug houses) to Habitat for Humanity*	Habitat for Humanity Press Conference, Life Avenue, West Dallas, TX	March 26, 2013
General Remarks at Candlelight Vigil for Boston Marathon	Gurdwara Singh Sabha Sikh Temple, Richardson, TX	April 19, 2013
Prosecutorial Misconduct (Panel)	Fifth Circuit Judicial Conference, Worthington Hotel, Fort Worth, TX	May 7, 2013
Opening Remarks	Older Americans Event, Eddie Dean's, Dallas, TX	May 16, 2013
Welcome Remarks	7 th Annual World Elder Abuse Awareness Day, Irving, TX	June 14, 2013
Overview of U.S. Attorney's Office*	Oak Cliff Lions Club, Methodist Medical Center,	June 19, 2013

	Dallas, TX	
Career Path, Successes, and the Work of the U.S. Attorney's Office	Gibson Dunn & Crutcher Law Firm, Dallas, TX	June 26, 2013
Overview of U.S. Attorney's Office*	Lubbock Lions Club, Lubbock, TX	September 3, 2013
U.S. Attorney Panel Speaker	Hispanic National Bar Association Annual Convention, Denver, CO	September 5, 2013
Personal Experiences and Knowledge as a Latina Serving our Nation	BOP's Annual Hispanic Heritage Program, BOP Designation and Sentence Computation Center, Grand Prairie, TX	October 9, 2013
FBI Citizen's Academy (Panel)	FBI Citizen's Academy, FBI Dallas, TX	October 17, 2013
Background, Career Path, and Overview of U.S. Attorney's Office*	Collin County LULAC Annual Awards Banquet "Avance con Educación," South Fork Hotel, Plano, TX	October 24, 2013
Career Path - Theme: Waves of Success*	Hispanic Women's Network of Texas, Omni Bayfront Hotel, Corpus Christi, TX	October 26, 2013
"Why Should I Attend Law School?"	Dallas Hispanic Bar Association Youth Law Symposium, Latino Cultural Center, Dallas, TX	November 1, 2013
Career Path and Overview of U.S. Attorney's Office*	Women's Day Alliance, First Unitarian Church, Dallas, TX	November 5, 2013
Investigations (Panel)	Dallas Women Lawyers Association, Dallas, TX	December 17, 2013

Smart on Crime - New Federal Sentencing Guidelines for Drug Related Offenses*	Texas Drug Policy Conference, Adolphus Hotel, Dallas, TX	January 18, 2014
Emerging Issues in Criminal Justice (Panel)	SMU Criminal Justice Colloquium, SMU Dedman School of Law, Dallas, TX	January 24, 2014
Serving the Public – Career Foundations in Federal, State and Local Government	Career Foundations Program, SMU Dedman School of Law, Dallas, TX	January 27, 2014
Prosecution of Environmental Crimes*	Environmental Law Section of the Dallas Bar Association, Belo Mansion, Dallas, TX	March 27, 2014
SMU Law School Alumni Panel	SMU Dedman School of Law, Dallas, TX	March 28, 2014
Personal Experiences and Struggles/Importance of Working Hard to Achieve High Positions in the Legal Community	SMU Hispanic Law Student Association Keynote Luncheon, SMU Dedman School of Law, Dallas, TX	March 29, 2014
Overview of U.S. Attorney's Office*	Rockwall Bench Bar Conference, Hilton Harbor Resort, Rockwall, TX	April 4, 2014
“Why Civility Matters” (Panel)	Professionalism Committee of the Dallas Bar Association, Belo Mansion, Dallas, TX	April 9, 2014
DOJ Litigation Priorities*	2014 Federal Criminal Practice Seminar, Belo Mansion, Dallas, TX	April 18, 2014
Discussion and Q&A on Women in Government Law	Center for Women in Law, UT Austin School of Law, Austin, TX	April 23, 2014

Overview of U.S. Attorney's Office*	International Women's Forum Dallas Chapter of the International IWF, Park Cities Club, Dallas, TX	April 24, 2014
Elder Fraud and Abuse	Highland Springs Retirement Community, Dallas, TX	May 13, 2014
Welcome Remarks	20 th Annual Older Americans Information/Health Fair, Fair Park, Dallas, TX	May 15, 2014
Motivational - Career Path and Importance of Continued Education*	ELM Graduation, East Dallas Christian Church, Dallas, TX	May 15, 2014
Overview of USAO/Emphasis on Hate Crimes*	Anti-Defamation League Regional Board, 12800 Hillcrest Rd., Dallas, TX	May 22, 2014
Leadership-The U.S. Attorney's Perspective*	Callejo Round Table Breakfast, SMU Dedman School of Law, Dallas, TX	May 30, 2014
Public Corruption	Christians in Public Service Conference Dallas, TX	June 21, 2014
Press Conference regarding Indictment of a Dallas County Commissioner	<i>U.S. v. John Wiley Price, et al</i> Press Conference, U.S. Attorney's Office, Dallas, TX	July 25, 2014
Celebrating a Century of Partnerships (2-3 Minute Remarks)	FBI 100 Year Anniversary Celebration Event with FBI Director Comey FBI Regional Office, Dallas, TX	August 11, 2014
Orientation Speech (Career Path/Motivational) & Oath to Incoming 1st Year Law	Texas A&M School of Law Fort Worth, TX	August 20, 2014

Students*		
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N.I - I have submitted the most recent copy of this speech by CD. It is a standard speech which I deliver when asked to address a group regarding what the USAO does. Earlier presentations would differ only in the updating of the information provided; otherwise the substance is essentially the same each time.

*Copies attached.

(C) List all speeches and testimony you have delivered in the past ten years, except for those the text of which you are providing to the Committee.

<u>Title/Topic</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
Naturalization Ceremony	Arlington, TX	April 10, 2007
Press Coverage of the Legal System in the Digital Age: 15 Years Since the O.J. Simpson Trial (Panel)	Dallas Bar Association, Belo Mansion, Dallas, TX	June 29, 2010
Securities Law Development (Panel)	Hispanic National Bar Association Annual Conference, Dallas, TX	September 1, 2011
Path to Presidential Appointments (Panel)	Hispanic National Bar Association, Miami, FL	February 3, 2012
Pearls of Wisdom (Panel)		February 4, 2012
Introduction to Federal Agencies (Panel)	North Texas Crime Commission/Legislative Committee, Dallas, TX	February 23, 2012
USA-NDTX Introduction, Path to Presidential Appointment	Hispanic Chamber of Commerce, Sheraton Hotel, Arlington, TX	February 23, 2012

Acceptance Remarks – SMU Dedman Law School Alumni Award	SMU Dedman Law School, Westin Galleria Hotel, Dallas, TX	February 25, 2012
Opening Remarks	Northside Weed and Seed, Fort Worth, TX	March 1, 2012
Keynote: Career Path	Mexican American Bar Association Texas's Law Student Conference, UT School of Law, Austin, TX	March 3, 2012
Women's Education – Women's Empowerment (Panel)	Women's History Month, U.S. Attorney's Office, Dallas, TX	March 15, 2012
Safe Communities (Panel)	LGBT White House Conference on Safe Schools and Communities, UT-Arlington, Arlington, TX	March 20, 2012
Financial Education and Scams, Brief Overview of the U.S. Attorney's Office	Town Hall/Roundtable with Enlisted Military, Naval Air Station – Joint Reserve Base, Fort Worth, TX	April 18, 2012
Legal Issues and Privacy in the Digital Age	2012 Marshall Forum on Transatlantic Affairs Conference, Belo Mansion, Dallas, TX	April 27, 2012
History of Cinco de Mayo and Function of U.S. Attorney	Cinco De Mayo Celebration Lunch and Learn, BOP, Federal Correctional Institute, Fort Worth, TX	May 2, 2012
Overview of U.S. Attorney's Office and Road to Becoming USA	Board of Directors' Meeting, Dallas Bar Association, Dallas, TX	June 21, 2012

Cyber Security in Law Firms	Haynes & Boone Law Firm, Dallas, TX	June 28, 2012
Public Safety and Leadership	39th Annual National Latino Peace Officers Association Conference, Omni Hotel, Dallas, TX	June 29, 2012
General Remarks at Candlelight Vigil for Shooting at Sikh Temple in Wisconsin	Dallas --Fort Worth Sikh Community, Sikh Temple of North Texas, Garland, TX	August 12, 2012
Career Workshop (Panel) - Tips, Best Practices, and Advice for Law Students/Graduates Landing Dream Job	Law Students--Graduates, Hispanic National Bar Association Conference, Seattle, WA	August 23, 2012
Overview of U.S. Attorney's Office - How FBI and U.S. Attorney's Office Work Together	FBI Citizens Academy, FBI Dallas Field Office, Dallas, TX	September 6, 2012
Building Trust within Communities/Inclusion of Different Segments in the Community	Garland Association for Hispanic Affairs Scholarship Banquet, Patty Granville Center, Garland, TX	September 8, 2012
Fostering Communication Between Latino and LGBT Community/Prosecution of Hate Crimes	LGBT Social Justice Summit LULAC Group, UT Dallas Campus, Dallas, TX	September 15, 2012
Ethics in High Profile Cases (Panel)	Dallas Association of Young Lawyers, Tower Club, Dallas, TX	October 23, 2012
Bankruptcy Fraud and Other Areas of Concern in the U.S. Attorney's Office	Training Session for Chapter 7 Bankruptcy Trustees (NDTX & EDTX), Earle Cabell	October 25, 2012

	Federal Building, Dallas, TX	
Privacy and ID Theft (Panel)	Temple Emanu-El, Dallas, TX	October 28, 2012
White Collar & Public Corruption/Typical Issues; Procedure for Working up a Case	Leadership Dallas Criminal Justice Day, Dallas Police Department, Dallas, TX	January 11, 2013
USA Introduction and Q&A	Islamic Community Forum, Islamic Association of Tarrant County, Fort Worth, TX	January 12, 2013
Health Care Fraud Prosecutions	Jones Day Health Law Conference, Dallas, TX	January 15, 2013
Motivational Options and Rewards of Serving as a Government Lawyer	SMU First Year Law Students, SMU Dedman School of Law, Dallas, TX	January 30, 2013
DOJ Litigation Priorities*	Tarrant County Bar Association All Star CLE Program, Fort Worth, TX	March 1, 2013
General Remarks at Candlelight Vigil for Boston Marathon	Gurdwara Singh Sabha Sikh Temple, Richardson, TX	April 19, 2013
Prosecutorial Misconduct (Panel)	Fifth Circuit Judicial Conference, Worthington Hotel, Fort Worth, TX	May 7, 2013
Opening Remarks	Older Americans Event, Eddie Dean's, Dallas, TX	May 16, 2013
Welcome Remarks	7 th Annual World Elder Abuse Awareness Day, Irving, TX	June 14, 2013
Career Path, Successes, and the Work of the U.S. Attorney's Office	Gibson Dunn & Crutcher Law Firm, Dallas, TX	June 26, 2013

U.S. Attorney Panel Speaker	Hispanic National Bar Association Annual Convention, Denver, CO	September 5, 2013
Personal Experiences and Knowledge as a Latina Serving our Nation	BOP's Annual Hispanic Heritage Program, BOP Designation and Sentence Computation Center, Grand Prairie, TX	October 9, 2013
FBI Citizen's Academy (Panel)	FBI Citizen's Academy, FBI Dallas, TX	October 17, 2013
"Why Should I Attend Law School?"	Dallas Hispanic Bar Association Youth Law Symposium, Latino Cultural Center, Dallas, TX	November 1, 2013
Investigations (Panel)	Dallas Women Lawyers Association, Dallas, TX	December 17, 2013
Emerging Issues in Criminal Justice (Panel)	SMU Criminal Justice Colloquium, SMU Dedman School of Law, Dallas, TX	January 24, 2014
Serving the Public - Career Foundations in Federal, State and Local Government	Career Foundations Program, SMU Dedman School of Law, Dallas, TX	January 27, 2014
SMU Law School Alumni Panel	SMU Dedman School of Law, Dallas, TX	March 28, 2014
Personal Experiences and Struggles/Importance of Working Hard to Achieve High Positions in the Legal Community	SMU Hispanic Law Student Association Keynote Luncheon, SMU Dedman School of Law, Dallas, TX	March 29, 2014
"Why Civility Matters" (Panel)	Professionalism Committee of the Dallas Bar Association, Belo Mansion, Dallas, TX	April 9, 2014

Discussion and Q&A on Women in Government Law	Center for Women in Law, UT Austin School of Law, Austin, TX	April 23, 2014
Elder Fraud and Abuse	Highland Springs Retirement Community, Dallas, TX	May 13, 2014
Welcome Remarks	20 th Annual Older Americans Information/Health Fair, Fair Park, Dallas, TX	May 15, 2014
Public Corruption	Christians in Public Service Conference, Dallas, TX	June 21, 2014
Celebrating a Century of Partnerships (2-3 Minute Remarks)	FBI 100 Year Anniversary Celebration Event with FBI Director Comey FBI Regional Office Dallas TX	August 11, 2014

9. Criminal History

Since (and including) your 18th birthday, has any of the following happened?

- Have you been issued a summons, citation, or ticket to appear in court in a criminal proceeding against you? (Exclude citations involving traffic infractions where the fine was less than \$300 and did not include alcohol or drugs.) No
- Have you been arrested by any police officer, sheriff, marshal or any other type of law enforcement official? No
- Have you been charged, convicted, or sentenced of a crime in any court? No
- Have you been or are you currently on probation or parole? No
- Are you currently on trial or awaiting a trial on criminal charges? No
- To your knowledge, have you ever been the subject or target of a federal, state or local criminal investigation? No

If the answer to any of the questions above is yes, please answer the questions below for each criminal event (citation, arrest, investigation, etc.). If the event was an investigation, where the question below asks for information about the offense, please offer information about the offense under investigation (if known). N/A

A) Date of offense:

a. Is this an estimate (Yes/No):

B) Description of the specific nature of the offense:

C) Did the offense involve any of the following?

- 1) Domestic violence or a crime of violence (such as battery or assault) against your child, dependent, cohabitant, spouse, former spouse, or someone with whom you share a child in common: **Yes / No**
- 2) Firearms or explosives: **Yes / No**
- 3) Alcohol or drugs: **Yes / No**

D) Location where the offense occurred (city, county, state, zip code, country):

E) Were you arrested, summoned, cited or did you receive a ticket to appear as a result of this offense by any police officer, sheriff, marshal or any other type of law enforcement official: **Yes / No**

- 1) Name of the law enforcement agency that arrested/cited/summoned you:
- 2) Location of the law enforcement agency (city, county, state, zip code, country):

F) As a result of this offense were you charged, convicted, currently awaiting trial, and/or ordered to appear in court in a criminal proceeding against you: **Yes / No**

- 1) If yes, provide the name of the court and the location of the court (city, county, state, zip code, country):
- 2) If yes, provide all the charges brought against you for this offense, and the outcome of each charged offense (such as found guilty, found not-guilty, charge dropped or "nolle pros," etc). If you were found guilty of or pleaded guilty to a lesser offense, list separately both the original charge and the lesser offense:
- 3) If no, provide explanation:

G) Were you sentenced as a result of this offense: **Yes / No**

H) Provide a description of the sentence:

I) Were you sentenced to imprisonment for a term exceeding one year: **Yes / No**

J) Were you incarcerated as a result of that sentence for not less than one year: **Yes / No**

K) If the conviction resulted in imprisonment, provide the dates that you actually were incarcerated:

- L) If conviction resulted in probation or parole, provide the dates of probation or parole:
- M) Are you currently on trial, awaiting a trial, or awaiting sentencing on criminal charges for this offense: **Yes / No**
- N) Provide explanation:

10. Civil Litigation and Administrative or Legislative Proceedings

(A) Since (and including) your 18th birthday, have you been a party to any public record civil court action or administrative or legislative proceeding of any kind that resulted in (1) a finding of wrongdoing against you, or (2) a settlement agreement for you, or some other person or entity, to make a payment to settle allegations against you, or for you to take, or refrain from taking, some action. Do NOT include small claims proceedings.

No

<u>Date Claim/Suit Was Filed or Legislative Proceedings Began</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>
January 1976	Domestic Relations – Dallas County	Richard Oscar Perez	Divorce	Judgment of Divorce
Approximately January 1988	256 th Jud. District Court – Dallas County	Paul Rene DesRochers	Divorce	Final Decree of Divorce

(B) In addition to those listed above, have you or any business of which you were an officer, director or owner ever been involved as a party of interest in any administrative agency proceeding or civil litigation? 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.

Yes. The chart below identifies, to the best of my knowledge, the civil matters in which I have been named as a party.

Additionally, while serving as Deputy Criminal Chief in the U.S. Attorney’s Office, I recommended the termination of an individual serving as an Assistant U.S. Attorney. The individual later filed an EEO complaint against the US Attorney’s office alleging race and disability discrimination and a complaint before the Merit Systems Protection Board against the Department of Justice. The EEO complaint has been dismissed and the Merit Systems Protection

Board matter, which has now incorporated the discrimination allegations, is in the discovery stage with no final disposition made.

<u>Date Claim/Suit Was Filed</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>
September 21, 2012	U.S. District Court, Western District of Texas	<i>Kim v. United States of America, et al.</i> , No. 1:12-CV-00890-LY	Immigration – Petition for removal from Justice of the Peace court	Judgment of Dismissal, January 9, 2014
April 20, 2012	U.S. District Court, Northern District of Texas	<i>Ruiz v. Cummings et al.</i> , No. 1:12-CV-00067-C	Prisoner litigation: Civil Rights complaint	Judgment of Dismissal, (failure to prosecute), August 17, 2012; refiled <i>Ruiz v. Cummings et al.</i> , No. 1:12-CV-00185-C, per entry below
January 31, 2012	U.S. District Court, Northern District of Texas	<i>Faryad v. Tarango et al.</i> , No. 3:12-CV-00319-D	Denial of naturalization application	Order of Dismissal (upon Plaintiff's motion), May 1, 2012
January 31, 2014	U.S. District Court, Northern District of Texas	<i>Selim v. Baran et al.</i> , No. 3:14-CV-00394-D	Failure to timely act on wife's immigrant visa	Joint Stipulation of Dismissal, August 25, 2014
August 14, 2012	U.S. District Court, Northern District of Texas	<i>Stark v. Holder et al.</i> , No. 3:14-CV-02920-B-BHI	Prisoner litigation, civil rights	Magistrate Judge's Recommendation to Dismiss, August 20, 2014 (awaiting District Court's action)
October 4, 2013	U.S. District Court, Northern District of Texas	<i>Jwaniv v. Holder et al.</i> , No. 3:13-CV-04030-G-BN	Writ of Mandamus to adjudicate a visa petition	Order of Dismissal, March 4, 2014

November 8, 2012	US District Court, Northern District of Texas	<i>Marouf v. Holder et al.</i> , No. 3:12-CV-04505-B	Petition for Writ of Mandamus, failure to act on Plaintiff's application for lawful permanent residency	Plaintiff's Notice of Dismissal, July 11, 2013
October 11, 2012	U.S. District Court, Northern District of Texas	<i>Ruiz v. Cummings et al.</i> , No. 1:12-CV-00185-C	Prisoner litigation: Civil Rights complaint	Order of Dismissal (frivolous/failure to state claim), May 6, 2014
December 2, 2011	U.S. District Court, Northern District of Texas	<i>Azizullah v. Tarango et al.</i> , No. 3:11-CV-03336-L	Denial of naturalization application	Order of Dismissal (no subject matter jurisdiction), April 10, 2012

(C) For responses to the previous question, 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.

See chart above.

11. Breach of Professional Ethics

(A) 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? Exclude cases and proceedings already listed.

No

<u>Name of Agency/Association/Committee/Group</u>	<u>Date Citation/Disciplinary Action/Complaint Issued/Initiated</u>	<u>Describe Citation/Disciplinary Action/Complaint</u>	<u>Results of Disciplinary Action/Complaint</u>

(B) Have you ever been fired from a job, quit a job after being told you would be fired, left a job by mutual agreement following charges or allegations of misconduct, left a job by mutual agreement following notice of unsatisfactory performance, or received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as violation of a security policy?

No

12. Tax Compliance

(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.)

REDACTED

REDACTED

13. Lobbying

In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State).

No

14. Outside Positions

■ See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

For the preceding ten calendar years and the current calendar year, report any positions held, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

<u>Name of Organization</u>	<u>Address of Organization</u>	<u>Type of Organization</u> (corporation, firm, partnership, other business enterprise, other non-profit organization, educational institution)	<u>Position Held</u>	<u>Position Held From</u> (month/year)	<u>Position Held To</u> (month/year)

15. Agreements or Arrangements

■ See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

As of the date of filing your OGE Form 278, report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment.

Provide information regarding any agreements or arrangements you have concerning (1) future employment; (2) a leave of absence during your period of Government service; (3) continuation of payments by a former employer other than the United States Government; and (4) continuing participation in an employee welfare or benefit plan maintained by a former employer other than United States Government retirement benefits.

<u>Status and Terms of Any Agreement or Arrangement</u>	<u>Parties</u>	<u>Date</u> (month/year)

16. Additional Financial Data

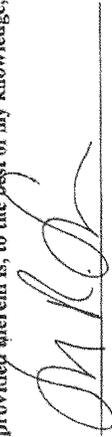
All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

REDACTED

SIGNATURE AND DATE

I hereby state that I have read the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

A handwritten signature in cursive script, appearing to read "M. K. O.", written over a horizontal line.

This 8th day of September, 2014

REDACTED



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

SEP 11 2014

The Honorable Thomas R. Carper
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 Sarah R. Saldana, who has been nominated by President Obama for the position of Assistant Secretary, United States Immigration and Customs Enforcement, Department of Homeland Security.

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,

A handwritten signature in cursive script, appearing to read "David J. Apol".

David J. Apol
General Counsel

Enclosures

REDACTED

SEP 19 2014

Joseph Maher
Designated Agency Ethics Official
Department of Homeland Security
Washington, D.C. 20528-0485

Dear Mr. Maher:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Assistant Secretary of Immigration and Customs Enforcement, Department of Homeland Security.

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

In order to avoid potential conflicts of interest under section 208, my spouse and I will divest the entities listed in Attachment A within 90 days of my confirmation. With regard to each of the entities listed on Attachment A, I will not participate personally and substantially in any particular matter that will have a direct and predictable effect on the financial interests of the entity until my spouse and I have divested it, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1) or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that I may be eligible to request a Certificate of Divestiture for these assets and that a Certificate of Divestiture is effective only if obtained prior to divestiture. Regardless of whether I receive a Certificate of Divestiture, I will divest these assets within 90 days of my confirmation and will invest the proceeds in non-conflicting assets.

I will retain my position as a trustee of the Sarah R. Saldana 2012 Family Trust. I will not receive any fees for the services that I provide as a trustee during my appointment to the position of Assistant Secretary. I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of the Sarah R. Saldana 2012 Family Trust, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

I understand that as an appointee I must continue to abide by the Ethics Pledge (Exec. Order No. 13490) that I previously signed and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this ethics agreement.

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

Sincerely,

Sarah R. Saldana

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire
For the Nomination of Sarah Saldaña to be
Assistant Secretary, Department of Homeland Security**

I. Nomination Process and Conflicts of Interest

1. Why do you believe the President nominated you to serve as Assistant Secretary for U.S. Immigration and Customs Enforcement (ICE) within the Department of Homeland Security (“DHS” or “the Department”)?

I believe I have the experience, background and commitment necessary to serve our country well in this position. I have 40 years of professional experience both in the private and public sectors, in areas ranging from investigative work with the U.S. Equal Employment and Opportunity Commission (U.S. EEOC) and compliance responsibilities with the U.S. Department of Labor, and in the private sector with two major law firms, representing the business interests of corporate and individual clients. I have represented ICE-Homeland Security Investigations (HSI) and worked with Enforcement and Removal (ERO) over the last 10 years in my capacity as an Assistant U.S. Attorney (AUSA) and in my position as U.S. Attorney, the top federal law enforcement officer in the Northern District of Texas. I have always striven to perform at the highest level of excellence. Perhaps most important, I am committed to upholding and enforcing the law.

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

No.

3. What specific background and experience affirmatively qualifies you to be Assistant Secretary for ICE?

I have worked for the United States government in various professional capacities with 5 different agencies: the U.S. EEOC, the U.S. Department of Housing and Urban Development, the U.S. Department of Labor, and the United States Courts, and for the last 10 years, for the U.S. Department of Justice in the U.S. Attorney’s Office. In each of these positions, my responsibilities involved enforcement of federal laws and pursuit of the best interests of the United States. As U.S. Attorney, I have been responsible for enforcement of the entire spectrum of federal law, including immigration matters, visa/identity/benefit fraud, trademark infringement, intellectual property (IP) and trade secret theft, terrorism, customs violations, human trafficking, child exploitation, human smuggling, drug and gun laws, gangs, fraud, public corruption, cybercrime and related

matters. I have also prosecuted a number of these cases as an Assistant U.S. Attorney. I have managed a staff of over 200 employees and tackled difficult personnel and budget issues. As Deputy Criminal Chief over Major Fraud and Public Corruption, I supervised and prosecuted the most complex and sensitive cases in the U.S. Attorney's Office. I also believe that the fact I am bilingual (English and Spanish) will be invaluable, particularly as regards communication with representatives of Spanish-speaking countries.

4. Have you made any commitments with respect to the policies and principles you will attempt to implement as Assistant Secretary for ICE? If so, what are they, and to whom were the commitments made?

I have made no commitments to date. As with all federal agency positions I have held, I will abide by and faithfully execute the Constitution and the laws of the United States.

5. 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.

In connection with the nomination process, I consulted with the Office of Government Ethics and the U.S. Department of Homeland Security's (DHS) designated agency ethics official to identify potential conflicts of interest. I will resolve any potential conflicts of interest in accordance with the terms of an ethics agreement that I entered into with the designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts.

6. 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.

II. Role and Responsibilities of the Assistant Secretary for Immigration and Customs Enforcement, Department of Homeland Security

7. Please describe generally any professional interactions with ICE in your current job or previous jobs.

For the first few years of my tenure as a line attorney in the U.S. Attorney's Office in the Northern District of Texas, I was responsible for handling the immigration docket for the district, initially as one of two AUSAs doing so and then, exclusively. I worked with both ICE Special Agents and staff from the Enforcement and Removal (ERO) side of the house in advising them regarding their investigations and then in the prosecution of these matters in federal court. As U.S. Attorney, I have met quarterly with all Special Agents in Charge of our federal law enforcement agencies, including HSI, and several times with the Field Office Director of Dallas ERO, to discuss a number of issues, to collaborate regarding threat assessments in the District and to otherwise coordinate our law enforcement efforts.

8. In your view, what are the major internal and external challenges facing DHS and ICE? If confirmed, how will you address these challenges?

With respect to ICE and, in turn, the Department, as with so many other agencies, personnel, budget and operational and strategic planning appear to be significant internal challenges facing the agency. Externally, it appears to me that the agency is being buffeted by the demands and criticisms of so many different constituencies that it makes what is already a difficult job even more so. If confirmed, I will further review and assess these issues, gathering the views and input of key staff and others, in order to prepare a plan to address these challenges.

9. What is your view of the role of the Assistant Secretary of ICE?

The role of the Assistant Secretary of ICE is to carry out the essential mission of the agency: to promote homeland security and public safety through the enforcement of federal laws governing customs, international trade and immigration. The Assistant Secretary should be the tip of the spear for the agency, demonstrating strong leadership, effective communication with personnel and other stakeholders, and the highest standards of conduct and excellence. This leadership position includes the ability to inform the public of the work of the agency and to continue to increase its stature. It is also important for personnel to be clear on the vital role that each individual plays in carrying out this mission.

10. Section 442(a)(2) of the Homeland Security Act required the Assistant Secretary of the Bureau of Border Security to have a minimum of 5 years of professional experience in law enforcement and 5 years of management experience. A subsequent reorganization of the Department established the position of Assistant Secretary for ICE, with the interior enforcement responsibilities of the original Assistant Secretary of the Bureau of Border Security.

a. Do you have five years of professional experience in law enforcement? Yes.

- i. If so, in each of the five years where you had the most professional experience in law enforcement, what positions did you hold and during which time periods?

As U.S. Attorney, I have been the top federal law enforcement officer in a 100-county area in North Texas for the last 3 years. Prior to that, I served as Deputy Criminal Chief for Major Fraud and Public Corruption for approximately 3 years and as a line AUSA for an additional 4 years.

- ii. What were your responsibilities in each of those positions?

As U.S. Attorney, I have been responsible for enforcement of the entire spectrum of federal law, including immigration matters, visa/identity/benefit fraud, trademark infringement, intellectual property and trade secret theft, terrorism, customs violations, human trafficking, child exploitation, human smuggling, drug and gun laws, gangs, fraud, public corruption, cybercrime and related matters. I ensure coordination with our federal, state and local law enforcement agencies. I manage office personnel, budget issues and determine and carry out office policies. I ensure community outreach and effect coalition building. I am the chief liaison with the U.S. Department of Justice and serve on the Attorney General's Advisory Committee. As Deputy Criminal Chief for Major Fraud and Public Corruption, I supervised and prosecuted some of the most complex and sensitive cases in the U.S. Attorney's Office.

- iii. How many people did you manage in each of those positions?

As U.S. Attorney, I manage a staff comprised of over 200 employees. As Deputy Criminal Chief for Major Fraud and Public Corruption, I managed the largest section in the Criminal Division at the time, including 13 attorneys, 2 auditors, 3 paralegals and 4 legal assistants.

- b. Do you have five years of management experience? Yes.
- i. If so, in each of the five years where you had the most management responsibilities, what positions did you hold and during which time periods?

As described above, I have 6 years of management experience in the U.S. Attorney's Office, the most recent 3 years as U.S. Attorney and prior to that, as Deputy Criminal Chief over Major Fraud and Public Corruption.
 - ii. What were your responsibilities in each of those positions?

See response to 10.a.ii above.
 - iii. How many people did you manage in each of those positions?

See response to 10.a.iii above.
 - iv. What is your general approach to managing personnel at all levels? What past experiences do you believe best demonstrate your approach to and style of personnel management?

My style of personnel management is largely collaborative with the recognition that directness is necessary with respect to certain issues. I delegate to my senior staff, providing guidance as appropriate, and receive input from the strong circle of senior leadership that I have. For example, as U.S. Attorney, I've instituted an off-campus management retreat for all levels of attorney supervisors in the office. I decide what issues we cover over the day-long retreat but I ask all my managers to provide input as to the subjects they would like included. My senior managers then sift through that information and draft an agenda. From there, I finalize the agenda.
 - v. What is your general approach to labor relations? What is your understanding of the current relationship between ICE and the National ICE Council? Would you make any changes to that relationship?

My general approach to labor relations would be one of collaboration with our labor partners balanced against compliance with any collective bargaining agreement. While I am generally familiar with the National ICE Council, I have no first-hand knowledge of the relationship which currently exists between it and ICE. As such, I do not have enough information at this time to opine regarding the need for any changes to that relationship.

11. Please describe what experiences and roles in your professional career prepare you to succeed in leading one of the largest federal law enforcement agencies, which enforces over 400 federal statutes and employs nearly 22,000 workers.
- a. In particular, please discuss what experiences or roles prepare you to lead Homeland Security Investigations (HSI) within ICE.

I have been a prosecutor in the U.S. Attorney's Office for the Northern District of Texas for over 10 years, 3 of them as U.S. Attorney and another 2 as Deputy Criminal Chief over Major Fraud and Public Corruption. For all those years, I have been on the front line of investigations and prosecutions in connection with all federal statutes, including the 400 for which ICE is responsible. I am currently the chief federal law enforcement officer in North Texas, an extra-large district, and my duties include establishing and strengthening our office's relationships with all our federal agency partners as well as state and local law enforcement. I serve on the U.S. Attorney General's Advisory Committee (AGAC) which advises the AG on national policy, Congressional budgets, resource allocation and other issues of national import. I have a total of 40 years of professional experience both in the public sector with the United States, in areas ranging from investigative work with the U.S. EEOC and compliance responsibilities with the Department of Labor, and in the private sector with two major law firms, representing the business interests of corporate and individual clients. I have represented ICE-Homeland Security Investigations (HSI) and worked with Enforcement and Removal (ERO) over the last 10 years in my capacity as an Assistant U.S. Attorney (AUSA) and in my position as U.S. Attorney. I serve on several U.S. Attorney Subcommittees, including Border and Immigration, Cybercrime/Intellectual Property, Law Enforcement and Community Coordination, and White Collar and Healthcare Fraud. The AGAC establishes these Subcommittees to review and canvas the policies, practices and procedures of the U.S. Attorney community on specific issues and provide feedback to the AGAC.

12. Do you have experience prosecuting violations of U.S. customs laws? If so, please describe this experience.

Yes. I have managed and prosecuted matters involving failure to file required customs paperwork, money laundering and structuring, and false statements concerning currency or failure to declare same. As U.S. Attorney, I have overall responsibility to enforce the full gamut of customs laws as well as those affecting fraud and intellectual property enforcement.

- a. Approximately how many U.S. customs law cases have you prosecuted?

The few customs law cases that I have personally prosecuted were early in my career, and I have been unable to determine a specific number given the manner in which our case database system is maintained. It would likely be 5 cases or fewer. As I recall, these cases involved failure to declare currency, structuring and bulk cash smuggling.

- b. Were you the lead prosecutor for any of these cases? If so, please describe the outcome of those cases.

Yes. My best recollection is that the outcome of these cases would have been in favor of the United States.

13. What do you see as the principal mission(s) and primary responsibilities of ICE? What do you see as ICE's principal strengths and weaknesses in its ability to accomplish those mission(s)?

The principal mission of ICE is to promote homeland security and public safety through the enforcement of federal laws governing customs, international trade and immigration. The agency's strengths are a dedicated workforce spanning the globe and a mission of utmost importance to the country. With respect to ICE, as with so many other agencies, personnel, budget and operational and strategic planning appear to be significant internal challenges facing the agency. Externally, it appears to me that the agency is being buffeted by the demands and criticisms of so many different constituencies that it makes what is already a difficult job even more so. This has an adverse impact on employee morale which, in turn, adversely affects the agency's ability to accomplish its goals.

14. What would be your process for allocating resources based upon the priorities you identify and for ensuring resources are spent consistent with these priorities?

If confirmed, I intend to review agency priorities with the assistance of key staff, and to determine whether resources are currently allocated to reflect those priorities. There is no substitute for oversight and inquiry to ensure resources continue to be spent consistent with such priorities. It is my understanding that the agency continues to improve in this area, which I intend to maintain.

15. What do you hope to have accomplished at the end of your tenure?

If confirmed, I expect to improve the operation of the agency and to continue to foster an expectation of excellence throughout ICE's offices and personnel. I have a keen interest in community engagement and communication and intend to inform the public of the work of the agency and to work hard to continue to raise its stature. I also intend to work on the morale challenges I have read and heard about and to communicate clearly the vital role each employee plays in carrying out ICE's mission.

16. Homeland Security Investigations within ICE has some overlapping jurisdiction with other major federal law enforcement agencies. Do you think these areas of overlap are necessary or is there a potential for duplication of resources?

All of HSI's investigatory functions are critical. Because of overlapping jurisdiction in some cases, there is the potential for duplication of resources unless these areas are properly supervised and managed.

17. What role do you believe the rule of law should play generally in our nation and, if confirmed, specifically in the execution of your duties as Assistant Secretary for ICE?

As U.S. Attorney, I am governed by the rule of law and it is paramount to our country's system of justice. If confirmed, I will continue to abide faithfully by the rule of law in executing my duties as Assistant Secretary for ICE.

Inspector General

18. What is your view of the role of the Department of Homeland Security Inspector General? Please describe what you think the relationship between the Assistant Secretary for ICE and the Department's Inspector General should be. If confirmed, what steps would you take as Assistant Secretary for ICE to establish a working relationship with the Inspector General?

The role of any Inspector General's (IG) Office is to ensure integrity and efficiency in government through independent inspections of programs and operations, audits, and investigations. OIG should assist in identifying ways for an agency to carry out its responsibilities in the most effective and efficient way possible and should identify fraud, abuse, mismanagement, and waste of taxpayer monies. The relationship between the Assistant Secretary and the IG should be strong and collaborative while also recognizing and respecting the IG's independence. If confirmed, I will meet with the Inspector General early on in my tenure to be sure he understands my vision regarding the relationship and what should be mutually achievable goals of operational efficiency and sound stewardship of the taxpayer's monies.

III. Policy Questions

General Management

19. More than ten years after the creation of DHS, ICE continues to suffer from morale issues in its workforce. In 2012, GAO released a report on morale at DHS that showed ICE was one of the most troubled components in the Department in this arena. GAO noted in Congressional testimony that “When comparing ICE’s results with government wide figures, ICE found, among other things, that ICE was lower on all of the...indices, including job satisfaction.”¹ Morale appears to be particularly problematic within Enforcement and Removal Operations (ERO).
- a. Why do you believe that ICE continues to face morale problems with its workforce, and particularly within ERO?
- The agency is being buffeted by the demands and criticisms of so many different constituencies in connection with its immigration mission. Particularly with respect to ERO, dedicated staff are keenly aware of opposing assertions that they are (1) acting in an unfair manner against immigrants coming into the country, particularly from our southern borders, and (2) failing to deport sufficient numbers of immigrants. This only works to exacerbate the decline in morale. There appears to be a need to communicate more clearly the agency’s priorities, particularly with respect to the apprehension, detention and removal of aliens.
- b. What specific actions will you take to improve morale at ICE generally, and at ERO in particular?
- If confirmed, I will review whatever information exists regarding the morale issue, including any recent employee surveys. I will meet with senior management to ensure I have a grasp of the history and current status. I intend to visit as many offices as possible to meet and confer with personnel and ICE’s labor partners to elicit their concerns. Based on these meetings, I will devise a plan to address the circumstances giving rise to the morale problem, including reviewing personnel policies or modifying those which may be impacting the problem.
20. ICE is responsible for a broad range of enforcement and investigative activities. These activities fall under two broad umbrellas: identifying, apprehending, and removing aliens that are in the country unlawfully, including possible terrorists and other criminal aliens; and investigating violations of immigration and customs laws including human

¹ See Government Accountability Office, *Preliminary Observations on DHS’s Efforts to Improve Employee Morale*, Testimony Before the Subcommittee on Oversight, Investigations, and Management, Committee on Homeland Security, House of Representatives, March 22, 2012.

smuggling, terrorist financing, cyber-crimes, money laundering, and firearms trafficking, as well as collecting, analyzing and disseminating intelligence concerning criminal enterprises to field staff.

- a. Given this broad range of ICE responsibilities, and the fact that its resources are limited, how would you prioritize the agency's responsibilities?

As U.S. Attorney, I am keenly aware of the need to periodically evaluate an agency's priorities, particularly against the turbulent budget demands facing the country. Enforcement of our immigration laws is essential. With respect to the removal process, it is vital to prioritize attention on those immigrants entering, attempting to enter, or currently in, the country that represent a threat to the safety of the American public. The same applies to the investigative mission of the agency. While I intend to give this matter further study, it seems to me that priorities must include among others, terrorism, crimes of violence, human trafficking and crimes against children and cyber-crimes.

- b. If confirmed, what specific actions would you take to ensure that ICE is coordinating its various enforcement and investigative functions?

This is vital to the mission and efficiencies of the agency. If confirmed, I will meet regularly with the directors of both functions to review and assess coordination and ensure communication between them.

- c. What do you feel should be the top priorities for investigations by ICE HSI?

While I intend to give this matter further study, it seems to me that priorities must include, among others, terrorism, crimes of violence, human trafficking, crimes against children and other cyber-crimes.

21. ICE Homeland Security Investigations actively pursues Intellectual Property Enforcement (IPR) investigations. This is a considerable portion of ICE HSI's annual budget for investigations (nearly \$188 million in 2012-2013).

- a. How much of ICE HSI's budget do you believe is appropriate to allocate to these investigations?

IP is very important to the American economy and I believe that ICE must enforce the law in this area. There is a real cost to the economy in cases of IP theft. If I am confirmed, I will review ICE's current enforcement measures in this area compared to results and then make a decision about the ICE IPR budget. I would also want to hear from senior law enforcement officials across government about where they are making their resource allocations and from experts at ICE on their resource allocation recommendations.

- b. How would you recommend balancing IPR investigations with ICE's other responsibilities, including enforcing immigration laws?

As noted in "a" above, if confirmed, I would first want to ensure that the resources devoted currently are being used in the most cost efficient and effective manner possible. This is the first step in making sure we can address all the needs.

22. The TECS system, which is jointly managed by CBP and ICE, is the primary system for determining admissibility of persons to the United States as well as the case management system for ICE agents. The system is also used by numerous other agencies for antiterrorism and law enforcement purposes, including the sharing of information among federal, State, local and international law enforcement entities. ICE has struggled with its part of the TECS modernization project and began redesigning its program in the summer of 2013 after spending \$19 million on a system that ICE determined was not technically viable. If confirmed, what role would you play in ensuring that this critically important acquisition gets back on track?

If confirmed, I will determine the current status of the project and, with the assistance of the appropriate staff, identify any obstacles to full implementation of the agency's modernization efforts. Modern, efficient, and secure IT systems are vitally important to the execution of operations and will be a priority for me.

23. What will be your approach to working with the leaders of the Department's other components to identify areas where the Department can leverage investments across components and improve results in missions that cut across the components, particularly in the area of information sharing?

The issue of coordination, cooperation and communication among the Department's components is vital to effective agency management, efficiency in operations and accomplishment of each component's goals. If confirmed, I will engage in frequent communication with the heads of the other Department components to ensure that this is occurring.

24. Recently the Department reprogrammed money to support ICE operations on the southwest border, and Congress may soon consider whether to provide additional funds for these operations. What precautions will you take to prevent waste, fraud and abuse in any surge of spending?

I consider it a fundamental responsibility of a manager to be a good steward of taxpayers' monies. If confirmed, I will review reports reflecting expenditures and ensure that a system of accountability exists which will ensure proper use of all funds made available to the agency.

25. ICE plans to modernize its financial system and has adopted a short-term patch to extend the life of its current financial system, which provides services for the Department's

headquarters as well as ICE. What will be your plan for determining the most efficient and effective long-term path for ICE's financial systems?

This is a strategically vital issue for all agencies and one that requires close scrutiny and continuing oversight. If confirmed, I will confer with the financial systems experts in the agency to identify where current procedures may fall short. It is my understanding that there is a recent audit history which should also be informative in this regard and that it reflects sound practices which I would expect to build on.

Immigration Enforcement

26. Last year, the Senate-passed S. 744, the Border Security, Economic Opportunity, and Immigration Modernization Act. Among other things, the legislation would strengthen border security, expand opportunities for temporary and high-skill employment visas, require most employers to use an electronic verification system for work eligibility, and create a path to citizenship for certain young or long-term immigrants currently living in the shadows. Do you believe that our nation's immigration laws need to be comprehensively updated as envisioned by the Senate-passed legislation?

Yes.

27. Should this comprehensive immigration reform legislation or something like it, advance, ICE will play a key role in implementing the bill.

- a. Please discuss some of the key challenges you believe that ICE would face in implementing comprehensive immigration reform and what you believe ICE would need to do to prepare properly and to execute the requirements of the bill.

The challenges will certainly be shaped by the various specific elements of the bill if enacted into law. As with the execution of any new law, however, it will be vital to communicate clearly the law's provisions to the personnel carrying them out. It will be essential to have directors and all levels of supervisors properly trained and resourced to understand such law and to have their assistance in developing appropriate policies and procedures necessary to implement it. Careful consideration of the resources needed is extremely important.

- b. How important do you believe that coordinating the actions of the various components at the Department will be to successfully implementing the reforms? What role would you expect to play in this coordination?

Very important. Each director needs to be at the ready to review and assess the impact of the law on each component and to ensure coordination and communication between them

28. Most of the immigration reform debate in the Senate last year focused on the security of our physical borders. However, should immigration reform be enacted, the robust enforcement of our workplace and immigration laws in the interior of the country will be critical in order address one of the fundamental underlying causes that brings people here illegally: the desire to find employment. This is particularly true for the estimated 40 percent of the undocumented population who entered the U.S. legally and then subsequently overstayed their visas.

- a. What do you believe are the most important things that the federal government will need to do to ensure that our interior enforcement is robust enough to ensure that employers are not continuing to hire undocumented workers once immigration reform is enacted?

Once immigration reform is enacted, the federal government must make clear to employers that they are a vital part of the solution to stem the flow of illegal migration to the United States. There should be an emphasis on education of and communication with employers regarding the requirements resulting from any reforms that are enacted into law. Where violations persist, criminal and administrative enforcement must be a priority. The agency should continue to ensure employer compliance through the existing I-9 audit process. The suspension and debarment program is an important part of enforcement efforts with respect to government contractors and adequate resources need to be directed to the enforcement of statutes which regulate the employment of foreign workers.

- b. If confirmed, how will you work as Assistant Secretary in order to ensure that ICE and USCIS coordinate their enforcement actions in order to most effectively target immigration fraud?

If confirmed, I would encourage effective communication and information sharing with USCIS, a vital partner with ICE in combatting immigration fraud. I commit to coordination with USCIS leadership on setting priorities for prosecution and to maximize resources between the two agencies.

- c. How will you address these important issues in the absence of immigration reform?

The same general strategies apply. If confirmed, my first priority will be public safety. I would continue and attempt to improve upon a risk-based approach to enforcement of existing immigration law and criminal prosecutions. The Secretary already has a Unity of Effort program to secure the Southwest Border and the Administration's Transnational Organized Crime Strategy can also be effective in attacking the fraud problem even in the absence of immigration reform. Both merit continued support and implementation.

29. According to an ABC News report,² there are more than 6,000 foreign nationals who entered the United States on student visas but who have overstayed the terms of their

² Brian Ross and Matthew Mosk, "Lost in America: Visa Program Struggles to Track Missing Foreign Students," ABC News, September 2, 2014, available at: <http://abcnews.go.com/Blotter/visa-program-struggles-track-missing-foreign-students/story?id=25208740>.

entries and have apparently disappeared. Once a student arrives in the U.S., the schools they attend have the responsibility to track the student's whereabouts, and report to ICE if they repeatedly miss class or otherwise fall short of the terms of their admission. According to news reports, schools frequently fail to meet this requirement.

- a. What specific actions will you take to strengthen the integrity of the student visa program, if confirmed?

If confirmed, I would seek to examine the number of student overstays and to what extent those individuals constitute a law enforcement or security concern. I would also ensure that procedures exist to properly and thoroughly review student visa applications, including a cross-check of available data and intelligence regarding individuals already known to present a security or public safety threat. I would increase efforts to monitor school compliance with their tracking responsibilities and find measures to hold them accountable for systemic failures.

- b. What is your assessment of many schools' alleged failure to report absentee foreign students? If confirmed, what steps would you take to strengthen this reporting requirement?

A school's failure to report absentee foreign students undermines the student visa program. If confirmed, I would communicate with school leadership to emphasize the importance of maintaining the integrity of the reporting system and ensuring the proper training and screening of any school official designated to carry out this vital function.

- c. Schools utilize Designated School Officials to process and issue the visa paperwork and maintain the Student and Exchange Visitor Information System, a government database. These school personnel are not required to have any background check, even a standard criminal background review. If confirmed, will you examine this ICE administrative policy and consider whether it should be changed to require a background check to DSOs?

If confirmed, before making a decision to change any current policy of ICE, I would want to study the policy and get a full understanding of its history, suitability and scope. I would also want to hear from all staff as to the wisdom of any policy and take all of this into consideration before making a change.

- d. Schools are not required to be accredited to participate in the Student and Exchange Visitor Program. If confirmed, will you examine this policy and consider whether it should be changed?

As stated above, before making a decision to change any current policy of ICE, if confirmed, I would want to study the policy and get a full understanding of its history, suitability and scope. I would also want to hear from all staff as to the wisdom of any policy and take all of this into consideration before making a change.

30. As many as 40 percent of the individuals living in the U.S. without documentation actually entered the country legally, but subsequently overstayed the terms of their admission. In the past, GAO has criticized ICE for not prioritizing visa overstays in its enforcement efforts. What importance do you place in identifying, apprehending, and removing individuals who have overstayed the terms of their admission? What steps will you take to address visa overstays if you are confirmed?

If confirmed, I will place great importance on efforts to identify, apprehend, and remove individuals who have overstayed the terms of their admission. As a matter of policy, I will ensure that our priority will be the targeting of those overstays who pose a security or public safety threat. I will also assess the procedures currently in place to locate these individuals to determine if changes in procedures are required.

31. Current law provides for civil penalties for those who overstay their visas for six months or more with, among other things, either a 3- or 10-year ban from admission into the United States after their removal or voluntary departure from the United States. As noted above, GAO suggested that ICE only provides limited resources for enforcement of visa overstays. In addition, those who overstay their visa may not fit into one of the priority categories identified in the June 2011 memo by then Director Morton on prosecutorial discretion.

- a. Do you believe it is important for those who overstay the terms of their visas to be held accountable for those violations? Why or why not?

Yes. It is necessary to the integrity of the visa program, but we must prioritize those overstays who pose a security or public safety threat.

- b. How should ICE approach its legal responsibilities with respect to those who overstay their visas, and the cross cutting issues of prosecutorial discretion identified in the Morton memo?

ICE must meet its obligations to enforce the visa program, but we must prioritize those overstays who pose a security or public safety threat. As with all areas of law enforcement, however, that does not necessarily preclude the exercise of prosecutorial discretion.

32. In July 2011, John Morton, the former Assistant Secretary for ICE, issued a memorandum directing employees at ICE to exercise prosecutorial discretion in pursuing immigration cases. In the memorandum, Assistant Secretary Morton focused ICE's efforts to identify, detain, and remove people living in the U.S. without legal authorization on individuals with prior criminal convictions, individuals who are otherwise considered a threat to the homeland, and individuals who have been apprehended at the border.

- a. What is your view of the use of prosecutorial discretion generally?

The use of prosecutorial discretion is an important management and law enforcement tool which I, as a U.S. Attorney, along with all law enforcement, use to ensure the most effective allocation of resources balanced against the public safety needs of our communities. Properly managed, it ensures that limited dollars are used in a manner which has the greatest impact.

- b. What is your view on the 2011 Morton Memo?

The principles outlined in the Morton Memo are a good framework on communicating the appropriate prioritization of limited enforcement resources both in investigative efforts and overall immigration enforcement. If confirmed I look forward to the opportunity to review this and ICE's current policies to determine their viability and need for revision.

- c. Do you anticipate making any changes to this policy if confirmed? If so, in what manner?

Prosecutorial discretion plays an important role in the management of my office and appears to do so at ICE. If confirmed, I intend to study this issue and make modifications, if appropriate.

33. The Morton Memo essentially prioritized the removal of individuals with prior criminal convictions. Do you believe that removing all illegal aliens with criminal convictions should be a priority for ICE, or should ICE focus its efforts on removing illegal aliens who have committed certain types of crimes? Why or why not?

This is an area where prosecutorial discretion, properly exercised and guided by the need to obtain the greatest public safety impact with dwindling resources, is appropriate. If confirmed, I am looking forward to the opportunity to review this and all of ICE's current policies to determine their viability and need for revision. As U. S. Attorney, I use the general concept of prosecutorial discretion every day. For example, I have set guideline limits on the loss amounts of fraud cases since I cannot typically justify using valuable resources to prosecute small fraud cases.

34. The role of state and local law enforcement entities in the enforcement of immigration laws has received a significant amount of attention in recent years. In your opinion, what is the appropriate role of state and local law enforcement in enforcing civil immigration laws?

- a. Do you intend to reauthorize the 287(g) Program? Why or why not?

State and local law enforcement plays a vital role in the effective enforcement of many federal laws. In these days of tight budgets and increasing security threats, coordination between and among all law enforcement agencies is vital. While federal authorities have primary responsibility for the enforcement of immigration laws, state and local authorities can be important partners. While I appreciate the desire of state and local law enforcement to serve as a force multiplier in this area, we do need to ensure that we have clear standards and priorities when we look for force multipliers and continue to enhance trust between law enforcement and communities. If confirmed, I look forward to the opportunity to review this program, including the benefits and concerns within ICE and those raised by state and local law enforcement agencies.

35. Do you believe it is important to develop a close working relationship with the United States Citizenship and Immigration Services (USCIS)? Yes.

- a. If yes, how will you work to ensure this is a robust working relationship, particularly to address fraud and abuse at USCIS through criminal prosecution?

I intend to have extensive and regular communication with my colleagues at ICE's sister agencies. It is my understanding that the Secretary has strongly encouraged collaboration between agencies, which only makes sense given the overlap in the mission of each.

- b. How do you believe ICE should prioritize any USCIS case referrals that are based on fraud and abuse within the immigration benefits system?

It should be an important part of ICE enforcement efforts, balanced against ICE's limited resources and other priorities.

36. What type of working relationship do you think is necessary between ICE and the Department of Justice (DOJ)? With what DOJ components do you believe ICE should work most closely and why?

It is vital that DOJ and ICE continue their collaboration on the important enforcement docket each has. With respect to the terrorist threat, ICE and DOJ should confer and share intelligence between the National Security Division in order to better combat it. The Criminal Division of DOJ has overlapping interests in the

prosecution of transnational crime, human trafficking, cybercrime, transnational fraud schemes, weapons exports, intellectual property, immigration, drug conspiracies, and border security. DOJ's immigration court system is administered through the Executive Office of Immigration Review and has a direct connection to ICE's immigration enforcement responsibilities.

37. What type of working relationship do you expect to have with Customs and Border Protection (CBP)?

If confirmed, I intend to continue what appears to be an excellent relationship between CBP and ICE

38. The deployment of a biometric entry system has been one of the landmark achievements of the Department in the wake of the terrorist attacks of September 11th. It has been unable to match that success when it comes to deploying a biometric exit system, despite a Congressional mandate to do so. Instead, the Department has focused its recent efforts on deploying a working biographic exit system based on passenger manifest data collected by the airlines and sea carriers.

- a. Please describe your thoughts concerning the relative merits of a biographic exit system versus a biometric exit system. What would a biometric exit system do that a biographic system cannot accomplish, and what would that added capability cost?

As a nominee, I am not entirely familiar with ICE's responsibilities with regard to entry-exit but I believe that implementing a cost effective entry-exit system is the responsibility of U.S. Customs and Border Protection. As would all enforcement agencies, I do see enormous value for ICE investigators to be able to access additional biographic and biometric information. Clearly, knowing who is in the country and who has left is important and relevant to ICE as is having reliable and accurate information for investigators to rely on.

- b. Do you believe a biometric entry and exit system should be deployed at land, sea and airports? Why or why not?

As a nominee, I am not sufficiently familiar with this issue to be able to provide an informed response to your question. I would need to better understand the benefits, consequences and costs of implementing such a system. I have been informed that the DHS Science & Technology Directorate and U.S. Customs and Border Protection are doing very collaborative work in this area to explore various technologies. I do look forward to studying this issue further if I should be confirmed as Assistant Secretary.

Immigration Detention

39. In February of 2013, ICE released hundreds of undocumented immigrants, 600 of whom reportedly had criminal convictions. However, the DHS Office of the Inspector General (OIG) noted that ICE “field offices did not release aliens they considered a danger to the community.” According to the OIG, these releases were due to a confluence of factors, including: budgetary constraints placed on ICE by sequestration and the Continuing Resolution that year; an outdated funding structure for detention that includes fee funding, which declined that year; Congressional mandates on the number of detention beds that ICE must maintain; and increasing apprehensions of undocumented migrants by Border Patrol agents in south Texas. However, the DHS IG also noted that ICE failed to come up with a contingency plan to address the budget shortfall they faced last year before the situation became severe enough to warrant these kinds of releases, and that the releases themselves were problematic because senior leaders at ICE were not closely monitoring the situation.³

- a. Are you aware of this incident, and if so, what are your concerns with ICE’s actions last year?

I am aware of the incident. The availability and expenditure of resources requires constant monitoring at the highest level of management, including that of the Assistant Secretary. While I am not familiar with all the specific facts and circumstances surrounding the incident, I think everyone can agree that the release of those convicted of crimes must be carefully reviewed, planned and communicated to local law enforcement to ensure the safety of the American public.

- b. If confirmed, what steps will you take to ensure that ICE does not find itself in a similar position in the future?

The management of detention facilities and costs associated with such management is a highly complex challenge which requires year-round planning and oversight, not just for any given fiscal year but future years as well. Funding sources must be reliable and well managed. There should be a process to ensure accurate and meaningful reporting of budget issues to the Department, OMB and the Congress.

³ See Department of Homeland Security Office of the Inspector General, *ICE’s Release of Immigration Detainees*, OIG-14-116, August 14, 2014. Available at: http://www.oig.dhs.gov/assets/Mgmt/2014/OIG_14-116_Aug14.pdf

40. In recent years, Congress has mandated that ICE maintain 34,100 detention beds for undocumented immigrants. Do you believe that this is the appropriate level of detention beds for the agency? Do you believe that it is effective for Congress to mandate a specific number of detention beds, or, if confirmed, would you prefer more flexibility to determine the correct level of detention beds that ICE should maintain?

I plan to give greater study to the best way to determine bed space needs. I believe that there is a need to allow for the greatest flexibility possible to determine the correct level of detention beds that should be maintained.

- a. What other strategies would you employ to solve the problem of adequate detention space for aliens who have been ordered deported?

I believe ICE needs to work to ensure that other countries are timely in issuing travel documents so ICE can effect deportation once travel orders are issued. When appropriate, I think alternatives to detention should be employed to ensure detention space is available for cases where risk of flight or public safety is a concern. I would advocate for a review of the applicable regulatory authority to detain individuals who are particularly dangerous or who present national security concerns for longer periods once they have been ordered removed.

41. The immigration detention system has expanded substantially over recent years resulting in the prolonged detention of thousands of non-criminal aliens, including vulnerable populations such as survivors of torture, families with small children and those with serious illnesses. To alleviate over-crowding and the high cost of detention, many have requested that DHS pursue alternatives to detention programs. Congress has appropriated funds to DHS for this purpose and the Department has initiated new programs. However, there is criticism that DHS has focused primarily on populations who are already eligible for release, relied too heavily on the most restrictive methods available, and has failed to take advantage of community-based alternative programs run by non-governmental, state or local agencies.

- a. What do you see as the benefits and drawbacks of alternatives to detention programs?

There are few issues for which using only one approach to tackling them is best. Flexibility is particularly desirable when it comes to an issue as complex as the removal process and detention. Of course, the immigration courts play an important role in the process and there is an urgent need to address their significant backlogs, which delay timely disposition of cases, through additional investments and refinements of processes and policies if appropriate.

- b. What is your assessment of current alternatives to detention programs?

If confirmed, I will further study the policies and processes governing the use of alternatives to detention programs. As with many programs, it is likely that alternatives to detention programs can be improved.

- c. If confirmed, will you review whether alternatives to detention programs can be expanded?

Yes.

42. Providing adequate medical care at immigration detention facilities has historically been challenging for DHS. In the past, a number of media reports, Congressional hearings, and ICE documents retrieved through FOIA requests suggested that the Division of Immigration Health Services (DIHS) suffered from understaffing, and administrators of detention facilities have often complained of the difficulties of gaining authorization from DIHS for necessary medical procedures. It appears that DIHS has been improving the level of service that it provides in recent years, but there remain instances where detainees have died after numerous requests for treatment were denied.

- a. What steps will you take to review, and improve, the medical care provided to detainees?

I will meet with the leadership of each of the divisions responsible for such medical care, including the DHS Office of Health Affairs and the ICE Health Service Corps to discuss the recent improvements and to determine how to sustain such improvement in the future. I will ensure that staff are well versed and trained in maintaining applicable detention standards.

- b. How can ICE coordinate more effectively with DIHS and other relevant agencies to address the problem?

This can be done through effective and meaningful communication. I would review the procedures currently in place for coordination and ensure accountability in regards to following those procedures.

43. Human rights groups have long been critical of the practice of detaining families with children at detention facilities. In 2007, DHS settled litigation with the American Civil Liberties Union on behalf of 26 immigrant children detained with their parents at the T. Don Hutto facility in Texas, and committed to improved standards and conditions at the facility. However, DHS found itself unable to comply with these commitments and was ultimately forced to close the Hutto facility.

In response to the unprecedented surge of migration from Central America over the past three years, which includes disproportionately large numbers of unaccompanied children as well as families traveling with young children, DHS has opened up two new facilities to detain family units: one in the Federal Law Enforcement Training Center facility in Artesia, New Mexico, and one in Karnes, Texas. There have been some allegations in the media that families detained at these facilities are not receiving the appropriate legal aid to help them navigate the immigration court system.

- a. Under what circumstances do you believe families with children should be detained?

ICE enforcement efforts appear to be more greatly focused on recent border crossings of these families, which is an important strategy to maintain border security.

- b. What steps do you believe can and should be taken to limit the use of detention, particularly for family units?

It is important to engage our international partners to dampen the flow of families seeking to enter the country. There should be rigorous assessment of the circumstances under which these families seek entry into the country in order to balance the needs of those with valid reasons for seeking humanitarian relief here with the nation's needs to secure our borders. As I've mentioned above, the immigration courts play an important role in the process and there is an urgent need to address their significant backlogs, which delay timely disposition of cases.

- c. What sort of facility would you consider appropriate for families with children?

An appropriate facility would be clean and safe and be able to provide those basic services required under law to families. It should not be overcrowded and should be fairly open for detainees' movement throughout.

- d. Do you believe that families held in these detention facilities should be provided with access to legal counsel? Do you believe such legal counsel should be provided (i.e. paid for) by the federal government? Would providing taxpayer-funded legal counsel to illegal immigrants violate Section 240(b)(4)(A) of the Immigration and Nationality Act? Why or why not?

Yes, I believe that families held in detention facilities should have access to legal counsel. I have found in my prosecution work that the presence of competent defense counsel can actually help in facilitating more timely disposition of cases. The private legal community has been very responsive in offering to provide attorneys on a pro bono basis. Steps in this regard are also being taken by the Department of Justice by enrolling lawyers and paralegals to provide legal assistance to unaccompanied minors. I would have to study the issue further of whether the federal government should have any involvement with providing assistance in paying for non-pro bono

counsel for families, as I am currently unfamiliar with any options or alternatives which may be available. With respect to your questions about INA 240(b)(4)(A), I would need to study the full gamut of U.S immigration laws to answer this question. If confirmed, I will devote a significant amount of time to this.

- e. If confirmed, do you plan to review ICE's use of family detention facilities?

Yes.

- f. Do you feel that children who are brought into the U.S. by smugglers, paid for by their families, should be provided with government funded legal representation?

I would need to study the full gamut of U.S immigration laws to answer this question. If confirmed, I will devote a significant amount of time to this important issue.

- g. Would providing such taxpayer-funded legal counsel to illegal immigrant children violate Section 240(b)(4)(A) of the Immigration and Nationality Act? Why or why not?

As I mentioned above, I would need to study the full gamut of U.S immigration laws to answer this question. If confirmed, I will devote a significant amount of time to this.

Customs Investigations

44. One of ICE's key priorities is interdicting the southbound illegal flow of guns out of the United States that are smuggled into the hands of drug cartels in Mexico. Some Mexican officials have directly linked this illegal flow of guns to the atrocities that have been committed by the Mexican drug cartels in recent years. However, ICE has limited resources for this program and is hindered by having to link these investigations directly to the border. ICE has also historically had a tense relationship with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), catalogued in a series of GAO reports in recent years.

- a. If confirmed, what specific actions would you take to interdict the southbound illegal flow of firearms out of the United States?

The investigative arm of ICE, Homeland Security Investigations (HSI) combats illegal firearms, ammunition and explosives smuggling activities through its investigations of international smuggling operations and enforcement of federal export laws. If confirmed, I would encourage coordination with other agencies with firearm jurisdiction and meet with the Director of ATF, a former colleague of mine from the U.S. Attorney ranks, to review and improve, as necessary, existing protocols to ensure continued collaboration between ATF and ICE/HSI. I would also ensure that DHS component agencies are in sync with one another in efforts to tackle this

issue and provide timely investigative support to CBP, in particular, when firearm seizures are made.

- b. How would you coordinate with the ATF to ensure that the agencies are working together in their arms trafficking investigations?

Coordination would include communication with ATF leadership and information sharing. I understand that a Memorandum of Understanding between the agencies already exists and would require periodic review to ensure the obligations of both parties are being met. I would encourage joint investigations and sharing of investigative resources.

45. Earlier this year we understand that ICE officials met with international law enforcement officials at The Hague to discuss the rising criminal exploitation of digital currencies, such as Bitcoin.

- a. How concerned are you about the use of digital currencies to fund criminal enterprises?

I have great concern regarding this emerging threat. It presents unique challenges by masking illicit financial transactions and creating additional obstacles to trace the money used in them.

- b. If confirmed, what steps will you take to address this issue?

I will ensure that our investigators and intelligence staff have the proper training to spot and investigate these cases. If confirmed, I would also require continued collaboration with other federal agencies like the SEC, the DOJ and FINCEN to ensure a coordinated attack to dismantle virtual currency platforms which may be used to smuggle and sell illegal drugs, firearms and child pornography.

- c. Given the fact that these currencies are international in nature, how will you work with our international partners to mitigate the threats that international criminals may be posing to our citizens?

If confirmed, I will establish relationships with our international partners where none exist and work to strengthen those that do. I will continue to use ICE attaches positioned throughout the world to conduct joint investigations with our international law enforcement partners and share vital intelligence

46. Globally, alien smuggling generates illicit revenues totaling billions of dollars annually and is recognized as a significant and growing problem that can pose a serious threat to the security of the United States, a primary destination country. ICE has an opportunity to use financial investigative techniques to follow the money trail from smuggling fees as an effective means of dismantling alien smuggling organizations. ICE officials have said that much of the U.S.-related smuggling revenues may not be paid in this country or, if paid here, may be transported or transmitted abroad quickly.
- a. What would you do to increase ICE's effectiveness in seizing alien smuggling fees and related monetary assets of alien smugglers to dismantle their organizations?
- I would ensure that the agency professionals have the necessary training and resources to conduct financial investigations. I would continue to strengthen the relationships with financial institutions, particularly those in the international arena, in order to coordinate efforts to identify and secure accounts which are involved in illicit activity.
- b. What mechanisms are in place or would you implement to seize U.S.-related alien smuggling revenues that are located or transferred abroad?
- There are already statutory provisions in place which require the cooperation of financial institutions in identifying and securing illicit financial gains. I would continue their use in dismantling the avenues currently available to criminals to launder their money.

Human Smuggling and Trafficking Center

47. The Human Smuggling and Trafficking Center (HSTC) serves as the federal government's interagency information clearinghouse and intelligence fusion center for all federal agencies addressing human smuggling, human trafficking, and the potential use of human smuggling routes, networks, and organizations by known or suspected terrorists. Some believe that the HSTC has been underfunded and understaffed, lacking subject matter experts on a variety of the areas it supports. It appears that not all departments are fully committed to the success of the Center.
- a. Please describe your work to date, if any, on the problems of human smuggling and human trafficking.
- As a line AUSA, I prosecuted both human trafficking and smuggling cases and served as the District's point of contact on these issues. I led the effort for the USAO to stand up an Anti-Trafficking task force, bringing together federal, state and local law enforcement to coordinate efforts to identify and combat the problem. As Deputy Criminal Chief, I supervised the prosecution of these cases. As U.S. Attorney, I have

communicated to all personnel that this area is a top priority for the Department of Justice and our office and have dedicated resources to reflect that.

- b. What is your assessment of how the HSTC has operated to date?

I look forward to learning more about the HSTC but am not currently familiar enough with its operation to form a meaningful opinion as to its effectiveness.

- c. If confirmed, what specific actions would you take to ensure that the HSTC receives support from and is incorporated into the operations of all its constituent agencies?

I would become familiar with the operations of the HSTC and ensure that personnel staffing the Center have the training and resources necessary to carry out their responsibilities in an effective manner. I would confer with the heads of constituent agencies to discuss their needs for intelligence and information.

Intelligence

48. What do you believe are ICE's top intelligence priorities today, and how can ICE improve its efforts to address them?

I believe that ICE's top intelligence priorities include those related to homeland security, with an emphasis on the creation of actionable intelligence relating to all threats, including those to border security. If I should be confirmed as Assistant Secretary, I look forward to studying the agency's overall intelligence efforts further in order to determine how ICE can improve its efforts in this regard.

49. The ICE Office of Intelligence is considered an intelligence component of DHS under Section 207 of the Homeland Security Act, and under the requirements of that section, the head of that office is responsible for supporting and working with the broader intelligence mission of DHS as led by the Under Secretary for Intelligence and Analysis. If confirmed, how would you ensure that the ICE Office of Intelligence is integrated into the DHS intelligence enterprise, and that ICE cooperates fully with the DHS Office of Intelligence and Analysis?

I would meet and confer regularly with the Under Secretary in order to ensure a greater understanding of security threats to encourage coordinated intelligence gathering and sharing. I would require ICE staff in intelligence positions to do the same with their respective counterparts.

50. The DHS Office of Intelligence & Analysis serves as the central hub for all intelligence related to the homeland. To this end, the DHS Under Secretary for Intelligence & Analysis serves as the Chief Intelligence Office for the Department. Given this, do you believe that the DHS Office of Intelligence and Analysis and the Under Secretary for Intelligence & Analysis should have full and unencumbered access to all ICE holdings in order to support the DHS Intelligence Enterprise?

Yes.

Cybersecurity

51. ICE undertakes a number of activities to combat criminal activity conducted on or facilitated by the internet and has stood up a Cyber Crimes Center to help investigate cyber crimes, including crimes related to the exploitation of children online. If confirmed, how would you prioritize ICE's efforts to combat cyber crime and target transnational criminal organizations that use cyber capabilities to further their criminal enterprise?

Cybercrime must be a top priority for the United States, given the scope and breadth of the threat. With respect to the specific area of child exploitation, ICE takes the lead to investigate and prosecute these cases and makes substantial use of its cyber forensics unit in doing so. It is vital to the protection of these vulnerable victims that the agency continues to support and encourage domestic and international child exploitation investigations. Another priority is internet enabled crime, including identity theft, document fraud, financial and other commercial fraud and illegal exports.

52. Are there other areas of cyber-crime enforcement that you believe ICE has a role to investigate?

While any extension of ICE's enforcement responsibilities must be authorized by Congress, existing law allows for ICE to have a role in identifying and investigating transnational criminal organizations that use cyber capabilities to further their criminal enterprise. The Cyber Crimes Center provides training and investigative support to HSI field offices in cyber-related investigations related to identity and benefit document fraud, money laundering, financial fraud (including e-payment fraud and internet gambling), commercial fraud, counter-proliferation investigations, narcotics trafficking, and illegal exports. The Cyber Crimes Unit of HSI also coordinates the dissemination of investigative leads worldwide.

53. Should ICE be involved in investigating intellectual property theft that occurs in the cyber domain?

Yes.

IV. Relations with Congress

54. 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.

55. 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?

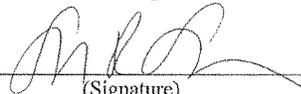
Yes.

V. Assistance

56. Are these answers your own? Have you consulted with DHS or any interested parties? If so, please indicate which entities.

These answers are my own. I have not communicated with any "interested parties" outside of DHS. As U.S. Attorney, I have extensive experience in working with both HSI and ERO in my district, and I have conducted some of my own research in the areas that are newer to me.

I, SARAH R. SALDAÑA^{JA}, hereby state that I have read the foregoing Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.



(Signature)

This 13th day of September, 2014

**The Minority of U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire for the Nomination of
Sarah Saldana to be
Assistant Secretary, Department of Homeland Security**

1. In February of 2013, ICE released hundreds of undocumented immigrants, 600 of whom reportedly had criminal convictions. However, the DHS Office of the Inspector General (OIG) noted that ICE “field offices did not release aliens they considered a danger to the community.” According to the OIG, these releases were due to a confluence of factors, including: budgetary constraints placed on ICE by sequestration and the Continuing Resolution that year; an outdated funding structure for detention that includes fee funding, which declined that year; Congressional mandates on the number of detention beds that ICE must maintain; and increasing apprehensions of undocumented migrants by Border Patrol agents in south Texas. However, the DHS IG also noted that ICE failed to come up with a contingency plan to address the budget shortfall they faced last year before the situation became severe enough to warrant these kinds of releases, and that the releases themselves were problematic because senior leaders at ICE were not closely monitoring the situation.¹
 - a. Do you believe ICE broke the law in releasing these criminal aliens? Why or why not?

While I have read some press coverage of this incident, I am not fully familiar with the specific facts and circumstances pertaining to it.

2. One of your interim predecessors, John Sandweg, was quoted in the L.A. Times as saying that: “If you are a run-of-the-mill immigrant here illegally, your odds of getting deported are close to zero — it’s just highly unlikely to happen.”² Do you feel this is a fair and accurate statement? Do you believe that this should be the policy of DHS and ICE?

I am not familiar with the context of the statement above, and therefore cannot opine on the fairness or accuracy of the statement. As the U.S. Attorney for the Northern District of Texas and a law enforcement official, I take seriously my duty to enforce the law. I do not believe this should be the policy of DHS and ICE and have been informed by DHS officials that it is not.

3. The Morton Memo, as it is commonly referred to, has shaped ICE policy and justified recent actions by ICE lawyers, such as “PD-ing” (Prosecutorial Discretion) unaccompanied minor deportation proceedings. The Morton Memorandum’s guiding doctrines have resulted in many justifications for actions unrelated to criminal enforcement that have been presented to this Committee. Do you, if confirmed as Director of ICE, intend to keep this document or more formally pursue policy and guidelines that do not utilize excessive levels of prosecutorial discretion?

¹ See Department of Homeland Security Office of the Inspector General, *ICE’s Release of Immigration Detainees*, OIG-14-116, August 14, 2014. Available at: http://www.oig.dhs.gov/assets/Memo/2014/OIG_14-116_Aug14.pdf

² High Deportation Figures are Misleading. LA Times, April 1, 2014. <http://www.latimes.com/nation/na-na-obama-deportations-20140402-story.html#page=1>

- a. Do you feel that the decision of an ICE prosecutor to “throw out” cases for unaccompanied minors, rendering them without status of any kind, is an appropriate manner of handling these cases?

I am not aware of this approach of “throwing out” cases but look forward to the opportunity to review all of ICE’s processes and priorities to be able to determine their viability and need for revision.

- b. Do you feel that Executive Memoranda should be the ruling doctrine of a federal law enforcement agency?

No, the laws of the nation and the Constitution should be, but Executive Memoranda can be helpful in providing guidance to the field.

- c. As a government prosecutor, have you utilized doctrine from the Morton Memo? If yes, please provide examples.

I use the general concept of prosecutorial discretion every day. I have set guideline limits on the loss amounts of fraud cases since I cannot typically justify using valuable and dwindling federal law enforcement resources to prosecute small fraud cases.

Questions of Senator Tom Coburn, M.D.

Sarah Saldana

*Nominee to be Assistant Secretary for Immigration and Customs Enforcement,
Department of Homeland Security*

U.S. Senate Committee on Homeland Security and Governmental Affairs

September 17, 2014

Experience

1. I am interested in the type of work you have focused on since becoming an Assistant U.S. Attorney (AUSA) and a U.S. Attorney. In some of the documents you provided to the committee, you included slides associated with several speeches you have given about the U.S. Attorney's office.

In those slides, you highlighted the caseload of the office. In each of fiscal years 2010 through 2013, immigration and violent crime cases alternated between being the highest bulk of the caseload, ranging between 26% and a little over 29% of the cases in the Northern District.

In your staff interview you indicated you worked on a limited number of immigration cases at the beginning of your career as an AUSA, a post you occupied from 2004 – 2008.

- a. Could you please describe for us the nature of your practice, both as an AUSA and in your current role as a U.S. Attorney?

For the last 10 years, I have worked for the U.S. Department of Justice in the U.S. Attorney's Office. In each of the two positions I have held (Assistant U.S. Attorney and U.S. Attorney), my responsibilities involved enforcement of federal laws – both civil and criminal – and the pursuit of the best interests of the United States. As U.S. Attorney, I have been responsible for the enforcement of the entire spectrum of federal law, including immigration matters, visa/identity/benefit fraud, trademark infringement, intellectual property (IP) and trade secret theft, terrorism, customs violations, human trafficking, child exploitation, human smuggling, drug and gun laws, organized crime, gangs, fraud, public corruption, cybercrime and related matters. I have also prosecuted a number of these cases as Assistant U.S. Attorney. I have managed a staff of over 200 employees and tackled difficult personnel and budget issues. As Deputy Criminal Chief over Major Fraud and Public Corruption, I supervised and prosecuted the most complex and sensitive cases in the U.S. Attorney's Office.

- b. For how many years did you prosecute immigration cases? Do you feel that this experience was sufficient to prepare you to lead the federal law enforcement agency charged with managing immigration enforcement?

I prosecuted primarily immigration cases for approximately the first three years of my tenure as AUSA, tapering off over the next two years or so. While it is not a legal requirement for the job (I am not sure if previous Assistant Secretaries for ICE have prosecuted such cases), I do believe that this experience has significantly prepared me to lead the federal law enforcement agency charged with managing immigration enforcement.

- c. Would you consider yourself an expert or highly experienced in immigration enforcement prosecution?

I have significant experience prosecuting immigration violations, particularly considering that I had primary responsibility for the entire immigration docket in the Dallas Office for the first three years of my tenure with the USAO. This experience prosecuting immigration cases should serve me well if I am confirmed as the head of ICE.

Management

- 2. In your current role as U.S. Attorney, you oversee around 220 attorneys for the Northern District of Texas. Do you feel that this leadership and management experience is adequate to prepare you to lead a federal law enforcement agency of over 20,000 employees with offices in all 50 states and in 47 countries? Why?

Yes. As Assistant Secretary for ICE, I would be exercising the same type of leadership skills as I have as U.S. Attorney. Every organization, large or small, needs someone who: (1) is the face of the office, setting a tone for excellence and integrity; (2) has good judgment and common sense; (3) surrounds herself with good managers and staff; (4) is timely but deliberative in her decision-making; and (5) communicates with all stakeholders, employees and other interested partners. I have shown such skills while leading not only 200 employees in the USAO, but all federal law enforcement officers, in coordination with state and local officers, in each of the 100 counties, covering 97,000 square miles, in my district. Also, I believe that an effective and efficient leader should only manage a smaller number of direct reports, the senior leadership of the agency, which is also the case in my office currently. I recognize that the larger the organization, however, the more layers of management are required.

ICE's Release of Illegal Aliens with Criminal Records

- 3. Last month, the DHS Inspector General released a report that Sen. McCain and I requested which found that ICE released thousands of illegal immigrants last year prior to the sequester, and that more than 600 of these illegal aliens had criminal records.
 - a. What are your views about this decision to release criminal aliens that had criminal records?

I am not familiar with all of the facts and circumstances regarding this specific release but am aware of media coverage regarding it. In general, any releases of previously detained immigrants must be done solely on the basis of applicable law and specific relevant facts, on a case-by-case basis pursuant to appropriate priorities.

- b. Can you assure the committee that nothing like this will happen on your watch?

If I am confirmed, I can assure the Committee that any releases of previously detained immigrants on my watch will be done solely on the basis of applicable law and specific relevant facts, on a case-by-case basis pursuant to appropriate priorities.

ICE Mission Creep

- 4. Are there any areas into which ICE has expanded that you believe deserve further study for potential mission creep?

I am not currently aware of any such areas. As an agency with a border protection mission, however, ICE often leads the investigation of contraband that transnational criminal organizations attempt to smuggle across our nation's borders. If confirmed, I will continue to pursue my efforts as I have as the U.S. Attorney in Dallas to build coalitions to ensure that communication between ICE and its partners is meaningful, avoids unnecessary and unproductive jurisdictional issues, and makes the best use of government resources.

Executive Action on Immigration Reform

- 5. What is your opinion regarding the use of executive orders by the president to act on immigration policy? Even if Congress fails to act, do you believe executive action in the area of immigration policy is a violation of separation of powers outlined in the Constitution, specifically Article I, Section 8 which gives Congress the specific power "to establish a uniform rule of naturalization?"

Any opinion I would currently express regarding action which has yet to occur would be highly speculative. If I am confirmed, I look forward to personally assessing the current state of ICE's abilities and readiness to carry out its enforcement responsibilities.

- 6. If confirmed to lead ICE, do you think it would be appropriate for the president to consult you to ask for your input into whatever immigration reform actions he may take? Would you want to be consulted?

I believe consultation with either the Secretary and/or myself about immigration enforcement policies would be appropriate and I welcome the opportunity to be consulted.

- a. If yes, what ideas would you suggest to the president for inclusion in his strategy?

I am not in a position right now to put forward useful and thoughtful suggestions for the President since I have not been confirmed for the position of Assistant Secretary for ICE and would prefer to be more fully informed before providing any specific recommendations. I look forward to personally assessing the current state of ICE's abilities and readiness to carry out its enforcement responsibilities.

7. While the ICE Director has significant enforcement responsibilities, previous ICE Directors have handled extensive policy issues regarding ICE programs, immigration enforcement, prosecutorial discretion, detention management, among others. If confirmed, do you feel that you are prepared and experienced to handle the policy aspects of this position? What experience do you have in crafting policy?

Yes. As the U.S. Attorney for the Northern District of Texas, I lead the formulation and execution of law enforcement priorities and policy for the entire judicial district. This responsibility requires me to lead the law enforcement community to understand and calculate the risks facing my district, develop strategies and policies to target and combat those risks, and communicate enforcement priorities to the entire law enforcement community in North Texas for targeting and execution. I believe this experience makes me well prepared to handle the policy formulation and execution of policy required as Assistant Secretary for ICE.

Oversight

8. What areas of ICE do you believe are most fraught with waste, fraud and abuse? Please provide examples of programs and/or offices which you believe should be eliminated or restructured to avoid duplication and waste.

Since I have not had an opportunity to become familiar with the Agency's operations, I am simply not in a position to make the assessment called for by this inquiry from the outside. Thus, I am unable to comment on specific programs that should be eliminated or restructured. As the U.S. Attorney and a Deputy Criminal Chief in charge of the Dallas office's public integrity section, my commitment to the highest standards of public service and stewardship is paramount, and I will bring this same commitment to the position of Assistant Secretary for ICE if I am confirmed.

Intellectual Property Enforcement

9. Intellectual Property Enforcement is an area of enforcement closely linked to ICE's historical jurisdiction over trade enforcement. Counterfeit goods, such as pharmaceuticals and automobile parts, present a number of threats to public safety; however, counterfeit designer clothing, handbags, NFL gear, and movies do not present a direct threat to the public. While threats to health and public safety should not be ignored, through my

oversight work I discovered 66% of the items seized by ICE HSI fall into the category of wearing apparel, accessories, or handbags.¹

- a. If confirmed, how do you plan to prioritize Intellectual Property Enforcement investigations?

If confirmed, I would prioritize intellectual property investigations according to the risk presented to the American people and economy. Protecting consumers from unsafe, tainted, or substandard goods is a critical part of ICE's mission. Similarly, protecting Americans from substandard goods and protecting American business from massive theft are critical elements to defending the American economy and its competitiveness.

- b. Should ICE reallocate some of the resources that it invests in IP enforcement to immigration enforcement and removals (given the more serious threat posed to public safety from people who are breaking our immigration laws)?

I am not yet familiar enough with ICE's resource allocations, and the effects of those allocations, to comment on this question since I have not been confirmed for the position of Assistant Secretary and would prefer to be more fully informed regarding any specific recommendations I would make in this regard. If confirmed, I will carefully study the agency's resource planning and execution to ensure that ICE resources are targeted to the most important aspects of the agency's mission, consistent with the appropriations provided by Congress.

EB-5

10. Over the past year, I have engaged in significant oversight of the EB-5 Immigrant Investor Visa Program at U.S. Citizenship and Immigration Services (USCIS). It is fraught with problems, including very real threats to our national security and rampant fraud. In the course of that investigation, I have reviewed many documents, including an ICE HSI tasking that stated the only way to protect national security was to sunset the regional center portion of the EB-5 program. ICE HSI must carry out investigations of any referrals made by USCIS involving this, or any other immigration benefit program.
- a. Over the course of this program's existence, it appears great deference has been given to USCIS to police regional centers, even though the regional centers are not technically aliens receiving immigration benefits.
- i. In the event of national security risks, fraud, abuse, or illicit financial transactions, do you believe ICE should have jurisdiction to investigate and refer cases to USCIS in order to terminate private actors who are authorized to facilitate immigration benefits for aliens?

¹ ICE July 10, 2014 Response to Sen. Coburn's Letter.

As a U.S. Attorney and nominee to become Assistant Secretary for ICE, I do not currently have significant knowledge of the workings and potential vulnerabilities of the EB-5 program, which I understand is run by USCIS. Your concerns with this program, as you expressed during my hearing, have my attention. While I have not yet thoroughly reviewed this issue, it is my understanding that ICE has investigative authority over EB-5. I am certainly concerned about any allegations of security vulnerabilities in an immigration program, and if confirmed as Assistant Secretary for ICE, I am prepared to make this a priority.

- ii. Specifically, do you believe ICE should be authorized to investigate and/or refer for termination EB-5 regional centers which have been accused of or charged with such activities? Why or why not?

As noted above, I simply do not have enough information at this time to draw such a conclusion, but I would be prepared to gather such information and look into this issue if I am confirmed.

Deportations

11. The Associated Press reported last week that the U.S. is sharply cutting deportations. The AP noted Department of Homeland Security (DHS) figures show it deported 258,608 illegal immigrants through July 28th of fiscal year 2014. During the same period last fiscal year, it removed 320,167 people—a decrease of approximately 20 percent. According to the L.A. Times, deportations from the interior are down more than 40% since 2009, and The Associated Press also reported ICE is on pace this year to remove the fewest immigrants since 2007.

However, the Obama Administration has claimed it has deported record numbers of aliens. This is likely due to the method of counting deportations, which now includes those who are returned within 100 miles of the border instead of those who are actually deported from the interior.

- a. If you are confirmed, how would you recommend the federal government calculate deportations?

I am not familiar with the specific data reporting methodologies ICE uses, but I believe careful tracking of metrics is important for any law enforcement agency. If confirmed, I would work to ensure that ICE's statistical reporting is consistent with best practices so that the agency's results are clear and well understood by Congress and the public. I would ensure that the agency's reporting captures all of its efforts in this area so expenditures and outcomes are clear.

- b. Should there be a difference between those who are returned at or within 100 miles of the border and those who are actually deported from within the country? Should that calculation difference be clear to the public? Why or why not?

I am not familiar with the details of how ICE and CBP report this information. If confirmed, I would work with the Commissioner of CBP to ensure that the intersection between ICE and CBP operations in the border area is captured and reported in a way that makes this joint effort clear to the American public. Increasing the public's understanding of ICE's role in border security would be among my priorities.

Detention

12. According to an analysis of ICE documents by the Center for Immigration Studies, "about three-fourths of the aliens ICE detained in 2013 had criminal and/or immigration convictions so serious that the detention was required by statute."² Yet, ICE has released tens of thousands of criminal aliens in 2013 alone—approximately 36,000. These individuals were convicted of serious crimes such as homicide, sexual assault, drunk driving, and kidnapping.

- a. How does the release of thousands of criminal aliens with serious convictions even fall into ICE's priorities for detention and removal under the Morton Memo, which states ICE should consider "the person's criminal history, including arrests, prior convictions, or outstanding arrest warrants?"

I agree that it is important to prioritize available enforcement resources on serious public safety threats. While I am aware of the agency's releases in fiscal year 2013, I am not familiar with the details. If confirmed, however, I would work to utilize ICE's detention authority, to the extent permitted by law, to effect the removal of the highest threats to national security and public safety.

- b. Even if we were to accept that it is proper to ignore current immigration law and fail to arrest and/or deport known violators of our immigration laws and focus solely on removing criminal aliens, doesn't ICE's release of criminal aliens go beyond even the loose parameters of prosecutorial discretion?

I am not familiar with all the facts and circumstances surrounding the referenced release and am thus unable to provide you with an informed opinion at this time.

- c. How would you approach the arrest, detention, removal and potential release of criminal aliens?

I would use ICE's detention and removal resources to maximize national security and public safety, as informed by law, federal court decisions and decisions from the immigration courts.

² Center for Immigration Studies, *Catch and Release*, March 2014, available at http://cis.org/sites/cis.org/files/vaughan-ice-3-14_0.pdf.

13. The population of criminal aliens eligible for deportation has exploded in recent years. In 1980, federal and state prisons held less than 9,000 criminal aliens.³ The Government Accountability Office (GAO) reported the huge growth of that population, finding 51,000 criminal aliens in federal prisons in FY 2005 and 55,000 in FY 2010. State and local jails held 220,000 criminal aliens in FY 2003 and 296,000 in FY 2009.⁴ The estimated cost to incarcerate these criminal aliens in federal prisons is estimated to be between \$1.5 and \$1.6 billion per year. According to ICE statistics, approximately 27 percent of the current federal prison population is non-citizens.⁵

The federal government's Criminal Alien Program (CAP) is designed to identify and deport removable criminal aliens incarcerated in state, local and federal facilities once they have completed their sentence. In 2012, ICE arrested over 200,000 criminal aliens through CAP.⁶

- a. Do you support this function of ICE, and, if confirmed, would you continue the program?

While I am not familiar with the full details of the program, I do support efficient partnerships between ICE and federal, state, and local prisons and jails to identify, process, and ultimately remove criminal aliens detained in these institutions.

14. Thousands of criminal aliens have been ordered removed, but remain in this country. A portion of these aliens cannot be removed because their countries of origin refuse to accept them or do not have a functioning government. As a result, the aliens are either held for long periods of time or released into the community.

- a. How would you respond to the refusal of foreign countries to accept the return of their citizens?

If confirmed, I would work closely with our foreign partners and the Department of State to emphasize the importance of the timely issuance of travel documents and other critical logistical issues to ensure ICE can readily remove individuals back to their country of nationality.

- b. Do you feel it is appropriate to impose sanctions upon a nation that refuses to repatriate its citizens?

³ FAIR, available at <http://www.fairus.org/issue/criminal-aliens#end>.

⁴ Criminal Alien Statistics: Information on Incarcerations, Arrests and Costs, Government Accountability Office, March 2011, GAO-11-187, available at <http://www.gao.gov/assets/320/316959.pdf>.

⁵ <http://www.ice.gov/criminal-alien-program/>

⁶ Congressional Research Service, available at <http://www.crs.gov/pages/Reports.aspx?PRODCODE=R42057&Source=search>.

I am not familiar with the specifics of the visa sanction process, but if confirmed, I would ensure that ICE uses its full authority to effect the timely removal of individuals who are ordered removed from the U.S.

Visa Overstays

15. One of the big drivers of illegal immigration is the large population of people who overstay the terms of their visas. According to some estimates, this population is about 40 percent of the illegal immigrant population. GAO has reported that DHS has struggled to even estimate what the visa overstay population is.

a. As you were preparing for this hearing, has DHS told you what the visa overstay population estimate is?

No, I don't recall being informed of any specific numbers.

b. If so, what is the current estimate?

I do not know.

c. Would you plan to make investigating and prosecuting – or even tracking – visa overstays as a priority if you become ICE Director?

Yes, I believe that visa overstays should be a priority if they represent a public safety or national security threat.

Worksite Enforcement

16. According to ICE, “effective worksite enforcement plays an important role in the fight against illegal immigration...An effective worksite enforcement strategy must address both employers who knowingly hire illegal workers, as well as the workers themselves.”⁷ In FY 2012, ICE HSI made 520 criminal arrests through this program, of which 240 were owners, managers, supervisors or human resources employees.⁸

a. If confirmed, how would you proceed with worksite enforcement policy and deter unlawful employment?

As a general principle, employers are part of the problem when their business model relies on an unauthorized work force. If confirmed, I would target ICE resources to employers who exploit and abuse workers and egregiously violate the law.

b. Will you support and continue with ICE's current worksite enforcement actions?

⁷ <http://www.ice.gov/worksite/>

⁸ <http://www.ice.gov/news/library/factsheets/worksite.htm>

As I have yet to assume the responsibilities of Assistant Secretary, I am not in a position at this time to make an assessment of ICE's current enforcement policies in this regard. I would certainly support any worksite enforcement focus on businesses involved in public safety and critical infrastructure as these are areas that involve national security. Targeting these employers who knowingly engage in unlawful employment is an effective tactic in worksite enforcement.

- c. Do you support an enforcement policy that allows illegal immigrants arrested during worksite raids to be issued work permits in exchange for testimony against their employers? Why or why not?

I am not in a position at this time to make an assessment of ICE's current enforcement policies in this regard but I commit that I will study them carefully if I am confirmed.

Student and Exchange Visitor Program (SEVP)

17. The Student and Exchange Visitor Program (SEVP) has received recent media attention for its failures that have resulted in extensive visa fraud and abuse. This program came under ICE's purview after the events of 9/11, as the 9/11 hijackers utilized student visas to enter the U.S. and learn how to fly planes. Currently, the program does not know the whereabouts of nearly 6,000 students who have entered the U.S. on a student visa. If confirmed, how do you plan to reform this program in order to prevent abuse and fraud that could result in threats to national security?

I believe that there may be some vulnerabilities in SEVP that need to be addressed, but I understand that ICE is trying to do a better job of tracking those individuals. Given the nature of student visas, however, ICE appears to rely heavily on the information pertaining to students provided by universities. I plan on reviewing the program and determining if there is a gap between the universities and ICE, and if so, what can be done to fix that in order to protect national security.

18. Schools have Designated School Officials (DSOs) on staff to process and issue the visa paperwork and maintain the Student and Exchange Visitor Information System (SEVIS), a government database. The DSOs are not required to have any type of background check, even a standard criminal background review. Do you believe DSOs should be required to undergo and successfully pass a background check in order to serve in that position?

I am not familiar with the specifics of this program, but I believe that we should look at all options in SEVP that would enhance the security of the program.

19. Schools are not required to be accredited to participate in SEVP. Do you believe ICE should require schools to be accredited prior to allowing them to participate in SEVP?

I am not familiar with the specifics of this program, but I believe that we should look at all options in SEVP that would enhance the security of the program.

UAC

20. The recent border crisis regarding unaccompanied alien children (UACs) has dominated headlines with what is considered a humanitarian crisis encased in complex immigration policy issues. At this Committee's July hearing on this issue, evidence from a whistleblower at ICE showed that ICE attorneys were cancelling removal proceedings for UACs based on the idea of "prosecutorial discretion."

- a. What do you consider, based on your experience as a prosecutor, grounds for dismissing a case?

In the criminal context, my experience with indictments sought from the grand jury is that a dismissal is only warranted when new or previously unknown facts come to light, the relevant law undergoes significant change or dismissal is otherwise required in the interests of justice.

- b. Do you feel that discretion of this nature should be utilized in all cases, not just prioritization of criminal cases?

The exercise of prosecutorial discretion is an important responsibility I have. As U.S. Attorney, I must balance the wise use of limited resources with the mission to protect the public in the most impactful way possible.

21. To address the rising number of UACs entering the U.S., the federal government began a task force, headed by the Federal Emergency Management Agency (FEMA), which included the numerous agencies involved in responding to this issue. Based on news reports and what you have observed as a Texan watching the swell of UACs crossing our Southern Border, how would you improve upon the agency coordination necessary to address this issue, particularly the role of ICE?

I am not sufficiently familiar with ICE's efforts in this regard to make suggestions for improvement. As U.S. Attorney, however, I have always reached out to ensure coordination and collaboration with all levels of federal law enforcement in my district as well as local law enforcement.

22. In our first July committee hearing on UACs, a representative from the Department of Health and Human Services (HHS) stated that agency does not check the immigration status of the sponsors to whom HHS releases these children.

- a. What is your view of this policy? Do you believe the federal government should check the immigration status of the sponsors of UAC? Why or why not?

It is difficult for me to express a view of a policy with which I am not sufficiently familiar, particularly with respect to the facts and circumstances giving rise to the formulation of policies of another Department. This is an issue that requires further study. If I am confirmed I commit that I will study this issue carefully.

- b. Do you believe ICE should at least ask to interview parents/sponsors of UAC and, if appropriate, arrest or pursue other enforcement actions against such parents/sponsors? Why or why not?

See response to (a) above.

- c. Do you believe such interviews would be helpful in aiding ICE's investigations into human smuggling rings, which is a primary way UACs are entering the U.S.?

I believe ICE should strive to conduct its investigations based on actual intelligence and that appropriate leads should be followed, consistent with applicable laws.

23. In your policy questionnaire, the committee asked whether you believe UAC and/or illegal alien families with children should be provided with government funded legal representation. In response, you stated "families held in detention facilities should have access to legal counsel."

- a. Do you also believe UACs should have *access* to legal counsel?

Yes, I believe that unaccompanied children should have access to legal counsel. As I stated in response to the policy questionnaire, legal representation for aliens in immigration proceedings can make the process more efficient and there appears to be substantial interest in the private sector legal community to assist UAC on a *pro bono* basis.

- b. Last week, Attorney General Holder announced the Department of Justice (DOJ) and the Corporation for National and Community Service (CNCS), which administers AmeriCorps, awarded \$1.8 million in grants to AmeriCorps, which will disburse funds to enable legal aid organizations to hire 100 lawyers and paralegals to represent children in immigration proceedings.

Yet, concurrently, the DOJ appeared before a federal judge in Seattle earlier this month where it argued these children do not have a right to counsel and such a right would mean no child under age 18 could be removed, thus making "the border completely open for children under 18."

- i. Do you believe illegal alien children have a *right* to government-funded legal counsel in their immigration proceedings?

I have not had an opportunity to research or study this legal question. If I am confirmed, you have my commitment to carefully study this issue in order to respond fully to this question.

- ii. Would such a right violate the Immigration and Nationality Act, Section 240(b)(4)(A), which states, in removal proceedings, “the alien shall have the *privilege* of being represented, *at no expense to the Government*, by counsel of the alien’s choosing who is authorized to practice in such proceedings...?”

I have not had an opportunity to research or study this legal question. If I am confirmed, you have my commitment to carefully study this issue in order to respond fully to this question.

Visa Waiver Program

24. In light of recent escalation of hostilities with foreign terrorist groups, such as the Islamic State of Iraq and Syria (ISIS), our porous borders and lax immigration enforcement take on new and more concerning challenges. The Visa Waiver Program is meant to expedite foreign travel for U.S. residents and nationals of thirty-eight designated countries, but may be vulnerable to exploitation by terrorists, including the “Shoebomber,” Richard Reid, and one of the 1993 World Trade Center bombing conspirators, Ahmed Ajaj.

- a. Do you believe the Visa Waiver Program might be vulnerable to terrorists and/or other criminals? Why or why not?

If confirmed, I plan to examine whether there are vulnerabilities in the Visa Waiver Program that need to be addressed. There should be systems in place that review the backgrounds and suitability of all individuals planning to travel to the United States. Richard Reid’s case illustrates the importance of evaluating travelers before an aircraft is *en route* to the United States.

- b. At least one member of Congress has introduced legislation that would impose an emergency, short-term suspension of the Program in order for a review to be conducted and a report sent to Congress on the national security risks posed by the program. Would you support such a temporary measure to evaluate the program’s vulnerabilities? Why or why not?

From preliminary briefings that I have been provided by DHS, it is my understanding that a thorough review of the security features of the program is being undertaken. I would be better informed to provide a response to your inquiry once I know the findings and recommendations of that review.

- c. Do you believe there should be additional actions that, if engaged in by a Visa Waiver Program country, would mandate their removal from the program? If so, what types of actions would you consider for such removal?

It is my understanding that the original legislation provides the authority to both designate and remove the designation of a country for the Visa Waiver Program. I would need to have a clear understanding of the nature of the offensive action that would result in the consideration to remove a country's designation under the program. Certainly if a country refuses to cooperate with the United States on issues that present security vulnerabilities, I would advocate that we consider all appropriate action, up to and including termination of the designation.

**Post-Hearing Questions for the Record
Submitted to the Honorable Sarah R. Saldana
From Senator Kelly Ayotte**

**“Nominations Hearing”
September 17, 2014**

- (1) What role should ICE play in ensuring that unaccompanied alien children who have been issued Notices to Appear for removal proceedings actually show up for their proceedings?

It is my understanding that ICE is working closely with the Department of Health and Human Services to better share information so that once a child is transferred into HHS custody, ICE will file the NTA in the appropriate jurisdiction which should help to make sure that the sponsoring family is aware of its obligation to make sure the child appears in court.

- (2) Should the 2008 Trafficking Victims Protection Reauthorization Act that treats unaccompanied alien children arriving at our borders from contiguous and non-contiguous countries differently be changed? Why or why not?

I have not had an opportunity to study the provisions of the 2008 Trafficking Victims Protection Reauthorization Act with respect to this distinction in treatment and, therefore, cannot provide an informed opinion on the need, if any, for a change at this time. If I am confirmed, you have my commitment to carefully study this issue in order to respond fully to this question.

- (3) How would you work with neighboring countries to ensure we have a full picture of those who may seek to enter, or re-enter, the country to carry out terrorist attacks?

The issue of increasing our awareness regarding potential terrorist threats is, without doubt, a common interest to our neighboring countries. It is my understanding that ICE currently has an international program that works closely with foreign countries to identify and attempt to mitigate threats against the United States and other countries. If confirmed, I would continue to build on these efforts and maintain any channels of communication with those countries that currently exist in order to share intelligence that provides a more comprehensive understanding of the whereabouts of those who intend to do harm to our citizens, and would seek to open additional channels as well. I have had numerous occasions to ensure this type of communication not only between and among the various federal law enforcement agencies with whom I currently work as U.S. Attorney, but with a Mexican Congressional delegation which visited my office last year.

- (4) General Jacoby, the commander of U.S. Northern Command, and General Kelly, the commander of U.S. Southern Command, have both discussed the vulnerabilities posed by our southern border. Both generals have said that terrorist organizations can exploit criminal and trafficking networks that already exist on our southern border to transport not just terrorists who wish to do us harm, but also potentially weapons of mass destruction. Do you share this concern?

As the chief federal law enforcement officer in the Northern District of Texas and also as a life-long Texas resident, I am concerned about any and all potential and actual threats to public safety coming through our borders.

- (5) What steps would you take to monitor and intercept ISIS members trying to return to the U.S. by traveling across our porous borders (both the border with Mexico and the border with Canada)?

While I am currently unaware of any specific plans by members of ISIS to return to the United States through our northern or southern borders, I am concerned about any and all potential and actual threats to our national security. If I am confirmed, I would commit to making it a priority that ICE fully supports any inter-agency effort with respect to ISIS.



STATE OF TEXAS
HOUSE OF REPRESENTATIVES
DISTRICT 103

RAFAEL ANCHIA

MEMBER

September 24, 2014

The Honorable Tom Carper
Chairman, Committee on Homeland Security & Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, DC, 20510

The Honorable Tom Coburn
Ranking Member, Committee on Homeland Security & Governmental Affairs
United States Senate
422 Hart Senate Office Building
Washington, DC, 20510

Dear Chairman Carper and Ranking Member Coburn:

As the State Representative for Texas House District 103, I am writing to support the nomination of Sarah Saldaña to become the Director of U.S. Immigration and Customs Enforcement (ICE) at the U.S. Department of Homeland Security.

Ms. Saldaña has both extensive experience with law enforcement and a record of innovative management and leadership. As the U.S. Attorney for the Northern District of Texas, Ms. Saldaña has served as the chief federal prosecutor for a district that spans 100 counties – approximately 95,000 square miles – and is home to more than seven million people, including many of my constituents. In that role, she successfully managed four offices with more than two hundred staff and implemented reforms, like establishing a formal training initiative and restructuring the office's Criminal division, in an effort to attain greater staff preparation and office efficiency. Additionally, Ms. Saldaña, prior to her appointment as U.S. Attorney in 2011, completed a significant number of prosecutions in the areas of human trafficking and immigration as the Deputy Criminal Chief in charge of the District's Fraud and Public Corruption section.

Having worked closely with her to ensure the closure of numerous massage parlors that served as fronts for human trafficking in my district, I am confident that Ms. Saldaña's success in these roles demonstrates her qualification to direct U.S. Immigration and Customs Enforcement at the U.S. Department of Homeland Security. I hope that you will move the nomination of Ms. Saldaña through the nominations process quickly. Thank you for your consideration.

Sincerely,

Rafael Anchia

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Office of the President

Sept. 23, 2014

The Honorable Tom Carper
 Chairman
 Committee on Homeland Security
 & Governmental Affairs
 United States Senate
 340 Dirksen Senate Office Building
 Washington, DC, 20510

The Honorable Tom Coburn
 Ranking Member
 Committee on Homeland Security
 & Governmental Affairs
 United States Senate
 442 Hart Senate Office Building
 Washington, DC, 20510

Dear Chairman Carper and Ranking Member Coburn,

As the President of Southern Methodist University (SMU), I am writing to support the nomination of Sarah Saldaña, an SMU graduate, to become the Director of U.S. Immigration and Customs Enforcement (ICE) at the U.S. Department of Homeland Security.

Ms. Saldaña has extensive experience with law enforcement and a record of innovative management and leadership. One of the most remarkable chapters of her career is her service as chief federal prosecutor for a district encompassing 100 counties — approximately 95,000 square miles — and home to more than 7 million people. In that role, she successfully managed four offices with more than 200 staff and implemented reforms that range from establishing a formal training initiative to restructuring the office's Criminal division to achieve greater staff preparation and office efficiency.

Not as widely known about Ms. Saldaña, but equally impressive, is that her commitment to family, education and public service has driven her not only to empower herself, but also to help empower others in lasting, meaningful ways.

As a third-generation American citizen, Ms. Saldaña was the youngest of seven children raised by her mother in Corpus Christi, where she became familiar with border issues in south Texas. She also learned the value of education and hard work in a family striving to exist on a yearly income of \$13,000.

Choosing to pursue a career in education, Ms. Saldaña began her professional life teaching language arts at a public middle school in Dallas. From there she would further engage in public service by working for several federal agencies, including the U.S. Department of Labor, Housing and Urban Development and the Equal Employment Opportunity Commission.

September 25, 2014
Page 2

To strengthen her ability to help others, Ms. Saldaña set her sights on earning a law degree from SMU's Dedman School of Law, where in the early 1980's, she served as a member of the SMU Law Alumni Association Council and worked on the highly regarded *Journal of Air Law & Commerce*.

After earning her J.D. in 1984, Ms. Saldaña clerked for one of her role models, U.S. District Judge Harold Barefoot Sanders, Jr., whom she and others greatly respected for overseeing the lawsuit to desegregate Dallas ISD schools. Working with Judge Sanders, she has said, underscored a lifelong commitment to recognizing "what is right and what is fair."

In 2011, Ms. Saldaña became Texas' first Latina chief prosecutor. Also that year, the Hispanic National Bar Association named her "Latina Attorney of the Year," and SMU honored her with its Distinguished Alumni Award.

As she led the U.S. Attorney's office in the Dallas-based Northern District of Texas, Ms. Saldaña's public corruption unit prosecuted a variety of criminal cases involving everything from bank and mortgage fraud to human trafficking. The rigors of such work never stopped her from helping to support SMU Dedman School Law. Over the years she has taught legal writing and research methods to students and led events on everything from the effectiveness of the Warren Commission to a discussion in honor of another of Ms. Saldaña's role models — the late Adelfa Botello Callejo, the first Hispanic woman to graduate from SMU's Dedman School of Law and the first to practice law in Dallas.

Having watched Ms. Saldaña's career closely, I am confident that her success in everything she has aimed to accomplish demonstrates her ability to serve with distinction as director of U.S. Immigration and Customs Enforcement at the U.S. Department of Homeland Security. In addition to moving her through the nominations process quickly, I hope you also will recognize that Ms. Saldaña's values of self-reliance, hard work and public service have truly made her what *The Dallas Morning News* calls "the true American success story." Thank you for your consideration.

Sincerely,



R. Gerald Turner
President



Lennox International Inc.
2140 Lake Park Boulevard
Richardson, Texas 75080-2254

Mailing Address:
P.O. Box 759900
Dallas, Texas 75379-9900

Telephone: 972.487.7452
Facsimile: 972.497.5758
Lennoxinternational.com

John D. Torres
Executive Vice President
Chief Legal Officer and Secretary

September 24, 2014

The Honorable Tom Carper
Chairman, Committee on Homeland Security & Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, DC, 20510

The Honorable Tom Coburn
Ranking Member, Committee on Homeland Security & Governmental Affairs
United States Senate
422 Hart Senate Office Building
Washington, DC, 20510

Dear Chairman Carper and Ranking Member Coburn,

I offer this letter in support of Sarah Saldaña's nomination for Assistant Secretary for Immigration and Customs Enforcement at the U.S. Department of Homeland Security.

Sarah is refreshingly humble and approachable. She is an excellent communicator and as the U.S. Attorney for the Northern District of Texas has reached out to understand and support the business community. Sarah's professional accomplishments in law enforcement and as a leader of large organizations are well known, but perhaps less well known is her personal commitment to the community. She serves as a true Latina role model and mentors and supports Hispanics in the legal profession. Sarah demonstrates the highest integrity and would serve our country well as the Assistant Secretary for Immigration and Customs Enforcement.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Torres". The signature is fluid and cursive, with a large initial "J" and "T".

John D. Torres

Opening Statement of Russell C. Deyo
Nominee for Under Secretary for Management, U.S. Department of Homeland
Security
Before the U.S. Senate Committee on Homeland Security and Governmental Affairs

September 17, 2014

Thank you Chairman Carper, Dr. Coburn and Members of the Committee. It is an honor to appear before you as you consider my nomination for Under Secretary for Management at the U.S. Department of Homeland Security.

I am pleased that members of my family could be here today. Stephanie is my wife of 43 years—we've been in love since high school. My two remarkable children, Jacqueline, a working mom, and Bentz, a published author and dad, and Jackie's husband Xavier Seys are also here. A Frenchman by birth, Xavier is now a U.S. citizen and a proud proponent of our unique freedoms. Two of my grandchildren, Mathis and Oscar, were awfully excited about the train ride to get here. They are rambunctious but delightful, as is their baby cousin, Hailey Jane, who is home in New Jersey with her mom Jen.

As to my background, I retired from Johnson & Johnson in 2012 after 27 great years, the last 15 years serving on the Executive Committee, the principal management group responsible for the Company's global operations. I love retirement—the time with the grandkids, traveling with Stephanie, serving on non-profit boards, and occasionally lecturing at law and business schools. But a few months ago I received a call out of the blue from Secretary Johnson asking if I would consider serving as Under Secretary for Management. After meeting with a number of knowledgeable individuals such as former Secretary Chertoff, and discussions with my family, I decided to proceed. If confirmed, I would be honored to serve and would do my best to bring value to DHS.

The DHS mission is both critical and motivational. "A homeland that is safe, secure and resilient against terrorism and other hazards where American interests, aspirations, and way of life can thrive." This should be personal for all of us and it requires constant vigilance, a willingness to change, and the ability to react to new circumstances. If confirmed, I would be honored to join the hardworking men and women of DHS and will endeavor to bring my experience and skills to the Department to support this critical mission.

I have enormous respect for Secretary Johnson based upon our past work together and his demonstrated leadership. It means a lot to me that both he and former Secretary Chertoff, whom I also greatly respect, believe I would bring value to this position.

I believe my experience in private industry should bring a fresh perspective to this management role. As you know, DHS consists of several operational components. The Under Secretary for Management leads a group of six administrative functions that provide support to these components. Importantly, this management group is an engine

that can drive better outcomes and greater efficiency through collaboration with and between the components, and standardization of policies, practices, and reporting.

J&J is similarly based on the principle of decentralized management, with a broad array of independently managed companies in the pharmaceutical, medical device and consumer businesses. In my roles on the Executive Committee, first as Vice President of Administration and then as General Counsel, I was responsible for an array of functions that served the operating companies. These included human resources, compliance, quality, corporate procurement, real estate, environmental health & safety, and security. I understand the challenges and benefits of decentralized structures.

Two examples of projects upon which I have worked are:

1. After the terrorist attacks of 9/11, I led the effort to improve the safety and security of J&J employees, products and facilities across the globe and to strengthen preparedness for future threats.
2. I led a strategic planning process for the Company's global operations and provided guidance on the resulting implementation of the consolidation of manufacturing facilities. This process resulted in improved quality and substantial savings.

In a tough competitive environment, companies like J&J need to be proactive—anticipating problems and opportunities and planning for contingencies. If confirmed, I would try to reinforce this proactivity at DHS.

In sum, I believe my experience at J&J will serve me well in meeting the challenges DHS faces to collaborate, align priorities, and deliver on its mission.

Before I worked at J&J, I was an Assistant US Attorney in New Jersey, including a period as chief of the public corruption unit. I believe this experience will help me work effectively with the enforcement professionals that are part of DHS.

I was always proud to represent the United States as a federal prosecutor. I would be honored, if confirmed, to conclude my career by again representing the United States, working with the dedicated professionals at DHS. Strong work has been done by those who served in the role of the Under Secretary for Management in the past. If confirmed, I will do my best to build on the foundation they have built and further strengthen the Department.

Thank you for your consideration.

REDACTED

HSGAC BIOGRAPHICAL QUESTIONS FOR EXECUTIVE NOMINEES

1. Basic Biographical Information

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
<u>Name of Position</u>	<u>Date of Nomination</u>
Under Secretary for Management, US Department of Homeland Security	Expected September 8, 2014

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Russell	Carter	Deyo	

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			Street: 100 Albany Street, Suite 200		
<u>City:</u> Mountain Lakes	<u>State:</u> NJ	<u>Zip:</u> 07046	<u>City:</u> New Brunswick	<u>State:</u> NJ	<u>Zip:</u> 08933

<i>Other Names Used</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<u>Check if Different Name</u>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
					Est <input type="checkbox"/>	Est <input type="checkbox"/>
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Birth Year and Place</i>	
Year of Birth (Do not include month and day.)	Place of Birth
1949	New York City, NY

<i>Marital Status</i>					
Check All That Describe Your Current Situation:					
Never Married <input type="checkbox"/>	Married <input checked="" type="checkbox"/>	Separated <input type="checkbox"/>	Annulled <input type="checkbox"/>	Divorced <input type="checkbox"/>	Widowed <input type="checkbox"/>

<i>Spouse's Name (current spouse only)</i>			
Spouse's First Name	Spouse's Middle Name	Spouse's Last Name	Spouse's Suffix
Stephanie	Fiedler	Deyo	

<i>Spouse's Other Names Used (current spouse only)</i>						
First Name	Middle Name	Last Name	Suffix	Check Married/Est	Name Used From (Month/Year) (Check box if estimate)	Name Used To (Month/Year) (Check box if estimate)
Stephanie	Elizabeth	Fiedler			9/1949 Est <input type="checkbox"/>	6/1971 Est <input type="checkbox"/>

<i>Children's Names (if over 18)</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Jacqueline	Kate	Seys	
Russell	Bentz	Deyo	

2. Education

List all post-secondary schools attended.

<u>Name of School</u>	<u>Type of School</u> (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	<u>Date Began School</u> (month/year) (check box if estimate)	<u>Date Ended School</u> (month/year) (check box if estimate) (check "present" box if still in school)	<u>Degree</u>	<u>Date Awarded</u>
Dartmouth College	College	9/67	6/71 Est Present <input type="checkbox"/> <input type="checkbox"/>	B.A.	1971
Georgetown University Law Center	Law School	9/72	6/75 Est Present <input type="checkbox"/> <input type="checkbox"/>	JD	1975

3. Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

<u>Type of Employment</u> (Active Military Duty Station, National Guard/Reserve, USPS Commissioned Corps, Other Federal employment, State Government (Non-Federal Employment), Self-employment, Unemployment, Federal Contractor, Non-Government Employment (excluding self-employment), Other)	<u>Name of Your Employer/Assigned Duty Station</u>	<u>Most Recent Position Title/Rank</u>	<u>Location</u> (City and State only)	<u>Date Employment Began</u> (month/year) (check box if estimate)	<u>Date Employment Ended</u> (month/year) (check box if estimate) (check "present" box if still employed)
Self-Employment	Eli Lilly	Standing Member of panel for potential product liability arbitration	Mountain Lakes, NJ	Est X 1/2013	Est Present X <input type="checkbox"/> X
Unemployed	Retired	Retired	Mountain Lakes, NJ	Est X 4/2012	Est Present X <input type="checkbox"/> 1/2013
Non-Federal Employment	Johnson & Johnson	Vice President and General Counsel	New Brunswick, NJ	Est X 4/2004	Est Present X <input type="checkbox"/> 3/2012 (Retired)
Non-Federal Employment	Johnson & Johnson	Vice President of Administration	New Brunswick, NJ	Est X 10/1996	Est Present X <input type="checkbox"/> 4/2004
Non-Federal Employment	Johnson & Johnson	Associate General Counsel for Global Litigation	New Brunswick, NJ	Est X 10/1991	Est Present X <input type="checkbox"/> 9/1996
Non-Federal Employment	Johnson & Johnson	Litigation Attorney	New Brunswick, NJ	Est X 9/1985	Est Present X <input type="checkbox"/> 9/1991
Federal Employment	US Attorney's Office District of New Jersey, US Department of Justice	Assistant US Attorney, Chief of the Special Prosecutions Unit (Public Corruption)	Newark, NJ	Est X 1983	Est Present X <input type="checkbox"/> 7/1985
Federal Employment	US Attorney's Office District of New Jersey, US Department of Justice	Assistant US Attorney	Newark, NJ	Est X 8/1978	Est Present X <input type="checkbox"/> 1983

Non-Federal Employment	Patterson, Belknap, Webb & Tyler	Associate Attorney	New York, NY	Est X 9/1976	Est Present X 8/1978 □
Federal Employment	Judge Hannum, US District Court Eastern District of Pennsylvania	Judicial Clerkship	Philadelphia, PA	Est X 9/1975	Est Present X 8/1976 □
Unemployed	Unemployed	Law Student Studied for Bar Exam	Philadelphia, PA (best recollection)	Est X 6/1975	Est Present X 8/1975 □
Unemployed	Georgetown University Law Center	Law Student	Washington, DC	Est X 9/1974	Est Present X 5/1975 □
Non-Federal Employment	United Mine Workers Health and Retirement Funds	Summer Law Clerk during law school	Washington, DC	Est X 6/1974	Est Present X 8/1974 □
Unemployed	Georgetown University Law Center	Law Student	Washington, DC	Est X 9/1973	Est Present X 5/1974 □
Federal Employment	Law Enforcement Assistance Administration, US Department of Justice	Summer Clerk during Law School	Washington, DC	Est X 6/1973	Est Present X 8/1973 □
Unemployed	Georgetown University Law Center	Law Student	Washington, DC	Est X 9/1972	Est Present X 5/1973 □
Non-Federal Employment	Small packaging food company (do not recall the name)	Hourly worker	Greenville, SC	Est X 5/1972	Est Present X 8/1972 □
Non-Federal Employment	Orkin Exterminator	Exterminator	Greenville, SC	Est X 1/1972	Est Present X 4/1972 □
Unemployed			Traveled throughout Europe	Est X 9/1971	Est Present X 12/1971 □
Non-Federal Employment	Dartmouth College	Assistant to Research Librarian (at lunch filled in at college information booth)	Hanover, NH	Est X 6/1971	Est Present X 9/1971 □
Non-Federal Employment	Blue Spruce Lodge	Maintenance Worker	Hanover, NH	Est X 6/1971	Est Present X 9/1971 □
Non-Federal Employment	Dartmouth College	Part-time clerk in the library	Hanover, NH	Est X 10/1969	Est Present X 6/1971 □
Unemployed	Dartmouth College	Student	Hanover, NH	Est X 9/1967	Est Present X 10/1969 □

(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)
New Jersey Supreme Court	Member of Advisory Committee on Expedited Civil Actions	Est X 6/2003	Present X

4. Potential Conflict of Interest

(A) 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.

In connection with the nomination process, I consulted with the Office of Government Ethics and the US Department of Homeland Security's (DHS) Designated Agency Ethics Official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I entered into with DHS's Designated Agency Ethics Official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

(B) 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.

I have never been a registered lobbyist. As General Counsel and leader of the Government Affairs group of Johnson & Johnson (J&J), I played a role in shaping J&J's public policy positions. I also have served on the Steering Committee (several years as co-chair) of the Civil Justice Reform Group (approximately 2004-2012), and on the Board of Directors of the US Chamber of Commerce, Institute for Legal Reform (2007-2012). These two organizations were engaged in advocacy for civil justice reform.

5. Honors and Awards

List all scholarships, fellowships, honorary degrees, civilian service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement.

- 2012 – Thurgood Marshall College Fund’s N.J. Award of Excellence
- 2012 – New Brunswick State Theatre Gala Honoree
- 2012 – Leadership Service Award, New Brunswick Tomorrow
- 2011 – Corporate Leadership in Promotion of Diversity, NJ LEEP, Inc.
- 2006 – Corporate Leadership Award, International Institute for Conflict Prevention and Resolution
- 2002 – US Treasury Medal of Merit
- 1984 – Director’s Award for Superior Performance, US Department of Justice
- 1984 – Letter of commendation from Director, Federal Bureau of Investigation, US Department of Justice
- 1981 – Special Commendation for Outstanding Service, US Department of Justice
- 1981 – Special Award from the Commissioner of the US Customs Service

6. Memberships

List all memberships that you have held in professional, social, business, fraternal, scholarly, civic, or charitable organizations in the last 10 years.

Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of \$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam’s Club), or affinity memberships/consumer clubs (such as frequent flyer memberships).

<u>Name of Organization</u>	<u>Dates of Your Membership</u> (You may approximate.)	<u>Position(s) Held</u>
Council for Aid to Education	Approximately 1/2000 to present	Board of Trustees
National Council of LaRaza	2013 to present	Board of Directors (previously Chair of Corporate Advisors)
National Center for State Courts	2012 to present	Board of Directors

Association of General Counsel	2010-2011	Executive Committee
Civil Justice Reform Group	2004-2012	Steering Committee, including Co-Chair for several years
U.S. Chamber of Commerce, Institute for Legal Reform	2007-2012	Board of Directors
Metropolitan Museum of Art	1998-2012	Business Council
Mountain Lakes Club	Approximately 1988-present	Member

7. Political Activity

(A) Have you ever been a candidate for or been elected or appointed to a political office?

No

<u>Name of Office</u>	<u>Elected/Appointed/ Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service (if applicable)</u>

(B) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere.

None

<u>Name of Party/Election Committee</u>	<u>Office/Services Rendered</u>	<u>Responsibilities</u>	<u>Dates of Service</u>

(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.

<u>Name of Recipient</u>	<u>Amount</u>	<u>Year of Contribution</u>
Joe Kyrillos for Senate	\$500	2012
Mitt Romney for President	\$2500	2012
Johnson & Johnson PAC	\$5,000	2011
Johnson & Johnson PAC	\$5,000	2010

8. Publications and Speeches

I have done my best to identify titles, publishers and dates of books, articles, columns, publications or relevant speeches, including a thorough review of personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find or remember. I have located the following below.

(A) List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet. Please provide the Committee with copies of all listed publications. In lieu of hard copies, electronic copies can be provided via e-mail or other digital format.

<u>Title</u>	<u>Publisher</u>	<u>Date(s) of Publication</u>
<i>Why CEOs Need To Speak Out Now – The Role Of Corporate Counsel</i>	The Metropolitan Corporate Counsel	12/1/2008
<i>Johnson & Johnson – True To Its Credo</i>	The Metropolitan Corporate Counsel	11/1/2007
<i>Two General Counsel Leaders Discuss How Corporate Counsel And Their Law Firms Can Support The Civil Justice Reform Role of the LCJ: Russell C. Deyo – The Role And Priorities Of the CJRG</i>	The Metropolitan Corporate Counsel	11/1/2006

<i>And How the LCJ Helps</i>		

(B) List any formal speeches you have delivered during the last five years and provide the Committee with copies of those speeches relevant to the position for which you have been nominated. Include any testimony to Congress or any other legislative or administrative body. These items can be provided electronically via e-mail or other digital format.

To my best recollection, I have not made any formal speeches in the last five years, though I have made remarks on job-related issues delivered internally to employees within Johnson & Johnson. During this timeframe I did deliver informal remarks and presentations.

<u>Title/Topic</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
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<u>Title</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
J&J's commitment to mental health in China and the Olympic Games	Great Wall, China – Metal Health Professionals – Mental Health Day	10/10/2006

9. Criminal History

Since (and including) your 18th birthday, has any of the following happened?

- Have you been issued a summons, citation, or ticket to appear in court in a criminal proceeding against you? (Exclude citations involving traffic infractions where the fine was less than \$300 and did not include alcohol or drugs.) No
- Have you been arrested by any police officer, sheriff, marshal or any other type of law enforcement official? No
- Have you been charged, convicted, or sentenced of a crime in any court? No
- Have you been or are you currently on probation or parole? No
- Are you currently on trial or awaiting a trial on criminal charges? No
- To your knowledge, have you ever been the subject or target of a federal, state or local criminal investigation? No

If the answer to any of the questions above is yes, please answer the questions below for each criminal event (citation, arrest, investigation, etc.). If the event was an investigation,

where the question below asks for information about the offense, please offer information about the offense under investigation (if known).

- A) Date of offense:
- a. Is this an estimate (Yes/No):
- B) Description of the specific nature of the offense:
- C) Did the offense involve any of the following?
- 1) Domestic violence or a crime of violence (such as battery or assault) against your child, dependent, cohabitant, spouse, former spouse, or someone with whom you share a child in common: **Yes / No**
 - 2) Firearms or explosives: **Yes / No**
 - 3) Alcohol or drugs: **Yes / No**
- D) Location where the offense occurred (city, county, state, zip code, country):
- E) Were you arrested, summoned, cited or did you receive a ticket to appear as a result of this offense by any police officer, sheriff, marshal or any other type of law enforcement official: **Yes / No**
- 1) Name of the law enforcement agency that arrested/cited/summoned you:
 - 2) Location of the law enforcement agency (city, county, state, zip code, country):
- F) As a result of this offense were you charged, convicted, currently awaiting trial, and/or ordered to appear in court in a criminal proceeding against you: **Yes / No**
- 1) If yes, provide the name of the court and the location of the court (city, county, state, zip code, country):
 - 2) If yes, provide all the charges brought against you for this offense, and the outcome of each charged offense (such as found guilty, found not-guilty, charge dropped or "nolle pros," etc). If you were found guilty of or pleaded guilty to a lesser offense, list separately both the original charge and the lesser offense:
 - 3) If no, provide explanation:
- G) Were you sentenced as a result of this offense: **Yes / No**
- H) Provide a description of the sentence:

- I) Were you sentenced to imprisonment for a term exceeding one year: **Yes / No**

- J) Were you incarcerated as a result of that sentence for not less than one year: **Yes / No**

- K) If the conviction resulted in imprisonment, provide the dates that you actually were incarcerated:

- L) If conviction resulted in probation or parole, provide the dates of probation or parole:

- M) Are you currently on trial, awaiting a trial, or awaiting sentencing on criminal charges for this offense: **Yes / No**

- N) Provide explanation:

10. Civil Litigation and Administrative or Legislative Proceedings

(A) Since (and including) your 18th birthday, have you been a party to any public record civil court action or administrative or legislative proceeding of any kind that resulted in (1) a finding of wrongdoing against you, or (2) a settlement agreement for you, or some other person or entity, to make a payment to settle allegations against you, or for you to take, or refrain from taking, some action. Do NOT include small claims proceedings.

<u>Date Claim/Suit Was Filed or Legislative Proceedings Began</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>
2010-12	US District Court, District of New Jersey (Newark)	In re J&J Derivative Lit. 3:10 – CV – 2023 (D.N.J) Copeland v. Prince, et al. 3:11 – CV – 04994 (D.N.J)	2 Shareholder Derivative lawsuits against J&J, Board of Directors and Senior Executives	Settlement and dismissal No admissions of fault

(B) In addition to those listed above, have you or any business of which you were an officer, director or owner ever been involved as a party of interest in any administrative agency proceeding or civil litigation? 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.

J&J and its subsidiaries are defendants in multiple lawsuits disclosed in SEC filings. Other than the matters listed in 10(A), I was not a named party and there were no findings of wrongdoing by me.

<u>Date Claim/Suit Was Filed</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>

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(C) For responses to the previous question, 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.

11. Breach of Professional Ethics

(A) 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? Exclude cases and proceedings already listed.

No

<u>Name of Agency/Association/Committee/Group</u>	<u>Date Citation/Disciplinary Action/Complaint Issued/Initiated</u>	<u>Describe Citation/Disciplinary Action/Complaint</u>	<u>Results of Disciplinary Action/Complaint</u>

(B) Have you ever been fired from a job, quit a job after being told you would be fired, left a job by mutual agreement following charges or allegations of misconduct, left a job by mutual agreement following notice of unsatisfactory performance, or received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as violation of a security policy?

No

12. Tax Compliance

(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.)

REDACTED

REDACTED

13. Lobbying

In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State).

No

14. Outside Positions

X See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

For the preceding ten calendar years and the current calendar year, report any positions held, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

<u>Name of Organization</u>	<u>Address of Organization</u>	<u>Type of Organization</u> (corporation, firm, partnership, other business enterprise, other non-profit organization, educational institution)	<u>Position Held</u>	<u>Position Held From</u> (month/year)	<u>Position Held To</u> (month/year)

15. Agreements or Arrangements

X See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

As of the date of filing your OGE Form 278, report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment.

Provide information regarding any agreements or arrangements you have concerning (1) future employment; (2) a leave of absence during your period of Government service; (3) continuation of payments by a former employer other than the United States Government; and (4) continuing participation in an employee welfare or benefit plan maintained by a former employer other than United States Government retirement benefits.

<u>Status and Terms of Any Agreement or Arrangement</u>	<u>Parties</u>	<u>Date</u> (month/year)

16. Additional Financial Data

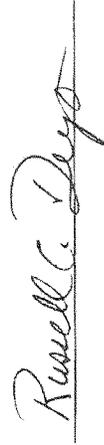
All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

REDACTED

SIGNATURE AND DATE

I hereby state that I have read the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.



This 7th day of September, 2014

REDACTED



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

SEP 11 2014

The Honorable Thomas R. Carper
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 Russell C. Deyo, who has been nominated by President Obama for the position of Under Secretary for Management, Department of Homeland Security.

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,

A handwritten signature in dark ink, appearing to read "David J. Apol".

David J. Apol
General Counsel

Enclosures

REDACTED

September 8, 2014

Joseph B. Maher
Designated Agency Ethics Official
Department of Homeland Security
Washington, D.C. 20528-0485

Dear Mr. Maher:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Under Secretary for Management of the Department of Homeland Security.

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

In order to avoid potential conflicts of interest under section 208, my spouse and I will divest our interests in the entities listed in Attachment A within 90 days of my confirmation. With regard to each of the entities listed on Attachment A, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of the entity until my spouse and I have divested it unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that I may be eligible to request a Certificate of Divestiture for these assets and that a Certificate of Divestiture is effective only if obtained prior to divestiture. Regardless of whether I receive a Certificate of Divestiture, I will divest these entities within 90 days of my confirmation and will invest the proceeds in non-conflicting assets.

I have been advised that the duties of the position of Under Secretary may involve particular matters affecting the financial interests of Johnson & Johnson. The agency has determined that it is not necessary at this time for me to divest my interests in Johnson & Johnson because my recusal from particular matters in which these interests pose a conflict of interest will not substantially limit my ability to perform the essential duties of the position of Under Secretary. Accordingly, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of this entity, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

Pursuant to established practice for retired executives of Johnson & Johnson, I am entitled to receive health insurance, life insurance, discounts on Johnson & Johnson products, access to the

Company's clinical/medical team and use of the gym facility at the Company's headquarters. In addition, pursuant to established practice for retired Executive Committee members of Johnson & Johnson, I am entitled to shared office space, shared professional assistant support, and parking. For the duration of my appointment to the position of Under Secretary, I will not use the shared office and shared professional assistant. I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the ability or willingness of Johnson & Johnson to provide these benefits, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1).

Upon confirmation, I will resign my positions with the following entities: National Council of LaRaza; National Center for State Courts; and Council for Aid to Education. For a period of one year after my resignation from each of these entities, I will not participate personally and substantially in any particular matter involving specific parties in which that entity is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

Upon confirmation, I will terminate my membership on the Eli Lilly and Company panel. For a period of one year after I terminate my membership, I will not participate personally and substantially in any particular matter involving specific parties in which Eli Lilly and Company is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

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

I understand that as an appointee I am required to sign the Ethics Pledge (Exec. Order No. 13490) and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this ethics agreement.

Sincerely,


Russell C. Deyo

U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire for the
Nomination of Russell C. Deyo to be
Under Secretary For Management at the Department of Homeland Security

I. Nomination Process and Conflicts of Interest

1. Why do you believe the President nominated you to serve as Under Secretary for Management?

I believe the President acted upon the recommendation of Secretary Johnson, who believes my experience in private industry would provide valuable insights in fulfilling the responsibilities of this position.

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

No.

3. What specific background and experience affirmatively qualifies you to be Under Secretary for Management?

I believe my work at Johnson & Johnson (J&J) and my time in the U.S. Attorney's Office qualifies me for this position. The structure of J&J is based on the principle of decentralized management, with the Company's Executive Committee, the principal management group responsible for the Company's global operations, providing oversight and coordination of the activities of J&J's consumer, medical device and pharmaceutical global businesses. I served for over fifteen years on the Executive Committee, including over seven years as the Vice President of Administration. In that role, my responsibilities included human resources, corporate procurement, quality, real estate and other functions. I participated in the strategic and business planning for these functions and for the enterprise, which included developing the capabilities to anticipate and respond to a changing external environment.

This experience in supporting the decentralized businesses of J&J should prove helpful in fulfilling the responsibilities of the Under Secretary for Management in effectively and efficiently delivering support services to the diverse components of DHS and being prepared to face the challenges in a dangerous and rapidly changing world. DHS is a law enforcement agency and, if confirmed, my seven years as an Assistant U.S. Attorney will be valuable in my work supporting the men and women of DHS.

4. Have you made any commitments with respect to the policies and principles you will attempt to implement as Under Secretary for Management? If so, what are they and to whom have the commitments been made?

I have committed to Secretary Johnson to work hard to support the mission of DHS.

5. 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 you will use to carry out such a recusal or disqualification.

Any potential conflict will be resolved in accordance with the terms of the ethics agreement I have entered into with DHS's designated ethics official. I would of course recuse myself from any matters involving J&J.

II. Role and Responsibilities of the Under Secretary for Management

6. What do you believe your role as Under Secretary for Management will be vis-a-vis the Secretary and the Deputy Secretary?

If confirmed, I anticipate an open and collaborative working relationship with the Secretary and Deputy Secretary resulting in an alignment on priorities, and timely updates on matters within my areas of responsibility. I would be accountable for making good progress on priorities and providing strong, effective and ethical leadership to further the mission of DHS.

7. What will be your priorities, if confirmed, and what do you hope to accomplish?

I believe it is premature for me to set priorities. However, from the discussions I have had to date with DHS leadership, if confirmed, I would want to build on the work being done in at least three key areas: (a) Human Resources – attracting and retaining personnel with the critical skills necessary for DHS, standardizing HR practices and policies, and taking steps to improve morale so that DHS employees are engaged and motivated; (b) Acquisitions – improving through standardized procedures the acquisition process for better outcomes, reduced risk, and lower cost; and (c) Collaborative Decision-Making – improve strategic outcomes through more effective collaboration and communication by successfully implementing the Secretary's "Unity of Effort" initiative.

8. How do you think your experiences in other jobs will influence your leadership approach at DHS, particularly your experience at Johnson & Johnson, which, like DHS, is a large organization with multiple components and a physical presence throughout the country and around the world?

My work experience with J&J has led me to adopt the following leadership principles:

- Foster a culture of openness and collaboration where individuals feel comfortable raising concerns so that problems or misinformation can be addressed before they become critical.
- Surround myself with intelligent, engaged leaders with the technical and business skills to deliver on mutually agreed upon objectives with measurable outcomes. Give them freedom to operate and strong support; hold them accountable for results.
- Gain agreement on key enterprise priorities with the involved parties having shared accountability.
- Be approachable, visible and personally accountable, including admitting mistakes.
- Communicate clearly.

III. Policy Questions

Management, Integration, and Mission Support

General Management

9. In 2003, GAO placed the integration and transformation of the Department on its “High Risk” list. In February of 2013, GAO narrowed the focus of the Department’s “High Risk” designation. In doing so, GAO explained that DHS has implemented key homeland security operations and has made considerable progress in transforming its component agencies into a single cabinet-level department. However, despite finding the Department has made important strides in strengthening management, continued progress is needed in improving acquisition, information technology, financial management, and human capital management functions.

In April 2014, the Government Accountability Office (GAO) reported that officials from their agency have routinely met with Senior DHS leaders over the past 5 years to discuss the department’s plans and progress in addressing the “Strengthening DHS Management Functions” high-risk designation. GAO reported that DHS has demonstrated through its progress, that the department is committed to demonstrating measurable, sustained progress in addressing this high-risk area and that it will be important for DHS to maintain its current level of top leadership support and sustained commitment to ensure continued progress in successfully executing its corrective actions through completion.

- a. What is your view of the role of the GAO in providing oversight and feedback regarding this high-risk area?

Independent oversight and guidance is extremely helpful in assessing progress and eliminating risk. GAO's role is critical.

- b. Please describe what you think the relationship between the Under Secretary for Management and the GAO should be.

As I understand it, the Under Secretary serves an important liaison role with the GAO. Information exchanged with the GAO should be timely and accurate. The relationship should be candid and based on trust. The Under Secretary for Management should be visibly proactive in reviewing GAO's concerns. I would also like to meet with the appropriate leaders at GAO on a regular basis, if confirmed.

- c. If confirmed, what steps would you take as Under Secretary for Management to establish a working relationship with the Inspector General?

In order to lay the foundation for mutual respect and trust, I would seek an early meeting with the Inspector General to discuss our collaboration. I would also encourage creating a schedule for follow up meetings.

- d. What do you believe are the most important actions the Department should take to strengthen the overall management of the Department?

I believe the several items discussed above ("improving acquisition, information technology, financial management, and human capital management functions") are important factors. I would need additional information before I could recommend specific actions. From my experience, accurate, pertinent information about operations is absolutely necessary for effective management. I'm also aware that DHS has been engaged recently in efforts to achieve an integrated financial management system that will provide accurate and timely information to support budget and planning decisions. In my experience, quality financial management is a key requirement for effective overall management.

10. On April 22, 2014, Secretary Johnson issued a memorandum to DHS leadership on "Unity of Effort," outlining steps he is taking to make the Department an organization that is greater than the sum of its parts. If confirmed, what role do you expect to play in helping the Secretary to carry out the "Unity of Effort" initiative?

As a nominee, I currently lack enough information to provide a specific plan of action, but based on briefings I have received, this appears to be a critical initiative to increase the effectiveness and efficiency of the Department. Accordingly, if confirmed, I would act to support collaboration and shared actions in areas of joint responsibility of the components. I would also be accountable for progress in such areas within the Management Directorate as acquisitions and budgeting. I have in the past helped lead collaborative efforts to transform organizations (restructuring of operations and law department; creation of a compliance organization).

11. Describe some of the best practices from your previous places of employment that you will apply at DHS should you be confirmed.

Some examples which may be pertinent include:

- Performance metrics include areas of joint responsibility to encourage collaboration.
- Pilot programs to test new processes/systems to verify effectiveness and achieve buy-in before implementing more broadly.
- Utilization of predictive measures (not lagging indicators) to measure program success and risk reduction.
- Systems which allow employees to raise concerns in a confidential manner, without fear of retribution.

12. The Department faces significant challenges in managing relatively small programs with well-defined parameters such as the Home-To-Work Transportation Program and the procurement and management of its vehicle fleet, the second largest in the federal government. These two areas have been highlighted by recent OIG reports that have shown a demonstrable waste of at least \$80 million per year. In fact, because of problems initially highlighted by the OIG report, the Secretary recently curtailed the use of the Home-to-Work program. In both instances, the Chief Readiness Support Officer, who reports directly to the USM, is responsible for overseeing these programs.

- a. As USM, what would you do to hold chief executives responsible for the oversight and management of programs such as these that have experienced waste?

I would ensure that chief executives have the authority to make changes to programs to reduce or eliminate waste and hold them accountable in their performance reviews for failing to do so.

- b. The difficulties faced by DHS managing programs run at the component level, and overseen by a chief executive who reports to the USM, have been highlighted by problems with both the Home-to-Work transportation program and the management of the Department's vehicle fleet. If approved as USM, how do you plan to address the challenges associated with working at the HQ level but needing to manage counterparts and programs at the component level?

These are classic problems of a large decentralized organization with shared services. Standardization of policies and practices by headquarters should make the components more efficient and effective in pursuing their objectives. It is vital that the programs be user friendly and effective so that the components see the benefits. Good communication and trust between all interested parties is also critical, and joint accountability will help drive success.

13. In a 2007 article for The Metropolitan Corporate Counsel, you wrote about the importance of Johnson & Johnson's corporate credo. You stated, "A credo or corporate vision is meaningless unless the words are taken off the wall and put into action." You also wrote there were clear advantages for Johnson & Johnson and other companies that have a strong mission statement, and a credo can create "a framework for decision-making."

a. Do you believe this is translatable to DHS?

I do.

b. How would you define the vision or mission of DHS? How will you incorporate such a vision or mission into your role as Under Secretary for Management?

The existing mission is powerful, "A homeland that is safe, secure and resilient against terrorism and other hazards where American interests, aspirations and way of life can thrive." It is hard to imagine a more motivating goal for people within DHS. To drive engagement, however, every employee must understand that his or her role supports this mission, and that management understands and appreciates this.

Effective communication is essential for establishing this powerful common purpose, but leaders must also demonstrate through their programs and personal actions their laser focus on achieving this mission. I am personally motivated by this mission. If confirmed, I will try to demonstrate this by my words and actions.

Departmental Requirements and Investments

14. The last Under Secretary for Management began to implement an "Integrated Investment Life Cycle Management (IILCM) model, the goal of which is to provide critical linkages in strategy, capabilities and requirements analysis, programming and budgeting, and execution of mission. In its latest report on major management challenges facing the Department, the DHS Office of Inspector General (OIG) noted that the IILCM should change the paradigm from "budget driving strategy" to "strategy driving budget." The OIG went on further to state that engaging in integration efforts is crucial to achieving the Department's mission and truly becoming "One DHS."

a. If confirmed, what will be your approach to continue to strengthen management of investments across their entire life cycle?

In general, J&J did life cycle management very well and the organization knew when to take corrective actions or terminate projects. I would need to see the DHS model operate in order to provide an assessment of how to further strengthen it.

b. What is the status of the Integrated Investment Life Cycle Management initiative, which the department has set forth as the solution for ensuring mission needs drive investment decisions?

If confirmed, I would be happy to provide answers in the future after I have a deeper understanding of the facts.

- c. Please comment on the utility of this initiative, and specifically on the recently reinstated Joint Requirements Council, as an investment management tool.

At J&J I had responsibility for procurement for a number of years. During that time one of the initiatives we undertook involved combining vehicle requirements from U.S. operating companies which significantly drove down cost overall. In that regard, I recognize the value of a Joint Requirements Council to drive efficiencies.

15. To improve management of its investments, the Department has taken steps to: (1) create a robust joint capabilities and requirements process and (2) improve the Department's cost analysis capability. What steps do you envision taking to build on these efforts?

As I understand it, across the Department there are presently a number of ad hoc approaches being used for these purposes. I believe that validation and implementation of an effective uniform process will provide substantial benefits.

16. GAO has recommended a more involved role for the Department's Science and Technology Directorate in departmental investment oversight and management decisions, particularly for independent verification and validation of projects. What do you believe should be the role of S&T in the investment management lifecycle?

From initial information I have received, it appears S&T can provide validation expertise beyond an assessment of new technology. We need to fully utilize the experts; but I will need additional information to understand the best way to do this.

Acquisitions

17. In examining the Department's governance of its major acquisitions, GAO has found the Department's acquisition policies are generally sound and, if widely and uniformly implemented, would help mitigate the risks of cost growths and schedule slips. However, GAO also has found the Department has authorized and continues to invest in many major acquisitions even though the acquisitions lack the key foundational documents needed to manage risks and measure performance, such as reliable cost estimates. What role should the Under Secretary for Management play in ensuring that the Department's major acquisitions conform to the Department's policies throughout the acquisition lifecycle?

If confirmed, I will endeavor to ensure acquisitions are not moved forward through the stages of the acquisition process unless they meet the established requirements for each stage. As I understand it, this is the process in place now for new acquisitions. However, some older programs lack this documentation. These programs should be reviewed and, if possible, the documentation updated.

18. DHS has faced significant challenges deploying technology and other major acquisition programs to meet mission needs. DHS has had a number of major acquisition programs that have experienced significant schedule delays, cost overruns, and performance problems.

a. How would you, in the role of Under Secretary for Management, improve the Department's acquisition management functions and deploy systems on schedule, within cost estimates, and that meet mission needs?

A great deal of attention is presently being paid in this critical area, and I would need more information before providing a meaningful response.

b. What tools, strategies, or data have you found to be most effective in your prior experiences managing large scale procurements, and how would you seek to implement them in managing acquisitions at DHS?

A successful procurement process requires great collaboration and discipline and the returns are well worth it.

The key for me is a sound and rigorous process with appropriate testing that must be met before an acquisition proceeds to the next stage. The benefits of the acquisition must be clear and well understood, and the verification of the costs for development and maintenance must be clear and achievable.

There have been tremendous advances in IT systems, data collection and data analysis capabilities since the time I had direct responsibility for oversight of Procurement programs. I am not an expert in these areas. However, I will call upon those with expertise from within and outside of government to ensure the processes that DHS utilizes reflect industry best practices.

19. The previous Under Secretary for Management served as Chief Acquisition Officer for DHS. Do you anticipate that you will carry out the duties of Chief Acquisition Officer?

I believe that I have the capability and that the USM position has the authority to conduct those duties, but I have not discussed this specific designation with the Secretary or Deputy Secretary.

20. The Department has established a Program Accountability and Risk Management (PARM) office to perform central oversight of DHS major acquisitions and to perform risk analyses that are intended to assess whether major acquisitions are meeting cost, schedule and performance goals.

a. What will be your approach to assessing the health of the Department's major acquisitions?

Accurate information and analysis is critical to measuring performance of any program. I would support the ongoing efforts to provide senior leaders with accurate and pertinent information in making these decisions.

- b. What do you see as the appropriate balance in dividing management and oversight of acquisition programs between individual program managers, component-level leadership, PARM, and the Under Secretary for Management position?

I would like to see this process operate before forming an opinion on the proper balance of management versus oversight, but I recognize the need for both functions in the process.

- c. According to Department officials, the data provided to PARM by DHS components has not always been reliable. What steps will you take to ensure that PARM and the senior leadership of the Department have sound data to use to make decisions on the Department's investments?

I believe the Unity of Effort initiative will encourage greater collaboration and openness between the USM and components. This should result in the sharing of unfiltered data and other critical information. I also understand there is steady progress in improving processes for data collection and analysis.

21. A GAO report issued in April, 2014 cited a December 2012 internal DHS document projecting that the Department's aggregate 5-year funding requirements for its major acquisitions exceeded expected resources by 30 percent. What are the most important steps that the Department could take to prioritize its current investments and to factor in affordability assessments for future acquisitions?

I lack sufficient knowledge of existing procedures to answer this question at this time. If confirmed, I will review the department's acquisition portfolio in order to prioritize these investments.

22. GAO has found that DHS, compared to other major departments, has made a significant amount of progress in leveraging the buying power of its components through strategic sourcing efforts. Much opportunity remains, though, for additional savings through strategic sourcing or shared services. What will you do to identify and act upon such opportunities?

I need a deeper understanding of the opportunities that exist for shared services and strategic sourcing. I plan to assess these opportunities in order to increase adoption of them at the Department. Increased collaboration and better analytics and metrics will be beneficial in this process.

23. In 2012, GAO reported that the most prevalent challenge facing the Department's major acquisition programs was funding instability. In a more recent report issued in April, 2014, GAO reported that nearly half of the major programs examined by GAO had experienced schedule slips, cost growth, or capability reductions as a result of funding instability. Sometimes, this instability resulted from internal factors (*e.g.*, changes in priorities) while at other times the cause of the instability was external (*e.g.*, changes in appropriations). What do you believe should be the role of the Under Secretary for Management in helping components minimize risks associated with funding instability?

Efforts are being made to improve strategic planning which should provide alignment on DHS priorities. These priorities should largely be sacrosanct absent a change in external threat. It may be worth exploring whether multi-year funding streams can be established, but as a nominee I don't yet have a good understanding of that process. You have my commitment to look into this if I am confirmed.

Financial Management

24. What do you view as DHS's major financial management challenges and how do you plan to address those challenges?

My understanding is that financial management continues to improve, building on the clean audit and collaborating effectively with component chief executives, management partners, OMB, GAO, and Congress. From my briefings to date, key challenges are to implement an integrated uniform financial management system and to attract and retain talent. Mr. Fulghum and his team appear to have a solid plan of action. If confirmed, I will endeavor to support them in its implementation.

25. As the Undersecretary for Management, how will you leverage financial management to strengthen accountability and oversight of DHS programs?

A robust, standardized financial system that provides accurate, real-time, comprehensive financial information will greatly assist strategic planning, accountability, and oversight by HQ.

26. For the first time, the Department obtained an unmodified (clean) opinion on its financial statements in Fiscal Year 2013. What steps do you plan to take to ensure that the Department achieves and sustains a clean audit opinion?

The clean audit is an important milestone. Mr. Fulghum is committed to further improvement. My understanding is that there is a robust financial management plan and I will support and monitor its implementation. As I learn more, I will establish a more specific plan of action, if confirmed.

27. Throughout its ten-year history, the Department has struggled with its efforts to modernize and integrate the numerous financial management systems on which the Department and its components operate. The Department continues to rely heavily on manual processes to produce auditable financial statements and to collect cost information from components. What do you see as the most viable path forward for the Department to develop real-time, accurate, and comprehensive data on its finances and to use this data to inform decisions on optimal use of scarce resources?

As discussed above, I recognize the importance of an integrated financial system, and I believe that such standardization is the best path to getting the data managers need. But I need further information in this area before recommending specific actions.

Workforce

28. What is your general approach to managing personnel at all levels of an organization? What is your general approach to labor relations? What past experiences do you believe best demonstrate your approach and style in personnel management?

For direct reports, I try to establish agreed-upon, clear objectives that address strategic priorities and support the organization's mission. Establishing measurable outcomes is important, and timely reviews are key to measuring performance and ensuring that I am providing necessary support. I do not micromanage but expect my managers to advise me when my assistance is needed. I expect managers to have the same approach down the line. I am a stickler for candor, honesty, and ethical behavior. I believe in creating an environment – a culture – that is open and supportive enough to encourage employees to raise issues before they become significant problems. Regarding labor relations, my experience is somewhat limited but my approach is to be objective and fact-based in pursuit of fair, financially sound solutions.

During my tenure as General Counsel, the J&J Law Department benchmarked well for cost effectiveness, and employee morale was among the highest of the administrative functions. Also while General Counsel, I was asked to take responsibility for the global HR function when the leader of that department left the company on relatively short notice.

29. Workforce surveys have consistently found the Department's employees are less satisfied with their jobs than the government's average.
- a. What do you consider to be the principal challenges in the area of human capital management at the Department?

Based on my initial briefings, there are a number of significant issues being addressed by HR. It is imperative that DHS has a skilled, cutting edge workforce to address evolving challenges and new technologies within significant budget constraints. This will require a dynamic strategic plan in partnership with DHS component management for strong recruitment and training programs, taking advantage of the motivational advantage of the Department's critical mission. Standardized policies and practices will increase efficiencies and reduce cost.

- b. What steps would you take, if confirmed, to identify and address the root causes of the low workforce morale?

In a time of budget constraints, pay freezes, and increased workload, improvements in morale will be challenging. However, I believe that effective development and training programs, as well as taking practical steps to support the workforce will help.

- c. What experience from your past positions best equips you to help address the workforce challenges at DHS?

I had responsibility for human resources at J&J for several years including oversight of employee satisfaction surveys. While I lack experience in the public sector, I believe my private sector experience will be helpful.

30. DHS has historically depended on contractors to help carry out its missions. In recent years, the Department has sought to achieve the appropriate balance between federal employees and contract employees through its “Balanced Workforce” initiative. If confirmed, what approach would you take to guiding the Department’s components in making decisions on whether to use federal employees or contractors to perform specific functions?

I need to learn more about the “Balanced Workforce” initiative but it appears to establish criteria for making fact based decisions whether to hire contractors or employees to perform functions (criteria includes nature of work, availability of skills, duration of assignment, cost factors, security, etc.) If confirmed, I would work to ensure that these criteria are used by components in a consistent manner with assistance from OCHCO. Regular reviews of the program would also be sensible.

Policy

31. The Department recently released its second Quadrennial Homeland Security Review. How do you envision using this key strategy document to influence decisions relating to planning, programming, budget and execution?

This was a thoughtful, in depth review. However, I am not yet in a position to discuss how, if confirmed, I would utilize it. If confirmed and as I gain a deeper understanding of the workings of the Management Directorate, I will use the Quadrennial Homeland Security Review as guidance as business decisions and strategies are considered.

Information Technology

32. DHS has one of the largest information technology (IT) budgets in the federal government. In FY 2014, DHS planned to spend about \$5.8 billion to acquire, implement, and operate approximately 318 IT programs, including about 88 major programs, which are intended to assist in carrying out its diverse mission. GAO has reported that DHS has IT management weaknesses in several core areas including, IT investment management, enterprise architecture, and IT acquisition practices. In May 2014, GAO reported that the department has made progress in addressing weaknesses in certain IT management areas—such as enterprise architecture, however it needs to continue to demonstrate progress in strengthening other core IT management areas. What will be your highest priorities from an IT management perspective?

I am impressed with the work being done by the IT leadership but I need more information to establish priorities. Clearly, staying in front of cyber threats is imperative. This requires a workforce with superb technical skills as well as management

capabilities—a challenging assignment at a time of budget constraints and high demand for such individuals.

33. In March 2012, the Administration launched the “Portfolio Stat” process, which requires agency Chief Operating Officers (or their designee), to lead a department-wide review of the IT systems operating within an organization to identify and eliminate areas of duplication and waste, investments that do not appear to be well aligned to agency missions, and other key considerations regarding an agency’s IT portfolio. At a 2013 committee hearing on reducing duplication in IT systems, GAO singled out DHS as being the “gold standard” in implementing this process, with estimated cost savings of approximately \$1.3 billion expected to be achieved from FY 2013 through FY 2015. If confirmed, what steps would you take to build on the Department’s efforts to reduce unnecessary IT systems and optimize the Department’s IT investments?

I understand the “PortfolioStat” process has been highly effective. I believe it should be continued as efficiently as possible. Effective collaboration and utilization of shared services will reduce the number of IT systems that need to be created or maintained.

34. As GAO reported in December 2013, DHS’s Office of the Chief Information Officer (CIO) and the Office of the Under Secretary for Management play key roles in overseeing major IT acquisition programs. For example, the CIO’s responsibilities include setting departmental IT policies, processes, and standards; and ensuring that IT acquisitions comply with DHS IT management processes, technical requirements, and approved enterprise architecture, among other things. In what ways do you envision the Under Secretary for Management supporting the department-level CIO and the component CIOs in overseeing IT acquisition programs?

My impression is that the collaboration between OCIO and department level IT organizations is effective. If confirmed, I will strive to make this collaboration even stronger, but as a nominee I lack the knowledge to make specific recommendations at this point.

35. At a recent Committee hearing examining the critical factors in successful information technology acquisitions, witnesses discussed the importance of getting key stakeholders lined up and properly incentivized, getting the right people on a projects, and setting up good review processes. Please comment on the importance of other senior leaders at the agencies, such as the Chief Financial Officer, the Chief Acquisition Officer, and the Chief Human Capital Officer. Can you provide examples from your own background where an organization that you have worked for was able to bring together these or similar key leaders to plan and execute IT acquisitions?

Successful IT acquisitions require strong collaboration by the appropriate stakeholders. IT professionals understand the capabilities and limitations of the technology, the owner/user of the system best understands the strategic purpose and necessary deliverables of the system, and the Acquisition professionals can help ensure fair value, timely delivery, and an effective final product based on testing of the system during the process.

Some successful projects based on such collaboration I have seen in my prior positions include case management systems for litigation, electronic discovery and document retention processes, and HR processes for tracking performance and compensation programs.

36. Cybersecurity remains a top management issue for the Administration and Congress. The White House has issued several Cross Agency Priority Goals on cybersecurity that focus on consolidating network traffic, continuously monitoring security status, and using stronger authentication. Compliance with the Federal Information Security Management Act is also a top priority. If confirmed, what steps would you take to ensure full implementation of these priorities for the Department and its components?

With critical responsibilities for .gov domain sites and for helping to protect private sector cyber infrastructures, cyber security is clearly a high priority. At this juncture, I lack sufficient knowledge to provide specific recommendations, but if confirmed, I would collaborate with DHS cyber security experts in the National Protection and Programs Directorate to ensure strong programs and hopefully set an example of strong compliance in this critical space. If confirmed, I would be pleased to share at a future time more specific actions that I would initiate.

DHS Headquarters Consolidation

37. For many years, DHS leadership has stated that having a unified headquarters in one location is vital to operations and the maturation of a cohesively functioning DHS. The St. Elizabeth's campus was envisioned as the headquarters for DHS, but the pace of the renovations has slowed due to reductions in available funding.

- a. In your experience in the private sector, how important is to have organizational leadership collocated?

Collocated leadership is very helpful in creating strong, trusting relationships and fostering collaboration between leaders with diverse responsibilities. Travel time for meetings is eliminated and the ease of meetings—formal and informal--can foster strategic discussions and faster decision making.

- b. If selected, how will you continue efforts to consolidate DHS headquarters operations and management in the interim?

I strongly support co-location, but this approach must be affordable in light of budgetary constraints and the benefit balanced against the need of other critical priorities. If confirmed, I would be happy in the future to provide the Committee with a more specific answer.

FEMA

38. Since 2003, the Department has awarded approximately \$40 billion in preparedness grants. While the Post-Katrina Emergency Reform Act and the Implementing Recommendations of the 9/11 Commission Act of 2007 require FEMA to develop performance measures and a comprehensive assessment system to evaluate their effectiveness, FEMA has yet to meet these requirements. As a result, both the Department and Congress lack systematic analysis of grant effectiveness and are unable to gauge how much the grants have contributed to strengthening preparedness. If confirmed, what will you do to ensure that FEMA meets these requirements?

When I was at J&J I had responsibility for the Contributions Program. We frequently established performance metrics with grantees to ensure that the contributions were delivering the benefits intended. I would be interested in working with FEMA to establish a process for measuring the effectiveness of their grants.

Inspector General

39. What is your view of the role of the Department of Homeland Security Inspector General? Please describe what you think the relationship between the Under Secretary for Management and the Department's Inspector General should be. If confirmed, what steps would you take as Under Secretary for Management to establish a working relationship with the Inspector General?

I believe the IG's role to be both necessary for good governance and beneficial to the management of the Department. I understand that the Management Directorate has a positive working relationship with the IG and that the chiefs of the lines of business value the oversight provided. I would seek to maintain this strong relationship—the first step being conversations with the IG about how I can, if confirmed, strengthen this relationship.

IV. Relations with Congress

40. 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.

41. 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?

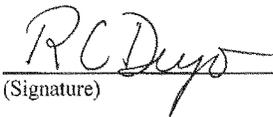
Yes.

V. Assistance

42. Are these answers your own? Have you consulted with DHS or any interested parties? If so, please indicate the individuals or entities with whom you have consulted, and the nature of the assistance they have provided.

Yes. I have consulted with several current and former DHS officials to gain background information to answer some of these questions, but the substance of the responses represent my own opinions.

I, Russell C. Deyo, hereby state that I have read the foregoing Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.


(Signature)

This 10th day of September, 2014

**Post-Hearing Questions for the Record
Submitted to Russell C. Deyo
From Senator Mark Begich**

**The Nomination of Russell C. Deyo to be Under Secretary for Management, U.S.
Department of Homeland Security**

September 17, 2014

Question#:	1
Topic:	Workforce
Hearing:	Nomination of Mr. Russell Deyo to be Under Secretary of Management, U.S. Department of Homeland Security
Primary:	The Honorable Mark Begich
Committee:	HOMELAND SECURITY (SENATE)

Question: In regards to DHS's vast work force, what are your initial impressions of areas of focus for you to focus upon? How will you improve systems to enhance the performance of the Department's work force while at the same time, improving morale?

Response: Improving the effectiveness and morale of the DHS workforce are critical areas of focus. Without having had a chance to delve too deeply, my initial impressions of how to improve these issues are as follows:

- Both Employee morale and engagement are strongly influenced by the employee's immediate supervisor. If confirmed, I will ensure that managers (especially first time managers) have good training regarding their managerial and leadership responsibilities, and are held accountable in fulfilling these responsibilities.
- All HR processes, including those relating to job and promotion opportunities, should be as simple as possible and well communicated. Transparency, objectivity, and fairness are critical so that employees know that decision-making on areas that affect their jobs are fact based and fair.
- An open, supportive culture that reinforces the Department's employees' unified mission will support strong morale. I would seek to inculcate this culture through my actions and communications, including holding town hall meetings with employees. Having a process in place where individuals can confidentially raise issues and concerns can also be helpful.

Question#:	1
Topic:	J&J experience
Hearing:	Nomination of Mr. Russell Deyo to be Under Secretary of Management, U.S. Department of Homeland Security
Primary:	The Honorable Mark Begich
Committee:	HOMELAND SECURITY (SENATE)

Question: During your nomination hearing, you mentioned the various current and former DHS officials you have reached out to in order to fully understand the array of management challenges facing the Department. Please describe what you've learned from these conversations and provide examples of the priorities identified during your confirmation preparation.

Response: I have had preliminary meetings with current executives in the Management Directorate and a number of former Under Secretaries for Management and former Deputy Secretaries. I was pleased that these former public servants were willing to meet with me during this process and also expressed interest in meeting with me for more in-depth discussions, if I am confirmed. It speaks to their continued commitment to the mission that they are willing to do this after they have left government employment. Based on these discussions, I have identified a few potential priorities:

- Improve the efficiency of the acquisition process to help ensure that major acquisitions fit into the Department's strategic goals, and are successfully implemented and cost-effective.
- Maintain the clean financial audit and establish standardized financial management systems that are integrated across the department.
- Continue progress in Information Technology management and acquisitions. This is of particular importance because of the Department's cybersecurity responsibilities. Furthermore, data standardization and common, effective systems could dramatically increase mission effectiveness and reduce costs.
- Standardize H.R. Processes and improve Morale.
- Support implementation of the Secretary's Unity of Effort initiative.

Importantly, success with these priorities will significantly increase the integration of the components into a unified Department, and support improved execution of our vital mission to provide security to the American people.

**Post-Hearing Questions for the Record
Submitted to Russell C. Deyo
From Senator Claire McCaskill**

**The Nomination of Russell C. Deyo to be Under Secretary for Management, U.S.
Department of Homeland Security**

September 17, 2014

Question#:	1
Topic:	J&J experience
Hearing:	Nomination of Mr. Russell Deyo to be Under Secretary of Management, U.S. Department of Homeland Security
Primary:	The Honorable Claire McCaskill
Committee:	HOMELAND SECURITY (SENATE)

Question: In your pre-hearing questionnaire, you state that your responsibilities at Johnson and Johnson included corporate procurement, among other functions.

Can you describe exactly what your job functions, roles and responsibilities were with respect to corporate procurement?

Response: Corporate Procurement was one of the functional departments that reported to me. Accordingly, I was accountable for strategy, outcomes, budget, people, etc.

Question#:	2
Topic:	J&J experience
Hearing:	Nomination of Mr. Russell Deyo to be Under Secretary of Management, U.S. Department of Homeland Security
Primary:	The Honorable Claire McCaskill
Committee:	HOMELAND SECURITY (SENATE)

Question: In your pre-hearing questionnaire, you state that your responsibilities at Johnson and Johnson included corporate procurement, among other functions.

What was the largest acquisition program that you oversaw at Johnson and Johnson?

Response: The largest I recall in corporate procurement was the programs to purchase travel and meetings globally and to purchase and/or lease vehicles for the sales force for J&J U.S. operating companies. The vehicle program has since been taken globally. Conservatively each of these programs was in the hundreds of millions of dollars.

Question#:	3
Topic:	J&J experience
Hearing:	Nomination of Mr. Russell Deyo to be Under Secretary of Management, U.S. Department of Homeland Security
Primary:	The Honorable Claire McCaskill
Committee:	HOMELAND SECURITY (SENATE)

Question: In your pre-hearing questionnaire, you state that your responsibilities at Johnson and Johnson included corporate procurement, among other functions.

Did you ever experience Johnson and Johnson component acquisition heads ignoring management directives or failing to related to provide regularly updated data, if that was required? If so, how did you handle these situations?

Response: I do not recall significant issues in this regard. We worked hard on strong collaboration and communications and in delivering good outcomes and cost savings. When I found collaborations issues like this in other circumstances in my private sector experience, my approach has been to have direct and candid conversations with the colleague. If agreement could not be reached, I would, with notice to the colleague, take the matter up the management chain.

Question#:	4
Topic:	
Hearing:	Nomination of Mr. Russell Deyo to be Under Secretary of Management, U.S. Department of Homeland Security
Primary:	The Honorable Claire McCaskill
Committee:	HOMELAND SECURITY (SENATE)

Question: The organizational structure of the Department of Homeland Security (DHS) allows component heads and Acquisition Decision Authorities to, in some cases, go around the Program Accountability and Risk Management Office (PARM) and the Under Secretary for Management to gain approval for the advancement of an acquisition program.

If you found this to be the case, would you seek changes to the organizational chart as it relates to acquisitions to ensure that the Under Secretary of Management has sole authority to approve major acquisition programs?

Response: As I understand it, the Under Secretary for Management currently serves as the Department's Chief Acquisition Officer. As I noted in my pre-hearing questions, I have not specifically discussed this role with the Secretary or Deputy Secretary, however, I believe that I have the management skills to take on that responsibility. The Chief Acquisition Officer should have the ultimate authority to approve major acquisitions, in accordance with the policy and procedures of the Department and the priorities set by departmental leadership and Congress. If I am confirmed and serve as the Chief Acquisition Officer, I will seek to make whatever changes are necessary to ensure the authority to approve major acquisitions rests with the CAO.

Question#:	5
Topic:	Funding Projections
Hearing:	Nomination of Mr. Russell Deyo to be Under Secretary of Management, U.S. Department of Homeland Security
Primary:	The Honorable Claire McCaskill
Committee:	HOMELAND SECURITY (SENATE)

Question: In your questionnaire, it was noted that a Government Accountability Office (GAO) report projected that DHS's aggregate 5-year funding requirements for its major acquisitions exceeded expected resources by 30 percent, and you were asked what steps DHS could take to prioritize its investments. You indicated that you lack sufficient knowledge of existing procedures to answer the question.

If this had occurred at Johnson and Johnson, what steps would you have taken to change course and ensure greater funding stability for the most critical acquisitions?

Response: Normally at J&J there would be a specific line item for funding of strategic projects. It was built into the appropriate budget and protected provided the project was meeting expectations and delivering value. If budget shortfalls occurred, the responsible entity would need to reduce costs elsewhere or receive authorization to use reserve funding.

Question#:	6
Topic:	Funding Projections
Hearing:	Nomination of Mr. Russell Deyo to be Under Secretary of Management, U.S. Department of Homeland Security
Primary:	The Honorable Claire McCaskill
Committee:	HOMELAND SECURITY (SENATE)

Question: In your questionnaire, it was noted that a Government Accountability Office (GAO) report projected that DHS's aggregate 5-year funding requirements for its major acquisitions exceeded expected resources by 30 percent, and you were asked what steps DHS could take to prioritize its investments. You indicated that you lack sufficient knowledge of existing procedures to answer the question.

If existing procedures allow, will you seek to take similar steps at DHS?

Response: Yes. It is my understanding that some actions to prioritize or modify major acquisitions may already be occurring under the Secretary's Unity of Effort initiative. This is a new effort, and I would seek to support it and other activities that help to better manage major acquisitions in line with strategic priorities.

Question#:	7
Topic:	Funding Projections
Hearing:	Nomination of Mr. Russell Deyo to be Under Secretary of Management, U.S. Department of Homeland Security
Primary:	The Honorable Claire McCaskill
Committee:	HOMELAND SECURITY (SENATE)

Question: In your questionnaire, it was noted that a Government Accountability Office (GAO) report projected that DHS's aggregate 5-year funding requirements for its major acquisitions exceeded expected resources by 30 percent, and you were asked what steps DHS could take to prioritize its investments. You indicated that you lack sufficient knowledge of existing procedures to answer the question.

If existing procedures do not allow you to take the steps you believe are necessary to achieve DHS-wide acquisition funding stability, will you commit making the necessary changes in policy and asking this Committee to assist you in getting you the additional relevant authority to do so, if needed?

Response: Absolutely. Better managing the Department's major acquisitions is critical to the success of the Department's mission. If confirmed, I will seek every possible way to improve that management, including legislative changes, if necessary.

Question#:	8
Topic:	Funding Projections
Hearing:	Nomination of Mr. Russell Deyo to be Under Secretary of Management, U.S. Department of Homeland Security
Primary:	The Honorable Claire McCaskill
Committee:	HOMELAND SECURITY (SENATE)

Question: In your questionnaire, it was noted that a Government Accountability Office (GAO) report projected that DHS's aggregate 5-year funding requirements for its major acquisitions exceeded expected resources by 30 percent, and you were asked what steps DHS could take to prioritize its investments. You indicated that you lack sufficient knowledge of existing procedures to answer the question.

Will you commit to making portfolio-wide funding stability a high priority and providing this committee with a concrete plan to achieve a DHS acquisition portfolio that aligns funding requirements with expected resources, including cancelling programs, if necessary?

Response: I agree with the Secretary's Unity of Effort approach that links strategy, requirements, available resources, and acquisitions as a critical element to improving the execution of the Department's mission. If I am confirmed, I commit to looking into this further and following up with you and your staff on this matter.

Question#:	9
Topic:	Hearing Requests
Hearing:	Nomination of Mr. Russell Deyo to be Under Secretary of Management, U.S. Department of Homeland Security
Primary:	The Honorable Claire McCaskill
Committee:	HOMELAND SECURITY (SENATE)

Question: The Subcommittee on Financial and Contracting Oversight, which I chair, conducts oversight and investigations of federal spending through contracts and grants. At many agencies, federal contractors sit side by side with federal employees performing similar work. Given the magnitude of spending and the importance of the work performed by federal contractors and grantees, I was surprised to learn that many federal agencies refuse to permit agency witnesses to appear before Congress on the same panel of witnesses as a contractor or grantee. Although there may be legitimate reasons not to do so in certain circumstances, the blanket refusal to allow a federal official and an individual who is being paid by the federal agency the official represents to sit together at a hearing makes it more difficult to conduct efficient and effective oversight. In addition, I believe that this policy no longer accurately reflects the way the federal government does business.

Absent extenuating circumstances, would you agree to testify on the same panel as individuals who receive federal contracts or grants at hearings on the management and oversight of federal spending? If not, please explain why not.

Response: At the hearing to consider my nomination, I committed to respond to any reasonable request to testify before Congress. Given the nature of contractual relationships, it may be necessary to consult with counsel on a case by case basis, but absent any legal or other extenuating circumstances, if confirmed, I would agree to testify.

Question#:	10
Topic:	Hearing requests
Hearing:	Nomination of Mr. Russell Deyo to be Under Secretary of Management, U.S. Department of Homeland Security
Primary:	The Honorable Claire McCaskill
Committee:	HOMELAND SECURITY (SENATE)

Question: The Subcommittee on Financial and Contracting Oversight, which I chair, conducts oversight and investigations of federal spending through contracts and grants. At many agencies, federal contractors sit side by side with federal employees performing similar work. Given the magnitude of spending and the importance of the work performed by federal contractors and grantees, I was surprised to learn that many federal agencies refuse to permit agency witnesses to appear before Congress on the same panel of witnesses as a contractor or grantee. Although there may be legitimate reasons not to do so in certain circumstances, the blanket refusal to allow a federal official and an individual who is being paid by the federal agency the official represents to sit together at a hearing makes it more difficult to conduct efficient and effective oversight. In addition, I believe that this policy no longer accurately reflects the way the federal government does business.

Absent extenuating circumstances, would you agree to make available any employee who reports to you to testify on the same panel as individuals who receive federal contracts or grants at hearings on the management and oversight of federal spending? If not, please explain why not.

Response: I believe in transparency and value congressional oversight. As mentioned above, it may be necessary to consult with counsel on a case by case basis, but absent any legal or other extenuating circumstances, if confirmed, I would agree to make officials in the Management Directorate available to testify.

September 11, 2014

The Honorable Thomas Carper
Chairman, Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Chairman Carper:

The purpose of this letter is to express our strong support for the nomination of Mr. Russell C. Deyo to be the Under Secretary of Management (USM) at the Department of Homeland Security (DHS).

Our country is at a critical point in time. The threats we face are numerous and dynamic, perhaps closer to the homeland than before. DHS has principal responsibility for protection of the Homeland. To make this department work requires a strong management capability at the leadership level of the department to enable the operational elements to be successful. The leadership of this effort is vested in the USM.

The three of us have served in this position and we thoroughly understand its importance to the department and the nation. It requires an individual with the exceptional management skills that have been demonstrated and proven; the ability to manage cross functional agencies and disciplines and develop unified approaches in a wide range of venues and to counter changing threats.

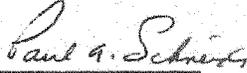
The Quadrennial Homeland Security Review (QHSR) lays out the vision and direction needs to head in the future. The Secretary's direction for implementing the unity of effort is clear. Now, what is needed is the right person to drive the management aspect and make this a reality.

Russ Deyo is an outstanding choice by the President to be the USM. An impressive leader he brings the requisite skills, experience and leadership to this important position. He is recognized as a professional, unflappable statesman who can meet the challenges that this position faces head on and get results. The Congress and this committee in particular has been instrumental in making sure this particular position is filled with exceptional candidates because of its management to the success of the critical law enforcement operations. He understands the challenges ahead and looks forward to meeting them.

The Congress and this committee in particular has been instrumental in making sure this important position is filled with exceptional candidates because of the significance of management to the success of this critical law enforcement organization.

Thank you for consideration of our recommendation and your continued support of DHS programs.

Sincerely,



Paul A. Schneider



Elaine Duke



Rafael Borrás



The Honorable Thomas R. Carper
Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Chairman Carper,

I write in strong support of the nomination of Russell C. Deyo of New Jersey for the position of Under Secretary for Management at the Department of Homeland Security. By background and experience Mr Deyo is well suited to discharge the broad and challenging responsibilities of that position. If confirmed, I believe he will be an outstanding Under Secretary.

As you are well aware, the responsibilities of managing the Department are dauntingly broad. As a young department, DHS has made much progress but has not fully matured its capabilities in acquisition, budgeting, human resources and information technology. At a time of budget constraint and increasing security challenges, these managerial functions are critical if the department leadership is to execute all of its security missions.

Mr Deyo is exceptionally well qualified for these tasks. He combines a public service and law enforcement background as a former assistant US attorney with well over a decade of private sector managerial experience as a Vice President at a major global pharmaceutical company, Johnson & Johnson. In the latter role, Mr Deyo had responsibility at various times for human resources, procurement, construction engineering, health care compliance, and real estate. He also served as an in house attorney, rising to the position of general counsel.

I have interacted with Mr Deyo since I was United States Attorney for New Jersey over 20 years ago (although our service in that office did not overlap). I also had occasion to work with him when I was in private law practice. I know him to be an individual of complete integrity, excellent judgment,

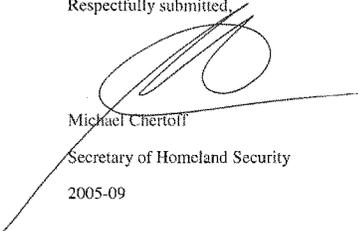


broad experience, and measured temperament. His reputation among peers and within the legal and business communities is stellar.

Knowing as I do the importance and the challenge of the position of Under Secretary, I strongly encouraged Mr. Deyo to accept this nomination because he is so well suited for the post. If confirmed, he will bring to that office a maturity, breadth of experience, and leadership quality which will give DHS world class management capability. You will also find him cooperative and responsive to work with as you continue your efforts to build procurement, personnel, and budget processes within the department.

Please don't hesitate to contact me if I can be helpful in any way.

Respectfully submitted,



Michael Chertoff

Secretary of Homeland Security

2005-09

CC: The Honorable Thomas A. Coburn, M.D.
United States Senate



Trusted Leadership. Proven Solutions. Better Courts.

Mary Campbell McQueen
President

September 10, 2014

The Honorable Tom Carper
Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, D.C. 20510

Re: Russell Deyo

Dear Senator Carper:

As President of the National Center for State Courts please accept this letter as our unqualified support for confirmation of Russell Deyo for the position of Undersecretary for Management at the Department of Homeland Security. For background, The National Center for State Courts (NCSC) was established in 1971 by the Chief Justices of all the State Supreme Courts who elect its officers and members of its Board of Directors. NCSC's mission is to promote the Rule of law and to improve the administration of justice in the state courts and courts around the world. Russell Deyo was elected by the Chief Justices of the state Supreme Courts to serve on the NCSC Board of Directors. Based upon their confidence in Mr. Deyo's judgment, organizational skills and integrity, he was also selected to serve on the Board's Executive Committee and as Chair of the Audit Committee.

As President of NCSC, I have had the privilege to work with Mr. Deyo and observe his commitment, his vision and his incredible management capability. His integrity and dedication to justice represent the highest standard. No problem was too small or too large for him to take time to listen, consider and provide guidance on reaching a solution. Our country would be well served by his appointment.

Thank you for your consideration and gratitude for your leadership.

Regards,

Mary Campbell McQueen

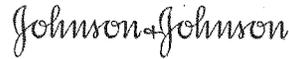
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September 10, 2014

The Honorable Tom Coburn M.D.
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Dr. Coburn,

I'm writing to you in reference to Russ Deyo's nomination as Under Secretary for Management at the Department of Homeland Security.

I can only give Russ the highest recommendation for the position. He is truly an extraordinary individual.

I've known Russ both personally and professionally for over twenty years. The last ten years we worked together as Russ was the Vice President and General Counsel while I was Chairman and CEO at Johnson & Johnson. In this capacity Russ had responsibility not only for all legal affairs, but also Government Affairs and Policy as well as Health Care Compliance and Policy. Prior to this Russ was Vice President of Administration for Johnson & Johnson where he was responsible for Human Resources, Health, Safety and Environment, Corporate Procurement, Quality, Construction, Engineering and Real Estate Worldwide.

Russ excelled in each of these positions. He always set high standards for both himself and his subordinates. He was viewed as an outstanding leader who was demanding but fair. Due to his exceptional leadership qualities and judgment he was sought out by many in the corporation for advice and help. He was always accessible. In our relationship during my tenure as CEO, I relied heavily on Russ. He was a very valuable person for me to turn to during times of crisis. I believe Russ' intelligence, judgment and character are unparalleled. On a personal basis, I can confidently say Russ is a devoted family man.

His experiences, judgment and character make him uniquely qualified for this position. I am honored and proud to give Russ my highest recommendation.

If you would like to discuss further please feel free: wweldon@its.jnj.com or call my office: 732-524-3345.

Sincerely,

William C. Weldon
Former Chairman and CEO

lgg

Opening Statement for

Hon. Mickey D. Barnett, to be a Governor, U.S. Postal Service

Chairman Carper, Ranking Member Coburn, and members of the committee, thank you for the opportunity today to speak to you about the future of the U.S. Postal Service. I want to also thank Senator McConnell for his recommendation, and President Obama for my nomination.

These past eight years have been a real learning experience for me. Fortunately, I have served with talented and experienced Governors and together we have been able to reach consensus on every important issue, including the selection of the current Postmaster General and Deputy Postmaster General.

I have become a passionate advocate of the Postal Service and its incredible history of service to the people of our country. I feel an obligation to do everything I can do to make sure it continues to be a viable entity capable of prompt and reliable delivery of the mail and packages.

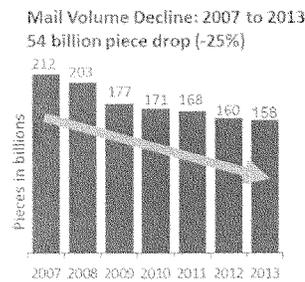
As everyone here knows, the Postal Service is in a crisis mode. Our liabilities are approximately 68 billion dollars, and we have a fleet of over 200,000 delivery vehicles with an average age of more than 22 years. Even with a reduction of more than 200,000 career employees over the past eight years, a reduction in mail processing facilities, and a reduction in operating hours at some Post Offices, we are unable to service the debt, pay down liabilities, or pay for needed capital investments.

Our most profitable product, First-Class Mail, continues to decline at eight percent a year while our costs, like everyone else's, continue to rise. Even a lawyer like me understands that no business can stay in business if costs increase every year and volume declines every year, resulting in net losses year after year.

Allow me to elaborate.

The erosion of First-Class Mail volumes is being driven by rapid changes in the way Americans communicate.

Smartphones, texting, Email, and the Internet were unheard of only a few short years ago, but today, they are the primary way most individuals interconnect.

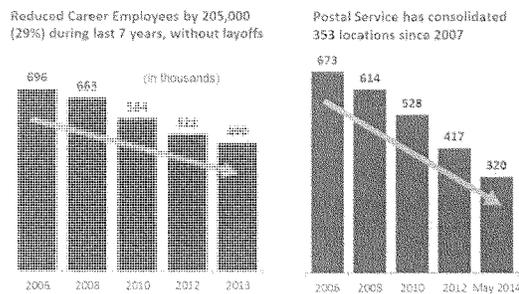


But, as First-Class Mail has declined, the U.S. Postal Service's package revenues are growing more than 10 percent, compared to last year, and advertising mail revenues are relatively steady. However, to fully leverage the package revenue opportunities and remain competitive, the Postal Service will need to invest billions of dollars in new delivery vehicles, infrastructure, and new package sorting equipment in the near future.

The Postal Service, working in conjunction with the Board, has developed a reasonable approach to pay down its debt and achieve financial stability. If

given the flexibility through comprehensive postal legislation, it can put the negative headlines in the rear view mirror.

Focusing on those business decisions that are within its authority to independently implement, the Postal Service has decreased its career workforce by 205,000 positions and reduced the annual cost base by \$15 billion since 2006 through workforce reductions—all through attrition and voluntary retirement incentives.



The Postal Service has also implemented cost reductions for retail, mail processing, transportation, delivery and administration—literally, every area of the organization. In fact, most of these cost reductions have taken place behind the scenes, in areas that do not directly impact customers.

Moving forward, under current law, the Postal Service has some limited flexibility to make further cost saving changes. However, these measures are insufficient to close the remaining financial gap.

Given its current governance and business model constraints, the Postal Service cannot achieve financial stability without the passage of *comprehensive* postal reform legislation. If given the flexibility by Congress

to quickly adapt to today's evolving marketplace and customer demand, the Postal Service can chart a path forward to remain viable and relevant for many years to come.

As Chairman of the Board of Governors these past two years, I have had the opportunity to meet with members of the Senate and House to discuss Postal reform and I won't repeat all those requests here. But, and this is an important point to emphasize, even if all the reforms are made the Postal Service will remain in trouble if it does not work to aggressively generate additional revenue.

The Board of Governors has made a concerted effort to meet with many large mailing customers to discuss and learn what we can do to improve and grow. We met with them in San Diego, Las Vegas, Phoenix, Kansas City and New York to get their input on how we can best go forward to put us on a path to profitability. These meetings along with the marketing efforts of Postal management have resulted in significant increases in package delivery. We believe that this growth will continue and help offset the declines in mail volume.

Two years ago we had a "futurist" meet with us. She predicted that in thirty years there will be no paper. Now I am not here to tell you that this is a reasonable prediction but if it is even possible, the Postal Service must be forward thinking—if true there will be no mail in 30 years. That is why we are so focused on increasing our package delivery.

I am hopeful to continue my service on the Board of Governors and can add to my eight years of experience. I look forward to discussing this in more depth, and look forward to questions.

Thank you again for this opportunity and for considering my nomination to serve another term.

REDACTED

HSGAC BIOGRAPHICAL QUESTIONS FOR EXECUTIVE NOMINEES

1. Basic Biographical Information

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
<u>Name of Position</u>	<u>Date of Nomination</u>
Governor, Board of Governors, United States Postal Service	March 3, 2014

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Mickey	Dee	Barnett	

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			Street: 1905 Wyoming Blvd. NE		
City: Albuquerque	State: NM	Zip: 87111	City: Albuquerque	State: NM	Zip: 87112

<i>Other Names Used</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<small>Check if Maiden Name</small>	<u>Name Used From (Month/Year)</u> (Check box if estimate)	<u>Name Used To (Month/Year)</u> (Check box if estimate)
NONE					Est <input type="checkbox"/>	Est <input type="checkbox"/>
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Birth Year and Place</i>	
Year of Birth (Do not include month and day.)	Place of Birth
1951	Clovis, New Mexico

<i>Marital Status</i>					
Check All That Describe Your Current Situation:					
Never Married <input type="checkbox"/>	Married <input checked="" type="checkbox"/>	Separated <input type="checkbox"/>	Annulled <input type="checkbox"/>	Divorced <input type="checkbox"/>	Widowed <input type="checkbox"/>

<i>Spouse's Name (current spouse only)</i>			
Spouse's First Name	Spouse's Middle Name	Spouse's Last Name	Spouse's Suffix
Janet		Barnett	

<i>Spouse's Other Names Used (current spouse only)</i>						
First Name	Middle Name	Last Name	Suffix	Check if Subject Name	Name Used From (Month/Year) (Check box if estimate)	Name Used To (Month/Year) (Check box if estimate)
Janice	Ann	Rupe		X	12/1953 Est <input type="checkbox"/>	03/1971 Est <input type="checkbox"/>
Janet		Kennedy			03/1971 Est <input type="checkbox"/>	06/93 Est <input type="checkbox"/>

<i>Children's Names (if over 18)</i>			
First Name	Middle Name	Last Name	Suffix
Frank	Charles	Barnett	
Jennifer	Michelle	Perkins	

2. Education

List all post-secondary schools attended.

<u>Name of School</u>	<u>Type of School</u> (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	<u>Date Began School</u> (month/year) (check box if estimate)		<u>Date Ended School</u> (month/year) (check box if estimate) (check "present" box if still in school)		<u>Degree</u>	<u>Date Awarded</u>
		Est		Est	Present		
Eastern New Mexico University	University	08/1969	Est <input type="checkbox"/>	12/1972	Est <input type="checkbox"/> Present <input type="checkbox"/>	BBA	02/73
George Washington	University	08/1973	Est <input type="checkbox"/>	12/1976	Est <input type="checkbox"/> Present <input type="checkbox"/>	JD	02/77
			Est <input type="checkbox"/>		Est <input type="checkbox"/> Present <input type="checkbox"/>		
			Est <input type="checkbox"/>		Est <input type="checkbox"/> Present <input type="checkbox"/>		

3. Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

<u>Type of Employment</u> (Active Military Duty Station, National Guard/Reserve, USPHS Commissioned Corps, Other Federal employment, State Government (Non-Federal Employment), Self-employment, Unemployment, Federal Contractor, Non-Government Employment, (excluding self-employment), Other	<u>Name of Your Employer/Assigned Duty Station</u>	<u>Most Recent Position Title/Rank</u>	<u>Location</u> (City and State only)	<u>Date Employment Began</u> (month/year) (check box if estimate)	<u>Date Employment Ended</u> (month/year) (check box if estimate) (check "present" box if still employed)
State Government	Eastern New Mexico University	Computer Operator	Portales, NM	09/1969 Est X	12/1972 Est □
Federal Government	United States Senate	Legislative Assistant	Washington, DC	01/1973 Est □	08/1976 Est □
Non-Government Employment	Heritage Foundation	Director Resource Bank	Washington DC	06/1976 Est X	12/1976 Est □
Non-Government	Barnett Law Firm	Owner	Portales, NM	05/1977 Est □	05/1983 Est □
Non-Government	Barnett Law Firm	Owner	Albuquerque, NM	06/1983 Est □	Present Est □

(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)
New Mexico Legislature	State Senator	1/1981 Est □	12/1984 Est Present □ □
		Est □	Est Present □ □
		Est □	Est Present □ □

4. Potential Conflict of Interest

(A) 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

(B) 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. Registered Lobbyist in State of New Mexico – 1997-Present

5. Honors and Awards

List all scholarships, fellowships, honorary degrees, civilian service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement. NONE

6. Memberships

List all memberships that you have held in professional, social, business, fraternal, scholarly, civic, or charitable organizations in the last 10 years.

Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of \$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam's Club), or affinity memberships/consumer clubs (such as frequent flyer memberships).

<u>Name of Organization</u>	<u>Dates of Your Membership</u> (You may approximate.)	<u>Position(s) Held</u>
New Mexico State Bar Association Admitted to Practice, Supreme Court of New Mexico, U.S. District Court of New Mexico, U.S. Court of Appeals, 10 th Circuit, The U.S. Supreme Court	1977- Present	Member
Christian Legal Society	1983 – Present	Member
The Federalist Society	1987 – Present	Member

Member of the Appellate Nominating Commission for the New Mexico Court of Appeals and the Supreme Court	1995 – 2002	Member
Four Hills Country Club, Albuquerque, New Mexico	1999-2012	Member
Tanoan Country Club, Albuquerque, New Mexico	2011 - Present	Member
Sigma Nu Fraternity	1971 – Present	Member
Thursday Lunch Group -	1983 – 2011	

7. Political Activity

(A) Have you ever been a candidate for or been elected or appointed to a political office?

<u>Name of Office</u>	<u>Elected/Appointed/Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service (if applicable)</u>
New Mexico State Senate	Elected	1980	1981-1984
Governor, Board of Governors, United States Postal Service	Appointed	2006	2006- Present

(B) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere.

<u>Name of Party/Election Committee</u>	<u>Office/Services Rendered</u>	<u>Responsibilities</u>	<u>Dates of Service</u>
Republican Party of Bernalillo County New Mexico	Chairman	County Party Leader	1996-1998
Republican National Committee	National Committeeman New Mexico	Serve as a member of National Committee	2000-2004

Republican Party of Roosevelt County	Chairman	County Party Leader	1978-1980
Bush-Cheney	Legal Advisor	Legal Advisor	2000 and 2004

(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.

Name of Recipient	Amount	Year of Contribution
Jon Barela Campaign	\$1,000.00	2009
Nate Gentry Campaign	\$200.00	2009
Phil Griego Campaign	\$200.00	2009
Jon Barela Campaign	\$500.00	2009
Wayne Johnson Campaign	\$326.89	2010
Matt Chandler Campaign	\$250.00	2010
Justin Horowitz Campaign	\$250.00	2010
Diana Duran Campaign	\$250.00	2010
Tim Lewis Campaign	\$250.00	2010
Susana Martinez Campaign	\$1,000.00	2010
John Ryan Campaign	\$500.00	2010
Republican Party of New Mexico	\$650.00	2011
Republican Party of Bernalillo	\$600.00	2011
Gary Johnson Campaign	\$250.00	2011
Trudy Jones Campaign	\$500.00	2011
PAC22 Campaign	\$250.00	2011
Henry Alaniz Campaign	\$250.00	2011
Heather Wilson Campaign	\$1,000.00	2011
Susana PAC	\$1,000.00	2011
Heather Wilson Campaign	\$500.00	2011
Rob Doughty	\$450.00	2012
Angela Spears	\$250.00	2012
Gerges Scott	\$250.00	2012
Monica Youngblood	\$250.00	2012
Lonnie Talbert	\$250.00	2012

Heather Wilson	\$500.00	2012
Tom Anderson	\$200.00	2012
Heather Wilson Campaign	\$1,000.00	2012
Kelly Fajardo Campaign	\$250.00	2012
Mark Moores	\$250.00	2012
Conrad James Campaign	\$250.00	2012
Paul Pacheco Campaign	\$250.00	2012
Shannon Robinson Campaign	\$1,000.00	2012
Paul Kennedy Campaign	\$500.00	2012
Lisa Torraco Campaign	\$500.00	2012
Bill Rehm Campaign	\$250.00	2012
Susana Martinez Campaign	\$5,000.00	2012
David Chavez Campaign	\$250.00	2012
Heather Wilson Campaign	\$250.00	2012
Christopher Saucedo Campaign	\$250.00	2012
Conrad James Campaign	\$250.00	2012
Paul Pacheco Campaign	\$250.00	2012
David Chavez Campaign	\$300.00	2012
Susana Martinez Campaign	\$5,000.00	2013
Celemente Sanchez	\$500.00	2013
John Ryan Campaign	\$500.00	2013
Kelly Fajardo Campaign	\$250.00	2013
Nora Espinoza Campaign	\$250.00	2013
Berry for Mayor	\$2,500.00	2013
Paul Pacheco Campaign	\$250.00	2013
Committee to Elect Nate Gentry	\$1,000.00	2013
Janice Arnold Jones	\$250.00	2013

8. Publications and Speeches

(A) List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet. Please provide the Committee with copies of all listed publications. In lieu of hard copies, electronic copies can be provided via e-mail or other digital format. NONE

Title	Publisher	Date(s) of Publication
NONE		

(C) List any formal speeches you have delivered during the last five years and provide the Committee with copies of those speeches relevant to the position for which you have been nominated. Include any testimony to Congress or any other legislative or

administrative body. These items can be provided electronically via e-mail or other digital format.

****All speeches I have given have been in my capacity as a either a Member, Board of Governors, United States Postal Service or as Chairman, Board of Governors, United States Postal Service*****

<u>Title/Topic</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
Nature of America: Kelp Forest First Day of Issue Ceremony	Monterey Bay Aquarium Monterey, California	October 1, 2009
Ronald Reagan First Day of Issue Ceremony	The Ronald Reagan Presidential Library Simi Valley, California	February 10, 2011
New Mexico Statehood First Day of Issue Ceremony	New Mexico History Museum Santa Fe, New Mexico	January 6, 2012
"USS Constitution" Forever Stamp First Day of Issuance Ceremony	Charleston Navy Yard Boston, Massachusetts	August 18, 2012
Harry Potter Forever Stamp Dedication Ceremony	Wizarding World of Harry Potter Orlando, Florida	November 19, 2013
United States Postal Service, Board of Governors Meeting	Postal Service Headquarters Washington, DC	November 15, 2012
United States Postal Service, Board of Governors Meeting	Postal Service Headquarters Washington, DC	November 15, 2013
United States Postal Service, Board of Governors Meeting	Postal Service Headquarters Washington, DC	May 10, 2013
United States Postal Service, Board of Governors Meeting	Postal Service Headquarters Washington, DC	February 8, 2013
Options to Bring the Postal Service Back for Insolvency Hearing	Committee on Oversight & Government Reform House of Representatives Chairman Issa, Ranking Member Cummings, and Members of the Committee	Washington, DC

- Have you been issued a summons, citation, or ticket to appear in court in a criminal proceeding against you? (Exclude citations involving traffic infractions where the fine was less than \$300 and did not include alcohol or drugs.) **NO**
- Have you been arrested by any police officer, sheriff, marshal or any other type of law enforcement official? **NO**
- Have you been charged, convicted, or sentenced of a crime in any court? **NO**
- Have you been or are you currently on probation or parole? **NO**
- Are you currently on trial or awaiting a trial on criminal charges? **NO**
- To your knowledge, have you ever been the subject or target of a federal, state or local criminal investigation? **NO**

If the answer to any of the questions above is yes, please answer the questions below for each criminal event (citation, arrest, investigation, etc.). If the event was an investigation, where the question below asks for information about the offense, please offer information about the offense under investigation (if known).

- A) Date of offense:
- a. Is this an estimate (Yes/No):
- B) Description of the specific nature of the offense:
- C) Did the offense involve any of the following?
- 1) Domestic violence or a crime of violence (such as battery or assault) against your child, dependent, cohabitant, spouse, former spouse, or someone with whom you share a child in common: **Yes / No**
 - 2) Firearms or explosives: **Yes / No**
 - 3) Alcohol or drugs: **Yes / No**
- D) Location where the offense occurred (city, county, state, zip code, country):
- E) Were you arrested, summoned, cited or did you receive a ticket to appear as a result of this offense by any police officer, sheriff, marshal or any other type of law enforcement official: **Yes / No**
- 1) Name of the law enforcement agency that arrested/cited/summoned you:
 - 2) Location of the law enforcement agency (city, county, state, zip code, country):
- F) As a result of this offense were you charged, convicted, currently awaiting trial, and/or ordered to appear in court in a criminal proceeding against you: **Yes / No**
- 1) If yes, provide the name of the court and the location of the court (city, county, state, zip code, country):

2) If yes, provide all the charges brought against you for this offense, and the outcome of each charged offense (such as found guilty, found not-guilty, charge dropped or "nolle pros," etc). If you were found guilty or pleaded guilty to a lesser offense, list separately both the original charge and the lesser offense:

3) If no, provide explanation:

G) Were you sentenced as a result of this offense: **Yes / No**

H) Provide a description of the sentence:

I) Were you sentenced to imprisonment for a term exceeding one year: **Yes / No**

J) Were you incarcerated as a result of that sentence for not less than one year: **Yes / No**

K) If the conviction resulted in imprisonment, provide the dates that you actually were incarcerated:

L) If conviction resulted in probation or parole, provide the dates of probation or parole:

M) Are you currently on trial, awaiting a trial, or awaiting sentencing on criminal charges for this offense: **Yes / No**

N) Provide explanation:

10. Civil Litigation and Administrative or Legislative Proceedings

(A) Since (and including) your 18th birthday, have you been a party to any public record civil court action or administrative or legislative proceeding of any kind that resulted in (1) a finding of wrongdoing against you, or (2) a settlement agreement for you, or some other person or entity, to make a payment to settle allegations against you, or for you to take, or refrain from taking, some action. Do NOT include small claims proceedings.

<u>Date Claim/Suit Was Filed or Legislative Proceedings Began</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>
06/04/92	Albuquerque District Court 2 nd Judicial District Court	Mickey D. Barnett vs. Jackie E. Barnett	Uncontested Divorce	Stipulated Judgment
04/20/1990	Albuquerque District Court 2nd Judicial District Court	Mickey Barnett (Barnett Law Firm) vs. Frank Baumann and Lavovnn Baumann	Breach of Contract – Debt and Monies Due / Legal Fees	Dismissed without Prejudice
11/02/1988	Albuquerque District Court 2nd Judicial District Court	Mickey D. Barnett (Barnett Law Firm) vs. Amy Richardson	Breach of Contract – Debt and Monies Due / Legal Fees	Judgment / Default Judgment
06/06/1988	Albuquerque District Court 2nd Judicial District Court	Mickey D. Barnett (Barnett Law Firm) vs. Katherine Goff	Breach of Contract – Debt and Monies Due / Legal Fees	Judgment / Satisfaction of Judgment
05/07/1998	Albuquerque District Court 2nd Judicial District Court	Mickey D. Barnett (Barnett Law Firm) vs. Pacheco, et al	Foreclosure / Complaint for Debt	Dismissed
07/19/1996	Albuquerque District Court 2nd Judicial District Court	Mickey D. Barnett, et al, vs. Stephanie Gonzales and Betty Turrietta-Koury	Fling complaint Challenging the Nominating Petitions of Betty Turietta-Koury, Candidate for US Representative, District I	Dismissed with Prejudice
01/07/2010	Albuquerque District Court 2nd Judicial District Court	Mickey D. Barnett, et al vs. Karen L. Montoya	Complaint for Improper Property Valuations and Request for Refund	Suspended/Stay Proceeding

(B) In addition to those listed above, have you or any business of which you were an officer, director or owner ever been involved as a party of interest in any administrative agency proceeding or civil litigation? 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.

<u>Date Claim/Suit Was Filed</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>
10/10/01	Albuquerque Metropolitan Court	Barnett Law Firm, PA vs. Arturo Cruz (aka Arthur A. Cruz)	Complaint for Debt and Monies Due for Legal Fees	Judgment Satisfaction of Judgment
06/18/2002	Albuquerque Metropolitan Court	Barnett Law Firm, PA vs. Thomas Fraide	Complaint for Debt and Monies Due For Legal Fees	Judgment
06/18/2002	Albuquerque Metropolitan Court	Barnett Law Firm PA vs. Donna Jean Hammond	Complaint For Debt and Money Due for Legal Fees	Dismissed
06/14/2002	Albuquerque Metropolitan Court	Barnett Law Firm PA vs. Michael Kerstein	Breach Of Contract – Debt and Monies Due for Legal Fees	Dismissed
08/21/2006	Santa Fe District Court 1 st Judicial District Court	Barnett Law Firm PA, et al re: In the matter of State of New Mexico Taxation and Revenue Department	Petition for Proceeding to determine Reasonable Attorney Fees and Costs	Settled & Dismissed
09/25/2006	Albuquerque District Court 2 nd Judicial District Court	Barnett Law Firm PA vs. David May	Complaint for Debt and Monies Due for Legal Fees	Transcript of Judgment Default Judgment
05/06/2009	Albuquerque District Court 2 nd Judicial District Court	Barnett Law Firm PA vs. Michael Vigil	Complaint for Debt and Monies Due For Legal Fees	Transcript of Judgment Default Judgment
07/14/2009	Albuquerque District Court 2 nd Judicial District Court	Barnett Law Firm PA vs. Loretta Burger	Complaint for Debt and Monies Due For Legal Fees	Transcript of Judgment Default Judgment
07/14/2009	Albuquerque District Court 2 nd Judicial	Barnett Law Firm PA vs Mark Treadwell	Complaint for Debt and Monies Due for Legal Fees	Settled /Dismissed

	District Court			
07/14/2009	Albuquerque District Court 2 nd Judicial District Court	Barnett Law Firm PA vs. Jennifer Hartman	Complaint for Debt and Monies Due For Legal Fees	Transcript of Judgment Default Judgment
04/13/2010	Albuquerque District Court 2 nd Judicial District Court	Barnett Law Firm PA vs. Melanie Gilbert	Complaint for Debt and Monies Due for Legal Fees	Transcript of Judgment Default Judgment Satisfaction of Judgment
04/13/2010	Albuquerque District Court 2 nd Judicial District Court	Barnett Law Firm PA vs. Frank Storey	Complaint for Debt and Monies Due For Legal Fees	Judgment
12/11/2013	Albuquerque District Court 2 nd Judicial District Court	Barnett Law Firm PA vs. Jeanne Soule Meihaus and Harry Meihaus	Complaint for Debt and Monies Due For Legal Fees	Pending

(C) For responses to the previous question, 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.

11. Breach of Professional Ethics

(A) 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? Exclude cases and proceedings already listed. **** since 1977, I have received 4 or 5 complaints made to the Disciplinary Committee of the New Mexico State Bar. All were dismissed at the first level, which was a response letter from me addressing the claims. No matter went to any type of hearing. Please see attached letter from The Disciplinary Board. ****

<u>Name of Agency/Association/Committee/Group</u>	<u>Date Citation/Disciplinary Action/Complaint Issued/Initiated</u>	<u>Describe Citation/Disciplinary Action/Complaint</u>	<u>Results of Disciplinary Action/Complaint</u>
See above and Attached			

(B) Have you ever been fired from a job, quit a job after being told you would be fired, left a job by mutual agreement following charges or allegations of misconduct, left a job by mutual agreement following notice of unsatisfactory performance, or received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as violation of a security policy? NO

12. Tax Compliance

(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.)

REDACTED

REDACTED

13. Lobbying

In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State). New Mexico Secretary of State – 1997-Present and the City Of Albuquerque – 1997 - Present

14. Outside Positions

x See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

For the preceding ten calendar years and the current calendar year, report any positions held, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. **Exclude** positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

<u>Name of Organization</u>	<u>Address of Organization</u>	<u>Type of Organization</u> (corporation, firm, partnership, other business enterprise, other non-profit organization, educational institution)	<u>Position Held</u>	<u>Position Held From</u> (month/year)	<u>Position Held To</u> (month/year)

15. Agreements or Arrangements

x See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

As of the date of filing your OGE Form 278, report your agreements or arrangements for:
(1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred

compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment.

Provide information regarding any agreements or arrangements you have concerning (1) future employment; (2) a leave of absence during your period of Government service; (3) continuation of payments by a former employer other than the United States Government; and (4) continuing participation in an employee welfare or benefit plan maintained by a former employer other than United States Government retirement benefits.

<u>Status and Terms of Any Agreement or Arrangement</u>	<u>Parties</u>	<u>Date</u> (month/year)

16. Additional Financial Data

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.)

REDACTED

REDACTED

SIGNATURE AND DATE

I hereby state that I have read the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

Mickey D. Barrett

This 29th day of August, 2014

REDACTED



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

JUL 28 2014

The Honorable Thomas R. Carper
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Under the Ethics in Government Act of 1978, Presidential nominees requiring Senate confirmation who are not expected to serve in their Government positions for more than 60 days in a calendar year are not required to file public financial disclosure reports. The Act, as amended, however, contains a provision in section 101(b) that allows the committee with jurisdiction to request any financial information it deems appropriate from the nominee.

We understand that your committee desires to receive a financial disclosure report (OGE Form 278) from any Presidential nominee for a position on the Board of Governors of the United States Postal Service Board, along with a written opinion from this Office regarding any possible conflicts of interest.

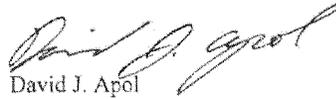
Therefore, I am forwarding a copy of the financial disclosure report of Mickey D. Barnett, who has been nominated by President Obama for the position of Governor on the Board of Governors, United States Postal Service. Because the nominee is not expected to serve more than 60 days in any calendar year, the enclosed report and this letter are submitted to you in accordance with your committee's confirmation procedures and will be available for public inspection only to the extent provided by your practices. There is no authority under the Act for public release of this material by the executive branch.

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.

The Honorable Thomas R. Carper
Page 2

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

Sincerely,



David J. Apol
General Counsel

Enclosures

REDACTED

Mickey D. Barnett

July 9, 2014

Michael J. Elston
Designated Agency Ethics Official
Associate General Counsel and Chief Ethics & Compliance Officer
U.S. Postal Service
475 L'Enfant Plaza, SW
Washington, DC 20260-1100

Dear Mr. Elston:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed as a Member of the Board of Governors of the United States Postal Service.

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

I am the owner, President, Secretary, and managing partner of the Barnett Law Firm, PA, a New Mexico professional corporation. In my role as a Governor of the Postal Service, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of the firm, unless I first obtain a written waiver pursuant to 18 U.S.C. § 208(b)(1). In addition, in my role as Governor, I will not participate personally and substantially in any particular matter involving specific parties in which a client of mine is, or represents, a party, for a period of one year after I last provided service to that client, unless I am first authorized to participate pursuant to 5 C.F.R. § 2635.502(d).

I am the owner and Managing Member of the consulting firm named MDB Consulting LLC, a New Mexico domestic limited liability company. In my role as Governor, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of this firm unless I first obtain a written waiver pursuant to 18 U.S.C. § 208(b)(1). In addition, in my role as Governor, I will not participate personally and substantially in any particular matter involving specific parties in which a client of mine is or represents a party, for a period of one year after I last provided service to that client, unless I am first authorized to participate pursuant to 5 C.F.R. § 2635.502(d).

I will retain my position as a trustee of the Barnett Law Firm, PA, Pension Plan. In my role as Governor, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of the Barnett Law Firm, PA, Pension Plan, unless I first obtain a written waiver pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption pursuant to 18 U.S.C. § 208(b)(2).

If I rely on a de minimis exemption under 5 C.F.R. § 2640.201(b) with regard to any of my financial interests in sector mutual funds, I will monitor the value of those interests. If the aggregate value of interests affected by a particular matter increases and exceeds the de minimis threshold, I will not participate in the particular matter, unless I first obtain a written waiver under 18 U.S.C. § 208(b)(1).

I have been advised that I likely will serve on the Board of Governors for no more than 60 days in any period of 365 consecutive days. Accordingly, I understand that I may not, under 18 U.S.C. §§ 203(c)(1) and 205(c)(1), provide any representational services, or act as agent or attorney for another, in any particular matter involving specific parties in which I have participated personally and substantially as a government official. I also understand that I may not receive a share of any payment made for such representational services performed by another. I understand that additional requirements of 18 U.S.C. §§ 203(c)(2) and 205(c)(2) will apply to me if I serve for more than 60 days in any period of 365 consecutive days. In that event, I will comply with all applicable requirements, and I will consult your office if I have any questions about those requirements.

I have been advised that it is the Postal Service's position that an appearance of impropriety may be created by my holding any financial interest in any of its competitors, *i.e.*, companies that deliver mailable matter outside the U.S. mails (*e.g.*, Federal Express, United Parcel Service, DHL, etc.). I agree that during my service as a member of the Board of Governors, I will not invest in any company that directly competes with the U.S. Postal Service (*e.g.*, Federal Express, United Parcel Service, DHL, etc.).

Finally, on a case-by-case basis, I will recuse myself from participation in any particular matter involving specific parties in which I determine that a reasonable person with knowledge of the relevant facts would question my impartiality in that matter, unless I am first authorized to participate pursuant to 5 C.F.R. part 2635, subpart E.

Sincerely,



Mickey D. Barnett

U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire
For the Nomination of Mickey D. Barnett to be
Governor of the United States Postal Service

I. Nomination Process and Conflicts of Interest

1. Why do you believe the President nominated you to serve as a Governor of the United States Postal Service ("USPS" or "Postal Service")?

I have no direct knowledge, but presume it is because I have served on the Board for the past eight years and I believe a recommendation by Senator Mitch McConnell.

2. What specific background and experience affirmatively qualifies you to be a Governor of the Postal Service?

My Business degree in Finance; my experience in government as a staff member on Senator Pete Domenici's staff; service as a State Senator in New Mexico; legal practice for 37 years; eight years on the USPS Board of Governors with two terms as Chairman.

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

I was asked by White House Personnel if I was a Federal lobbyist and I stated I was not and had no plans to become one. (I do lobby in the State of New Mexico)

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

No commitments have been made by me to anyone other than to the previous question.

5. If confirmed, are there any issues from which you would 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.

I have no direct conflicts of which I am aware. There are entities I represent in the New Mexico Legislature and I report these to the USPS Ethics Officer. If there is an appearance of a potential conflict, I will recuse myself from any vote or discussion of that potential conflict.

II. Role and Responsibilities of a Governor of the United States Postal Service

6. What specific contributions do you believe you have made during your service on the Board of Governors? What contributions do you hope to make if confirmed for another term?

Just after my appointment to the Board of Governors in August of 2006, the Postal Service started its decline in mail volume (and income). The Board members worked together for the past seven years to respond to the challenges, including the selection of a new Postmaster General. As a Board member from the "rural West", I believe my views assisted in policies relating to reduced hours at small post offices rather than closings as an "acceptable political response" to an obviously thorny issue. The Board and postal management worked together to implement a workforce reduction of over 200,000 career employees since 2006.

I believe that the Board and I can continue to work with Congress and the White House to adopt legislation and strategies to align expenses and revenues so that the Postal Service can remain economically viable.

7. The Board is responsible for directing the powers of the Postal Service, including its financial, accounting, and operational functions. How have your professional experiences provided you with the necessary business skills to effectively govern the Postal Service?

My professional background has provided me with many insights in how an entity like USPS can work with all stakeholders, including the public, to make every effort to meet the universal service requirements and at the same time remain viable. These same issues have occurred from time to time in New Mexico where the State has had significant downturns and I have had the privilege of working with multiple Governors and Legislators in finding politically acceptable options.

8. What do you see as the principal mission of the Board? What do you see as its principal responsibilities?

One of our principal responsibilities is to hire and, if necessary, fire a Postmaster General and Deputy Postmaster General. Additionally, it is to work with postal management, unions, mailers and the public to find accommodation wherever possible to remain solvent while delivering the mail in a timely manner. Occasionally it is our responsibility to deny postal management possible actions.

9. What do you believe are the functions and responsibilities of an individual Governor? What in your training and experience demonstrates your qualifications to fulfill these functions and responsibilities?

We are essentially a Board of Directors that answers to more than shareholders. As stated above, our charge is to represent the public at large which includes everyone – even competitors in the sense that we must consider how our policies impact everyone. My eight years as a Governor has significantly increased my qualifications to fulfill my responsibilities.

10. What do you see as the main challenges facing the Postal Service? What do you believe should be the Board's top priorities in meeting those challenges? How should the Board of Governors work with postal management to address these challenges?

USPS is not currently viable. We have total liabilities of \$67 Billion with no real prospects of having sufficient revenues to pay all of our financial obligations. The top priority is to work with Congress and the White House to pass legislation to allow USPS to operate more like a business, taking into account the universal service obligation and needs of the public. We need to make all reasonable efforts on changes to accommodate the needs of all interested parties, including the public, the unions, and the Congress, and to push for solutions that can increase revenues (primarily package delivery at this time) and reduce costs.

11. What do you believe should be the respective roles and functions of the Postal Service Board of Governors and the Postal Service management? How do you believe the Board and management can best work together to meet the challenges facing the Postal Service?

The Board should set policies and make sure postal management follows the policies. In some instances, the Board could be a brake on managements' ideas and in other circumstances could push for more and innovative solutions including potential revenue options outside the current scope of activities.

12. The Governors are chosen to represent the public interest generally. How do you plan to interact with various stakeholders interested in postal issues and how do you think as a Governor you can effectively represent their interests?

As Chairman of the Board these past two years, we have made efforts to have meetings around the U.S. to specifically meet with various stakeholders. In some instances I believe this has resulted in new revenue opportunities and in others, it may have allowed us to better explain why we could not agree with every stakeholder request. Regardless, the Board has communicated its desire to listen to all parties with issues at USPS.

13. As you are aware, the Postal Accountability and Enhancement Act of 2006 require that by the end 2015, at least four members of the Board of Governors have experience managing an organization of 50,000 employees or more. What are your views on this requirement for appointment to the Board of Governors?

I believe the Board would be better served by members with diverse backgrounds. A significant component of the talent necessary as a Governor is the ability to discern what may be “politically” viable in the sense that a business decision based solely on business potential could result in an immediate, severe and negative response from Congress or others like unions, rural areas, mailers, etc.

II. Policy Questions

Postal Reform and Financial Issues

14. The U.S. Postal Service continues to experience volume and revenue losses. The Postal Service ended Fiscal Year (FY) 2013 with a net loss of \$5 billion. Further, the Postal Service reported a loss of \$354 million for the first quarter of FY2014 and \$1.9 billion for the second quarter.

- a. In your view, what is the Board’s role in overseeing USPS’s efforts to improve its financial condition and to increase postal revenue and cut costs, while also meeting its universal service obligations and other statutory requirements?

The Board’s role is to make all reasonable efforts to reduce costs and increase revenues while honoring the universal service obligation. The Board must weigh the potential consequences to all policies and actions and advise postal management of the best course of action.

- b. How does this differ from the role of the Postal Regulatory Commission (PRC) or the role of Congress?

Congress always has the final say on all policies of significant importance. Current issues include the frequencies of delivery, worker’s compensation, retiree health care contributions, health care, retirement policies (change to defined contributions for future hires as opposed to defined benefit), and requiring retirees to accept Medicare at age 65 like other Americans.

In my view, the PRC should primarily review aspects of “unfair competitive” advantages the Postal Service may have but in general, many of the PRC activities duplicate the Board actions, e.g., rate increases.

15. Volumes and revenues associated with letter mail and other products in the postal monopoly continue to decline, and First-Class Mail in particular is projected to significantly decline over the next decade. At the same time, the volume of packages and other products outside of the postal monopoly has grown significantly in recent years.

- a. How can the Postal Service remain viable as letter mail volume declines?

The Postal Service must have additional authority to move more quickly when a business opportunity presents itself. The lengthy processes required by the PRC, as well as the cost, means the Postal Service has real difficulty in competing for many potential areas of growth.

- b. How can the Postal Service take advantage of the growing popularity of e-commerce and package delivery?

The Postal Service is already fully vested in trying to increase its presence in this area. In the past two years, the entire Board has met with leadership in two of the top e-commerce entities in the U.S. and has increased package volume significantly. Others are in discussion at this time.

- c. What new actions should the Postal Service take to maintain its viability and competitiveness in both its traditional lines of business and in potential growth areas?

The answer may depend on Congressional approval of Postal Reform to allow more flexibility in response to business opportunities. While the Board has explored various potential ideas, many will require PRC approval. There may be many smaller growth areas that are difficult to pursue in a timely manner. The inflexibility we operate under today makes it financially difficult to explore smaller returns.

- d. What do you believe are the proper limitations of the Postal Service with respect to competition with the private sector?

I am personally sensitive to competition. I am always cognizant of the monopoly of the mailbox we possess, as well as the fact that we pay no corporate tax and encourage postal management to look for opportunities to “partner” with the private sector whenever possible.

- e. How proactive should the Board be in identifying areas for the Postal Service to cut costs quickly so that it can cover its operating expenses?

The Board has been extremely proactive the past several years in regard to cutting costs. It has been a constant discussion at every meeting.

- f. What is the Board’s role and responsibilities in identifying opportunities for Postal Service to increase volume?

While it is the primary responsibility of postal management, each Board member has proffered ideas on increasing volume and in our meetings with E-Commerce

companies, mailers, catalog companies, etc., we have listened intently to potential ideas.

16. What are your views on the “universal service obligation” and the various delivery methods currently employed to carry out this mandate (e.g., six day delivery, the overnight delivery standards)? In other words, how do you view the current service standards and delivery frequency with respect to the obligation for service to every American?

We have polled the American people on, I believe, three occasions in the past five years and a majority of Americans are okay with five day mail delivery. As a Governor, we will do our best to deliver on whatever basis Congress mandates, but as First-Class mail declines to approximately one letter per day per address, it will become increasingly hard to justify six day a week delivery. Unless the Postal Service is economically viable it may require Congressional appropriation to meet the universal service obligation.

17. The Government Accountability Office (GAO) again included the Postal Service on its High-Risk List in 2013 because of its precarious financial condition. GAO added the Postal Service’s financial condition on its high-risk list in 2009 after removing it in 2007. In your view, what should be the Postal Service’s strategy for improving its financial condition and restructuring its business model to ensure its long-term viability, in addition to any factors that the Postal Service has announced as part of its new business model?

The Post Plan has been discussed and debated for years and the Board believes it is a plan that will make the Postal Service viable for at least the near future. However, we have not seen any evidence that First-Class mail will not continue its steady decline and that is, by far, our most profitable product. Package growth can make up some of the loss of income, but it is not nearly as profitable. The same is true for standard mail which is not declining at the moment, but also not nearly as profitable as First-Class mail and there is evidence to suggest increases in price may result in a real decline of volume.

18. On February 2, this committee approved S. 1486, the Postal Reform Act. The legislation attempts to address in a comprehensive way the financial, operational, and other challenges faced by the Postal Services and highlighted by GAO. Does this bill, in your view, adequately address the problems facing the Postal Service?

The Bill is very helpful, but the Postal Service financial projections (as well as a private financial study) based on the Bill do not get us to a profitable basis. I remain hopeful there may be additional reforms to address retirement/new hires, workers compensation and health care, which could make the Postal Service more viable.

19. In order to ensure the future financial viability of the Postal Service, the Postal Service needs to address its healthcare costs and future healthcare liabilities. To help achieve this goal, S. 1486 creates a new postal-only health program within the Federal Employee Health Benefits Program that would require Medicare-eligible postal annuitants to enroll in Medicare as a condition of their enrollment and provide postal annuitants with prescription drugs through a Medicare Part D Employee Group Waiver Plan (EGWP). This is in line with the current practices of other businesses that provide health coverage to their annuitants and will provide the Postal Service with significant savings. Do you believe it is appropriate to require Medicare-eligible postal annuitants to participate in Medicare?

Yes, it is imperative if the Postal Service wants to operate like a business in the private sector.

20. There are differences of opinion about the privatization of the Postal Service. What are your views on privatization?

I do not believe it is politically viable now or in any near-term future.

21. In recent years, postal management has indicated that the Postal Service has been financially unable to make the investments necessary to replace its aging vehicle fleet or make other capital investments it needs to make in order to remain viable and competitive in the coming years. What steps do you believe the Board should take to prioritize key capital investments and allocate the resources necessary to make them?

The Board is currently without many options unless and until Postal Reform is passed. We have explored options at several Board meetings, but we need, perhaps, as much as \$6 Billion dollars for a complete replacement and with total liabilities of \$67 Billion it is a daunting prospect. As the average age of the approximately 212,000 vehicle fleet is over 22 years it will become urgent quickly.

Postal Rates and New Products

22. One of the core principles of the Postal Accountability and Enhancement Act, which was enacted into law in 2006, was to provide Postal Service customers, through the establishment of an inflation-based rate cap, with predictability and stability in pricing. In recent years, however, the restrictions on Postal Service pricing created by the rate cap have played a role in preventing the Postal Service from generating sufficient revenue to cover its costs.

- a. What is your opinion of the inflation-based rate cap as an approach to regulating postal rates?

The inflation based cap on market document products is a valid approach. There is a problem in the present law which also requires that no product

be priced below cost. The combination of the two provisions results in an inability of the Postal Service to increase prices on below cost products in an amount sufficient to reach at least a break even status.

I would urge congress to allow the Board more flexibility for rate adjustments within a class of mail while still honoring the inflation based cap. This would allow for an ability to compete in the current market and also honor the overall cap.

- b. What role should the Postal Regulatory Commission (PRC) play in studying and/or approving Postal Service pricing decisions?

I would prefer that the Board have the authority to set prices and the PRC's authority be limited to insuring that the prices are not below cost or create unfair competition to the private sector.

23. With appropriate safeguards, S. 1486 would expand a provision in current law regarding the ability of the Postal Service to offer non-postal products.

- a. Under what circumstances should the Postal Service be permitted to offer non-postal products?

When they are related to our core functions and where they do not directly and unfairly compete where the private sector is currently providing the services.

- b. To what extent do you believe the Postal Service should rely on the provision of non-postal products in its efforts to generate additional revenue?

At the present time, a minor extent. There are ongoing efforts to pursue numerous potential areas of expansion, but most have been found to have significant opposition from the private sector and members of Congress.

- c. How would you ensure the Postal Services does not unfairly compete with the private sector in selling non-postal products?

The Board of Governors is charged with representing the public at large which includes the private sector. If the private sector is meeting public demand the Board would unlikely approve expanding into the area and it would not likely be profitable anyway.

24. How can the Postal Service better take advantage of its current authorities to make the mail more appealing and valuable to customers and attract additional mail volume?

The Postal Service has been moving steadily toward that end with intelligent mail bar codes, tracking, etc. Unfortunately, that has caused increased costs to the mailers, so progress has been slower than hoped. Additionally, USPS personnel must be more business friendly and work with all consumers to make the process easier to understand and more business friendly. There are growing numbers of very small home based oriented small business and every effort is being made to reach out and market our services. While each effort is small, there may be some large returns in the aggregate.

Facility Closings and Service Changes

25. What role should the Board have in decisions to realign postal retail and mail processing networks, including decisions to close specific facilities?

The Board has reviewed and approved the Post Plan which has specific guidelines on postal retail arena. The Board also recently approved Phase 2 implementation of mail processing networks realignment based on volume declines. The Board has stated its willingness to immediately address all decisions should Congress enact Postal Reform measures.

26. How can the Board ensure the Postal Service communicates with its customers and employees so that they are aware of updated information on the consolidation process, as it becomes available?

The Board has discussed and approved the public hearing process now in place regarding all aspects of post office and plant closings or reduction of hours. I understand that communications are made to the mailing communities, the unions and the public at large.

27. According to GAO, approximately 41 percent of postal revenue comes from alternate retail channels such as the Postal Service website, automated postal centers, and contract postal units. Do you believe the Postal Service should increase the use of alternate retail channels, and if so, how should this be accomplished?

Absolutely, as stated in earlier responses, both the Board and postal management have been partnering with numerous entities to increase the use of alternative channels. We have discussed the Postal Service's website at numerous Board meetings and it has been steadily improving. Ideas such as the flat rate boxes have been quite successful.

28. In recent years, the Postal Service has proposed both the elimination of Saturday delivery of some classes of mail as well as changes to the overnight service standard.

- a. What is your opinion of the Postal Service's proposals to eliminate Saturday delivery of some classes of mail to lower certain service standards?

The decision to eliminate Saturday delivery is based primarily on the savings of approximately \$2 Billion a year. There are not many proposals with this type of cost savings. A better term might be flexible schedules since volumes are different and costs of delivery based on those volumes vary. Since post offices will be open on Saturday there will be post office box delivery and we recently commenced seven day a week package delivery in some areas.

- b. What steps should the Postal Service take to ensure that any service changes it makes do not disproportionately harm rural customers and are consistent with the Postal Service's universal service obligation?

All decisions should include a determination of impact on consumers. The Board has tried to consider this in reducing the hours at rural post offices rather than closing them. Additionally, we want to quantify the distances to other post offices. In New Mexico we have many rural post offices. Some in remote areas are long distances from others and thus more vital to the public. However, there are also examples of three rural post offices within fifteen miles servicing less than 200 people. Each decision needs to be based on careful consideration, which is why we have public comment and meetings.

At the present time we have more than 1,200 post offices that in a calendar year do not gross \$10,000. We must also consider these numbers in our deliberations.

Workforce-Related Issues

29. The Postal Service has been reducing its workforce, including through hiring freezes, early retirements, incentive payments for some targeted attrition, and other ways. Does the Postal Service have sufficient flexibility to adjust its workforce to changes in mail volume? If not, what additional flexibility is needed?
- Additional flexibility is needed. It is needed primarily in limitations of the no-layoff provision in labor agreements and restrictions on hiring casuals and part time employees.
30. As an increasing number of postal executives, managers, and supervisors are eligible to retire, how can the Board work with postal management to address these challenging succession, continuity, and associated cost issues?

Wages for management were frozen from the years 2008-2013 followed by a modest 1% increase for 2014. The Board's compensation committee reviews these matters at every meeting and there is concern by the Board on retention issues. I am hopeful postal reform may grant more flexibility on salary and bonus matters.

31. In recent years, performance-based compensation systems have been implemented for postal executives, as well as managers and supervisors. The success of these systems depends on the credibility of the performance measures. How can the Board ensure the credibility of the Service's performance-based compensation systems? Do you have an opinion about performance-based compensation?

The Board does have performance-based systems in place. Advice from experts in these fields has been received and implemented. The recent wage freezes (some statutory) have made it much harder to reward high performance, but to the extent the Board has the authority we have pursued performance-based compensation.

32. The Postal Service is subject to Occupational Safety and Health Act workplace safety laws in the same manner as private-sector employers. How can the Board help ensure compliance with applicable workplace safety laws and encourage efforts to improve safety and reduce costs associated with workplace injuries?

The Board has expressed and instructed postal management that safety is very important for both the concern of all postal employees and the cost to the Postal Service. Workers Compensation is a large line item discussed at every meeting.

33. S. 1486 would require the Postal Service in the coming years to begin paying down its long-term workers compensation obligation. Do you agree with this approach in S.1486?

Yes

34. Please describe the kind of labor-management relationship you believe is most desirable at the Postal Service.

The mandatory arbitration provision should require an instruction to the Arbitrator that he/she shall consider the financial position of the USPS in making the final decision .

Eventually, the concept of craft needs to be addressed as technology has increased the need for a "postal employee" as opposed mail handlers, mail processing clerks, carriers, etc. The public would be better served if employees could be cross trained. Both management and labor would be better served with fewer restrictions and freedom to contract for labor services.

35. What is the Board's role in ensuring effective cooperation between postal management and Postal Service labor unions?

The Board has continued to encourage more communications between management and labor. Additionally, the Board has scheduled lunch meetings with the leaders and in some cases, communications between individual Governors and labor leaders.

IV. Relations with Congress

36. 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.

37. 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.

V. Assistance

38. Are these answers your own? Have you consulted with the Postal Board of Governors or any interested parties? If so, please indicate which entities.

These answers are my own and prepared without consultation with anyone.

I, Mickey D. Barnett, hereby state that I have read the foregoing Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

Mickey D. Barnett
(Signature)

This 18th day of August, 2014

Senator Mark Begich
Additional Questions for the Record
Nomination of Hon. Mickey Barnett to be a Governor, U.S. Postal Service
September 17, 2014

1. What role do you see for the Bypass Mail program in continuing to provide rural Alaskans with universal service?

Since its inception through statute, the Alaska Bypass Mail program has been an integral part of the U.S. Postal Service's efforts to provide universal service to rural Alaska. Given the the overarching mission of the Postal Service to provide prompt, reliable and efficient service to all Americans regardless of their location, it is the responsibility of the Board and senior postal management to ensure that these obligations are met. Until such time as Congress and the Administration change the underlying law, the Board of Governors and senior postal management will diligently administer the Alaska Bypass Mail program as prescribed by statute.

2. Are you supportive of the Bypass Mail program and its mission?

I support the mission of universal service, which is one of the fundamental operating objectives that the U.S. Postal Service was established to provide. Although the Alaska Bypass Mail program is unique, maintaining universal service to some remote areas at a loss is not. It has always been recognized that, in providing universal service, not every area can be independently self-supporting—by design, high-cost rural delivery should be offset by the revenues from lower-cost delivery areas in order to a universal suite of services to the American people. In so far as the Alaska Bypass Mail program provides those citizens with access to the same level of service and products as all other Americans, it is a program I wholeheartedly support.

Personally, I would note that my home state of New Mexico shares the same challenges in areas such as the Navajo Nation, where it is costly to deliver the mail and universal service is critical to the citizens residing there. In these areas, citizens depend on universal service, and as a Governor of the U.S. Postal Service, I am very sensitive to the needs of communities with unique circumstances and the role that the U.S. Postal Service plays in serving these communities.

3. What, if any, changes do you think should be made to the Bypass Mail program?

If the underlying statute were to change, it would be the responsibility of the Board to ensure that rural Alaskans continue to receive universal service. Given that Congress and the Administration are responsible for setting policy through statute, as a Board member I would work diligently to ensure that rural Alaska continues to receive the service it is rightly entitled to, as determined by law.

Senator Heidi Heitkamp
Additional Questions for the Record
Nomination of Hon. Mickey Barnett to be a Governor, U.S. Postal Service
September 17, 2014

1. As you know, North Dakota is experiencing some of the fastest growth in the country, particularly in the Bakken oil region. Due to this growth, I have heard from numerous constituents who have raised concerns about the delivery services in the area. Given that this region is predominantly rural, the issues related to revised service standards, reductions in hours at rural Post Offices, and processing plant closures are ever more prominent. I welcome your thoughts on several aspects of these issues:
- o What efforts are made by you and the other USPS Board of Governors to ensure that projected population growth in a region is considered when determining Post Office hours of operation?

The U.S. Postal Service's Post Plan, which aims to match the operating hours of retail Post Offices with the local community's demand for postal services, should be—by design—flexible enough to respond to increased demand for services.

As approved by the Board, the hours of operation are determined by a Post Office's Adjusted Workload, which attempts to estimate the totality of demand for retail postal services. Importantly, as a particular Post Office's Adjusted Workload changes, its hours of operation will change as well. In those communities where demand is increasing, this re-evaluation will result in more retail hours.

In approving the Post Plan, the Board was mindful that circumstances will necessarily change, and we endeavored to ensure that needed the flexibility to meet the needs of all communities was included in the plan.

- o Many rural citizens are more reliant on postal services than other, more urban citizens. Since you are inclined to move the USPS towards a 5-day delivery standard, how can you ensure that rural areas continue receiving adequate postal services should the USPS move to 5-day delivery?

At its core, the decision to move to a 6-day package/5-day mail delivery schedule responds to indisputable declines in mail volume. While there are some differences in urban versus rural use of the mail, the loss of mail volume is systemic and long-term and the need to adjust delivery schedules is a business necessity that is being driven by the changing mailing habits of the American people—urban, suburban and rural.

Understanding the business need, when it becomes possible to implement a 6-day package/5-day mail delivery schedule, the unique needs of rural customers will be addressed. New Mexico is also a rural state and I am personally familiar with the reliance of rural areas on the Postal Service. While a change in delivery

frequency will necessitate some readjustment by all customers, the Board will ensure that the particular needs of rural customers are met.

- In addition, you mentioned during your HSGAC staff interview that you would favor maintaining package-only delivery on Saturdays if the USPS moves to a 5-day delivery standard. However, I am concerned that this move could impact rural residents who rely on timely delivery of medications, which are often sent in envelopes instead of packages. Can you comment on this issue and provide examples of which products would fall under Saturday delivery should this standard be implemented in the future?

It is important to note that, as currently envisioned, a 6-day package/5-day mail delivery schedule will ensure the continued 6-day delivery of the vast majority of pharmaceuticals. This was a primary consideration in adopting a plan to provide for the 6-day delivery of packages.

Under a 6-day package/5-day mail delivery schedule, packages and Priority Express Mail—competitive products—would be delivered 6 days per week; mail and periodicals—monopoly products—would be delivered 5 days per week.

As you note, however, for mail-order pharmacies that employ Standard Mail Flats to convey medications, there would be a loss of Saturday delivery. This situation is not unique to rural areas. It would affect all parts of the nation. This issue can be easily addressed, however, by mailers adopting packages—which will continue to be delivered on Saturday—or by adjusting mailing schedules to ensure that their Standard Mail arrives to meet customer needs. It should be noted that Standard Mail already has a slower service standard, so by definition, these items are unlikely to be time-critical. As previously mentioned, customers who receive mail via a Post Office Box would not be impacted by this change and will continue to receive items in their box 6 days per week.

- The consolidation of the mail processing plant in Minot, North Dakota, which serves the fastest growing region in the country, is included in the recently announced network rationalization plan. Given the issues I have heard from constituents about delivery challenges in the region, I am concerned that the consolidation of the Minot processing plant will further diminish delivery standards in the area. How can you and the other USPS Board of Governors ensure that the network rationalization plan will not diminish delivery standards in the Bakken region beyond the July, 2012 standards?

Though, I am not familiar with the specifics concerning the consolidation of the Minot mail processing plant, as information the second phase of planned plant consolidations will affect the existing service standards for First-Class Mail and Periodicals Mail nationally, not just in the Bakken region. Mail volume has declined more than 25 percent since 2007, and First-Class Mail volume alone has

declined 31 percent during that same time. Nationally, the time it takes First-Class Mail to reach its destination will increase slightly from an overall average of 2.14 days to an overall average of 2.25 days. Once Phase 2 is implemented, current estimates indicate that approximately 20% of the First-Class Mail volume is expected to be delivered overnight, more than 35% is expected to be delivered in 2 days, and about 44% in 3 days. Again, this is not just as it relates to Minot or Bakken, but nationally.

2. In the questionnaire, you mentioned the need for providing USPS with more flexibility in implementing innovative ideas. What more could the Postal Service do to innovate if the provisions of the current Senate bill became law?

As I described during the confirmation hearing, the primary advantages offered by S. 1486 in regards to governance issues are speed and flexibility. The current regulatory environment, which was designed at a time when monopoly products were growing and paramount, is ill-suited to the current business environment. Today, customers demand new competitive products and services and the Postal Service is trying to fulfill these needs in a very crowded marketplace. It is hamstrung, however, by a lengthy and often adversarial regulatory environment.

S. 1486's changes to the approval process for new products and service would address these issues while ensuring that the Postal Service does not compete unfairly.

3. During your HSGAC staff interview, you mentioned your support for making the exigent price increase permanent. However, I am concerned about the impact this price increase is having on small businesses. What efforts are you and the other USPS Board of Governors taking to ensure small businesses are not unfairly burdened by increased pricing?

While all customers would prefer lower prices, I appreciate the concerns of small businesses who rely extensively on the Postal Service. As a member of the Board, one of the primary responsibilities is correctly pricing our products and services, and in approaching this duty, we rely heavily on expert judgments of elasticities and market demand. If we misprice products and services, it will be felt on the bottom line almost immediately, and like any enterprise providing a product that must compete for customers, we try to provide all customers with the maximum value that will allow for the best return.

4. You responded in the questionnaire that you "do not believe it is politically feasible now or in the near future" to privatize the USPS. Although you believe it is politically unfeasible, do you think the USPS should be privatized? If so, how do you believe postal delivery in rural communities would be impacted by a privatized postal service?

Whether the U.S. Postal Service should be privatized is a policy decision that can and should be addressed only by Congress and the Administration. Under current law, as a

member of the Board of Governors I am committed to fulfilling the mandate to oversee the Postal Service as a fundamental service provided by the government as an independent establishment of the executive branch.

Senator Tom A. Coburn
Additional Questions for the Record
Nomination of Mickey D. Barnett to be a Governor, U.S. Postal Service
September 18, 2014

1. This Committee has formulated legislation to help restore the Postal Service to financial viability.

a. Do you support this legislation?

Yes.

b. The bill gives more authority to the Governors to direct the activities of the Postal Service. Do you think it is important that the Board of Governors be allowed to make business decisions vital to the future of the Postal Service?

Yes. Given that the U.S. Postal Service must support itself solely through the sale of its products and must compete in a crowded marketplace, it must be able to make business decisions.

c. With authority comes responsibility. In particular, the Governors have to make hard-headed business decisions. Can you provide us an example of a hard decision you made during your tenure as a Governor?

A recent example is the decision to implement the exigent price increase. While I am very mindful that price increases may lead to accelerated volume declines, on balance, the continued financial deterioration of the Postal Service required the extraordinary step of exceeding the current price cap.

d. How has your professional background prepared you to take on this job?

I have been well served by my experience as a litigator and the ability to weigh evidence and viewpoints during the policy debate. Additionally, my eight years serving on the Board provide a wealth of experience and background in postal policy issues.

2. The Postal Service is supposed to be self-financing like a business, yet is still part of the federal government.

a. In what ways should the Postal Service operate like a business, and in what ways should it operate like a government agency?

The Postal Service operates like a business by offering products and services that must compete in the marketplace for customers. In doing so, it must be mindful of, and the Board must pay particular attention to, the advantages its federal

status confers so as to not compete unfairly, which makes it more like a government agency. The Postal Service pays no taxes, and holds the historic monopoly over the use of the mailbox, which is entirely governmental in nature. Additionally, the requirement to provide universal service is clearly a governmental function.

- b. Do you think the current balance today tilts too far in either direction?

Currently, statutory requirements and restrictions place so many burdens and costs on the Postal Service, the balance is tilted toward its governmental role.

3. The Postal Service is currently losing money every year, leaving it unable to pay its debts and, if left unaddressed, may leave it insolvent.

- a. What kinds of cost-cutting measures do you think are necessary to save the Postal Service?

The Board and senior postal management are pursuing all available and prudent cost-cutting measures allowed under current law. In fact, \$15 billion in costs have been cut from the spending baseline over the past several years. Looking forward, the Postal Service needs further authority, like that provided in S. 1486, to pursue cost-saving currently prohibited by law.

- b. What kinds of legal or regulatory restrictions do you think impede the Postal Service from cutting costs as much as it should?

Though there are a myriad of restrictions under current law, in my estimation the most onerous is the need to secure before-the-fact approval from the Postal Regulatory Commission for a wide variety of price and product changes. The uncertainty and time lag introduced into the process places the Postal Service at a severe competitive disadvantage.

4. In developing S. 1486, this committee's postal reform legislation, we would give the Postal Service greater flexibility to develop "non-postal" products. How would you evaluate whether the Postal Service was unfairly competing with the private sector?

The Board is charged with representing the broad public interest. That interest includes the consumers and customers, as well as competitors and stakeholders, such as labor. As said previously, I am mindful that the Postal Service pays no taxes and has the mailbox monopoly, which could allow it to compete unfairly. For its competitive products, it must ensure that its pricing achieves full cost

coverage to prevent any unfair subsidization. Finally, given its unique role, the Postal Service must pro-actively provide advance notice to stakeholders and customers so that they can plan for proposed changes, as was done with the intelligent bar coding requirements and mailing discounts.